

1. THE CONTRACT BETWEEN SELLER AND PURCHASER.

- A. Acceptance.** These terms and conditions in this document constitute Purchaser's offer and acceptance thereof by Seller is expressly limited to such terms and conditions alone unless specifically agreed to otherwise in writing by Purchaser. This offer is subject to prompt acceptance by Seller and may be withdrawn by Purchaser at any time prior to Seller's acceptance or performance hereunder. This offer becomes a binding contract either upon acceptance by Seller or Seller's performance, partial or complete, pursuant to this contract including payment of the goods or products called for hereunder.
- B. Modification or Amendment.** No amendment, modification, alteration, or addition, to any of the terms and conditions set forth in this document of the Purchase Order shall be binding on Purchaser unless and until Purchaser has expressly agreed in writing thereto. If any document of Seller conflicts with contradicts, or adds to any term or condition in this document, it is hereby rejected unless and until it is specifically agreed to in writing by Purchaser.
- C. Entire Contract.** Except as otherwise may be expressly provided herein to the contrary, the terms and conditions in this document (including any written amendments thereto) set forth the entire contract between Purchaser and Seller. Such terms and conditions, however, further include any specification, industry or governmental standards, drawings, blueprints, instructions, notes, models, technical data or similar material which are specifically referred to in the Purchase Order (including any written amendments thereto) or attached thereto; any such materials so specifically agreed to in writing by Purchaser.

2. TAXES. Except as otherwise may be expressly provided herein, the prices set forth include all applicable Federal, State and Local taxes in effect at the date of this contract; however, such prices shall not include any Federal, State or Local taxes from Purchaser, Seller, or this transaction (in whole or in part) are exempt, in the event it is ever determined that any tax included in the prices hereunder was not required to be paid. Seller agrees to notify Purchaser and take all steps necessary to secure a refund thereof and pay such refund in full to Purchaser.

3. INSPECTION AND TESTING Purchaser shall have the right but not the duty to inspect or test the goods of products covered hereunder upon receipt from Seller. Thereafter, Purchaser may reject and return to Seller at Seller's expense any or all such goods or products which fail to comply with any of the terms and conditions herein. Purchaser shall have the right to reject any or all goods or products furnished in lots on the basis of sample inspection. Purchaser shall also have the right to conduct a preliminary inspection of testing on the premises of Seller and Seller shall thereupon furnish at its premises all reasonable facilities and assistance for such inspection and testing. Purchaser shall have all the remedies hereinafter described in the event there are goods or products which fail to conform to any term or condition of this contract.

2. WARRANTIES of SELLER. In addition to any warranties made elsewhere by Seller, Seller expressly warrants as follows:

- A.** Seller warrants that the goods or products provided hereunder are free from defects in material and workmanship, meet and comply with all the terms and conditions of this contract and that all such goods or products are merchantable and fit for the purpose or purpose for which they are purchased.
- B.** Seller warrants that the goods or products covered hereunder shall be designed and manufactured by Seller free of any defects (whether latent or patent). Unless expressly stated to the contrary herein. Seller shall bear the entire responsibility and any liability in connection therewith, for design as well as manufacture of the goods or products covered hereunder.
- C.** Seller warrants that the goods or products covered hereunder shall be designed and manufactured in compliance with and shall not violate any Federal, State, or Local laws, regulations, orders or ordinances including, but not limited thereto, all applicable

requirements of the Fair Labor Standards Act of 1938 as amended (including all regulations and orders promulgated thereunder) and the applicable provisions of the federal and State Civil Rights Legislation (including all regulations and orders promulgated thereunder).

- D. Seller warrants that the goods or products covered hereunder do not infringe any patent, trademark, tradename, copyright or other similar right.

5. INDEMNIFICATION AND CONTRIBUTION. Purchaser agrees to indemnify (and/or as allowable under applicable law make contribution) and hold Seller harmless against, and to pay all loss, costs, damages and expenses (including reasonable attorney's fee) arising in connection with any breach of express or implied warranty by Seller, in connection with any alleged or actual damage or injury to person or property asserted under any legal theory, in connection with any alleged or actual infringement of any patent, trademark, copyright or similar right, or arising in connection with any other damage or loss by whomsoever suffered, resulting or claimed to result in whole or part from any alleged or actual negligence in design or manufacture or any patent, including alleged or actual improper indemnification and/or contribution to the maximum extent permitted under applicable law. This agreement by Seller to indemnify, contribute, and hold purchaser harmless shall not be affected by any express or implied warranties which Purchaser extends or does not extend to its own customers. Seller agrees to obtain and maintain at its expense a policy or policies of Products Liability Insurance, with Vendor's Endorsement naming Purchaser, in such amounts, from such insurers, and containing such other provisions as shall be satisfactory to Purchaser.

6. PURCHASER'S ADDITIONAL REMEDIES.

- A. The remedies provided herein (including those in this paragraph) shall be in addition to and not to a substitute for all other rights and remedies available to Purchaser under law and at equity.
- B. In the event any goods or products fail to meet or comply with any provision of this contract, including the warranties set forth above, then Seller at Purchase's option also shall:
- 1) Replace such goods or products, transportation prepaid by Seller, and further pay to Purchaser all expenses of packing and unpacking, examination, storage and reshipment to Seller of the nonconforming goods or products.
 - 2) Give full credit, or if requested by Purchaser, make full refund to Purchaser for such goods or products and in either event, further pay Purchaser all expenses of packing and unpacking, examination, storage and reshipment to Seller; or
 - 3) Pay to Purchaser all costs of repair if Purchaser elects to repair such goods or products.
 - 4) Pay to Purchaser reasonable and additional costs of replacement through another supplier, if delivery is not effected by time agreed.

7. CONFIDENTIALITY. Seller agrees to treat as secret and confidential all specifications, drawings, blueprints, instructions, notes, models, technical data or similar materials provided by Purchaser. Seller agrees that all such materials provided by Purchaser shall be used exclusively in the production of the goods or products covered hereunder and shall not be used for the design, production, or manufacture or any goods or products for any third person or cooperation without Purchaser's written consent.

8. FORCE MAJEURE. Purchaser reserves the right to cancel or reject without penalty all or any portion of the goods or products covered hereunder which have not actually been received by Purchaser in the event Purchaser's business is interrupted or terminated because of strikes, labor disturbances, lock-outs, riots, fire war, acts of God including adverse weather conditions, or any other cause, whether like or unlike any of the foregoing, if beyond the reasonable efforts of Purchase to control.

9. CHOICE OF LAW. This contract shall be construed, interpreted, and all rights of parties determined in accordance with the laws of the State of Delaware.

- 10. WAIVER.** The failure of either Purchaser or Seller to insist on any occasion upon the performance of any of the terms or conditions of this contract or to exercise any such right on any occasion shall not be construed as a waiver or relinquishment on any other occasion of such term or condition by the party hereto, and the obligation of such other party with respect to performance on any other occasion shall continue in full force and effect.
- 11. CESSATION OF BUSINESS BY SELLER.** If Seller for any reason ceases to conduct its business or operations in the normal course of business (including inability to meet its obligation as they mature), or if Seller undergoes bankruptcy, insolvency, receivership, reorganization, or an assignment for the benefit of creditors, then Purchaser at its option may cancel or reject without penalty any undelivered portion of the goods or products covered hereunder.
- 12. SEVERABILITY.** If any provision included in the terms and conditions set forth in this contract shall be deemed invalid, void, or unenforceable by a Court of competent jurisdiction, this contract be construed as though such provision does not affect the validity of any other term or condition of this contract.
- 13. HEADINGS.** Each heading herein has been inserted for convenient reference and shall not be utilized in any question of interpretation or construction of terms and conditions of this contract.