



## MANUFACTURING PURCHASE ORDER TERMS & CONDITIONS

1. **ACCEPTANCE.** This Purchase Order becomes the exclusive agreement between the parties for the items ordered herein when accepted by acknowledgment or commencement of performance by Seller. Additional or different terms proposed by Seller are hereby rejected unless specifically accepted in writing by Buyer. Shipment of any items, or performance of services, constitutes Seller's acceptance of all the terms and conditions hereof, whether or not Seller has acknowledged this Purchase Order.
2. **PACKING AND SHIPPING.** Unless otherwise specified, all packing and crating by Seller shall be in accordance to trucking industry standards. The price or prices include all charges for Seller's packing and crating, and for transportation to the F.O.B. point.
3. **PRICE AND QUANTITY.** This Purchase Order shall not be filled at higher prices than specified herein. If price terms are omitted from the face hereof, the price of the items shall be lower of (i) the price last quoted to or paid by Buyer (whichever is later), or (ii) the prevailing market price at the time of shipment. Unless otherwise provided herein, the price or prices shall include all applicable federal, state and local taxes in effect on the date of this Purchase Order. In case of new taxes or increased rates or the repeal of taxes or the reduction of rates, prices shall be adjusted accordingly. Shipments must equal exact quantities ordered, unless otherwise agreed in writing by Buyer.
4. **QUALITY CONTROL AND INSPECTION.** All items may be subject to (i) inspection or verification during the period of manufacture, (ii) inspection or verification prior to shipment, and (iii) final inspection and acceptance at destination, notwithstanding any prior shipment, and (iv) final inspection and acceptance at destination, notwithstanding any prior payment or inspection and acceptance. Buyer may reject and hold at Seller's expense, subject to Seller's disposal, all items not conforming to applicable specifications, drawings, samples, or descriptions. Without limiting any other rights, Buyer may at its option require Seller to (i) repair or replace at Seller's expense any item ordered which fails to meet the requirements of applicable specifications, drawings, or descriptions, or (ii) refund the price of any such item. Rejected items shall not be retendered to Buyer by Seller unless notification of such past rejection is submitted with the retender and Buyer has consented to such retender.
5. **DELIVERIES.** Buyer's production schedules are based upon the understanding and agreement that the items will be delivered to Buyer by the quoted lead time or date specified on the face of this Purchase Order. Time is, therefore, the essence of this Purchase Order. If deliveries are not made at the time agreed upon, Buyer reserves the right to cancel or to purchase elsewhere, and to hold Seller accountable therefor.
6. **WARRANTY.** Seller warrants that all items furnished hereupon will be free from defects in material and workmanship, conform to applicable specifications, drawings, samples, and descriptions. Seller shall indemnify and hold Buyer harmless from and against any and all damages, losses, demands, costs and expense incurred by Buyer due to Seller's breach of its warranties hereunder.
7. **CHANGES.** Buyer shall have the right to make, from time to time and without notice to any sureties or assignees, changes as to packing, testing, destinations, specifications, designs and delivery schedules. Seller shall immediately notify Buyer of any increases or decreases in costs caused by such changes, and an equitable adjustment in prices or other terms hereof shall be agreed upon in a written amendment to this Purchase Order.
8. **RESPONSIBILITY FOR PROPERTY.** Seller shall be liable for any loss or destruction of, or damage to, property of Buyer caused by the negligence or wrongful acts or omissions of Seller or Seller's representatives, agents, or employees.
9. **INDEMNIFICATION.** In the event Seller, its employees, agents, subcontractors, or representatives enter premises occupied by or under the control of Buyer or third parties in the performance of this Purchase Order, Seller shall indemnify and hold harmless Buyer, from any costs, damage, expense, or liability by reason of property damage or personal injury to any person, including Seller's employees, of whatsoever nature or kind arising out of, as a result of, or in connection with such performance occasioned in whole or in part by the actions or omissions of Seller, its employees, agents, subcontractors, or representatives. Without in any way limiting the foregoing, Seller and its subcontractors shall maintain public liability and property damage insurance in reasonable limits to covering the obligations set forth above, and shall maintain proper Workman's Compensation insurance covering all employees performing this Order.
10. **SECRECY OF BUYER'S DATA.** Seller shall not use or disclose to third parties any data, designs, or other information belonging to or supplied by or on behalf of Buyer, without first obtaining the prior written authorization of Buyer. Upon Buyer's request, such data, designs, or other information, including all copies thereof, shall be returned to Buyer. Where Buyer's data, designs, or other information are furnished to Seller's suppliers for procurement of supplies by Seller for use in the performance of Buyer's orders, Seller shall insert the substance of this provision in its orders.
11. **NON-INFRINGEMENT.** To the extent that the items are manufactured to detailed designs not originated and furnished by Buyer, or by a process or method the use of which is not specifically directed by Buyer, Seller guarantees that the sale or use of such supplies or the use of such process or method hereunder will not infringe any United States or foreign patents, trademarks, trade names, copyrights, or trade secrets, and shall indemnify and save Buyer and its customers harmless from any expenses, loss, cost, damage, or liability which may be incurred on account of infringement or alleged infringement of patent rights, trademarks, trade names, copyrights, or trade secrets with respect to such supplies. Seller shall defend, at its own expense, any action or claim in which such infringement is alleged, provided Seller is notified within a reasonable time of such action or claim against Buyer. Indemnification shall not apply to infringements arising from use in combination with other items where infringement would not have occurred from the normal use of which the article supplied by Seller was designed.
12. **LIMITATION OF LIABILITY.** Buyer's liability shall be limited to the unpaid balance of amounts due under this Purchase Order, and in no event shall Buyer be liable to Seller for indirect, incidental, consequential or special damages.
13. **BANKRUPTCY.** In the event of any proceedings, voluntary or involuntary, in bankruptcy or insolvency by or against Seller, or in the event of the appointment, with or without Seller's consent, of an assignee for the benefit of creditors or of a receiver, Buyer shall be entitled to cancel any unfiled part of this Purchase Order without any liability whatsoever.
14. **TRAFFIC ROUTING AND PROFIT OF SHIPMENT.** Any losses accruing from deviation from Buyer's routing instructions shall be charged to Seller's account. Seller shall forward to Buyer, with the invoice, the express receipt or bill of lading, signed by the carrier, evidencing the fact that shipment was made.
15. **ASSIGNMENT AND SET-OFF.** This Purchase Order shall be binding upon any successor to Seller's business provided that Seller shall not delegate any duties, nor assign any rights or claims under this Purchase Order, or for breach thereof, without prior written consent of Buyer, and any such attempted delegation or assignment shall be void and unenforceable. All claims for monies due or to become due from Buyer shall be subject to deduction by Buyer for any set-off or counterclaim arising out of this or any other of Buyer's purchase orders with Seller, whether such set-off or counterclaim arose before or after any such assignment by Seller.
16. **GOVERNING LAW.** This Purchase Order and the contract between the parties evidenced hereby, shall be deemed made in the State of Utah, and shall be construed and interpreted solely in accordance with the laws of the state.