

expense, promptly replace or repair any non-conforming Products or Services

**1. Acceptance.**

The front of this purchase order, requested by (the "Buyer") for the purchase of specified products (the "Products") or services (the "Services") from the party to whom the purchase order is addressed (the "Seller") pursuant to and subject to these terms and conditions (the "Terms"); together with the front of the purchase order (the "Order"). This Order shall be deemed accepted by Seller upon the earlier of (a) Seller's execution, signature or delivery to Buyer of any letter, form or other document or instrument giving notice of acceptance; (b) any performance by Seller under the Order; or (c) ten (10) days after receipt of the Order from Seller without written notice to Buyer that Seller does not accept the Order. This Order, together with other documents incorporated herein by reference, constitutes the sole and entire agreement of the parties with respect to the Order and supersedes all prior or contemporaneous arrangements, agreements, negotiations, representations and warranties, and communications, both written and oral, with respect to the contents of the Order, unless a different written contract of cancellation signed by the parties is set forth. The Order expressly delimits Seller's compliance with the terms of the Order. These Terms expressly exclude all of Seller's terms and conditions of sale or any other documents issued by Seller relating to this Order. Seller represents, under oath, that it has sufficient authority to enter into this Order, which authority has not been revoked, modified or limited in any way, and is bound by the terms and conditions set forth herein.

**2. Delivery.**

Seller must deliver the Products or perform the Services at the point of delivery (the "Delivery Location") or if not available, the Delivery Location must be at Buyer's address on the dates specified in this Order (the "Delivery Date"). If no Delivery Date is specified, Seller must deliver in full within a reasonable time after receipt of the Order. Timely delivery is essential. If Seller fails to deliver the Goods or perform the Services in full and on the Delivery Date, Buyer may terminate the Order immediately and Seller shall indemnify Buyer for any loss, damage and reasonable costs and expenses attributable to the failure to deliver.

**3. Inspection.**

Buyer reserves the right to inspect the Products on or after the Delivery Date. Buyer, in its sole discretion, may reject part or all of the Goods if Buyer determines that the Goods are defective or do not conform to the technical data sheet submitted by Buyer. If Buyer requests replacement of the Goods pursuant to Section 4, Seller must replace the defective Goods in a timely manner. If Seller fails to timely deliver replacement Products, Buyer may replace them with third party materials and charge Seller for the cost thereof and terminate this Order pursuant to Section 8. Any inspection or other action taken by Buyer under this Section shall not affect Seller's obligations under the Order and Buyer shall have the right to re-inspect the Order following any action taken by Seller.

**4. Cumulative Remedies.**

The rights and remedies under this Order are cumulative and are in addition to other rights and remedies available at law or equity or otherwise. If Seller fails to comply with the warranties set forth in Section 9, Seller, at its own expense, will replace or repair the Products or re-perform the Services until Buyer is satisfied.

**5. Price and Payment.**

The price for the Products or Services is the price set forth on the face of this Order (the "Price"). Seller must invoice Buyer for the Order within thirty (30) days of delivery. Except as otherwise set forth in the Order, Buyer must pay all amounts properly invoiced, in the currency indicated on the face of the Order, to Seller within ninety (90) days after receipt, except for amounts disputed by Buyer. The parties shall resolve all disputes promptly and in good faith. Seller must continue to perform its obligations notwithstanding any dispute. Without prejudice to any other right or remedy, Buyer reserves the right to set off any amount owed to it by Seller against any amount Buyer may pay to Seller. Payment of an invoice is not an acknowledgment that the Goods or Services complied with the Order.

**6. Change Order.**

Buyer may make changes by sending written notices to Seller (each, a "Change Order") that alter, add or reduce the Goods or Services, and any Change Order shall be subject to the Terms of this Order. Seller will timely comply with the terms of any Change Order.

**7. Early Termination.**

Buyer may terminate this Order, in whole or in part, for any reason thirty (30) days prior to delivery upon written notice to Seller. In addition to the remedies provided herein, Buyer may terminate this Order effective immediately, before or after acceptance of the Products or Services, if Seller has failed to comply with the Terms set forth herein. If Seller becomes insolvent, commences or commenced on its own or otherwise failed to commence bankruptcy, liquidation, reorganization or assignment proceedings for the benefit of creditors, then Buyer may terminate this Order. If Buyer early terminates the Order for any reason, Seller's sole and exclusive remedy is payment for Products or Services received and accepted by Buyer prior to termination.

**8. Warranties.**

Seller warrants to Buyer that for a period of twelve (12) months from the Delivery Date, all Products, Services or Products provided with the Services will: (a) be new and free from defects in workmanship, material and design; (b) conform to the applicable specifications; (c) be fit for their intended purpose and perform as intended; (d) be free from all liens, security interests and other encumbrances; and (e) not infringe or misappropriate the intellectual property rights of any third party. These warranties survive any delivery, inspection, compliance or payment. These warranties are cumulative, in addition to any other warranties provided by law or equity. Any applicable statute of limitations runs from the date of discovery of a breach by Buyer. If Buyer notifies Seller of a breach, Seller shall, at its sole cost and

**9. Indemnification.**

Seller shall defend, indemnify and hold harmless Buyer and Buyer's parent, subsidiaries, affiliates, successors or assigns and their respective directors, officers, shareholders and employees (collectively, "Indemnitees") from and against any loss, injury, death, damage, liability, claim, action, judgment, interest, penalty, cost or expense, including attorney's fees and professional costs, and the cost of performing any indemnification hereunder (collectively, "Losses") arising out of Seller's performance of its obligations or Seller's negligence, willful misconduct or breach of the Order Terms or possession of the Products that infringes or misappropriates the patent, copyright, trade secret or other intellectual property right of any third party. Seller shall not enter into an agreement without Buyer's prior written consent.

**10. Confidential Information**

All private, confidential or proprietary information of Buyer, including but not limited to specifications, samples, patterns, designs, operations, schematics, drawings, documents, data, business plans, prices, discounts or rebates, disclosed by Buyer to Seller, disclosed orally or in writing, electronically or by other form or means, marked, labeled or otherwise identified as "confidential" and relating to the Order, is confidential, solely for use in the performance of the Order and shall not be disclosed or copied except as authorized by Buyer in writing. Upon Buyer's request, Seller shall promptly return all documents and other materials received from Buyer. Buyer shall be entitled to injunctive relief for any breach of this Section. This Section shall not apply to information that is: (a) in the public domain; (b) lawfully and lawfully known to Seller at the time of disclosure; or (c) lawfully and lawfully obtained by Seller and in a non-confidential manner from a third party.

**11. Insurance.**

Seller must, at its own expense, subscribe to and maintain in force and effect an insurance policy with financially solvent and reputable insurers, including: (a) commercial general insurance (including product insurance) in an amount not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate (b) liability insurance covering all personal injury and property damage liabilities and (c) advance payment and performance bonds in an amount less than the price set forth in this order.

It is at Buyer's discretion to request proof that such insurance has been arranged.

**12. Compliance with Law.**

Seller warrants and represents to Buyer that it is within the law and will remain in compliance during the performance of this Order and assures that its employees, contractors, representatives and subcontractors (the "Personnel") comply with all applicable federal and local laws and regulations. Seller possesses and must maintain in effect all licenses, permits, authorizations, consents and certificates required by it and to perform its obligations under the Order. Seller shall comply with all export and import laws of all countries involved in the sale of Products under this Order. Seller is responsible for shipments of Products requiring government import authorization. If Seller fails to comply with laws, rules and regulations, and Buyer is fined as a result, Seller agrees to pay the fines and costs of the incident described herein or reimburse Buyer for payment. To the extent that Seller Personnel are required to enter Buyer's property or location, Seller must ensure that the Personnel comply with Buyer's health, safety and environmental policies and procedures.

**13. Shipping Terms.**

Delivery must be made in accordance with the Terms of this Order. The Order number must appear on all documents pertaining to the Order, invoices, packing lists, correspondence and all shipping documents. Seller shall not substitute material or ship more than the quantity ordered. Supplier shall be solely responsible for paying all costs of delivery of the Products to the Delivery Location, which includes, but is not limited to all shipping and freight costs and all duties, fines, tariffs or similar analogous taxes on the importation or exportation of the Products ("Customs Duties"). Supplier shall take reasonable steps to minimize the costs of Customs Duties

**14. Taxes.**

Unless otherwise specified on the front of the Order, Seller shall be responsible for payment of prices inclusive of all federal, state and local taxes, including but not limited to value added tax, product and service taxes. No sales or excise taxes are to be added when a valid tax exemption is indicated on the front of this Order. Taxes or any other contributions arising from this Order shall be your party's share, in accordance with your country of residence or origin.

**15. Title and Risk of Loss.**

Unless otherwise specified in the Order, risk of loss remains with Seller and title will not pass to Buyer until the Products are delivered to and accepted by Buyer at the Delivery Location

**16. Force Majeure.**

Neither party shall be liable to the other for any delay or failure to perform its obligations under the Order to the extent such delay or failure is caused by an event or circumstance which is beyond the reasonable control of such party, without fault or negligence of such party, and which by its nature could not have been foreseen by such party ("Force Majeure Event"). Force Majeure Events include, but are not limited to, supernatural or public enemy events, governmental restrictions, floods, fires, earthquakes, explosions, epidemics, pandemics, war, invasion, terrorist acts, strikes, work stoppages or embargoes. Seller's economic difficulties or changes in market conditions are not considered Force Majeure events. Seller must use all diligent efforts to resolve the failure or delay in its performance, ensure that the effects of any force majeure event are minimized and continue performance under the Order. If a force majeure event prevents Seller from performing its work and/or delivering the Product, Seller must notify Buyer within 24 hours and credit the event, and Buyer may grant Buyer a grace period for performance or terminate this Order, in its sole discretion, upon written notice to

Seller. In the event Buyer has paid any amount for any reason and any event is credited, Seller agrees to refund such amount.

**17. Relationship of the Parties.**

Seller is an independent contractor of Buyer. Nothing herein shall be construed to create any fiduciary, agency, partnership or employment relationship. Neither party shall have the authority to bind the other party in any way.

**18. Governing Law and Venue.**

All matters arising out of or relating to this Order shall be governed by and construed in accordance with the internal laws of the state, province or territory identified at Buyer's address on the Order. Each party irrevocably and unconditionally submits to the exclusive jurisdiction of the federal or state, provincial or territorial courts of the state, province or territory identified at Buyer's address on the Order, and Seller hereby waives any other jurisdiction that may be available to it by reason of its address.

**19. Notices**

All notices, consents, claims, demands, releases and communications hereunder (each, "Notice") shall be in writing and sent to the addresses of the parties set forth on the face of this Order or such other addresses as may be designated by the receiving party in writing. All Notices shall be mailed within 24 hours by personal delivery (all charges prepaid), or by e-mail with return receipt requested, facsimile (with confirmation of transmission) or certified or registered mail (return receipt requested, postage prepaid). A notice is effective only upon receipt by the receiving party.

**20. Inconsistent Terms**

The terms found on the face of this Order shall govern over the terms and conditions hereof. Any separate written cancellation agreement signed by both parties shall prevail over the terms of the Order.

**21. Services**

Any Seller performing the Services represents itself to be qualified and capable of performing the Services. Seller shall perform the Services in accordance with the industry standard of care. Buyer shall provide the materials, equipment and machinery only if set forth in the Order. Seller shall promptly advise Buyer of any event or circumstance which Seller knows of, suspects or results in a breach of Buyer's policies or laws set forth herein. Seller, at its expense, will repair or replace any real or personal property belonging to Buyer that Seller, its representatives or employees damage, destroy or dispose of in carrying out or as a result of this Order.

**22. Severability and Contractual Validity.**

If any term or provision of this Order is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegitimacy or unenforceability shall not affect any other term of the Order or invalidate or render unenforceable such term in any other jurisdiction.

These Terms constitute the entire agreement between Buyer and Seller with respect to the subject matter hereof and supersedes all prior negotiations and/or understandings, whether written or oral.

**23. Miscellaneous**

Seller shall not assign, transfer, delegate or subcontract any of its rights or obligations under the Order without the prior written consent of Buyer. Any purported assignment or delegation in breach of this Section shall be null and void. No assignment shall relieve Seller of its obligations hereunder. No modification, alteration or amendment of the Order shall be binding unless agreed to in writing and signed by Buyer. No waiver by either party of any of the provisions of the Order shall be effective unless explicitly set forth in writing and signed by the party effecting the waiver. Buyer's failure to exercise or delay in exercising any right, remedy, power or privilege arising under the Order shall not constitute or be construed as a waiver hereof, nor shall any single or partial exercise of any right, remedy or privilege hereunder preclude any other or further exercise of any right, remedy or privilege.

**THE SELLER**

Name:

Title:

Date: