

Purchase Order Terms and Conditions

1. Acceptance - A purchase order constitutes an offer made by Purchaser referred to in Purchaser block on front of a purchase order. Return of the acknowledgement copy of a purchase order, signed by Vendor, delivery of part or all of the goods specified, or rendering of part of all of the services specified, will signify Vendor's unconditional acceptance of Purchaser's offer. If Vendor desires any modification whatsoever in Purchaser's offer, Vendor shall notify Purchaser in writing. Any acceptance of this Purchase Order is limited to acceptance of the express terms contained herein, the terms contained on the Purchase Order and any terms specifically incorporated by reference by Purchaser.. The terms and conditions set forth in order constitute the entire agreement between the parties, hereto, and no modification hereof shall be binding unless mutually agreed to in writing. The receipt by Purchaser of any quotation form, sales confirmation or other proposal shall not, in the absence of a written acknowledgement by Purchaser expressly agreeing to same, have the effect of changing in any manner or adding to the terms and conditions hereof. The terms of this Purchase Order are the sole and exclusive terms on which the Purchaser agrees to be bound.
2. Changes in Order as Accepted - Purchaser reserves the right at any time to make changes in time of delivery, drawings and specification, and material used or work covered by an order. If any such change causes an increase or decrease in Vendor's performance, then an equitable adjustment in price and time for Vendor's performance can be made, either for the benefit of Vendor or Purchaser, as the case may be, and this order modified accordingly, in writing.
3. Prices - The prices on an order are in effect and may be altered only through agreement evidenced by written revision of an order before the material is delivered.
4. Defective Goods - If drawing and specifications are furnished by Purchaser, approval of any sample, receipt of goods, or materials, or payment for any goods or materials, by Purchaser, shall not constitute a waiver of such inspection or an acceptance of such goods or materials, or relieve Vendor of any of its obligations and warranties under a purchase order nor relieve Vendor from strict and full compliance with such drawing and specifications. Articles or goods not conforming to such drawing and specifications may be rejected and returned by Purchaser for credit or refund of purchase price. The risk of loss with respect to all non-conforming goods and materials shall be borne by Vendor. Transportation charges for shipment to Purchaser and all expenses of unpacking, examining, repacking, storing, and transportation cost to reship such non-conforming goods and materials shall be paid by Vendor. Vendor agrees to permit access to its facilities at all reasonable times for inspection of goods by Purchaser's agents or employees, and will produce all tools, facilities and assistance necessary for such inspection at no additional cost to Purchaser.
5. Material Furnished - Title to all material furnished by Purchaser on other than a charge basis shall at all times be and remain in Purchaser. Vendor agrees to account for all such materials to the sole satisfaction of Purchaser or pay Purchaser for all costs to replace such materials. Material furnished by Purchaser shall be kept separate from other materials and shall be clearly identified as property of Purchaser. Vendor assumes all liability for loss or damage and agrees to supply detailed statements of inventory as requested. Vendor agrees to notify Purchaser of each receipt of material furnished, either directly or through a third party, by the Purchaser. Delivery shall be F.O.B. destination (UCC terms) unless otherwise agreed to in writing.

6. Additional Parts - Purchaser shall have the right to purchase from Vendor additional parts for service requirements at a negotiated price until such time as Purchaser has authorized tool disposition.

7. Patent Indemnity Clause - Vendor hereby warrants that the goods purchased hereunder and the sale or use of them will not infringe any United States Letters Patent and foreign Letters Patents or Trademarks. Vendor agrees to indemnify and hold harmless Purchaser, its successors, assigns customers, and users of its products against any loss, damage, liability, costs, and expenses which may be incurred as a result of, and/or in defending or settling any suit, claim, judgment or demand involving infringement or alleged infringement of any United States Letters Patent and foreign Letters Patents or Trademarks by the sale or use of the goods purchased hereunder. Vendor agrees that it will, when so requested, provided it is given reasonable notice of the pendency of any such suit, claim, or demand, assume the defense of Purchaser, and/or its successors, assigns, and customers, and users of its products against any such aforementioned suits, claims, or demands.

8. Vendor's Warranty - Vendor warrants that all products, goods, and services, delivered or furnished pursuant to an order will conform strictly to specifications, models, drawings, samples, and descriptions furnished or designated by Purchaser, and will be merchantable, of good material and workmanship, and products of goods of Vendor's design will be fit in every respect for the purposes intended. Vendor's warranty is for Purchaser, its successors, assigns and users of its products, and shall be construed as a condition as well as a warranty. Purchaser shall have all remedies at law and equity for the breach of any warranty.

9. Compliance with Laws - Vendor agrees to comply with all applicable State, Federal, and Local laws, orders, and regulations. This Agreement shall be construed under and governed by the laws of the state of Minnesota. The exclusive venue for any actions brought under this Agreement shall be in Becker County, in the State of Minnesota.

10. Contravening Law - Should any term or provision contained in the contract contravene or be invalid under applicable law, the contract shall not fail by reason thereof, but shall be construed in the same manner as if such term or provision had not appeared therein.

11. Delays and Terminations - Vendor agrees to notify Purchaser immediately of any matters or events that may delay delivery of the goods or services herein ordered. Neither party shall be liable for failure of performance due to strikes, fires, accidents, acts of the government including any preference, priority, or allocation order or other causes beyond its control. Purchaser shall have the right to cancel the Purchase Order due to any Force Majeure event. Vendor understands and agrees that time is of the essence of a purchase order and further agrees that deliveries will be made in such quantities at such times and at such places as Purchaser may from time to time direct and Purchaser has the right to reject any shipment which does not conform to such directions and terminate all or part of the Purchase Order returning such goods or materials to Vendor, at Vendor's risk and expense. The happening of any of the following events shall be grounds for immediate termination by Purchaser, insolvency of Vendor, the filing of a voluntary petition in bankruptcy by vendor; the filing of an involuntary petition to have Vendor declared bankrupt, provided it is not vacated within thirty (30) days from date of filing; the appointment of a Receiver or Trustee for Vendor provided such appointment is not vacated within thirty (30) days from the date of such appointment; the execution by Vendor of an assignment for the benefit of creditors, or in the default by Vendor under any of the General Conditions or other terms of a purchase order.

12. Dies, Tools, and Patterns - If a purchase is for special dies, jigs, tools, and patterns for use in the manufacture of goods for Purchaser, or if the price is to be paid for the goods on the face of an order includes the cost of dies, jigs, tools, and patterns for use in the manufacture of goods for Purchaser, then such dies, etc. shall be and become the property of Purchaser, and shall be clearly identified as the property of Purchaser, at any time without further charges of any nature. Such dies, jigs, tools, and patterns shall be kept in good condition by Vendor, without expense to Purchaser, excepting the actual cost of changes due to Purchaser's change of design or specifications, which shall be paid by Purchaser. Such tools, dies, jigs, and patterns shall not be used to fill purchase orders other than those of Purchaser or be disposed of, except with the written consent of Purchaser. Upon cancellation or termination of a purchase order for any reason whatsoever, Vendor shall prepare such tools, dies, jigs, and patterns for shipment and dispose of them as Purchaser shall direct. Vendor agrees to insure against the loss, damage, or destruction of such dies, jigs, tools, and patterns, and will hold Purchaser harmless from any loss, damage, or the like to such dies, etc., and further agrees, at Vendor's expense, to replace or pay Purchaser the cost thereof in the event of such occurrence which is not caused by the fault of Purchaser.

13. Title to Drawings and Specifications - Purchaser shall at all times have title to all drawings and specifications furnished by Purchaser to Vendor and intended for use in connection with a purchase. Vendor shall use such drawings and specifications only in connection with a purchase order and shall not disclose such drawings and specifications to any person, firm or corporation other than to necessary Vendor's employees, subcontractors or government inspectors. Vendor shall upon Purchaser's request, promptly return all drawings and specifications to Purchaser.

14. Cancellation by Purchase - Purchaser reserves the right to cancel an order, or any part thereof, at any time, though the Vendor is not in default hereunder, on 60 days written notice to Vendor in the event of such cancellation. Purchaser shall pay for all goods and services delivered, completed, and acceptable to Purchaser. Purchaser shall not be liable for any cancellation charges, penalties, costs, damages or other liabilities. Exercise by Purchaser of the rights to cancellation reserved in this Paragraph (14) and Paragraph 11 hereof shall give rise to not liability on the part of Purchaser, and shall not have the effect of waiving damages to which Purchaser might otherwise be entitled.

15. Cancellation by Vendor - In the event that Vendor desires and requests, in writing and receives permission for, cancellation of an order prior to the completion of the services or delivery of the total goods specified herein, Purchaser shall not be obligated to pay Vendor the goods and materials in process, but shall only be obligated to pay Vendor for those finished goods delivered, or services rendered, which are acceptable to Purchaser, as of an effective date of such cancellation, which date shall be the date of acknowledgement and agreement by Purchaser to Vendor's desire to cancel an order, provided, however, that Purchaser shall be obligated to pay for the tools, dies, jigs, and patterns included under an order only to the extent that such tools, etc., have been completed to the specifications therefore, or to the specifications of the goods for which such tools, etc., are being built, as of the effective date of such cancellation; and provided, further, that such tools, etc., regardless of the percent of completion, are readily adaptable for use by Purchaser in its own or another vendor's manufacturing facilities. Nothing in this paragraph is intended, nor should such be implied, to be a waiver of Purchaser's legal or equitable rights or remedies for breach of the terms of a purchaser order.

16. Indemnification - Vendor shall take all necessary precautions to prevent the occurrence of any injury to person or property during the progress of the work contemplated hereunder and, except to the extent that any such injury is due solely and directly to Purchaser's or its Customer's

negligence, as the case may be, shall indemnify and hold harmless Purchaser against all claims, liability, costs, expenses or loss which may result in any way from any act or omission of Vendor, its agents, employees or sub-contractors, and Vendor shall maintain such General Commercial Liability, Property Damage, Employee's Liability, and Compensation Insurance as will protect Purchaser from said risks and from any claims under any applicable Workmen's Compensation and Occupational Disease Acts.

17. Assignment and Subcontracting - An order may not be assigned or subcontracted in whole or in part, nor may any assignment of any money due or to become due hereunder be made by Vendor without the prior written consent of Purchaser.

18. Use of Purchaser's Names - Vendor agrees not to use Purchaser's name, trademarks of the like in Vendor's advertising, or to show parts made for Purchaser in Vendor's advertising with Purchaser's name, or otherwise use Purchaser's name, trademarks or the like to promote Vendor's sales without prior written permission of Purchaser.

19. Nondisclosure and Confidential Information - Vendor agrees that for a period of three (3) years from the date of each receipt of written information marked Proprietary or Confidential, or information disclosed orally and identified orally as Confidential or Proprietary at the time of disclosure and reduced to writing and delivered to the Vendor within ten (10) days after disclosure, the Vendor shall not disseminate or publish such information to any other person, firm or corporation, and shall use the same degree of care to avoid publication or dissemination of such information as the Vendor employs with respect to its own information which it does not desire to have published or disseminated. Nothing contained in this nondisclosure agreement, or other paragraphs of this document, shall be construed as granting or conferring any rights by license or otherwise, expressly impliedly, or otherwise, for any invention discovery or improvement made, conceived, or acquired prior to or after the date of an agreement.

20. Vendor is liable for all taxes on all Material furnished by Vendor including, but not limited to, sales, use and excise taxes not agreed to in the Purchase Order. Purchaser is liable for all sales and use taxes related only to Purchaser-furnished material, if any.

21. Purchaser shall not be liable for anticipated profits or for incidental or consequential damages or for any penalties. Any action against Purchaser must be commenced within one year after the event from which the cause of action arose. Purchaser's liability to Vendor shall not exceed the Agreement price.

22. Vendor agrees that the prevention of accidents involving workers engaged in the work is Vendor's responsibility. Vendor shall promptly take all reasonable and prudent actions to prevent and/or mitigate any damage, injury, and/or loss, regardless of the source of fault, particularly in the event of an emergency.