

# Purchase Order

## General Terms and Conditions



**1. ACCEPTANCE OF CONTRACT:** This order expressly limits acceptance to the terms stated herein, and any additional or different terms proposed by Seller are rejected unless expressly assented to in writing signed by Buyer. Delivery of goods to Buyer prior to the acceptance prescribed above and use of such goods by Buyer shall constitute a contract embodying all and only the terms stated herein.

**2. VARIATION:** No variation or modification of this order or the contract resulting from this order or of the terms and conditions of either shall be effective without Buyer's written consent. No course of prior dealings, no usage of the trade and no course of performance shall be relevant to supplement or explain any terms used in this agreement or be deemed to affect any such modification or variation.

**3. TERMINATION:** Buyer reserves the right to terminate this contract at any time with respect to unperformed services by written, electronic, telegraphic notice, or verbal notice confirmed in writing.

**4. DELIVERY:** Time is of the essence in this contract, and if delivery or rendering of conforming materials or services is not completed by the time(s) promised. Buyer reserves the right without liability, in addition to its other rights and remedies, to cancel this contract, to reject such materials or services in whole or in part on reasonable notice to Seller, and/or to purchase substitute materials or services elsewhere and charge Seller with any loss incurred. Any provisions herein for delivery of materials or the rendering of services by installments shall not be construed as making the obligations of Seller severable. Shipments sent C.O.D. without Buyer's written consent will not be accepted and will be at Seller's risk.

**5. PRICE:** Buyer shall not be billed at prices higher than stated on this Purchase Order unless authorized in writing and signed by Buyer. Seller represents that the prices charged for the items or services covered by this order are the lowest prices charged by Seller and that such prices comply with all applicable laws and government regulations in effect at time of quotations, sale and delivery. Seller agrees to notify Buyer of any price reduction made in materials covered by this order subsequent to the placement thereof and prior to delivery and agrees that any such reduction will be applicable to this order.

**6. CONTINGENCIES:** Failure of Buyer to take delivery or accept performance of services hereunder for portions thereof when due, if occasioned by Act of God or the public enemy, fire, explosion, perils of the sea, flood, drought, war, riot, sabotage, accident, embargo, government priority, requisition or allocation, or any circumstance of like character beyond the reasonable control of Buyer, or by interruption of or delay in transportation, labor trouble from whatever cause arising and whether or not the demands of the employees involved are reasonable and within Buyer's power to concede, partial or complete suspension of Buyer's operations, compliance with any order or request of any governmental officer, department, agency, or committee, shall not subject Buyer to any liability to Seller. At Buyer's option, the period specified for delivery of materials or performances of services hereunder shall be extended by the period of delay occasioned by any such circumstance and deliveries or services omitted (or portions thereof) shall be made or performed during such extension, or the total ordered hereunder shall be reduced by the deliveries or services (or portions thereof) so omitted. The provisions of this paragraph shall be effective notwithstanding that such circumstance shall have been operative at the date of this order.

**7. WARRANTIES:** In addition to all warranties established by law, Seller hereby warrants and agrees that:

a) All materials and services covered by this order shall conform to the specifications, drawings, samples or other descriptions furnished or adopted by Buyer, and shall be merchantable, fit for the purpose intended, of best quality and workmanship and free from all defects. Buyer shall have the right of inspection and approval, and may reject and return materials or require re-performance of services at Seller's expense if defective or not in compliance with Buyer's specifications. Defects shall not be deemed waived by Buyer's failure to notify Seller upon receipt of materials or completion of services, or by payment of invoice.

b) No disclosure, description or other communication of any sort shall be made by Seller to any third person of the fact of Buyer's purchase of materials or contract for services hereunder, or of the details and characteristics thereof without Buyer's prior consent in writing. Anything furnished to Seller by Buyer pursuant to this order, including without limitation, samples, drawings, patterns and materials, shall remain the property of the Buyer, shall be held at Seller's risk, and shall be returned upon completion of work, and no revelation or reproduction thereof in any form shall be made without Buyer's prior consent in writing.

c) All materials sold or services rendered pursuant to this order will have been produced, sold, delivered or rendered to Buyer under terms and conditions which satisfy all the requirements of, and which are in compliance with all applicable laws and regulations. In addition, Seller shall certify on each invoice for materials purchased

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hereunder that all such materials were produced in full compliance with Section 6, 7, and 12 of the Fair Labor Standards Act of 1938, as amended, and regulations issued there under.

d) The use or sale of any materials delivered hereunder, or any part thereof, does not infringe any adverse valid existing patent. Seller agrees to exonerate, indemnify and hold harmless Buyer, its customers, users of its products and its and their successors and assigns, of any of them, from any loss, cost or expense incurred in connection with any claim, suit or action for actual or alleged infringement of any such patent, arising out or resulting from use or sale of the material ordered hereunder, and Seller further agrees to defend, at its expense, any such claim, suit or action brought against Buyer, its customers, users of its products and its and their successors and assigns, or any of them.

e) Seller agrees that the foregoing warranties shall survive acceptance of materials.

**8. LOSS IN TRANSIT:** Title and risk of loss in transit shall not pass to Buyer upon delivery to carrier.

**9. MARKING:** Seller shall mark each package or shipment clearly with Buyer's name and address, contents and this purchase order number.

**10. ASSIGNMENT:** Assignment of this contract, or any interest herein, or any money due or to become due under the terms hereof, without the prior written consent of Buyer, shall be void.

**11. ATTORNEYS' FEES AND COSTS:** In the event it becomes necessary for either party hereto to file a lawsuit to enforce any of the terms and costs of this agreement, the prevailing party shall be entitled to recover reasonable attorney's fees and costs.

**12. GOVERNING LAW:** This contract shall be governed by the laws of the State of Florida and specifically by the Uniform Commercial Code as enacted by the State. Unless otherwise indicated by the context, whenever a term used in this contract is defined by the Uniform Commercial Code as enacted in the State of Florida, the definition contained in such Uniform Commercial Code is controlling as to the meaning of the term.

**13. EEO COMPLIANCE:** Vendor agrees to comply with all applicable federal, state and local laws, including the Civil Rights Acts of 1964 as amended. The Equal Employment Opportunity clause in Section 202 paragraphs 1 through 7 of Executive Order 11246, as amended, relative to Equal Employment Opportunity and the implementing Rules and Regulations of the Office of Federal Contract Compliance are incorporated herein by specific reference. The Affirmative Action Clause in Section 503 of the Rehabilitation Act of 1973, as amended, relative to Equal Opportunity for the handicapped is incorporated herein by specific reference. The Affirmative Action clause in 38 USC Section 2012 of the Vietnam Veteran's Readjustment Assistance Act of 1974, relative to Equal Employment Opportunity for the special disabled veteran and veterans of the Vietnam Era, is incorporated here by specific reference.

**14. INDEMNIFICATION:** In supplying any labor or performing any services hereunder, Seller is and undertakes performance hereof as an independent contractor, with sole responsibility for all persons employed in connection therewith, including without limitation, exclusive liability for the payment of all Federal, State, and local Unemployment and Disability Insurance. Social Security and/or other taxes and contributions incurred hereunder from and against which Seller agrees to exonerate, indemnify and hold harmless Buyer. Seller agrees, prior to commencement of any work hereunder, to transmit to Buyer certificates of Workmen's Compensation and Employer's Liability and Comprehensive General and Automobile Liability Insurance, with limits of not less than \$100/300,000 for bodily injuries and not less than \$25/50,000 for property damage, (at Buyer's option high limits may be specified). If this order shall require the presence of Seller's employees, subcontractors or others under Seller's control, at Buyer's plant, such persons are to be subject to all applicable rules of said plant, including those for safety and fire protection. Seller shall indemnify, exonerate, hold harmless and defend Buyer from and against any and all claims, loss, liability, judgments, cost and expense as a result of bodily injury or death and/or property damage arising out of or in any way connected with performance of work or materials procured under this purchase order, unless caused by the sole negligence of the Buyer.

**15. PAYMENT AND DISCOUNT:** Buyer is not liable for any additional charges due to late payment resulting from inaccurate invoice information. Seller agrees that producing an accurate and acceptable invoice is seller's responsibility. Cash discount will be calculated from date of receipt of acceptable invoice.