

## PURCHASE ORDER TERMS AND CONDITIONS

1. **ACCEPTANCE** This purchase order, including these Terms and Conditions, and any additional terms and conditions incorporated into or attached hereto, constitutes the entire agreement between the parties hereto. Making shipments or deliveries hereunder or any other acknowledgement hereof by Vendor, notwithstanding any proposals or terms and conditions additional to or different from those contained herein, shall be deemed an acceptance by Vendor hereof and Purchaser shall be bound only by the terms and conditions of this purchase order. Purchaser recognizes that the Vendor may, for operating convenience, desire to utilize its own form of sale memorandum in acknowledging this order, or acknowledge it otherwise than by simple acceptance. However, it is mutually agreed that any provisions in the form of acceptance used by the Vendor which modify, conflict with or contradict any provision of this order, shall be deemed to be null and void.

2. **SHIPPING** Goods purchased hereunder shall be delivered to Purchaser at the delivery point specified on the face thereof. All transportation and handling charges shall be prepaid by the Vendor unless otherwise specified on the face hereof. All goods shall be marked and labelled as required by Purchaser and in accordance with all applicable laws and standards. All goods shall be properly packed for shipment so as to prevent any damage thereto during shipment. The Vendor shall ensure that the packing slips for the goods purchased correspond with the part numbers and description indicated on the face hereof. All goods manufactured and originating outside of Canada shall be accompanied by all necessary documentation including Certificate of Origin or Blanket Certificate of Origin; where applicable. The Vendor shall at its expense insure the goods being shipped at not less than the full replacement cost thereof.

3. **PRICE** Vendor shall furnish the materials described herein at the price or prices set forth opposite each item of work within the times required by Purchaser. Those prices shall remain firm for the duration of this procurement unless specifically stated otherwise on the face hereof. Purchasers' rights shall also include the right to increase or decrease quantities at the unit price shown prior to receipt of the complete order at the job site. No charges of any kind, including charges for boxing, packing, crating or cartage, will be made unless specifically agreed to by Purchaser in writing. Price is to cover net weight of material or articles, unless otherwise agreed. Any discounts allowed by the Vendor shall apply when invoices are so paid. All invoices shall carry current mailing dates. Invoices shall only be sent to Purchaser after delivery of the goods or performance of the services. If correct invoices do not reach Purchaser within five (5) calendar days from invoice date, payment deadlines and discount periods shall be calculated from a date five (5) calendar days prior to receipt of correct invoice.

The prices for the purchased goods or services include all customs and import duties unless otherwise noted on the face hereof. Subject to acceptance of the purchased goods or services, Purchaser shall pay the price in thirty (30) days of receipt of the Vendor's invoice. Purchaser shall pay or reimburse Vendor for any sales or use or goods and services taxes unless Purchaser furnishes appropriate evidence of exemption. All prices and related charges shall be in Canadian currency unless otherwise noted on the face hereof.

All invoices shall indicate as separate line items each of the applicable taxes. The Vendor's invoice shall indicate the Vendor's goods and services tax registration number failing which Purchaser shall not be required to pay such invoice until a correct invoice is received. Wherever any legislation or regulation permits the recovery of all or any portion of the duties or taxes charged by the Vendor to Purchaser, the Vendor shall either recover and remit such duties and taxes to Purchaser, or the Vendor shall fully disclose to Purchaser all relevant information and the Vendor shall execute all necessary documents to enable Purchaser to complete such recovery.

4. **TITLE** Title to goods purchased shall pass to Purchaser upon delivery of goods to Purchaser and Purchasers' acceptance thereof in accordance with paragraph 9.

5. **SPECIFICATIONS** The Vendor shall manufacture or supply goods or services purchased in accordance with Purchasers' and Owner's Specifications, if any, only upon written approval by Purchaser of such Specifications. The Vendor shall not make any substitution or changes in the goods or services without Purchasers' written consent.

6. **WARRANTY - GENERAL** Notwithstanding any oral or written agreement to the contrary, Purchaser reserves the right to rely on any warranties or conditions implied under the Sale of Goods Act (Ontario), or any other comparable legislation in other jurisdictions which may be found applicable hereto. Without limiting the foregoing, the Vendor hereby represents and warrants to Purchaser that:

- (a) the Vendor has the right to sell the goods with good and marketable title thereto and that such goods are free from all liens, charges or encumbrances of any nature or land whatsoever;
- (b) Purchaser will have and enjoy quiet possession of the goods;
- (c) goods sold by description will correspond with the description, and, if the sale is by sample as well as description, it is not sufficient that the bulk of the goods correspond with the sample if the goods do not also correspond with the description;
- (d) goods sold are of merchantable quality, notwithstanding any examination or inspection or acceptance of the goods carried out by Purchaser;
- (e) in the case of goods sold by sample, the bulk will correspond with the sample in quality;
- (f) any services performed by the Vendor, whether or not in conjunction with the supply of goods, shall be carried out in a good and workmanlike manner in accordance with the standards of the trade; and
- (g) goods sold shall be new and unused.

7. **WARRANTY - QUALITY** The Vendor represents and warrants to Purchaser that the goods and services purchased hereunder shall be, (i) free from defects in materials and workmanship, (ii) of merchantable quality and in full conformity with Purchasers' Specifications (if any) and all Specifications contained in this Purchase Order, and shall perform in accordance therewith or the Vendor's samples, (iii) fit for the use intended by Purchaser (provided that the Vendor has reason to know, or should have known, of such intended use), (iv) if goods, new and unused and (v) comply with all applicable laws and regulations and any applicable standards. The Vendor agrees that all of the representations and warranties provided for in this Purchase Order shall survive acceptance of and payment for any goods or services furnished by the Vendor or on the Vendor's behalf. The warranties in the Purchase Order shall be in addition to any warranty of additional scope given to Purchaser by the Vendor. No implied warranties or conditions, statutory or otherwise can be waived or excluded by the Vendor.

8. **DELIVERY AND TIMELINESS** Purchased goods or services shall be delivered or furnished at the time or times specified on the face hereof or in the event no delivery schedule is stated as soon as possible. Failure to deliver goods or to perform services of the quality and within such specified time or times or if none, within a reasonable period of time, shall, at the option of Purchaser, relieve it of any obligation to accept and pay for such goods or services, as well as any undelivered installments, if there be any. Upon failure to deliver or perform as specified, Purchaser may buy elsewhere and the Vendor shall indemnify Purchaser as provided for herein (including reimbursement for any increased costs paid by Purchaser) unless deferred shipments or performance is consented to by Purchaser in writing. Any failure by Purchaser to exercise this option with respect to any installment shall not be deemed to constitute a waiver with respect to subsequent installments. Goods delivered prior to a specified deliver date may, at Purchasers' option be returned to the Vendor or retained, but Purchaser shall be entitled to withhold payment until the otherwise applicable payment date.

9. **INSPECTION** Purchaser and Owner shall have the right to inspect and test the materials at Vendor's plant any time prior to shipment, and to final inspection within a reasonable time after arrival at the ultimate destination. The materials shall not be deemed accepted until after such final inspection. The making or failure to make any inspection of or payment for, or acceptance of the material shall in no way impair Purchasers' right to reject nonconforming goods, to recover damages or exercise any other remedies to which Purchaser may be entitled, notwithstanding Purchasers' knowledge of the nonconformity, its substantiality, or the ease of its discovery. Vendor shall be liable for all inspection, re-shipment and return costs on nonconforming goods. Vendor shall not replace returned materials unless so directed by Purchaser in writing. Rejection by Purchaser of any lot or individual item furnished under this purchase order does not relieve Vendor of its obligation to deliver conforming items in the quantities set forth in this purchase order.

10. **INDEMNIFICATION** Vendor shall indemnify, defend and save harmless Purchaser from and against any and all claims, debts, demands, damages (including direct, liquidated, consequential, incidental or other damages), judgments, awards, losses, liabilities, interest, legal fees, costs and expenses of whatsoever kind or nature at any time arising out of any failure of Vendor to perform any of the terms and conditions of this purchase order or which are caused or occasioned by, or claimed to be caused or occasioned by, any act, omission, fault, or negligence, of Vendor or anyone acting under its direction or control, or on its behalf in connection with or incident to the work. Without limiting the generality of the foregoing the same shall include injury or death to any person or persons, including agents, consultants, members and employees of Owner, Purchaser and Vendor, and damage to any property, regardless of location.

11. **CANCELLATION** Purchaser may at any time cancel its order for all or any part of undelivered goods or services specified in this Purchase Order, or any revisions thereof or any delivery schedule issued pursuant thereto upon one day's notice in writing to the Vendor.

12. **WORK ON PURCHASERS' OR ITS CUSTOMERS PREMISES** If the Vendor's work under the Purchase Order involves operations by the Vendor on the premises of Purchaser or any of its customers, the Vendor shall comply with all applicable laws including those relating to worker safety and shall take all necessary precautions to prevent the occurrence of any injury or damage to person or property during the progress of such work and except to the extent that any such injury or damage is due solely and directly to Purchasers' or its customer's negligence, as the case may be, shall indemnify Purchaser, its officers, directors, employees and agents (past, present and future) against all claims, damages, liability, costs and expenses of any kind or nature which Purchaser may suffer or incur as a result of or arising out of any act or omission of the Vendor, its agents, employees, or subcontractors, and the Vendor shall prior to entry to the property of Purchaser or its customers obtain and maintain Workplace Safety Insurance, Employer's Liability Insurance, Comprehensive General Liability Insurance (including Products Completed Operations and Broad Form Contractual Liability, Bodily Injury and Property Damage), and Automobile Liability Insurance in such amounts of coverage as will protect Purchaser, its officers, directors, employees and agents (past, present and future) from said risks and any claims arising therefrom. Upon request the Vendor shall provide Purchaser with evidence of such coverage, satisfactory to Purchaser.

13. **ASSIGNMENT** The Vendor may not assign this Purchase Order or any of its rights or obligations hereunder without the prior written consent of Purchaser, which consent may be unreasonably withheld. The Vendor shall not subcontract the work to be performed under this Purchase Order without the prior written consent of Purchaser, which consent may be unreasonably withheld, but the Vendor may purchase goods as it normally purchases to perform the work.

14. **BANKRUPTCY** If the Vendor shall become bankrupt or insolvent or be subject to any winding-up or bankruptcy legislation or commences proceedings under any creditors relief legislation or makes or files any notice of intent to file a proposal or files a proposal or goes into liquidation, voluntary or involuntary, or makes a general assignment for the benefit of its creditors or if a liquidator, receiver, receiver and manager or trustee in bankruptcy is appointed to or of the Vendor's assets with or without the Vendor's consent, or if the Vendor ceases to conduct operations in the normal course of business, then Purchaser shall be entitled to cancel any unfiled part of this Purchase Order without any liability whatsoever and Purchaser shall be indemnified by the Vendor for any and all damages suffered by Purchaser as a consequence of the cancellation of the Purchase Order.

15. **CONFORMITY TO LAW** The Vendor represents and warrants to Purchaser that the goods to be produced or sold and the services to be rendered under this Purchase Order have been or will have been manufactured, stored, packed, labelled, shipped, provided and performed in accordance with and in strict conformity to all applicable federal, provincial and municipal statutes, order, ordinances, regulations and rules and any applicable standards including Canadian Standards Association standards.

16. **GOVERNING LAW** This contract will be governed, construed, applied and interpreted in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. The application of the United Nations Convention on Contracts for the International Sale of Goods, as amended from time to time, is hereby expressly excluded.

17. **AMENDMENTS** This contract shall not be changed, modified, terminated or otherwise amended unless made in writing by Purchaser and the Vendor.

18. **TIME** Time shall be of the essence of this Purchase Order.

19. **LANGUAGE** Purchaser and the Vendor confirm that it is their wish that this contract as well as all other related documents, including notices, have been and shall be drawn in English only. Les parties aux présentes confirment leur volonté que cette convention de même que tous les documents, y compris tous avis s'y rattachant, soient rédigés en anglais seulement.