

PURCHASE ORDER TERMS and CONDITIONS

TERMS:

- 1. The purchase and sale of the products and/or services described in the accompanying purchase order are subject to the terms and conditions set forth in this agreement (“Agreement”). Unless otherwise expressly agreed in writing by the Purchaser, Seller's acceptance of this Purchase Order shall be deemed an acceptance of these terms and conditions. Any additional or different terms will be deemed to constitute a rejection of the relevant order. If no formal, express written notification is given Purchaser within five (5) days after receipt of any order, or if shipment is made of any part thereof, it is understood that the terms and conditions herein and in the relevant order are satisfactory to and are accepted by Seller. The terms of this Agreement may not be changed or altered unless in writing and signed by a duly authorized representative of Purchaser.**
- 2. In addition to all other legal rights, Purchaser reserves the right to cancel this Agreement and/or to return at Seller's expense, all or any part of the merchandise if the merchandise is defective, or not fit for the purpose intended, or the quantity delivered in excess of the order or varying from the sample from which or specifications for which the order was placed or for failure to comply with Purchaser's shipping or billing instruction or with any of the provisions of herein. If, prior to shipment, there is any reduction in the Seller's regular selling price for the merchandise described in any order, the price specified will be reduced to the Seller's regular selling price prevailing at the time of shipment for such merchandise. Further, the Purchaser reserves the right to revoke or cancel any order at any time prior to delivery, should the Purchaser's requirements change. If Seller has shipped merchandise in accordance with delivery instructions specified in the relevant order and prior to such revocation or cancellation, when the Purchaser revokes or cancels the order it shall be responsible for reasonable transportation costs.**
- 3. All products are to be shipped to Purchaser's address set forth above or at such other location as Purchaser may direct in writing. Time of delivery at Purchaser's location is of the essence and Purchaser reserves the right to cancel all or any part of the order if merchandise is not delivered on the date or dates specified, but acceptance in such cases shall in no way bind Purchaser to accept further deliveries of any order. Any such merchandise received after the date or dates specified will be held subject to the Purchaser's right to reject or direct disposal of all or any part thereof. Acceptance of merchandise after the date or dates specified for delivery shall not be construed as a waiver of Purchaser's right to recover for late delivery. Cure of a non-conforming tender may be made only with the express written consent of Purchaser.**
- 4. Risk of loss or damage shall pass to Purchaser when the products arrive at the final destination, is inspected and accepted by Purchaser. All transportation costs resulting from deviation from shipping instructions and any other costs incurred by the Purchaser because of Seller's non-compliance with the terms and conditions of this Agreement and/or any order shall be charged to Seller's account.**
- 5. Purchaser may withhold from the purchase price an amount equal to no more than 10% of the purchase price until Purchaser has determined that the order has been properly filled to indemnify it**

against any losses or liabilities that it may incur as a result of Seller's failure to fully perform its obligations hereunder.

6. Seller expressly warrants that the products to be delivered will conform to the sample from which or specifications for which the order was placed and will be of the best material and workmanship, free from defects or matter injurious to persons or property and merchantable and fit for the use and purpose for which they are intended. If Seller breaches this warranty, Purchaser shall be entitled to, in addition to any other remedies, in its sole discretion and without any liability to: (a) cancel the order without notice; (b) reject shipments; (c) insist upon Seller's performance under the order and offset the order cost by any actual or reasonably estimated losses incurred by the Purchaser; (d) withhold any payments due to Seller; (e) recover any and all actual damages, including but not limited to actual or reasonably estimated loss of profits or sales and costs to cover attorney's fees, costs associated with recalling the goods and any penalties or liquidated damages assessed by or paid to the customs authorities of the importing country; and/or (f) offset any amounts due Seller by any actual or estimated loss incurred by the Purchaser. Remedies of the Purchaser herein shall not be exclusive but shall be accumulative of any other remedy of the Purchaser herein or under any relevant statute or law.

7. Purchaser shall be under no duty to inspect goods before resale and resale shall not be considered an acceptance of the goods so as to bar Purchaser's right to reject them. Notice of defects in merchandise or notice of any other breach will be considered made within a reasonable time if made within a reasonable time after notification is given to Purchaser of such defects by Purchaser's customers. The return of such defective merchandise shall not relieve Seller from liability for failing to ship satisfactory merchandise under the relevant order. Failure of Purchaser to state a particular defect upon rejection shall not preclude Purchaser from relying on unstated defects to justify rejection or establish breach.

8. Purchaser reserves the right to return at Seller's expense any merchandise and cancel this contract where a claim is made by any third party that the sale by Purchaser infringes upon their rights arising from any patent, trade name, trademark or copyrights.

9. Seller shall indemnify Purchaser from all liability, loss, claims, suits and actions (i) arising from Seller's breach of its representations and warranties under this Agreement or (ii) which may be made or brought against it by virtue of claims or demands of any kind which any purchaser of such products from Purchaser or any other person may make against Purchaser arising from the sale or use of such products or from any defects in the quality of such products or the dangerous conditions thereof, and agrees to pay any judgment against and assume any liability or expense of Purchaser in connection with any such claim. Seller shall procure and maintain adequate products liability insurance and commercial general liability insurance (including personal and advertising injury).

10. Seller represents and warrants to Purchaser that all applicable provisions of relevant state and federal laws, statutes, ordinances, codes and regulations have been and will be complied with in connection with the manufacture of the products, including environmental and safety laws and regulations.

11. Seller shall pay and assume any and all taxes, fees, imposts, or stamps required by law by virtue of the sale of merchandise to Purchaser.
12. Inclusion in this Agreement of express warranties and representations by Seller shall not be deemed a waiver of such other warranties as may be implied in law or fact or provided for by any state or federal law, statute or regulation. Any warranties, express or implied, shall survive inspections, acceptance and payment by Purchaser and Purchaser's customers. No amendment, modification or waiver of any of the terms and conditions of this Agreement or any order shall be effective unless in writing and signed by an officer of the Purchaser. No waiver of any breach or of any terms or conditions of this Agreement or any order shall be construed a waiver of any subsequent breach of that term or condition or other term or condition of same or different nature of this or any other order or contract.
13. Neither party shall be liable to the other party for failure to meet its obligations under this Agreement due directly to fire, flood, earthquake, labor disputes, war, act of God, embargo, civil commotion, or governmental regulation or other cause beyond such party's control.
14. This Agreement is not assignable by either party without the written consent of the other party, which consent may be withheld for any reason.
15. This Agreement shall be construed according to the laws of the Commonwealth of Pennsylvania.
16. Any and all disputes as to the interpretation or performance of this Agreement, and/or which arise out of or in any way relate to this Agreement, shall be determined by binding arbitration which shall be conducted in Philadelphia, Pennsylvania before the Judicial Arbitrations and Mediation Services ("JAMS") and in accordance with the rules of JAMS. Any award arising out of such arbitration shall be subject to entry as a judgment by any court of competent jurisdiction in the United States. Any action to confirm or vacate such an award must be brought in Philadelphia, Pennsylvania. Seller and Purchaser each consent to personal jurisdiction and exclusive venue in such courts and waive any challenge to personal jurisdiction or venue in such courts.
17. All shipments of orders must be in strict compliance with Purchaser's shipping instructions. Any shipments not in compliance will be subject to handling fees and cost-reimbursements via chargebacks to the Seller's account.
18. Promptly upon Purchaser's request, Seller shall furnish, execute and deliver to Purchaser, lien waivers, releases or receipts in a form satisfactory to Purchaser from all persons or firms performing work and supplying materials or services hereunder.
19. If any term herein or in any order is found to be unenforceable for any reason, all other terms shall remain in full force and effect.