



## PURCHASING TERMS AND CONDITIONS

### 1. ACCEPTANCE AND MODIFICATION OF AGREEMENT

This purchase order (P.O.) becomes a binding contract, subject to the terms and conditions hereof, when accepted by delivery of written acknowledgment to Purchaser or by delivery of goods in whole or in part. Any acknowledgment form or other form of Seller containing terms and conditions of sales shall not have the effect of adding to, modifying or deleting the terms and conditions hereof. Any addition to, modification of, or deletion from this P.O. shall be in writing and signed by Purchaser's authorized representative. It is the specific intent of the parties that the terms of this P.O. shall govern the relationship between Purchaser and Seller, unless the parties otherwise agree in writing.

### 2. DELIVERY

Time of delivery is and shall remain the essence of this P.O. In the event Seller fails to deliver as and when specified, Purchaser reserves the right to cancel this P.O., or any part thereof, without prejudice to or waiver of its other rights. Purchaser may charge Seller with any loss or expense sustained as a result of such failure to deliver in accordance with this P.O. If Seller is unable to meet the delivery requirements listed on the P.O., Seller shall advise Purchaser of different delivery dates on written acknowledgement, and Purchaser may accept changed delivery dates or Purchaser may request Seller to ship by express carrier. Upon such request, Seller shall ship by express carrier and Seller shall pay the difference between the freight and express rate.

### 3. SHIPPING AND PACKING

All items ordered shall be suitably packed and marked for shipping by Seller. Seller shall include a packing list with each shipment and show purchase order number on each package, packing list, bill of lading, invoice and all correspondence. Purchaser shall not be charged for any packing, marking or boxing not separately itemized hereon. Seller shall be liable to Purchaser for any loss or damage resulting from Seller's failure to provide adequate protection during shipment. Purchaser and Seller shall assist each other, including the procuring of any documents of information, in filing and/or prosecuting any claims against carriers or others arising out of any such shipment.

### 4. INVOICES

Seller shall send all invoices to the address stated on the front of the P.O. All invoices shall include (a) the purchase order release number; (b) item number on the release; (c) invoice quantity; and (d) unit price and total invoice amount. The invoice shall also include a separately itemized list of all applicable sales and/or use taxes, and any freight charges invoiced shall also be listed separately and accompanied by a copy of the freight bills. Cash discounts will be taken in accordance with terms shown on Seller's invoices.

### 5. OVERSHIPMENTS

All goods shipped on this P.O. must not be in excess of quantity ordered unless authorized by Purchaser in writing. Overshipments may be returned at Seller's expense. Acceptable foundry quantities are +/- 10% of original purchase order quantity.

## 6. WARRANTIES

In addition to Seller's standard warranty and/or service guaranty, if any, Seller also warrants that all goods supplied hereunder shall be free and clear of all liens and encumbrances, including good and merchantable title thereto being in the Seller; shall be free from any defects in design, material or workmanship; shall be of good and merchantable quality; shall conform to any of Purchaser's drawings and specifications set forth, attached or referred to herein; shall conform to any sample approved by Purchaser; shall be fit and safe for all purposes for which the same are purchased hereunder, and of which Seller shall have been informed by Purchaser or shall be otherwise aware; and shall comply and have been produced, processed and delivered in conformity with all applicable Federal, State, or other laws, administrative regulations and orders.

The foregoing warranties shall survive inspection, delivery, and payment. In addition to all other remedies permitted by law, Purchaser shall have the option and the right to return all defective items to Seller, at Seller's expense, for repair, replacement or refund. MAT will bill back the supplier per our Reject policy.

## 7. PROPRIETARY INFORMATION

All specifications, drawings, designs, know-how, trade secrets, customer lists, sales information, technical data, inventions, or other proprietary information which may be disclosed by Purchaser to Seller, or which are developed by Purchaser or Seller in connection with this P.O. shall be the sole and exclusive property of Purchaser, and Seller agrees to retain all such proprietary information in strict confidence and not to disclose it to other parties or otherwise use it except as may be specifically required to provide the goods to Purchaser hereunder. Seller agrees to disclose promptly to Purchaser any proprietary information developed in connection with this P.O. and to transfer all right, title and interest in and to such proprietary information to Purchaser, including any applications for Letter Patents or other registrations thereon prepared at Purchaser's expense.

## 8. MATERIAL FURNISHED BY PURCHASER

Any material, molds, dies, jigs, tools and equipment furnished by Purchaser in connection with this P.O. shall remain the sole property of Purchaser and shall be deemed to be bailed to Seller for the limited purpose of providing goods to Purchaser hereunder. Seller shall not sell or otherwise encumber Purchaser's title and interest in such items, and specifically agrees to return such items to Purchaser upon demand. Seller shall be responsible for any loss or damage thereto and shall keep all materials, tools and equipment in which Purchaser has an interest insured against risk of loss or damage, for their value at Seller's expense while they are in Seller's possession. Any remaining material, tools and equipment shall be immediately returned to Purchaser F.O.B. Seller's facility, properly packed upon receipt of Purchaser's written directions. Seller further agrees to assist Purchaser in any efforts necessary to perfect Purchaser's security interest, if any, in such items, and Seller agrees that a photocopy of this contract may be filed in lieu of the filing of a financing statement.

## 9. PRICE

If the price is omitted or incorrectly stated on the order, then Seller shall insert Seller's lowest prevailing market price on the acknowledgement; provided, however, that any price reduction made subsequent to the placement of this order shall be applicable to this order.

#### 10. INDEMNITY AND INSURANCE

Seller agrees to defend, indemnify and hold Purchaser, its employees, officers, directors, shareholders, agents and assigns harmless from and against any and all suits, claims, demands, causes of action, damages, losses, costs and expenses of any kind (including reasonable attorneys fees), arising out of or relating to (a) non-compliance or alleged noncompliance by Seller of any law referred to in Paragraph 17, (b) the manufacture, transportation or sale of the goods under this contract, or (c) any negligent or willful act or omission by Seller, its officers, agents, or employees. Seller, at its expense, shall maintain and submit evidence of adequate levels of the following insurance: Public Liability, Property Damage, Worker's Compensation and Comprehensive General Liability insurance, including coverage for contractual and product liability, and upon Purchaser's request shall provide adequate automobile liability insurance including coverage for owned, non-owned and hired vehicles. In the event any goods sold and delivered hereunder shall be defective in any respect whatsoever, Seller shall indemnify and save harmless Purchaser from all loss or the payment of all sums of money by reasons of any accidents, injuries, or damages to persons or property that may happen or occur in connection with the use or sale of said goods and are contributed to by said defective condition, including product recalls.

#### 11. PATENTS, TRADEMARKS AND TRADENAMES

Unless authorized by Purchaser in writing, the names of Purchaser, its parent, subsidiaries and/or any affiliated corporations or any of their tradenames, copyrights, or trademarks shall not be used by Seller. Seller agrees to indemnify and save harmless the Purchaser, its officers, agents, successors, assigns and customers from and against any and all loss, cost, expense or damages, including reasonable attorney's fees, due to any actual or alleged infringement or violation by Seller of any tradename, trademark, copyright or patent (unless the goods ordered are of Purchaser's design) arising out of or on account of the manufacture, possession, sale or use of any goods provided herein.

#### 12. TERMINATION

Purchaser may terminate this P.O. in whole or in part by providing written notice to Seller. The acceptance of goods or performance after the occurrence of any of the following enumerated events shall not affect the right of Purchaser to terminate under this paragraph.

In the event Purchaser terminates this P.O. for any of the following: (a) a material breach by Seller; (b) Seller's insolvency or commission of an act of bankruptcy; (c) filing a voluntary or involuntary petition of bankruptcy by or against Seller; or (d) appointment of a receiver for Seller by any court of competent jurisdiction, then Purchaser's sole liability shall be limited to paying Seller the price of any items delivered and accepted by Purchaser.

In the event of a termination for any other cause, Seller shall promptly advise Purchaser of the quantities of applicable work in process, inventory, or other commitments made by Seller for the specific purpose of complying with the cancelled purchase order release(s), and shall further identify the most favorable disposition that Seller can make thereof. Upon receipt of such information, Purchaser shall enter into good faith negotiations for settlement and payment of such amounts. Seller's acceptance of such payment will constitute an acknowledgement that Purchaser has fully discharged any such liability Purchaser may have under this clause. Purchaser shall, in addition to all rights and remedies conferred hereunder, have all of the rights and remedies provided by the Uniform Commercial Code.

13. INDEPENDENT CONTRACTORS

Seller and Purchaser understand and agree that the relationship between them is that of independent contractors (with the obligation solely on the Seller's part to pay any taxes imposed on or measured by income) and that Seller is not an agent or employee of Purchaser. Subject to the rights granted to and the obligations undertaken by Seller hereunder, Seller shall conduct its business at its own initiative, responsibility and expense. Seller agrees to provide Purchaser with Seller's Federal Identification or Social Security number as a condition precedent to Purchaser's obligation to make any payment hereunder.

14. GOVERNING LAW

This contract and all disputes arising hereunder shall be governed by and interpreted in accordance with the internal laws of the state of Illinois. The parties submit to the jurisdiction of the courts of Chicago, Illinois.

15. LIEN RELEASE

Seller shall indemnify and hold harmless Purchaser from and against all liability loss, cost, damage or expense, including attorney's fees, which Purchaser may suffer or incur as a result of any claim by laborers, mechanics and/or material liens which arise out of or in connection with Seller's obligations under this P.O. As a condition to payment of any invoice submitted under this P.O., Seller shall furnish Purchaser with mechanics lien releases covering all labor, material and all other things used by Seller in the performance of the work covered by this P.O.

16. FORCE MAJEURE

Neither party hereto shall be liable for any loss or damages arising out of a failure to perform hereunder to the extent such loss or failure is caused by riots; war or hostilities between any nation; acts of God; fire, storm; flood; earthquake; strikes, labor disputes; shortage or delay of carriers; power or other utility services; or any governmental restrictions, including the Defense Materials System Priority Regulations. A party seeking relief under this paragraph shall immediately notify the other in writing that a force majeure event has occurred, the nature of the event, and the anticipated duration. That party shall use best efforts to minimize the time of such event. Whenever an actual or potential labor dispute is delaying or threatening to delay the performance of this P.O., Seller shall immediately give written notice thereof to Purchaser.

17. COMPLIANCE WITH THE LAW

Seller agrees to comply with all applicable federal, state and local laws, and any applicable rules, regulations, and orders issued under such laws as it relates to the manufacture, transportation and sale of the goods to Purchaser hereunder.

18. CHANGES

Purchaser may at any time by written notice, modify, change, add, or delete to the properties and requirements of the drawings, specifications, samples, quantities, delivery schedules, shipments, or other descriptions as to any article, material or work covered by this P.O.

19. WAIVERS

Any waiver of strict compliance with the terms of this P.O. shall not be a waiver of Purchaser's right to insist upon strict compliance with the terms of the P.O. thereafter, or any future orders.

20. PERFORMANCE BY SELLER

This P.O. is issued to Seller in reliance upon Seller's personal performance of the duties imposed, and by accepting same, Seller agrees not to assign this order or delegate the performance of its duties without obtaining the prior written consent of Purchaser. Any such assignment or delegation attempted without Purchaser's prior written consent shall effect, at the option of Purchaser, a cancellation of all Purchaser's obligations hereunder.

21. SET OFF

Purchaser shall be entitled at all times to set off any amount owing at any time from Seller to Purchaser or any of its affiliated companies against any amount payable to at time by Purchaser in connection with this order.