

# TERMS AND CONDITIONS

1. **ACCEPTANCE.** This order is for the purchase and sale of the goods and/or services (herein referred to as "the Articles") described on the front side hereof and is Buyer's offer to Seller, Commencement of delivery or furnishing of the Articles and acceptance of the same by Buyer shall constitute a firm contract on all terms and conditions hereof. Also, such a firm contract shall be created in the event Seller, prior to delivery, acknowledges this order by signing and returning the acknowledgement copy hereof or by other written indication of acceptance, provided that, notwithstanding the contents of Seller's acknowledgement form, the only effect thereof shall be to accept this order on the terms and conditions hereof. Buyer may revoke this offer at any time prior to its acceptance by Seller.
2. **PRICES.** This order must not be filled at prices higher than last charged or quoted without prior written authorization of Buyer.
3. **PACKING AND CARTAGE CHARGES.** No charge for packing or cartage will be recognized unless authorized in this order.
4. **INDEMNIFICATION.** Seller agrees to defend, indemnify, and hold Buyer, its employees, customers, successors and assigns harmless against any claims, demands, whether valid or invalid, action or proceeding, liability, loss or expense whatsoever, including reasonable attorneys' fees, arising from actual or alleged (i) defect in the Articles, (ii) failure thereof to comply with specifications or with the express and implied warranties of Seller, (iii) violation by the Articles, or in their manufacture or sale, of any statute, ordinance or administrative order, rule or regulation, or (iv) infringement of any patent, trademark, trade name, trade secret, or copyright, which shall have been in issued or enforceable at the time of the execution of this order with respect to the Articles, to the extent that the Articles are not manufactured, packaged or labeled in accordance with Buyer's design. In the event of any claim, demand, action or proceeding being commenced against Buyer by reason of any of the above matters, Buyer agrees to give Seller prompt notice thereof in writing.
5. **WARRANTY PRODUCT.** Seller specifically warrants that the Articles sold pursuant to this order shall be merchantable and shall be fit for the purposes for which such Articles are intended and ordinarily employed. In addition to all warranties, express or implied, which may be prescribed by law or given Buyer by Seller, Seller warrants that the Articles shall conform to specification, drawings, and other description and shall be free from defects in materials and workmanship. Seller also warrants, to the extent that the Articles are not manufactured pursuant to detailed designs furnished by Buyer, that they will be free from defects in design. Such warranties, including warranties prescribed by law, shall run to Buyer, its successors, assigns, and customers, and to users of Articles.
6. **INSPECTION.** Articles purchased hereunder are subject to inspection and approval at Buyer's destination. Buyer reserves the right to reject, refuse acceptance of, and withhold payment for items which are not in accordance with Buyer's instructions, specifications, drawings, and data or Seller's warranties (expressed and implied). Seller will reimburse Buyer for inspection costs of rejected items. Items not accepted will be returned to Seller at Seller's expense. Payment for any of the Articles hereunder shall not be deemed an acceptance thereof. Exercise or non-exercise of this right shall have no effect on Buyer's other rights and remedies hereunder.
7. **BUYER-FURNISHED PROPERTY.** Seller shall not use, reproduce, or appropriate, or disclose to any other party, any material, tooling, dies, drawings, designs, and other property or data furnished by Buyer nor shall Seller use the same to produce or manufacture more Articles, than are required hereunder. Title to such property or data shall remain in Buyer at all times. Seller shall bear the risk of loss or damage to such property furnished by Buyer unless such loss or damage is solely, directly, and proximately caused by Buyer's negligence. All such Buyer furnished property, together with spoiled and surplus material, shall be returned to Buyer at termination or completion of this order or upon Buyer's demand, unless Buyer shall otherwise direct.
8. **CANCELLATION AND TERMINATION.**
  - (a) Time is of the essence and Buyer may cancel this order, in whole or in part, without liability to Buyer, if deliveries are not made at the time and in the quantities specified, or in the event of any other breach or failure of any of the terms or conditions hereof.
  - (b) Buyer may terminate this order in whole or in part, at any time for any reason (including, without limitation, the commencement of any reorganization or proceeding involving Seller based on actual or alleged insolvency), without further liability, by notice to Seller in writing. On receipt by Seller of such notice, Seller shall, to the extent specified therein, stop work hereunder and the placement of subcontracts, terminate work under subcontracts outstanding hereunder, and take any necessary action to protect property in Seller's possession in which Buyer has or may acquire an interest. Any termination claim must be submitted to Buyer within sixty (60) days after the effective date of the termination.
  - (c) Any termination by Buyer, whether for breach or otherwise, shall be without prejudice to any claims for damages or other rights of Buyer against Seller. Buyer shall have the right to audit all elements of any termination claim and Seller shall make available to Buyer on request, all books, records, and papers relating thereto.
9. **CHANGES.** Buyer at any time may make changes in the quantities ordered or in the specification or drawings relating to the Articles, or may changes or amend any other term or condition of this order, in which event an equitable adjustment will be made to any price, time of performance, and/or other provisions of this order required to be changed thereby. Any claim for such adjustments must be made within fifteen (15) days from the date of receipt by Seller of such change.
10. **COMPLIANCE WITH LAWS.** Seller shall comply with all applicable federal, state and local laws, executive regulations and orders. In particular, Seller shall certify in writing that the Articles were produced in compliance with and meet all applicable standards and requirements of (1) the Fair Labor Standards Act and the regulations and orders of the U.S. Department of Labor issued thereunder, and (2) the Occupational Safety and Health Act. The provisions set forth in Executive Order 11246 are incorporated herein by reference except to the extent this order may be exempt from the provisions of said Executive Order by the rules and regulations issued thereunder, as said Order and rules and regulations may be amended from time to time. Whenever the word "Contractor" appears in said provisions it shall mean Seller.
11. **DISCLOSURE.** Seller agrees not to voluntarily make any written or oral disclosure of the purchase by Buyer of the materials or products covered by this order to any person or firm outside Seller's organization, and to require its authorized distributors to observe the same restriction, without first securing Buyer's written permission. Unless sooner terminated, this restriction shall remain in effect until such time as Buyer makes a public disclosure thereof.
12. **ASSIGNMENT.** Seller shall not assign this order or any interest herein, including any performance or any amount which may be due to or may become due hereunder, without Buyer's prior written consent. Such consent shall not relieve Seller from its obligations, from any liability for breach, or from any duty to perform. Any attempted assignment or delegation shall be wholly void and totally ineffective for all purposes.
13. **SUBCONTRACTING.** If any Articles are to be made to Buyer's design, all subcontracting by Seller with respect there to shall be subject to Buyer's written approval. Such approval shall not relieve Seller from its obligations, from any liability for breach, or from any duty to perform.
14. **CONTROLLING LAW.** This transaction shall be governed by, and this order shall be construed and enforced in accordance with, the laws of the State of Wisconsin. If any provision, clause or part of this order, or the application thereof under certain circumstances, is held invalid, the remainder of this order, or the application of such provision, clause or part under other circumstances, shall not be affected thereby.
15. **NOTICE OF DELAYS.** Whenever an actual or potential labor dispute or other occurrence or event affecting Seller or its subcontractors or suppliers is delaying or threatens to delay the timely performance of this order, Seller shall immediately give notice thereof, including all relevant information with respect thereto, to Buyer.
16. **NOTICE.** Any notice relating to this order shall be considered given if and when deposited in the United States mail, postage prepaid, addressed to the other party at the address given herein.
17. **RISK OF LOSS.** Risk of loss of the Articles shall pass to Buyer at the time they are actually delivered to its premises.
18. **WAIVER.** No claim or right arising out of a breach of this agreement can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. Waiver by Buyer of a breach by Seller of any provision of this agreement shall not be deemed a waiver of any other provision or of future compliance with all provisions of this agreement, and all such provisions shall remain in full force and effect.
19. **GENERAL.** All warranties shall be construed as conditions as well as warranties. No modification of any provision of this order shall be valid or binding upon Buyer unless approved by Buyer in writing by an authorized agent. This order is a complete, final and exclusive statement of the terms of agreement between Buyer and Seller.
20. **QUANTITY.** The quantity of the Articles specified on the reverse side hereof shall not be increased or decreased without Buyer's written request or consent, as the case may be. Articles delivered in excess of any such quantity may be rejected and held at Seller's risk and returned to Seller at Seller's expense.
21. **FORCE MAJEURE.** Buyer shall not be liable to Seller for any losses resulting if Buyer's fulfillment or performance of any terms or provisions of this agreement is delayed or prevented by revolutions or other civil disorders, wars, acts of enemies, strikes, labor disputes, partial or complete suspension of operations at any of Buyer's plants, fires, floods, acts of God, federal, state or municipal action, statute, ordinance or regulation, or, without limiting the foregoing, by any other cause not within its reasonable control, and which by the exercise of reasonable diligence, it is unable to prevent, whether if the class of causes hereinbefore enumerated or not.
22. **ATTORNEYS FEES.** In addition to any other damages or remedies provided by law, Seller shall be liable to Buyer for attorneys fees reasonably incurred by Buyer in the enforcement and adjudication of its rights under this agreement.
23. **NO IDENTIFICATION AFTER BREACH.** If Buyer wrongfully rejects or revokes acceptance of goods or fails to make a payment due on or before delivery repudiates with respect to any goods covered by this contract, Seller shall have no right to identify any goods to the contract after he learns of the rejection, revocation, breach or repudiation.
24. **PRODUCT INFORMATION.** Seller shall furnish to Buyer, upon delivery of the Articles, any Material Safety Data Sheets and all other information available to Seller concerning any instructions for use, hazards, emergency measures or safety precautions associated with the Articles.
25. **TOSCA.** Notwithstanding anything to the contrary heretofore or hereafter represented by either party to the order Seller warrants that each and every chemical substance sold or otherwise transferred by Seller to Buyer, that is required or permitted to be reported for the inventory or chemical substances (40CFR Part 710), as if the time of such sale or transfer is on the list of chemical substances compiled and published by the Administrator of the Environmental Protection Agency pursuant to the Toxic Substances Control Act (PL 94 469).