

TERMS FOR STANDARD PURCHASE ORDER FOR TANGIBLE GOODS

1. **ACCEPTANCE.** Acceptance of this Purchase Order must be made on the exact terms herein. The shipment by the Seller of the goods described on the front side hereof (the "Goods") shall conclusively be deemed an unconditional acceptance by Seller of the terms and conditions set out in this purchase order notwithstanding any provision in any acknowledgement, invoice, quotation or other document of any kind of the Seller.
2. **REVOCACTION.** Buyer may, in its discretion, revoke this Purchase Order at any time before acceptance by Seller.
3. **DELIVERY.** The Goods shall be delivered to the destination specified on the front side hereof no later than the date set forth on the front side hereof. All Goods are to be provided F.O.B. destination. All risk of loss or damage in transit shall be borne by the Seller. Any documents necessary to enable the Buyer to obtain the Goods from the carrier when delivered will be mailed to the Buyer at or prior to shipment.
4. **PACKING AND SHIPPING.** Deliveries shall be made as specified without charge for boxing, crating, carting, or storage unless otherwise specified, and the Goods shall be suitably packed to secure lowest transportation costs, in accordance with the requirements of common carriers, and in such manner as to assure against damage from weather or transportation. The Goods shall be described on bills of lading in accordance with current Motor Freight or Uniform Freight Classification, whichever is applicable. Buyer's order numbers and symbols must be plainly marked on all invoices, packages, bills of lading and shipping orders. Packing lists shall accompany each box or package shipment. Buyer's count or weight shall be final and conclusive on shipments not accompanied by packing lists. Except as consented to by Buyer, Seller shall not ship in advance of schedule and shall ship exact quantities ordered.
5. **WARRANTIES.** Seller warrants to Buyer and its customers and to users of the Goods that all Goods (a) will conform to all specifications, drawings, descriptions, and samples set forth in or referred to in this Purchase Order and any applicable governmental or regulatory standards, (b) will be new, (c) will be free from defects in material or workmanship, (d) will conform to any statements made on the containers or labels or advertisements for such Goods, (e) will be adequately and properly contained, packaged, marked and labeled, (f) will be merchantable, (g) will be free from design defects except only with respect to specific designs, if any, provided by Buyer, (h) will be free from any encumbrance, lien or claim, and (i) will conform in all respects to all samples. If Seller knows or has reason to know the particular purpose for which Buyer intends to use the Goods, Seller warrants that such Goods will be fit for such particular purpose. Seller's warranties shall run to Buyer, its successors, assigns and customers, and users of products sold by Buyer.
6. **REMEDIES.** In the event of a breach of any warranty given by Seller to Buyer, Buyer shall be entitled to exercise any and all of the remedies available under the Uniform Commercial Code, as adopted in Minnesota.
7. **PRICE; TERMS OF PAYMENT.** Seller represents that the prices specified herein for the Goods are not less favorable than those currently extended to any other customer of the Seller for the same or similar articles in similar quantities. In the event Seller reduces its price for such articles prior to completing performance under this purchase order, Seller shall notify Buyer and reduce the prices here under correspondingly. Seller warrants that prices shown on this Purchase Order are complete, and that no additional charges of any type (including, but not limited to, charges for shipping, packaging, labeling, custom duties, taxes, storage, insurance, boxing, carting) shall be added without Buyer's express written consent. Terms of payment shall be as specified on the reverse side hereof.
8. **INSPECTION.** Upon delivery, Buyer shall have a reasonable time within which to inspect Goods before accepting or paying for them. If upon inspection Buyer determines that Goods do not conform to the description on the front side hereof or any warranties contained herein, Buyer shall have the right to preserve and keep a sample of the Goods tendered for the purpose of having evidence of the kind and quality of the Goods tendered. In addition to the foregoing, the Buyer may inspect the Goods during production at Seller's facilities during Seller's regular business hours. No inspection, test, acceptance or use of the Goods by the Buyer shall affect Seller's warranties or Buyer's rights hereunder, and such warranties and rights shall survive any such inspection, test, acceptance or use.
9. **REJECTION.** In the event any Goods to be delivered hereunder fail to conform to the terms of this Purchase Order, or in the event delivery is not made as herein provided, Buyer may, at its option, reject the whole, or accept any unit of units and reject the rest. If Buyer rejects any part of the Goods delivered or tendered under this purchase order, it shall forthwith notify Seller in writing. Said notice of rejection shall specify all claimed defects and nonconformity in the Goods; provided however, that failure by Buyer to state a particular defect shall not preclude Buyer from relying upon the unstated defect to justify rejection or to establish breach.

10. **TERMINATION**. Buyer shall have the right to terminate, cancel or suspend, by written notice, in whole or in part, this purchase order. Except in case of termination by the Buyer for breach by the Seller of the terms hereof, allowance will be made for normal and reasonable expenses incurred by Seller prior to receipt of notice of cancellation, but Buyer will not be liable for any charges or expenses incurred by Seller in advance of the normal or reasonable lead time necessary to meet scheduled delivery dates nor for any expenses, charges or liability incurred subsequent to the giving of notice of cancellation.
11. **MANUFACTURE**. Failure of Seller to make, or of Buyer to take, all or any part of any delivery hereunder, if such failure is due to acts of God, war, labor difficulties, breakdowns or damage to Seller's facilities or Buyer's facilities, embargoes, shortages of transportation equipment, compliance with any law, regulation or order of any public authority and any other cause beyond either party's control, shall not subject such party to any liability to the other party; provided however, that in the event Seller is unable to meet the delivery schedule provided by Buyer due to conditions beyond Seller's control, Buyer may, if it chooses and without liability to the Seller, refuse shipment or any other schedule unless such schedule has been submitted to and approved by Buyer.
12. **NONCONFORMING GOODS**. The Seller will not substitute nonconforming Goods, or back order Goods without first obtaining the Buyer's consent thereto.
13. **PROPRIETARY INFORMATION - CONFIDENTIALITY - ADVERTISING**. All information furnished by the Buyer shall be confidential and Seller shall not disclose any such information to any other person, or use such information itself for any purpose other than performing this purchase order, unless Seller obtains prior written permission from Buyer to do so. This paragraph shall apply to drawings, specifications, or other documents prepared by the Seller for the Buyer in connection with this purchase order. The Seller shall not advertise or publish the fact that the Buyer has contracted to purchase goods from the Seller, nor shall any information relating to this purchase order be disclosed without the Buyer's express written permission. Unless otherwise agreed in writing, no commercial, financial or technical information disclosed in any manner or at any time by the Seller to the Buyer shall be deemed secret or confidential and the Seller shall have no rights against the Buyer with respect thereto. The Seller recognizes that the Buyer's employees have no authority to accept any information in confidence.
14. **PATENTS**. The Seller shall defend, indemnify and hold the Buyer, and the Buyer's customers and users of the Goods harmless from and against any and all claims, expenses (including reasonable attorneys' fees), or losses suffered or incurred by the Buyer as a result of or arising out of a claim that any Goods infringe on any patent, trademarks, copyright or other intellectual property right of any person or entity. The Buyer may be represented by and actively participate through its own counsel in any such suit or proceeding if it so desires, and the costs of such representation shall be paid by the Seller. The fact that the Buyer furnishes specifications to the Seller with respect to any such article, shall neither relieve the Seller from its obligations hereunder nor limit the Seller's liability therefor, nor shall the same be deemed to constitute an undertaking by the Buyer to hold the Seller harmless against any such claim which arises out of compliance with the specifications.
15. **NON-WAIVER**. Waiver by either the Seller or the Buyer of a breach by the other of any provision of this Purchase Order shall not be deemed a waiver of future compliance therewith, and such provision shall remain in full force and effect.
16. **MODIFICATION**. With the exception of express warranties made by the Seller to the Buyer which are not set forth herein, this writing is intended by the parties as a final and complete expression of their agreement as to the subject matter hereof, and shall supersede all prior oral or written negotiations, understandings or agreements with respect thereto. This Purchase Order may be modified or rescinded only by a writing signed by the duly authorized agents of the parties. The express terms hereof shall not be varied by any course of dealing, performance or usage of trade. **ACCEPTANCE OF THIS PURCHASE ORDER IS EXPRESSLY LIMITED TO THE TERMS HEREOF. ANY DIFFERENT, CONFLICTING OR ADDITIONAL TERMS IN ANY INVOICE, SALES ACKNOWLEDGMENT OR OTHER DOCUMENT PROVIDED OR OFFERED BY THE SELLER ARE HEREBY EXPRESSLY REJECTED.**
17. **ASSIGNMENT**. This Purchase Order may not be assigned by Seller, nor may Seller delegate its duties hereunder, without the prior written consent of Buyer.
18. **GOVERNING LAW/FORUM SELECTION**. This Purchase Order shall be construed and interpreted in accordance with the laws of the State of Minnesota without reference to the principles of conflict of laws. Any proceedings claiming, arising from, or related to breach of this Agreement shall be brought only in the state or federal courts located in the State of Minnesota. Seller hereby consents to the jurisdiction of such courts over any such actions.
19. **ATTORNEYS' FEES**. In the event legal proceedings are initiated to enforce any of the terms of this Purchase Order, the prevailing party shall be entitled to recover all costs and expenses incurred in connection with said proceedings, including reasonable attorneys' fees, from the other party. **[Discussion point]**
20. **GRATUITIES**. The Seller warrants that neither it nor any of its employees, agents or representatives has offered or given any gratuities to the Buyer's employees, agents or representatives with a view toward securing this purchase order or securing favorable treatment with respect thereto.

21. **NOTICE OF HAZARDOUS SUBSTANCES.** The Seller warrants that the Goods do not contain or constitute a hazardous or toxic substance or material or in any way pose a danger to the Buyer or its officers, agents, employees or customers or to any other person or entity. The Seller shall promptly notify the Buyer if it at any time discovers or concludes that the Goods contain or constitute a hazardous or toxic substance or material or might otherwise constitute a threat to human health, welfare or the environment.

22. **TAXES.** The Buyer shall not be liable for any federal, state or local taxes related to the sale, purchase or use of the Goods, and the Seller shall indemnify the Buyer with respect thereto, unless expressly stated on this Purchase Order.

23. **COMPLIANCE WITH LAW.** The Seller shall, in the performance of this Purchase Order, comply with all applicable laws, executive orders, regulations, ordinances, proclamations, demands and requisitions of any federal, state or local governmental authority which may now or hereafter govern performance hereunder. Without limiting the generality of the foregoing, the Seller, in accepting this purchase order, represents that the Goods to be furnished hereunder were or will be produced or performed in full compliance with all applicable laws.