

PURCHASE ORDER TERMS & CONDITIONS

EXTRA CHARGES OR CHANGES: Positively no additional charges for extras will be honored with this order unless Buyer's written order is issued, and no changes or modifications to this order shall be made except upon Buyer's written authority.

WARRANTY SPECIFICATIONS: Seller expressly warrants that all the materials and articles covered by this order or other description or specification furnished by Buyer will be in exact accordance with such order, description or specification and free from defects in material and/or workmanship, merchantable, and fit for the particular purpose as stated. Such warranty shall survive delivery, and shall not be deemed waived either by reason of Buyer's acceptance of said materials or articles or by payment for them. Any deviations from this order or specifications furnished hereunder, or any other exceptions or alternations, must be approved in writing by Buyer's Purchasing Department.

CANCELLATION: Buyer reserves the right to cancel all or any part of the undelivered portion of this order if Seller does not make deliveries as specified, time being of the essence of this Purchase Order, or if the Seller breaches any of the terms hereof including, without limitation, the warranties of Seller. No cancellation charges or other additional costs shall be assessed by Seller.

INSPECTION AND ACCEPTANCE: All goods shall be received subject to Buyer's right of inspection and rejection. Defective goods or goods not in accordance with Buyer's specifications or samples or which are otherwise non-conforming may be held for Seller's instruction at Seller's risk and if Seller so directs, will be returned at Seller's expense. If inspection discloses that part of the goods received are not in accordance with Buyer's specifications or samples, Buyer shall have the right to cancel any unshipped portion of the order. Payment for goods on this order prior to inspection shall not constitute acceptance thereof and is without prejudice to any and all claims that Buyer may have against Seller.

SCHEDULE OF PERFORMANCE: To the extent a delivery or performance schedule is included in this order, all goods not delivered within the time provided may be rejected or accepted at the option of the Buyer. Election of either option should not be understood to prejudice the rights of the Buyer to recovery of damages resulting from the Seller's failure of performance.

DEFECTIVE SHIPMENT: All goods received which do not conform to the Buyer's specifications or samples may be replaced or repaired by the Seller up to the specified date of delivery, at which time the Buyer may elect to reject or repair the defects itself, deducting from the purchase price all expenses thereby reasonably incurred resulting from the non-conformity.

CUMULATIVE NON-CONFORMING SHIPMENTS: A second shipment of similarly defective or delayed goods shall constitute a breach of contract by the Seller, provided timely notification of the initial non-conformity was given.

ASSURANCE OF PERFORMANCE: It is understood that the following occurrences shall constitute grounds for insecurity on the part of the Buyer: (a) delinquency in delivery until compliance with the schedule is resumed, or (b) shipment of defective or otherwise non-conforming goods which cannot be repaired, replaced or otherwise cured within three days until deduction from the contract price has been made and a satisfactory replacement or conforming shipment received. In the event either of the above or any other reasonable grounds for Buyer's insecurity exist, Buyer may demand written assurance from Seller of Seller's performance, and upon such demand Buyer may suspend its performance under this contract. Such suspension of performance by Buyer shall not constitute grounds for insecurity on the part of Seller under this or any other contract between Buyer and Seller, and such suspension of performance by Buyer shall in no way affect Seller's obligations to deliver or Buyer's obligation to pay under any other contract between Buyer and Seller.

STATUE OF LIMITATIONS: Where this order operates as a contract for the purchase of goods, no action on its breach may be brought later than three years after it has accrued.

ASSIGNMENT: It is a condition of this order that neither the obligation to do work covered by this Purchase Order, nor the right to receive compensation therefore, can be assigned for any purpose whatsoever without the written consent of the Buyer.

WAIVERS, ETC.: Seller agrees to execute such waivers of liens, waivers of claims, affidavits and statements as may be reasonably required by the Buyer.

REMEDIES: No remedy herein provided shall be deemed exclusive of any other remedy allowed by law.

SAFETY PURCHASE ORDER CLAUSE: The Seller warrants that the equipment, materials and/or supplies purchased hereunder are designed, manufactured and/or constructed so as to comply with all federal, state and local safety rules and regulations, including, but not limited to, the most current Occupational Safety and Health Act. The Seller agrees to defend, indemnify and hold Buyer harmless from any loss, including, but not limited to, any fines, penalties and corrective measures, Buyer may sustain by reason of Seller's failure to comply with said laws, rules and regulations in connection with the design, manufacture and/or construction of such equipment, materials and/or supplies purchased hereunder.

CHARGES: No additional charges of any kind, including charges for boxing, packaging, cartage, or other extras will be allowed unless specifically agreed to in writing in advance by Buyer.

COMPLIANCE WITH PLANS AND SPECIFICATIONS: All material and equipment furnished under this Purchase Order shall be subject to the approval of the Owner, architect, engineer or any other party designated in the specifications, and Seller shall furnish the required submittal data and/or number of samples for such approval. In the event such approval is not obtained, this Purchase Order shall be deemed to be cancelled with no liability on the part of either buyer or Seller, unless this Purchase Order is placed with the requirement that the material, equipment and/or installation of same (if installation is included) is to be supplied of the type and in such manner as to meet the requirements of plans and specifications. In the latter case the material, equipment and/or installation of same (if installation is included) furnished hereunder shall be in strict accordance with the plans, specifications, general conditions and other contract documents applicable to the contract of Buyer with the Owner or another contractor, and Seller shall be bound thereby in respect of such material, equipment and installation (if installation is included) to the same extent Buyer is bound. In the event the material, equipment or installation (if installation is included) does not meet the foregoing requirements, Seller shall, upon receipt of notice, immediately replace same or remedy any deficiency without expense to the Buyer, and further Seller shall pay to Buyer all loss or damage resulting therefrom, including interest and attorney's fees. The aforementioned approval shall not relieve Seller from its obligation to perform in accordance with plans and specifications.

INDEMNIFICATION: The Seller hereby agrees to defend, indemnify and save harmless the Buyer from and against all claims, liability, loss, damage or expense, including interest and attorney's fees, by reasons of or arising out of (a) any actual or alleged infringement of letters patent or of any litigation based thereon covering any article purchased hereunder, (b) breach by Seller of any provision of this Purchase Order, or (c) the acts or omissions of Seller, its agents or employees, in the design, manufacture or installation (if installation is included) of the material and/or equipment furnished hereunder or otherwise in connection with the performance of this Purchase Order.

INTEGRATION CLAUSE: This Purchase Order is fully integrated, and constitutes the entire agreement of the parties with respect to the subject matter hereof. All previous communications, orders, proposals, letters, oral or written promises and understandings, if any, relating to such subject matter are either merged herein or if inconsistent herewith voided hereby.

DISPUTE RESOLUTION: Any disputes between the Buyer and Seller will be decided in accordance with the disputes clause of the contract documents by which the Buyer is bound upstream. Otherwise, any and all disputes or suits for any and every breach of this Subcontract, for construction or enforcement of this Subcontract, or seeking declaratory relief with respect to this Subcontract may be maintained only in the state or federal courts in Woodbury County, Iowa. Subcontractor expressly consents to the jurisdiction of the Iowa District Court for Woodbury County and to the Jurisdiction of the United States District Court for the Northern District of Iowa and waive trial by jury in any and all action or proceeding brought by either against the other on any matter arising out of or connected with this Subcontract or its subject matter.

TERMS BINDING: This Purchase Order shall constitute a valid and binding contract in accordance with the terms and conditions set forth herein upon the occurrence of any of the following events: (a) Seller's submission of shop drawings or equipment submittal data to Buyer; or (b) Seller's first shipment of material or equipment ordered hereunder, or (c) Seller's acknowledgement of this Purchase Order irrespective of whether such acknowledgement contains, purports or attempts to incorporate Seller's standard terms and conditions of sale. In the event that Seller's acknowledgement required Buyers' acknowledgement, such acknowledgement by Buyer shall not constitute acceptance by Buyer of any of Seller's standard terms and conditions which are inconsistent with the terms hereof and the parties hereto hereby agree that the terms and conditions hereof supercede all contrary provisions of Sellers' terms and conditions except to the extent that Buyer accepts in writing Seller's specific exceptions hereto.