

TERMS AND CONDITIONS

1. THERE IS NO ACKNOWLEDGEMENT COPY OF THIS PURCHASE ORDER. ANY DISCREPANCIES IN PRICE, QUANTITIES, ITEMS OR DELIVERY, MUST BE PHONED TO BUYER'S PURCHASING DEPARTMENT WITHIN 48 HOURS OF YOUR RECEIPT OF THIS PURCHASE ORDER. ANY CORRESPONDENCE REFERRING TO THE TERMS, PRICES AND CONDITIONS OF THIS ORDER MUST BE DIRECTED TO BUYER'S PURCHASING AGENT. INQUIRIES RELATIVE TO PAYMENT OF INVOICES SHOULD BE DIRECTED TO BUYER'S ACCOUNTS PAYABLE.
2. BUYER FURNISHED OR PAID FOR ITEMS: ALL ARTWORK, SPECIFICATIONS, TOOLS, EQUIPMENT AND OTHER ITEMS FURNISHED TO SELLER, OR PAID FOR BY BUYER SHALL (A) REMAIN BUYER'S PROPERTY, OR UPON ACQUISITION BY SELLER, SHALL BECOME BUYER'S PROPERTY; (B) BE SAFELY KEPT BY SELLER IN GOOD AND USABLE ORDER; (C) BE PROMPTLY RETURNED TO BUYER UPON REQUEST.
3. SELLER IS PERFORMING AS AN INDEPENDENT CONTRACTOR AND, THUS, SHALL HOLD THE BUYER, ITS OFFICERS, AGENTS, EMPLOYEES, HARMLESS FROM LIABILITY OF ANY NATURE OR KIND, ON ACCOUNT OF USED INVENTION, ARTICLES, PROCESS FOR WORK OR LABOR PERFORMED UNDER THIS PURCHASE ORDER.

INSURANCE: SELLER SHALL MAINTAIN INSURANCE ACCEPTABLE TO BUYER IN FULL FORCE AND EFFECT AT THE SELLER'S EXPENSE THROUGHOUT THE TERM OF THIS CONTRACT.
4. FREIGHT: EXCESSIVE CHARGES FROM INCORRECT DESCRIPTION OR FROM ROUTING OTHER THAN GIVEN WILL BE CHARGED TO SELLER'S ACCOUNT. PACKING LIST MUST ACCOMPANY EACH CASE OR PARCEL, SHOWING BUYER'S ORDER NUMBER. NO CHARGES FOR TRANSPORTATION, CONTAINERS, OR ANY OTHER PURPOSE, ETC., WILL BE ALLOWED UNLESS SO SPECIFIED IN THIS ORDER. FREIGHT CHARGES ALLOWABLE PURSUANT TO THE TERMS FOB POINT OR ORIGIN OR FOB DESTINATION PLUS FREIGHT SHALL BE PREPAID BY THE SELLER AND MUST BE ITEMIZED ON THE INVOICE, AND A COPY OF THE PAID EXPRESS OR FREIGHT BILL SHALL BE ATTACHED TO THE INVOICE. COD SHIPMENTS WILL NOT BE ACCEPTED.
5. REJECTIONS: IF ANY OF THE GOODS ARE FOUND AT ANY TIME TO BE DEFECTIVE IN MATERIAL OR WORKMANSHIP, OR OTHERWISE NOT IN CONFORMITY WITH THE REQUIREMENTS OF THE ORDER BUYER IN ADDITION TO ANY OTHER RIGHTS WHICH IT MAY HAVE UNDER WARRANTIES OR OTHERWISE, SHALL HAVE THE RIGHT TO REJECT AND RETURN SUCH GOODS AT SELLER'S EXPENSE, SUCH GOODS NOT TO BE REPLACED WITHOUT WRITTEN AUTHORIZATION FROM BUYER. THIS ORDER MUST BE FILLED EXACTLY AS SPECIFIED, NO EXCEPTIONS, ALTERNATES OR SUBSTITUTES WILL NOT BE ACCEPTED UNLESS AUTHORIZED BY BUYER'S PURCHASING AGENT. WHERE QUALITY IS QUESTIONED ON ANY DELIVERY, ANY COST OF INSPECTION WILL BE AGAINST THE ACCOUNT OF THE SELLER.
6. RESPONSIBILITY FOR SUPPLIES: SELLER SHALL BEAR THE RISK OF LOSS OR DAMAGE TO THE ARTICLES COVERED BY THIS ORDER UNTIL DELIVERY OF SAID SUPPLIES AT THE LOCATION DESIGNATED BY BUYER OR AT SUCH OTHER PLACE AS MAY BE DESIGNATED HEREIN, REGARDLESS OF FOB POINT OR THE POINT OF INSPECTION. SELLER SHALL ALSO BEAR THE RISK OF LOSS OR DAMAGE TO SUPPLIES AFTER BUYER GIVES SELLER NOTICE OF REJECTION.
7. CHANGES: BUYER MAY BY WRITTEN ORDER OR AT ANY TIME PRIOR TO FINAL DELIVERY AND WITHOUT NOTICE TO SURETIES, MAKE CHANGES WITHIN THE GENERAL SCOPE OF THIS ORDER, IN ANY OF THE FOLLOWING: APPLICABLE DRAWINGS, DESIGNS, OR SPECIFICATIONS, METHOD OF SHIPMENT OR PACKING AND PLACE OR TIME OF DELIVERY, TO THE EXTENT SUCH CHANGE CAUSES AN INCREASE OR DECREASE IN THE COST OF OR TIME REQUIRED FOR THE PERFORMANCE OF THIS ORDER AN APPROPRIATE EQUITABLE ADJUSTMENT IN THIS ORDER SHALL BE MADE. ANY CLAIM BY SELLER FOR ADJUSTMENT MUST BE ASSERTED WITHIN FIFTEEN (15) DAYS OF RECEIPT OF THE CHANGE. FAILURE TO AGREE TO AN ADJUSTMENT SHALL NOT EXCUSE THE SELLER FROM PROCEEDING WITH THIS ORDER AS CHANGED.
8. BUYER SHALL HAVE THE RIGHT TO CANCEL AT ANY TIME FOR SELLER'S BREACH OF ANY PROVISIONS OF THIS ORDER, INCLUDING FAILURE TO MEET THEIR STATED DELIVERY SCHEDULE. ALL OR ANY PORTION OF THIS ORDER MAY BE CANCELLED BY BUYER IF SELLER, IN BUYER'S JUDGMENT, IS FAILING TO MAKE SUFFICIENT PROGRESS SO AS TO ENDANGER PERFORMANCE OF THIS ORDER IN ACCORDANCE WITH ITS TERMS. BUYER RESERVES THE RIGHT TO TERMINATE THE CONTRACT WITHOUT PENALTY, WITHOUT CAUSE OR WITH CAUSE IMMEDIATELY, 10 DAYS AFTER WRITTEN NOTICE THEREOF IF DELIVERED TO THE SELLER EITHER PERSONALLY OR BY MAIL ADDRESSED AS SHOWN ON THE PURCHASE ORDER FORM.
9. IF SELLER BREACHES THIS AGREEMENT AND FAILS TO DELIVER THE GOODS, SERVICES OR MATERIALS PROVIDED HEREIN WITHIN THE TIME ABOVE SET FORTH OR BY FAILING TO MAKE SUFFICIENT PROGRESS SO AS TO ENDANGER PERFORMANCE OF THIS ORDER, THEN BUYER MAY TERMINATE THIS CONTRACT AND PURCHASE THE GOODS, SERVICES OR MATERIALS FROM WHATEVER SOURCE AND SELLER SHALL BE LIABLE TO BUYER FOR THE DIFFERENCE IN PRICE WHICH BUYER IS OBLIGATED TO PAY PLUS ALL OF ITS COSTS AND EXPENSES IN ENFORCING ITS RIGHTS HEREUNDER, INCLUDING REASONABLE ATTORNEY'S FEES. FURTHER, BUYER MAY OFFSET ANY SUCH COSTS OR EXPENSES INCURRED AGAINST ANY OF THE MONIES WHICH MAY BE OWING TO THE SELLER.
10. ANTI-DISCRIMINATION CLAIM: IT IS THE POLICY OF THE BUYER THAT IN CONNECTION WITH ALL WORK PERFORMED UNDER PUBLIC WORKS, AND PURCHASING CONTRACTS, THERE BE NO DISCRIMINATION AGAINST ANY PROSPECTIVE OR ACTIVE EMPLOYEE ENGAGED IN THE WORK BECAUSE OF RACE, COLOR, SEX, ANCESTRY, NATIONAL ORIGIN, OR RELIGIOUS CREED, AND THEREFORE, THE SELLER AGREES TO COMPLY WITH APPLICABLE FEDERAL AND CALIFORNIA LAWS INCLUDING, BUT NOT LIMITED TO, THE CALIFORNIA FAIR EMPLOYMENT PRACTICE ACT BEGINNING WITH LABOR CODE SECTION 1410 AND LABOR CODE SECTION 1735. IN ADDITION, THE SELLER AGREES TO REQUIRE LIKE COMPLIANCE BY ALL SUB-CONTRACTORS EMPLOYED.
11. ANY CONTROVERSY OR CLAIM ARISING OUT OF OR RELATING TO THIS PURCHASE ORDER OR THE BREACH THEREOF, SHALL BE SETTLED BY ARBITRATION AT ELECTION OF EITHER PARTY IN ACCORDANCE WITH THE RULES OF THE AMERICAN ARBITRATION ASSOCIATION AND JUDGMENT UPON THE AWARD RENDERED BY THE ARBITRATOR(S) MAY BE ENTERED IN ANY COURT HAVING JURISDICTION THEREOF.
12. BUYER'S PURCHASE ORDER NUMBER MUST APPEAR ON ALL PACKAGES, INVOICES AND CORRESPONDENCE.
13. DELIVERIES FOR ALL DEPARTMENTS MUST BE MADE AS DIRECTED. NON-PAYMENT MAY RESULT FOR MERCHANDISE DELIVERED IN ANY OTHER MANNER. CASH TERMS SHALL BE PREDICATED ON THE DELIVERY DATE OF THE MATERIAL AS SPECIFIED OR FROM DATE CORRECT INVOICES ARE RECEIVED IN BUYER'S ACCOUNTS PAYABLE OFFICE, IF THE LATTER DATE IS LATER THAN THE DATE OF DELIVERY.
14. SELLER AGREES TO FURNISH BUYER WITH TWO SHOP MAINTENANCE AND TWO OPERATIONAL MANUALS (WHICH WILL INCLUDE WIRING SCHEMATICS, PART DIAGRAMS, ALIGNMENT DATA, AND PARTS LIST) ON ALL PURCHASES OF EQUIPMENT.
- 14A. WARRANTY: UNLESS OTHERWISE SPECIFIED ON REVERSE SIDE OF THIS PURCHASE ORDER, WARRANTY ON QUOTED EQUIPMENT SHALL BE ONE YEAR DEFECTIVE PARTS AND/OR WORKMANSHIP.
15. SELLER AGREES TO MAKE AVAILABLE SPECIAL REPLACEMENT PARTS REQUIRED TO MAINTAIN THE PURCHASE EQUIPMENT UNLESS OTHERWISE STIPULATED AT TIME OF EQUIPMENT ORDER.
16. SELLER GUARANTEES AND AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS THE BUYER AGAINST ANY OR ALL LOSS, LIABILITY, DAMAGES, DEMANDS, CLAIMS OR COSTS ARISING OUT OF DEFECTIVE MATERIAL AND PRODUCTS, FAULTY WORK PERFORMANCE, NEGLIGENT OR UNLAWFUL ACTS, AND NON-COMPLIANCE WITH ANY APPLICABLE LOCAL, STATE OR FEDERAL CODES, ORDINANCES, ORDERS OR STATUTES INCLUDING THE OCCUPATIONAL SAFETY AND HEALTH ACT (OSHA) AND THE CALIFORNIA INDUSTRIAL SAFETY ACT. THIS GUARANTEE IS IN ADDITION TO AND NOT INTENDED AS A LIMITATION ON ANY OTHER WARRANTY, EXPRESS OR IMPLIED.
17. NO ASSIGNMENT BY THE SELLER OF THE PURCHASE ORDER OR ANY PART HEREOF, OR OF FUNDS TO BE RECEIVED HEREUNDER WILL BE RECOGNIZED BY THE BUYER UNLESS SUCH ASSIGNMENT HAS HAD PRIOR WRITTEN APPROVAL AND CONSENT OF THE BUYER.