

## TERMS AND CONDITIONS

1. **PACKING:** All material shall be suitably packed and marked to secure lowest transportation costs and in accordance with the requirements of common carriers. No charge will be allowed for packing, boxing, crating, marking cartage or storage unless so stipulated herein, but damage to any goods not packed to insure proper production, if accepted by Buyer, will be charged to Seller. Buyer's count will be accepted as final and conclusive on all shipments not accompanied by such packing lists.

2. **QUALITY:** Seller expressly warrants that all goods and/or work ordered according to plans, drawings specifications or sample furnished or approved by Buyer, which are hereby made a part hereof as if fully set herein, will conform to, or if not so ordered will be merchantable and fit and sufficient for the purpose ordered, and in either case, will be free from defect in material and workmanship. All warranties shall run to Buyer. It successors, assigns, and customers, and to the users of its products, and shall be construed as conditions as well as warranties and shall not be deemed to be exclusive. Unless otherwise specified all goods and/or furnished hereunder, will be subject to final inspection and acceptance or rejection by Buyer within a reasonable time after delivery irrespective of date of payment therefor. They Buyer will upon written notice to Seller withhold any rejected goods at Seller's risk pending its instructions and upon Seller's failure to furnish buyer with disposition of such goods within a reasonable time. Buyer may return them to Seller at the Seller's expense.

3. **DELIVERIES:** The failure of any goods and/or work delivered hereunder to meet the quality herein specified or, except to the extent provided in Paragraph 4 hereof, the failure of the Seller to make any delivery in the quantity or within the time specified or to comply with any of the other terms and conditions hereof, shall, at the Buyer's option, relieve Buyer of any obligation to accept and pay for such goods and/or work and upon any such failure Buyer may terminate without charge all or any part of the undelivered portion of the order and place a purchase order elsewhere for an equal or less quantity of goods and/or work of the same or substantially equal quality and charge Seller with any loss incurred. Any failure of buyer to exercise such option with respect to any portion of this order shall not constitute a waiver with respect to any undelivered instalments. Waiver by Buyer of any specific default or defaults by Seller or failure by Buyer to cancel this Order or any part thereof when a right of cancellation arises shall not constitute waiver by Buyer or any of the terms or conditions of this order with respect to any further or subsequent default or give rise to right of cancellation.

4. **CONTINGENCIES:** No liability shall result from delay in performance, or from non-performance, caused by circumstances beyond the control of the party affected (including, but not limited to, acts of God, fire, flood, war, sabotage, accident, labour trouble or shortage. Government act, order or regulation, and inability to obtain material, equipment or transportation) interfering with production, transportation or use of the goods and/or work specified herein. At the option of the Buyer deliveries delayed or not made because of such cause or event may be suspended, reduced or eliminated from this order without charge.

5. **PATENTS:** Seller expressly warrants that the goods and/or work to be furnished hereunder, and the production of sale thereof, do not and will not infringe any patent right, that Seller will, at its own expense, defend any suit that may arise in respect thereto, provided Seller is notified thereof, and that Seller will indemnify and hold harmless the Buyer, its successors and assigns, and the customers of any of them, from all loss and expense which may be incurred on account of any such alleged or actual infringement.

6. **PERFORMANCE OF WORK:** If this order calls for work to be performed by Seller all work performed and all materials used in conjunction therewith shall be at the risk and expense of and shall be replaced by Seller in the event of any damage or destruction

thereof prior to delivery to and acceptance by Buyer. If this order calls for work to be performed by Seller upon any premises owned or controlled by Buyer and/or Buyer's customer, Seller will keep the premises and the work free and clear of all liens and will furnish Buyer with certificate and waiver as provided by law. Whenever any property belonging to Buyer or its customers is in the possession of Seller or Seller's suppliers, Seller shall be deemed an insurer thereof and shall be responsible for its safe return to Buyer. Seller will indemnify, hold harmless and defend buyer and/or Buyer's customer from any and all claims, demands or suits made or brought under any workmen's compensation, or similar law of the place in which any work is performed hereunder and will, if requested, furnish to Buyer a certificate showing that Seller is complying with any such law. Seller will also indemnify, save harmless and defend Buyer and/or Buyer's customer from all loss and expense for any damage to property or injury to or death of persons in any manner arising out of incident to the performance of this order.

7. **TERMINATION:** The Buyer may by notice in writing to the Seller terminate the order in whole or in part –

- (1) Upon default in delivery by specified time;
- (2) If the goods or workmanship be not in accordance with blueprints, specifications or approved samples, or in the opinion of the Buyer be defective in workmanship or material;
- (3) for any reason whatsoever than those stated in paragraphs (1) and (2) above; in the event of cancellation under this paragraph Buyer shall pay to Seller only –
  - (a) for such of the goods, completed before the giving of notice of cancellation, as according to this order to Buyer's relevant release authorisations are definitely scheduled for shipment within the thirty days immediately following the date of giving of such notice, the price stated herein and
  - (b) For such of the goods, partially completed only before the giving of notice of cancellation, as according to this order or to Buyer's relevant release authorisations are definitely scheduled for shipment within ninety days immediately following the giving of such notice, the Seller's cost of labour and material used to construct such partially completed goods, together with proportionate overhead charges.
  - (c) For such material, not in process, which before the giving of notice of termination the Seller has purchased or agreed to purchase (and which Seller cannot cancel) in order to fill this order with the time definitely specified herein or any release authorisation, the cost of such material to the Buyer.

Such payments to be subject to the Seller using his best endeavours to minimise his damage by reworking or otherwise utilising completed goods, partially completed goods or raw materials and/or disposing of the same at the best price reasonable obtainable therefore. The total of such claim shall not, however, exceed the cancelled commitment value of this purchase order.

8. **COMPLIANCE WITH LAWS AND REGULATIONS:** Seller shall comply with, and upon request of the Buyer furnish certificate of compliance with, all applicable laws, and with all applicable rules, orders, regulations or requirements issued thereunder and shall indemnify Buyer against any damages by reasons of violations of this paragraph.

9. **NON-ASSIGNABILITY:** Neither this order nor any moneys due to become due thereunder may be assigned by Seller without written consent of Buyer.

10. **ENTIRETY:** The terms and conditions set forth or referred to in this order constitute the entire agreement between the parties hereto and modification hereof shall be binding unless mutually agreed to in writing. The receipt by Buyer of any quotation form, sales, confirmation or other proposal shall not, in the absence of a written acknowledgement by Buyer expressly agreeing to same, have the effect of changing in any manner or adding to the terms and conditions hereof.