

TERMS & CONDITIONS

1. **MODIFICATIONS.** No changes or modifications in this Order shall be made except upon Buyer's written authority.
2. **PACKING AND CARTAGE.** No charge for packing or cartage will be allowed except as stated herein.
3. **SHIPMENT.** All shipments are to be made as noted on the face of this order. Seller is required to provide Buyer with a Material Safety Data Sheet (MSDS) prior to the initial shipment of any product covered by OSHA's Hazard Communication Standard (29 CFR § 1910.1200) and whenever MSDS previously provided to Buyer by Seller are updated or revised. IMMEDIATELY upon shipping, mail Buyer a copy of shipping memorandum. If the goods are not shipped in accordance with Buyer's direction and the instructions set out in this Order, then Seller shall pay to Buyer any excess cost occasioned by it.
4. **TERMINATION.** Buyer may terminate this Order for its convenience, in whole or in part, by written, telephonic, or telegraphic notice at any time. If this Order is terminated for Buyer's convenience, Seller shall immediately stop all work hereunder and shall immediately cause any of its suppliers or subcontractors to cease such work. Seller shall be paid a reasonable termination charge consisting of a percentage of the Order price reflecting the percentage of the work performed prior to the notice of termination, plus actual direct costs resulting from termination. Seller shall not be paid for any work done after receipt of the notice of termination, nor for any costs incurred by Seller's suppliers or subcontractors which Seller could reasonably have avoided.
5. **DELAYS.** If Seller shall fail or refuse to proceed with this Order, or if Seller shall fail to make delivery according to the delivery schedule, then Buyer may cancel the Order unless the delay is an excusable delay as hereinafter defined. An excusable delay shall not constitute a default hereunder. The term "excusable delay" as used in this paragraph means any delay in making or accepting deliveries which results without fault or negligence on the part of the party involved and which is due to causes beyond control including, without being limited to, acts of God or the public enemy, any preference, priority or allocation order issued by the Government or any other act of the Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, and delays of a supplier to such causes. Each party shall promptly notify the other of any such delay and the cause thereof.
6. **WARRANTY.** Seller expressly warrants that all goods or services furnished under this Order, including descriptions and specifications incorporated by reference herein, shall conform to all specifications and appropriate standards, will be new, and will be free from defects in material or workmanship. Seller warrants that all such goods or services will conform to any statements made on the containers or labels or advertisements for such goods or services, and that any goods will be adequately contained, packaged, marked and labeled. Seller warrants that all goods or services furnished hereunder will be merchantable, and will be safe and appropriate for the purpose for which goods or services of that kind are normally used, if Seller knows or has reason to know the particular purpose for which Buyer intends to use the goods or services. Seller warrants that such goods or services will be fit for such particular purpose. Seller warrants that goods or services furnished will conform in all respects to samples. Inspection, test, acceptance or use of the goods or services furnished hereunder shall not affect the Seller's obligation under this warranty, and such warranties shall survive inspection, test, acceptance and use. Seller's warranty shall run to Buyer, its successors, assigns and customers, and users or the products sold by Buyer. Seller expressly warrants that Seller complies with all governmental, safety, and environmental laws and regulations. Seller authorizes Buyer and/or its customers the right to perform on-site verification on the Seller's premises at any time, without prior notice.
7. **REGULATION.** 4.6.1.2. Seller expressly warrants that Seller complies with all Government, Safety and Environmental regulations, and shall satisfy current governmental and safety constraints on restricted, toxic and hazardous materials; as well as environmental, electrical and electromagnetic considerations applicable to the country of manufacture and sale.
8. **ACCEPTANCE-AGREEMENT.** Seller must sign and return to Buyer the acknowledgement copy of this Order. If for any reason Seller should fail to do so, Seller's commencement of work on the goods subject to this Order or shipment of such goods, whichever occurs first, shall be deemed and effective mode of acceptance of this Order. Any acceptance of this Order is limited to acceptance of the express terms contained on the face and back thereof. Any proposal for additional or different terms or any attempt by Seller to vary in any degree any of the terms of this offer in Seller's acceptance is hereby objected to and rejected, but such proposals shall not operate as a rejection of this offer unless such variances are in the terms of the description, quantity, price or delivery schedule of the goods, but shall be deemed a material alteration thereof, and this offer shall be deemed accepted by Seller without said additional or different terms.
9. **DEFECTIVE GOODS.** If any of the goods fail to meet the warranties contained in Paragraph 6, or those implied by law. Seller, upon notice thereof from Buyer, shall promptly correct or replace the goods at Seller's expense. If Seller shall fail to do so, Buyer may cancel the Order for such goods. After notice to Seller, all such goods will be held at Seller's risk, and all transportation charges, both to and from the original destination, shall be paid by Seller. Any payment for such goods shall be refunded by Seller unless Seller promptly corrects or replaces the same at its expense.
10. **CHANGES.** Buyer shall have the right at any time to make changes in drawings, designs, specifications, materials, packing, time and place of delivery and method of transportation. If any such changes cause an increase or decrease in the cost, or the time required for the performance, an equitable adjustment shall be made and this Order shall be modified in writing accordingly. Seller agrees to accept any such changes subject to this paragraph.
11. **CONSIGNMENT.** Machinery, equipment, tools, jigs, dies, patterns, drawing and specifications and samples furnished to Seller by Buyer on other than on a charge basis are to be held by Seller in trust, are to be maintained in first-class operative

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- condition by Seller at Seller's expense as long as Seller has production orders, are to be marked in the manner required by Buyer, and are to be returned or disposed of only on Buyer's written instructions. Such items shall be used only in filling this Order. Unless otherwise agreed, Seller, at its expense, shall insure that all items for the replacement cost thereof against loss or damage or any kind with loss payable to Buyer.
12. **ASSIGNMENT.** Neither party shall assign or transfer this Order or any interest therein or monies payable thereunder without the written consent of the other party. Any assignment made without such consent shall be null and void, except that Buyer may assign this Order and its interest therein to any affiliated corporation, or to any corporation succeeding to Buyer's business, without the consent of the Seller.
 13. **TAXES.** If the goods are to be purchased for resale, then a resale tax number will be furnished upon request.
 14. **INSURANCE.** Seller agrees to maintain, at its expense, General Liability Insurance, including Products and Completed Operations Liability insurance as will fully protect Seller, its officers, directors, agents and employees from claims, including, but not limited to, claims for consequential damages resulting from the goods or services which are the subject of this Order. Such policies shall be written on an occurrence form and with insurers carrying a minimum Best rating or B+. They shall evidence deductibles in amounts satisfactory to Buyer and shall provide Combined Single Limits of at least \$1,000,000. Seller agrees to provide umbrella coverage in minimum limits of \$2,000,000. Seller will add Buyer and any other party designated by Buyer as an additional insured on such policies and provide Buyer with a certificate of insurance (or, upon Buyer's request, policies) along with the applicable additional insured endorsement evidencing such coverage, within ten (10) days after Seller receives this Order. (A Vendor's endorsement is not an acceptable substitute for the additional insured endorsement.) Such policies must provide that coverage shall not be terminated, materially changed, or renewal refused without at least ten (10) days prior written notice to Buyer. If the scope of work includes labor, then Seller will also provide Worker's Compensation coverage in statutory limits. Seller agrees that all such labor shall be done by Seller as an independent contractor and that the persons doing such work shall not be considered employees of the Buyer. In addition, Seller agrees to maintain all other insurance coverage which may be deemed necessary by Buyer.
 15. **SUBCONTRACTING.** No part of this Order may be subcontracted without the prior written approval of the Buyer.
 16. **INDEMNIFICATION BY SELLER.** Seller agrees to and does hereby indemnify and save harmless the Buyer against all cost and expenses (including attorney's fees), damages, liabilities and judgements for personal injuries, including death, resulting from the use of the goods, and for property loss or damage sustained by any person, or entity, however caused or alleged to have been caused, directly or indirectly, by the breach of warranties set forth herein or implied by law, or whether sounding in contract or in tort of from any act or omission of Seller, its agents, officers, directors and employees.
 17. **PROPRIETARY INFORMATION, CONFIDENTIALITY, ADVERTISING.** Seller shall consider all information furnished by Buyer to be confidential and shall not disclose any such information to any other person, or use such information itself for any purpose other than performing this Order, unless Seller obtains written permission from Buyer to do so. This Paragraph shall apply, but not limited to, drawings, specifications, or other documents prepared by Seller for Buyer in connection with this Order. Seller shall not advertise or publish the fact that Buyer has contracted to purchase goods from Seller, nor shall any information relating to this Order be disclosed without Buyer's written permission. Unless otherwise agreed in writing, no commercial, financial, or technical information disclosed in any manner or at any time by Seller to Buyer shall be deemed secret or confidential, and Seller shall have no rights against Buyer with respect thereto except such rights as may exist under patent laws.
 18. **PATENTS.** Seller agrees upon receipt of notification to promptly assume full responsibility for defense of any suit or proceeding which may be brought against Buyer for infringement, as well as for any alleged unfair competition resulting from similarity in design, trademark or appearance of goods or services furnished hereunder, and Seller further agrees to indemnify Buyer, its agents and customers against any and all expenses, losses, royalties, profits and damages, including court costs and attorney's fees, resulting from any such suit or proceeding. Including any settlement, 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 Seller.
 19. **REMEDIES.** No remedy herein provided shall be deemed exclusive of any other remedy allowed by law.
 20. **ENTIRE AGREEMENT.** These Terms and Conditions, Dudek & Bock's Purchase Order, and any documents referred to on Dudek & Bock's Purchase Order constitute the entire agreement between parties.