

## TERMS & CONDITIONS

1. Seller's acceptance of Buyer's order is made expressly conditional on Seller's assent to the terms and conditions set forth herein and on the reverse side hereof, notwithstanding the provisions contained in any acknowledgement, acceptance, invoice or other document of Seller. Buyer does not accept, and expressly disclaims, all terms and conditions other than those expressly set forth herein and those contained in any written contract signed between the Buyer and Seller covering material(s) delivered hereunder. Any inconsistent, supplemental, additional or different terms, including counter-offers shall not become part of the agreement between the parties. Shipment or delivery of materials by Seller to Buyer shall constitute assent to these said Terms and Conditions.
2. The transaction(s) herein are subject to inspection and approval of the material by Buyer and Buyer's customer(s). Buyer may assert quality and quantity claims against Seller within 60 days after inspection, but where a defect is latent, Buyer's time to object shall be within 60 days after discovery of such a latent defect. Rejected material may be returned for refund, credit or replacement, at Buyer's option and at Seller's risk and expense. If Seller fails to provide written instructions for disposition of the rejected material within ten (10) days, or shorter period as may be commercially reasonable under the circumstances, after notice of nonconformity, Buyer, at its sole option, may charge Seller for storage and handling or dispose of the goods, without liability therefore, at Seller's expense. Risk of loss of the material shall pass only upon completion of such inspection and acceptance by Buyer and Buyer's customer.
3. Buyer reserves the right to cancel this Purchase Order, and any written contract, or any part thereof, and to refuse acceptance of all or part of the material, if the material is not delivered at the time and location specified herein or does not strictly conform to the terms of this Purchase Order and any written contract with respect to the material, and Seller shall be liable for any resulting damages, including lost profits, sustained by Buyer on account of such breach. Nothing contained in this contract shall be deemed to limit or exclude any remedies available to Buyer under law and equity for any breach by Seller.
4. Any delay or failure of either Buyer or Seller to perform its obligations hereunder shall be excused if, and to the extent that it is caused by an event or occurrence beyond the reasonable control of the party and without its fault or negligence, including but not limited to due to acts of God, fire, flood, accident, war (declared or undeclared), terrorism, civil disorder, labor difficulties, strikes, shortages of materials, delays or defaults of suppliers or carriers, embargo, actions of governmental authorities or any other cause beyond Seller's control, irrespective of whether such cause was foreseeable or unforeseeable, collectively "force majeure event", provided that written notice of such delay shall be given by the affected party to the other within 5 days. During the occurrence of a force majeure event, Buyer may elect to purchase goods from other sources and terminate this Purchase Order and any written contract without liability as to any unallocated portion of the order.
5. Without limitation, Seller unconditionally warrants to Buyer and its customers that the material sold herein ("material") shall be merchantable, fit for Buyer's particular purpose, and conform in all respects to any samples furnished, and to the description herein and any written contract signed between the Buyer and Seller covering the material(s), and will not be comingled with other material or contaminated (or contaminated in greater degree than permitted in writing by Buyer). Seller further warrants that the material will be manufactured, packaged, labeled and otherwise produced in compliance with all applicable laws and regulations, and agrees to indemnify and hold Buyer and its customers harmless against all claims, losses, damages and expenses, including legal fees in the prosecution or defense of such claims, which Buyer or its customers may incur from infringement or alleged infringement of trademarks, patents or other proprietary rights, or from breach of warranty, express or implied, with respect to the Material. No disclaimer or qualification of any express or implied warranty relating to the Material shall be valid or effective. All warranties survive delivery, inspection, acceptance and payment.
6. Deliveries shall be made both in quantities and times specified in Buyer's Purchase Order or schedule(s). Buyer shall not be required to make payment for material delivered to Buyer or Buyer's customer which are in excess of the quantities specified. Buyer may change the rate of scheduled shipments or direct temporary suspension of scheduled shipments, neither of which shall entitle Seller to a modification of the price for the material covered by this Purchase Order. Risk of loss or damage in transit shall be borne by Seller.
7. Buyer's waiver of any breach or failure to enforce any of the Terms and Conditions herein or the contract of sale shall not be deemed to be a continuing waiver of any subsequent or continuing breach or a continuing waiver of the enforcement of such Terms and Conditions, or of any other terms and conditions, and such waiver shall not in any way effect, limit or waive, by reason of any course of performance, dealing, usage of trade or otherwise, Buyer's rights to enforce and compel strict compliance with every term and condition hereof. Seller agrees to indemnify Buyer for all costs, including attorney's fees, associated with the enforcement of these Terms and Conditions and of the contract for sale of any goods sold hereunder.
8. Seller may not assign or delegate its obligations under this Purchase Order without Buyer's prior written consent. The obligations herein shall be binding upon Seller, its successors and assigns.
9. If any term of this Purchase Order is invalid or unenforceable under any statute, regulation, ordinance, executive order or other rule of law, such term shall be deemed reformed to the extent necessary to be valid and enforceable or otherwise deleted and the remaining provisions of the Purchase Order shall remain in full force and effect.
10. This Purchase Order may not be modified or terminated other than as herein provided, and no prior or contemporaneous communications, course of deal, course of performance or usage of trade shall affect the terms herein, nor any of its provisions waived, except by a writing signed by the party to be charged, and shall be governed by and construed in accordance with the laws of the State of Delaware, the State of Buyer's formation, without giving effect to its choice of law principles applying the laws of any other jurisdiction.