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## The Following Terms and Conditions apply as a Purchase Order

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1. **Acceptance -Agreement.** Acceptance of this Purchase Order is expressly limited to the terms set forth in this Purchase Order. Any terms proposed in Seller's acceptance of Buyer's offer which add to, vary from, or conflict with the terms herein are hereby objected to. If this Purchase Order has been issued by Buyer in response to an offer, and if any of the terms herein are additional to or different from any terms of such offer, the issuance of this Purchase Order by Buyer shall constitute an acceptance of such offer, subject to the express conditions that Seller assent to such additional and different terms herein and acknowledge that this Purchase Order constitutes the entire agreement between Buyer and Seller with respect to the subject matter hereof and the subject matter of such offer.
2. **Prices.** All prices shall be as stated in this Purchase Order and are firm and not subject to escalation. Seller warrants that the prices shown on this Purchase Order shall be complete, and no extra charges of any kind will be allowed unless agreed to in writing by Buyer. Such additional charges include, but are not limited to, shipping, packaging, labeling, custom duties, taxes, storage, insurance, boxing and crating.
3. **Packaging and Shipment.** All goods shall be packaged, marked, and otherwise prepared for shipment by Seller in suitable containers in accordance with sound commercial practices. Buyer's order number shall appear on all packages, invoices, packing slips, and shipping papers for all goods. Seller shall mark on containers all necessary handling, loading, and shipping instructions. Seller shall pay all costs of packaging, transportation, and insurance in delivering the goods to the agreed destination. The cost of all return shipments, for whatever reason, shall be borne by Seller.
4. **Delivery.** Time is of the essence of this Purchase Order and deliveries are to be made in the quantities and at the times specified in this Purchase Order. Any provision for delivery in installments shall not be construed as making the obligations of the Seller severable. If delivery cannot be made at the specified time and place, Seller shall promptly notify Buyer of the earliest possible date for conforming delivery. Notwithstanding such notice and unless otherwise agreed by Buyer in writing, Seller's failure to effect conforming delivery shall entitle Buyer to revoke any acceptance, to cancel this order as to goods not yet shipped without liability to Seller, to receive a full refund of any amounts paid, to purchase substitute goods elsewhere, to return at Seller's risk and expense all or any part of a nonconforming delivery, and to hold Seller accountable for any loss or additional costs incurred. Buyer's receipt or acceptance of all or part of a nonconforming delivery shall not constitute a waiver of any claim, right, or remedy Buyer has under this Purchase Order or under applicable law.
5. **Inspection/Testing.** Buyer shall have the right to inspect (supplied) such goods and to reject any or all of said goods which are in Buyer's judgement defective or nonconforming. Goods rejected or supplied in excess of quantities called for herein may be returned to Seller at Seller's expense and, in addition to Buyer's other rights, Buyer may charge Seller all expenses of unpacking, examining, repacking, and reshipping such goods. In the event Buyer receives goods whose defects or nonconformities are not apparent on examination, Buyer reserves the right to require replacement, as well as payment of damages. Nothing contained in this Purchase Order shall relieve in any way Seller from the obligation of testing, inspection and quality control.
6. **Changes.** Any discrepancies, omissions, or lack of clarity in drawings, specifications, or this Purchase Order must be referred to Buyer before this Purchase Order is acted upon by Seller.
7. **Warranties.** Seller expressly warrants that all goods or services furnished under this Purchase Order shall (a) conform to all specifications and applicable standards (including without limitation, government and trade standards), (b) be new (unless otherwise expressly stated in writing), (c) be free from latent or patent defects in material or workmanship, (d) conform to any statements made on the containers or labels or advertisements for such goods or services, (e) be adequately contained, packaged, marked and labeled, (f) be merchantable, safe, and suitable for the purpose for which goods or services of that kind are normally used, (g) be fit for a particular purpose if Seller knows or has reason to know, the particular purpose for which Buyer intends to use the goods or service, (h) conform in all respects to any samples, descriptions, specifications, and drawings shown to Buyer, (i) not violate or breach any person's or entity's patents, copyrights, or other intellectual property rights, and (j) be free of any errors associated with the entry dates later than December 31, 1999, and continue to operate in accordance with applicable specifications after December 31, 1999. Seller further warrants that it has good title to the goods and that the goods are free from liens and encumbrances. Seller agrees to replace or correct defects of any goods or services not conforming to the foregoing warranty promptly, without expense to Buyer, when notified of such nonconformity by Buyer.
8. **For Convenience.** Buyer may at any time terminate this order in whole or in part or any portion of the goods or services purchased hereunder for its sole convenience upon written notice to Seller. In the event of such termination, Seller shall immediately stop all work hereunder, and shall immediately cause all of its suppliers and subcontractors to cease such work.
9. **For Cause.** Buyer may also terminate this order or any portion of the goods or services purchased hereunder "for cause" if (a) Seller defaults under or fails to comply with any of the terms or conditions of this Purchase Order (including, without limitation, failing to exactly comply with the requirements for price, quality and quantity). In the event of termination for cause, Buyer shall not be liable to Seller for any amount, and Seller shall be liable to Buyer for any and all damages sustained by reason of the default which gave rise to the termination.
10. **Assignment/Subcontracting.** No part of this Purchase Order may be assigned or subcontracted by Seller without Buyer's prior written approval.
11. **Waiver.** Buyer's failure to enforce any of the terms and conditions of this Purchase Order to exercise any right or privilege hereunder, shall not constitute a waiver of any such term, condition, right or privilege.
12. **Governing Law; Jurisdiction; Venue.** All questions concerning the validity, interpretation, enforceability, and operation of this Purchase Order and the performance of the obligations imposed on the parties hereunder will be governed by and construed according to the laws of the State of Oregon. The federal and state courts of the state of Oregon shall have sole and exclusive jurisdiction over any action or claim arising out of or relating to the goods sold or services performed under this Purchase Order. Any such actions must be commenced and tried in a state or federal court in Multnomah County, Oregon. The parties acknowledge and agree that they are subject to the jurisdiction of the federal and state courts of Oregon and that Multnomah County, Oregon is a proper and acceptable venue for such actions.
13. **Attorney Fees.** In the event Seller or Buyer commences legal action (including trial, arbitration, and bankruptcy proceedings) to enforce or to interpret the terms of this Purchase Order or the performance of the duties and obligations imposed on the parties hereunder, or to collect damages as the result of an alleged breach of this Purchase Order, the party prevailing shall be entitled to recover from the nonprevailing party reasonable attorney fees and costs incurred in such action prior to and at trial and on any appeal. For purposes of this Purchase Order, "prevailing party" shall mean the party that succeeds either affirmatively or defensively on claims having the greatest overall value or importance as determined by an arbitrator or court of competent jurisdiction.