

Terms and Conditions

1. **ACCEPTANCE OF CONTRACT:** Seller agrees to promptly acknowledge this purchase order. Failure to do so shall be deemed acceptance of these Terms and Conditions by Seller.

2. **AMENDMENTS:** The parties agree that this order, including the terms and conditions on the face and reverse side together with any documents attached or Incorporated by reference, contains the complete and final contract between Buyer and Seller, that no agreement or understanding to modify this contract shall be binding upon Buyer unless in writing and signed by Buyer's authorized representatives. All specifications, drawings, and data submitted to Seller with this order or referred to by this order are incorporated and made a part of this contract.

3. **TAXES:** Except as may be otherwise provided in this order, the contract price includes all applicable federal, state, and local taxes in effect on the date of this order. In case of new taxes or increased rates or the repeal of taxes or the reduction of rates, the contract order price shall be adjusted accordingly by the Buyer in writing before the Seller proceeds with such change. Price increases shall not be binding on Buyer unless evidenced by a purchase order change notice or revision issued and signed by Buyer.

4. **DELIVERY:** Time is of the essence and if delivery of goods is not made in the quantities or at the times specified, or rendering of services is not completed at the times specified, Buyer reserves the right without liability and in addition to its other rights and remedies, to take either or both of the following actions: (a) direct expedited routing, at Seller's expense; (b) terminate this contract as to goods not yet shipped or services not yet rendered, and, to purchase substitute goods or services elsewhere and charge Seller with any loss incurred.

Seller shall be liable for excess transportation charges, delays or claims resulting from Seller's deviation from Buyer's routing instructions. Neither party shall be liable for excess costs of deliveries or defaults due to causes beyond its control and without its fault or negligence, provided, however that when the Seller has reason to believe that deliveries will not be made as scheduled, written notice setting forth the cause of the anticipated delay, must be given immediately to Buyer. If Seller's delay or default is caused by the delay or default of a subcontractor, such delay or default shall be excusable only if it arose out of causes beyond the control of both Seller and subcontractor and without the fault or negligence of either of them and the goods to be furnished or services to be rendered were not obtainable from sources in sufficient time to permit Seller to meet the required delivery or performance schedule.

Buyer will have no liability for payment for goods delivered to Buyer which are in excess of quantities specified in this contract and delivery schedules, or which are delivered in advance of Buyer's delivery schedule or for all transportation charges therefore. Buyer will not be liable for any material or production costs incurred in excess of the amount or in advance of the time necessary to meet Buyer's delivery schedules.

5. **INSPECTION AND ACCEPTANCE:** All goods purchased hereunder are subject to inspection of Buyer's destination, and Buyer reserves the right to reject and refuse acceptance of goods, or to return goods already accepted, which are not in accordance with this contract or with the Seller's warranties, (express or implied). Goods not accepted will be returned to Seller for full credit or replacement at Buyer's option and at Seller's risk and expense, including transportation charges both ways. No replacement of rejected goods shall be made unless specified by Buyer in writing.

Acceptance of any part of the goods shall not bind Buyer to accept, nor constitute a waiver of Buyer's right to cancel or return, future shipments, nor deprive it of the right to make and claim for damages, including incidental or consequential loss or damage incurred by Buyer. Such rights shall be in addition to any other remedies provided by law.

6. **FREIGHT CHARGES, PACKING, DRAYAGE, AND CONTAINERS:** Unless otherwise expressly stated on the face of this purchase order, all goods shall be delivered F.O.B Buyers receiving dock. No charges for packing, drayage, or containers will be allowed unless specified on the face of this order. Seller shall be liable for damage caused by improper boxing, crating, or packing.

7. **TITLE AND RISK OF LOSS:** Title and risk of loss shall not pass to Buyer until delivery of the goods to destination in accordance with the provisions of this purchase order. Buyer shall not be responsible for any damage to goods which shall occur during shipment, and no such damage shall relieve Seller of any obligations to Buyer.

8. **SELLER'S WARRANTIES:** Seller hereby warrants that the whole of the goods furnished hereunder shall be free of defects in material and workmanship, of merchantable quality, fit to Buyer's purposes, and that they shall conform with Buyer's instructions, specifications, drawings and data. Seller hereby further warrants that the whole of the goods furnished hereunder shall conform to all representations, affirmations, promises, descriptions, samples or models forming the basis of this contract. Seller agrees that these warranties shall survive acceptance of the goods. Said warranties shall be in addition to any warranties of additional scope given by Seller to Buyer. **NONE OF SAID WARRANTIES AND NO OTHER IMPLIED OR EXPRESS WARRANTIES SHALL BE DEEMED DISCLAIMED OR EXCLUDED UNLESS EVIDENCED BY A PURCHASE ORDER CHANGE NOTICE OR REVISION ISSUED AND SIGNED BY BUYER.**

9. **PROPERTY OF BUYER:** Unless otherwise provided in this order or agreed to in writing, property of every description including but not limited to all tooling, tools, equipment and material furnished or made available to Seller, title to which is in Buyer and any replacement thereof shall be and remain the property of Buyer. Seller shall not use such property except for performance of work hereunder or as authorized in writing by Buyer. Such property while in Seller's possession or control shall be kept in good condition, shall be held at Seller's risk and shall be kept insured by Seller, at its expense in an amount equal to the replacement cost with loss payable to Buyer. As and when directed by Buyer, Seller shall disclose the location of such property and/or prepare it for shipment and ship it to Buyer in as good condition as originally received by Seller reasonable wear and tear excepted.

10. **SPECIAL TOOLING:** Seller agrees that all special tooling (except (a) items of tooling or equipment heretofore acquired by Seller, or replacement thereof, whether or not altered or adopted for use in the performance of this order, (b) consumable small tools, (c) general or special machine tools or similar capital items) shall be retained and not used or reworked except for performance of work hereunder or as authorized in writing by Buyer. While in Seller's possession or control, Seller warrants that it will keep the special tooling in good condition, fully covered by insurance, and will replace it when lost, destroyed, or necessary for performance of work hereunder. (Buyer shall have the right to take possession of, including the right of entry for such purpose, any such property, title to which Buyer acquires hereunder, without and additional liability whatsoever to Seller.)

11. **PROPRIETARY RIGHTS:** All technical information whatsoever supplied to the Seller by the Buyer in respect to this contract shall be considered and kept confidential by the Seller and neither Seller nor any employee, agent or other person under Seller's direction shall disclose any such information, directly or indirectly, to any other person whatsoever. Additionally, Seller agrees to assign to the Buyer and not otherwise to make use of any invention, improvement or discovery (whether or not patentable), conceived or reduced to practice in the performance of this contract by any employee or agent of Seller, or other person working under Seller's direction. Upon completion of this contract, Seller shall deliver to Buyer any and all information relating to any such invention, improvement or discovery, and shall cause employees, agents or others under Seller's direction to execute all documents necessary or desirable to enable Buyer to obtain title and to file applications for patents therefore throughout the world.

12. **INDEMNIFICATION:** Seller agrees to indemnify and save buyer harmless from and against all claims, actions, demands, and suits, including reasonable attorneys' fees, arising out of Seller's acts or omissions in failing to perform pursuant to the terms and conditions contained in this contract or due to any claim action, demand, or suit, including consequential damages, arising out of any defect or alleged defect in the merchandise, or based on any allegation that the merchandise is not fit or safe for consumer use, or based on the nature of the material contained in the merchandise, or due to the actual or alleged negligence or dishonesty of, of any actual or alleged act or commission or omission by the seller or any of its employees or agents or based on alleged patent infringement or unfair competition claims resulting from similarity of design, trademark or appearance of goods by reason of the use of sale of any goods furnished under this contract except that this indemnification shall not apply for goods manufactured entirely to buyer's specification.

Seller agrees that this indemnification shall survive acceptance of the goods or services and payment therefore by Buyer, and shall be binding upon the Seller, its successors and assigns, and shall inure to the benefit of Buyer its successors and assigns and to the benefit of Buyer's officers, directors, agents and employees and their heirs, executors, administrators and assigns.

13. **INSURANCE:** If this contract covers the performance of labor for Buyer, Seller agrees to furnish evidence satisfactory to buyer that all liens have been released by all persons who have performed services or furnished materials under this contract. Seller further agrees, at its sole cost and expense, to maintain for the mutual benefit of Buyer and Seller insurance coverage in the following minimum amounts against all items of indemnity referred to in paragraph 12:

>Workmen's Compensation - Statutory limits for State or States in which the work is to be performed. - \$2,000,000 ea.
>Comprehensive General Liability - \$2,000,000 ea. and Property Damage - \$2,000,000.

All policies of insurance shall provide that the proceeds shall be payable to Buyer and Seller as their respective interests may appear. All policies of insurance shall further provide that they shall not be cancelable on less than ten (10) days notice to all insured's. Seller shall furnish buyer with certificates, satisfactory to Buyer, evidencing such insurance policies and naming Buyer as an additional insured. If Seller is a self-insurer, the certificate of the department of labor and industry of the state of which said labor is to be performed must be furnished by such department directly to buyer. Compliance by Seller with these insurance requirements does not in any way affect Seller's indemnification of Buyer under paragraph 12.

14. **CANCELLATION:** Buyer shall have the right to cancel for default all or any part of the undelivered portion of this contract if Seller does not make deliveries as specified in the delivery schedule, if Seller breaches any of the terms hereof including warranties of Seller, or if Seller becomes insolvent or commits an act of bankruptcy.

15. **COMPLIANCE WITH LAWS:** Seller warrants that all goods or services furnished hereunder will comply with all applicable federal and state laws (and with the regulations, orders and standards thereunder) including where applicable, but not limited to, the Fair Labor Standards Act of 1938, the Walsh-Healey Act, the Work Hours Act, the Civil Rights Act of 1964, Section 202 of Executive Order 11246 as to nondiscrimination in employment, and the Occupational Safety and Health Act of 1970, and any amendments thereto.

In addition, without limiting the generality of the foregoing, Seller agrees that it will include on all invoices, and that all invoices in order to be approved for payment must include the following statement.

"Seller represents that, with respect to the production of the goods covered by this invoice, it has fully complied with all provision of the Fair Labor Standards Act of 1938, as amended."

16. **WAIVER:** The failure of Buyer to insist, in any one or more instances, upon the performance of any of the terms, covenants or conditions of this contract or to exercise any right hereunder, shall not be construed as a waiver or relinquishment of the future performance of any such terms, covenant or condition of the future exercise of such right, but the obligation of Seller with respect to such future performance shall continue in full force and effect.

17. **ASSIGNMENT:** None of the sums due or to become due nor any of the work to be performed under this contract shall be assigned nor shall Seller subcontract for completed or substantially completed material called for by the contract without Buyer's prior written consent.

18. **CONTROLLING LAW:** The provision of this purchase order and any contract between the parties shall be interpreted and construed in accordance with the laws of the State where goods are received by Buyer. The terms and conditions of this Purchase Order shall apply and be controlling regardless of any different or conflicting provision in any document, communication or agreement between Buyer and Seller.

19. **Conflict Minerals:** Supplier agrees that all products (including parts and components thereof) that it provides to Western/ Scott Fetzer, which contain "conflict minerals" (as defined in section 1502(e) (4) of the Dodd-Frank Wall Street Reform and Consumer Protection Act) that are necessary to the functionality or production of the product, are "DRC conflict free" (as that term is defined at 15 U.S.C. § 78m (p) (1) (D)).