



LOURDES TERMS AND CONDITIONS OF PURCHASE

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1. **PACKAGING, PACKING, TRANSPORTATION, INVOICING, MARKING OF SHIPMENTS AND PRICING** (A) All items shall be packaged and packed by Seller in suitable containers for protection in shipment and storage. (B) Unless otherwise stated on the face hereof the prices set forth in this order include all charges for Seller's packaging, packing, loading, bracing, cartage and transportation and are F.O.B. point shown on the face hereof. (C) **INVOICES.** Seller shall issue separate invoices for each shipment against this order which shall show the number of items shipped. The Buyer's order number, part number, and the United States Government contract number, if any, shall appear on all invoices, packages, crates or boxes, packing slips, correspondence and other documents in connection with this Purchase Order. In addition, each container shall show the quantity contained. (D) Unless otherwise stated on the face hereof, the prices stated in this Purchase Order are firm fixed prices and may be changed only by mutual agreement of Buyer and Seller, except as provided by applicable governmental regulations, if any.
2. **ADVANCE MANUFACTURE AND DELIVERY** Seller shall not make material commitments or manufacture in advance of Seller's normal flow time to meet Buyer's delivery schedule set forth in this Order without Buyer's written permission. Buyer reserves the right to return, shipping charges collect, and all material received at Buyer's plant in advance of the schedule shown on this Order.
3. (A) **DEFAULT AND DELAY** Buyers production schedules are based upon Seller, agreement that delivery of acceptable products will be made to Buyer by the date specified on the face of this Purchase Order. Time is therefore the essence of this contract. If any anticipated or actual delays arise. Seller shall notify Buyer immediately of the delay and its cause. Notwithstanding such notification, (1) if deliveries are not made at the time agreed upon, or (2) if Seller shall default in any other way in the performance of this contract, or (3) if Seller shall so fail to make progress in the performance of this contract as to endanger its satisfactory and timely completion, or (4) if Seller shall cease to conduct operations in the normal course of business, or (5) if before completion of performance by Seller under this Contract, Buyer has reasonable grounds to be insecure with respect to performance of Seller and Seller does not, within ten (10) days after receipt of demand for such assurance from Buyer, give Buyer adequate assurance of All performance. Buyer reserves the right to cancel this contract (on a non-cancellation-charge basis), purchase elsewhere, and hold Seller accountable for any additional costs Buyer may incur. In the event of such cancellation for the foregoing causes, Seller agrees forthwith to repay to Buyer any sums advanced Seller on account of the Purchase Order. This paragraph is applicable to this Purchase Order whether or not the Purchase Order requires Seller to manufacture items to Buyer's drawings, designs or specifications. (B) If after notice of termination of this order under the provisions of paragraph (A) of this clause, it is determined by legal proceedings or otherwise that Seller was not in default or that the default was excusable, the rights and liabilities of the parties shall be determined, pursuant to clause 4 or, if this is an Order pursuant to a Federal prime contract, clause 1C of the additional Terms and Conditions. (C) The rights and remedies of Buyer provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Order.
4. **TERMINATION OF BUYER** (A) Buyer may terminate work under this Purchase Order in whole or in part at any time by written or electronic (fax, email, etc.) notice to Seller whether or not there has been a termination of Buyer (B) upon termination in whole or in part of the work under this Purchase Order by Buyer pursuant to Paragraph (A) above. Seller will, as to terminated portion of Purchase Order, stop work immediately, notify subcontractors forthwith to stop work and protect property in Seller, possession in which Buyer has or may acquire an interest (C) Except where such termination is occasioned by a breach, default or delay of Seller, *unless such causes are excusable because beyond Seller, control and without Sellers fault or negligence or beyond the control and without the fault or negligence of Seller's subcontracts and suppliers at all tiers.* (D) Failure of Buyer and Seller to agree whether or not a claim should be settled under subparagraph (C) of this clause shall be a dispute under paragraph 21 hereof. Seller may claim reimbursement for (1) Seller, actual costs incurred If to and including the date of termination which are properly allocable to or apportionable under recognized accounting practices to the terminated portion of the Purchase Order. (2) liabilities to subcontractors and suppliers, which are so allocable and (3) acceptable finished products, not previously billed or, paid for at the price provided in this Purchase Order, provided, however, that Seller excludes from its claim any charge for interest in for any materials, work-in-process or finished products which Seller may be able to divert to other orders. Except as noted above, Seller may also claim a reasonable profit on the work actually done and costs actually incurred by Seller prior to such termination, the rate of which shall not exceed the rate used in establishing the original Purchase Order price. The total of such claims shall in no event exceed the cancelled commitment value of this Purchase Order or the Purchase Order price, whichever is lower. Seller shall furnish to Buyer such documentation and cost and pricing information as Buyer shall request for the purposes of this paragraph.
5. **INSPECTION, TEST, QUALITY CONTROL AND CERTIFICATION** Seller is responsible for providing conforming and safe product that meets all the requirements. All materials or articles ordered will be subject to final inspection, and approval at destination by Buyer, all shall conform to any applicable specifications stated in this Purchase Order. Seller, at the time of making acceptance of this Order as set forth in Paragraph 6, shall be deemed to have agreed to comply with such specifications and warrants that the item delivered do conform thereto. Items delivered in lots are subject to rejection, upon the basis of sample inspection. The foregoing shall not relieve the Seller of the obligation to make full and adequate test and inspection. Notwithstanding any source inspection, prior payment, or acceptance, if Buyer receives items not of the quality ordered or not in conformance with specifications it may cancel this contract under provision of paragraph 3 hereof and return such items C.O.D., or Buyer may return such items without canceling this contract, C.O.D., at Buyer, option, or Buyer, with notice to Seller in advance may rework or repair such items, charging the Seller for an reasonable costs incurred for such rework or repair. In the latter event and at Buyer's option, Seller shall either refund to Buyer the invoice price of all items returned hereunder (plus all transportation and handling expenses thereon paid or incurred by Buyer) or replace such returned items, freight prepaid. If this contract covers items made to Buyer's specifications, Seller authorizes Buyer, at Buyer's discretion, to make a first piece inspection of any production or preproduction operation upon Seller's premises. In the event that upon conducting said first piece inspection Buyer determines such first piece does not conform to the applicable specifications If forth in this Purchase Order, or does not conform to acceptable standards of workmanship, Buyer may at its sole option (a) cancel this Purchase Order, whereupon Buyer may pursue the remedies set forth in Paragraph 3 above, and any other remedies available at law, or (b) permit remanufacture and resubmission of the first piece for inspection at an equitable reduction in the price of this Order.
6. **ACCEPTANCE** (A) This Purchase Order constitutes Buyer's offer to Seller and becomes a binding contract on the terms of forth herein when it is accepted by Seller either by signed acknowledgment hereof commencement of deliveries or the commencement of work. Where deliveries are to be in installments, delivery of the first installment shall constitute acceptance of the entire order. Notwithstanding any provision, terms or conditions contained in Seller's acknowledgment or confirmation of sale used in accepting this Order, Seller hereby agrees that any work performed on or delivery of the product or services ordered hereby constitutes Seller's reaffirmation that the contract of sale is based on the terms set forth herein. No revisions to this Order shall be valid unless in writing and signed by an authorized representative of Buyer, and no conditions stated by Seller in accepting or acknowledging this Order shall be binding upon Buyer if in conflict with, inconsistent contained herein unless expressly accepted by Buyer. (B) This Order sets forth the entire agreement and supersedes a, and all other agreements, understandings, and communications between Buyer and Seller and related to the subject matter of this Order. No provision of this Order may be waived or changed except in writing signed by Buyer's Purchasing Representative.
7. **CHANGES** Buyer by written order, signed by Buyer or Officer only, shall have the right from time to time and without notice to sureties or assignees to make changes in packaging, packing, specifications, inspection, testing, F.O.B. point, destinations, designs, method of shipment and delivery schedule. Within thirty (30) days of receipt of such written order, Seller shall notify Buyer of increases or decreases in cost, if any, caused by the Change. In such event, the parties shall negotiate an equitable adjustment in price or time of performance which shall be incorporated by written amendments to the Purchase Order. Notwithstanding disagreements, as to the amount of any price or time adjustment, Seller agrees to comply with the written order and the instructions of Buyer with regard thereto. Failure of Seller to comply with Buyer instructions concerning any such change (notwithstanding any dispute as to equitable adjustment or lack or absence of any bilateral amendment) shall be grounds for termination for default under Paragraph 3 hereof. Failure to agree on any claim for equitable adjustment under this clause shall be a dispute and Seller may thereupon pursue any remedy which it may have according to clause 21 or, if this is an Order pursuant to a Federal prime contract, clause 3D of the Additional Terms and Conditions of this Order.
8. **ASSIGNMENTS AND SUBCONTRACTING** The performance of this Contract may not be assigned or materially subcontracted in whole or in part by Seller without Buyer's prior written consent. Claims for monies due or to become due under this Order may be assigned by Seller, provided that Seller shall supply Buyer promptly with two copies of any such assignment, and provided further that payment to an assignee of any claim under this Order shall be subject to of off or recoupment for any claim or claims under this or other Purchase Orders existing prior to, or after the date of such assignment which Buyer may have against Seller. Buyer may cancel this Purchase Order (on a non-cancellation-charge basis) in the event Seller makes any unauthorized assignment or subcontract, in which event Buyer shall have all rights and remedies set forth in Paragraph 3.



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9. SET OFF Buyer shall be entitled at all times to set off any amounts owing at any time from Seller to Buyer against any amount payable at any time by Buyer to Seller.
10. COMPLIANCE WITH LAWS Seller shall comply with all applicable State, Federal, and local laws, rules and regulations.
11. FAIR LABOR STANDARDS ACT By acceptance of this Order, Seller shall be deemed to represent that the goods to be furnished hereunder were or will be produced in compliance with the requirements of the Fair Labor Standards Act of 1938, as amended.
12. INSURANCE In the event that Seller is required to enter premises owned, leased, occupied by or under the control of Buyer during the performance of this Purchase Order, or during delivery or installation of materials or articles herein contemplated, or during the performance of services otherwise required to be furnished by Seller, Seller agrees that Seller will indemnify and hold harmless Buyer, its officers and employees on any loss, cost, damage, expense or liability by reason of property damage or personal injury of whatsoever nature or kind arising out of or as a result of the performance of such services and/or delivery and/or installation, whether arising out of the acts of omissions of Buyer, Seller or its employees and subcontractors of all tiers; and Seller agrees that it and its sub-contractors of all tiers will maintain public liability and property damage insurance in reasonable limits covering the obligations set forth above, and will maintain proper workmen, compensation insurance covering all employees engaged in the performance of such services and/or delivery and/or installation.
13. CANCELLATION FOR INSOLVENCY If Seller ceases to conduct its operations in the normal course of business (including inability to meet its obligations as they mature) or in the event of any suspension of payment or the institution of any proceedings by or against Seller, voluntary and involuntary, in bankruptcy or insolvency, or under any provision of the United States Bankruptcy Act, or for the appointment of a receiver or trustee or an assignee for the benefit of creditors of Seller, or in the event of a breach of any of the terms hereof, including warranties of Seller, Buyer shall be entitled to cancel this Purchase Order forthwith and shall have the rights and remedies provided in Paragraph
14. NON-WAIVER The failure of the Buyer to insist, in any one or more instances, upon the performance of any of the terms, covenants or conditions of the Purchase Order or to exercise any right hereunder shall not be construed as a waiver or relinquishment of the right to such future performance of any such term, covenant or condition by the Seller or to the future exercise of such right, but the obligation of the Seller with respect to such future performance shall continue in full force and effect.
15. PATENT PROTECTION To the extent that the articles or material delivered hereunder are not manufactured pursuant to drawings and for designs and specifications originated by Buyer, Seller guarantees that the sale and/or use of any or all articles or materials delivered hereunder will not infringe on any United States or foreign patents, and agrees that Seller will Save Buyer (its officers, employees, servants, successors, assigns, subsidiaries, and divisions and affiliates and any corporation with which it may be merged or consolidated) and/or its customers harmless from any loss, damage or liability which may be incurred on account of infringement or alleged infringement of patent rights with respect to such articles or materials, and, that Seller with at its own expense defend any action, suit or claim in which such infringement is alleged, provided Seller is duly notified as to suits or claims against Buyer, and provided further that Seller's indemnify as to use shall not apply to infringement arising from use by Buyer or its customers, in combination with other items, where infringement would not have occurred from the normal use for which the article was designed.
16. PRICES, REPRESENTATIVES Seller warrants that the price or prices charged herein for items covered by this order do not exceed the maximum price permitted applicable regulations, if any, of any Governmental authority, or that charged to Seller's most favored customer, and Seller agrees forthwith to refund any amounts paid by Buyer in excess of such price.
17. GENERAL WARRANTY Seller expressly warrants that all of the articles, assemblies, and materials furnished under this order will be merchantable, free from defects in design, material and workmanship, and will conform to applicable specifications, drawings, samples, or other descriptions given. These warranties shall survive acceptance and payment, and shall run to Buyer (its successors, assigns, subsidiaries, divisions and affiliates and any corporation into which or with which it may be merged or consolidated), and the customers, users, and purchasers of the items ordered herein and shall not be deemed to be exclusive, it being agreed that all warranties implied by law and all other legal remedies apply herein with full force and effect.
18. REPRODUCTION RIGHTS Buyer does not grant or convey to Seller by virtue of this order (A) any reproduction rights in or to the articles called for hereunder or (B) any right to use designs, drawings or other information proprietary to Buyer, or supplied by or on behalf of Buyer except for use in the performance of this Order, nor shall the information shown thereon be used in the production, manufacture or design of any articles or materials for anyone other than Buyer. Any such designs, drawings or information marked "Proprietary" or otherwise indicated in writing to be proprietary in nature is understood to be furnished to Seller in a confidential relationship, and Seller shall not disclose all or any part of such designs, drawings or information to any person, firm or corporation except, with prior written approval of the Buyer, to such persons and to the extent necessary for performance of this Order.
19. CONFIDENTIAL Seller shall not disclose any details of this Order to any third party except as may be required to insure performance, and except as herein specified, without first obtaining the written consent of the Buyer.
20. CHOICE OF LAW The construction and interpretation of this Order shall be governed by the laws of the State of New York, regardless of its place of negotiation, execution and performance. If this is an Order pursuant to a Federal government Prime Contract and if no New York law exists with respect to questions involving the interpretation and effect to be given to specific terms and conditions of this Order, this Order will be governed by Federal Law.
21. DISPUTES In the event of disputes arising under this Purchase Order, its performance or breach, the parties shall have such remedies against each other as are available to them at law.
22. SAMPLE TESTING Where sample testing is required by this Purchase Order (the Order), Seller represents that the price on the face hereof includes the cost of such testing. Samples subjected to destructive testing and/or tests which degrade performance, reliability or life, are also at Seller's cost and are exclusive of the quantity to be delivered which appears on the face of the Order. Seller, in its sole discretion, shall identify the tests that result in degradation of samples.
23. The Federal Regulations 41CFR 60-250, "Affirmative Action Obligation of Contractors and Subcontractors for Disabled Veterans of the Vietnam Era" and 41CFR 60-741 Affirmative Action obligations of Contractors and Subcontractors for handicapped workers are herein incorporated by reference.
24. In accordance with section 818 of the Defense Authorization Act contractors who supply electronic parts or products that include electronic parts are responsible for detecting and avoiding the use or inclusion of counterfeit electronic parts or suspect counterfeit electronic parts in such products and for any rework or corrective action that may be required to remedy the use or inclusion of such parts.
25. As an extension of # 24 above, the SELLER WARRANTS that the goods delivered pursuant to this Purchase Order shall (i) be and only contain materials obtained directly from the Original Component Manufacturer (OCM) or the Original Equipment Manufacturer (OEM), (collectively, the Original Manufacturer (OM)) or an authorized OM reseller or distributor; (ii) not be or contain Counterfeit Items, and (iii) contain only authentic, unaltered OM labels and other markings. Seller shall obtain and retain all documentation required to fully trace the distribution and sale of the goods delivered hereunder back to the relevant OM, and, on request of Buyer, shall provide such authenticating documentation. Seller further warrants that it has and shall have an internal Counterfeit Item control process for goods delivered hereunder in accordance with the standards or instructions set forth in AS5553 and/or AS6174A. Seller shall be liable for and save Buyer harmless from any loss, damage, or expense whatsoever that Buyer may suffer from breach of any of these warranties.
26. REACH: REACH stands for Registration, Evaluation, Authorisation and Restriction of Chemicals. As stated in the Lourdes Policy Statements available at <http://www.lourdesinc.com/resources>, Lourdes complies with the responsibilities, as a user, to the regulation of the European Union, adopted to improve the protection of human health and the environment from the risks that can be posed by chemicals, while enhancing the competitiveness of the EU chemicals industry. Lourdes requires its suppliers to also comply with the requirements of the REACH regulations.
27. CODE OF CONDUCT: Supplier shall adopt and comply with a code of conduct or policy statement regarding business conduct, ethics and compliance that satisfies, at a minimum, the principles and expectations set forth in the Lourdes Industries, Inc.'s Code of Conduct available at <http://www.lourdesinc.com/resources>. The Parties recognize that the above URL may change from time to time and agree that any such change will not affect the applicability of the material referenced.