



PURCHASE ORDER TERMS AND CONDITIONS

Effective Date: May 17, 2024

- 1. Acceptance.** This Purchase Order constitutes the entire contract between the parties. Acceptance of this Purchase Order must be made on its exact terms. Any terms and conditions of any invoice or other document issued by the Seller, which are in addition to, modify or are inconsistent with, the terms and conditions of this Purchase Order, will not be binding on the Purchaser and will not apply to any agreement for the sale of goods, materials or services by Seller unless agreed to in writing signed by Purchaser. Shipment of any of the goods or materials, or rendering of services, shall constitute acceptance of this Purchase Order by Seller, whether or not Seller has acknowledged or signed this Purchase Order. This Purchase Order may be revoked or withdrawn by Purchaser at any time prior to shipment by Seller.
- 2. Deliveries.** Time is of the essence in this Agreement. Seller shall ship and deliver goods and render services hereunder on the date or dates specific on the face hereof, unless prior written approval of any change in such date or dates is given by Purchaser. If goods or materials are not shipped and delivered or services are not rendered by the time promised, Purchaser may, at its option, cancel this Purchase Order without liability and pursue its remedies described below.
- 3. Quantity and Packing.** The quantity of goods indicated on the face hereof must not be exceeded without written approval of Purchaser. No charge will be paid by Purchaser for packing, boxing or cartage, unless specified on the face hereof. Loss or damage to any goods not packed in such manner as to ensure proper protection to same shall be borne by Seller. Each package of goods shipped must contain a memorandum showing shipper's name, contents of package, and the Purchase Order number on the face hereof.
- 4. Inspection.** Notwithstanding prior payments and/or inspection by Purchaser, all shipments of goods and/or services rendered hereunder shall be subject to inspection by and approval of Purchaser after arrival of such goods at the delivery point specified on the face hereof and/or after such services have been rendered, taking into consideration, if there be delays in inspection, the seasonal nature of Purchaser's business. Neither risk of loss nor title shall pass from Seller to Purchaser until Purchaser has inspected and accepted the goods or services hereunder.
- 5. Price.** This Purchase Order may not be filled at higher prices than stated herein. If price is omitted, the price for the Purchase Order shall be the lower of the price last quoted or paid or at then prevailing market price. Seller represents the price hereunder to be the lowest price charged by Seller to buyers of a class similar to Purchaser under conditions similar to this Purchase Order. Seller agrees that any price reduction made subsequent to the date of this Purchase Order will be applied to this Purchase Order.

Unless otherwise specified on the face of this Purchase Order, all prices are F.O.B. Purchaser's warehouse. All prices on the front of this Purchase Order are in U.S. dollars unless otherwise specifically stated.

6. Payment. Unless otherwise specified on the face hereof, payment of the purchase price shall be net forty -five (45) days following acceptance of the goods, materials or services by Purchaser. Purchaser shall not pay for any shipping, transportation or handling charges unless specifically authorized in this Purchase Order.

7. Rejected Shipments.

(a) If the goods shipped or to be shipped and/or services rendered or to be rendered hereunder are rejected, in whole or in part, by Purchaser by reason of Seller 's failure to comply with any of the terms, conditions and/or specifications contained herein, Purchaser, after so notifying Seller in writing, may: (i) either return the rejected portion of such goods and/or services to Seller at Seller's expense or hold same for such disposal as Seller shall indicate, without invalidating the remainder of this Purchase Order; or (ii) Purchaser may reject the entire shipment of such goods and/or services and cancel this Purchase Order for any undelivered balances of goods and/or unrendered services. Purchaser shall also be entitled to the remedies described below.

(b) Purchaser shall not be obligated to pay for any goods shipped and/or services rendered which are rejected by it.

8. Nondelivery or Repudiation. If Seller fails to deliver the goods or provide the serviced required by this Purchase Order or repudiates this agreement, Purchaser shall be entitled to the remedies described below.

9. Representations and Warranties.

(a) Seller represents and warrants that the goods delivered or services rendered hereunder: (i) are fit and sufficient for the uses and purposes intended by Purchaser; (ii) are merchantable, of best quality, and free from patent and latent defects in material and workmanship; (iii) conform to the description on the face hereof and to the representations, samples, models or specifications provided by Seller to Purchaser; (iv) shall be of uniform kind, quality and quantity within each unit and among all units of the goods or services; and (v) shall conform to any specification provided by Purchaser to Seller, and if Seller provides technical assistance to Purchaser in establishing such specifications that Purchaser is relying on Seller 's skill, judgments and expertise, and that the specifications and the goods or services derived therefrom shall comply with all warranties in this Section. These warranties shall be in addition to any other express warranties given to Purchaser by Seller.

- (b) Seller shall also be bound by any other implied warranty which as of the date hereof prevails in Seller 's trade in the marketing area and in and about Minneapolis, Minnesota.
 - (c) Seller further warrants that Seller has title to the goods supplied, and the goods are free and clear of all liens, encumbrances and security interest. All warranties made herein, together with service warranties and guarantees, shall run to Purchaser, its customers, successors and assigns.
- 10. Compliance with Laws and Regulations.** In accepting this Purchase Order, Seller represents that it has and will continue, during the performance of this contract, to comply with the provisions of all federal, state and local statutes, laws and regulations. Seller certifies that the goods, materials and services to be furnished hereunder have been produced in accordance with and comply with all applicable standards and regulations promulgated by or under the Fair Labor Standards Act of 1938 as amended, Occupational Safety & Health Act of 1970, Environment Protection Agency, Federal Trade Commission, NSF and IAPMO. Purchaser further represents that it will comply with [Purchaser's Supplier Code of Conduct](#). Upon request, Seller shall provide Purchaser with a separate written certification of the representation and covenants herein as it pertains to any Purchase Order.
- 11. Invoices.** No invoice will be paid by Purchaser unless it is in conformity with this Purchase Order and carries the following certificate: "Seller represents that, with respect to the production of the goods and/or the performance of the services covered by this invoice, it has fully complied with the Fair Labor Standards Act, as amended."
- 12. Patents.** Seller warrants that the goods furnished hereunder do not infringe any United States or foreign patent; that it will defend any suit that may arise in respect thereto; and that it will defend, indemnify and hold Purchaser harmless from and against any and all loss which Purchaser may incur, including but not limited to its reasonable attorneys' fees and court costs, by reason of the assertion of any patent rights with respect to the goods furnished hereunder whether by reason of Purchaser's purchase, use, or otherwise.
- 13. Indemnification.** Seller shall indemnify and hold harmless Purchaser, its agents, servants, employees, representatives, successors and assigns, from and against any and all losses, liability, damages, claims, demands, causes of action, actions and proceedings, of any nature whatsoever, including but not limited to all damage to or loss or destruction of property, injury to or death of any person, and all other actual, incidental and consequential damages, arising directly or indirectly out of or in connection with the Seller's breach of this agreement or the performance of Seller's obligations hereunder, whether or not such claim shall be in contract, tort, strict liability or otherwise. Without limiting the generality of the foregoing, Seller agrees to indemnify and hold Purchaser harmless from and against all claims and liens of any and all persons based upon the furnishing of labor and/or materials in

connection with the goods sold and/or services rendered by Seller hereunder.

14. Remedies.

- (a) In the event Seller fails to deliver the goods or services required here- under or repudiates this agreement, or if Purchaser rejects the goods or services in accordance with Section 4 hereof, or if acceptance of any goods or services is revoked by Purchaser, Purchaser may at its option elect to effect cover. The failure of Purchaser to effect cover shall not affect any other remedy Purchaser has for breach of this agreement.
- (b) In the event of any actual or anticipatory breach or repudiation of this agreement by Seller, Purchaser may at its sole discretion exercise any remedies available at law, in equity or as provided herein, and such remedies shall be cumulative. Seller also agrees to pay Purchaser all costs and expenses, including reasonable attorneys' fees, whether or not incurred in connection with legal proceedings, in enforcing the terms and conditions of this agreement.

- 15. Events Not Within Control of Purchaser.** If, by reason of fire, earthquake, flood, explosion, accident, difference with or inability to secure workmen, lack of facilities, act of God, or of any public enemy, voluntary or involuntary compliance with any valid or invalid law, order, regulation, request of recommendation of any government agency or authority, lack of transportation facilities, or other cause beyond the immediate or direct control of Purchaser, whether or not the kind or nature hereinbefore specifically, Purchaser shall be delayed in whole or in part in taking any delivery or deliveries of goods and/or accepting the rendering of services as herein specified, Purchaser may, by giving written notice to Seller: (a) cancel this Purchase Order in whole or in part as to any undelivered portion of such goods and/or unrendered portion of such services; or (b) suspend, in whole or in part, deliveries of goods and/or the rendering of services during the continuance of and to the extent of such cause.

16. Designs, Tools, Dies, Etc.

- (a) All designs, drawings, blueprints, tools, dies, patterns or printing plates required to perform this Purchase Order, furnished by or paid for by Purchaser, shall be the property of Purchaser, and Seller shall return the same to Purchaser at the latter's request upon completion or cancellation of this Purchase Order, and they shall not be copied or used by Seller other than in filling Purchase Orders from Purchaser without Purchaser's written consent.
- (b) Unless otherwise agreed herein, Seller at its costs shall supply all material, equipment, tools and facilities required to perform this Order. Any material, equipment, tools or other property furnished by Purchaser or specifically paid

for by it shall by Purchaser's property, shall be used only in filling Purchase Orders from Purchaser and may on demand be removed by Purchaser without charge. Seller shall use such property at its own risk and shall be responsible for all loss of or damage to the same while in Seller's custody. Seller shall at its cost store and maintain all such property in good condition and repair. Purchaser makes no warranties of any nature with respect to any such property, which is furnished "AS IS."

- 17. Complete Agreement - Waiver.** This Purchase Order constitutes the entire agreement between the parties hereto; all terms, conditions, and specifications are set forth on the face and back hereof; and there are no agreements or understandings, either express or implied, affecting it, except as set forth on the face and back hereof. No failure of Purchaser to require Seller's strict performance of or authorization by Purchaser permitting Seller to deviate from any term, condition, or specification set forth in this agreement shall be construed as a waiver of Purchaser's right to require strict performance of the same or any other term, condition or specification in the future.
- 18. General.** This Purchase Order shall be governed in all respects by the laws of the State of Minnesota and shall inure to and bind the parties hereto, their heirs, legal representatives, successors, assigns, and anyone claiming by, through or under said parties. The provisions of this Purchase Order shall be deemed severable and the invalidity or unenforceability of any one or more of the provisions of this agreement shall not affect the validity and enforceability of the other provisions. All titles and captions herein are for convenience only and shall not be deemed a part of the context of this agreement. The rights of Seller cannot be assigned or otherwise transferred in whole or in part without the prior written consent of Purchaser. The entire agreement of the parties hereto has been set forth herein and there are no agreements, understandings, representations or warranties between the parties except as set forth therein. No change, addition or modification of this Purchase Order shall be valid or binding unless it is in writing and signed by the party to be charged. No waiver of any provision of this Purchase Order shall be valid unless it is in writing and signed by the parties against whom the waiver is sought to be enforced. No valid waiver of any provision of this Purchase Order shall be deemed a waiver of any other provision of this Purchase Order.