

ABC INDUSTRIES, INC.
PURCHASE ORDER ACKNOWLEDGEMENT TERMS AND CONDITIONS

1. PURCHASE ORDER ACKNOWLEDGEMENT TERMS CONTROL. By this Purchase Order Acknowledgement ("Purchase Order Acknowledgement"), Manufacturer confirms to purchaser ("Purchaser") Manufacturer's acceptance of Purchaser's separate offer to purchase products ("Products") from Manufacturer, as indicated upon the reverse side hereof, on the terms and conditions hereof, which shall control and prevail over any contrary terms in Purchaser's purchase order. This Purchase Order Acknowledgement is for delivery to Purchaser's carrier, F.O.B. Manufacturer's plant or other point or points of delivery designated by Manufacturer, and shall be on the terms and conditions herein specified. Orders for Product not acknowledged on Manufacturer's Purchase Order Acknowledgement form shall be ineffective, null and void.

2. CONFIRMATION. Manufacturer shall, within thirty (30) days of the receipt of Purchaser's purchase order, either confirm in writing on this Purchase Order Acknowledgement form its acceptance thereof, or else send its written non-acceptance thereof on Manufacturer's letterhead. In the event that Purchaser's order is accepted by Manufacturer, this Manufacturer's Purchase Order Acknowledgement form shall set forth the approximate date of delivery.

3. CANCELLATION CHARGES. Any order that is accepted by manufacturer, and later cancelled or changed by Purchaser, will be subject to a cancellation charge regardless of the order status. The cancellation charge will be based on the work completed, including office and engineering time incurred prior to the cancellation or change notice, and the raw materials used and/or purchased for the cancelled or changed order, plus a reasonable allowance for overhead and profit.

4. TERMS OF PAYMENT. A 2% discount is allowed on invoice (for materials only), if payment is postmarked no later than 15 days from date of Manufacturer's invoice. Any discount taken beyond this 15-day limitation will be carried as a balance owing and may result in revocation of this discount privilege. Net Amount is due 30 days from date of invoice. **Credit card payments shall not be eligible for the 2% discount.**

5. PAYMENT ASSURANCE. If Purchaser fails to comply with terms of payment of sale (2% discount on materials only if paid within 15 days after date of invoice; net due 30 days after date of invoice), or if Purchaser's financial responsibility becomes impaired or unsatisfactory to Manufacturer, Manufacturer reserves the right to withhold further deliveries on partially filled orders and/or to require payment in advance or satisfactory security or guarantee that invoices will be paid when due. Purchaser shall accept and pay for partial shipments and any additional materials required which were not part of Manufacturer's original quotation, order, or shipment.

6. INTEREST, ATTORNEY'S FEES, COSTS OF COLLECTION. Interest will be charged at the rate of 1.50% per month (18% annually) on past-due accounts. Purchaser shall pay all costs incidental to the preparation, filing and prosecution of liens, notices of claims, and similar costs of collection. In the event that any obligations covered by these Purchase Order Terms and Conditions are referred to an attorney for any reason, Purchaser shall be liable to pay any and all attorney's fees, including fees and costs in both trial and appellate courts, or fees incurred without suit, and all expenses and all court costs, including, without limitation, all costs of a collection agency.

7. CREDIT APPROVAL. All orders are subject to approval of credit by Manufacturer.

8. ADDITIONAL TRANSPORTATION CHARGES. Manufacturer shall not be responsible for spotting, switching, demurrage or other transportation charges unless agreed to in writing.

9. SHIPMENT DATES. Shipment or delivery dates are the best estimates of Manufacturer's production departments and are computed from the time of receipt of order by Manufacturer's production facilities. Manufacturer shall not be liable to Purchaser or any customer of Purchaser for any injuries or damages, including loss of commissions resulting from failure or delay of delivery of any order. Manufacturer will make reasonable efforts to deliver in accordance with orders it accepts, but shipping dates requested by customer or Purchaser and/or confirmed by Manufacturer shall be considered to be estimates only.

10. FORCE MAJEURE. Manufacturer shall arrange reasonably prompt shipment of Products, F.O.B. the point or points of delivery designated by Manufacturer, pursuant to terms hereof; provided, however, that Manufacturer shall not be responsible for delays in deliveries due to fire, flood, tornado, earthquake, war, riot, insurrection, strike, lockout, slowdown, epidemic, quarantine restriction, delay in transportation, car shortage, labor shortage, materials shortage, manufacturing facility shortage, accident at Manufacturer's plant, boycott, embargo or any act or regulation of government or governmental authority (including, without limitation, preference, allocation or priority systems for government), force majeure and other contingencies beyond Manufacturer's control resulting in impossibility of performance of Manufacturer's duties and obligations hereunder.

11. RISK OF LOSS. Risk of loss of, damage to and title to Products shall pass upon delivery thereof to Purchaser's carrier, F.O.B. Manufacturer's plant or other point or points of delivery designated by Manufacturer as provided in this Purchase Order Acknowledgement. Upon receipt of shipment, it shall be the responsibility of Purchaser or the consignee receiving shipment to check materials and secure written acknowledgement from delivering carrier for any shortages, loss or damage. Notification of such shortages, loss or damage must also be made in writing to Manufacturer.

12. RETURNS. No materials or Products may be returned without the written approval of Manufacturer. All material returned with such approval must be returned freight prepaid. All returned materials will be subject to a 25% restocking charge and must be returned in reusable condition, such condition to be determined by Manufacturer.

13. LIMITED AND CONDITIONAL WARRANTY, DISCLAIMER OF WARRANTIES AND LIMITATION OF REMEDIES AND LIABILITY.

(I) **LIMITED AND CONDITIONAL WARRANTY.** Manufacturer warrants to the original Purchaser or the original end-use Purchaser that the Products supplied hereunder shall be free from defects in material and workmanship. Manufacturer shall repair or replace, F.O.B. its selected factory location in the United States of America, any part or parts of Products defective in workmanship or material, freight prepaid, within six months from the date of delivery to the original end-use Purchaser; provided, however, that in no event shall the duration of this warranty extend beyond twelve months following the date of Manufacturer's first delivery of Products to the original Purchaser.

(II) **CONDITIONS OF WARRANTY.**

(a) Repair or replacement will be at the option of Manufacturer.

(b) Manufacturer's repair or replacement hereunder shall be exclusive of any removal, installation, freight or insurance costs.

(c) Any request for repair or replacement hereunder must be directed to Manufacturer at the following address:

P.O. Box 77
Warsaw, IN 46581-0077
U.S.A.

Manufacturer will not accept shipments of any parts or Products unless it has provided prior written authorization and a Returns Goods Authorization Number.

(d) This Limited and Conditional Warranty is conditioned upon operation of Products in accordance with generally approved industry practice, and in accordance with conditions of service and operating instructions specified by Manufacturer, including proper installation and maintenance of Products, and prompt notice of non-conformity of Products.

(e) Excluded from Manufacturer's obligations for repair or replacement hereunder are repairs or replacements required as a result of wear and tear of Products, abrasion, erosion, corrosion, effects of heat, external forces, or other conditions of service beyond the control of Manufacturer.

(f) Purchasers which are not end-use Purchasers may pass Manufacturer's standard Limited and Conditional Warranty on to end-use Purchasers of Manufacturer's Products, but such non-end-use Purchasers may make no additional or other warranty on behalf of Manufacturer.

(III) **DISCLAIMER OF WARRANTIES.** THE LIMITED AND CONDITIONAL WARRANTY AND REMEDIES SET FORTH ABOVE ARE EXCLUSIVE AND IN LIEU OF ANY AND ALL REPRESENTATIONS, SPECIFICATIONS, WARRANTIES AND REMEDIES, EITHER EXPRESS OR IMPLIED, HEREIN OR ELSEWHERE, OR WHICH MIGHT ARISE UNDER LAW OR EQUITY, OR PURSUANT TO ANY COURSE OF DEALING OR CUSTOM OR USAGE OF TRADE, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR ANY SPECIFIED OR INTENDED PURPOSE.

(IV) **LIMITATION OF REMEDIES AND LIABILITY.** PURCHASER'S SOLE AND EXCLUSIVE REMEDY AGAINST MANUFACTURER SHALL BE THE REMEDY OF DEFECTS IN MATERIALS AND WORKMANSHIP OF ANY PART OR PARTS OF PRODUCTS DELIVERED HEREUNDER AS PROVIDED BY, AND WITHIN THE TIME PERIOD SPECIFIED IN, MANUFACTURER'S LIMITED AND CONDITIONAL WARRANTY SET FORTH ABOVE. MANUFACTURER'S LIMITED AND CONDITIONAL WARRANTY CONSTITUTES THE SOLE REMEDY OF PURCHASER WITH RESPECT TO OR ARISING OUT OF THE EQUIPMENT, PRODUCTS OR SERVICES OF MANUFACTURER, WHETHER BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR OTHERWISE. NOTWITHSTANDING ANY OTHER PROVISIONS HEREOF, IN NO EVENT SHALL MANUFACTURER, OR ITS SUBCONTRACTORS OR SUPPLIERS, BE LIABLE, WHETHER ARISING UNDER PERFORMANCE OF THE CONTRACT ("CONTRACT") OF WHICH THIS LIMITED AND CONDITIONAL WARRANTY, DISCLAIMER OF WARRANTIES AND LIMITATION OF REMEDIES AND LIABILITY IS A PART, OR BREACH OF SUCH CONTRACT, OR TORT, INCLUDING NEGLIGENCE AND STRICT LIABILITY, OR OTHERWISE, FOR LOSS OF ANTICIPATED PROFITS, LOST SALES, INJURY TO PERSONS OR PROPERTY, LOSS BY REASON OF PLANT SHUTDOWN, NON-OPERATION OR INCREASED EXPENSE OF OPERATION, SERVICE INTERRUPTIONS, CLAIMS OF CUSTOMERS OF PURCHASER, COST OF MONEY, LOSS OF USE OF CAPITAL OR REVENUE, OR FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL LOSS OR DAMAGE ANY KIND WHATSOEVER, ABC'S LIABILITY, FOR ANY LOSS OR DAMAGE ARISING OUT OF, OR RESULTING FROM SUCH CONTRACT, OR FROM ITS PERFORMANCE OR BREACH, SHALL IN NO CASE EXCEED THE CONTRACT PRICE AS SET FORTH IN SUCH CONTRACT.

14. GOVERNING LAW. This Purchase Order Acknowledgement shall be governed by and interpreted in accordance with the laws of the State of Indiana, United States of America. Purchaser hereby consents to settle any disputes with respect or relating to this Purchase Order Acknowledgement exclusively in state and federal courts located within the federal Northern District of Indiana.