

THE ACME GROUP PURCHASE ORDER TERMS AND CONDITIONS

April 1, 2022 VERSION

This Purchase Order is subject to the following terms and conditions:

1. SELLERACKNOWLEDGEMENT

Seller shall acknowledge this order by signing a copy of this Purchase Order and returning it to the Buyer by return mail, email, or other method approved by the Buyer.

2. PRICING

Prices charged for goods listed on this Purchase Order are not subject to increase, including specifically any increase based on changes in the costs of raw materials, labor or overhead, unless specifically agreed to by Buyer in writing. Seller represents that the prices charged to Buyer and terms of this Purchase Order are at least as low as those charged to Seller's other customers for similar products and the terms are no less favorable than terms provided to Seller's other customers. Seller further represents that all pricing will comply with all applicable governmental, quasi-governmental or non-governmental laws and regulations in effect at the time of the order and delivery. Any pricing reductions for the products offered to Seller's other customers will be offered to Buyer on the same terms as offered to such other customers of Seller.

3. ACCEPTANCE OF TERMS

Seller's acknowledgment of or shipment of all or part of this order, shall constitute Seller's acceptance of all the terms hereof as well as terms expressly incorporated by reference herein. This Purchase Order and any exhibits, schedules or other documents that are expressly incorporated herein by reference constitute the entire Purchase Order between the Parties and supersede all prior and contemporaneous negotiations, agreements, proposals, and understandings of the Parties related to the Purchase Order. This Purchase Order may not be amended except by mutual written consent.

4. SELLER REPRESENTATIONS AND WARRANTIES

- A. Seller represents, warrants and guarantees that the products and/or goods described herein, and the sale or use of them will not infringe on any United States or foreign intellectual property laws, and the Seller agrees to defend, protect and save harmless and indemnify the Buyer, its successors, assigns, customers and users of its products, against all suits at law or in equity, and from all damages, costs, including, but not limited to actual attorney fees, claims and demands for actual or alleged infringement of any such intellectual property laws by reason of the use of the goods hereby ordered. If said goods are protected by one or more intellectual property laws and a decree or judgment be entered in a court of competent jurisdiction holding any such patent or its claim invalid, or so limited in scope as to impair its protection commercially, the contract resulting from the acceptance of this order may forthwith be cancelled by the Buyer.
- B. Seller represents and warrants that (a) Seller has the necessary skill and expertise to manufacture the products described in this Purchase Order free of any defects, meet the specifications agreed upon by the parties and that they are suitable for their intended use or uses (b) the products manufactured or purchased by the Seller as described in this Purchase Order shall be manufactured by qualified personnel in a timely, safe, workmanlike and professional manner in accordance with best industry standards, (c) Seller shall comply with all laws, rules and regulations applicable to the provision of this Purchase Order, including, without limitation, all applicable state, federal and international and security laws, regulations and directives, (d) the products that are the subject of this Purchase Order shall not be created, manufactured or purchased in any manner that they would infringe or violate any copyright, trade secret, patent, invention or other proprietary right of any third party and/or (e) Seller has not engaged in corrupt business practices. Upon the request of the Buyer, the Seller shall disclose the manufacturing location and the name of the manufacturer if different than the Seller.

5. PACKAGING COSTS AND FOB

No charge will be allowed for packing, crating, drayage, or storage unless stated herein. All shipments shall be F.O.B. point of destination unless specified otherwise in writing by Buyer. In any event, delivery shall not be deemed to be complete until goods have been actually received, inspected, and accepted by Buyer, notwithstanding any agreement to pay freight, express or other transportation charges; and the risk of loss or damage in transit shall be upon Seller.

6. DELIVERY EXPECTATION

Deliveries are to be made both in strict accordance with the quantities and at times specified in schedules furnished by Buyer, which are incorporated herein by reference. Buyer will have no liability for payment for material or items delivered by Buyer which are in excess of quantities specified in the delivery schedules. Buyer may from time to time change delivery schedules or direct temporary suspension of scheduled shipments. Seller agrees to use its best efforts to comply with any accelerated delivery schedule as requested by Buyer. Buyer, at its sole discretion, shall have the right to modify the quantities set forth in the Purchase Order and the delivery schedule in connection with the products to be delivered by the Seller as originally set forth in the Purchase Order. The Seller agrees it would not be entitled to additional compensation for any changes made by the Buyer to the delivery schedule, and is only entitled to compensation for delivery of additional quantity of the products at the price set forth in the Purchase Order.

7. RIGHT OF CANCELLATION

Buyer reserves the right to cancel all or any part of the goods and/or work covered by this Purchase Order at any time and for any reason at its sole discretion. Upon cancellation by the Buyer, the Seller would only be entitled to payment of products which have been accepted by the Buyer, and which conform to the parties' agreements.

8. EXPRESS WARRANTIES

The Seller expressly warrants that all the articles, material and work covered by this order will conform to the specifications, drawings, samples, or other description furnished or adopted by the Buyer, and will be fit and sufficient for the purpose intended, merchantable, of good material and workmanship and free from defect. Seller understands that the parts supplied by it are used in conjunction with one or more other items. Any change from Seller's regular manufacturing process (such as changing a source for a single chemical component, which is not covered by Buyer's specifications) might be incompatible with subsequent processing. No change or alteration shall be made by Seller on an approved product or process, without prior written approval of Buyer, which shall be at Buyer's sole and absolute discretion. Seller shall perform such tests as are necessary to confirm that any goods, when shipped to or for the order by, conform to the required specifications and meet the 1st Quality Goods, which includes delivering products which meet the highest industry standards for quality. All such test results shall be retained by Seller for a period of not less than five (5) years and copies thereof shall be delivered to Buyer upon request.

9. CHANGES TO DRAWINGS AND SPECS

Buyer reserves the right at any time to make changes in drawings and specifications as to any material and/or work covered by this Purchase Order. Any difference in price or time for performance resulting from such changes shall be determined solely by the Buyer and the contract and/or schedule shall be modified by the Buyer as it deems appropriate.

10. INSPECTION IN PROCESS

Buyer reserves the right, but is not required, to inspect the goods and/or work covered by this order at any time and for any reason. Any inspection by Buyer does not relieve the Seller of its responsibility for correctness in fabrication, the quality, or workmanship in accordance with the specifications and/or drawings.

11. INSPECTION AT RECEIPT AND REJECTION

All material shall be received subject to Buyer's inspection and rejection at its sole and absolute discretion. Buyer may reject any products at any time for any reason and has no obligation to inspect any of the product. Buyer may accept portions of shipments of products delivered by Seller for any reason. Defective material or material not provided by Seller in accordance with Buyer's specifications will be held for Seller's instruction and at Seller's risk and, if Seller so directs, will be returned at Seller's expense. If Seller does not provide written instructions within ten (10) days (or such shorter period as may be commercially reasonable under the circumstances), Buyer may, at Buyer's election, charge Seller for storage and handling, or dispose of the material without any liability to the Seller. No goods returned as defective shall be replaced without a new order and schedule. Buyer may elect to receive a full refund of the purchase price and for all cost and expenses from the Seller and shall be issued within seven business days for the requested refund. Payment for material on this Purchase Order prior to inspection shall not constitute an acceptance thereof, nor will acceptance remove Seller's responsibility for latent defects. All items received are subject to Buyer's weight and/or count.

12. TOOLS AND DIES

Unless otherwise herein agreed, special dies, tools and patterns used in the manufacture and/or processing of the goods shall be furnished by and at the expense of the Seller. Said dies, tools, and patterns shall be kept in good condition and from time to time when necessary shall be replaced by Seller without expense to Buyer. However, the Buyer has the option at any time to reimburse the Seller for the unamortized cost of the whole or any part of said dies, tools and patterns and replacements and become the owner and entitled to the possession and title of same. If this Purchase Order covers the construction of tools, dies, jigs, fixture, gauges or machinery and equipment, or similar items, title to the same and all parts thereof shall, from inception and at all times thereafter, vest in Buyer and, by acceptance of this Purchase Order, its agents are granted the right to enter Seller's premises at any time during normal working hours for the purpose of inspecting said items during construction and Seller agrees to furnish to such agents any information requested by them in conjunction with such work, or for the purpose of removing said items at any time.

13. BUYER'S MATERIAL HELD IN TRUST

Any material Buyer furnishes Seller in connection with this order on other than a sales basis (usually material to be fabricated or processed) shall remain Buyer's property and shall be held by Seller as bailee. Seller agrees, however, to pay the market price of any such material that is destroyed, spoiled, or damaged while in Seller's possession or not returned to Buyer in a satisfactory condition, regardless of whether or not Seller is at fault. Unusual quantities of spoiled material must be reported to Buyer promptly, and Seller agrees to furnish Buyer reports of scrap upon Buyer's request.

14. ORDER TERMINATION

Buyer reserves the right to terminate any order in whole or in part by giving Seller notice in writing at any time prior to Seller's completion of the work to be performed. Upon receipt of such notice, Seller agrees to stop all work hereunder except as Buyer may otherwise direct. In the event of termination under this provision, Buyer shall pay for all finished and completed goods that conform to the requirements of this Purchase Order which have been delivered and not previously paid for. Seller shall have no right to terminate any Purchase Order except in the event of Buyer's default which Buyer does not cure within thirty (30) days following receipt of written notice from the Seller describing the default in detail.

15. INVOICE PAYMENT

All net invoices submitted by Seller and approved for payment by Buyer shall be deemed paid in accordance with the payment terms thereof when paid on the closest payment date. Without prejudice to any other right or remedy it may have, Buyer reserves the right to set off at any time any amount owing to it by Seller against any amount payable by Buyer to Seller.

16. SELLER PROVING LABOR

If this order covers the performance of labor for Buyer, Seller agrees to indemnify and protect Buyer against all liabilities, claims or demands for injuries or damages to any person or property growing out of the performance of this contract, by Seller, its employees, agents, or representatives. Seller further agrees to furnish insurance carrier's certificate showing that the Seller has adequate Worker's Compensation, public liability, and property damage insurance coverage. Said certificate must set forth the amount of coverage, number of policy and date of expiration. If Seller is a self-insurer, the certificate of the appropriate state agency for the state in which said labor is to be performed must be furnished by such state agency directly to Buyer. The purchase of such insurance coverage or the furnishing of the aforesaid certificate shall not be in satisfaction of Seller's liability hereunder or in any way modify Seller's indemnification of Buyer.

17. SELLER INSOLVENCY

Buyer may forthwith cancel the contract resulting from the acceptance of this order in the event of the happening of any of the following, or of any other comparable event: insolvency of the Seller; the filing of a voluntary petition in bankruptcy by Seller; the filing of an involuntary petition to have Seller declared bankrupt provided it is not vacated within 30 days from the date of filing; the appointment of a custodian, receiver or trustee for Seller provided such appointment is not vacated within 30 days from the date of such appointment; the execution by Seller of an assignment for the benefit of creditors; a breach of any of the terms of this Purchase Order by Seller.

18. LAWS

Seller agrees that its performance of this order is and shall be subject to all applicable federal state or local laws, rules, regulations, or ordinances, including, but not limited to, the requirements of the Fair Labor Standards Act. Seller represents that to the best of its knowledge and belief the prices charged for the items furnished by it on this order and the terms on which same are furnished do not involve any discrimination within the provisions of the Robinson-Patman Act or any similar legislation, and do not exceed any applicable maximum prices or violate any applicable schedules, regulations, or orders of any Agency of the United States Government or other applicable local or state regulations.

19. INDEMNIFICATION

Seller agrees to indemnify, defend, and hold the Buyer Indemnified Parties (as defined below) harmless from and against all claims, losses, liabilities, costs, damages and expenses (including but not limited to, actual attorneys' fees and disbursements and amounts paid in settlement and/or the costs of pursuing any insurance provider) (collectively, "Claims") in connection with, directly or indirectly arising from this Purchase Order or material purchased by the Seller, including but not limited to (a) Seller's breach of this Purchase Order, (b) any damage to person, property or reputation arising from Seller's acts or omissions. Buyer shall maintain the authority to hire its own counsel to monitor the claim, and (c) "Company Indemnified Parties" means Company and its affiliates and each of its and their officers, directors, members, employees, representatives, subcontractors, and agents. It is mutually understood and agreed that this clause is not intended to limit in any way Buyer's rights and remedies against Seller and is in addition to any other or further rights and remedies available to the Buyer.

20. LIMITATION OF LIABILITY.

IN NO EVENT SHALL THE BUYER INDEMNIFIED PARTIES BE LIABLE TO SELLER FOR INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, CONSEQUENTIAL OR EXEMPLARY DAMAGES, EVEN IF NOTIFIED OF THE POSSIBILITY OF SUCH DAMAGES OCCURRING, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, NEGLIGENCE, STRICT LIABILITY, TORT PRODUCTS LIABILITY OR OTHERWISE.

21. CONFIDENTIALITY

- A. Designation of Confidential Information. "Confidential Information" shall mean any non-public or trade secret information of the Disclosing Party (as defined below), its affiliates and its third party suppliers, including, but not limited to, economic and business information, know-how, drawings, designs, intellectual property, marketing studies and plans, analyses, specifications, reports, client lists, financial data or other business records disclosed to the Recipient Party that: (a) is marked as "CONFIDENTIAL"; (b) if disclosed verbally, the Disclosing Party informs the Recipient Party that the information is confidential at the time of disclosure and thereafter promptly provides written confirmation of the confidentiality of such verbally disclosed Confidential Information; and/or (c) a reasonable person under the circumstances would deem to be confidential. For avoidance of doubt, any work product produced hereunder and the Buyer Data shall constitute Confidential Information of Buyer. Confidential Information excludes information which (a) was in the public domain at the time of disclosure, (b) becomes publicly known through no fault of the Recipient Party; (c) was in the Recipient Party's possession prior to receipt from the Disclosing Party; (d) is lawfully acquired by the Recipient Party from a third party without an obligation of confidentiality; or (e) is independently discovered or developed by the Recipient Party without reference to the Confidential Information. The preceding sentence shall not apply to any Personal Data (as defined below) disclosed hereunder. A Party disclosing Confidential Information as set forth in this Purchase Order shall be referred to as the "Disclosing Party," and a Party receiving Confidential Information shall be referred to as the "Recipient Party." "Personal Data" shall mean any personally identifiable information of individuals and any information that may be used to track, locate, or identify individuals.
- B. Use of Confidential Information. The Recipient Party may only use Confidential Information as necessary to exercise its rights and obligations under this Purchase Order. Except as provided in this Purchase Order, the Recipient Party may not disclose Confidential Information to anyone without the Disclosing Party's prior written consent, provided, however, that: (a) the Recipient Party may share the Confidential Information with its permitted subcontractors, attorneys and advisors as reasonably necessary to exercise its rights and obligations under this Purchase Order (provided that such subcontractors, attorneys and advisors are under a confidentiality obligation or ethical obligation comparable to the obligations contained herein); and (b) Buyer may share Seller's Confidential Information with its affiliates as reasonably required by Buyer to exercise its rights and obligations under this Purchase Order. Each Party shall take all reasonable measures to avoid disclosure, dissemination, or unauthorized use of the other Party's Confidential Information, including, at a minimum, those measures it takes to protect its own Confidential Information.
- C. Non-Disclosure to Buyer Competitors. Seller shall not disclose any Confidential Information to Buyer's competitors including but not limited to any employee, owner, shareholder, director, partner, or contractor of Buyer's competitors whether or not such has a relationship with Seller.
- D. Non-Circumvent. During the term of this Purchase Order and for a period of two (2) years (the "Restricted Period") after the termination of this Purchase Order, Seller shall not for any reason, directly or indirectly, whether individually or on behalf of another person or entity: (i) purposely divert from Buyer or affirmatively attempt to adversely influence Buyer business relations with any of its customers, clients, contacts, accounts and/or employees or agents; (ii) Solicit or induce the employment or retention as an agent of any employee or agent of Buyer; (iii) Solicit or provide competitive services to any client or customer of Buyer; or (iv) perform any services (as an employee, Seller or otherwise) for or have any ownership interest (as shareholder, partner, member or otherwise) in any person or entity which is a "Competitor" of Buyer.
- E. Compelled Disclosure. Recipient Party may disclose Confidential Information as required to comply with a lawful order or subpoena of a governmental or regulatory entity having jurisdiction over it or pursuant to the Defend Trade Secrets Act of 2016, if applicable, if Recipient Party (a) if legally permitted to do so, gives Disclosing Party prompt written notice so that the Disclosing Party may seek a protective order or other appropriate remedy or approve the disclosure, as appropriate, (b) discloses only such Confidential Information of the Disclosing Party as it is legally required to disclose, and (c) uses its best commercial efforts to obtain confidential treatment for any Confidential Information of the Disclosing Party so disclosed. Recipient Party shall not oppose efforts by the Disclosing Party to obtain a protective order for such Confidential Information, and Recipient Party shall cooperate with Disclosing Party in any action taken by Disclosing Party to protect the confidentiality of its Confidential Information.
- F. Injunctive Relief. The Parties acknowledge that a breach of any of the confidentiality and data security obligations in this Purchase Order may cause irreparable harm to the other Party and its business, as to which monetary damages may be difficult to ascertain or an inadequate remedy. Each Party agrees that the other Party shall have the right, in addition to its other rights and remedies, to seek injunctive relief for any violation of confidentiality and data security obligations in this Purchase Order. Recipient Party shall promptly notify Disclosing Party in writing of any breach or threatened breach of these confidentiality and/or data security obligations of which it becomes aware, and shall provide all reasonable assistance and cooperation to Disclosing Party as Disclosing Party may request in its efforts to regain possession and control of the Confidential Information and to prevent further unauthorized use.
- G. Return of Confidential Information. Upon receipt of a written request from Disclosing Party, Recipient Party shall return to Disclosing Party any Confidential Information it received from the Disclosing Party, or at the Disclosing Party's option, destroy such Confidential Information. At the request of the Disclosing Party, a senior executive of the Recipient Party shall execute and deliver a certificate confirming Recipient Party's compliance with this Section.

22. REMEDIES

The remedies herein reserved shall be cumulative, and additional to any other or further remedies provided in law or equity. No waiver of a breach of any provision of this contract shall constitute a waiver of any other breach, or of such provision.

23. MODIFICATION AND ASSIGNMENT

This contract contains the entire agreement of the parties. It may not be modified or terminated orally, and no claimed modification, rescission or waiver shall be binding on Buyer unless in writing signed by a duly authorized representative of Buyer. No modification or waiver shall be deemed effected by Seller's acknowledgment or confirmation containing other or different terms. This contract is non-assignable by the Seller, without the express written consent of the Buyer in its sole and absolute discretion.

24. INSURANCE

Seller will maintain insurance coverage with insurance carriers acceptable to Buyer and in the amounts set forth elsewhere in this Contract. Seller will furnish to Buyer either a certificate showing compliance with these insurance requirements or certified copies of all insurance policies within 10 days of Buyer's written request. The certificate will provide that Buyer will receive 30 days' prior written notice of any termination or reduction in the amount or scope of coverage. Seller's furnishing of certificates of insurance or purchase of insurance will not release Seller of any of its obligations or liabilities under this Contract.

25. INVENTORY AUDIT RIGHTS

Seller grants Buyer access to Seller's premises and books and records solely for the purpose of auditing Seller's compliance with the terms of this Contract (including, without limitation, charges under this Contract) or inspecting or conducting an inventory of finished goods, work-in-process, raw materials, any of Buyer's Property and all work or other items to be provided pursuant to this Contract located at Seller's premises. Seller will cooperate with Buyer so as to facilitate Buyer's audit, including, without limitation, by segregating and promptly producing such records as Buyer may reasonably request, and otherwise making records and other materials accessible to Buyer.

26. CONTRACT JURISDICTION

This agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of the State of Michigan, excluding any conflict of laws, rules or principles which might refer such construction to the laws of another jurisdiction. The Parties agree that state courts for the State of Michigan located in Oakland County, Michigan and federal courts located in the Eastern District of Michigan shall have the sole and exclusive jurisdiction arising from or relating to any dispute between the Parties including, but not limited to, any dispute arising from the parties' contractual agreement. The UN Convention on Contracts for the International Sale of Goods is hereby disclaimed and shall not apply to this Contract. Seller hereby waives any rights to any consequential or liquidated damages against the Buyer, or any other party in privity with the Buyer.