

CONDITIONS AND INSTRUCTIONS

1. **INSPECTION:** Goods or services purchased are subject to inspection upon arrival or completion notwithstanding prior payments for obtaining cash discounts. Rejected material will be returned for credit or replaced at Vendor's risk. All handling and transportation expense both ways shall be paid by the Vendor. Replacements shall not be made except upon receipt of specific instruction from our Purchasing Department. If materials are rejected they will be also at the disposition, risk and expense of the vendor.
2. **QUALITY:** All material and services furnished must be of the best of their respective kinds and subject to inspection and approval of purchaser after delivery or completion at destination, unless otherwise agreed upon in writing.
3. **CANCELLATION:** Purchaser reserves the right to cancel this order in full or in part, without recourse, on account of defects in the material, workmanship or quality, or it not shipped as specified herein, or if not in accordance with the drawings, prints, approved samples or specifications.
4. **CHANGES:** All changes in specifications, shipment, routing or other conditions of this purchase order, shall be taken up with the purchaser by letter and no change will be valid until confirmed by a change order from the purchaser.
5. **SHIPMENT AND/OR DELIVERY:** Time is of the essence. In the event that Vendor fails to or refuses to make any scheduled delivery, purchaser may cancel this order, in whole or in part, at no cost or liability to purchaser by notice of default to Vendor and charge Vendor any excess costs incurred in purchasing similar supplies or services elsewhere.
6. **INVOICES:** Invoices for goods will not become payable until the specified delivery date unless earlier delivery has been authorized by a change order from purchaser's Purchasing Department. Cash discounts will be calculated from the date an acceptable invoice is received.
7. **FREIGHT ALLOWANCE:** Any freight allowances must be deducted on the invoice.
8. **COMPLIANCE WITH LAWS:** The Vendor warrants that all goods delivered and services performed shall comply with all federal, state, and other laws and regulations applying thereto. All invoices must bear a certification that the goods covered thereby have been produced in accordance with the requirements of the Fair Labor Standards Act of 1938, as from time to time in force and effect.
9. **PATENTS:** Vendor guarantees that the sale or use of its products will not infringe any United States or foreign patents and agrees to indemnify purchaser against all judgments, decrees, costs and expenses resulting from such alleged infringements and covenants, that Vendor will upon request, and at its expense, defend or assist in the defense of any suit or action which may be brought against purchaser by reason of any alleged infringement of any patent in the sale or use of Vendor's products.
10. **WARRANTY:** Vendors warrants that all products (which term as used herein include services) delivered under this order will be merchantable, will be fit for the purposes for which they are intended, will be free from defects in materials and workmanship and will strictly conform to applicable specifications, drawings and approved samples, if any, including performance specifications. If Vendor is responsible for design of the supplies according to performance specifications established by purchaser, Vendor warrants that all supplies delivered under this order will be free from defects in designs and fit and sufficient for the purposes intended by purchaser. These warranties shall be in addition to any other warranties, express, statutory or implied. All warranties shall run to purchaser, its customers and subsequent owners of the goods or end products of which they are a part, and will remain in effect until the expiration of all warranties purchaser is required to extend to its customers on the items ordered hereunder. Any attempts by Vendor to limit the provisions of this paragraph or to limit or modify the damages recoverable by purchaser or the remedies available to purchaser whether in writings submitted to purchaser by Vendor prior to the date of this Purchase Order or subsequent thereto shall be null and void and not binding on purchaser.
11. **NON-WAIVER:** Failure of purchaser to insist upon strict performance of any terms and conditions herein shall not be deemed a waiver of any rights or remedies that purchaser shall have and shall not be deemed a waiver of any subsequent default of the terms and conditions hereof. Shipping or receiving of any articles under this order shall not constitute a waiver of any right of the purchaser hereunder or of any obligation of the Vendor to comply with any of the provisions of this order. The purchaser's rights under this order are cumulative and shall be in addition to any other rights available at law or equity.
12. **LAW GOVERNING:** This order is to be governed and construed according to the laws of the state of South Dakota.
13. **CONFIDENTIAL DISCLOSURE:** Vendor shall keep confidential all designs, processes, drawings, specifications, reports, data, and other technical or proprietary information and the features of all parts equipment, tools, gauges, patterns, and other items furnished or disclosed to the Vendor by the purchaser in connection with this order. This order does not grant the Vendor any reproduction rights in the foregoing or in any items ordered hereunder or any parts or data supplied hereunder. Vendor expressly agrees from purchaser's supplied parts of equipment or any other information belonging to or supplied by or on behalf of purchaser except in the performance of the work for purchaser. Vendor expressly agrees that a confidential relationship exists between purchaser and Vendor relative to the matter covered by this section. Vendor shall return all such data and other property at the purchaser's request and, in any event, upon completion of this order. No information relative to the purchase of use of materials or articles covered by this purchase order is to be published without first obtaining purchaser's written consent.
14. **TAXES:** Vendor shall separately state separately on all invoices any taxes imposed by Federal, State, or Local governments applicable to fulfilling this order
15. **RESPONSIBILITY:** Vendor will be responsible for all material and workmanship until finally completed and until finally accepted by purchaser, and agrees, if the work is to be done on purchaser's premises, to keep such premises free and clear of all mechanics liens.

Vendor shall be responsible for loss of or damage to any and all patterns, molds, or templates, equipment, tools and materials delivered by purchaser to Vendor and for loss or damage to any machinery upon which work is to be performed by Vendor while in its possession or control, however such loss of damage may occur.

If the work to be performed by the Vendor under this order involves operations of any character by the Vendor on the premises of the purchaser, the Vendor shall take all necessary precautions to prevent the occurrence of any accidents, injury or damage to any person or property during the progress of such work and shall be responsible for and shall indemnify the purchaser against all loss, cost, claims or expenses which may result in any way from any accident, injury or by reason of any act of omission on the part of the Vendor, its agents, employees or subcontractors, except to the extent that the negligence of the purchaser, and the Vendor should at all times maintain such public liability, property damage and employers' liability and compensation insurance as the purchaser may demand or as will protect the purchaser from any and all of the foregoing risks and from any and all claims under any applicable workmen's compensation and Occupational Diseases Act.

16. **GOVERNMENT CONTRACTS:** Purchaser reserves the right at any time to terminate this contract to the extent that such contract covers materials or services to be used by purchaser in performing a government contract and in the event that such contract is terminated by the government or its agencies. Vendor's rights in such event shall be governed by the Armed Services Procurement Regulation relating to the termination of subcontracts, which provisions in effect at the time of this contract are incorporated in this contract as though set forth in full. South Dakota law prohibits discrimination on the basis of race, color, creed, religion, sex, ancestry, disability or national origin.

"In connection with the performance of work under this contract, the contractor agrees not to discriminate against any employee or applicant for employment because of race, religion, color, or national origin. The aforesaid provision shall include, but not be limited to the following employment, upgrading demotion or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post hereafter in conspicuous places, available for employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of the non-discrimination clause."

17. **ACCEPTANCE AND ENTIRE AGREEMENT:** This order is accepted by return of the signed acknowledgement copy or substantial commencement of performance and notification to purchaser. This instrument constitutes the complete agreements between the purchaser and Vendor and completely supersedes all prior agreements or understanding between the parties. No deviation from exception to or addition to the terms and conditions hereof shall have any force or effect unless made in writing and signed by an agent of the purchaser authorized to sign such document or documents.
18. **VENDOR ACCEPTANCE:** If any of the foregoing conditions are not acceptable, Vendor must advise purchaser before acceptance of this purchase order.