



CleanCap Technologies LLC
TERMS AND CONDITIONS OF PURCHASE

1. DEFINITIONS

- (a) "GOODS" The materials, supplies, parts, services, or other items covered by this Purchase Order.
- (b) "BUYER" CleanCap Technologies LLC, a Texas Limited Liability Corporation.
- (c) "SELLER" The party furnishing the goods to Buyer.
- (d) "GOVERNMENT" The United States of America.
- (e) "SUBCONTRACTS" Includes purchase orders under this order.

2. ACCEPTANCE OF THE CONTRACT. Seller's acceptance of this purchase order is limited to the terms set forth herein. Buyer shall not be bound by this purchase order until Seller executes and returns to Buyer the acceptance copy of the purchase order or until Buyer accepts goods shipped pursuant thereto. Seller shall be bound by the purchase order and its terms and conditions when it executes and returns the acceptance copy or when it delivers to Buyer any of the goods ordered or renders any of the services ordered herein. Any of those acts by the Seller shall be deemed an unconditional acceptance of this purchase order and all its terms and conditions. No contract shall exist except as provided above. No reference herein to Seller's quotation shall imply acceptance of the terms and conditions thereof of Buyer. This purchase order supersedes any prior oral or written agreements of the parties and constitutes the entire agreement between the parties.

3. AMENDMENTS. No agreement or understanding to modify this contract shall be binding upon the Buyer unless in writing and signed by Buyer's authorized agent. All specifications, drawings, and data submitted to Seller with this Purchase Order, or referred to herein, are hereby incorporated by reference herein and made a part of this Purchase Order.

4. CHANGES. Buyer may at any time by a written Purchase Change Order, and without notice to the sureties, if any, make changes, within the general scope of the contract, in any one or more of the following:

- (a) Drawings, designs, or specifications where the goods to be furnished are to be specifically manufactured for the Buyer in accordance therewith;
- (b) Method of shipping or packing;
- (c) Place of delivery;
- (d) Quantities ordered;
- (e) Testing required;
- (f) Delivery schedule.

If any such change causes an increase or decrease in the cost of, or the time required for performance of this contract, or otherwise affects any other provisions of any part of the work under this contract, whether changed or not by any such Purchase Change Order, an equitable adjustment shall be made in the contract price or delivery schedule, or both, and the contract shall be modified in writing accordingly. Any claim by Seller for adjustment under this clause must be asserted within twenty (20) days from receipt by Seller of the notification of the change, provided, however that Buyer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to the earlier of the final payment or one (1) year from the date of the purchase change order. Where the cost of property is made obsolete or excess as a result of a change as included in the Seller's claim for adjustment, Buyer shall have the right to prescribe the manner of disposition of such property. Nothing in this clause shall excuse the Seller from proceeding with the contract as changed. The issuance of information, advice, approvals, or instructions by Buyer's technical personnel or other representatives shall not affect the Buyer's or Seller's rights and obligations hereunder unless such information, advice, approvals, or instructions is incorporated into a Purchase Change Order.

5. **PACKAGING AND SHIPPING INSTRUCTIONS.**

(a) Subject to the limitations set forth below, commercial preservation, packing, and marking are acceptable for items delivered hereunder and shall meet or exceed the following minimum requirements:

- Items shall be free from dirt or contaminants which would contribute to the deterioration of the item or require cleaning by Buyer prior to use. Coatings and preservatives applied to the item for protection are not considered contaminants.
- Items susceptible to corrosion or deterioration shall be provided protection such as preservative coatings, etc.
- Items requiring protection from physical or mechanical damage shall be protected by wrapping or cushioning or other means to mitigate shock and vibration during handling and shipment.
- Unit pack quantity should not exceed 100 pcs. or 50 lbs, whichever occurs first, unless otherwise specified. Single items weighing over 10 lbs. shall be individually packaged. Items with unit quantities which specify measurement by weight, length, or volume shall be packaged as specified in the contract.
- Kits and sets shall be suitably segregated, identified, and packaged individually with a content listing.

(b) Buyer's purchase order number, Seller's name, packing slip number, part number, quantity, and other markings as may be required by the purchase order shall appear on all containers by any means which provides legibility and durability.

(c) Seller shall enclose a packing slip not showing prices containing the information listed on (b) above, and if the Seller and shipper are not the same, both names shall appear thereon.

(d) Unless otherwise provided in this purchase order, no charge shall be made for boxing, crating, or packaging. Except as otherwise required by law or government regulations, all containers to be returned to Seller shall be shipped to Buyer on a no-charge basis, with Seller's name and address and demand for return plainly marked thereon, and will be paid for by Buyer only if so marked and not returned within a reasonable time.

6. **WAIVER.**

(a) No waiver, alteration, or modification of any of the provisions of the Contract shall be binding on Buyer unless evidenced by a written notice or Amendment signed by an authorized Procurement representative of Buyer.

(b) Buyer's approval of the Seller's design or material shall not relieve the Seller of the warranties or any other requirements of this Contract; nor shall waiver by Buyer of any drawing specification requirements for one or more articles constitute a waiver of such requirements for the remaining articles to be delivered hereunder unless so stated by Buyer in writing. The provisions of this clause shall not limit or affect the rights of Buyer under the clause hereof titled "INSPECTION."

7. **ASSIGNMENT.** Neither this Purchase Order nor monies due or to become due hereunder shall be assigned by Seller in whole or part without Buyer's prior written consent. All claims for monies due or to become due from Buyer hereunder shall be subject to deduction for any offset or counterclaim arising out of this or any other Purchase Order between Seller and Buyer.

8. **COMPLIANCE WITH LAWS.** In accepting this Purchase Order, Seller represents that it has and will continue during the performance of this order to comply with the provisions of all federal, state, and local laws and regulations from which liability may accrue to Buyer from any violation thereof. By acceptance hereof, Seller certifies compliance with the "Fair Labor Standards Act" of 1938, as amended, in the performance of this order.

9. **AMOUNTS OF GOODS SHIPPED.** Shipment of goods must equal the exact amounts ordered unless otherwise agreed by Buyer in writing. Except as otherwise provided in this Purchase Order, no payment for extras shall be made unless such extras and the price thereof have been authorized in writing by Buyer.
10. **REPRODUCTION RIGHTS.**
- (a) In connection with Buyer's use, maintenance, and service of the goods, Seller agrees to and does hereby grant Buyer and its customers the right to reproduce, disclose, use, have used, and disclose all or any part of the reports, drawings, blueprints, data, and technical information delivered to Buyer in connection with such goods, and Seller agrees to hold Buyer, its customers, and all persons claiming under Buyer harmless from any copyright or trademark liability or liability from any invasion of right of privacy, including damages, costs, and expenses, arising out of said reproduction, use, or disposition.
 - (b) If the goods, or parts thereof, contracted for hereunder are designed by Buyer, the Seller shall not reproduce any of such goods or parts without Buyer's written consent, nor, without such written consent, supply or disclose any information regarding such goods, this Purchase Order, or any equipment or material used therein; nor incorporate in other products or articles special features of design or manufacture peculiar to the goods.
11. **PRICE.** The Buyer shall not be billed higher than the price stated on this Purchase Order unless authorized by a Purchase Change Order issued and signed by the Buyer. The Seller represents that the price charged for the items or services covered by this Purchase Order is the lowest price charged by the Seller to buyers of a class similar to the Buyer under similar conditions specified in this Purchase Order. The prices comply with applicable government regulations in effect at the time of quotation, sale, or delivery. The Seller agrees that any price reduction made in merchandise covered by this Purchase Order subsequent to its placement will apply to this Purchase Order.
12. **WARRANTY.** Unless otherwise specified, the Seller warrants that:
- (a) The goods shall fully conform to the specifications, drawings, samples, or other descriptions set forth in this Purchase Order or furnished by the Buyer (or Seller, as applicable), and shall be of good materials and workmanship, free from defects, and suitable for the intended use by the Buyer.
 - (b) The goods are free and clear of all liens, pledges, encumbrances, and security interests of any kind and that the Seller is the rightful owner of the goods with full right to sell them.
 - (c) The goods are of merchantable quality.
 - (d) All warranties shall run to, be for the benefit of, and be enforceable by the Buyer and its successors, assigns, and customers.
- These warranties are binding on the Seller whether defects or deviations are discovered before or after payment, inspection, or acceptance by the Buyer. The warranties shall be in addition to any other warranties offered to the Buyer by the Seller.
- In the event of any breach of warranty, the Buyer may either:
- (a) Require the prompt correction or replacement of the defective goods or parts; or
 - (b) Retain the goods and reduce the contract price equitably, with the Seller promptly making the appropriate payment.
- When return, correction, or replacement is required, transportation charges and responsibility for the goods in transit shall be borne by the Seller. Goods corrected or furnished in replacement will also be subject to all provisions of this clause as though initially delivered. The warranties and remedies provided herein are not exclusive and are in addition to any other rights and remedies provided by law or elsewhere in this contract.

13. DEFAULT OF SELLER.

(a) If the Seller fails to:

1. Deliver the goods in accordance with the delivery schedule specified in this Purchase Order;
2. Make progress that, in the sole judgment of the Buyer, endangers performance of this Purchase Order; or
3. Comply with any provisions of this Purchase Order, then the Buyer may cancel this Purchase Order or any part of it. The Buyer will not be liable for any sums or damages related to this cancellation. In such an event, the Buyer may purchase similar goods elsewhere and the Seller will be liable for the excess cost to the Buyer of such goods. However, the Seller shall continue to perform any part of the Purchase Order not terminated.

(b) If the Seller fails to comply with the warranty provisions of Article 12, the Buyer may reject and return the non-conforming goods at the Seller's expense and may either:

1. Require the Seller to replace the rejected goods at Seller's expense and fully perform the Purchase Order; or
2. Cancel the Purchase Order in whole or part. In this case, the Buyer will not be liable for any sums or damages, and the Seller will refund the invoice price of the rejected goods plus all transportation charges paid by the Buyer.

(c) In the event of cancellation of this Purchase Order, the Seller agrees to hold the Buyer harmless for any damages or sums the Buyer may owe due to being unable to purchase similar goods elsewhere to meet its third-party commitments.

(d) If a Seller's default causes or contributes to the termination of any Government contract to which the Buyer is a party, the Seller agrees to hold the Buyer harmless from any damages or losses arising from that.

(e) The remedies outlined herein are in addition to any other remedies available to the Buyer for the Seller's default, whether stated in this Purchase Order or provided by law. The acceptance of late delivery does not waive the Buyer's right to recover any damages due to such late delivery.

(f) Failure of the Buyer to enforce any right under this clause does not waive any of its rights.

14. INSPECTION. Goods purchased under this Purchase Order are subject to inspection and testing by the Buyer and its customers at any time and place, including the period of manufacturing and before acceptance. If goods are defective or not in conformity with the specifications, the Buyer may either reject them or require their correction. Rejected goods shall be corrected in place by the Seller at the Seller's expense promptly after notice. If the Seller fails to remove, replace, or correct the goods promptly, the Buyer may:

(a) Replace the goods and charge the Seller the cost; or

(b) Terminate the contract for default unless the Seller corrects or replaces the goods within the required delivery schedule. The Buyer may also require the delivery of goods at a reduced price that is equitable under the circumstances.

If inspection occurs on the Seller's or its subcontractor's premises, the Seller shall provide reasonable assistance for the Buyer's inspectors at no additional charge. If inspection is at another location, it shall be at the Buyer's expense, except in cases of rejection, where the Buyer shall not be liable for any reduction in the value of samples used for inspection or testing. All inspections and tests will be done to avoid undue delay in work. Acceptance or rejection of the goods shall be made as soon as practicable, but failure to inspect or reject does not relieve the Seller from responsibility for non-conforming goods.

15. PROPERTY FURNISHED TO SELLER BY BUYER.

(a) Unless otherwise agreed, all materials, tools, dies, molds, patterns, specifications, drawings, and any other property provided by the Buyer for use in this contract shall remain the property of the Buyer. Such property will be held at the Seller's risk and insured by the Seller at the Seller's expense in an amount equal to the replacement cost, with loss payable to the Buyer. The Seller shall not disclose any such property to anyone other than employees, subcontractors, or Government inspectors, as required for the performance of the Purchase Order.

(b) The Seller will:

1. Mark tooling items with the Purchase Order number and keep them separate from other materials;
2. Furnish the Buyer with a complete list of tooling within 30 days after fabrication, including the number of pieces, approximate weight, and cost;
3. Not alter any items without the Buyer's written consent;
4. Maintain items in good order and store them in areas marked "PROPERTY OF CLEANCAP TECHNOLOGIES LLC";
5. Allow the Buyer and its representatives reasonable access to inspect the property.

(c) The Seller is responsible for raw materials and parts furnished by the Buyer. If such property is lost, damaged, or rendered unusable by the Seller, it shall be replaced or reimbursed at the Buyer's option. The Buyer's responsibility is limited to the replacement or repair of defective property and does not extend to incidental or consequential damages. The Seller agrees to inspect such property upon receipt and notify the Buyer if it is unsuitable.

(d) **TITLE TO PROPERTY.** Title to the Buyer's or Government's property shall not be affected by incorporation or attachment to any other property, and such property shall not become a fixture or lose its identity as personal property due to affixation to realty.

(e) The term "Buyer" refers to "Buyer and/or Buyer's Customer" where applicable.

16. INSURANCE. The Seller shall maintain insurance in sufficient amounts to cover any injury or damage to persons or property arising from the performance of this Purchase Order, which may affect the Buyer, its representatives, and customers. Representatives of the Buyer and its customers will not be required to waive or release any personal rights when visiting Seller's premises.

17. TAXES. Unless otherwise indicated in this Purchase Order, the prices herein (1) do not include any state or local sales, use, or other taxes from which Seller or this transaction is exempt, and (2) do include all applicable Federal taxes and other state and local taxes in effect at the date of the Purchase Order.

18. PATENTS. Seller agrees to defend at its own expense all suits, actions, or proceedings in which Buyer, any of Buyer's distributors or dealers, or the users of Buyer's products are made defendants for actual or alleged infringement of any U.S. or foreign patents resulting from the use or sale of the items purchased under this Purchase Order. This includes exact infringement resulting from adherence to specifications or drawings, other than those of Seller's design or selection originally submitted to Seller by Buyer. Seller further agrees to indemnify Buyer and the users of Buyer's products and to pay and discharge any judgments or decrees rendered in any such suit, action, or proceeding.

19. SUBCONTRACTING THIS PURCHASE ORDER. Seller agrees not to subcontract or issue a Purchase Order for the procurement of goods covered by this Purchase Order in completed or substantially completed form without first obtaining Buyer's written approval for the source.

20. **PROGRESS REPORTS.** Upon Buyer's written request, Seller will periodically, but no more than monthly unless specifically requested on the face of the Purchase Order, provide written progress reports containing all information requested by Buyer regarding the progress of work under this Purchase Order.
21. **TITLE AND RISK OF LOSS.**
- (a) Unless this Contract specifically provides for an earlier passage of title, title to articles covered by this Contract shall pass to Buyer upon acceptance, regardless of when or where Buyer takes physical possession.
 - (b) Unless the Contract specifies otherwise, risk of loss or damage to articles covered by this contract remains with the Seller until the risk passes to Buyer as follows:
 - 1. Risk passes to Buyer upon delivery of articles to an authorized carrier if transportation is f.o.b. origin.
 - 2. Risk passes to Buyer upon acceptance or delivery of possession of articles to Buyer at the designated location, whichever is later, if transportation is f.o.b. destination.
 - (c) Notwithstanding the above, the risk of loss or damage to articles that fail to conform to the Contract (justifying rejection) remains with Seller until the items are cured or accepted, after which the risk passes as outlined above.
22. **PRODUCTS, METHODS AND MANUFACTURING PROCESSES.** Any unpatented knowledge or information concerning Seller's products, methods, or manufacturing processes disclosed to Buyer as part of the consideration for this Purchase Order shall, unless otherwise specifically agreed in writing, be deemed disclosed for the benefit of this transaction. Seller agrees not to assert any claims (other than claims for patent infringement) against Buyer or the Government regarding Buyer's or the Government's use or alleged use of such information.
23. **INVOICING AND PAYMENT.** Invoices shall be submitted in triplicate for each shipment, showing the shipment date, shipping point, packing list number, and Buyer's Purchase Order number. Invoices covering final shipments under this Purchase Order shall be marked as such. Seller shall be paid upon submission of proper invoices for goods delivered and accepted, less any deductions provided in this Purchase Order, contingent on the receipt of adequate and correct certifications as defined in the Quality Assurance requirements. Payment will be made for partial deliveries that Buyer has accepted unless otherwise specified. No payments made under this Purchase Order shall waive Buyer's rights and remedies.
24. **DISCOUNTS.** The cash discount period will be calculated either from the date of delivery, inspection, and acceptance, or the date of receipt of proper invoices, whichever is later.
25. **GOVERNMENT CONTRACT:**
- (a) The provisions of this Article 25 are effective if (1) so noted on the face of this Purchase Order, (2) if the Purchase Order bears a Government Contract number, or (3) if, in any event, this Purchase Order is issued pursuant to a Government contract or subcontract.
 - (b) Seller expressly agrees to be bound by all provisions of the Federal Acquisition Regulation (FAR) and/or the Defense Acquisition Regulation (DAR), and all other Department of Defense policies or procedures applicable to this Purchase Order as fully as the Buyer is thereby, whether or not such regulations, policies, or procedures are expressly set forth in this Purchase Order, incorporated by reference herein, or omitted herefrom. Buyer may exercise all rights against Seller which the Government or any Contractor or Subcontractor under a Government contract may exercise against Buyer under any such regulations, policies, or procedures.

(c) Whenever any clause of FAR or DAR is referred to by number in this Purchase Order, said clause in effect as of the date of the Prime Contract shown on the face of this Order is incorporated herein by reference, as though fully rewritten (copies of FAR and DAR clauses hereafter referred to are obtainable from The Superintendent of Documents, United States Government Printing Office, Washington, D.C.).

(d) Without limiting the Scope of Article 25(b) hereof, Seller agrees to accept such of the following provisions of the Federal Acquisition Regulation and/or Defense Acquisition Regulation in effect on the date hereof as are included in Buyer's prime contract with the Government or Buyer's subcontract under a Government prime contractor:

(e) EQUAL OPPORTUNITY

1. If, during any 12-month period (including the 12 months preceding the award of this contract), the Contractor has been or is awarded nonexempt Federal contracts and/or subcontracts that have an aggregate value in excess of \$10,000, the Contractor shall comply with subparagraphs
2. (1) through (11) below. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.
3. During the performance of this contract, the Contractor agrees as follows:
 - (1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.
 - (2) The Contractor shall take affirmative action to ensure applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. This shall include, but not be limited to, (i) employment, (ii) upgrading, (iii) demotion, (iv) transfer, (v) recruitment or recruitment advertising, and (vi) layoff or termination, (vii) rates of pay or other forms of compensation, and (viii) selection from training, including apprenticeship.
 - (3) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.
 - (4) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
 - (5) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.
 - (6) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
 - (7) The Contractor shall furnish to the contracting agency all information required by Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor. Standard Form 100 (EEO-1), or any successor form, is the prescribed form to be filed within 30 days following the award, unless filed within 12 months preceding the date of award.
 - (8) The Contractor shall permit access to its books, records, and accounts by the contracting agency or the Office of Federal Contract Compliance Programs (OFCCP) for the purposes of investigation to ascertain the Contractor's compliance with the applicable rules, regulations, and orders.
 - (9) If the OFCCP determines that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled,

terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts, under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.

- (10) The Contractor shall include the terms and conditions of subparagraph (b)(1) through (11) of this clause in every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.
 - (11) The Contractor shall take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing these terms and conditions, including sanctions for non-compliance; provided that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of direction, the Contractor may request the United States to enter into this litigation to protect the interests of the United States.
- (f) Notwithstanding any other clause in this contract, disputes relative to this clause will be governed by the procedures 41 CFR 60-1.1.
- (g) If this Purchase Order is for \$10,000 or more, the clause DAR 7-103.27 Affirmative Action for Disabled Veterans and Veterans from the Vietnam Era and/or FAR 52.222-35 "Affirmative Action for Special Disabled and Vietnam Era Veterans" applies to this order.
- (h) If this Purchase Order is for \$2,500.00 or more, the clause DAR 7-103.28 "Affirmative Action for Handicapped Workers" and/or FAR 52.222-36 "Affirmative Action for Handicapped Workers" applies to the order.
- (i) Overseas Distribution of Defense Subcontracts (1982 Jun) [a] For each subcontract or modification thereof which exceeds \$10,000, where the principal place of performance is outside the United States or its territories and possessions, the Contractor agrees to furnish the information listed below on a quarterly basis to Director for Information, Operations and Reports, Washington Headquarters Services, Department of Defense, Washington, DC 20301.
- (1) Name and address of prime contractor (or subcontractor required to report).
 - (2) Prime contract number.
 - (3) Name and address of overseas subcontractor. (This is important for discussion of trade balances with other countries, but submission of this information is not mandatory.)
 - (4) Subcontract number (including modification number) being reported.
 - (5) Dollar amount of this action (enclose decommitments in parentheses).
 - (6) Principal place of subcontract performance.
 - (7) Type of supply or service.
- (j) The required information, if any, shall be at the last day of the calendar year quarter and submitted within ten (10) days of the end of each quarter.
- (k) The prime Contractor agrees to insert a provision substantially similar to this in all first-tier subcontracts over \$100,000 except subcontracts for ores, natural gas, utilities, petroleum products and crudes, timber (logs), and subsistence. The prime Contractor shall also identify the applicable prime contract number to the subcontractor for reporting purposes.
- (l) Where necessary to make the context of the above provisions applicable hereto, the term Contractor shall mean Seller, and the terms "Government", "Contracting Officer", and "Contracting Agency" shall include Buyer.
- (m) None of the provisions of DAR or FAR incorporated herein by reference shall be deemed to limit or restrict any of Buyer's other rights or remedies whether expressed herein or otherwise provided by law.

- 26. BANKRUPTCY, INSOLVENCY, ETC.** In the event of any proceedings, voluntary or involuntary, in bankruptcy or insolvency by or against Seller, or in the event of the appointment, with or without Seller's consent, of an assignee for the benefit of Seller's creditors or of a receiver of any of Seller's property, then Buyer shall be entitled to cancel any unfilled portion of this Purchase Order without any liability whatsoever.
- 27. DELIVERY TIME.** Time is of the essence in the performance of this Purchase Order. Seller agrees that it shall, at its expense, exert all effort necessary to meet promised delivery dates for each deliverable item specified in the Purchase Order. Seller agrees to notify Buyer immediately if, at any time, it appears that the delivery schedule set forth herein may not be met. Such notification shall include the reasons for possible delays, remedies applied to alleviate such problems, and a proposed revised delivery schedule if it appears necessary. Such notification is not to be construed as a waiver of the delivery schedule set forth herein. Unless otherwise agreed in writing, Seller shall not make material commitments or production arrangements in excess of the amount or in advance of the time reasonably required to meet Buyer's delivery schedule. It is Seller's responsibility to comply with this schedule, but not to anticipate Buyer's requirements.
- (a) "Delivery of the goods ordered shall be made at one time unless otherwise indicated on the face of the Purchase Order."
- (b) "Without limiting Buyer's other remedies, legal or equitable, Buyer shall have the right to cancel all or any part of this Purchase Order without liability to it upon failure by Seller to deliver conforming goods in accordance with the delivery schedule (as indicated on the face hereof)."
- (c) "Buyer shall not be liable for failure to receive or take delivery if occasioned by causes beyond Buyer's reasonable control, including without limitation, strikes, civil unrest, labor slowdowns, interruption or shortages in the supply of its materials, equipment breakdowns, delays in carriers or suppliers, governmental actions and regulations, fires, floods, tornadoes, and other acts of God."
- 28. PRECEDENCE.** This Purchase Order is subject only to the terms and conditions set forth on the face thereof, this form, and the drawings, specifications, or other documents, if any, referenced herein. In case of conflict or inconsistency between or among one or more of the provisions of the face of this Purchase Order, this form, and the drawings, specifications, or other documents, if any, the provisions on the face of this Purchase Order shall prevail over those of this form, drawings, specifications, or other documents, if any; and the provisions of this form shall prevail over those drawings, specifications, or other documents, if any.
- 29. APPLICABLE LAW.** This Purchase Order shall be governed by and construed according to the laws of the State of Texas except that when this Purchase Order is issued pursuant to a Government prime contract and where Federal Law exists on substantive matters requiring construction under this Purchase Order, such Federal Law shall apply in lieu of the applicable State Law. The Seller will comply with all applicable Federal, State, and Local Laws. Where Texas law applies, Texas courts shall have exclusive jurisdiction over this Purchase Order or any controversies arising hereunder. Venue for any action arising out of this Purchase Order shall lie exclusively in State Court in Montgomery County, Texas. If any provision of this Purchase Order is found to be invalid, or unenforceable, the remaining provisions shall not be impaired.
- 30. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970.** Seller agrees to comply with all provisions of the Occupational Safety and Health Act of 1970 and the standards and regulations issued thereunder, and by acceptance of this order ensures that all items furnished under this order will conform to and comply with said standards and regulations. Seller agrees to indemnify and hold Buyer harmless from any damages assessed against Buyer as a result of Seller's failure to comply with the Occupational Safety and Health Act of 1970 and the standards issued thereunder, and for the failure of the items furnished under this order to so comply.



- 31. RESTOCK CHARGES.** Restock Charges, if any, shall be no greater than the lesser of Industry Standard or that charged Seller's most favored customer.
- 32. INDEMNIFICATION.** To the fullest extent permitted by applicable law, the Seller expressly agrees to defend (at Seller's expense and with counsel acceptable to Buyer), Indemnify, and save and hold harmless the Buyer and all of its officers, directors, shareholders, employees, agents, successors, and assigns, from and against any and all claims, suits, losses, causes of action, damages, liabilities, and expenses of any kind whatsoever, including without limitation, all expenses of litigation and arbitration, court costs, and attorneys' fees, arising on account of or in connection with injuries to or the death of any person whomsoever, or any and all damages to property (including the loss of use thereof), regardless of possession or ownership, which injuries, death or damages arise from, or are in any manner connected with, the work performed by or for the Seller under this Purchase Order, or are caused in whole or part by reason of the acts or omissions or presence of the person or property of the Seller or any of its employees, agents, representatives, subcontractors, or suppliers, INCLUDING WITHOUT LIMITATIONS INJURIES, DEATH, OR DAMAGES WHICH ARISE FROM OR IN CONNECTION WITH, OR ARE CAUSED BY, ANY ACT, ERROR, OMISSION, OR NEGLIGENCE OF THE BUYER, and all of their OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, AGENTS, SUBCONTRACTORS, OR SUPPLIERS; BUT EXCLUDING INJURIES, DEATH, OR DAMAGES CAUSED BY THE SOLE NEGLIGENCE OR WANTON AND WILLFUL MISCONDUCT OF THE BUYER. The indemnification obligations under this Purchase Order shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Seller under worker's or workman's compensation acts, disability benefit acts, or other employee benefits acts, and shall extend to and include any actions brought by or in the name of any employee of the Seller or of any third party to whom Seller may sublet a part of the Purchase Order.