



## TERMS AND CONDITIONS OF PURCHASE

By the acceptance of this order, Seller agrees to all of the terms and conditions hereof as follows:

1. SHIPMENTS Shipments shall be made in accordance with Buyer's instructions which are subject to revision with respect to undelivered quantities. Promptness of delivery is of the essence of this order. The dates of payment and discounts are based on the dates of shipment specified in this order. Earlier shipment shall not require Buyer to make payment before the time payment would have been due if the goods had been shipped in accordance with instructions. Seller shall advise Buyer immediately of any shortage or delay in shipment. Buyer and Seller agree that time is of the essence for all purposes of this order. Failure of Seller to deliver goods on the required delivery date shall constitute a breach of contract. If the Seller promptly notifies Buyer of a delay in Seller's performance for unforeseeable material reasons beyond Seller's control, the Buyer may, in its sole and exclusive discretion, agree to establish a new delivery date. However, Buyer retains the right to cancel the entire agreement or any unperformed part thereof, regardless of the reasons for the delay.
2. PRICE: EXTRA CHARGES The Price listed on this Purchase Order for the goods and services ordered hereunder is the price that was quoted and confirmed by the Seller to the Buyer. Said price is a firm price and will not be increased by the Seller under any circumstances. Seller agrees to deliver the goods and provide the services at said prices. No additional charges of any kind, including charges for doing burlapping, packing, cartage, storage, insurance, building of crates or pallets, or other extras will be allowed. Except by the express written agreement of Buyer.
3. WARRANTY Seller warrants to Buyer that the goods and/or services covered by this order will conform to the drawings, specifications, samples or other description furnished by Buyer, and will be of first class material and workmanship, merchantable, and free from defects and supplied from one heat number, unless agreed to in advance by Buyer. Further Seller agrees that all goods shall be free from any lien or claim by any third party, and that all goods shall comply with all applicable federal, state or local laws, rules and regulations.
4. INSPECTION Delivery shall not be deemed to be complete until Buyer has inspected the goods, and the goods will be received subject to Buyer's right of inspection and rejection, notwithstanding any payment of agreement to pay for such goods, freight express or other transportation charges. Buyer's count will be accepted as final and conclusive on all shipments not accompanied by packing ticket. Risk of loss or damage in transit shall be on Seller. Defective goods may be rejected by Buyer; and Buyer, at its option (without prejudice to any other legal remedy), may hold such goods at Seller's risk or return them to Seller at the Seller's risk and expense. Buyer reserves the right to cancel the unfilled portion of this order, without liability to Seller. No replacement of returned defective material is to be made by Seller unless so authorized by Buyer on Buyer's returned material order. The Buyer assumes no obligation for materials shipped in excess of this order, except that on an order for hot rolled bar steel only, shipments of 10% over or under will be accepted. Defects are not waived by acceptance of the goods or by failure to notify Seller thereof. Seller and Buyer each agrees to cooperate with the other if either party desires to file a claim against a third party for any loss or damage to the goods in transit.
5. PATENT INFRINGEMENT Seller will exonerate, indemnify and hold harmless Buyer, its officers, agents and employees, from an against any and all liability, damage, loss, cost or expense which may accrue to or be sustained by Buyer on account of any claim, suit or action made or brought against Buyer or its customers for actual or alleged infringement of any patent by the resale or the use of said goods or any part thereof; and Seller, at Buyer's request, will defend any such claim, suit or action at Seller's expense with attorneys acceptable to Buyer. In addition, Seller agrees to pay all costs, including any funds paid under any settlement, and damages that may be assessed against Buyer in any suit, arbitration or other action.
6. CONTINGENCIES Failure or inability of Buyer to take shipments hereunder, or delay in taking shipments, if occasioned by fire, explosion, flood, war, accident, epidemics, interruption or delay in transportation, strikes, labor trouble, embargoes, inability to obtain materials and supplies, government regulations, acts of God or the public enemy, or any other causes of like or different character beyond Buyer's control shall not subject Buyer to any liability to Seller because thereof, but at Buyer's option, the total quantity covered by this order may be reduced by the amount of omitted shipments or the specified delivery period extended by a time equal to that during which shipments shall be so omitted and such omitted shipments shall be made during the period of such extensions. The foregoing option of Buyer shall be at Buyer's sole discretion and not exercisable by Seller.
7. RELEASE Seller waives all rights to claim or file suit against Buyer for, and releases Buyer from, all liability or responsibility of any kind arising from, the death of or injury to persons or destruction of property sustained in connection with performance of this order except that caused by the gross negligence of Buyer or its employees acting within the scope of their employment.



## TERMS AND CONDITIONS OF PURCHASE (Continued)

8. **INDEMNITY** Seller assumes the risk of all damage, loss, cost and expense, and agrees to indemnify and hold harmless Buyer, its officers, agents and employees from and against any and all liability, damage, loss, cost and expense which may accrue to or be sustained by Buyer, its officers, agents or employees on account of any claim, suit, arbitration or other action made or brought against Buyer, its officers, agents or employees, for the death of or injury to person or destruction of property, involving Seller, its employees, agents and representatives, sustained in connection with performance of this order, arising from any cause whatsoever except gross negligence of Buyer or its employees acting within the scope of their employment. Furthermore, in the event of a claim, suit, arbitration or other action made or brought against Buyer, Seller, at Buyer's request, hereby agrees to indemnify and hold Buyer harmless, and defend any such action at Seller's sole expense with attorneys acceptable to Buyer. In addition, Seller agrees to pay all costs, including any funds paid under any settlement, and damages that may be assessed against Buyer in any suit, arbitration or other action.
9. **REMEDIES** The remedies set forth in this contract shall be in addition to any other remedies provided by law. No waiver by Buyer of a breach of any provision of this contract by Seller shall constitute a waiver of any other breach by Buyer or of such provision.
10. **DISCLOSURE** Seller shall not publicize the fact that the Seller has contracted to furnish, or has furnished the Buyer with materials. Further, Seller agrees not to disclose any confidential information provided to Seller by Buyer, including but not limited to, specifications, business information, knowhow, business plans, drawings, trade secrets, inventions, systems, product information, supplier information or other information relating in any way to this order to any other third party. The obligations provided for in this paragraph shall survive the termination of this purchase.
11. **INSOLVENCY** In the event of any proceedings by or against Seller in bankruptcy or insolvency, or for the appointment of a Receiver or Trustee, or an assignee for the benefit of creditors of Seller, or in the event of the breach of any of the terms of this order, including the warranties of the Seller, Buyer shall be entitled to cancel this order immediately, without delay, and Buyer shall automatically be released from all obligations hereunder, all without Buyer having any obligation of any nature, kind or description to or for the benefit of Seller.
12. **NONASSIGNABILITY** This order is issued to Seller in reliance upon its personal performance of the duties imposed. Seller agrees not to assign this order or delegate its performance without the written consent of the Buyer.
13. **CARRIERS** Seller grants the Buyer the right to at any time specify the carrier and method of transportation to be used in deliveries to the Buyer, upon proper adjustment being made to cover any difference in transportation cost from the transportation stated in this order.
14. **FAIR LABOR** Seller agrees, in connection with the production of the goods and/or performance of the services specified herein to comply with the requirements of the Fair Labor Standards Act of 1938, as amended, including especially those contained in Sections 212(a) and 215(a) thereof. All invoices must carry the following certificate in order to be passed for payment. Seller represents that with respect to the production of the articles and/or the performance of the services covered by this invoice, it has fully complied with the provisions of the Fair Labor Standards Act of 1938, as amended, including especially those contained in Sections 212(a) and 215(a) thereof.
15. **APPLICABLE LAW; COURT JURISDICTION; VENUE.** The Parties agree that all the terms and provisions hereof are contractual in nature and shall be construed and interpreted under the laws of the State of Illinois, without regard to any conflict of laws or rules that would cause the application of the laws of any other jurisdiction; therefore, the laws of Illinois shall govern the construction, effect and interpretation of this Agreement. Further, the Parties hereby expressly and irrevocably submit to the exclusive jurisdiction of the Courts of the State of Illinois, and to the extent permitted by law, the Parties expressly waive all rights to challenge or otherwise limit such jurisdiction. Further, the Parties hereby expressly and irrevocably designate and appoint the federal district court and state circuit court having jurisdiction over the County of Cook, State of Illinois, as the proper venue for the resolution of any disputes arising hereafter, and any actions or proceedings that may be filed by either Party shall be brought only in the federal district court or state circuit court having jurisdiction over the County of Cook, State of Illinois.
16. **OTHER TERMS** By acknowledging receipt of this order and/or by shipping the above goods, Seller agrees to the terms and conditions set forth in this order and any attachments hereto. Buyer hereby objects to, and rejects, any different or additional terms in Seller's acceptance of this offer. If this order shall be deemed an acceptance of a prior offer by Seller, this acceptance is expressly conditioned on the Seller's written assent to any additional or different terms contained herein. No oral agreement or other understanding shall in any way modify this order or the terms or the conditions hereof.
17. **CAPTIONS** The captions used in this purchase order are for convenience of reference only and are not to be construed in interpreting the substance of the section.