

TERMS AND CONDITIONS OF PURCHASE

1. ACCEPTANCE. THIS PURCHASE ORDER SHALL BECOME A BINDING CONTRACT BETWEEN BUYER AND SELLER ACCORDING TO THE TERMS AND CONDITIONS OF PURCHASE CONTAINED ON THE FACE AND REVERSE SIDE OF THIS ORDER. UPON ACCEPTANCE BY THE SELLER BY EITHER ACKNOWLEDGEMENT HEREOF, OR BY THE BEGINNING OF PERFORMANCE HEREUNDER. ACCEPTANCE BY THE SELLER IS EXPRESSLY LIMITED TO THE TERMS AND CONDITIONS OF PURCHASE CONTAINED ON THE FACE AND REVERSE SIDE OF THIS ORDER, AND BUYER OBJECTS TO, AND IS NOT BOUND BY ANY TERM OR CONDITION OF SELLER DIFFERENT FROM OR IN ADDITION TO THE TERMS AND CONDITIONS OF PURCHASER CONTAINED ON THE FACE AND REVERSE SIDE OF THIS ORDER. THIS PURCHASE ORDER IS THE ENTIRE CONTRACT AND NO CHANGES OR ADDITIONS ARE BINDING ON THE BUYER UNLESS IN WRITING AND SIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE BUYER.

2. PACKING AND SHIPPING. All articles are to be suitably packed and prepared for shipment to secure lowest transportation costs and to meet carrier's requirements. Buyer's order numbers and symbols must be plainly marked on all invoices, packages, bills of lading and shipping orders. Packing list shall accompany each box or package shipment showing Buyer's order number and symbol, item number, and description of articles or materials. Buyer's count and weight shall be final and conclusive on shipments not accompanied by packing lists. Shipping receipts or bills of lading shall be sent to Buyer's Purchasing Department on date articles are shipped. No charges will be allowed for packing, crating or cartage unless stated in the order. Articles not exceeding fifty (50) pounds may be shipped UPS insured but may not exceed 108" in length and girth combined; shipments weighing over fifty (50) pounds are to be shipped as specified on the face of the order.

3. INSPECTION. All articles shall be subject to inspection and test at all practicable times and places, including the period of manufacture, by Buyer and, if this order is placed under a Government contract, by the Government; but such inspections and tests shall be so performed so as not to delay unduly the work. If such inspection or test is made on Seller's premises, Seller shall provide without charge, reasonable facilities and assistance for the inspectors. All articles are also subject to final inspection and acceptance by Buyer after delivery notwithstanding prior payments or inspections. Buyer may reject any articles which contain defective material or workmanship or otherwise fail to conform to specifications or samples. Rejected material will be held at Seller's risk, subject to Seller's disposal or may at Buyer's option, be returned at Seller's risk and expense at the full invoice price plus incoming transportation charges if any. No rejected articles shall be resubmitted for acceptance unless Buyer's approval in writing is first obtained.

4. ADVANCE MANUFACTURE AND SHIPMENT. Seller shall not, without Buyer's prior written consent, procure materials and/or manufacture in advance of Seller's normal flow time or deliver in advance of schedule. Buyer may refuse delivery of, or return, shipping charges collect, all articles received in advance of schedule contained on the face of this order.

5. WARRANTIES. The Seller warrants that articles ordered to specifications will conform thereto and to any drawings, samples or descriptions furnished or adopted by Buyer, and so far as the purposes are known will be fit and sufficient for the purposes intended, and that all articles will be merchantable, of good quality and free from defects, in design, materials, and workmanship. This warranty shall run to the Buyer and its Vendees.

6. ASSIGNMENTS. No assignments of this order or of any moneys due or to become due thereunder shall be binding upon Buyer without written consent thereto by Buyer.

7. CHANGES. Buyer may at any time, by written notice, make changes within the general scope of this order in (1) drawings, designs or specifications, (2) delivery schedules, or (3) quantities ordered. Should any such change increase or decrease the cost of or the time required for performance of this order, an equitable adjustment may be requested by Seller in the price and/or delivery schedule. No claim by Seller for such adjustment will be valid unless submitted by Buyer within (30) days from the date of such change.

8. DIES, JIGS, TOOLS, PATTERNS AND DATA. If the price to be paid is stated on the face of this order to include special dies, jigs, tools, and patterns used in the manufacture of such articles, then such tools, etc., shall be and become the property of the Buyer. They shall be kept in good condition and from time to time replaced by the Seller without expense to the Buyer, except that the actual cost of changes due to the Buyer's change of design or specifications shall be paid for by the Buyer, if such changes are made prior to the exhaustion of the useful life of the dies, jigs, tools, or patterns changed. No dies, tools, patterns or drawings supplied to the Seller by, or otherwise belonging to the Buyer shall be used in the production, manufacture, or design of any articles other than those called for by this order, except with the written consent of the Buyer, nor shall articles furnished to the Buyer's patterns, specifications, drawings or design be furnished, or quoted to any other person or concern.

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Upon completion or termination of this order such dies, jigs, tools, patterns and drawings belonging to the Buyer shall be disposed of as the Buyer shall direct. Seller agrees that it will keep confidential the features of any equipment, tools, gauges, patterns, designs, drawings, engineering data or other technical or proprietary information furnished by the Buyer or conceived in the course of performance of this order. Buyer does not grant to Seller any reproduction rights to articles ordered.

9. PATENT INDEMNITY. With respect to all items delivered under this order, except items manufactured pursuant to detailed designs developed and furnished by Buyer. Seller shall defend at its own expense and save Buyer, Buyer's agents and customers, and users of Buyer's products harmless, from all claims, loss, damage and liability which may be incurred on account of infringement or alleged infringement of any U.S. patents arising out of the manufacture, sale or use of such articles.

10. PRICES. Seller represents that the price or prices specified in this purchase order do not exceed the Seller's current selling price on the same or substantially similar articles, whether to the Government or to any other purchaser, taking into account the quantity under consideration. "Seller warrants that prices do not in any case exceed those allowed under current federal price control regulations."

11. TERMINATION. The termination clause set forth in Section 8-706 of ASPR, as in effect on the date of this order, is hereby incorporated herein by reference and made a part hereof, except that if no Government contract number appears on the face of this order, the terms "the Government," and the immediately preceding word such as "and," "or," or "by" wherever appearing in said clause are deleted. The provisions of this clause shall not be applicable upon termination for Seller's default, delay (other than when due to causes beyond Seller's control and without Seller's fault or negligence) of insolvency, and shall not limit or affect the rights or remedies of Buyer stated in other clauses of this order or provided by law in event of such default, delay or insolvency.

12. DEFAULT. Should Seller fail to perform or to comply with any provisions, of this order, Buyer may terminate this order in whole or in part and consider any such failure or non-compliance as a breach of this contract, and Buyer expressly retains all its rights and remedies provided by law in the case of such breach.

13. COMPLIANCE WITH APPLICABLE LAWS. Seller warrants that in the performance of this order, it has complied with or will comply with all applicable Federal, State, and local laws and ordinances, and all lawful orders, rules and regulations, thereunder, including but not by way of limitation, the applicable provisions of the Fair Labor Standards Act of 1938 as amended (29 U.S.C. Sec. 201-219), the Walsh-Healey Public Contracts Act as amended (41 U.S.C. Sec. 35-45), the Work Hours Act of 1962 (40 U.S.C. 327-332), the Anti-Kickback Act (41 U.S.C. Sec. 51-54), the Occupational Safety and Health Act (5 U.S.C. Sec. 5108, 5314, 5315, 7902; 15 U.S.C. Sec. 633, 636; U.S.C. Sec. 1114; 29 U.S.C. Sec. 553, 651-678; 42 U.S.C. Sec. 3142-1; 49 U.S.C. Sec. 1421), the Consumer Product Safety Act (15 U.S.C. Sec. 2051-2081, and all lawful rules and regulations thereunder), Cal. Civ. Code §1714.43.

14. APPLICABLE LAW. This order is executed by Buyer and Seller with reference to the laws of the State of Indiana, and the rights of the parties and the construction and effect of every provision hereof shall be subject to, and construed according to, the laws of the State of Indiana.

15. SUBCONTRACTING. Seller will not subcontract, without Buyer's prior written consent, for the design or procurement of any item covered by this order in completed or substantially completed form.

16. REMEDIES. The remedies herein reserved to Buyer shall be cumulative and additional to, any other or further remedies provided in law or equity and no waiver by Buyer of a breach of any provision of this order shall constitute a waiver of any other or subsequent breach of such provision.

17. ADVERTISING. No news release, advertisement, public announcement, denial, or confirmation of same on any part of the subject matter of this order or any phase or any program hereunder shall be made without the prior written approval of Buyer.

18. The uniform commercial code is applicable to this purchase.

19. FRANKLIN ELECTRIC CO., INC. is an equal opportunity employer and complies with executive order 11246 as amended; ref. section 503 as amended of the Vocational Rehabilitation Act, and 38 USC 2012 of the Vietnam Veterans Readjustment Act.