

Created Date: 2<sup>nd</sup> May 2012

Effective Date: 1<sup>st</sup> Jan 2013

### **PO Terms and condition**

**ACCEPTANCE:** This order is Buyer's offer to the Seller and becomes a binding contract subject to the terms and conditions stated herein, when accepted by acknowledgement or commencement of performance by Seller. Buyer objects to all additions, exceptions, or changes to these terms, whether contained in any printed form of Seller or elsewhere, unless approved by Buyer in writing. To the extent there are any inconsistencies between these terms and those written on the face of this order, the latter will control.

**WARRANTY:** Seller expressly warrants that goods or services ordered shall be merchantable, shall conform to this order, to specifications, drawings, or description relating to such goods and that such goods shall be fit and safe for the intended purposes and shall be free from defects in materials and workmanship. Seller warrants that it has clear title to the goods and that the goods, shall be new and not used or reconditioned and services shall be delivered free of liens and encumbrances. Seller warrants goods are shipped on pallets free of 2,4,6-tribromoanisole (TBA) and 2,4,6-tribromophenol (TBP).

**INSPECTION:** Goods purchased under this order are subject to Buyer's reasonable inspection, testing, and approval at Buyer's destination. Buyer reserves the right to reject and refuse acceptance of goods which are not in accordance with this order or Seller's representation or warranties, expressed or implied, Buyer will charge Seller for the cost of inspecting rejected goods. Rejected goods may be returned to Seller, or held by Buyer, at Seller's risk and expense. Payment for any goods under this order shall not be deemed acceptance of the goods.

**INDEMNIFICATION:** Seller shall defend, indemnify and hold Buyer, its successors, assigns, employees, customers, and users of the goods or services harmless with respect to all claims, liability, damage, loss, and expenses, including attorney's fees, incurred relating to or caused by:

- a) actual or alleged patent, copyright, or trademark infringement or violation of other proprietary right, arising out of the purchase, sale, or use of the goods or services covered by this order;
- b) actual or alleged defect in the services or in the design, manufacture, or material of the goods;
- c) actual or alleged breach of warranty;
- d) failure of Seller to deliver the goods or services on a timely basis.

**REGULATORY COMPLIANCE:** Seller agrees to perform in compliance with all applicable laws and regulations.

**INSURANCE:** If services are performed under this order on Buyer's premises, Seller shall obtain Premises-Operations, Personal Injury, and Independent Protective Liability endorsements, and shall further obtain Workers' Compensation, Employer's Liability and Automotive insurance coverage.

**RISK OF LOSS:** Seller shall bear the risk of loss or damage to the goods covered by this order until they are delivered to and accepted by the Buyer.

**PROPRIETARY INFORMATION:** Seller understand that during work on this order, he may gain access to information that is designated as proprietary to the Buyer or to other parties and agrees to use any such

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proprietary information only in the performance of obligation under this order. Seller will not publish or disclose any such proprietary information without prior written approval of the Buyer.

USE OF SELLER'S INFORMATION: All information disclosed to Buyer in connection to this order is furnished as part of the consideration for Buyer's placement of this order. This information is not to be treated as confidential or proprietary, and no claim will be asserted against Buyer, its assigns, or customers, for its disclosure or use.

BUYER-FURNISHED MATERIAL: Seller shall not use, reproduce, or appropriate for or disclose to anyone other than the Buyer, any material, tooling, dies, drawings, design, or other property or information furnished by Buyer without Buyer's prior written approval. Title to all material shall remain in Buyer at all times, and where practicable the material shall be clearly marked or tagged to indicate this ownership. Seller bears the risk of loss or damage to the material until it is returned to Buyer. All material, whether or not spoiled or used, shall be returned to Buyer at termination or completion of this order unless Buyer shall otherwise direct.

ASSIGNMENT;SUBCONTRACTING: Seller shall not assign this order or subcontract any material portion of the performance of it without Buyer's prior written consent.

SUBSTITUTION: No substitution of any material may be made without Buyer's prior written consent.

SHIPMENT OR DELIVERY SCHEDULE: Shipment or deliveries shall be in accordance with the schedule established by this order. If Seller does not, or appears that it will not meet such schedule, Buyer may, in addition to any other rights or remedies provided by law or this order, require that Seller ship via expedited routing to meet such schedule or to recover the time lost, and the cost difference shall be paid by Seller.

OVER-SHIPMENT: Over-shipment of material not approved by Buyer in writing will be returned at Seller's expense.

TERMINATION AND REMEDIES: Buyer may terminate this order, or any part thereof, by written notice to Seller. If Seller defaults for any reason including, but not limited to the following circumstances:

- (a) If Seller fails to perform within the time specified or extension agreed to in writing by Buyer
- (b) If Seller fails to comply with other provisions of this order, or fail to make progress so as to endanger its performance of this order in accordance with its terms, and does not remedy such failure within ten (10) days of notice TermsAndConditions1uyer or such longer period as Buyer may in writing authorize.
- (c) If Seller becomes insolvent or is subject to proceedings under any law relating to bankruptcy, insolvency, or relief of debtors. In the event of default or breach by Seller or rightful rejection of acceptance of the goods by Buyer, Buyer may cancel the order and recover so much of the price as has been paid together with any incidental and consequential damages. In addition to any other remedy, provided by law or this Order, Buyer may 'cover' by making, in good faith and without unreasonable delay, and reasonable purchase of or contract to purchase goods in substitution for those due from the Seller and shall recover from Seller as damages the difference between the cost of 'cover' and the contract price together with any incidental or consequential damages.

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APPLICABLE LAWS: This Purchase Order shall be governed, construed and enforced in accordance with the laws of PRC.

RECALL: In the event that a recall of the goods is necessitated by a defect, a failure to conform to the specifications, applicable laws, or any other reason within the Seller's control, Seller shall bear all costs and expenses of such recall, including without limitation, costs of notifying customers, customer refunds, costs of returning goods, lost profits, and other expenses incurred to meet obligations to third parties.

REFERENCES TO BUYER: Except to the extent required by law, Seller shall make no reference, advertisement, or promotion regarding Buyer or Buyer's purchase or use of the goods or services covered by this order without the prior written consent of Buyer.

SETOFF: Any counterclaim against Seller or any of its related entities by Buyer or any of its related entities which arise out of this or any other transaction may be set off against any money due seller under this order.