

## **PURCHASE ORDER TERMS AND CONDITIONS**

### **BILLING AND SHIPPING**

- A. All matter shall be suitably packed, marked, and shipped in compliance with the requirements of common carriers in a manner to secure lowest cost and no additional charge shall be made to the Buyer therefore unless stated therein.
- B. Unless otherwise specified herein. Seller shall properly mark each package with Purchase Order number, and where multiple packages comprise a single shipment each package shall also be consecutively numbered. Order number and package numbers shall be shown on packing slips, bills of lading and invoices.
- C. Original bill of lading, or other shipping receipt, for each shipment shall be promptly forwarded by Seller in accordance with instructions issued by the Buyer.
- D. Seller agrees to describe material on bill of lading or other shipping receipt and to route shipment in accordance with instructions issued by Buyer's Purchasing Department.
- E. Two copies of your packaging slip must accompany each shipment.
- F. Invoices in duplicate showing purchase order and release number shall be re-ordered promptly after shipment has been made. Invoice received by the Buyer five days or more after shipment may be re-dated as of date received and payment made according to purchase agreement.
- G. Seller agrees to notify Buyer when unable to ship on dates specified on this order.

### **TERMS AND CONDITIONS**

1. Establishment of terms: Seller shall be bound by this order and its terms and conditions when it executes and returns the acknowledgement or when it delivers to Buyer any of the goods or articles ordered or renders for Buyer any of the services ordered herein. This order expressly limits acceptance to the terms stated herein, and any additional or different terms proposed by Seller in any quotation offer or otherwise are rejected unless expressly consented to in writing by Buyer. No change, amendment, or waiver of any provision of this order shall be binding upon Buyer unless in writing and signed by Buyer. This contract is non-assignable by Seller.

Buyer shall not be billed prices higher than stated on this order unless authorized in writing and signed by Buyer.

2. Delivery Schedules: Buyers may hold seller liable for damages caused by untimely delivery. Deliveries are to be made in quantities and at the times specified in schedules furnished by Buyer. Buyer will have no liability for payment for material of items

delivered to Buyer which are in excess of quantities specified in the delivery schedules. Buyer may from time to time change delivery schedules or direct temporarily suspension of scheduled shipments.

3. Premium Shipments: If Seller's acts or omissions result in Seller's failure to meet Buyer's delivery requirements and Buyer requires a more expeditious method of transportation for the goods than the transportation method originally specified by Buyer, Seller shall, at Buyer's options: (i) promptly reimburse buyer the difference in cost between the more expeditious methods and the original method. (ii) Allow Buyer to reduce its payment of Seller's invoices by such difference or (iii) ship the goods as expeditiously as possible at Seller's expense and invoice the buyer for the amount which Buyer would have paid for normal shipment.

4. Warranty: Seller represents and warrants that all materials and/or services will conform with the specifications, drawings, samples or other descriptions approved, furnished, or specified by Buyer, and will be merchantable, of good material and workmanship and free from any defect and will be suitable for the uses and purposes for which they were purchased; and that Seller has good merchantable title, free and clear of all liens and encumbrances. Seller agrees that such warranties and representations shall extend to Buyer, its customers, assignees, licensees, and invitees.

5. Indemnity: Seller hereby agrees to defend, indemnify and hold Buyer harmless against any loss Buyer may sustain by reason of defective or alleged defective goods or articles of faulty workmanship or design in the goods or articles supplied under this order. Seller agrees to defend indemnity and protect Buyer against all liabilities, claims, or demands for injuries or damages to any person or to property of Buyer or others, arising out of Seller's breach of the warranties given hereunder.

6. Title, Payment of Subcontractors and Suppliers and Risk of Loss: Unless otherwise indicated on the face of this form, Seller warrants that at the time of sales, it will convey to Buyer full title to the goods, free and clear of any and all liens, claims, encumbrances and interests of any third parties, including, without limitation, Seller's subcontractors and suppliers, and that all of Seller's subcontractors and suppliers will have been paid to such extent as may be required by law or by Seller's subcontractors or suppliers. Unless Seller is otherwise specifically advised by Buyer in writing, the goods will remain at Seller's risk and expense until they are in the actual physical possession of Buyer at its premises.

7. Acceptance of Goods Inspection: All items and material shall be received subject to Buyer inspection before acceptance. Buyer reserves the right to reject and refuse acceptance of goods or articles not in accordance with the warranties hereunder and return the same at Seller's expense. In no event shall payment be deemed to constitute acceptance. Buyer reserves the rights at its convenience to return any amount of goods shipped in excess of the amount specified, and all handling and transportations expenses both ways on such material or excess amount will be paid by Seller. Neither inspection

nor failure to inspect shall relieve Seller of responsibility with respect to items supplied hereunder or imply acceptance thereof.

8. Material Furnished by Buyer: Any material furnished by Buyer on other than a charge basis in connection with this order, shall be deemed as held by Seller upon consignment. All such materials not used in the manufacture of the products covered by this purchase order shall, as directed, be returned to Buyer at Buyer's expense, and if not accounted for or so returned shall be paid for by Seller. All such materials, including but not limited to, Tools, Dies, Gauges, and Fixtures owned by Buyer or Buyer's customer, shall be fully insured by Seller against loss by fire or other loss covered by (standard) extended coverage insurance endorsements.

9. Termination with Cause: Buyer reserves the right, at its option, to cancel this order in whole or part in the event the materials or work specified fail to conform to any of the warranties of Seller, if Seller fails to make deliveries as specified, for breach of any other term or condition of this order, or upon the occurrence of any of the following events:

- (a) Insolvency of the Seller
- (b) Seller's filing of a voluntary petition in bankruptcy or application for the appointment of a receiver or trustee of its assets.
- (c) An involuntary petition to have Seller declared bankrupt not vacated within thirty (30) days from the date of hiring
- (d) A receiver or trustee appointed for Seller's assets remaining un-discharged thirty (30) days after such appointment
- (e) The execution by Seller of an assignment for the benefit of creditors.

In the event of such cancellation, Buyer, without a prejudice to any other rights available to it at law or by contract, shall have the right to refuse to accept delivery of material or performance or work, and be relieved from liability for any payments to Seller for goods or services not accepted, to recover any advance payment to Seller for undelivered or returned materials or work to be performed and to purchase elsewhere and charge Seller with any resultant losses.

10. Termination for Convenience: In addition to any other rights of Buyer to cancel or terminate this order Buyer may at its option immediately terminate all or any part of this order, at any time and for any reason by giving written notice to Seller. Upon such termination, Buyer shall pay to Seller the following amounts without duplication (a) the order price for all goods or services which have been completed in accordance with this order and not previously paid for and (b) the actual cost of work in process and raw materials incurred by Seller in furnishing the goods or services under this order to the extent such costs are reasonable in amount and are properly allocable or apportionable under generally accepted accounting principles to the terminated portion of this order, less, however the reasonable value or cost whichever is higher, or any goods or material, used or sold by Seller with Buyer's written consent and the cost of any damaged or destroyed good or material. Buyer will make no payments for finished goods, work in process or raw materials fabricated or procured by Seller in amounts in excess of those authorized neither in delivery releases nor for any undelivered goods which are in

Seller's standard stock or which are readily marketable. Payments made under this paragraph shall not exceed the aggregate price payable by Buyer for finished goods which would be produced by Seller under delivery or release schedules outstanding at the date of termination, except as provided in this paragraph. Buyer shall not be liable for and shall not be required to make payments to Seller, directly or on account of claims by Seller's subcontractors, for loss of anticipated profit, unabsorbed overhead, interest on claims, product development and engineering costs, facilities and equipment rearrangement, costs or rental, unamortized depreciation costs and general and administrative burden charges from termination for this order. Within sixty (60) days from the effective date of termination, Seller shall submit a comprehensive termination claim to Buyer with sufficient supporting data to permit Buyer's audit and shall thereafter promptly finish such supplemental and supporting information as buyer shall request. Buyer or its agents shall have the right to audit and examine all books, records, facilities, work, material, inventories, and other items relating to any termination claim of Seller.

11. Excusable Delays: Seller shall not be liable for delays or default in furnishing supplies or services hereunder and Buyer shall not be liable for failure to accept supplies or services hereunder, if such delays or defaults are the result of:

- (a) Acts of God or of a public enemy
- (b) Acts of Government of the United States or any state or political subdivision
- (c) Fire, flood, explosion, or other catastrophe without fault of the parties
- (d) Epidemics and quarantine restrictions
- (e) Strikes or labor stoppages
- (f) Freight Embargoes

In the event of a failure by Seller to perform hereunder arising from any of the above causes or events of this paragraph, Buyer shall be entitled to obtain supplies or services covered by this Purchase Order elsewhere for the duration of such failure to reduce accordingly and without obligation to the Seller the quantity or amount of supplies or services ordered from Seller under the Purchase Order.

12. Tooling: Unless otherwise herein agreed, Seller at its own expense shall furnish, keep in good condition and replace when necessary all dies, tools, gauges, fixtures, patterns, and any other manufacturing aids necessary for the production of the goods ordered.

Unless otherwise herein agreed if tools, dies, jigs or fixtures are furnished to Seller by Buyer for production of this order, Seller will make all necessary adaptations for Seller's use at its expense and will restore them upon completion of the order to their condition before adaptation, if requested by Buyer.

If tools, dies, jigs, or fixtures are included in this Purchase Order, Seller shall submit acceptable production samples from the same for buyer's approval prior to payment.

All tools, equipment or material of every description furnished to Seller by Buyer or specifically paid for by Buyer and any replacement thereof, and any materials affixed or

attached thereto, shall be and remain the property of Buyer and such property shall be plainly marked or otherwise adequately identified by Seller as "Property of CNI" its subsidiaries and/or assigned party and shall be safely stored separate and apart from Seller's property of a third person. Seller shall not substitute any property while in Seller's custody or control shall be held at Seller's risk. Such property shall be kept insured by Seller at Seller's expense in an amount equal to the replacement cost with endorsement making loss payable to Buyer, and shall be subject to removal at Buyer's written request in which event Seller shall prepare such property for shipment and redeliver the same at Seller's expense to Buyer or its designee in the same condition as originally received by Seller, reasonable wear and tear excepted.

13. Drawings: Seller shall keep confidential all drawings, specifications or other data, paper or information furnished by Buyer or prepared by Seller specifically in connections with performance of this order together with a all copies and shall not make copies or permit same to be made except in accordance with Buyer's prior written consent or except as required for Seller's adequate performance of this order and/or request of Buyer. Seller shall promptly return to buyer all drawings, specifications, and other data or papers furnished by Buyer or prepared by Seller in connection therewith together with all copies or reprints then in Seller's possession or control. Seller shall thereafter make no further use either directly or indirectly, of any drawings, specifications data or papers or any other information derived there from in the performance or work for any other customer without Buyer's written consent.

14. Patents and Trademarks: Seller warrant that the goods or articles delivered under this order and the sale and the use of the said goods or articles will not infringe on any Unites Sates or foreign patents trademarks, or copyrights. Seller agrees to defend, protect, and save harmless Buyer, its successors, assigns, customer, and users of its products from and against all suits and any damages, costs, and expenses awarded, based upon a claim of infringement of any patent or copyright by reason of the use of sale and said goods or articles.

15. Remedies: The remedies herein reserved shall be cumulative and additional to any other or further remedies provided in law or equity. No waiver of breach of any provision of this contract shall constitute a waiver of any other breach or of such provision.

16. Advertising: Seller shall not without first obtaining the written consent of Buyer in any manner advertise or publish the fact that Seller has contracted to furnish Buyer or Buyer's customer the material herein ordered and for failure to observe this provision. Buyer shall have the right to terminate the contract resulting from acceptance of this order without any obligation to accept deliveries after the date of termination or make further payments except for completed articles delivered prior to termination.

17. Applicable Law: This order, as well as all transaction contemplated by this order, shall be governed by and construed according to the laws of the State wherein Buyer's place of business issuing this order is located.

18. Waiver: No waiver of any breach of any provision of this order shall constitute a waiver of any prior or subsequent breach or shall constitute an amendment or modification of this order.

19. Seller Agrees to comply with Buyer's right of access to applicable facilities to review processing reliability and other Quality related documents pertaining to services and/or goods covered by this order.

20. This order, together with the attachments, exhibits, or supplements, specifically referenced in this order constitute the entire agreement between Seller and Buyer with respect to the matter contained herein and supersedes all prior oral or written representations and agreements. This order may only be modified by a purchase order amendment/alteration issued by the Buyer.