



## TERMS AND CONDITIONS OF PURCHASE

Page 1 of 5

**1. Parties.** ATTC Manufacturing, Inc. will be referred to as “Purchaser” and the person or company indicated on the front hereof with whom this order is placed will be referred to as “Seller.” This order may be used to purchase supplies, machinery, equipment, etc. and may also be used to contract for maintenance and construction work on the premises of Purchaser, and for services, repairs, or consulting. All products or work covered by this order regardless of type will be referred to as “items.”

**2. Price.** The price which Seller charges in filling this order shall not be higher than that last charged or quoted to Purchaser for such items (if there has been a previous charge or quotation) unless Purchaser expressly agrees otherwise in writing. If Purchaser has included a price on the front hereof, such prices shall control, subject to the terms and conditions which follow, unless such price exceeds the lowest price at which Seller is selling such items or similar items, in which case the lower price shall control.

If there has been no charge or quotation to Purchaser for such items previously and if no price is set forth on the front hereof, Purchaser shall have the privilege to return the items, with Seller paying the cost of transportation, if Seller charges a price which is in excess of the lowest price at which Seller is selling such items. Except as may be otherwise provided in this order, the price includes all applicable federal, state and local taxes.

If at any time prior to delivery of the items, Purchaser is given the opportunity to purchase a portion or all of the items or similar items of like quality, at a bona fide, competitive price which is less than the price to be charge by Seller hereunder, Purchaser shall so notify Seller. Should Seller fail to meet such lower price within 30 days following the date of Purchaser’s notice. Purchaser may, at its option, purchase from the other source at the lower price, in which event Purchaser and Seller shall be relieved of their obligations hereunder with respect to that portion of the items or similar items so purchased from the other source.

**3. Delivery Date.** If Purchaser has indicated on the front of this order a completion date or a date upon which the items are to be delivered to Purchaser at the locations set forth on the front hereof. Purchaser reserves the right to cancel this order and recover damages (including but not limited to costs of cover) if said date is not met or if prior to said date, Purchaser reasonably believes that said date will not be met. If such a delivery or completion date is not so specified on the front of this order, a reasonable time will be allowed. Time is of the essence for this purchase order.

**4. Title and Risk: Shipment.** Title and risk of loss with respect to the items shall remain with Seller until the items have been delivered in a completed state and accepted by Purchaser or an agent or consignee duly designated by Purchaser at the location specified by Purchaser. Items which are to be shipped shall be shipped F.O.B. destination unless otherwise specified by Purchaser. A packing slip must accompany each such shipment. If a shipment is to a consignee or agent of Purchaser, a copy of the packing slip shall be forwarded concurrently to Purchaser. If no packing slip is sent, the count or weight reported by Purchaser or its agent or consignee is agreed to be final and binding on Seller with respect to such shipment.



**5. Compliance with Laws.** Seller warrants that the items and their production or completion shall not violate or cause Purchaser to be in violation of any federal, state, or local laws, regulations, or orders. Without limiting the foregoing, Seller certifies that the items will be produced in compliance with the Fair Labor Standards Act, as amended, of regulations and orders of the United States Department of Labor issued under such Act, and of the Occupational Safety and Health act of 1970.

**6. Prohibited Gifts.** Purchaser shall be entitled to terminate its order at any time and without any penalty whatsoever in the event that Purchaser receives information indicating that in connection with the solicitation or placement of any business with Purchaser, Seller has given any agent or employee of Purchaser any compensation, gratuity, gift, remuneration or perquisite of any kind whatsoever or has made any payment to a foreign government official in violation of the Foreign Corrupt Practices Act.

**7. Changes.** Purchaser shall have the right to make changes (including additions and omissions) from time to time in the items, their specifications, drawings, designs, packing instructions, or destination, or to postpone the delivery schedule. Immediately upon such changes being orders, the parties shall undertake to agree on an appropriate adjustment in price and/or other affected terms of this purchase order. Such adjustment in price or other terms of this purchase order must be in writing and signed by Purchaser to be binding upon Purchaser.

**8. Inspection.** Purchaser may inspect the items ordered hereunder during their manufacture, construction or preparation at reasonable times and shall have the right to inspect such items at the time of their delivery and/or completion. Items furnished hereunder may at any time be rejected for defects or defaults revealed by inspection, analysis, or by manufacturing operations or use after delivery even though such items may have previously been inspected and accepted. Such rejected items may, at Purchaser's option, be returned to Seller for full refund to Purchaser, including shipping and transportation charges.

**9. Warranty by Seller.** Seller warrants all items delivered hereunder to be free from defects in material or workmanship, to be of good and merchantable quality to conform strictly to any materials requirements, specifications, drawings, or samples which may have been provided to or furnished by Purchaser, and to fit the purposes for which the items are intended. Seller further warrants that it will have good title to the items free and clear of all liens and encumbrances and will transfer such title to Purchaser. This warranty shall survive any inspection, delivery, acceptance or payment by Purchaser.

**10. Indemnification.** Seller shall indemnify and hold harmless Purchaser, its agents, consignees, employees and representatives from and against all expenses, losses, claims, demands, or causes of action of whatever kind, including negligence, breach of express or implied warranty, failure to warn, or strict liability, and from and against all special, indirect, incidental, or consequential damages, including lost profits, of every kind whatsoever arising out of, by reason of, or in any way connected with accidents, occurrences, injuries or losses to or of any person or property, including Purchaser or Purchaser's property, which may occur before or after acceptance of the completed items by Purchaser, in any way due or resulting from in whole or in part, the design, preparation, manufacture, construction, completion, warning or failure to warn, delivery or non-delivery of items, including such as are caused by any subcontractor of Seller.



Immediately upon receipt from Purchaser of written notice of any suit or claim relating to any risk described in the first paragraph of this section and upon written request by Purchaser. Seller shall assume the defense of the litigation. In any event, Seller shall pay for or reimburse Purchaser for all costs and expense, including attorney's fees, arising out of any suit or claim relating to any risk described in the first paragraph of this Section 10.

If requested by Purchaser, Seller shall maintain policies of liability, insurance, declaring Purchaser as a named insured, in such amounts as Purchaser shall designate, to protect Purchaser from all the risks described in the first paragraph of this Section 10. Such policies of insurance shall not be cancelable except upon ten (10) days written notice to Purchaser; Seller shall furnish proof of such insurance to Purchaser. Seller agrees to make prompt written reports to the insurance company involved of all accidents, occurrences, injuries or losses which may occur and of any and all claims made against Purchaser or Seller under said policies of insurance and to send copies of such reports to Purchaser within twenty-four (24) hours of the time that Seller makes its report to the insurance company.

**11. Contingencies.** In the event of causes beyond the control of Purchaser, including but not limited to acts of God, fire, the elements, strikes or labor disputes, and accidents or transportation difficulties, which would make it inadvisable in Purchaser's judgment to accept delivery hereunder Purchaser shall have the option to cancel this purchase order or to delay the delivery or completion of all or part of the items, such cancellation or delay being without cost to Purchaser.

**12. Patent, Copyright or Trademark Infringement.** Seller shall indemnify Purchaser against and hold Purchaser harmless from any and all claims for infringement of any patent, copyright, trademark or trade name by reason of the manufacture, use, or sale of the items. Seller shall indemnify Purchaser for any costs, expenses, liability and damages, including attorney's fees, which Purchaser may incur by reason of any suit or claim of any alleged infringement. Immediately upon receipt from Purchaser of written notice of any such suit or claim, Seller shall appear in and assume the defense of the litigation if Purchaser so requests.

**13. Purchaser's Specification, Technical Data, Etc.** Any specifications, drawings, notes, instructions, engineering notices, or technical data of Purchaser furnished to Seller or referred to in this order shall be deemed to be incorporated herein by reference the same as if fully set forth. Purchaser shall at all times retain title to all such documents and Seller shall not disclose such to any party other than Purchaser or a party dully authorized by Purchaser. Upon Purchaser's request, Seller shall promptly return to Purchaser all such documents and copies thereof.

**14. Termination.** Purchaser shall have the right to terminate this order upon the occurrence of any of the following events: Seller's insolvency or actions indicating insolvency such as the filing of a petition by or against Seller under any chapter of the bankruptcy laws, the appointment of a receiver for Seller, or Seller's attempt to make a general assignment for the benefit of creditors; Seller's failure to use properly skilled personnel; Seller's failure to make prompt payment to any subcontractors it may have; Seller's failure to make prompt payment for any materials, labor, or any other expenses it incurs in the production or construction of the items; or Seller's failure to comply with any of its obligations under this order. Upon termination of the order in accordance with this section. Purchaser may take possession of the items in whatever stage of completion they may be,



contract with or employ any other person or persons to finish the items, and collect from Seller any additional expenses or damages, including attorney's fees, which Purchaser may incur.

**15. Limitation on Assignment.** Neither party may assign this order or any right hereunder without the prior written consent of the other except that Purchaser shall have the right to assign to any company with which it is affiliated or to any corporation into which it shall be merged, with which it shall be consolidated, or by which it or all or substantially all of its assets, shall be acquired.

**16. Licenses.** Seller shall be required to obtain and pay for any licenses, permits, and inspections by public bodies required in connection with the items.

**17. Equal Employment Opportunity.** If applicable, during the performance of this contract (or purchase order), the contractor/vendor agrees to comply with all federal, state, and local laws respecting discrimination in employment and non-segregation of facilities including but not limited to requirements set out in 41 C.F.R. § 60-1.4(a), § 60-300.5(a), and § 60-741.4(a), which equal opportunity clauses are herein incorporated by reference. Notification is hereby given that compliance with these clauses may require the contractor/vendor to annually file certain reports with the federal government and may require the contractor/vendor to develop written affirmative action programs for women and minorities, covered veterans and/or persons with disabilities.

**18. Notice of Rights under National Labor Relations Act.** If applicable, Contractor agrees to abide by the requirements of 29 C.F.R. Part 471, Appendix A to Subpart A, which are incorporated herein by reference.

**19. E-Verify Subcontract Provision (Short form) (Services and Construction).** If applicable, Contractor agrees to comply with the requirements for verifying employment eligibility set out in 48 C.F.R. Subpart 22.18 (73 Fed. Reg. 67703-04) and the Employment Eligibility Verification Cause set out in 48 C.F.R. § 52.222-54 (73 Fed. Reg. 67704), which is incorporated herein by reference.

**20. Work on the Premises.** If work is to be performed hereunder on premises of Purchaser, Seller represents that it has or will examine the premises and any specifications or other documents furnished in connection with the items and satisfy itself as to the condition of the premises and site. Seller agrees that no allowance shall be made in respect of any error as to any of the foregoing on the part of seller. Seller shall at all times keep the premises free from accumulations of waste material of rubbish. At the completion of the items, Seller shall leave the premises and the items broom-clean.

Seller shall abide by all applicable federal, state, or local safety laws and all plant safety regulations of Purchaser in performing any work in connection with the items on the premises of Purchaser and shall indemnify and hold Purchaser harmless from any loss, damage, claim, or legal action resulting from Seller's performance of work on the premises. Seller understands that Purchaser shall have no duty to maintain insurance against any loss or damage to any materials or equipment of Seller used by Seller in connection with the performance of work on Purchaser's premises, nor shall Purchaser have any duty to maintain insurance against any accidents or injuries to persons resulting from Seller's performance of work on the premises.



**21. Waiver of Mechanic's Liens.** Seller hereby waives its rights to any mechanic's lien or other lien under any applicable statutes or otherwise for work done or materials furnished in connection

with the items. Seller shall obtain from any subcontractor or material man prior to the performance of any work on the items or to the furnishing of any materials for the items, a written waiver satisfactory to Purchaser of such subcontractor's or material man's right to any such lien and shall deliver such waiver to Purchaser promptly upon receipt thereof. Upon Purchaser's request, Seller shall obtain without additional cost to Purchaser, a bond satisfactory to Purchaser to indemnify Purchaser against such liens and charges. Seller shall reimburse Purchaser for all costs and damages including attorney's fees and any special, indirect incidental or consequential damages incurred by Purchaser in connection with or as a result of the existence of discharge of any such lien or charge, which are not satisfied by such a bond. Amounts due to Seller may be credited by Purchaser against amounts owed to Purchaser with respect to such costs and/or damages.

**22. Purchaser's Rights or Remedies.** The rights and remedies granted to Purchaser in this order shall not be exclusive of, but shall be in addition to, any other rights or remedies granted in any other part of this order and any other rights or remedies that Purchaser may have at law or in equity.

**23. Entire Agreement.** This document contains the entire agreement between Purchaser and Seller and constitutes the complete and exclusive expression of the terms of the agreement. All prior or contemporaneous written or oral agreements or negotiations with respect to such terms as are included herein or are the subject matter hereof are merged herein. Seller's acceptance shall be deemed to incorporate, without exception, all the terms and conditions hereof notwithstanding any acknowledgment or other form of Seller containing additional or contrary terms or conditions, unless otherwise agreed in a written instrument signed by one of the Purchaser's officers or authorized representatives.

**24. Severability.** In the event that any words, phrase, clause, sentence, or other provision hereof violates any applicable statute, ordinance, or rule of law in any jurisdiction in which it is used, such provision shall be ineffective to the extent of such violation without invalidating any other provision hereof.

**25. Governing Law.** This document and the purchase of any items hereunder shall be governed by and construed in accordance with the laws of the State of Indiana, U.S.A., other than Indiana's choice of law rules.