



EDAG Inc. General Terms and Conditions for Suppliers

1. GENERAL INSTRUCTIONS. EDAG, Inc. ("Buyer") Purchase Order number, line item, and allocation number shall appear on all packages invoices, shipping papers and all other documentation and correspondence relating to this order. Seller shall notify Buyer immediately if this order cannot be filled to Buyer's specification.
2. GOODS COVERED. The term "goods" includes all personal property and all services, including without limitation design, delivery, installation, inspection and testing, specifically described on this Purchase Order or required to be furnished with the goods ordered hereby.
3. PROPERTY OWNERSHIP. Seller agrees to communicate and fully assign the sole and exclusive right, title and interest to Buyer of all inventions, discoveries, computer programs, algorithms, patents, copyrights, technical data and information resulting from work performed under the Purchase Order and/or made or conceived by Seller or its employees on behalf of Buyer solely or in collaboration with Buyer's personnel during the term of the relationship between the parties. Seller shall execute or cause its employees to execute any and all documents which Buyer may deem necessary to assign or to convey to Buyer, its successors or assigns, the sole and exclusive right, title and interest in and to such inventions, discoveries and improvements in any Letters Patent therefore.
4. WORKS FOR HIRE. Seller agrees that all drawings, graphics, technical analyses, models, prototypes, writings, computer programs, patents, copyrights, algorithms and other materials related to and emanating from work performed under the Purchase Order are considered to be works for hire and shall become and remain the exclusive property of Buyer. At the request of Buyer, Seller shall execute, or cause its employees to execute, any and all documents which Buyer may deem necessary to assign to Buyer, its successor or assigns, the sole and exclusive right to such drawings, graphics, technical analyses, models, prototypes, writings, computer programs, patents, copyrights, algorithms and other materials, as well as to assist Buyer in obtaining registrations, patents and copyrights related thereto.
5. PAYMENT. Net 30 Days. Discount or payment period terms will be computed from the date of acceptance by Buyer of confirming goods and receipt by Buyer of the latest of the following: (1) correct invoices, prepared in accordance with the terms herein, containing no discrepancies with any packing lists or the goods received (2) formal acknowledgement of this Purchase Order by return to Buyer of the executed second copy and (3) if and as required by Buyer, certified test reports of certificates of inspection or approval, letters of compliance, or manufacturer's literature.
6. MECHANIC'S LIENS. Unless otherwise provided in this Purchase Order, Seller shall provide and pay for all labor, materials, tools, supplies, services and equipment necessary to properly execute this Purchase Order and Buyer is not obligated to make any payment until Buyer receives all receipts, releases, waivers and any other evidence required to establish that such has been paid for in full. Seller shall keep Buyer's premises free from and shall promptly discharge all liens, claims, security interests and encumbrances arising out of this Purchase Order. Seller waives all rights of mechanics' liens related to the goods against the property and premises of Buyer.
7. PRICE & TAX. Buyer shall not be billed at a price greater than on this Purchase Order unless authorized in writing by Buyer. Seller represents and warrants that (1) the price charged hereunder is the lowest price charged by Seller to competitors of Buyer for goods of like grade and quality and upon conditions similar to those specified herein and (2) such price complies with applicable government regulations in effect at the time of quotation, sale and delivery. Any price reductions made in the goods hereunder subsequent to placement but prior to payment thereof will be made available to Buyer. The price shall include proper packing, cartage and crating and shall include all customary loading and securing on the carrier at the shipping point. Taxable status, if applicable of items purchased, is indicated on purchase order. Unless "Taxable" indicated, purchase is exempt from state tax.
8. CHANGES. Buyer may at any time change the drawings, design, specifications, or any other terms applicable to this Purchase Order, or temporarily suspend delivery or service schedules of any goods hereunder. If any such change shall result in delay or affect expense to Seller, Seller shall notify Buyer immediately and negotiate an equitable adjustment, provided, however, that Seller shall proceed diligently to supply the goods. Seller's warranties as to the goods shall be deemed restated as to the goods as changed. Seller shall have no valid claim for equitable adjustment unless submitted to Buyer in writing within thirty (30) days from the date of any such change which claim shall include an estimate of expenses resulting from such change. Any amendments or modifications of this Purchase Order shall not be binding upon Buyer unless in writing and signed by Buyer.
9. DELIVERY. Unless otherwise stated on this Purchase Order, if goods are sold on an F.O.B. shipping point basis, Seller shall ship the goods freight collect with carrier designated by Buyer, but if such is prohibited by designated carrier, Seller shall ship the goods freight prepaid and invoice the freight charges separately against this Purchase Order number. Seller's invoice for freight charges shall include a copy of carrier's bill. If the goods are sold F.O.B. point of destination, Seller shall ship the goods freight prepaid at Seller's cost with a responsible carrier of Seller's choice. Seller shall maintain all delivery and shipping documents in the event proof of delivery is required. Buyer's count shall be accepted as final and conclusive on shipments not accompanied by Seller's itemized packing list. TIME IS OF THE ESSENCE HEREOF. Delivery of the goods must be at the time specified herein or in other written instruction issued by Buyer.
 - A. Any deadlines and delivery dates which have been arranged are binding. Adherence to agree delivery dates or deadlines is subject to the receipt at the place of delivery of a defect-free delivery or service, or successful completion of the approval procedure or other performance test, if previously agreed upon or legally required.
 - B. The seller is obliged to give the buyer immediate notification in writing of any discernible delay in its performance, any foreseeable possible delay in its performance, or any discernible or foreseeable problems in delivering in the agreed quality. Delays not caused by the seller itself may not be used as grounds of appeal unless the seller has fulfilled its obligation to notify the buyer.
 - C. Notification of delays by the seller and any related adjustment of the agree delivery dates will by no means exempt the seller from any consequences arising from such delays, unless, when extending the delivery date, the buyer issues a written statement expressly waiving the matter of the consequences of the delay. Hence, despite the extension of the delivery dates following notification of delays by the seller, the buyer still remains entitled to all of its claims pursuant to the supply contract which result from, or are connected with, the seller's delay.
 - D. Should the seller fall behind the contractually agreed performance, the buyer is entitled to claim liquidated damages from the seller, without setting any further deadlines. The amount owing for every commenced week of delay is 0.5% of the total value of the order, but must not exceed 5% of the total value of the order. This does not affect other claims. Any liquidated damages for delay are to offset any damages genuinely incurred as a result of the delay, and claimed for. The right to demand payment of liquidated damages is not forfeited following unconditional acceptance of the delayed delivery. Liquidated damages can be claimed by the buyer until the contractual items have been paid in full.
10. FORCE MAJEURE
 - a. In the event of acts of God, labor disputes, civil unrest



Official measure and other unforeseeable, unavoidable and serious events, the parties to the contract are to be temporarily relieved of their obligations for the duration of the disturbance. The parties are obliged to supply the necessary information without delay, insofar as reasonably possible, and to adapt their commitments to the changed circumstances in good faith.

- b. Should acts of god cause obligations to be suspended for a period exceeding two weeks, the buyer will be entitled to terminate the contractual relationship with immediate effect. In this case, the seller will not be entitled to request reimbursement for any expenditure it can prove to have incurred up to the suspension of the contractual obligations, being at that time confident of the validity of the contractual relationship.
11. RESERVATION OF RIGHTS. Buyer may reject and return to Seller at Seller's expense and risk any nonconforming or defective goods, or excess or partial shipments. Buyer expressly reserves its right to inspect goods prior to payment and acceptance, but the making or failure to make any inspection of, or payment for the goods shall not impair such right nor constitute acceptance by Buyer, notwithstanding Buyer's opportunity to inspect the goods. If Buyer accepts nonconforming goods, the price thereto shall be appropriately adjusted downward
12. WARRANTY. Seller warrants full, clear and unrestricted title to Buyer for all goods furnished hereunder free and clear of all liens, restrictions, reservations, security interests, encumbrances and claims of others, whether or not buyer has knowledge thereof. Seller expressly warrants that the goods hereunder (1) shall be new and of the best grade of their respective kinds, unless otherwise requested by buyer; (2) shall be free from defects and shall strictly conform to the requirements hereunder and applicable specifications of buyer (3) neither acceptance nor payment by Buyer shall waive any breach of any warranty. All warranties shall inure to Buyer, its parent company and any and all of their respective affiliates, customers and subsequent owner/users of the goods hereunder or of the end products of which they form a part. Buyer shall notify seller within ninety (90) days after its discovery of any defect, error, omission, performance deficiency or breach of warranty of the goods. If ninety (90) days are not reasonable.
13. PRODUCT/SERVICE INDEMNIFICATION: seller will indemnify, defend and hold harmless buyer, its parent company and all of their respective affiliates, customers and subsequent owner/users of the goods/service from and against any and all losses, expenses, and other incidental and consequential damages; (Court costs and attorneys' fees) arising as a result of actual or alleged breach of any warranties or other terms contained herein or arising under any strict tort or negligence claims premised on either an actual or alleged defect in the goods/service. At buyers request, seller will assume promptly full responsibility for the defense of any action described in this paragraph which may be brought or threatened by a third party against seller and/or buyer.
14. INSURANCE. Seller shall maintain the following types of insurance, in the following amounts, while performing pursuant to the Purchase Order:
- | | |
|------------------------------|--|
| General Liability | <u>\$2 million</u> aggregate; <u>\$1 million</u> per occurrence; <u>\$1 million</u> personal and advertising injury; <u>\$2 million</u> products-completed operations aggregate; <u>\$50 thousand</u> fire damage (any one fire); <u>\$5 thousand</u> medical expense (any one person limit) |
| Automobile Liability | <u>\$1 million</u> combined single limit |
| Workers' Compensation | <u>Statutory coverage</u> ; employer's liability <u>\$500 thousand</u> each accident and <u>\$500 thousand</u> disease (each employee) |
| Umbrella Liability | <u>\$2 million</u> to <u>\$5 million</u> varying on the project size and length of project |

Notwithstanding Seller's obligations under this Section, except to the extent prohibited by law, each insurance policy furnished hereunder shall (i) name Buyer as an additional insured and (ii) provide for written notice to Buyer at least 10 days prior to any cancellation, expiration or modification thereof. Before undertaking work under the Purchase Order, Seller shall provide Buyer with evidence of coverage required by this Agreement. The failure of Seller to purchase or maintain such insurance coverage, or the failure of Seller to provide Buyer a copy of the certificates evidencing such coverage shall not be considered or construed as a waiver by Buyer of the requirement that Seller maintains such coverage and Seller shall remain liable for all injuries and/or damages in accordance with these Terms and Conditions.

15. CONFIDENTIALITY. Performance under this Purchase Order may involve confidential or proprietary information. In accordance with Seller's obligations there under, Seller shall forever maintain the confidentiality of all confidential information, shall take steps as may be reasonably necessary to prevent the disclosure of such information to third parties, shall use such information solely for the limited purpose of performance of this Purchase Order and shall not, without the prior written consent of an authorized representative of Buyer, deliver, discuss, disclose, or otherwise communicate orally or in writing to any third party any such information, the fact that Buyer has submitted or executed this Purchase Order or any of the terms hereof. If Seller is required to execute a Confidentiality Agreement in connection with this Purchase Order the provision of such Agreement are incorporated herein by reference as if herein stated and shall govern in event of a conflict with any provision herein.
16. SAFETY EQUIPMENT. Seller shall, at its own cost and expense, supply and maintain all safety equipment, tools and other items necessary to enable Seller's employees to perform safely on the Purchase Order (including, if necessary, steel toed shoes, safety glasses, long pants, long shirts, ear plugs, gloves, etc.).
17. DRUG SCREENING. Seller's employees that are contracted to work for Buyer on the Purchase Order must submit to a 10 panel drug screening, at Seller's own cost and expense, prior to beginning said work. At Buyer's request, Seller shall provide copies of the screening records to Buyer and maintain the screening records in accordance with privacy standards.
18. TERMINATION. Buyer shall have the right, without cause, to terminate all or any part of this Purchase Order at any time by notice to Seller. Upon receipt of such notice, Seller shall, unless notified otherwise immediately discontinue the work, cease delivery and ordering of material, and make reasonable efforts to cancel existing orders, contracts and subcontracts upon terms satisfactory to Buyer, but shall continue to perform any work necessary to preserve and protect any work in progress, until relinquishing possession and control as provided in Buyer's notice of termination.

Upon compliance thereto, Seller shall be compensated for its properly documented costs and incurred expenditures in connection hereto, together with a reasonable profit thereon, less payments and credits previously received by Seller from Buyer. Any claim for such costs and expenditures must be submitted to Buyer within sixty (60) days after the effective date of termination.

Buyer shall also have the right to terminate this Purchase Order or any part hereof by notice to Seller, without any prejudice to any other rights or remedies Buyer may have and without any liability to Seller on account thereof, if (1) Seller fails to make delivery in accordance with the agreed delivery schedule or otherwise fails to comply with any other instruction, term, condition, covenant or warranty applicable to this Purchase Order (2) Seller fails to make progress so as to endanger performance of the Purchase Order; (3) Seller fails to pay its subcontractors in accordance with applicable agreements or generally fails to pay, or admits in writing its inability to pay, debts as they become due; (4) any proceedings are commenced by or against Seller in bankruptcy, or Seller takes advantage of any law for the benefits of creditors; (5) a receiver, trustee or other custodian is appointed with respect to assets of Seller; (6) an assignment for benefits of creditors is made or any dissolution or liquidation proceeding is commenced in respect of Seller; or (7) a violation or asserted violation is made by Seller of any federal, state, municipal, or local law, ordinance, order, rule or regulation (each, an "Event of Default").

At Buyer's request, Seller shall provide financial statements to Buyer, during the term of this Purchase Order for the purpose of determining Seller's financial responsibility. In the event of such termination and without prejudice to any other rights or remedies Buyer may have complete performance



of this Purchase Order and Seller shall pay all additional cost incurred by Buyer. The provisions of paragraphs 3, 7, 8, 9, 10, 11 and 13 shall survive termination of this Purchase Order.

19. CONSTRUCTION AND LEGAL PROCEEDINGS. This Purchase Order, except where expressly herein provided otherwise, shall be interpreted and construed in accordance with the Uniform Commercial Code and the laws of the State of Michigan without regard to principles of conflict of laws. The rights and obligations of Buyer and Seller under this Purchase Order shall not be governed by the provisions of the United Nations Convention on Contracts for the International Sale of Goods (1980). Each of Buyer and Seller irrevocably (1) agrees that any suit, action or other legal proceeding arising out of this Purchase Order shall be brought in the State Court of Michigan in Oakland County, Michigan, in the United States District Court for the Eastern District of Michigan, (2) consents to the personal jurisdiction of such courts and (3) waives any objection to the laying of venue in such courts and any claim as to inconvenient forum. In the event of default of terms and conditions of this Purchase Order by Seller, Seller will pay and discharge all reasonable attorneys' fees incurred by Buyer in enforcing this Purchase Order.
20. ENTIRE CONTRACT. This Purchase Order shall become a binding contract between Seller and Buyer when either signs this Purchase Order and returns it to Buyer or ships or supplies the goods in compliance herewith. This Purchase Order includes all specifications, drawings, agreements, terms, conditions and other documents referred to herein and any documents or specifications referenced in exhibits or attachments, all of which are incorporated in this Purchase Order by reference as if the terms with herein stated. This Purchase Order constitutes the entire agreement between Buyer and Seller regarding the goods provided for hereunder and supersedes all prior and contemporaneous agreements and understandings whether oral or written between the parties with respect to the subject matter
21. ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT 1-108. These terms and conditions are covered by and supersede the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., except that nothing in this article modifies, limits, or supersedes Section 7001(c) of that Act or authorizes electronic delivery of any of the notices described in Section 7003(b) of that Act