

TERMS AND CONDITIONS

- Parties; Items.** Enginetics 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 and other goods, and may also be used to contract for the performance of services, including maintenance and construction work on premises specified by Purchaser. All goods or services covered by this order regardless of type will be referred to as "Items". Seller shall not subcontract the furnishing of any completed or substantially completed article without the prior written approval of Purchaser.
- Price; Taxes.** 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 price shall control, subject to the terms and conditions which follow, unless Seller's prevailing market price for the items is lower in which case such market 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 right to return the items, freight collect, if Seller charges a price which is in excess of the lowest prevailing market price at which Seller is selling such items.

Unless otherwise provided in this order, the price includes all applicable federal, state and local taxes.

- Delivery or Completion 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 location set forth on the front hereof, Purchaser reserves the right to cancel this order if said date is not met or if prior to said date, Purchaser reasonably believes that said date will not be met. If a delivery or completion date is not specified on the front of this order, a reasonable time will be allowed. Time is of the essence of this purchase order.

If rendering of services is not completed by the time promised. Purchaser reserves the right, without liability and in addition to its other rights and remedies, to terminate this contract by notice effective upon receipt by Seller as to stated services not yet rendered, and to purchase substitute services elsewhere and charge Seller with any loss, expenses, or incidental or consequential damages incurred or suffered. Any provisions herein for delivery of articles or the rendering of services by installments shall not be construed as making the obligations of Seller severable.

- Title and Risk; Shipment.** Title and risk of loss with respect to the items shall remain in Seller until the items in a completed state have been delivered to and accepted by Purchaser or an agent or consignee duly designated by Purchaser at the location specified on the front hereof. 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 upon Seller with respect to such shipment.

Shipments sent C.O.D. without Purchaser's written consent will not be accepted and will be at Seller's risk regardless of F.O.B. point. Transportation charges on goods sold delivered destination must be prepaid. No insurance charge which increases shipping cost will be allowed unless authorized by Purchaser. Regardless of F.O.B. point, Seller shall handle all claims regarding loss or damage of materials in transit, and billing and payment for such material will be held in abeyance until claim is resolved. Goods must be shipped as per instructions, and failure so to ship will cause Purchaser to bill any extra handling charge back to Seller.

Seller agrees to refund to Purchaser an amount equal to the price charged for any spools, reels barrels, drums or other type of container or reusable packaging or handling devise upon their return to Seller.

- Compliance with Laws.** Seller warrants that the items shall not violate or cause Purchaser to be in violation of any applicable federal, state or local laws, regulations or orders. Seller further warrants that in performing any work in connection with the items or this order. Seller shall not violate or cause Purchaser to be in violation of any such laws, regulations or orders. Without limiting the foregoing, Seller certifies that the items shall be produced in compliance with Section 12 and all applicable requirements of the Fair Labor Standards Act as amended and the regulations and orders issued thereunder and that Seller shall fully comply with all applicable worker's compensation laws of any state or political subdivision in which the items or any part thereof will be manufactured, construed, assembled or located or any work under this order will be performed. Upon Purchaser's request, Seller shall furnish to Purchaser certificates evidencing Purchaser's compliance with such worker's compensation laws.

If the items are to be used by Purchaser in whole or in part for the performance of a federal government contract, all applicable provisions of such contract and of the Federal Procurement Regulations 41 C.F.R. Chapters 1-100 or if such federal government contract relates to the Department of Defense of the Defense Acquisition Regulations, 32 C.F.R. Parts 1-39 are incorporated herein by reference. Without limiting the foregoing, Seller hereby agrees that if applicable, the provisions of the following regulations are incorporated herein by reference 41 C.F.R. Section 60-1.4 relating to Executive Order 11246, date September 24, 1965, as amended (See Exhibit "A" attached hereto and herein by reference); 41 C.F.R. Section 60-250.4 relating to the Vietnam Era Veterans Readjustment Assistance Act of 1974 41 C.F.R. Section 60-741.4 relating to the Rehabilitation Act of 1973, and 45 Fed. Reg. 31028 relating to the Utilization of Small Business and Small Disadvantaged Business Concerns.

- Changes.** Purchaser has the right to make changes (including additions and omissions) from time to time in the items, their specifications, drawings, designs, packing instructions, destination or delivery schedule. Immediately upon any such change being ordered, the parties shall undertake to agree on an appropriate adjustment in price and/or other affected terms of this purchase order. Such adjustments in price or other terms of this purchase order must be in writing and signed by Purchaser to be binding upon Purchaser.
- Inspection.** Purchaser may inspect the items 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 be returned to Seller for full refund to Purchaser, including shipping and transportation charges.
- Warranty by Seller.** Seller warrants all item delivered hereunder to be free from defects in material of workmanship, to be of good and merchantable quality, to conform strictly to any specifications, drawings, or samples which may have been provided to or furnished by Purchaser to conform to all applicable requirements of the Occupational Safety and Health Act of 1970 and the regulations, standards and orders issued thereunder, 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.
- 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 expenses, including attorney's fees, arising out of any suit or claim relating to any risk described in the first paragraph of this Section 9.

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 9. Such policies of insurance shall not be cancelable except upon ten days' written notice to Purchaser. Seller shall furnish proof of such insurance to Purchaser.

- Patents.** Seller agrees to indemnify and save harmless from any and all claims for infringement of any patent, trademark, copyright or industrial design covering any articles purchased hereunder or their use, including the cost (including counsel fees) of defending against said claims. Seller agrees to indemnify Purchaser of all losses of whatever nature incurred as a consequence of injunctions against the sale, use, or resale of said article. Any such claim of infringement, whether asserted against Purchaser or Seller and regardless of its validity, shall constitute cause for termination of this order if Purchaser so decides and damages to Purchaser after such termination, in addition to the indemnities granted herein, shall be calculated in the same manner as damages for non-delivery.
 - Non-Disclosure and Purchaser's Property.** All drawings, specifications, artwork, patterns information or data furnished by Purchaser or developed by Seller in connection with this order shall be Purchaser's exclusive property, shall be used by Seller only for Purchaser's work, shall be kept confidential, and shall be returned promptly at Purchaser's request. If any work relating to this order is assigned to subcontractors, Seller shall require a similar agreement from said subcontractors. Unless otherwise agreed in writing, all tools, pattern equipment or material of every description furnished to Seller by Purchaser or paid for by Purchaser, any replacement thereof, and any material affixed or attached thereto shall be personal property of Purchaser. Such property shall be plainly marked or otherwise adequately identified by Seller as Purchaser's property, and shall be safely stored separate and apart from Seller's property. Seller shall not substitute any property for Purchaser's property and shall not use such property except in filling Purchaser's orders. 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.
 - 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 unreasonable in Purchaser's judgment to accept delivery hereunder, Purchaser shall have the option to terminate this purchase order or to delay the delivery or completion of all or part of the items, such termination or delay being without cost to Purchaser.
 - Cancellation.** Purchaser shall have the right to cancel this order upon the occurrence of any of the following events. Seller's insolvency or actions indicating insolvency shall as 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 cancellation 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 suffer.
 - 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 this order to any entity with which it is affiliated or to any entity into which it shall be merged, with which it shall be consolidated, or by which it, purchases all or substantially all of its Purchaser's assets.
 - Licenses.** Seller shall be required to obtain and pay for any licenses, permits and inspections by public bodies required in connection with the items.
 - Work on the Premises.** If work is to be performed hereunder on premises specified by 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 or 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 specified by 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 in 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.
- Waiver of Mechanic's Liens.** Seller hereby waives its right 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 materialman 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 materialman'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 all such liens and charges. Seller shall reimburse Purchaser for all costs and damages including attorneys' fees and any special, indirect, incidental, or consequential damages incurred by Purchaser in connection with or as a result of the existence or discharge of any such lien or charge, which are not satisfied by such a bond. Amounts due to Seller under this order may be credited by Purchaser against amounts owed to Purchaser in respect of such costs or damages.
 - Purchaser's Rights or Remedies.** Any rights or remedies granted to Purchaser in any part of 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.
 - Entire Agreement.** This document shall be deemed to contain the entire agreement between Purchaser and Seller and to constitute to the complete and exclusive expression of the terms of the agreement, all prior or contemporaneous written or oral agreements or negotiations with respect to the subject matter hereof being merged herein. By way of illustration and not limitation, 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 Seller shall have expressly advised Purchaser to the contrary in a written request apart from such form. In the event of a written request by Seller for additional or contrary terms or conditions, such modification may only be made in these terms and conditions by a written instrument signed by one of Purchaser's officers or authorized representatives.
 - Liabilities.** Seller performing work to Purchaser's supplied materials or parts assumes liability for the value in total for such materials and parts and is, without limitation, liable to Purchaser for (i) the value of such materials and parts in the event any materials or parts are damaged as a result of Seller's actions or omissions and (ii) any lost profits of Purchaser or damages of any kind or nature incurred by Purchaser resulting from Seller's failure to deliver to Seller the items ordered in accordance with the terms of this Order.
 - Severability.** In the event that any provision hereof shall violate 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.
 - Non-Competition.** Seller acknowledges that the material or services provided, or proposed to be provided, by Seller pursuant to this or any related purchase order, are for the exclusive use of Purchaser in support of its ultimate customer. Seller further agrees not to contact the ultimate customer, except with the written consent of the Purchaser, including, without limitation, for the purpose of bidding on such work, or doing such work, or providing materials for any other purpose. Seller agrees not to disclose to any party any of the prices it quotes on a job for Purchaser, except as required by law. In the event of a breach of the foregoing, Seller will be responsible to Purchaser in damages for all profits actually or potentially lost by Purchaser by reason of such breach plus any profits earned by Seller by reason of such breach, plus any attorney's fees, expert fees and court costs incurred by Purchaser in collecting from Seller any such damages or in preventing any future or further breach by Seller.