

General Terms and Conditions

1. ACCEPTANCE

Seller acknowledges and agrees that these General Terms and Conditions are incorporated in, and a part of, this contract and each purchase order. Purchase order will be in written form or by electronic data interchange, relating to the goods and/or services to be provided by Seller pursuant to this contract (such documents are collectively referred to as this "Contract"). Seller acknowledges and agrees that it has read and understands these General Terms and Conditions. If Seller accepts this Contract in writing or commences any of the work or services which are the subject of this Contract, Seller will be deemed to have accepted this Contract and these General Terms and Conditions in their entirety without modification. Any additions to, changes in, modifications of, or revisions of this Contract (including these General Terms and Conditions) which Seller proposes will be deemed to be rejected by the originator except to the extent that an authorized employee of Challenger expressly agrees to accept any such proposals in writing.

2. TERM AND TERMINATION

2.1 Term

This Contract is made and entered into the date established on the Purchase Order and shall remain in effect for the period agreed to at that time. Upon expiration of this period all existing Terms and Conditions shall also expire. There shall be no automatic renewals.

2.2 Termination

Challenger may terminate all or any part of this Contract without any liability to Seller or obligation to purchase raw materials, work-in-process or finished goods if Seller (a) repudiates, breaches, or threatens to breach any of the terms of this Contract, including Seller's warranties, (b) fails to perform or threatens not to perform services or deliver goods in accordance with this Contract or (c) fails to assure timely and proper completion of services or delivery of goods.

3. SHIPPING AND BILLING

3.1 Shipping

Seller will (a) properly pack, mark and, ship goods as instructed by Challenger or any carriers and in accordance with any applicable laws or regulations, (b) route shipments as Challenger instructs, (c) not charge for costs relating to handling, packaging, storage or transportation (including duties, taxes, fees, etc.) unless otherwise expressly stated in this Contract, (d) provide packing slips with each shipment that identify Challenger's contract and release/purchase order number, and (e) promptly forward the original bill of lading/packing listing or other shipping receipt with respect to each shipment as Challenger instructs. Seller will include on bills of lading or other shipping receipts the correct classification identification of the goods shipped as Challenger or the carrier requires for cross border shipments.

3.2 Billing

Seller will (a) accept payment based upon Challenger's Evaluated Receipt Record/Self-Billed Invoice unless Challenger requests that Seller issue and deliver an invoice and (b) accept payment by electronic funds transfer. Payment terms established by this contract are from the date Challenger receives the goods or services. Challenger may withhold payment for any goods or services until Challenger receives evidence, in such form and detail as Challenger requires, of the absence of any liens, encumbrances and claims on such goods or services.

3.3 Taxes

Unless otherwise stated in this Contract, the price includes all applicable federal, state, provincial, and local taxes other than sales, value added, or similar turnover taxes or charges. Seller will separately invoice Challenger for any sales, value added, or similar turnover taxes or charges that Seller is required by law to collect from Challenger. Seller will provide Challenger with whatever information and documentation that is required under local law in order to enable Challenger to recover any sales, value added, or similar turnover taxes or charges. Invoices shall also be in the appropriate form as required by local law to permit deduction of payments for income tax purposes by Challenger.

3.4 Delivery Schedules

Deliveries will be made in the quantities, on the dates, and at the times specified by Challenger in this Contract. Time is of the essence with respect to all delivery schedules Challenger establishes. Challenger will not be required to pay for any goods that exceed the quantities specified in Challenger's delivery schedules or to accept goods that are delivered in advance of the delivery date specified in Challenger's delivery schedules. Seller bears the risk of loss of all goods delivered in advance of the delivery date specified in Challenger's delivery schedules. If the requirements of Challenger's customers or market, economic or other conditions require changes in delivery schedules, Challenger may change the rate of scheduled shipments or direct temporary suspension of scheduled shipments without entitling Seller to a price adjustment or other compensation.

3.5 Premium Shipments

If Seller fails to have goods ready for shipment in time to meet Challenger's delivery schedules using the method of transportation originally specified by Challenger and, as a result, Challenger requires Seller to ship the goods using a premium (more expeditious) method of transportation, Seller will ship the goods as expeditiously as possible. Seller will pay, and be responsible for, the entire cost of such premium shipment, unless Challenger's actions caused Seller to fail to meet Challenger's delivery schedules, in which case Challenger will pay any costs for premium shipment.

3.6 Volume Forecasts

Challenger may provide Seller with estimates, forecasts or projections of its future anticipated volume or quantity requirements for goods. Seller acknowledges that any such forecasts are provided for informational purposes only and, like any other forward looking projections, are based on a number of economic and business factors, variables and assumptions, some or all of which may change over time. Challenger makes no representation, warranty, guaranty or commitment of any kind or nature, express or implied, regarding any such forecasts provided to Seller, including with respect to the accuracy or completeness of such forecasts.

4. NON-CONFORMING GOODS

Challenger is not required to perform incoming inspections of any goods, and Seller waives any right to require Challenger to conduct any such inspections. Seller will not substitute any goods for the goods covered by this Contract unless Challenger consents in writing. If Challenger rejects any goods as non-conforming, Challenger may, at its option, (a) reduce the quantities of goods ordered under this Contract by the quantity of non-conforming goods, (b) require Seller to replace the non-conforming goods, and/or (c) exercise any other applicable rights or remedies. If Seller fails to inform Challenger in writing of the manner in which Seller desires that Challenger dispose of non-conforming goods within forty-eight (48) hours of notice of Challenger's rejection of non-conforming goods (or such shorter period as is reasonable under the circumstances), Challenger will be entitled to dispose of the non-conforming goods without liability to Seller, provided, however, that in any event, Challenger may elect to arrange for the shipment of any non-conforming goods back to Seller at Seller's expense. Seller will bear all risk of loss with respect to all non-conforming goods and will promptly pay or reimburse all costs incurred by Challenger to return, store or dispose any non-conforming goods. Challenger's payment for any non-conforming goods will not constitute acceptance by Challenger, limit or impair Challenger's right to exercise any rights or remedies, or relieve Seller of responsibility for the non-conforming goods.

5. FORCE MAJEURE

If Seller is unable to produce, sell or deliver any goods or services covered by this Contract, or Challenger is unable to accept delivery, buy or use any goods or services covered by this Contract, as a result of an event or occurrence beyond the reasonable control of the affected party and without such party's fault or negligence, then any delay or failure to perform under this Contract that results from such event or occurrence will be excused for only so long as such event or occurrence continues, provided, however, that the affected party gives written notice of each such delay (including the anticipated duration of the delay) to the other party as soon as possible after the event or occurrence (but in no event more than three (3) days thereafter). Such events and occurrences may include, by way of example and not limitation, natural disasters, fires, floods, windstorms, severe weather, explosions, riots, wars, sabotage, labor problems (including lockouts, strikes and slowdowns), equipment breakdowns and power failures. During any delay or failure to perform by Seller, Challenger may (a) purchase substitute goods from other available sources, in which case the quantities under this Contract will be reduced by the quantities of such substitute goods and Seller will reimburse Challenger for any additional costs to Challenger of obtaining the substitute goods compared to the prices set forth in this Contract and/or (b) have Seller provide substitute goods from

other available sources in quantities and at times Challenger requests and at the prices set forth in this Contract. If Seller fails to provide adequate assurances that any delay will not exceed thirty (30) days or if any delay lasts more than thirty (30) days, Challenger may terminate this Contract without any liability to Seller or obligation to purchase raw materials, work-in-process or finished goods under Section 2. Before any of Seller's labor contracts expire and as soon as Seller anticipates or learns of any impending strike, labor dispute, work stoppage or other disruption at Seller's facilities that might affect the delivery of goods to Challenger, Seller will produce (and locate in an area that will not be affected by any such disruption) a finished inventory of goods in quantities sufficient to ensure the supply of goods to Challenger for at least thirty (30) days after such disruption commences.

6. WARRANTY

Seller warrants and guarantees to Challenger, its successors, assigns and customers that the goods and services covered by this Contract will (a) conform to all samples, descriptions, brochures and manuals furnished by Seller or Challenger, (b) be merchantable, (c) be of good material and workmanship, (d) be free from defect, and (e) be fit and sufficient for the particular purposes intended by Challenger and any customer of Challenger. If requested by Challenger, Seller will enter into a separate agreement for the administration or processing of warranty chargebacks for nonconforming goods.

7. INGREDIENTS AND HAZARDOUS MATERIALS

If Challenger requests, Seller will promptly furnish to Challenger, in such form and detail as Challenger directs: (a) a list of all ingredients in the goods, (b) the amount of all ingredients, and (c) information concerning any changes in or additions to the ingredients. Prior to, and together with, the shipment of the goods, Seller will furnish to Challenger and all carriers sufficient written warning and notice (including appropriate labels on the goods, containers and packing) of any hazardous material that is an ingredient or a part of any of the goods, together with all special handling instructions, safety measures and precautions as may be necessary to comply with applicable law, to inform Challenger and all carriers of any applicable legal requirements and to best allow Challenger and all carriers to prevent bodily injury or property damage in the handling, transportation, processing, use or disposal of the goods, containers and packing.

8. INSOLVENCY OF SELLER

In any of the following or any similar events Challenger may immediately terminate this Contract without any liability to Seller or obligation to purchase raw materials, work-in-process or finished goods under Section 2: (a) insolvency or financial difficulties of Seller, (b) filing of a voluntary petition in bankruptcy by Seller, (c) filing of any involuntary petition in bankruptcy against Seller, (d) appointment of a receiver or trustee for Seller, (e) execution of an assignment for the benefit of creditors by Seller, or (f) any accommodation by Challenger, financial or otherwise, not contemplated by this Contract, that are necessary for Seller to meet its obligations under this Contract. Seller will reimburse Challenger for all costs Challenger incurs in connection with any of the foregoing whether or not this Contract is terminated, including, but not limited to, all attorney or other professional fees.

9. INSURANCE

Seller will maintain insurance coverage as required by applicable law or as reasonably requested by Challenger with carriers reasonably acceptable to Challenger. With respect to any such insurance coverage, Seller will furnish to Challenger either a certificate evidencing satisfaction of the above-mentioned insurance requirements under this Contract or certified copies of all insurance policies within ten (10) days after Challenger requests. The certificate must provide that Challenger will receive thirty (30) days prior written notice from the insurer of any termination or reduction in the amount or scope of coverage. The furnishing of certificates of insurance and purchase of insurance will not limit or release Seller from Seller's obligations or liabilities under this Contract.

10. REMEDIES AND INJUNCTIVE RELIEF

The rights and remedies reserved to Challenger in this Contract are cumulative with, and in addition to, all other or further remedies provided in law or equity. To the extent that this Contract is for the supply of goods for use as, or fabrication into, parts, components or systems, Seller acknowledges and agrees that money damages would not be a sufficient remedy for any actual, anticipatory or threatened breach of this Contract by Seller with respect to its delivery of goods to Challenger and

that, in addition to all other rights and remedies which Challenger may have, Challenger shall be entitled to specific performance and injunctive or other equitable relief as a remedy for any such breach.

11. CUSTOMS AND EXPORT CONTROLS

11.1 Credits and Refunds

Transferable credits or benefits associated with or arising from goods purchased under this Contract, including trade credits, export credits or rights to the refund of duties, taxes or fees belong to Challenger. Seller will, at its expense, provide all information necessary (including written documentation and electronic transaction records in Challenger-approved formats) to permit Challenger to receive these benefits, credits, or rights. Seller will furthermore, at its expense, provide Challenger with all information, documentation, and electronic transaction records relating to the goods necessary for Challenger to fulfill any customs -related obligations, origin marking or labeling requirements and certification or local content reporting requirements, to enable Challenger to claim preferential duty treatment for goods eligible under applicable trade preference regimes, and to make all arrangements that are necessary for the goods to be covered by any duty deferral or free trade zone program(s) of the country of import. Seller will, at its expense, provide Challenger or Challenger's nominated service provider with export documentation to enable the goods to be exported, and obtain all export licenses or authorizations necessary for the export of the goods unless otherwise indicated in this Contract, in which event Seller will provide all information as may be necessary to enable Challenger to obtain such licenses or authorization(s).

11.2 Customs-Trade Partnership Against Terrorism

To the extent any good covered by this Contract are to be imported into Canada, Seller shall comply with all applicable recommendations or requirements of the Bureau of Customs and Border Protection's Customs-Trade Partnership Against Terrorism ("C-TPAT") initiative. Upon request, Seller shall certify in writing its compliance with the C-TPAT initiative.

12. CHALLENGER'S RECOVERY RIGHT

With respect to any monetary obligations of Seller or Seller's affiliates to Challenger or Challenger's affiliates, including, without limitation, direct and indirect losses, costs and damages resulting from Seller's failure to timely delivery goods or services, the failure of any goods or service to conform to applicable warranties or other breach by Seller of this Contract, Challenger may at any time, as applicable, recover, recoup or setoff such amounts by deducting such amounts from any sums that are, or will become, owing, due or payable to Seller or Seller's affiliates by Challenger or Challenger's affiliates.

13. NO IMPLIED WAIVER

The failure of either party at any time to require performance by the other party of any provision of this Contract will not affect the right to require such performance at any later time, nor will the waiver by either party of a breach of any provision of this Contract constitute a waiver of any succeeding breach of the same or any other provision. No failure or delay in exercising any right or remedy will operate as a waiver thereof nor will any single or partial exercise thereof preclude other or further exercise thereof. No course of dealing or course of performance may be used to evidence a waiver or limitation of Seller's obligations under this Contract.

14. ASSIGNMENT AND CHANGE IN CONTROL

Challenger may assign its rights and obligations under this Contract without Seller's prior written consent. Seller may not assign or delegate its rights or obligations under this Contract without prior written consent from an authorized employee of Challenger. In addition, Challenger may terminate this Contract upon giving at least 60 days notice to Seller, without any liability to Seller or obligation to purchase raw materials, work-in-process or finished goods under Section 2, if Seller (a) sells, or offers to sell, a material portion of its assets or (b) sells or exchanges, or offers to sell or exchange, or causes to be sold or exchanged, a sufficient amount of its stock or other equity interests that effects a change in the control of Seller or (c) executes, or otherwise becomes subject to, a voting or other agreement or trust that effects a change in the control of Seller.

15. GOVERNING LAW AND JURISDICTION

In all cases (a) this Contract is to be construed according to the laws of the country (and state or province, if applicable) where Challenger's receiving location is located (as shown by the ship to or receiving address of Challenger), excluding the provisions of the United Nations Convention on Contracts for the International Sale of Goods and any choice of law provisions that require application of any other law; (b) any legal or equitable action or proceedings by Challenger against Seller arising out of, or in connection with, this Contract may be brought by Challenger in any court(s) having jurisdiction over Seller or, at Challenger's option, in any court(s) having jurisdiction over Challenger's receiving location, in which event Seller consents to such jurisdiction and venue, including service of process in accordance with applicable procedures; and (c) any legal or equitable actions or proceedings by Seller against Challenger arising out of, or in connection with, this Contract may be brought by Seller only in the court(s) having jurisdiction over Challenger's receiving location.

16. SEVERABILITY

If any provision of this Contract is invalid or unenforceable under any statute, regulation, ordinance, executive order or other rule of law, such provision will be deemed reformed or deleted, as the case may be, but only to the extent necessary to comply with such statute, regulation, ordinance, order or rule, and the remaining provisions of this Contract will remain in full force and effect

17. ENTIRE AGREEMENT

This Contract, together with the attachments, exhibits, supplements or other terms of Challenger specifically referenced in this Contract, constitutes the entire agreement between Seller and Challenger with respect to the matters contained in this Contract and supersedes all prior oral or written representations and agreements. This Contract may only be modified by a written contract amendment issued by Challenger. Notwithstanding anything to the contrary contained herein, Challenger explicitly reserves, and this Contract will not constitute a waiver or release of, any rights and claims against Seller arising out of, or relating to, any fraud or duress in connection with the formation of this Contract or any breach or anticipatory breach of any previously existing contract between Challenger and Seller (whether or not such previously existing contract related to the same or similar goods or subject matter as this Contract). All payments by Challenger to Seller under this Contract are without prejudice to Challenger's claims, rights, or remedies.

18. TRANSLATIONS

Challenger may provide various translated versions of these General Terms and Conditions for informational purposes only. However, the original English language version of these General Terms and Conditions will apply in the event of any disagreement over the meaning or construction of any provisions of these General Terms and Conditions.