

# THIS PURCHASE ORDER IS SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- EXTRAS** - No charges will be allowed for taxes, transportation, boxing, packing or returnable containers unless stated. All sales, use, excise or similar taxes to be paid by Buyer must be itemized separately hereon and on invoices. All packaging must conform to Uniform Freight Classifications Requirements.
- SPECIFICATIONS** - All articles ordered to Government or Buyer's specifications must comply with such specifications current as of the date of this order, unless otherwise specified by Buyer.
- WARRANTY** - Unless otherwise agreed to in writing by the parties, Seller expressly warrants that Seller has good and marketable title to the articles, that all articles ordered to specification will conform thereto and to the drawings, samples or other description furnished or adopted by the Buyer, or, if not ordered to specifications, will be fit and sufficient for the purpose intended, and that all articles will be merchantable, of good material and workmanship, and free from defect. The above are in addition to and not in lieu of all warranties implied by law.
- INSPECTION** - All articles ordered will be subject to final inspection and approval at the plant of Buyer. Such inspection will be made within a reasonable time after delivery of the articles, irrespective of the date of payment therefor. Any rejected articles returned to Seller shall be at Seller's expense. No replacements of defective articles returned shall be made unless specified on Buyer's returned material orders. Upon inspection and acceptance, the liability of Seller under this and the preceding paragraph shall be limited to liability for latent defects, fraud or such gross mistakes of Seller as amounts to fraud.
- ADVERTISING** - Seller shall not, without the prior written consent of Buyer, in any manner advertise or publish the fact that Buyer has placed this order.
- ACT OF GOD** - Neither party shall be liable in damages for any failure to deliver or delay in delivery due to any unforeseeable causes beyond its control and without its fault or negligence, including, but not restricted to, acts of God or of the public enemy, acts of the Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and (unless the materials or supplies to be furnished under a subcontract are procurable on the open market) delay of a subcontractor due to such causes. Seller will notify Buyer in writing within ten (10) days after the beginning of any such cause.
- TERMINATION** - Buyer reserves the right to cancel this purchase order or any part thereof upon bankruptcy of Seller, or any proceeding instituted by or against Seller under the Laws of the United States of America, or any state thereof, pertaining to insolvency, including (but not limited to) reorganization, composition of creditors, receivership, trusteeship, assignments for the benefit of creditors and credit extension trusts, or notwithstanding the provisions of the preceding paragraph, if delivery is not made within the time specified or within a reasonable time in case no time is specified, or if the quantity or quality of the articles ordered is not as specified herein.  
Buyer also reserves the right to terminate this order or any part thereof even though Seller is not in default hereunder, by the giving of a notice in writing to Seller at least ten (10) days in advance of the effective termination date, in such event, there will be made an equitable adjustment of the terms of this order mutually satisfactory to Buyer and Seller. Upon receipt of any notice of termination, Seller shall, unless the notice otherwise directs, immediately discontinue all work and the placing of further orders or subcontracts hereunder, terminate work under orders and subcontracts outstanding hereunder and take any necessary action to protect property in Seller's possession in which Buyer has or may acquire an interest. If the parties cannot by negotiation agree within a reasonable time upon such equitable adjustment, settlement will be made in accordance with the Approved Termination Article for Fixed-Price Supply Subcontracts (issued by the Director of Contract Settlement on 4, October, 1944).
- CHANGE IN SPECIFICATIONS** - Buyer reserves the right at any time to make changes in delivery, drawings, designs, specifications, materials, packaging, place of delivery and method of transportation as to any material and/or work covered by this order. In such event there will be made an equitable adjustment in price and time of performance mutually satisfactory to Buyer and Seller.
- ASSIGNMENT AND SUBCONTRACTING** - This order may not be assigned or subcontracted in whole nor may any assignment of any money due or to become due hereunder be made by Seller without in each case the prior written consent of Buyer.
- DIES, JIGS, TOOLS AND PATTERNS** - If the price to be paid is stated on the face of this order to include special dies, jigs, tools and patterns used in the manufacture of such articles, then such tools, etc., shall be and become the property of Buyer. They shall be kept in good condition and from time to time replaced by Seller without expense to Buyer, except that the actual cost of changes due to Buyer's change of design or specifications shall be paid for by Buyer, if such changes are made prior to the exhaustion of the useful life of the dies, jigs, tools or patterns changed. No dies, tools, patterns, or drawings supplied to Seller by, or otherwise belonging to Buyer, shall be used in the production, manufacture, or design of any articles other than those called for by this order, except with the written consent of Buyer. At the termination of this order such dies, jigs, tools, patterns, or drawings belonging to Buyer shall be disposed of as Buyer shall direct.
- LABOR REQUIREMENTS** - Seller represents and warrants that the articles furnished will be produced in compliance with the applicable provisions of the Fair Labor Standards Act of 1938 as amended, and the regulations and orders issued by the United States Department of Labor, and any and all other applicable laws, rules, and regulations pertaining to Labor.
- EFFECT OF INVALIDITY** - The invalidity in whole or in part of any condition of this purchase order shall not affect the validity of the other conditions, and the offending condition shall be deemed deleted herefrom.
- REMEDIES** - The remedies herein reserved shall be cumulative, and additional to any other remedies in law or equity. No waiver of a breach of any provision of this purchase order shall constitute a waiver of any other breach, or of such provision.
- INDEPENDENT CONTRACTOR** - Seller shall perform the aforesaid work and furnish all labor in connection therewith at its sole risk and account and assume full responsibility therefor. Nothing in this agreement shall be deemed to constitute Seller, or any of its employees, the agent, representative or employee of Buyer. Seller shall be an independent contractor, and any provisions or recitals in any purchase order, the specifications for work and additional terms of this contract which may appear to give Buyer the right to direct contractor as to the details of the performance of the work, or to exercise a measure of control over the work, shall mean that contractor shall follow the desires of Buyer in the results only of the work and not in the means whereby the work is to be accomplished, and contractor shall use its own discretion and shall have complete and authoritative control over the work as to the details of performing the work.
- INDEMNITY AND INSURANCE** - Seller shall defend (by counsel satisfactory to Buyer), indemnify and hold Buyer harmless from and against any and all claims, costs, liabilities judgments, fines

or penalties, including interest, court costs and attorneys' fees, which may be made or asserted against Buyer and arise (in whole or in part) out of any of the following:

- Any actual or alleged failure of Seller, or the goods delivered hereunder, to comply with any applicable federal, state and local laws, executive orders or governmental regulations;
- Any breach of Seller's representations, warranties or obligations hereunder;
- Any actual or alleged manufacturing or design defects (including, without limitation, latent defects) in the goods including, without limitation, liabilities sounding in the nature of tort or product liability;
- Any actual or alleged infringement or violation of any patent, copyright license or trademark relating to the goods; or
- Any actual or alleged negligence of Seller.

At its sole cost and expense, unless otherwise provided, Seller shall, before any part of the work is commenced, cause to be issued and maintained during the entire progress of the work, insurance of such type and amounts as may be reasonably required by Buyer. A certificate shall be supplied by Seller evidencing the following minimum insurance in force on the work covered by this contract.

- |   |                                   |
|---|-----------------------------------|
| A. Worker's compensation and employees liability. | C. Automobile liability insurance |
| B. Commercial general liability insurance.        | (1) Public liability              |
| (1) Public liability                              | (2) Property damage               |
| (2) Product liability                             |                                   |
| (3) Property damage                               |                                   |

This work shall not proceed until such certificate, or a letter of coverage, is in possession of Buyer purchasing department and approved by said department. Contractor shall name Buyer and owners as additional insureds on all insurance policies maintained by contractor pertaining to the work to the extent the same can be done without additional premium expense to Seller.

- DELIVERY AND RISK OF LOSS** - Buyer's production schedule and warranties to customers are dependent upon timely delivery of the goods on the date(s) shown on the face hereof. Except otherwise specified herein, delivery shall be strictly in accordance with the schedule (or revised schedule) set out or referred to in this Purchase Order. Time is of the essence. Seller shall be responsible for all damages of any kind incurred or suffered by Buyer that were caused by any delay or failure of Seller in making deliveries. Seller agrees to notify Buyer immediately if, at any time, it appears that Seller may not meet the delivery schedule. Unauthorized advance shipments and shipments other than for the quantity ordered or in excess of any allowance overages are returnable at Buyer's option, and at Seller's expense. Unless otherwise specified, all deliveries shall be F.O.B. Buyer's plant. Buyer may, from time to time, change delivery schedules or direct temporary suspension of scheduled shipments. Unless Seller objects in writing to Buyer's revisions, Seller will be obligated to comply strictly with the revised schedule.
- EXCESS SHIPMENTS** - Unless otherwise specified, an increase in the quantities called for by this order will be accepted and payment adjusted accordingly when caused by conditions of loading, shipping, packing or allowances in manufacturing processes, within the following limits: (1) If this order called for sheet, tubing or bar stock, the excess shall not exceed 10% of the specified quantity; (2) As to all other items, and excess not exceeding 5% of the specified quantity, or not exceeding \$25.00 in amount whichever is less will be accepted.
- BINDING AGREEMENT** - This purchase order including all the terms and conditions herein contained shall be binding upon Buyer only after Seller has duly executed and returned to Buyer a copy thereof.
- EEO/AAP STATEMENT** - In connection with the performance of work under this contract, Seller agrees not to discriminate against any employee or applicant for employment because of race, religion, color, sex, age, national origin, veteran status, disability or any other aspects protected by federal and local statutes. The following employment laws and regulations are incorporated herein by reference, and shall apply to Seller unless otherwise exempted; Executive Order 11246, as amended (Equal Employment Opportunity/Affirmative Action); 38 U.S.C. 4212, as amended (Vietnam Era Veterans Readjustment Assistance Act); and Section 503 of the Rehabilitation Act of 1973, as amended (Disabled Regulations), and the implementing regulations found at 41 C.F.R. Parts 60-1 through 60-60, Part 60-250 and Part 60-741. Seller also acknowledges that Buyer is an affirmative action employer pursuant to Executive Order 11246 and agrees to facilitate Buyer's compliance by providing information to Buyer as requested.
- OCCUPATIONAL SAFETY AND HEALTH ACT** - Seller hereby warrants that all goods shall conform to the Occupational Safety and Health Act (OSHA). In the event that the goods do not conform to OSHA and Buyer is penalized for such nonconformance, Seller shall indemnify Buyer for all penalties, costs and expenses, including interest levied against Buyer.
- DISPUTES** - In the event of any litigation relating to this Purchase Order, the prevailing party in such litigation shall be entitled to recover from the other party all costs and expenses related thereto, including attorneys' fees. Pending resolution of any such dispute by settlement or by final judgment, the parties shall proceed diligently with performance. Seller's performance shall be in accordance with Buyer's written instructions.
- CHOICE OF LAW** - This Purchase Order shall be construed, interpreted and enforced according to the laws of the United States of America and the State of California, not including laws related to choice of law.
- SETOFF** - All claims for money due or to become due from Buyer shall be subject to deduction or setoff by the Buyer by reason of any counterclaim of any type which Buyer may have against Seller.

Mail to the Accounting Department (a) **DUPLICATE INVOICES WHEN GOODS ARE SHIPPED**, (b) Statement of the account as of the last day of the month. Each case or parcel and accompanying packing list of contents must show order number. Packing list accompanies the shipment. Buyer's count will not be accepted.

Further instructions or changes are not binding on Seller unless evidenced by Buyer's duly executed Purchase Order Change Notice signed by Buyer's authorized representative.

Do not ship ahead of schedule unless authorized.

## ASME REQUIREMENTS

**MATERIAL SPECIFICATIONS PER ASME BOILER AND PRESSURE VESSEL CODE SECTION IV, PARTS HG**

**CERTIFIED REPORTS OF MATERIAL COMPOSITION AND OR MECHANICAL TEST RESULTS MUST BE PROVIDED TO BUYER UPON REQUEST. REPORTS MUST REFERENCE P.O. #, PART #, AND IN THE CASE OF CASTINGS, THE POUR DATE.**