

**ESP INTERNATIONAL
PURCHASE ORDER TERMS AND CONDITIONS**

Unless this Purchase Order expressly provides otherwise, it is limited to the terms and conditions set forth herein. Buyer hereby objects to any additional or different terms and conditions proposed by Seller in any proposal, quotation, acknowledgment or other document. Any such proposed terms and conditions shall be void and the terms and conditions herein shall constitute the complete and exclusive statement of the terms and conditions of the contract between the parties. When used in this Purchase Order, the term "Goods" means the items, materials, equipment, software, tooling, parts and/or work or services supplied pursuant to this Purchase Order.

1. ACCEPTANCE AND MODIFICATIONS. This Purchase Order ("Order"), whether or not issued with reference to a quotation or proposal of Seller, shall constitute an offer. Acceptance by Seller is expressly limited to the terms and conditions hereof and is evidenced by commencement of performance. No changes or modifications in this Order shall be valid unless confirmed in writing by ESP International ("Buyer").

2. PACKING, PACKAGING, AND TRANSPORTATION. No charge for packing, packaging, containers or transportation will be allowed except as provided for in this Order. Goods shall be suitably packed to secure the lowest transportation costs, in accordance with requirements of Customs and/or common carriers, and in such a manner as to assure against damage from weather or transportation. The goods shall be described on bills of lading in accordance with current Uniform Freight Classification. ESP's order numbers and part numbers must be plainly marked on all invoices, packages, bills of lading, and shipping orders. Packing lists shall accompany each box or package shipment. ESP's count or weight shall be final and conclusive on shipments not accompanied by packing lists. Except as consented by ESP, Seller shall not ship in advance of schedule and shall ship in exact quantities ordered. Seller agrees to use only freight carriers for finished product specified in writing by Buyer. Buyer must approve any other carriers used in writing prior to shipment.

3. SHIPMENT/DELIVERY Seller shall ship/deliver Goods in accordance with instructions and specifications set forth in the Order and according to lead-time provided by Seller. If Goods are not shipped/delivered in accordance with Buyer's instructions and specifications, Seller shall be responsible for any additional costs incurred by Buyer as a result of Seller's failure to comply with such instructions, delivery lead-time, and/or specifications.

4. DUTY DRAWBACK RIGHTS. This Order includes all related customs duty and import drawback rights (including rights developed by substitution and rights which may be acquired from Seller's suppliers) if any, which Seller can transfer to Buyer. Seller shall inform Buyer of the existence of any such rights and upon request, supply such documents as may be required to obtain such drawback.

5. PAYMENT. Unless otherwise stated in this Order, invoices for Goods shall be paid net 45 days from the date of receipt of the invoice or receipt of the Goods, whichever is later ("Payment Due Date"). Discounts offered by Seller to Buyer shall be allowed if payment is made on or before the Payment Due Date. Buyer reserves the right to require Sellers to submit invoices electronically as set forth in this Order.

6. OVERAGES AND SHORTAGES. Except in the sole discretion of Buyer, overages or shortages of Goods specified in this Order will not be accepted and such Goods will be held at Seller's risk. Buyer shall have no obligation to keep or preserve any overages or shortages of Goods delivered by Seller. Buyer may, and at Seller's request shall, return the Goods at Seller's risk, and all transportation charges, both to and from the original destination, shall be paid by Seller.

7. FABRICATION AND MATERIAL COMMITMENTS. Unless otherwise authorized in writing by Buyer, Seller shall not make commitments for materials or fabricate or assemble in advance of time reasonably necessary to comply with the terms of this Order.

8. TERMINATION. Buyer may terminate this Order for its convenience, in whole or in part, by written or electronic notice at any time. If this Order is terminated for convenience, any claim of Seller shall be settled on the basis of reasonable costs incurred by Seller in the performance of this Order for labor and materials which are not usable by Seller for other goods it manufactures. Materials for which Seller is reimbursed shall become the property of Buyer and be surrendered to it upon Buyer's request. Seller shall safeguard and shall not destroy such materials without Buyer's consent.

9. DELAYS. If Seller fails or refuses to proceed with this Order, or if Seller fails to make delivery, or Buyer refuses to accept delivery in accordance with the delivery schedule, the other party may cancel the then remaining balance of this Order unless the delay is an "excusable delay" as hereinafter defined. An "excusable delay" shall not constitute a default under this Order. The term "excusable delay" as used in this section means any delay in making or accepting deliveries which results without fault or negligence on the part of the party involved and which is due to causes beyond its control including,

without limitation, acts of God or of the public enemy, any preference, priority or allocation order issued by Government or any other act of Government, fires, floods, epidemics, quarantine restrictions, freight embargoes, unusually severe weather, and delays of a party's supplier due to such causes. For greater certainty, "excusable delay" does not include any strike, lock-out, labor dispute or inability to obtain labor, utilities, services or raw materials. Each party shall promptly notify the other of any such delay and the cause thereof.

10. INSPECTION AND ACCEPTANCE. Buyer, at its option, may inspect and/or test the Goods at Seller's plant, off site, and/or the point of destination. Buyer shall have the right to monitor Seller's inspection, quality and reliability procedures and review the data supporting same. Acceptance of the Goods by Buyer shall not relieve Seller from any of its obligations and warranties hereunder. In no event shall payment or transfer of title constitute acceptance of the Goods.

11. QUALITY AND WARRANTY. Seller expressly warrants that all Goods covered by this Order will conform to the standards, specifications, drawings, samples, models, 3-D geometry or other description furnished or expressly adopted by Buyer, and will be of good material and workmanship, and free from defects, including defect in design (if Seller's design) and, if custom-designed by Seller for the application specified by Buyer, be comparable in quality to similar custom-designed goods sold for similar applications, and if the Goods are not ordered to Buyer's specifications, Seller further warrants that they will be of merchantable quality and fit and sufficient for the purpose intended. Seller further warrants that all Goods covered by this Order, including but not limited to components and material furnished for or incorporated into the Goods will comply with all applicable Federal, State, Provincial and local statutes, laws, regulations, orders, and ordinances, including, without limitation, all environmental and occupational health and safety laws and industry standards and Buyer's specifications that restrict or prohibit certain chemical compounds as constituents of Goods as specified in the ESP Restricted Materials List. Seller also warrants that its processes shall comply with the ESP Supplier Manual and that the Goods will comply with all current industry safety standards, including labeling requirements and adequate warnings as required. These documents can be found at: www.espint.com/suppliers and are hereby incorporated herein by reference.

12. DEFECTIVE GOODS. If any of the Goods fail to meet the warranties contained in Section 11 (a "Nonconformity"), Seller shall, upon notice from Buyer, promptly correct or replace those Goods at Seller's expense. If Seller shall fail to adequately address the Nonconformity, then Seller shall reimburse Buyer for all costs to correct or replace the Nonconformity in the Goods. If Seller fails to do so, Buyer may cancel this Order as to all such Goods, and in addition, may cancel the then remaining balance of this Order. After notice to Seller, all such Goods will be held at Seller's risk. Buyer may, and at Seller's direction shall, return such Goods to Seller at Seller's risk, and all transportation charges, both to and from the original destination, shall be paid by Seller. Any payment for such Goods shall be refunded by Seller unless Seller promptly corrects or replaces the same at its expense. If any field problem occurs as a result of a Nonconformity in the Goods and is sufficiently serious and widespread to threaten Buyer's marketing of its end product or Buyer's reputation, or poses a previously unforeseen safety hazard or causes any governmental agency, including, without limitation, a governmental consumer product safety agency, including, without limitation, the United States Consumer Products Safety Commission, to require a change in Buyer's end product, such that a recall is a reasonable corrective action, Seller shall pay forthwith to Buyer all costs and expenses reasonably incurred by Buyer in taking such corrective action. If the corrective action is necessary in part because of a Nonconformity in the Goods provided, and in part because of an act or omission of Buyer, said costs and expenses shall be allocated between the parties pro rata according to their respective percentage of fault.

13. MANUFACTURING CHANGES. Seller shall give Buyer not less than ninety (90) days prior, written notice of any specification, design, part number or other identification changes, or any major changes in process or procedure or changes in the location of the manufacturing plant or place

where Seller performs any of its obligations under this Order if any such changes may affect the Goods.

14. INDEMNIFICATION. Seller shall protect, defend, hold harmless and indemnify Buyer its subsidiaries, affiliates, and their officers, directors, employees, agents, successors, assigns, and customers, from and against any and all claims, suits, allegations, judgments, actions, liabilities, losses, damages, costs and expenses, including, but not limited to, attorneys' fees and expenses (the "Loss") arising out of, resulting from, related to or associated with:

- a) injury, loss or damage of any nature or kind claimed by a third party, and caused by or arising from, or alleged to have been caused by or arising from, or existing because of, infringement or alleged infringement, of any patent or copyright, or wrongful use of third-party trade secrets or proprietary information, for or on account of the manufacture, sale, offer for sale, or use of any Goods, except in the case where Seller's compliance with specifications prescribed by and originating with Buyer constitutes the sole basis of such infringement, alleged infringement, or wrongful use. If the use or sale of any Goods furnished hereunder is enjoined as a result of such suit, Seller, at its option and at no expense to Buyer, shall obtain for the party to be indemnified (including Buyer's customers, if applicable) the right to use and/or sell the Goods or substitute acceptable equivalent Goods and extend this indemnity thereto;
- b) Seller's negligence, strict liability or other claim involving the design, manufacture, material and/or workmanship of the Goods or the warnings or lack thereof;
- c) Seller's breach of this Order; or
- d) Seller's possession, use, repair or maintenance of the Property under Section 17.

15. INDEMNIFICATION PROCEDURE. Failure of Buyer to discover and/or remedy the act(s) or omission(s) in Section 14 shall not excuse Seller from this obligation. Buyer shall promptly notify Seller in writing of the Loss. Buyer shall cooperate in, but not be responsible for the investigation and defense of the action in respect of the Loss or for any costs and expenses associated therewith. Should Seller fail to assume its obligation hereunder, Buyer shall have the right, but not the obligation, to defend itself and to thereafter require Seller to reimburse and indemnify Buyer for any and all costs and expenses, including legal fees, paid by Buyer in connection therewith. Any insurance maintained by Seller as required by the terms of this Order shall in no way be interpreted as relieving Seller of any responsibility under this section. Sections 14 and 15 shall survive termination, cancellation or expiration of this Order.

16. INSURANCE REQUIREMENTS. Seller will maintain insurance coverage and will provide proof of insurance coverage as required by Buyer upon request.

17. BAILMENT. Machinery, equipment, tools, jigs, dies, patterns, drawings, specifications and samples furnished to Seller by Buyer on other than a charge basis, or which are separately billed to Buyer ("Property"), shall be held by Seller as bailee. Upon the completion of this Order, all such Property shall be returned to Buyer or otherwise satisfactorily accounted for by Seller. Seller, at its expense, shall insure all such Property for the reasonable value thereof against loss or damage of any kind.

18. SPECIAL TOOLS. Unless otherwise stated, all special tools, dies, jigs, patterns, machinery and equipment needed by Seller for the performance of this Order shall be obtained by Seller at its expense and shall be the property of Seller.

19. APPLICABLE LAWS. Seller, in the performance of this Order, shall comply with all applicable Federal, State, Provincial and local statutes, laws, regulations, order and ordinances and agrees, upon request, to furnish a certificate to such effect in such form as Buyer may from time to time require. The UN Convention on Contracts for the International Sale of Goods is hereby specifically excluded from this Order. **[FOR SELLERS LOCATED IN THE U.S. ONLY:** Seller, in the performance of this Order, shall comply with the provisions of the United States Fair Labor Standards Act of 1938, as amended.

20. PACKAGING AND LABELING LAWS. Seller shall package, transport and label the Goods and their containers in accordance with all applicable federal, state, provincial and local packaging, shipping and labeling laws and regulations in effect in the place to which the Goods are shipped or as specified otherwise by Buyer. In absence of laws regulating the labeling of hazardous substances, Seller shall label such substances or their containers in accordance with WARNING LABELS, MANUAL, L-1,

published by the Manufacturing Chemists Association, Washington, D.C. or any ANSI or similar standard enacted subsequent to this Manual.

21. ASSIGNMENT. Seller shall assign or transfer this Order or any interest therein or monies payable thereunder without the prior, written consent of the other party, and any assignment made without such consent shall be null and void, except that Buyer may assign this Order and its interest therein to any affiliated corporation or to any corporation succeeding to Buyer's business without the consent of Seller.

22. TAXES. Unless otherwise stated, the prices do not include sales, use, excise, and similar taxes applicable to the Goods or the materials used in the manufacture of Goods. All such taxes and charges shall be shown separately on Seller's invoices.

23. REMEDIES. No remedy herein provided shall be deemed exclusive of any other remedy allowed by law.

24. CONFIDENTIALITY. This Order and any material transmitted herewith may contain information confidential or proprietary to Buyer, its subsidiaries or affiliates and such information is not to be used by Seller other than the purpose for which it was transmitted to Seller. Seller shall hold such information in strictest confidence and not disclose such information to third parties without the prior, written consent of Buyer. Seller will execute a confidentiality and non-disclosure agreement as required by Buyer.

25. CLERICAL ACCURACY. Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Buyer shall be subject to correction without penalty or any liability on the part of the Buyer.

26. CLAIMS. Claims for shortages or erroneous payments must be presented to Buyer within thirty (30) days after receipt of or access to the funds or such claims will not be allowed. This period will be extended to sixty (60) days after the invoice date for shipments to locations outside the United States.

27. SAFETY. Seller and all individuals that Seller assigns, or sub-contracts with, to perform work or services at Buyer's facilities shall comply with all occupational health and safety and environmental legislation and regulations and all applicable industry standards.

28. CODE OF CONDUCT. Seller shall comply with the ESP Supplier Code of Conduct located in the ESP Supplier Manual.

29. SUPPLY CHAIN SHIPMENT SECURITY. [FOR SELLERS SHIPPING TO THE U.S.] Seller shall implement security measures to ensure the safe and secure transportation of Goods throughout the supply chain and adhere to all applicable security requirements of the country in which it operates. Buyer has been accepted into the Customs Trade Partnership Against Terrorism Act (C-TPAT) to protect the safety of borders of the United States. If Seller ships Goods into the United States, Seller shall adhere to security requirements outlined by US Customs: http://www.cbp.gov/xp/cgov/trade/cargo_security/.

30. CHOICE OF LAW. The laws of the State of Iowa (without giving effect to its conflicts of law principles and without regard to the Uniform Computer Information Transactions Act (UCITA) or any version or revision of UCITA) govern all matters arising out of or relating to this Order, including, without limitation, its validity, interpretation, construction, performance and enforcement. The provisions of the United Nations Convention on Contracts for the International Sale of Goods do not apply to this Order. Litigation or legal proceedings which arise out of or relate to this Order are to be conducted before a judge and not a jury. The parties consent to the exclusive jurisdiction of, and venue in, any federal or state court of competent jurisdiction located in Iowa for the purposes of adjudicating any matter arising out of or relating to this Order.

31. RIGHT TO AUDIT CLAUSE. Buyer shall have the right to perform audits from time to time of Seller's costs and other items related to the terms of this Order. Seller shall, upon reasonable request and during reasonable business hours, make available for examination and reproduction by Buyer and its duly authorized agents, such books, records, and invoices of Seller as may be necessary to perform an audit pursuant to this Section. Such audits may be performed while this Order is in effect or within one year after its termination.

32. RIGHT OF ENTRY. Buyer, its subsidiaries and its customers shall have the right of entry, upon reasonable scheduling, to any level of the seller controlled supply chain necessary to determine and verify the quality of contracted work, records and material. Seller shall provide the facilities, information, equipment, documentation and personnel reasonably necessary to perform the activities at no additional cost.

33. RECORDS RETENTION. The minimum records retention period is 15 years beginning the date the order was shipped to ESP International, Inc and its subsidiaries. This documentation must include all Material Certifications & Test Reports, Special Process Certifications and Inspection Records.

34. INDEPENDENT CONTRACTOR. Seller is an independent contractor. For purposes of this agreement, all individuals that Seller assigns, or sub-contracts with, to perform work or services are deemed to be Seller's

"employees". Nothing in this Order, or any conduct, communication, trade practice or course of dealing between the parties hereto or their subsidiaries or affiliates, shall be interpreted or deemed to create any partnership, joint venture, agency, or fiduciary relationship.

35. PRICING VIA ELECTRONIC DATA INTERCHANGE (EDI).

When pricing is sent on delivery schedule data via electronic format(s), the price is for information only and may not be the contract price for all delivery due dates.

36. EXPORT COMPLIANCE. The parties acknowledge that the technology, information and materials provided by Seller to Buyer hereunder may be subject to the export and foreign trade control laws and regulations of the United States, including, without limitation, the U.S. Commerce Department's Export Administration Regulations and regulations of the U.S. Treasury Department's Office of Foreign Assets Control, that potentially restrict or impose prior licensing requirements for the transfer or disclosure of the technology, information or materials to other parties, which are hereby incorporated by reference as appropriate. If such technology, information and materials is subject to such laws, Seller will promptly inform Buyer of such restraints. Seller hereby represents and warrants that it and its employees and contractors shall comply with all U.S. export and foreign trade control laws and regulations with respect to the release or distribution of any such technology, information or materials, including U.S. laws and regulations prohibiting exports, re-exports or disclosure of U.S. origin technology or materials to:

- (a) countries subject to comprehensive economic embargo sanctions or designated as terrorist-supporting by the United States (currently Cuba, Iran, North Korea, Sudan and Syria, and subject to change); the government entities of such countries, wherever located; nationals of such countries, wherever located (including specifically, employees or contractors in the United States on temporary visas); or any person, wherever located, known to be acting for or on behalf of such a country
- (b) other entities or persons designated on the Treasury Department's list of Specially Designated Nationals and Blocked Persons, the Commerce Department's Denied Party list or Entity list, or persons otherwise prohibited from receiving such information or materials under U.S. export law or regulation (see www.bis.doc.gov for information); or
- (c) any end-user engaged in design, development or production of chemical, biological, or nuclear weapons.

37. For Those Companies Requiring a Certificate of Conformance.

The Seller must submit with each shipment, a written statement signed and dated by an authorized representative certifying that items or services provided are in accordance with specified requirements. Each manufacturer's lot/batch number in each shipment must be physically segregated and identified to include quantity per lot/batch number on the Certificate of Conformance to maintain lot/batch traceability. If the shipment contains multiple special process lots/batches within each manufactured lot, each processed lot/batch must be segregated and identified to maintain complete traceability. Documentation showing clear traceability for the part number ordered, up to and including shipment to Buyer and its subsidiaries must be included for each lot in each shipment unless otherwise noted on the applicable purchase order.

All Certificate of Conformance shall include the following at a minimum:

- (a) Purchase Order Number
- (b) Part number
- (c) Revision number if applicable
- (d) Quantity for each manufactured lot/batch number
- (e) Manufacture's name and part number
- (f) Lot/Batch number(s) – they may be defined by any format that provides full trace to all elements of the manufactured lot/batch
- (g) Country of Origin
- (h) Shelf-life information

Sellers packing list may suffice if all elements (a)-(h) above are satisfied.