



## ACME MANUFACTURING COMPANY GENERAL TERMS AND CONDITIONS

1. **Acceptance.** This order constitutes an offer by Acme Manufacturing Company (“Buyer”) to Seller and is not binding on Buyer until accepted by Seller in writing or by a delivery of the goods or the commencement of work on goods to be specially manufactured for Buyer pursuant to this order. All terms and conditions proposed by Seller which are different from or in addition to these terms and conditions are expressly rejected by Buyer and shall not become part of the agreement.

2. **Delivery.** Time is of the essence. Delivery must be effected within the time specified on the face of this order. If Seller fails to make deliveries or perform services at the agreed time, all damages suffered by Buyer and any premium transportation or other costs required to meet the specified delivery schedule will be at the expense of Seller.

3. **Payment.** It is understood that any cash discount period will date from the receipt of the goods or from the date of the invoice, whichever is later.

4. **Packing and Shipment.** Seller will pack and mark goods in accordance with Buyer’s instructions and shall secure delivery free of damage and deterioration. Seller is responsible for the goods until delivery at the designated FOB point. Prices specified include all charges and expenses for containers, packing and crating, and transportation to the FOB point.

5. **Quantities.** The specific quantity ordered must be delivered in full and not be changed without Buyer’s consent in writing. Any unauthorized quantity is subject to Buyer’s rejection and return at Seller’s expense.

6. **Price.** If price is not stated in this order, it is agreed that the goods shall be billed at the price last quoted, or billed at the prevailing market price, whichever is lower. This order must not be filled at a higher price than last quoted or charged without Buyer’s specific authorization.

7. **Warranty.** Seller expressly warrants that all the materials and articles covered by this order will be in exact accordance with such order (and in accordance with any related description or specification provided to Seller by Buyer), will be

free from defects in material and workmanship, and will be merchantable. Such warranty shall survive delivery, and shall not be deemed waived or by payment for them. Any deviations from this order or specifications furnished hereunder, or any other exceptions or alterations must be approved in writing by an officer of Buyer.

8. **Labor Disputes.** Seller will notify Buyer immediately of any actual or potential labor dispute delaying or threatening to delay timely performance of this order, and will include all relevant information to Buyer.

9. **Indemnification.** Seller will defend, indemnify and hold Buyer harmless against all claims, liabilities, losses, damages and settlement expenses for injury or death of any person and damage or loss of any property allegedly or actually resulting from or arising out of any act or omission, negligent work of Seller or its employees, agents or subcontractors in connection with performing this order, either on Buyer’s property or in the course of their employment.

10. **Cancellation.** Buyer reserves the right to cancel all or any part of the undelivered or unaccepted portion of this order if Seller does not make deliveries as specified, time being of the essence of this Contract, or if Seller breaches any of the terms hereof including, without limitation, the warranties of Seller.

11. **Inspection and Acceptance.** All goods shall be received subject to Buyer’s right of inspection and rejection. Defective goods or goods not in accordance with Buyer’s specifications will be held for Seller’s instruction at Seller’s risk and if Seller so Directs, will be returned at Seller’s expense. Alternatively, Buyer may attempt to cure such defect and may offset against the purchase price hereunder its costs incurred in curing such defect. If inspection discloses that part of the goods received are not in accordance with Buyer’s specification, Buyer shall have the right to cancel any unshipped portion of the order. Payment for goods on this order prior to inspection shall not constitute acceptance thereof and is without prejudice to any and all claims that Buyer may have against Seller.



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12. **Patents.** Seller warrants the material purchased hereunder does not infringe any letters patent, trademarks, or copyrights granted by the United States and covenants and agrees to save harmless and protect Buyer its successors, assigns, customers and users of its product, against any claim or demand based upon such infringement, and, after notice, to appear and defend at its own expense any suits at law or in equity arising therefrom.

13. **Changes.** Buyer may, at any time, make changes in the order. Any claim by Seller for a price adjustment resulting from such change must be asserted in writing within thirty (30) days from date or receipt by Seller of Buyer's notification of any change. Buyer will have the right to verify all claims hereunder by auditing relevant records of Seller. Seller agrees to proceed with the order as changed under this Clause.

14. **Claims Adjustment.** Buyer may at any time and without notice deduct or set-off Seller's claims for money due or to become due from Buyer against any claims that Buyer has or may have arising out of this or any other transaction between Buyer and Seller.

15. **Drawback Rights.** This order includes all related customs duty and import drawback rights, if any, which Seller can transfer to Buyer. Seller will inform Buyer promptly of any such rights and will supply documents as may be required to obtain such drawback.

16. **Information Disclosed.** The specifications, drawings, data and other information transmitted to Seller by Buyer in connection with the performance of this order are the property of buyer, Seller will handle all of this information in such a manner to insure that it adequately protects the interest of Buyer therein.

17. **Required Compliance.** In providing goods or services hereunder, Seller will comply with any and all applicable federal, state and local laws (including Canadian or other foreign laws), and regulations promulgated thereunder. Seller will defend, indemnify and hold Buyer harmless from and against any and all claims, losses, damages, costs and expenses resulting from or arising out of any failure or Seller or Seller's employees, agents and subcontractors to comply with any applicable governmental regulations and/or statutes.

18. **Remedies.** The rights and remedies herein reserved to Buyer are cumulative and in addition to any other or further rights and remedies available at law or in equity.

19. **No Waiver.** No waiver of any breach of any provision of this order will constitute a waiver of any other breach or a waiver of such provision.

20. **Governing Law.** This contract shall be construed according to the laws of the State of Michigan as if fully performed thereunder.

21. **No Assignment.** This contract may not be assigned by Seller without Buyer's written consent.

22. **Sales Tax Exemption.** Buyer is a manufacturer of machinery and metal parts for resale and the materials purchased on this order are for consumption or for industrial processing in manufacturing products for sale.