

ACME MANUFACTURING COMPANY
GENERAL TERMS AND CONDITIONS OF PURCHASE

1. **Parties.** “Buyer” means Acme Manufacturing Company. The party with which the Purchase Order is placed is referred to as “Seller.” The goods and/or services covered by the Buyer’s purchase order (the “Purchase Order”) are referred to as the “Products,” which term includes all parts, portions, items, attachments, repairs, replacements, and substitutions thereof.

2. **Agreement Acceptance.** The term “Agreement” refers to and includes the face of the Purchase Order document, these General Terms and Conditions and all other documents specifically (and by a written instrument) made a part of the Agreement by Buyer. The Agreement is the entire agreement between the parties with respect to the Products and no modification of the Agreement shall be effective unless in writing and signed by an authorized representative of Buyer. Seller agrees that Seller’s written acceptance of the Agreement, or the commencement of any work or service under the Agreement constitutes Seller’s acceptance of this Agreement, the Purchase Order and these General Terms and Conditions. All terms and conditions proposed by Seller, whether written or oral, 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.

3. **Delivery.** Time is of the essence. Delivery must be effected within the time specified on the face of the Purchase 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.

4. **Payment Terms.** It is understood that any cash discount period will date from the receipt of the Products or from the date of the invoice, whichever is later. All payments shall be made in U.S. Dollars. Payment terms shall be as set forth in the Purchase Order. Seller shall pay all taxes out of the purchase price, including without limitation, all federal, state, local and foreign taxes applicable to the provision of the Products, unless otherwise stated in the Purchase Order.

5. **Packing and Shipment/Risk of Loss.** Seller will pack and mark the Products in accordance with Buyer’s instructions and shall secure delivery free of damage and deterioration. Seller is responsible for the Products and shall bear all risk of loss until delivery at the designated delivery point. Unless otherwise specified in the Agreement, prices specified include all charges and expenses for containers, packing and crating, and transportation to the delivery point.

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

7. **Price.** If the price is not stated in the Purchase Order, it is agreed that the Products shall be billed at the price last quoted, or billed at the prevailing market price, whichever is lower. This Purchase Order must not be filled at a higher price than last quoted or charged without Buyer’s specific authorization. Seller warrants that the prices quoted are the lowest prices at which these or similar Products and quantities are sold by the Seller to all other customers. Should there be a price reduction between the placement of this Purchase Order and the receipt of the Products, Buyer will be entitled to the reduction. In the event that Buyer receives an offer from a competing supplier to supply the Products in comparable quantities and with the same or better quality, Buyer shall notify Seller of the existence and terms of the competing offer and Seller shall have thirty (30) days within which to either match the competing offer or release Buyer from its remaining obligations to purchase Products under this Agreement.

8. **Warranty.** In addition to any other express or implied warranties provided by law or otherwise, Seller expressly warrants that all the Products covered by this Agreement shall: (a) be in exact accordance with such Agreement and in accordance with any related description or specifications provided to Seller by Buyer, (b) be of the highest quality, materials and workmanship, and be free from defects in

ACME MANUFACTURING COMPANY
GENERAL TERMS AND CONDITIONS OF PURCHASE

material and workmanship, and (c) be merchantable and fit for the purpose for which intended, Seller acknowledging that it knows of Buyer's intended use. Seller warrants that the Products purchased hereunder do not infringe any letters patent, trademarks, or copyrights granted by the United States or any foreign country and that the Products do not otherwise infringe upon any intellectual property rights of any third party. Seller also expressly warrants that title to all Products shall be vested in Buyer free and clear of any and all liens and encumbrances of whatsoever nature and kind. Such warranties shall survive delivery indefinitely, and shall not be deemed waived by inspection, tests, acceptance, payment for use or processing of the Products. Any deviations from this Agreement or specifications furnished hereunder, or any other exceptions or alterations must be approved in writing by an authorized representative of Buyer.

9. **Indemnification.** Seller will defend, indemnify and hold Buyer, its affiliates, customers and each other third party to which Products are provided, and each of their shareholders, members, directors, officers, employees and agents, harmless against all claims, demands, actions, causes of action, suits, judgments, settlements, costs, fees, penalties, damages, attorneys' fees and all other liabilities and obligations whatsoever (collectively, the "Losses") allegedly or actually resulting from or arising out of (a) any defect in the Products purchased herein, (b) any act, omission or negligent work of Seller or its employees, agents or subcontractors in connection with performing this Agreement, either on Buyer's property or in the course of their employment or engagement with Seller, and (c) any breach of warranty under this Agreement, (d) any failure of Seller or Seller's employees, agents and subcontractors to comply with any applicable governmental regulations and/or statutes, (e) any breach of the Agreement or any other agreement between Buyer and Seller; (f) any recall campaign or warranty sharing program in which Buyer, any customer of Buyer or any third party participates in connection with any of the Products; and (g)

any patent, trademark, copyright, trade secret or other infringement claims against Buyer or the Products. This indemnification shall continue indefinitely notwithstanding any delivery, inspection, tests, acceptance, payment for or use or processing of the Products.

10. **Insurance.** Seller shall maintain such public liability insurance, including products liability, completed operations, contractors liability and protective liability, automobile liability insurance (including non-owned automobile liability) and Worker's Compensation, and employer's liability insurance as will adequately protect Buyer against any Losses. Upon request, Seller shall provide certificates of insurance evidencing such insurance signed by an authorized representative of the insurance company and shall name Buyer as an additional insured. Seller's insurance coverage shall be primary and non-contributory. At least ten (10) days prior written notice will be given to Buyer prior to any material change in or cancellation of Seller's insurance policies.

11. **Cancellation for Breach.** Buyer reserves the right to cancel all or any part of the undelivered or unaccepted portion of the Purchase Order, without any liability to Seller, if (a) Seller does not make deliveries as specified, time being of the essence of this Agreement, (b) Seller breaches any of the terms hereof including, without limitation, the warranties of Seller, or (c) Seller fails to provide to Buyer, upon request, with reasonable assurance of future performance. Seller shall be liable for any damages incurred by Buyer by reason of the default which resulted in such cancellation.

12. **Cancellation for Convenience.** In addition to any other rights of Buyer to cancel or terminate the Agreement, Buyer may at its option, immediately terminate all or any part of the Agreement at any time and for any reason by giving ten (10) days written notice to Seller. Upon receipt of notice of termination, Seller unless otherwise directed by Buyer, shall (a) terminate promptly all work under this Agreement, (b) transfer title and deliver to Buyer the finished work, the work-in-process, and the parts and materials which Seller produced or

ACME MANUFACTURING COMPANY
GENERAL TERMS AND CONDITIONS OF PURCHASE

acquired in accordance with this Agreement and which Seller cannot use in producing goods for itself or for others, (c) settle all claims by subcontractors, if any, for actual costs that are rendered unrecoverable by such termination, and (d) take actions reasonably necessary to protect property in Seller's possession in which Buyer has an interest. Upon termination by Buyer under this Section, Buyer shall pay to Seller the following amounts without duplication: (i) the purchase price for all finished Products, work and completed services which conform to the requirements of this Agreement and not previously paid for; (ii) Seller's reasonable cost of the work-in-process and parts and materials transferred to Buyer in accordance with this Section; and (iii) Seller's reasonable costs of settling the claims of the obligations Seller would have had to the subcontractors in the absence of termination. Buyer's obligation upon termination under this Section shall not exceed the total purchase price under the Purchase Order, as reduced by payments made prior to the termination.

13. Inspection and Acceptance. All Products shall be received subject to Buyer's right of inspection and rejection. Defective Products or Products not in accordance with Buyer's specifications will be held for Seller's instruction at Seller's risk of loss 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 Products received are not in accordance with Buyer's specifications, Buyer shall have the right to cancel any unshipped portion of the Purchase Order. Payment for Products on this Purchase Order prior to inspection shall not constitute acceptance thereof and is without prejudice to any and all claims that Buyer may have against Seller.

14. Changes. Buyer may, at any time, make changes in the Purchase Order. Any claim by Seller for a price adjustment resulting from such change must be asserted in writing within thirty (30) days from date of 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 Purchase Order as changed under this Section.

15. 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.

16. Drawback Rights. This Agreement 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.

17. Confidentiality and Proprietary Rights. The specifications, drawings, data and other information transmitted to Seller by Buyer in connection with the performance of this Agreement (collectively, the "Data") are the property of Buyer. Seller shall keep all confidential and proprietary information of Buyer, including, without limitation, the Data, in strictest confidence, and further agrees not to disclose or permit disclosure to others, or use for any purpose other than the purpose of the Agreement, any confidential or proprietary information of Buyer. Seller shall protect Buyer's confidential and proprietary information using the same degree of care with which it protects its own confidential and proprietary information, but in no event less than reasonable care. Seller's obligations under this Section shall survive the expiration or termination of the Agreement.

18. Force Majeure. Neither party shall be liable for damages for delay in delivery or failure of performance arising out of causes beyond its control and without its fault or negligence, including but not limited to, acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, labor disputes, freight embargoes, and unusually severe weather. If the delay in delivery or failure to perform is caused by the

ACME MANUFACTURING COMPANY
GENERAL TERMS AND CONDITIONS OF PURCHASE

default of a subcontractor of Seller and if such default arises out of causes beyond the control of both Seller and the subcontractor, and without the fault or negligence of either of them, Seller shall not be liable to Buyer for damages. Seller will notify Buyer in writing within ten (10) days after the beginning of any such cause and the effect on Seller's production and supply of the Products and Seller will use its best efforts to remedy such circumstances and resume performance as soon as possible.

19. **Allocation.** In the event of Seller's inability for any reason to supply the total demands for Product, Seller shall distribute its available supply among Buyer and all other purchasers, as well as departments and divisions of the Seller, on a percentage basis that is no less favorable than is provided to any other purchaser or internal user without liability for any failure to perform this Agreement which may result therefrom. Seller shall have no obligation to purchase supplies of Product to enable it to perform this Agreement.

20. **EEO/Affirmative Action.** Seller hereby agrees to comply with Executive Order 11246, as amended, and its implementing regulations, including the equal opportunity clause set forth in Section 202 of the order and 60.1.4(a) of the regulations of the Secretary of Labor, Title 41 CFR, Chapter 60, Parts 1-0, which are incorporated in this Agreement by reference. In addition, the Agreement incorporates by reference the affirmative action clauses of the Rehabilitation Act of 1973 at 41 CFR 60-741.4, and the Vietnam Era Readjustment Act of 1974 at 41 CFR 60-2504.

21. **Required Compliance.** In providing Products hereunder, Seller will comply with any and all applicable federal, state and local laws (including Canadian or other foreign laws), and regulations promulgated thereunder.

22. **Use of Buyer's Name.** Seller agrees that it will not use Buyer's name whether by including reference to Buyer in any list of customers advertising that its services or products are used by Buyer or otherwise, without written authorization by Buyer's authorized representative.

23. **On-Site Review.** During the period Seller is manufacturing the Products, Buyer shall have the right of access to any of Seller's or Seller's subcontractors plants.

24. **Buyer's Property.** All drawings, patterns, designs, supplies, materials, molds, fixtures, equipment, tools, jigs, dies and other items furnished by Buyer, either directly or indirectly, to Seller, or for which Seller has been reimbursed by Buyer (the "Buyer's Property") shall be and remain the property of Buyer. Seller shall bear the risk of loss and damage to Buyer's Property. Buyer's Property shall at all times be properly used, stored and maintained by Seller, shall not be comingled with the property of Seller or with that of any third party, and shall not be moved from Seller's premises without Buyer's prior written approval. Buyer's Property shall be used exclusively in the filling of Purchase Orders from Buyer, and shall not be used for production of larger quantities than those specified, or in the production, manufacture or design of any other article for any other person, without Buyer's prior written consent. Buyer shall have the right to enter onto Seller's premises at all reasonable times to inspect Buyer's Property and Seller's records with respect thereto. Upon the request of Buyer, Buyer's Property shall be immediately released to Buyer or delivered to Buyer by Seller. To the maximum extent permitted by law, Seller waives any lien or other rights that Seller might otherwise have with respect to any of Buyer's Property for work performed on or with such Buyer's Property or otherwise.

25. **Service and Replacement Parts.** For a period conterminous to the required service and replacement part period of Buyer's customers, Seller will send to Buyer the Products necessary to fulfill Buyer's replacement requirements for such Products. Buyer and Seller will negotiate in good faith to agree on prices for such service and replacement parts during such time period.

26. **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.

ACME MANUFACTURING COMPANY
GENERAL TERMS AND CONDITIONS OF PURCHASE

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

28. **Governing Law; Venue** This Agreement shall be construed according to the laws of the State of Michigan as if fully performed thereunder. The parties expressly exclude the applicability of the United Nations Convention on Contracts for the International Sale of Goods, if the same would otherwise apply here. Each party consents to the exclusive jurisdiction and venue of the state and federal courts located in Oakland County, Michigan, and each party waives any argument as to venue in such courts.

29. **No Assignment.** This Agreement may not be assigned (including by operation of law) or subcontracted by Seller without Buyer's prior written consent.