

Purchase Order — General Terms

1. **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. If inspection discloses that part of the goods received are not in accordance with Buyer's specifications, 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.

2. **Warranty Specifications.** Seller expressly warrants that all the materials and articles covered by this order or other description or specification furnished by Buyer will be in exact accordance with such order, description or specification and free from defects in material and/or workmanship, and merchantable. Such warranty shall survive delivery, and shall not be deemed waived either by reason of buyer's acceptance of said materials or articles 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 Buyer's Purchasing Department.

3. **Changes.** Purchaser may at any time by written order make changes in drawings and specifications, require additional work, or direct the omission of work covered by this purchase order. If such changes cause an increase or decrease in the amount due hereunder, or in the time required for performance, an equitable adjustment shall be made and this purchaser order shall be modified in writing. Any claim for adjustment under this provision must be asserted within thirty (30) days from the date the change is ordered, or the claim will not be allowed.

4. **Termination.** The performance of work under this contract may be terminated, in whole or, from time to time, in part, by the Purchaser. If this purchase order shall be designated "TERM ORDER" on the face hereof, then upon termination, Purchaser shall be liable to Seller at the contract price only for material shipped for delivery prior to receipt of the notice of termination by Seller. In the case of all other orders, Seller shall, upon termination by Purchaser, be paid such costs incurred in partial performance as cannot be recouped, not to exceed the purchase price.

5. **Cancellation.** Buyer reserves the right to cancel all or part of the undelivered 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.

6. **Default.** Purchaser may (subject to Article 2) by written notice to the Seller cancel this contract for default in whole or from time to time, in part, (i) if the Seller fails to deliver the material or to perform the services within the time specified in this contract, (ii) the Seller fails to deliver materials which conform to the contractual requirements, or to perform any of the other provisions of this contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms, or (iii) if the Seller becomes insolvent, or commits an act of bankruptcy. If this contract is cancelled for default, Purchaser shall have any and all rights and remedies which the law provides for failure to perform in accordance with contract requirements.

7. **Defective Goods.** If any of the goods fails to meet the warranties contained in Paragraph 2 Provisions, seller, upon notice thereof from buyer, shall promptly correct or replace the same at seller's expense. If seller shall fail so to do, 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.

8. **Patents.** Seller warrants the material purchased hereunder does not infringe any letters

patent 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.

9. **Extra Charges.** No additional charges of any kind including charges for boxing, packing, cartage, or other extras will be allowed unless specifically agreed to in writing in advance by Buyer.

10. **Applicable Laws.** Seller represents that the merchandise covered by this order was not manufactured and is not being sold or priced in violation of any federal, state or local law.

11. **Labeling Laws.** Seller shall label containers of all goods which are known to constitute a health, poison, fire or explosion hazard in accordance with the labeling laws of the state to which such goods are shipped. In the absence of any such law, Seller shall label such containers in accordance with the Warning Labels, Manual L-1, published by the Manufacturing Chemists' Association, Washington, D.C..

12. **Taxes.** Unless otherwise stated, the prices do not include sales, use, excise, and similar taxes applicable to the goods furnished hereunder or the materials used in the manufacture thereof. All such taxes and charges shall be shown separately on seller's invoice if applicable. Florida Institute of Technology is exempt from State Sales Tax — tax number 15-10-048916-57C.

13. **Interpretation of Contract and Assignments.** This contract shall be construed according to the laws of the State of Florida. This contract may not be assigned by Seller without Buyer's written consent.

14. **Remedies.** No remedy herein provided shall be deemed exclusive of any other remedy allowed by law.

Provisions

1. **Modifications.** No changes or modifications in this order shall be made except upon Buyer's written authority.

2. **Shipment.** If the goods are not shipped in accordance with Buyer's direction and the instructions set out in this order, Seller shall pay to Buyer any excess cost occasioned it thereby.

3. **Excess Goods.** Except for customary quantity variations recognized by trade practice, goods in excess of those specified will not be accepted, and such goods will be held at Seller's risk. Buyer may, and at Seller's direction shall, return such goods at Seller's risk, and all transportation charges, both to and from the original destination, shall be paid by Seller.

4. **Delays.** If seller shall fail or refuse to proceed with this order, or if Seller shall fail to make delivery, or Buyer to accept delivery, according to the delivery schedule, the other party may cancel the then remaining balance of this order. The term "excusable delay" as used in this paragraph means any delay in making or accepting deliveries which result without fault or negligence on the part of the party involved and which is due to causes beyond its control including, without being limited to, acts of God or of the public enemy, any preference, priority or allocation order issued by the Government or any other act of Government, acts of the other party hereto, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, and delays of a supplier due to such causes. Each party shall notify the other of any such delay and the cause thereof.

5. **Quality.** Seller expressly warrants that all the articles, material and work covered by order will conform to the specifications, drawings, samples or other description furnished or adopted by the Buyer, and will be of good material and workmanship, and free from defects, and if the articles are not ordered to the Buyer's specifications, Seller further warrants that they will be merchantable and fit and sufficient for the purpose intended.

6. **Equal Employment Opportunity.** The Equal Opportunity and Affirmative Action Publications Contract Clauses contained in Section 202 of Executive Order 11246, as amended, 41CFR60.250.4, 41CFR60.250.4 and 60-741.4 are incorporated in this purchase order by reference.