

The TITAN Companies
Purchase Order Terms & Conditions

1. ENTIRE AGREEMENT: This purchase order, including the terms and conditions on both sides hereof, constitutes the full and final agreement between Buyer and Seller. This purchase order supersedes all prior negotiations, discussions and agreements between Buyer and Seller with respect to the order. No terms and conditions of Seller that are inconsistent with, or additional to, the terms and conditions contained herein, whether on an invoice, order acknowledgement form, or otherwise, shall be binding on Buyer, and such proposed terms are hereby rejected, unless such terms and conditions are expressly accepted in writing by Buyer making specific reference to this purchase order and the specific contrary or additional terms proposed by Seller. Buyer's failure to subsequently object to such additional or conflicting terms and conditions contained in Seller's documents, and Buyer's acceptance or payment for any goods or services, shall not be deemed an acceptance of such additional or conflicting terms and conditions. Acceptance of this Purchase Order and shipment or undertaking of work by Seller of the materials ordered hereunder or commenced performance by Seller of the services ordered hereunder shall be deemed an acceptance by Seller of this purchase order and its terms and conditions.

2. ORDER CHANGES: Buyer may at any time by written notice to Seller make changes within the general scope of this order. Should any such change increase or decrease the cost of, or time required for, the performance of this order, an equitable adjustment may be requested by Seller or Buyer in the price, the delivery schedule, or both. No claim by Seller for such adjustment shall be valid unless a written request is submitted to Buyer in such reasonable detail as Buyer may require within thirty (30) days from date of Seller's receipt of such change. Nothing in this clause shall relieve Seller from proceeding without delay in the performance of this order as changed.

3. INVOICES: Seller shall mail a separate invoice for each shipment. Seller shall send original invoice and bill of lading to the "Invoice to" address noted on the face of this purchase order. The invoice shall show the purchase order number and shall separately list the items invoiced, quantities, unit prices, and taxes. The purchase price shall include all charges and expenses in connection with the delivery or performance of the materials or services unless specifically excluded, in which case the amount thereof must be invoiced separately and must be supported by copies of paid freight bills. Except as otherwise indicated herein, Seller shall pay all excise, customs or other duties or taxes. The applicable sales, and goods and services taxes, where applicable, shall be indicated separately on Seller's invoices. Except where otherwise indicated herein, all invoices relating to the materials or services shall be payable by Buyer the fifteenth (15th) day of the month following receipt, except Buyer will be offered and may take Seller's customary cash discount. If Seller is from outside Canada, Seller, shall forward to Buyer three (3) properly certified Canada Customs invoices on the same day that shipment is made, together with all certificates required, and all such invoices shall show the purchase order number, case or container number and contents of each package separately. The cash discount period available to Buyer shall commence on the later of the receipt of an invoice that meets the requirements of this purchase order or the date of receipt of the materials or completion of the work in the case of services.

4. PRICING: Pricing is inclusive of applicable taxes, freight, packaging, insurance, handling and all other charges, whether similar or dissimilar, unless otherwise indicated on the face of this purchase order. Seller agrees and represents that the prices specified in this order do not exceed current selling prices for the same or substantially similar articles, and for comparable quantities, and that such prices are not in excess of the maximum prices permitted by any applicable government laws or regulations existing on the date of this order. Any extra handling charges incurred due to the failure of Seller to fill this order as per instruction will be billed back to Seller. Should Buyer be offered similar goods or services at a delivered price lower than the price then in effect hereunder, or upon terms and conditions more favorable than those contained herein, Seller shall reduce Buyer's price to such lower price or shall offer more favorable terms to Buyer for as long as the lower price or more favorable terms and conditions are available to third parties.

5. DELIVERY OF MATERIALS: Seller shall notify Buyer forthwith where materials cannot be delivered in the quantities shown at the times specified in the delivery schedule. Seller shall enclose with each box, package or container, a shipping notice showing the contents, the name of Seller and the purchaser order number. Title to the materials and the associated risk shall not pass from Seller to Buyer until delivery of the materials to the location designated by Buyer herein and acceptance thereof by Buyer, and for this purpose, payment for the materials in full by Buyer shall be deemed to constitute acceptance of the materials.

6. RIGHT OF INSPECTION: All materials received shall be subject to Buyer's inspection and rejection and to the inspection of any Federal, Provincial, Territorial, State or Local government or agency, the permission of which is required to use the materials. Seller shall provide all reasonable assistance to any representative of Buyer or any government or agency for the inspection of materials. Seller shall notify Buyer in advance and in writing of all changes in raw materials, feed stocks, processing operations, material specification or other changes which will in any way affect the quality of any goods or services delivered under this purchase order. Seller shall bear the cost of delivery and inspection of defective, non-conforming, or otherwise rejected materials. Such materials shall be held for 30 days for Seller's instructions and at Seller's risk, and where Seller so directs, shall be returned at Seller's expense. Where materials are rejected, any allowance for price of those materials shall be deducted from payments made in respect of total shipments. Inspection of the materials by Buyer and payment of the purchase price thereof shall not be deemed to constitute acknowledgement that the merchandise complies with the terms and conditions hereof.

7. TIMELY DELIVERY AND COMPLETION: Where Seller fails to deliver the materials or complete the services on or before the date required for such delivery or completion, Buyer may cancel this order, without prejudice to its other rights, with respect to materials not delivered by such date and with respect to services not rendered by such date. Buyer may return at Seller's expense part or all of any shipment of materials received after the date required for delivery, unless such late shipment has been approved. Any shipment made in advance of schedule, at Buyer's option, will be (a) accepted but entry of invoice will be deferred until such time as shipment was scheduled to be made, or (b) returned to Seller at Seller's expense. Despite anything in this purchase order, timely delivery or completion is of the essence and Seller shall be responsible to ensure that such delivery or completion is done, and shall advise Buyer immediately of any anticipated delays and the reasons therefor.

8. INSURANCE: Seller shall ensure that its employees engaged in the services to be performed pursuant to this purchase order are at all times during their engagement covered under the relevant worker's compensation legislation. Seller shall maintain, at its own expense until the services are complete, the following insurance: (a) insurance on its own plant and equipment for the full insurable value thereof; and (b) comprehensive general liability insurance for not less than \$1,000,000.00. At Buyer's request, Seller shall provide Buyer with proof of such coverage. Seller shall name Buyer as an additional insured with respect to performance of services under this purchase order and Seller shall, at Buyer's request, furnish Buyer a certificate of insurance evidencing said coverage.

9. WARRANTIES BY SELLER: (1) Seller warrants that all materials and services covered by this purchase order are (a) merchantable, (b) fit and sufficient for the particular purpose intended, (c), free from all defects in design, workmanship, and material, and (d) in strict conformance with Seller's published specifications and the specifications, samples, drawings, designs or other descriptions upon which this order is based. Seller further warrants that all services shall be rendered in a good and workmanlike manner by skilled personnel; (2) Unless expressly purchased without warranty and such is indicated on the purchase order, if, any time prior to the longer of (a) one (1) year from the date the materials are used in regular operation or completion of the services or (b) Seller's standard warranty period for such goods or services, it appears that the materials or services or any part thereof do not conform to the warranties in Subsection (1) above, and Buyer so notifies Seller, Seller shall promptly correct such nonconformity to the satisfaction of Buyer by repair or replacement at Seller's cost and expense. Buyer shall be entitled to recover any incidental or consequential damages suffered by Buyer as a result of the nonconformity of the goods or services, in addition to repair or replacement. If any goods which fail to meet the specifications are commingled with material in Buyer's or any carrier's storage or transportation equipment, Seller shall, at no cost to Buyer, (a) remove and replace all such affected material, (b) clean, repair, or replace, as required by Buyer, any of Buyer's or carrier's equipment damaged by such goods. If Seller fails to remedy any nonconformity promptly, Buyer shall have the option of doing so at Seller's expense and recovering such amounts, at Buyer's option, by refund, credit, or setoff. Any payments made by Buyer hereunder shall not relieve Seller from responsibility under this warranty; and (3) Seller warrants that it has good and marketable title to the materials and services to be provided and that neither the supply of any materials to Buyer, the provision of any services to Buyer, nor the use of those materials or services by the Buyer, its officers, directors, agents, representatives, parents, subsidiaries, successors and assigns shall constitute an infringement of any patent, invention, trademark, copyright or similar proprietary interest belonging to any third party, and Seller shall indemnify Buyer, its officers, directors, agents, representatives, parents, subsidiaries, successors and assigns and shall save Buyer, its officers, directors, agents, representatives, parents, subsidiaries, successors and assigns harmless from and against any and all actions, claims, demands, losses, damages, costs and expenses (including legal fees) to which Buyer, its officers, directors, agents, representatives, parents, subsidiaries, successors or assigns is exposed by reason of any such infringement. If Buyer, its officers, directors, agents, representatives, parents, subsidiaries, successors or assigns is not permitted to continue use of the materials or services as a result of any such infringement, Seller agrees to refund the full purchase price in respect of such materials or services without prejudice to Buyer's right to claim damages from Seller.

These warranties shall survive inspection, acceptance and payment and shall run to Buyer, its successors, assigns, customers and the user of the products ordered herein and shall not be deemed exclusive of any other remedy at law, in equity, or elsewhere in this purchase order. Seller will defend, indemnify, and hold harmless Buyer, its successors, assigns, customers and the user of the products ordered herein from and against any and all costs (including reasonable attorneys' fees, including fees on appeal), expenses, damages (including incidental and consequential damages), losses, liabilities, penalties and judgments attributable to any product delivered hereunder that fails to conform to the warranty set forth herein or which is otherwise imposed by law.

10. INDEMNITY: Seller agrees to protect, defend, indemnify and save Buyer, its officers, directors, agents, representatives, employees, affiliates, parents, subsidiaries, successors and assigns harmless from and against any and all claims, losses (including loss of profits), damages (including interruption of business), judgments, costs, or expenses (including reasonable attorney's fees) resulting from or relating to, directly or indirectly, any actual or alleged injury (including death) to any person or damage to any property, or any other damage or loss, by whomever suffered, resulting from or relating to any actual or alleged breach of any of Seller's obligations hereunder or other acts (including acts of omission) of Seller, its officers, agents, employees or subcontractors. This indemnity shall survive delivery and acceptance of materials or services and shall apply without regard to whether the claim, damage, liability or expenses is based on breach of contract, breach of warranty, negligence, strict liability, or other tort. Buyer may set off any amount owed to it by Seller against any sum payable hereunder by Buyer to Seller.

11. TITLE: All materials, and any inventions (whether or not patentable), works of authorship, trade secrets, ideas, concepts, trade names and trade or service marks (collectively "Inventions") created or prepared for Buyer, shall belong exclusively to Buyer, Seller hereby assigns all Inventions to Buyer and its assigns, except for any works for hire which do not require an assignment to vest ownership in Buyer. To the extent copyrights exist in any works of authorship, such works shall be deemed to the extent legally permitted, to be works made for hire as that term is used in the Copyright Act of 1976. Buyer shall have the right, at Buyer's option and expense, to seek protection by obtaining patents, copyright registrations, trademark registrations, and/or other recordings, registrations, and filings related to proprietary or intellectual property rights. Seller agrees at no charge to execute, and to cause its employees to execute, such documents including such further assignments, applications, and conveyances and to supply information as Buyer shall request, in order to permit Buyer to protect, perfect, register, record and maintain its rights in the Inventions and effective ownership of them throughout the world.

12. CONFIDENTIALITY: Seller shall not disclose any confidential information of Buyer to any third party except as required to perform its obligations hereunder. The terms and existence of this purchase order and everything supplied in connection with it by Buyer shall be held in confidence by Seller. Seller shall not publicly announce or disclose this purchase order or its contents without Buyer's prior written consent. Seller shall not use Buyer's name in any way, including without limitation, a general or sample listing of Seller's customers, without Buyer's prior written consent. Any violation of this paragraph shall be deemed a material breach.

13. CANCELLATION: Buyer reserves the right to cancel this purchase order in whole or in part in respect of material or services covered by this purchase order and not shipped or performed prior to such cancellation, without incurring liability, by notice in writing to Seller, before such shipment or performance, unless the materials were specifically manufactured for Buyer. In the latter case, provided Seller is not otherwise in default hereunder, Buyer shall refund to Seller the direct costs incurred by Seller to perform its obligations hereunder up to the date of cancellation. Seller shall, unless otherwise directed, cease work and follow Buyer's directions as to disposal of work in progress and finished goods. **THE FOREGOING STATES BUYER'S ENTIRE LIABILITY FOR TERMINATION.** Buyer may also, without prejudice to its other rights and remedies, cancel this purchase order if (a) Seller becomes insolvent or bankrupt, (b) Seller ceases to carry on its business in the ordinary course, (c) a trustee, manager or liquidator is appointed in respect of all or a part of the assets or business of Seller, or (d) Seller defaults on its obligations hereunder.

14. LEGAL COMPLIANCE: Seller warrants that all goods and services furnished shall comply with all applicable legislation, including without limitation, Federal, Provincial, Territorial, State or Local occupational health and safety and environmental legislation.

15. FORCE MAJEURE: Neither Buyer nor Seller shall be liable for failure to execute this purchase order in the event of force majeure, provided the party invoking force majeure notifies the other party in writing within ten (10) days of becoming aware of the

event of force majeure. Buyer shall not be bound to purchase the materials or services or to accept late delivery if Seller is unable to make delivery or completion as scheduled due to an event of force majeure.

16. US FEDERAL CONTRACTOR COMPLIANCE: By completing or accepting this order, Seller represents that it has complied with Executive Order 11246, 41 C.F.R. 60-14, 41 C.F.R. 60-250 and 41 C.F.R. 60-741.4.

17. GENERAL: Seller shall comply with all applicable legislation, and, where applicable, all provisions required thereby to be included herein are hereby incorporated herein by reference. Neither Buyer nor Seller may assign any right or obligation hereunder to any third party without the other party's prior consent in writing. The fact that any of the terms and conditions hereof is held to be null and void shall not have the effect of rendering null and void any of the other terms and conditions hereof. Waiver by the Buyer of any of the terms and conditions hereof shall not imply a waiver of the other terms and conditions. The contract arising from acceptance hereof for all deliveries to facilities located in the United States shall be governed by the laws in force in the State of Illinois, and all questions pertaining to the validity, construction, execution and performance of this agreement shall be construed and governed in accordance with the domestic laws of the State of Illinois, regardless of rules of conflict of laws or choice of laws. If the goods hereunder are purchased from a Seller outside of the United States for delivery to Buyer's facilities within the United States, Buyer and Seller agree to expressly exclude from this purchase order the United Nations Convention on Contracts for the International Sales of Goods. Where the deliveries are to the United States, the Seller submits to the personal jurisdiction of the state or federal courts located within the State of Illinois in any legal proceeding arising out of or relating to this purchase order, and Seller waives any objection Seller may have based on improper venue, personal jurisdiction, or forum non conveniens. The contract arising from acceptance hereof for all deliveries to facilities located in Canada shall be governed by the laws in force in the province of Ontario, and shall be construed in accordance therewith, regardless of rules of conflict of laws or choice of laws. Where the deliveries are to Canada, the Seller submits to the jurisdiction of the courts of the Province of Ontario in case of any legal proceeding with respect to this contract.

18. SET OFF/RECOUPMENT: In addition to any rights of set off or recoupment provided by law, all amounts due to Seller under this purchase order shall be considered net of, and Buyer shall have the right to set off against or to recoup from such amounts, any indebtedness or liability of Seller and its affiliates or subsidiaries to Buyer and its affiliates or subsidiaries, whether arising under or relating to this purchase order or otherwise.