

# **PURCHASE ORDER TERMS AND CONDITIONS**

## **Acceptance of Terms**

The sale and purchase of goods is pursuant to this purchase order ("Order"). Acknowledgement of this Order, including by delivery of goods, constitutes your acceptance of the Order. Acceptance is expressly limited to the terms in this Order. **ANY ACKNOWLEDGEMENT, INVOICE, PACKING SLIP, OR OTHER DOCUMENT SUBMITTED BY YOU THAT CONTAINS TERMS INCONSISTENT WITH OR IN ADDITION TO THE TERMS OF THIS ORDER IS SPECIFICALLY OBJECTED TO AND IS NOT BINDING ON BUYER.** Buyer is not obligated to purchase Goods from you on an exclusive basis.

## **Payment**

Payment terms are Net 60. Orders will be paid using Evaluated Receipt Settlements (ERS) or after receiving your packing slip or invoice. The packing slip or invoice must include your name, packing slip or invoice number, and a description of the goods being supplied.

## **Delivery and Shipping Terms; Time is of the Essence**

Deliveries must be made both in quantities and at times specified by the Order or as otherwise directed by Buyer. Premium shipping expenses or other expenses necessary to meet delivery schedules are your responsibility unless the delay or expense results solely from Buyer's actions. Buyer's acceptance of goods not timely delivered is not a waiver of its right to damages. Time is of the essence with respect to your obligation to deliver goods. You bear the risk associated with the lead times for raw material and components necessary to comply with your delivery obligations. If your failure to timely deliver conforming goods disrupts Buyer's production schedule, you will be liable for all damages, including: (i) premium paid for bringing in alternate approved goods from another supplier; (ii) premium paid to expedite delivery of goods; and (iii) lost profits due to production down time.

## **Packing, Preservation and Marking**

Packing, preservation and marking of goods will be as provided in Buyer's specifications, or if not specified, according to best commercially accepted practice. A packing slip must accompany each box or package and a copy or email of the packing slip must be mailed separately to Buyer on the date of shipment to the destination point.

## **Inspection and Quality**

All goods will be subject to inspection and test where such inspection and test is conducted at your production facility, on reasonable notice by Buyer. Buyer's waiver of inspection, failure to inspect, accept, reject, or detect defects by inspection or testing will not relieve you of your responsibility for goods that do not meet Buyer's specifications or Order requirements. Buyer will not accept any defective goods.

## **Buyer's Remedies**

If you deliver goods that are defective or fail to conform with any specification or requirement, Buyer's remedies include: (i) right to terminate this Order; (ii) reject and return the goods; (iii) require you to provide conforming goods or repair parts, including field replacement; (iv) take all reasonable actions to cure all defects or bring the goods into conformity with all requirements, including procuring an alternate source for the goods or any tests required by Buyer to verify conformance; and (v) withhold total or partial payment for goods. If you deliver goods that are defective or fail to conform to any specification or requirement, you will be liable for all costs, including reasonable attorneys' fees, and damages associated with Buyer's remedies.

## **Warranties**

**THE FOLLOWING WARRANTIES WILL APPLY FOR A PERIOD OF 60 MONTHS FROM THE DATE OF DELIVERY OF GOODS, OR THE LENGTH OF YOUR WRITTEN WARRANTY, WHICHEVER IS LONGER.** You warrant that goods will: (i) conform to Buyer's specifications, standards, drawings or descriptions furnished to you; (ii) comply with all applicable regulations or other legal requirements concerning the manufacture, packaging, packing and delivery of the goods including, but not limited to, all the applicable safety, environmental and export regulations of the United States, European Union and all other applicable countries and regions; (iii) not infringe any patent or other intellectual property right of a third party, except in cases where the goods were designed or manufactured in accordance with Buyer's designs and the alleged infringement would not have occurred but for these designs; and (iv) be conveyed with good title and free of all claims and encumbrances. Any repaired or replaced goods will carry warranties on the same terms as set forth above, with the warranty period being 60 months after repair or replacement or the period as is provided in your written warranty, whichever is longer.

## **Trademarks**

The trademarks, logos, and service marks (collectively the "Trademarks") displayed on this web site are registered and common law trademarks of LII and others. Nothing contained on this web site should be construed as granting, by implication, estoppel, or otherwise, any license or right to use any Trademark displayed on this web site without the written permission of LII or such third party that may own the Trademarks displayed on this web site. Your use of the Trademarks displayed on this web site is strictly prohibited. You are also advised that LII will aggressively enforce its intellectual property rights to the fullest extent of the law, including the seeking of criminal prosecution.

## **Termination**

Buyer may terminate this Order without cause and without liability to you, by providing 30 days prior notice. Buyer will pay you for any goods that were delivered and accepted before your receipt of the termination notice. Any action by you under this Order must be commenced within one year after the breach or other event giving rise to your claim occurs. Upon termination, you will refund Buyer any amounts paid for non-provided or defective or non-conforming goods.

## **Indemnification**

You will defend and indemnify Buyer against all allegations, claims, damages, expenses (including attorneys' fees), and liabilities (i) relating to any personal injury, death, property damage, any recall or product withdrawal caused by the goods or (ii) based on alleged infringement of any patent, trademark, copyright, or any other intellectual property right, or misappropriation of a trade secret, relating to the goods. If Buyer or its customers are enjoined from use of the goods or if in Buyer's opinion the goods are likely to become the subject of a claim of infringement, you, at your own expense, must either cure the alleged infringement by procuring the right for Buyer and its customers to continue using the goods, or replace or modify the goods to make them non-infringing (as alleged) without affecting their essential function. You will have no obligation to defend or indemnify Buyer if the goods were designed or manufactured in accordance with Buyer's designs and the alleged infringement or event giving rise to indemnification would not have occurred but for these designs.

## **Compliance with Laws**

You will comply with all applicable laws, rules and regulations, including laws, rules and regulations regarding slavery and human trafficking in countries in which Supplier is doing business.

## **Code of Conduct**

You agree to doing business in accordance with the highest standards of business ethics and that your agents, employees, representatives, contractors and subcontractors will comply with standards equivalent to those set forth in the [Lennox International Business Partner Code of Conduct](#). Likewise, you agree to conduct business in a manner that meets or exceeds the expectations outlined in the [Lennox Supplier Qualification and Development Guidelines](#).

## **Equal Employment Opportunity**

To the extent applicable, Supplier will comply with Executive Order 11246, Section 503 of the Rehabilitation Act of 1973, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, and the implementing regulations for each found at 41 CFR Part 60. The Parties incorporate into this Agreement, as applicable, the Equal Opportunity clauses found at 41 CFR § 60-1.4(a), 60-250.5(a), 60-741.5(a), and 60-300.5(a), and Supplier will likewise incorporate the clauses into all applicable subcontracts as required by 41 CFR § 60-1.4(d).

## **Notice of Employee Rights Under Federal Labor Law**

Supplier incorporates into this Agreement, as applicable, the obligations regarding the notice of employee rights under federal labor laws found at 29 CFR Part 471, Appendix A to Subpart A, and will likewise incorporate those obligations into all applicable subcontracts as required by 29 CFR Part 471.

## **Customs Requirements, Preferential Duty Treatments, & Duty Drawback**

Upon Buyer's request, you will promptly furnish all properly completed documents required for customs drawback purposes and preferential treatments. You will also provide all information necessary to fulfill any customs related or other governmental agency related obligations, origin marking, Harmonized Tariff Schedule code, Country of Origin, or labeling requirements, and certification of local content reporting requirements, to enable Buyer to claim preferential duty treatment for goods and comply with required data elements on international shipping documents.

## **Confidential Information**

"**Confidential Information**" means all proprietary information disclosed in connection with this Order, in any form, whether directly or indirectly, or obtained by examination, testing or analysis of such information. Confidential Information does not include information that the receiving party ("Recipient") can demonstrate by documentation (i) is or becomes available to the public without breach of its confidentiality obligations; (ii) is explicitly approved for release by written authorization of the disclosing party ("Discloser"); (iii) is lawfully obtained from a third party or parties without a duty of confidentiality; (iv) is known to Recipient prior to such disclosure; or (v) is independently developed by Recipient without the use of Discloser's Confidential Information. The Recipient will use Confidential Information received solely for the purpose of fulfilling its obligations under this Order. Recipient will not disclose Discloser's Confidential Information to any third party without the written authorization of Discloser. Recipient will protect Confidential Information from disclosure to others, using the same degree of care used to protect its own confidential information, but in no event less than a reasonable standard of care. All Confidential Information of Discloser will remain the sole and exclusive property of the Discloser. All Confidential Information is provided "as is." No license or other rights are granted by this Order or the disclosure of Confidential Information. The obligations under this Section will continue for 5 years after the completion or earlier termination of this Order.

## **Assignment**

You may not assign, in whole or in part, any rights or interests under this Order, or any other interest, including right to payment, without Buyer's prior written consent.

## **Dispute Resolution, Governing Law and Venue**

You and Buyer will attempt to amicably resolve any dispute arising out of any Order. If the parties are unable to resolve the dispute within 30 days following notice of the dispute, either party may initiate litigation. Notwithstanding the foregoing, either party may pursue injunctive relief at any time to avoid irreparable harm. The parties expressly disclaim applicability of the United Nations Convention on Contracts for the International Sale of Goods and any conflicts-of-law provisions that would require another choice of law. The laws of the State of Texas will govern this Order. All litigation must be brought in a court of competent jurisdiction in the State of Texas.

## **Waiver**

If either party fails to require the other to perform any term of this Order, that failure does not prevent the party from later enforcing that term. No claim or right arising out of this Order can be discharged in whole or in part by a waiver made in writing signed by the waiving party.

## **Cumulative Remedies**

Any remedy Buyer may have is cumulative and additional to any other or further remedies in law or equity.

## **Construction**

The term "**including**" means "**including, but not limited to**". Captions and headings are used for convenience only and will not be used to interpret this Order. If any terms or conditions of this Order are found to be unenforceable, all other terms and conditions will remain enforceable.