



Terms and Conditions

Unless the Purchase Order expressly states otherwise, it is limited to the terms and conditions set forth herein. Buyer hereby objects to any additional or different terms and conditions proposed by Seller in any proposal, quotation, acknowledgment or other document. Any such proposed terms and conditions shall be void and the terms and conditions herein shall constitute the complete and exclusive statement of the contract between the parties. The term "Goods", when used in the Purchase Order, means the items, materials, equipment, software, tooling, parts and/or work or services supplied pursuant to the Purchase Order.

- 1. Acceptance. Dethmers Mfg. Co. Inc (Demco) (the Buyer).** Each Purchase Order includes the Standard Terms and Conditions set forth herein and may not be modified except in writing and signed by an authorized representative of Demco. The Purchase Order constitutes an offer on the Buyer's part to purchase goods ("Goods") and/or services ("Services") at the price and terms stated and upon the terms and conditions herein contained. Any terms or conditions proposed in Seller's acceptance, whether they add to, modify, vary from or conflict with the terms herein are hereby expressly objected to and are of no force or effect.
- 2. Order Price.** Seller will bill Purchase Orders only at the price shown on the Purchase Order. Any change must be authorized on a change order written by Demco. Unless otherwise provided on the Purchase Order, delivery of Goods shall be F.O.B. destination.
- 3. Delivery.** Seller will comply with Demco's shipping and delivery schedules (as applicable) without any delay or modification. Delivery of all Goods shall be made to the address specified in the Purchase Order and any additional freight and/or handling charges incurred due to shipping to the wrong address will be paid by the Seller.
- 4. Order Confirmation.** Seller will notify Demco of receipt of each Purchase Order, including the confirmation Purchase Order number, the Services and/or Goods ordered, quantity, price, and drawings referenced, shipping date and method.
- 5. Packaging.** Unless otherwise specified, the Goods will be (a) packed, packaged, labeled, marked and otherwise prepared for shipment in a manner which is in accordance with good commercial practice, all applicable laws, executive orders, rules and regulations and which is adequate to insure safe arrival at named destinations, and (b) acceptable to common carriers for shipment at the lowest rate for the particular Goods and in accordance with applicable regulations. Seller will mark all containers with necessary lifting, handling, and shipping information as well as Purchase Order and Material numbers.
- 6. Packing List.** A packing list will be enclosed with all shipments showing the Purchase Order and Material numbers, exact shipped quantity and description of the Goods shipped. Buyer reserves the right to reject Goods that arrive without a packing list.
- 7. Force Majeure.** Each party will be excused for its failure or delay in performance at any time during which performance was prevented by events beyond its reasonable control and without its failure and negligence (Force Majeure); such events may include, but are not limited to : (1) epidemic, landslide, lightning, earthquake, fire, explosion, accident, storm flood or other acts of God (2) an act or restraint of government, civil disturbance or similar occurrence or (3) a strike, lockout, or similar industrial or labor action.
- 8. Invoices.** Seller will issue invoices referencing the Purchase Order and Material numbers, Purchase Order line item number, description of items, sizes, shipped quantities, unit prices and extended totals.
- 9. Inspection/Testing/Rejection.** Payment by Demco for Goods or Services delivered shall not constitute acceptance. Demco retains the right to inspect the Goods or Services performed and to reject any or all of the Goods or Services performed which are, in Demco's judgment, defective, non-



conforming or damaged in transit. At Demco's discretion, Goods rejected by Demco and Goods supplied in excess of quantities ordered may be returned to Seller at Seller's expense. Acceptance will not relieve Seller of any of its warranty obligations.

10. Confidentiality and Design. The Purchase Order(s) and the subject matter thereof and Buyer's Confidential Information shall be treated by Seller as strictly confidential, and Seller shall not disclose it to any third party for any reason without prior written consent. The Seller shall not use the name or other identity of the Buyer for advertising or publicity purposes without the Buyer's prior written consent. The Confidential Information of Buyer includes all information and personal property furnished to Seller by Buyer, including any drawings, patterns, design formula, written instructions, any means of production, materials, tools, samples, casting equipment, models, forging dies, gauges, plans, descriptions as well as any other documents accompanying the Purchase Order, the specifications and other technical documents supplied by the Buyer or created or produced by the Seller at the expense of the Buyer. Such property while in Seller's custody or control shall be held at Seller's risk, shall be kept insured at Seller's expense in an amount equal to the replacement cost with loss payable in favor of Buyer. On termination of the Purchase Order(s) and promptly on demand from the Buyer, the Seller shall return, and shall ensure that its assignee(s) or sub-contractor(s) return, to Buyer at Seller's expense all of the Buyer's property in the same condition as originally received by Seller, reasonable wear and tear excepted, and all Confidential Information. All copyright (including, without limitation, any copyright relating to drawings, models, and Goods and Services), design rights, other intellectual property rights in the Goods and Services and any such rights related directly or indirectly to their creation, supply and production under the terms of the Purchase Order(s) shall remain vested in the Buyer. Seller acknowledges and agrees that, as a material part of consideration for the Purchase Order, all right, title and interest in any intellectual property rights developed or created by Seller as a result of fulfilling the Purchase Order (including, all records, papers, and documents, whether in written, documentary, computerized, electronic or other form, created in whole or in part by Seller) shall be belong to and be assigned to Buyer.

11. Assignment and Sub-contracting. The Seller shall not without written consent of the Buyer, assign, transfer or sub-contract a Purchase Order, or any substantial part of it, to any third party. In the event that the Buyer consents to an assignment, transfer or sub-contracting of a Purchase Order, or any part of it, to a third party, the Seller shall ensure that such third party complies with all the terms and conditions contained in the Purchase Order; and the Seller hereby indemnifies, holds harmless and will defend the Buyer against any cost, loss, expense, claim or liability (including reasonable attorneys' fees) relating to or incurred as a result of the failure of such third party to comply with the terms and conditions of the Purchase Order.

12. Warranty. Seller expressly warrants that all Goods and Services supplied to Demco by or through Seller as a result of a Purchase Order shall conform to the specifications, drawings or other description upon which the Purchase Order is based, shall be fit and sufficient for the purpose intended, merchantable, of good quality, material and workmanship, free from defects and comply with all applicable laws, executive orders, rules and regulations. Seller agrees to replace or correct promptly defects in any Goods or Services not conforming to the foregoing warranty without expense to Demco upon notice of such non-conformity. In the event of Seller's failure to correct defects or replace non-conforming Goods or Services promptly, Demco may, after reasonable notice to Seller, make such corrections or effect cover at Seller's expense.

13. Indemnification. Seller will indemnify, defend and hold Demco harmless against and from any and all claims, lawsuits, costs, damages and expenses (including attorneys' fees) incurred or to be incurred, arising or alleged to have arisen, out of or relating to the failure or alleged failure of Seller or any of the Goods or Services to fully comply with the warranties or representations of Seller herein.