



Purchase Order Terms & Conditions

1. ACCEPTANCE

This Agreement is made between the Vendor named on the face of this order ("Vendor") and Plymouth Tube Co. ("Plymouth"). This purchase order must be accepted in writing by Vendor by signing this purchase order and returning it to Plymouth. If for any reason Vendor should fail to accept this Purchase Order in writing, any conduct by Vendor which recognizes the existence of a Contract pertaining to the subject matter hereof shall constitute acceptance by Vendor of this purchase order and all of its terms and conditions. Any terms proposed in Vendor's acceptance of Plymouth's offer which adds to, vary from, or conflict with the terms herein are hereby objected to and rejected. Any such proposed terms shall be void and the terms herein shall constitute the complete and exclusive statement of the terms and conditions between Plymouth and may hereafter be modified only by a written instrument executed by both of our authorized representatives. If this purchase order has been issued by Plymouth in response to an offer and if any of the terms herein add to, vary from or conflict with any terms of Vendor offer, then the issuance of this purchase order by Plymouth shall constitute an acceptance of Vendor offer subject to the express conditions that Vendor assent to the additional, different and conflicting terms herein and acknowledge that this purchase order constitutes the entire agreement between Plymouth with respect to the subject matter hereof and the subject matter of Vendor offer. Vendor shall be deemed to have so assented and acknowledged unless Vendor notify Plymouth to the contrary in writing within ten (10) working days of receipt of this Purchase Order.

2. CHANGES

Plymouth shall have the right from time to time by written notice to make changes in or additions to drawings, specifications or instructions for the work covered by this order, and Vendor agrees to comply with such change notices. If such changes cause a material increase or decrease in Vendor's cost or in the time for performance of this order, equitable adjustment in the price and time for performance will be made and this order will be modified in writing accordingly; provided that any claim for adjustment must be asserted by Seller within a reasonable time after the change is ordered before proceeding.

3. TERMINATION

Plymouth reserves the right to terminate this order in whole or in part for our convenience upon written notice to Vendor, in which event Vendor shall be entitled to reasonable termination charges consisting of a percentage of the order price reflecting the percentage of the work performed prior to termination plus actual direct costs resulting from our termination but no other consequential damages.

4. CONFIDENTIALITY

All specifications, documents, artwork, or drawings delivered to Vendor by Plymouth remain our property. The information is delivered solely for the purpose of Vendor's performance of this order and on the express condition that neither they nor the information contained therein shall be disclosed to others nor used for any purpose other than in connection with this order without our prior express written consent. We reserve the right to request that Vendor return all such information to Plymouth upon our written request. Vendor's obligations under this paragraph shall survive the cancellation, termination or other completion of this order.

4. WARRANTY

Vendor expressly warrants that all goods and services supplied to Plymouth by Vendor as a result of this order shall conform to the specifications, drawings or other description, upon which this order is based, shall be fit and sufficient for the purpose intended, merchantable, of good material and workmanship and free from defects. Inspection, test acceptance or use of the goods by Plymouth shall not affect Vendor's obligations under this warranty, and such warranty shall survive inspection, test acceptance and use. Vendor agrees to replace or correct promptly defects of any goods or services not conforming to the foregoing warranty without expense to Plymouth, when notified of such non-conformity by Plymouth. In the event of Vendor's failure to correct defects in or replace non-conforming goods or services promptly, we may, after reasonable notice to Vendor, make such corrections or effect cover at Vendor's expense or take such actions as set forth in Article 9 herein. The length of the warranty shall be as otherwise set forth in any specifications agreed upon and if no warranty is otherwise stated it shall be for a period of 36 months from delivery to Plymouth.

5. PRICE

This order must not be filled at a higher price than shown on the order. Any change must be authorized on a change order written by Plymouth. If no price is shown, Vendor must notify Plymouth to procure acceptance by Plymouth in writing before filling the order.

6. FORCE MAJEURE

Neither Vendor nor Plymouth shall be liable for a delay in the performance of the obligations hereunder resulting from the order when the delay is due to the following causes; war, terrorism, strikes or lockouts, embargo, national emergency, insurrection or riot, acts of the public enemy, fire, flood or other natural disaster, provided that the affected party has taken reasonable measures to immediately notify the other party, in writing, of the delay. If the delay is unacceptable, the other party may terminate this order per Article 3 herein.

Failure of subcontractors or the inability to obtain materials or labor shall not be considered as a force majeure delay.

7. INFRINGEMENT

Unless the goods ordered hereunder are to be manufactured according to special design furnished by Plymouth, Vendor shall at Vendor's own expense defend Plymouth and the customers who purchased the goods hereunder from any claim of infringement of any letter patent, trademark, copyright or other intellectual property right by reason of manufacture or use of the goods furnished hereunder. Vendor agrees to protect, defend, hold harmless and indemnify Plymouth and its agents

and customers fully against any liability, cost, recovery or other expense, including attorney's fees, in or resulting from any such claim provided that we give Vendor timely notice of such claim. At Plymouth's option in addition to the above, if use of any such item is enjoined Vendor shall at its sole expense, either procure the right to use of said item, modify it so it becomes non-infringing or remove said item and refund the purchase price and cost of transportation and installation thereof and pay all expenses to incurred by Plymouth to remedy.

8. INDEMNITY

Vendor shall be responsible for and hold Plymouth harmless against all damages to persons or property that occur as a result of the breach of performance of any work or service delivered hereunder by Vendor, its agents, subcontractors and/or employees.

9. INSPECTION/TESTING/REJECTION

(a) Except as otherwise agreed in writing, all shipments shall be subject to final inspection by Plymouth after receipt by Plymouth at destination. In addition, all material and work in progress shall be subject to inspection and test at all times and places and when practical, during manufacture, as Plymouth may direct. If inspections, and tests, whether preliminary or final are made on Vendor's premises, Vendor shall furnish without additional charge, all reasonable facilities and assistance for safe and convenient inspections and tests required by the inspectors in the performance of their duty. All inspections and tests shall be performed in such manner as not to unduly delay the work. Plymouth reserves the right to charge and set off to Vendor any additional cost of inspection and test when articles are not ready at the time inspection was requested by Plymouth. Final inspection and acceptance by Plymouth shall be conclusive except as regards defective material or workmanship discovered or rejected by Purchaser within one year after shipment to Plymouth from Vendor's plant and any latent defects, fraud, and such gross mistakes as amount to fraud, (b) Vendor is to work within and inspect to, tolerances and limitations specified on drawings covering the work, and shall make such tests as are specified in the drawings or test specifications, unless deviation there from is authorized in writing by Plymouth. Verbal changes to tolerance revisions are not official and will not provide grounds for a noncompliance with the drawings or specifications, regardless of their source, (c) No substitution of materials or accessories may be made without written permission from Plymouth, and no charges for extras will be allowed unless the same been ordered in writing by Plymouth and the price agreed upon in writing, (d) Payment by Plymouth for the goods or services delivered hereunder shall not constitute our acceptance. We retain the right to inspect the goods or work performed and to reject any or all of the goods or work performed which are in our judgement defective, (d) Goods rejected by Plymouth and goods supplied in excess of quantities called for herein may be returned to Vendor at Vendor's expense and in addition to our other rights we may charge Vendor all expenses of unpacking, examining, repacking, and reshipping such goods and (e) In the event we receive goods whose defects or nonconformity is not apparent on examination, resulting in deterioration of our finished product, we reserve the right to require the replacement , as well as payment of any resulting damages.

10. PLYMOUTH PROPERTY

Any material parts furnished by Plymouth intended for use by Vendor in execution of Vendor's duties as required by this order should be considered as being held by Vendor on consignment. All such

materials or parts not used by Vendor in connection with this order shall be returned to Plymouth at your expense unless Vendor is otherwise directed in writing. If not accounted for or returned to Plymouth, missing materials or parts shall be paid for by Vendor. All such materials or parts will be kept insured by Vendor at Vendor's expense in an amount equal to the replacement cost with a loss payable to Plymouth.

11. REMEDIES

Plymouth's remedies shall be cumulative and include any remedies allowed at equity or by law. Waiver of any breach by Plymouth shall not constitute our waiver of any other breach of the same or any other provision. Acceptance of any items or payments therefore shall not waive any breach.

12. DELIVERY/RELEASES

Time is of the essence. Vendor agrees to comply with specific delivery schedule without any delay and without anticipating our requirements. Any delays in shipment shall be reported to Plymouth immediately as they become known to Vendor. We reserve the right to cancel this order and effect cover if Vendor cannot comply with the delivery date(s) indicated on this order. If delivery dates are not specified on this order, Vendor shall procure materials, fabricate, assemble and ship goods only as authorized by shipment releases issued to Vendor by Plymouth. Plymouth may return overshipments to Vendor at Vendor's expense for all packing, handling, sorting and transportation. Plymouth may from time to time, and with reasonable notice, suspend shipping schedules specified in the purchase order or such shipment releases.

13. ASSIGNMENTS/SETOFFS/SUBCONTRACTING

This order, the work required to be done hereunder and any payments to be made hereunder may not be assigned, transferred, or subcontracted without our prior approval. No invoices may be rendered by others than the named firm shown as "Vendor" on the reverse without our written permission. All claims for monies due or to become due from Plymouth shall be subject to deduction by Plymouth for any setoff or counterclaim arising out of this or any other purchase orders with Vendor whether such setoff or counterclaim arise before or after such assignment or subcontract by Vendor.

14. PREMIUM TRANSPORTATION

If in order to comply with our required delivery date it becomes necessary for Vendor to ship by a more expensive mode than specified on the face of this order, any premium transportation cost resulting therefrom shall be paid for by Vendor unless Vendor can establish to our satisfaction that the necessity for the change in routing is occasioned by force majeure events.

15. PACKING LIST

A packing list and bill of lading must be enclosed with all shipments showing the purchase order number and exact quantity and description of the goods shipped.

16. NOTICES & INVOICES

Unless otherwise specified, invoices and notices should be mailed to Plymouth and or Vendor respectively at the addresses as shown on the reverse side. Invoices shall include purchase order

number and release number where applicable, item number, description of items, sizes, quantities, unit prices and extended totals. All taxes shall be stated separately. Discount items to run from date invoice is received by Accounts Payable. Failure to comply with the above may result in delayed payment or returned invoices.

17. EXPORT/IMPORT

Any export credits belong to Plymouth, and Vendor shall furnish all documents required for international shipments, and upon request, all documents required by Plymouth to obtain export credits and customs drawbacks. Vendor shall include a priced invoice with the master packing slip for international shipments. Upon our request, Vendor shall furnish certificates that identify the country of origin of the materials used in the supplies hereof and the value added thereto in each country.

18. COMPLIANCE WITH TOXIC AND CHEMICAL SUBSTANCES CONTROL

Vendor warrants that each and every chemical substance constituting or contained in the goods sold or otherwise transferred to Plymouth as a result of this purchase order and that is subject to the Toxic Substances Control Act is on the list of chemical substances compiled and published by the administrator of the Environmental Protection Agency pursuant to the Toxic Substances Control Act and is otherwise in compliance with that Act. Vendor certifies that any chemical substance(s) furnished pursuant to this order has been properly labeled, and that proper information on the substance(s), e.g., material safety data sheets, have been provided to Plymouth, pursuant to all federal, state or local laws and regulations

19. HAZARDOUS MATERIALS

Any materials required by this order that are deemed hazardous by any regulations will be packaged, marked and shipped by Vendor to comply with all present federal, state and local regulations.

20. FAIR LABOR STANDARDS ACT

Vendor shall furnish a statement on each invoice that the goods ordered hereunder were produced in accordance with the provisions of the Fair Labor Standards Act, as amended.

21. COMPLIANCE WITH EXECUTIVE ORDER

Unless otherwise exempt by rules, regulations, or orders of the Department of Labor, Office of Federal Contract Compliance Programs, and other Federal Government Agencies, Executive Order 11246, Section 503 of the Rehabilitation Act of 1974, as amended, and the Vietnam Era Veterans Readjustment Assistance Act of 1974 and other regulations (contained in 41 Code of Federal Regulations and relating to equal employment) are hereby made a part of the terms and conditions of this order and Vendor will be in compliance with same.

22. GOVERNMENT CONTRACTS

In the event that the goods ordered herein are to be used in whole or in part for the performance of government contracts and where the dollar value of said goods exceeds, or may in any one year exceed \$10,000, the Vendor agrees that in connection with the performance of work under this contract, Vendor and it's subcontractors, if any, agree not to discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin or disability. The aforesaid provision

shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation: and selection for training, including apprenticeship. Seller (subcontractor) agrees to post hereafter in conspicuous places, available for employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

23. GOVERNING LAW/SUBMISSION TO JURISDICTION

This agreement shall be construed in accordance with the laws governing contracts made and to be performed in the State of Illinois, U.S.A., exclusive of the U.N. Convention on the International Sale of Goods. Vendor hereby consents to the jurisdiction of any local, state, or federal court located within the County of Cook or County of DuPage, State of Illinois and waives any objection which Vendor may have based on improper venue or FORUM NON CONVENIENS to the conduct of any proceeding in any such court.

24. IMMIGRATION REFORM AND CONTROL ACT

Seller agrees not to use any persons whose employment is prohibited under the Immigration Reform and Control Act in connection with any labor or services performed pursuant to this order.

25. RIGHT OF ENTRY

The Vendor shall include provisions allowing Plymouth Tube Company, its customers, and regulatory agencies Right of Entry to any place necessary to determine and verify the quality of contracted work, records, and material

26. ENTIRE AGREEMENT

Except to the extent of any written documents agreed upon pursuant to this order signed and acknowledged by Vendor and Plymouth, this purchase order constitutes the entire agreement of sale and purchase of the goods or services ordered hereunder.