This purchase order is limited to the terms and conditions contained on the face and back hereof. Any additional or different terms in the Seller's form are hereby deemed to be material alterations and notice of objection to them and rejection of them is hereby given.\(^1\)

The Seller agrees –

1. Acknowledgement of Order and Billing Particulars:
   a. Seller shall acknowledge this order promptly, specifying date of shipment.
   b. The order shall not be filled at prices higher than those quoted without first securing authority of the Purchaser. No charges will be allowed for boxing, crating, packing or crating unless otherwise agreed.
   c. Payment shall be made upon receipt of goods. Where cash discount is allowed, the discount period shall be calculated from the date goods are received by Purchasrer.
   d. Terms of payment must be shown on all invoices.

2. Delivery:
   Delivery and performance must be effected within the time stated on the purchase order, and the documents attached thereto, or if not stated therein, within a commercially reasonable time. Notice of the Purchaser in writing without limitation of acceptance of partial late deliveries shall operate as a waiver of this provision. In the event of any material delay, the Purchaser shall have in addition to other legal and equitable remedies provided hereunder, the option of placing this order elsewhere and holding the Seller liable for the resulting losses and damages. In the event of a conflict in these modified terms and additional terms and conditions, these modified terms shall control.

3. Warranty:
   Seller warrants that all goods, articles, material and work covered by this order will conform with applicable drawings, specifications, samples and/or other descriptions given, will be fit for the purposes intended, of first class quality, and unencumbered, and Seller agrees to hold the Purchaser harmless from any loss, damage or expense which Purchaser may suffer or incur on account of any breach of warranty. Seller shall replace, repair or make good all defects or faults arising within one year from the date of delivery. Acceptance or use of goods by the Purchaser shall not constitute a waiver of any claim under this warranty. Except as otherwise provided in this purchase order, Seller’s liability hereunder shall extend only to costs caused by breach of any of the foregoing warranties or guarantees, but such liability shall in no event include loss of profits or loss of use.

4. Patents:
   Whenever the Seller is required to use any design, device, material or process covered by letters patent, trademark or copyright, the Seller indemnifies and saves harmless the Purchaser from any and all claims for infringement by reason of the use of such patented design, device, material or process in connection with the contract and shall indemnify the Purchaser for any costs, expenses or damages with which it may be obliged to pay by reason of such infringement at any time during the prosecution or after the completion of the work. In case said equipment, or any part thereof, or the intended use of the goods, is in such suit held to be infringing and the said equipment or part is enjoined, the Seller shall, at its own expense, and at its option, either procure for the Purchaser the right to continue using said equipment or parts; or replace the same with substantially equal but non-infringing equipment, or modify it so it becomes noninfringing.

5. Compliance with Law:
   Seller warrants it shall comply with all applicable laws and regulations. This is legal and acceptable Seller shall execute and deliver such documents as may be required to effect or enforce compliance. All laws and regulations required to be incorporated in agreements of this character are hereby incorporated herein by this reference. The Seller agrees to indemnify and hold the Purchaser harmless from all costs and expenses of the Purchaser as a result of the Seller’s failure to comply with such law.

6. Assignment:
   The Seller shall not assign, transfer or convey this order or any monies due or to become due hereunder without the prior written consent of the Purchaser.

7. Insolvency:
   Where the Seller shall become insolvent or bankrupt or shall make an assignment for the benefit of creditors, or if a receiver or trustee shall be appointed for any of the Seller’s property or business, this order may forthwith be cancelled by the Purchaser without liability.

8. Changes - Terminations:
   Purchaser may by written change order make any changes, including QUANTITIES, SPECIFICATIONS, DRAWINGS, PACKAGING DELIVERY OR SHIPPING. If any such change affects the amount due or the time of performance hereunder, equitable adjustment shall be made. Purchaser may at any time by written change order terminate this agreement as to all or any portion of the goods then not shipped, subject to an equitable adjustment between the parties as to any work or materials then in process, provided that the Purchaser shall not be liable for any claims for anticipated profits on the uncompleted portion of the goods and/or work for incidental or consequential damages and that no such adjustment be made in favor of Seller with respect to any goods which are Seller’s standard stock. No such termination shall relieve Purchaser or Seller of any of their obligations as to any goods delivered hereunder. Any claim for adjustment hereunder must be asserted within ninety (90) days from the date when the change or termination is ordered.

9. Inspecting and Expediting:
   For purposes of inspection and expediting of the materials, equipment and apparatus covered by this order, or work thereon, the Seller shall give the Purchaser’s representative reasonable access to its works and use its best efforts to provide such access to the work of its subcontractor, but any approval by such representative shall not release the Seller from its obligation to comply with the requirements of this order in every respect.

10. Complete Agreement:
   This purchase order, including these terms and conditions, the specifications hereto and any additional terms and conditions incorporated into and attached hereto, constitutes the sole and entire agreement between the parties hereto. The Seller’s quotation is incorporated in and made a part of this purchase order to the extent only of the specification of the nature and description of the goods ordered, and then only to the extent that such items are consistent with the other terms of this purchase order. No other terms or conditions shall be binding upon Purchaser unless accepted by it in writing. In the event of a conflict in these modified terms and additional terms and conditions, these modified terms shall control.

11. Nonwaiver:
   Failure of Purchaser to insist upon strict performance of any of the terms and conditions hereof or failure or delay to exercise any right or remedies provided herein or by reason of any act or failure to exercise or prompt notify Seller of breach or any payment, for any goods hereunder shall not release Seller of any of the warranties or obligations of this purchase order and shall not be deemed a waiver of any right of Purchaser to insist upon strict performance hereof or any of its rights or remedies as to any such goods, unless expressly so provided herein or by reason of any act, action, neglect, omission or default by the Seller or any of its contractors, or of any of the Seller’s or contractors’ officers, agents, servants or employees as aforesaid, the Seller hereby agrees to assume the defense thereof and to defend the same at the Seller’s own expense and to pay any and all costs, charges, attorneys’ fees and other expenses and any and all judgments that may be incurred by or obtained against the Purchaser, or any of its or its officers, agents or servants in such suits or other proceedings, and in case any judgment or other lien be placed upon or otherwise attached against the property of the Purchaser, or said parties in or as a result of such suits or other proceedings, the Seller will at once cause the same to be dissolved and discharged by giving bond or otherwise. The Seller and his contractors shall take all safety precautions and furnish and install all guards necessary for the prevention of accidents and comply with all laws and regulations made or required to be so, including without limitation the Occupational Safety & Health Act of 1970 and all rules and regulations issued pursuant hereto.

12. Applicable Law:
   The definitions of terms used, interpretation of this agreement and the rights and all parties hereunder shall be construed under and governed by the laws of the State of Montana.

13. Equal Employment Opportunity:
   That the Seller shall carry on said work at its own risk until the same is fully completed and accepted, and shall, in case of any accident, death or injury to the work and/or materials before its final completion and acceptance, repair or replace forthwith the work and/or materials so injured, damaged and destroyed, at its own expense and to the satisfaction of the Purchaser. When materials damaged in transit by others for whom the Seller is accountable, the Seller shall rescue, act, assist, and handle at same site and as soon as possible. To this end, said materials to be so damaged are hereby incorporated herein by this reference. The Seller agrees that such compensation and insurance be maintained until after the entire work is completed and accepted.

14. Purchaser’s Performance of Seller’s Obligations:
   That the Seller shall not be liable to the Purchaser for correct nonconforming or defective goods by a date to be agreed upon by the Purchaser and the Seller, and the Seller thereafter indicates its inability or unwillingness to comply, Purchaser may cause the work to be performed by the most expedient means available to it, and the Seller shall pay all costs associated with such work.

15. Liens:
   That, if any time during the progress of the work, the Seller shall allow any indebtedness to accrue for labor, equipment and/or materials, which indebtedness has become or may become a lien or liens upon said work, equipment and/or materials, or which may be claimed or enforced for any reason by any person or persons claiming any such lien or liens, such lien or liens shall be and remain a lien upon the work and equipment and/or materials then in the possession of the Purchaser, or any of its or their officers, agents or servants in such suits or other proceedings, and in case any judgment or other lien be placed upon or otherwise attached against the property of the Purchaser, or said parties in or as a result of such suits or other proceedings, the Seller will at once cause the same to be dissolved and discharged by giving bond or otherwise. The Seller and his contractors shall take all safety precautions and furnish and install all guards necessary for the prevention of accidents and comply with all laws and regulations made or required to be so, including without limitation the Occupational Safety & Health Act of 1970 and all rules and regulations issued pursuant hereto.