



TERMS AND CONDITIONS OF PURCHASE

1. ACCEPTANCE: This Purchase Order and all documents referenced therein constitutes Buyer's offer to Seller and becomes a binding contract on the terms and conditions set forth herein when it is accepted by the Seller either by an acknowledgement or the commencement of performance hereof. Any specifications, drawings, notes, instructions, engineering notices or technical data referred to in Buyer's purchase order shall be deemed to be incorporated herein by reference as if fully set forth. The Purchase Order, any supporting documentation referenced therein and this agreement constitute the entire contract, and failure of either party to enforce any of its rights hereunder shall not constitute a waiver of such rights or to any other rights hereunder. No revisions to the Purchase Order, or supporting documentation referenced therein or any of the terms and conditions as stated in this agreement shall be valid unless in writing and signed by an authorized agent of the Buyer. No conditions stated by Seller in acceptance or acknowledgement of a purchase order shall be binding upon the Buyer unless expressly accepted in writing by the Buyer.

2. QUANTITIES: The specific quantity ordered shall not be changed without Buyer's consent in writing. Buyer shall have no obligation with respect to goods shipped in excess of this purchase order. Buyer shall have the right to reject and return goods at seller's expense that exceed the quantity specified on this order.

3. PRICE: This order shall not be filled at a higher price than the last quoted or charged by the Seller unless a different price is stated on the face of this order. The price as stated on this order is firm, and shall be the price paid by Buyer. No charges will be allowed for packing, crating, freight, express or cartage unless agreed to and specified by the Buyer on this order.

4. DELIVERY: Delivery shall be made at the place specified in this order. Material must be delivered within the time or on the date stated in this order, time being of the essence thereof. Buyer also reserves the right to refuse or return at Seller's risk and expense, shipments made in advance of the schedule of deliveries appearing on the face of the order or as later mutually agreed upon. Seller agrees to report immediately any delay in shipment and any actual or potential labor dispute which is delaying or threatens to delay shipment. All cartons must be clearly marked with the Buyer's purchase order number and item number as specified on this purchase order. An itemized packing slip shall be provided with the shipment. The packing slip must reference the Buyer's purchase order number and shall include quantities and item numbers for all products in the shipment, the total number of cartons and the weight of each carton. Seller shall ship the product Prepaid unless otherwise indicated on the face of the purchase order. If terms on the purchase order indicate FOB Shipping Point, transportation terms shall be collect. The Buyer's count or weight shall be final and conclusive on shipments not accompanied by a packaging list. Upon request by Buyer, seller shall provide proof of delivery of product including but not limited to a signed Bill of Lading and Packing slip.

5. INSPECTION: Payment of invoice shall not constitute acceptance of goods covered by this order and shall be without prejudice to any and all claims of Buyer against Seller. All goods covered by this order shall be subject to Buyer's inspection and approval within a reasonable time after delivery. Materials rejected as not conforming to the Purchase Order, or as otherwise defective in material or workmanship, shall be returned at the Seller's expense including transportation and handling costs, or shall be scrapped at the seller's agreement, and seller shall credit Buyer for the full cost of the materials.

6. PAYMENT: Invoices must be submitted to the address indicated on the face of the purchase order. All invoices must cover only one purchase order and that purchase order number must be referenced on the invoice. Invoices shall be mailed within 24 hours after shipment of goods or completion of services unless otherwise indicated in writing. Buyer shall compute the cash discount period based on the date of receipt by Buyer of either the acceptable invoice or of material or completion of services, whichever is later. On all prepaid shipments chargeable to Buyer, Seller shall attach transportation receipt to the invoice. On invoices returned to the seller for correction, the cash discount period will be calculated from the date of receipt of the corrected invoice. All claims for money due from Buyer shall be subject to deduction by Buyer for any setoff or counterclaim arising out of this or any other of Buyer's purchase orders or other agreements with the Seller, whether such setoff or counterclaim arose before or after the date of the purchase order.

7. CHANGES AND ALTERATIONS: Any change of instructions (or substitution of materials) without Buyer's written consent will be made at Seller's responsibility and risk. No changes in terms, conditions, prices or deliveries shall be made without Buyer's specific authorization to do so. Buyer shall have the right to make changes as to packing, testing, destinations, specifications, drawings, design and delivery schedules (postponement only). The Seller shall immediately notify Buyer in writing of any change in pricing or performance caused by such changes and an equitable adjustment shall be negotiated and authorized in writing.

8. TAXES: All state and federal excise, sales and use taxes in effect on the date of the purchase order and when applicable shall be stated separately on the invoice.

9. WARRANTY: The Seller warrants all materials delivered hereunder to be free from defect in material or workmanship and conforming strictly to the specifications, drawings or other supporting documentation. This warranty shall survive delivery, inspection, acceptance or payment by the Buyer for the materials. All materials shall be free and clear of all liens, claims and encumbrances of any kind. Seller agrees to hold Buyer harmless from and to indemnify Buyer for any loss, expense, cost or damage resulting from breach of any of Seller's warranties or agreements contained in this order.

10. PATENT INDEMNITY: Seller agrees to indemnify Buyer and/or any of its customers or users of its products against any claim or liabilities for or by reason of infringement of any patent, copyright, trademark, trade secret or other proprietary right of any third party arising from the manufacture, sale or of any goods furnished under this order, except insofar as said claims or liabilities arise directly from any special requirement specified or provided by the Buyer and the Seller gives prompt notice of such claims to Buyer.

11. INDEMNIFICATION: Seller shall indemnify and hold harmless *FIRST*, its employees, officers, directors, and agents, from and against any and all suits, claims, losses, forfeitures, demands, fees, damages, liabilities, costs, expenses, obligations, proceedings, or injuries, of any kind or nature, including reasonable attorneys fees which *FIRST* may hereafter incur, become responsible for, or pay out as a result of Seller's breach of any term or provision of this Agreement.

12. OWNERSHIP OF INTELLECTUAL PROPERTY: *FIRST* shall own all right, title and interest in and to all Product and documentation produced in connection with this purchase order, including, without limitation, all Intellectual Property rights thereto. Without limiting the foregoing, Contractor acknowledges that the services and all results thereof, are services done under the direction and control of *FIRST*, and that they have been specially ordered or commissioned by *FIRST*, and that such services and results shall be works made for hire, and that *FIRST* shall own all right, title, and interest therein. *FIRST* shall be considered the owner of any such results or other Product for purposes of copyright and shall own all rights in and to the copyright of the results or other Product and only *FIRST* shall have the right to register the copyright in the same which *FIRST* may do in its name or in the name of its nominee(s). To the extent that any or all

of the services, results, or Products thereof may be deemed ineligible for work made for hire status, Contractor hereby assigns to *FIRST* the entire right, title, and interest in those results and Products, including all copyright. Contractor agrees to execute any further written assignments of copyright in the results and Products that *FIRST* may reasonably request. Contractor hereby appoints *FIRST* as Contractor's attorney in fact for the sole purpose of executing and recording any such assignments.

13. PATENT RIGHTS: Patent rights to all Improvements embodied in designs, tools, patterns, drawings, information and equipment supplied by the Buyer under this contract and exclusive rights for the use and reproduction thereof are reserved by the Buyer. Seller understands and agrees that the benefits of Buyer's design and manufacturing information shall not extend beyond the scope and subject matter of this order.

14. ASSIGNMENT: Neither this order, any interest herein nor any rights or obligations hereunder may be assigned by Seller, whether by operation of law or otherwise, without the prior written consent of the Buyer. Any assignment of monies due or payable hereunder shall be subject to set-off, recoupment or other claim of Buyer against Seller,

15. INSURANCE: Seller agrees to procure a policy or policies of insurance in form satisfactory to the Buyer, insuring all property, if any, on Seller's premises owned by Buyer against loss or damage resulting from fire (including extended coverage), malicious mischief and vandalism. Satisfactory evidence of procurement of such insurance shall be submitted to Buyer within a reasonable period of time after acceptance of this order.

16. GOVERNING LAW: The Purchase Order and the acceptance of it shall be a contract made in the state of New Hampshire and governed by the laws thereof. By accepting this order, Seller represents and warrants that the goods furnished under this order have been, or will be manufactured and sold in compliance with all relevant Federal, state and local laws and regulations. The parties hereby consent to the exclusive jurisdiction of the New Hampshire state courts sitting in Hillsborough County, New Hampshire for resolution of any and all disputes relating to this Agreement.

17. ADVERTISING: Seller shall not without first obtaining the written consent of Buyer, in any manner advertise or publish the fact that Seller has furnished or contracted to furnish to Buyer the goods herein mentioned.

18. FEDERAL EXCLUSION: Seller certifies that it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from transactions by an Federal, state, or local government agency. Furthermore, Seller assures *FIRST* that it will immediately, in writing, notify *FIRST* VP-Finance and President if it or any of its principals, during the term of this Agreement, are proposed for debarment or become ineligible, or otherwise become excluded from transactions with, or fails to comply with, any Federal, state or local government.

19. CANCELLATION: Buyer reserves the right to cancel all or any part of the undelivered portion of this order without any liability of Buyer to Seller if Seller does not make deliveries as provided in this contract or if Seller breaches any of the terms hereof, including the warranties of Seller. Buyer shall also have the right to terminate this order or any part thereof in the event of the happening of any of the following: insolvency of Seller; filing by Seller of a voluntary petition in bankruptcy; filing of an involuntary petition to have Seller declared bankrupt, provided it is not vacated within 30 days from the date of filing; the appointment of a receiver or trustee for Seller, provided such appointment is not vacated within 30 days from the date of such appointment; the execution by Seller of an assignment for the benefit of creditors. The remedies provided in this section shall be cumulative and additional to any other further remedies provided in law or equity. Buyer reserves the right at its option, either to suspend shipments of goods covered by this order or to cancel this order, in whole or in part, at any time where such suspension or cancellation is caused by or reasonably results from United States Government orders or other requirements, embargoes, acts of the civil or military authorities, act of the public enemy, inability to secure transportation, facilities, strikes, differences with claims, and encumbrances.

20. FORCE MAJEURE: If any casualty or unforeseeable cause beyond the control of the contractor or FIRST, including, without limitation, terrorism, acts of God, fires, floods, epidemics, quarantine restrictions, strikes, failure of public utilities, or unusually severe weather, prevents the performance of this agreement, the Parties are hereby released from any obligations set forth herein and any prepayment or deposits shall be refunded to FIRST within 30 days of termination of these obligations.

This purchase order and any referenced documents therein contains the entire understanding between the parties hereto and supersedes all prior agreements and understandings relating to the subject matter hereof. The terms and conditions as stated above are understood and agreed to by reference in all purchase orders received from FIRST.