

## **General Purchase Order Terms and Conditions**

1. **Definitions:** Unless the context requires otherwise, the following capitalized terms mean:
  - 1.1. "Buyer" means Reflex Manufacturing Ltd.
  - 1.2. "Claim" or "Claims" means, as the case may be, any one or more of: loss, damage, cost, expense, disbursement, penalty, fine, claim, demand, action, proceeding, lien (whether builders', mechanic's, construction or other type of lien), legal hypothec, suit, liability, judgment, award, decree, determination, adjudication, unpaid tax of any kind (including withholding tax), cost of investigation and any type of fee (including professional fees and legal fees, on a solicitor-and-own-client basis), together with any interest in relation thereto at the applicable rate.
  - 1.3. "Goods" means all supplies, goods, materials, equipment, components, and any Services, required to be supplied by the Supplier in accordance with the Purchase Order.
  - 1.4. "Indemnitees" means the Buyer, its affiliate entities, and each of their respective Personnel.
  - 1.5. "Law" or "Laws" means collectively all valid applicable common law, federal, provincial, state and municipal and other local laws, orders, rules, regulations and decisions of regulatory bodies, including, occupational health and safety, fire, employment insurance, workers' compensation, Hazardous Substance, transportation of dangerous goods and handling, environmental protection legislation, building codes, anti-bribery law and any other governmental requirements, work practices and procedures prescribed by law and related to the Supplier, the Goods or the Services.
  - 1.6. "Personnel" means a party's directors, officers, employees, contract personnel, representatives, advisors and agents.
  - 1.7. "Purchase Order" means the purchase order issued by the Buyer and all other attachments identified in the purchase order, and amended and supplanted by these Terms and Conditions, subject only to such amendments as may be agreed to in writing by an authorized Personnel of the Buyer.
  - 1.8. "Records" means the records of the Supplier relating to the Purchase Order or the Goods, and which include paper and electronic documents and/or copies in their native form, as the case may be, of:
    - 1.8.1. original invoices and records of account for all Goods supplied, and any other items of cost for which the Buyer is obliged to reimburse the Supplier, and information relating to Supplier's compliance with the Invoicing Requirements;
    - 1.8.2. records relating to any termination or suspension costs; and
    - 1.8.3. information relating to Supplier's compliance with the Law, and the Supplier's use of Confidential Information.
  - 1.9. "Supplier" means the party named in the Purchase Order as the supplier of the Goods to the Buyer.
  - 1.10. "Services" means all labour, supervision and such other work and materials to be supplied or performed, whether in connection with Goods or otherwise, by the Supplier at the address as specified on the Purchase Order, in accordance with the Purchase Order.
  - 1.11. "Terms and Conditions" means this document entitled "General Purchase Order Terms and Conditions", and forming part of the Purchase Order.
2. **Applicability:**
  - 2.1. The Terms and Conditions set out in this document apply to any Purchase Order from the Buyer for the purchase of Goods or performance of Services specified by the Purchase Order, and that timely supply of the Goods and Services is a matter of paramount importance to the Buyer.
  - 2.2. The Terms and Conditions of Purchase shall govern and take priority if inconsistent with the terms and conditions on the face of the Purchase Order (the latter being deemed amended to avoid such inconsistency).
  - 2.3. For ease of reference, any occurrence to "Goods" herein shall collectively include "Goods" and Services.
3. **Acceptance:**
  - 3.1. Acceptance. Acceptance of the Purchase Order confirms rejection of any terms and conditions provided by the Supplier that are inconsistent with these Terms and Condition, and confirms agreement to the Terms and Conditions noted herein by the Supplier and Buyer.

- 3.2. Binding Agreement. The Supplier is deemed to have accepted the Terms and Conditions and the Purchase Order shall become a binding agreement in its entirety, upon either a written notice given by the Supplier to the Buyer that the order has been accepted (and thereby these terms have been agreed to), or commencement of the provision of the Services or supply of Goods by the Supplier, whichever occurs first.
4. Delivery Location:
  - 4.1. All good shall be delivered to the address specified in this on the Purchase Order during the Buyer's normal business hours or as instructed by the Buyer.
5. Shipping Terms:
  - 5.1. Unless otherwise specified on the Purchase Order, all shipments are to be Delivered Duty Paid (DDP) with the Supplier bearing all costs and risk of loss until the Goods are unloaded at the address specified on the Purchase Order. The Buyer will not accept any shipments sent C.O.D (Cash on Delivery) and will return them at the Supplier's risk and expense. The Purchase Order number must appear on all documentation, including but not limited to, shipping documents, shipping labels, invoices, correspondence and any other documents pertaining to the order.
6. Packaging:
  - 6.1. All Goods shall be packed for shipment according to the Buyer's instructions, or if there are no instructions, in a manner that ensures that the Goods are delivered in an undamaged conditions. All shipments must be accompanied by all necessary documentation, including but not limited to, all applicable packing slips, customs documentation, freight bills, regulatory documentation, customs and commercial invoices, and NAFTA Certificates of Origin. The Goods are to be sufficiently marked on the outside of the packaging, to avoid the need to open the package for identification and determination of order reference. Supplier must provide prior written notice if it requires the Buyer to return any packaging material. Any return of such packaging will be at the Supplier's expense.
7. Amendment and Modification:
  - 7.1. The quality, quantity, or nature of the Goods to be delivered or of the Services to be performed shall not be changed except by written approval or notice by the Buyer. If Goods are delivered to the Buyer in excess of the quantities ordered, the Buyer shall not be bound to pay for the excess and any excess will be and will remain at the Supplier's risk and will be returnable at the Supplier's expense.
8. Cancellation:
  - 8.1. The Buyer reserves the right at any time and for any reason to cancel the order in whole or in part by giving the Supplier written notice. The Buyer shall pay to the Supplier fair and reasonable compensation for work-in-progress and for Goods delivered or completed. Upon receipt of notice of cancellation, the Supplier shall immediately discontinue all work in process and provide a cost (if any) forthwith to the Buyer, and if any cost is to be imposed, the Buyer may elect to pay same and immediately cancel applicable orders or contracts, or have the Supplier continue all or any portion of such contracts in order to manage cancellation costs.
9. Price:
  - 9.1. Prices shown on the Purchase Order shall remain firm through the completion of the order, unless otherwise indicated on the face of the order. No variation in the price or extra charges will be due from the Buyer unless otherwise agreed in writing by the Buyer.
10. Invoicing and Payment Terms:
  - 10.1. Invoices shall not be submitted until after delivery and shall be submitted to the invoice address or email address shown on the Purchase Order. The Buyer shall pay Supplier's invoices within thirty (30) calendar days of receipt at the correct invoice address.

- 10.2. Withholding. Notwithstanding any other provision, an amount otherwise due to the Supplier may be withheld, without payment of interest, if, in the opinion of the Buyer, it is necessary to protect the Buyer from loss on account of the Supplier:
- 10.2.1. failing to provide the Goods in accordance with the terms of this Purchase Order;
  - 10.2.2. being in default of any condition of the Purchase Order, including without limitation, quality assurance;
  - 10.2.3. not promptly remedying defective or deficient Goods; or
  - 10.2.4. failing to promptly and satisfactorily pay any Claim for labour performed or materials or equipment furnished;
- and if and when the cause of the withholding of any amount is removed and satisfactory evidence of such removal is furnished to the Buyer, the Buyer shall promptly pay the amount withheld to the Supplier pertaining to such cause.
11. Suspension or Termination:
- 11.1. Suspension or Termination by the Buyer. The Buyer may, at any time, without cause, suspend or terminate the Purchase Order for any reason on 15 days' written notice, provided, however, that the Buyer may, upon giving 24 hours' notice, immediately terminate the Purchase Order for cause.
12. Title Transfer
- 12.1. Title Transfer. Title to the Goods or part thereof shall be vested in the Buyer when the first of the following events occurs:
- 12.1.1. the Goods, or a portion thereof, are first identifiable as being appropriated to the Purchase Order;
  - 12.1.2. the Buyer pays for the Goods, or part thereof; or
  - 12.1.3. the Goods or part thereof are dispatched from the Supplier's place of manufacture to the address specified on the Purchase Order.
- 12.2. Refusal of the Goods. Any transfer of title to the Goods shall be without prejudice to the Buyer's right to refuse the Goods in case of non-conformity with the requirements of the Purchase Order.
- 12.3. Risk of Loss. Notwithstanding Paragraph 12.1 Title Transfer, care, custody, control and risk of loss of the Goods, and liability arising from the storage and transportation of the Goods, remains with the Supplier until the Buyer takes physical possession and accepts delivery of the Goods.
13. Product Discontinuation Notice:
- 13.1. In the event that the Supplier discontinues Goods purchased by the Buyer, the Buyer requires written notice of at least (6) months prior to the discontinuation of the product from the Supplier. Failure to notify the Buyer of product discontinuations may result in the removal of the Supplier from the Buyer's approved supplier list.
14. Confidentiality:
- 14.1. All orders, data and all other information obtained by the Supplier from the Buyer in connection with this order shall be held in strict confidence by the Supplier and used solely for the purposes intended in connection with this order. Upon the Buyer's request, the Supplier shall promptly return all documents and other information received from the Buyer and destroy any electronic copies.
- 14.2. Confidentiality Indemnification. Without limitation and in addition to any other rights or remedies the Buyer may have, the Supplier acknowledges that it shall be liable to and shall indemnify and hold harmless the Indemnitees from all inter-party and third party Claims brought against or suffered, sustained, paid or incurred by the Indemnitees arising out of or resulting from a breach of Article 14 Confidentiality.
- 14.3. Further Relief. It is understood that a breach of any of the promises or provisions contained in this Article may cause the other party to suffer a loss for which it could not be adequately compensated by monetary damages. In addition to claiming damages or an indemnity, the affected party shall be entitled as a matter of right to seek an injunction and enforce the terms and provisions of this Article. The parties agree that the affected party will suffer irreparable harm as a result of a breach of any of the promises or provisions contained in this Article, and the other party consents to any preliminary or ex parte applications for such

relief to any court of competent jurisdiction, including, without limitation, equitable relief including injunctive relief and specific performance. The foregoing rights shall be cumulative and shall be in addition to any other remedies which may be available to the affected party.

14.4. Term. The obligations under this Article 14 Confidentiality shall continue for a period of 5 years following the date the Purchase Order becomes a binding agreement in accordance with Paragraph 3.2 Binding Agreement.

15. Intellectual Property:

15.1. Intellectual Property Indemnification. The Supplier shall be liable to and shall indemnify and hold harmless the Buyer from and against any and all Claims arising out of or resulting from the actual or alleged infringement of any rights under patents, trade secrets, copyright or other intellectual property rights or any litigation based thereon in respect of Goods supplied by the Supplier.

16. Compliance with Laws:

16.1. Compliance with Law. The Supplier shall comply with all applicable Law in the performance of its obligations under the Purchase Order.

17. Taxes:

17.1. Tax Responsibility. With the exception of goods and services tax/harmonized sales tax (as defined in the Excise Tax Act (Canada)) payable on amounts due to the Supplier, payment of which shall remain the responsibility of the Buyer, the Supplier shall pay all taxes, duties or other like amounts in relation to the Goods supplied under the Purchase Order in compliance with all applicable Law.

17.2. Tax Indemnity. The Supplier shall indemnify and save harmless the Buyer from any and all Claims which may be made or assessed against the Buyer in respect of the Supplier's obligations described in Article 17 Taxes.

18. Supplier's Performance Representations and Warranties:

18.1. The Supplier represents and warrants that the Goods:

18.1.1. shall be free from all latent and other defects or deficiencies;

18.1.2. shall be of merchantable quality;

18.1.3. shall be fit for the purpose for which the Goods have been manufactured, fabricated or supplied;  
and

18.1.4. are now, and shall continue to be, free and clear of all liens, encumbrances, any adverse Claims, demands or other interests.

19. Warranty

19.1. Remediation of Defective or Deficient Goods. The Supplier shall, at its own risk and expense, including all costs to access the Goods, but subject to the limit specified in Paragraph 22.1 Limitation of Liability for the Supplier, remedy without delay any defect or deficiency in the Goods discovered within 36 months after delivery of the Goods or 12 months after the Goods are put into service under normal operating conditions, whichever occurs first.

19.2. Indemnification by Supplier to the Buyer for Remediation. Should the Supplier fail to promptly remedy the defects or deficiencies in accordance with Paragraph 19.1 Remediation of Defective or Deficient Goods, the Buyer may proceed with any activities necessary to remedy the defects or deficiencies and the Supplier shall indemnify and hold harmless the Buyer from any Claim suffered, sustained, paid or incurred by the Buyer.

20. Insurance:

20.1. Insurance Coverage. Without limiting any of the obligations or liabilities under the Purchase Order, the Supplier shall obtain at its own expense and cost, a policy of Commercial General Liability Insurance suitable to the Buyer in an amount of not less than \$5 million per occurrence covering Products and

Completed Operations Liability. This policy will respond to property damage to the Buyer's existing facilities.

21. Liability and Indemnification:

21.1. Liability of Supplier. The Supplier agrees that it shall be liable to and indemnify and hold harmless the Indemnitees for all Claims whatsoever which the Buyer and its Personnel may suffer, sustain, pay or incur as a result of and to the extent of: (i) the negligence; and (ii) breach of contract; of the Supplier, arising out of or incidental to the performance or non-performance of the Supplier's obligations or the provision of the Goods under the Purchase Order.

22. Limitation of Liability:

22.1. Limitation of Liability for the Supplier. Subject to Paragraph 22.2 Gross Negligence and Willful Misconduct and the Supplier's obligations to indemnify pursuant to Article 23 Third Party Claims, Article 14 Confidentiality, Article 15 Intellectual Property and Article 17 Taxes, which shall not be limited in any way, the Supplier's liability under this Purchase Order shall be limited to the greater of:

22.1.1. all amounts of applicable coverage under policies of insurance required to be maintained under the Purchase Order, or

22.1.2. the Purchase Order price.

22.2. Gross Negligence and Willful Misconduct. The limitation of the Supplier's liability, specified in Paragraph 22.1 Limitation of Liability for the Supplier shall not apply in respect of liability of the Supplier arising from, or connected to, its gross negligence or willful misconduct.

23. Third Party Claims:

23.1. Third Party Claims. The Supplier agrees that it shall be liable to and indemnify and hold harmless the Buyer and Personnel from all Claims whatsoever by third party which may be brought or made against the Buyer or its Personnel or which they may sustain, pay or incur as a result of and to the extent of the acts, faults, errors, omissions or negligence of the Supplier arising out of or incidental to the performance or non-performance of the Supplier's obligations or the provision of the Goods under the Purchase Order or the conduct of the Supplier.

24. Consequential and Punitive Damages:

24.1. Consequential and Punitive Damages Exclusion. Neither party shall be liable to the other for consequential damages, punitive damages or damages for losses of profits, revenue, business, reputation or financing and lost opportunity.

24.2. Direct Lost Profits. Notwithstanding Paragraph 24.1 Consequential and Punitive Damages Exclusion, the Supplier shall be liable to the Indemnitees for damages for losses of profits, revenue, business, reputation or financing and lost opportunity if and to the extent that such losses are a direct result of: (i) the negligence; or (ii) breach of contract; of the Supplier; arising out of or incidental to the performance or non-performance of the Purchase Order or the supply of the Goods by the Supplier.

24.3. Exception to Consequential and Punitive Damages Exclusion. Paragraph 24.1 Consequential and Punitive Damages Exclusion shall not apply to the Supplier's obligation to indemnify the Indemnitees pursuant to Paragraph 23.1 Third Party Claims, Paragraph 14.2 Confidentiality Indemnification and Paragraph 15.1 Intellectual Property Indemnification.

25. Indemnity:

25.1. The Supplier shall indemnify and hold harmless the Buyer, including without limitation its owners, employees, affiliates and insurers, in full from and against all direct, indirect or consequential liability, lawsuits, claims, losses, damages, injury, death, costs and expenses (including without limitation legal and other professional fees and expenses).



10474 - 172 Street Edmonton, Alberta T5S 1G9  
Phone: (780) 484-4002 Fax: (780) 484-7474  
Email: covers@reflex.ca

26. Return of Goods:

26.1. Return of Goods. In the event any Goods are delivered in error, rejected as not being in accordance with the Purchase Order, then the Buyer shall have the right to return such Goods at the Supplier's expense and risk.

27. UN Convention on the Sale of Goods:

27.1. Exclude the Application. The parties hereto expressly exclude the application of the United Nations Convention on Contracts for the International Sale of Goods.

28. Governing Law:

28.1. Governing Law and Jurisdiction. The Purchase Order shall be governed by and construed in accordance with the Laws of the province of Alberta. The parties agree to accept and submit to the exclusive jurisdiction of the courts of Alberta.

29. General Matters:

29.1. Assignment. Neither party may assign the Purchase Order without the prior written consent of the other party, which consent shall not be unreasonably withheld.

29.2. Subcontracting. Supplier shall not subcontract any portion of the Purchase Order without the prior written consent of the Buyer, which consent shall not be unreasonably withheld.

29.3. Entire Agreement. The Purchase Order constitutes the entire agreement between the parties and shall supersede and replace any and all prior agreements between the parties with respect to the subject matter hereof, and may be amended only by written instrument signed by the parties.

29.4. Amendments. No amendment to the Purchase Order shall be binding on the Buyer and the Supplier, unless made in writing and signed by the authorized representatives of both parties.

29.5. No Waiver. The Buyer's failure to insist on performance of any term, condition or instruction or failure to exercise any right or privilege, or its waiver of any breach or default shall not thereafter waive any such term, condition, instruction, right or privilege.

29.6. Exclusions. Any reference to the Supplier's documents (quotation, bid, or proposal) does not imply acceptance of any terms, conditions, or instruction contained in such document. Any Supplier's terms and conditions stated in any communication shall not apply to the Purchase Order and shall not be applicable in the interpretation of the Purchase Order.