



TIMNEY MANUFACTURING GENERAL PURCHASE ORDER TERMS AND CONDITIONS

1. **General.** This purchase order is an offer by Timney Manufacturing (the "**Buyer**") for the purchase of the goods specified on the face of this purchase order (the "**Goods**") from the party to whom the purchase order is addressed (the "**Seller**") in accordance with and subject to these terms and conditions (the "**Terms**"; together with the terms and conditions on the face of the purchase order, the "**Order**"). This Order, together with any documents incorporated herein by reference, constitutes the sole and entire agreement of the parties with respect to the Order and supersedes all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral, with respect to the subject matter of the Order. The Order expressly limits the Seller's acceptance to the terms of the Order. These Terms prevail over any terms or conditions contained in any other documentation and expressly exclude any of the Seller's general terms and conditions of sale or any other document issued by the Seller in connection with this Order. These Terms apply to any repaired or replacement Goods provided by hereunder. The Buyer is not obligated to any minimum purchase or future purchase obligations under this Order. The Seller must accept these Terms as-is, without any modifications or adjustments unless expressly agreed to by the Buyer. The Buyer will not accept the delivery of the Goods without an acceptance of these Terms.
2. **Acceptance.** This Order is not binding on the Buyer until the Seller accepts the Order in writing or starts to perform in accordance with the Order. The Buyer may withdraw the Order at any time before it is accepted by the Seller. By accepting a Purchase Order, the Buyer does not forfeit the right to return or cancel all or any portion of the goods and services that are not in conformance with the Purchase Order. All incoming Goods are subject to inspection and rejection alongside withholding of payment prior to final delivery. At any time, the Buyer, by written submission, may edit the Order as follows: processing, delivery, packaging methods, and time of delivery. If any change results in a price adjustment the Seller must submit a written request along with any adjustments or objections to the purposed changes indicated by the Buyer.
3. **Price.** The price of the Goods is the price stated in the Order (the "**Price**"). Unless otherwise specified in the Order, the Price includes the quantity, all packaging, transportation costs to the Delivery Location, insurance, special processing charges, fees, and applicable taxes, including, but not limited to, all sales, use transaction privilege or excise taxes (collectively, the "**Costs**"). No increase in the Price is effective, whether due to increased material, labor, or transportation costs or otherwise, without the prior written consent of the Buyer. Should the Seller determine that a price discrepancy exists due to a change in Costs, the Seller shall submit a written request for an increase in the Price, for review by the Buyer, providing sufficient documentary evidence justifying an increase in the Price.
4. **Delivery Date.** The Seller shall deliver the Goods in the quantities and on the date(s) specified in this Order or as otherwise agreed in writing by the parties (the "**Delivery Date**"). Timely delivery of the Goods is of the essence. If the Seller fails to deliver the Goods in full on the Delivery Date, the Buyer may terminate the Order immediately by providing written notice to the Seller and the Seller shall indemnify the Buyer against any losses, claims, damages, and reasonable costs and expenses directly attributable to the Seller's failure to deliver the Goods on the Delivery Date.
5. **Delivery Location.** All Goods shall be delivered to the address specified in this Order (the "**Delivery Location**") during the Buyer's normal business hours or as otherwise instructed by the Buyer.
6. **Shipping Terms.** Delivery shall be made in accordance with the terms on the face of this Order and shall be a Free-on-Board Destination to the Delivery Location. The Seller shall give written notice of shipment to the Buyer when the Goods are delivered to a carrier for transportation. The Seller shall provide the Buyer all shipping documents, including the commercial invoice, packing list, bill of lading, and any other documents related to the Order. The Order number must appear on all shipping documents, shipping labels, bills of lading, invoices, correspondence, and any other documents pertaining to the Order.
7. **Title and Risk of Loss.** Title passes to the Buyer upon delivery of the Goods to the Delivery Location and acceptance of the Goods by the Buyer. The Seller bears all risk of loss or damage to the Goods until delivery of the Goods to the Delivery Location and Buyer's acceptance of the Goods, provided such acceptance shall be made in a timely manner.

8. **Packaging.** All Goods shall be packed for shipment according to the Buyer's instructions or, if there are no instructions, in a manner sufficient to ensure that the Goods are delivered in an undamaged condition. The Seller must provide the Buyer prior written notice if it requires the Buyer to return any packaging material. Any return of such packaging material shall be made at the Seller's expense. Each package is to be labeled with the given Purchase Order number as well as a packing list for each container.

9. **Amendment and Modification.** No change to this Order is binding upon the Buyer unless it is in writing, specifically stating that it amends this Order, and is signed by an authorized representative of the Buyer.

10. **Inspection and Rejection of Nonconforming Goods.** The Buyer has the right to inspect the Goods on or after the Delivery Date. The Buyer, at its sole option, may inspect all or a sample of the Goods, and may reject all or any portion of the Goods if it determines the Goods are nonconforming, defective, or do not meet the Buyer's quality specifications, including without limitation, Goods that have been sent out for external processing. If the Buyer rejects any portion of the Goods for nonconformance, defectiveness, or inferior quality, the Buyer has the right, effective upon written notice to the Seller, to (a) rescind the Order in its entirety; (b) accept the Goods at a reasonably reduced price, or (c) reject the Goods and require replacement of the rejected Goods. If the Buyer requires replacement of the Goods, the Seller shall, at its expense, promptly replace the nonconforming Goods and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective goods and the delivery of replacement Goods. If the Seller fails to timely deliver replacement Goods, the Buyer may replace them with goods from a third party and charge the Seller the cost thereof and terminate this Order for cause pursuant to Section 18. Any inspection or other action by the Buyer under this Section shall not reduce or otherwise affect the Seller's obligations under the Order, and the Buyer shall have the right to conduct further inspections after the Seller has carried out its remedial actions.

11. **Most Favored Customer.** The Seller represents and warrants that the price for the Goods is the lowest price charged by the Seller to any of its external buyers for similar volumes of similar Goods. If the Seller charges any other buyer a lower price, the Seller must apply that price to all Goods under this Order. If the Seller fails to meet the lower price, the Buyer, at its option, may terminate this Order without liability pursuant to Section 18.

12. **Payment Terms.** The Seller shall issue an invoice to the Buyer on or any time after the completion of delivery and only in accordance with the Terms. All invoices shall include the Purchase Order Number, Buyer's Part Number, and quantity shipped versus quantities on order. All payments hereunder must be in US dollars and made by cash or wire transfer of immediately available funds. In the event of a payment dispute, the Buyer shall deliver a written statement to the Seller no later than fourteen (14) days from the Buyer's acceptance of the Goods listing all disputed items and providing a reasonably detailed description of each disputed item. Amounts not so disputed are deemed accepted and must be paid, notwithstanding disputes on other items, within the period set forth in this Section 12. The parties shall seek to resolve all such disputes expeditiously and in good faith. The Seller shall continue performing its obligations under the Order notwithstanding any such dispute.

13. **Setoff.** Without prejudice to any other right or remedy it may have, the Buyer reserves the right to set off at any time any amount owing to it by the Seller against any amount payable by the Buyer to the Seller.

14. **Warranties.** The Seller warrants to the Buyer that all Goods will: (a) be free from any defects in workmanship, material, and design; (b) conform to applicable specifications and other requirements specified by the Buyer; (c) be merchantable; (d) be free and clear of all liens, security interests or other encumbrances; and (e) not infringe or misappropriate any third party's patent or other intellectual property rights. These warranties survive any delivery, inspection, acceptance, or payment of or for the Goods by the Buyer. These warranties are cumulative and in addition to any other warranty provided by law or equity. Any applicable statute of limitations runs from the date of the Buyer's discovery of the noncompliance of the Goods with the foregoing warranties. If the Buyer gives the Seller notice of noncompliance with this Section, the Seller shall, at its own cost and expense, promptly replace or repair the defective or nonconforming Goods and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective or nonconforming goods to the Seller and the delivery of repaired or replacement Goods to the Buyer.

15. **General Indemnification.** The Seller shall defend, indemnify, and hold harmless the Buyer and the Buyer's subsidiaries, affiliates, successors or assigns and its respective directors, officers, and employees and the Buyer's customers (collectively, "**Indemnitees**") against any and all loss, injury, death, damage, liability, claim, deficiency, action, judgment,

interest, award, penalty, fine, cost or expense, including reasonable attorney and professional fees and costs, and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers (collectively, "Losses") arising out of or occurring in connection with the products purchased from the Seller or the Seller's negligence, willful misconduct or breach of the Terms. The Seller shall not enter into any settlement without the Buyer's or Indemnitee's prior written consent.

16. **Intellectual Property Indemnification.** The Seller shall, at its expense, defend, indemnify, and hold harmless the Buyer and any Indemnitee against any and all Losses arising out of or in connection with any claim that the Buyer's or Indemnitee's use or possession of the Goods infringes or misappropriates the patent, copyright, trade secret, or other intellectual property right of any third party. In no event shall the Seller enter into any settlement without the Buyer's or Indemnitee's prior written consent.

17. **Compliance with Law.** The Seller is in compliance with, and shall comply with, all applicable laws, regulations, and ordinances. The Seller has and shall maintain in effect all the licenses, permissions, authorizations, consents, and permits that it needs to carry out its obligations under the Order.

18. **Termination.** The Buyer may terminate this Order, in whole or in part, at any time with or without cause for undelivered Goods five (5) days prior written notice to the Seller. In addition to any remedies that may be provided under these Terms, the Buyer may terminate this Order with immediate effect upon written notice to the Seller, either before or after the acceptance of the Goods, if the Seller has not performed or complied with any of these Terms, in whole or in part. If the Seller becomes insolvent, files a petition for bankruptcy, or commences or has commenced against its proceedings relating to bankruptcy, receivership, reorganization, or assignment for the benefit of creditors, then the Buyer may terminate this Order upon written notice to Seller. If the Buyer terminates the Order for any reason, the Seller's sole and exclusive remedy is payment for the Goods received and accepted by the Buyer prior to the termination.

19. **Limitation of Liability.** Nothing in this Order shall exclude or limit (a) the Seller's liability under Sections 14, 15, 16, and 21 hereof, or (b) Seller's liability for fraud, personal injury, or death caused by its negligence or willful misconduct.

20. **Waiver.** No waiver by any party of any of the provisions of the Order shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in the Order, no failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from the Order shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

21. **Confidential Information.** All non-public, confidential, or proprietary information of the Buyer, including, but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts, or rebates, disclosed by the Buyer to the Seller, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential," in connection with the Order is confidential, solely for the use of performing the Order and may not be disclosed or copied unless authorized by the Buyer in writing. Upon the Buyer's request, the Seller shall promptly return all documents and other materials received from the Buyer. The Buyer shall be entitled to injunctive relief for any violation of this Section. This Section shall not apply to information that is: (a) in the public domain; (b) known to the Seller at the time of disclosure, or (c) rightfully obtained by the Seller on a non-confidential basis from a third party.

22. **Assignment.** The Seller shall not assign, transfer, delegate, or subcontract any of its rights or obligations under the Order without the prior written consent of the Buyer. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve the Seller of any of its obligations hereunder. The Buyer may at any time assign, transfer, or subcontract any or all its rights or obligations under the Order without the Seller's prior written consent.

23. **Relationship of the Parties.** The relationship between the parties is that of independent contractors. Nothing contained in the Order shall be construed as creating any agency, partnership, joint venture, or another form of joint enterprise, employment, or fiduciary relationship between the parties, and neither party shall have the authority to contract for or bind the other party in any manner whatsoever. No relationship of exclusivity shall be construed from this Order.

24. **No Third-Party Beneficiaries.** This Order is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of these Terms.
25. **Governing Law.** All matters arising out of or relating to this Order shall be governed by and construed in accordance with the internal laws of the State of Arizona without giving effect to any choice or conflict of law provision or rule (whether of the State of Arizona or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Arizona.
26. **Submission to Jurisdiction.** Any legal suit, action, or proceeding arising out of or relating to this Order shall be instituted in the federal courts of the United States of America or the courts of the State of Arizona in each case located in the City of Phoenix and County of Maricopa, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.
27. **Cumulative Remedies.** The rights and remedies under this Order are cumulative and are in addition to and not in substitution for any other rights and remedies available at law or in equity or otherwise.
28. **Notices.** All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "Notice") shall be in writing and addressed to the parties at the addresses set forth on the face of this Order or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission), or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Order, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.
29. **Severability.** If any term or provision of this Order is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.
30. **Survival.** Provisions of this Order which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Order including, but not limited to, the following provisions: Setoff, Warranties, General Indemnification, Intellectual Property, Indemnification, Compliance with Laws, Confidentiality, Governing Law, Submission to Jurisdiction and Survival.