

BROOKVILLE EQUIPMENT CORPORATION

Purchase Order Standard Terms and Conditions

CONTRACT. SELLER SHALL PROVIDE ALL ITEMS, MATERIALS, ARTICLES, PRODUCTS OR GOODS AND NECESSARY SERVICE SET FORTH ON THIS DOCUMENT AND SHALL DELIVER THE SAME TO BUYER'S LOCATION WITHIN THE TIME OR SCHEDULE AND FOR THE COMPENSATION SET FORTH.

CONTRACT FORMS. THIS CONTRACT IS LIMITED TO THE ITEMS IN THIS DOCUMENT AND ATTACHMENTS. ALL OTHER TERMS AND CONDITIONS PROFFERED BY THE SELLER ARE DEEMED SPECIFICALLY REJECTED. NONE OF THE TERMS AND CONDITIONS CONTAINED IN THIS PURCHASE ORDER INCLUDING BUT NOT LIMITED TO SPECIFICATIONS, TERMS, AND CONDITIONS MAY BE ADDED TO, MODIFIED, SUPERSEDED OR OTHERWISE ALTERED EXCEPT BY WRITTEN INSTRUMENT SIGNED AND DATED BY AN AUTHORIZED REPRESENTATIVE OF THE BUYER, AND EACH SHIPMENT RECEIVED BY BUYER FROM SELLER SHALL BE DEEMED TO BE ONLY UPON THE TERMS AND CONDITIONS CONTAINED IN THIS PURCHASE ORDER AND PURCHASE ORDER STANDARD TERMS AND CONDITIONS, NOTWITHSTANDING ANY TERMS AND CONDITIONS THAT MAY BE CONTAINED IN ANY ACKNOWLEDGEMENT, INVOICE OR OTHER FORM OF THE SELLER AND NOTWITHSTANDING BUYER'S ACT OF ACCEPTING OR PAYING FOR ANY SHIPMENT OR SIMILAR ACT OF THE BUYER. THIS PURCHASE ORDER AND THE DOCUMENTS SPECIFICALLY REFERRED TO HEREIN SUPERSEDE ALL PRIOR DOCUMENTS, PRIOR CORRESPONDENCE, AND OTHER PRIOR AGREEMENTS WHATSOEVER PASSING BETWEEN, OR GIVEN, OR SIGNED, OR OTHERWISE DELIVERED BY EITHER OF THE PARTIES TO THE OTHER OF THEM, SAVE AND EXCEPT THE EXTENT TO WHICH ANY SUCH DOCUMENTS ARE SPECIFICALLY REFERRED TO IN THIS PURCHASE ORDER.

ORDER NUMBERS. BUYER WILL COMMUNICATE AN EIGHT DIGIT PURCHASE ORDER NUMBER (EX. XXXXX-XX) TO SELLER BY TELEPHONE, FAX OR EMAIL. SELLER SHALL INCLUDE THE PURCHASE ORDER NUMBER ON EVERY PACKAGE, PACKING SHEET, INVOICE AND EVERY OTHER COMMUNICATION RELATED TO THIS ORDER.

INDEPENDENT CONTRACTOR. SELLER SHALL PERFORM AS AN INDEPENDENT CONTRACTOR AND NOT AS BUYER'S AGENT. BUYER SHALL NOT BE RESPONSIBLE FOR NOR BOUND BY ANY OF SELLER'S ACTS, OBLIGATIONS OR DEFAULTS, NOR FOR THOSE OF SELLER'S SERVANTS, AGENTS OR EMPLOYEES.

COMPLIANCE WITH LAWS. SELLER SHALL OBSERVE AND COMPLY WITH ALL APPLICABLE FEDERAL, STATE AND LOCAL LAWS AND REGULATIONS. ANY PROVISION REQUIRED TO BE INCLUDED IN A CONTRACT OF THIS TYPE BY ANY APPLICABLE AND VALID FEDERAL, STATE OR LOCAL LAW OR ADMINISTRATIVE RULE OR REGULATION HAVING THE EFFECT OF LAW SHALL BE DEEMED TO BE INCORPORATED HEREIN. SELLER REPRESENTS THAT THE GOODS COVERED BY THIS PURCHASE ORDER WERE NOT MANUFACTURED AND ARE NOT BEING SOLD OR PRICED IN VIOLATION OF ANY FEDERAL, STATE OR LOCAL LAW. SELLER AGREES THAT THE GOODS SHIPPED TO BUYER UNDER THIS PURCHASE ORDER WILL BE PRODUCED IN COMPLIANCE WITH THE FAIR LABOR STANDARDS ACT. FOR ORDERS THAT EXCEED \$10,000 CONTRACTOR/SUBCONTRACTOR SHALL ABIDE BY THE REQUIREMENTS OF 41 CFR §§ 60-1.4(A), 60-300.5(A) AND 60-741.5(A). THESE REGULATIONS PROHIBIT DISCRIMINATION AGAINST QUALIFIED INDIVIDUALS BASED ON THEIR STATUS AS PROTECTED VETERANS OR INDIVIDUALS WITH DISABILITIES, AND PROHIBIT DISCRIMINATION AGAINST ALL INDIVIDUALS BASED ON THEIR RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY OR NATIONAL ORIGIN. MOREOVER, THESE REGULATIONS REQUIRE THAT COVERED PRIME CONTRACTORS AND SUBCONTRACTORS TAKE AFFIRMATIVE ACTION TO EMPLOY AND ADVANCE IN EMPLOYMENT INDIVIDUALS WITHOUT REGARD TO RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, NATIONAL ORIGIN, PROTECTED VETERAN STATUS OR DISABILITY.

INSURANCE. SELLER SHALL, AT ALL TIMES DURING ITS PERFORMANCE HEREUNDER, CARRY ADEQUATE INSURANCE AS FOLLOWS: WORKMEN'S COMPENSATION AND EMPLOYER'S LIABILITY (AND ANY OTHER COVERAGES REQUIRED BY SIMILAR LIABILITY ACTS); COMPREHENSIVE GENERAL LIABILITY INCLUDING CONTRACTUAL LIABILITY; AND AUTOMOTIVE LIABILITY.

INDEMNIFICATION. SELLER AGREES TO INDEMNIFY AND HOLD BUYER, ITS EMPLOYEES, REPRESENTATIVES, SUCCESSORS AND ASSIGNS HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, CAUSES OF ACTION, DEMANDS, DAMAGES, LIABILITY, LOSS, DEFICIENCY, SUITS, PROCEEDINGS, FINES, PENALTIES, AND OR JUDGMENTS INCLUDING ATTORNEY'S FEES AND OTHER COSTS AND EXPENSES INCIDENT TO ANY CLAIM, SUIT, ACTION OR PROCEEDING, IN CONTRACT, TRESPASS, ASSUMSIT OR OTHERWISE CAUSED BY, RELATING TO OR RESULTING FROM INJURIES TO ANY PERSON OR PERSONS (INCLUDING DEATH) OR DAMAGE TO ANY PROPERTY OF ANY KIND IN CONNECTION WITH SELLER'S PERFORMANCE HEREUNDER OR RESULTING FROM MATERIALS, GOODS OR PRODUCTS SUPPLIED BY SELLER HEREUNDER OR RESULTING FROM SELLER'S FAILURE TO COMPLY WITH ANY CONDITION IMPOSED UPON SELLER HEREUNDER.

WARRANTY. SELLER EXPRESSLY WARRANTS THAT ALL MATERIALS, ARTICLES, PRODUCTS AND GOODS COVERED BY THIS PURCHASE ORDER OR OTHER DESCRIPTION OR SPECIFICATIONS FURNISHED BY BUYER WILL BE IN EXACT ACCORDANCE WITH SUCH ORDER, DESCRIPTION OR SPECIFICATIONS AND FREE FROM ALL DEFECTS IN MATERIAL AND/OR WORKMANSHIP, AND SHALL BE MERCHANTABLE AND FIT FOR THE PURPOSES FOR WHICH THEY ARE INTENDED. SUCH WARRANTY SHALL SURVIVE DELIVERY, AND SHALL NOT BE DEEMED WAIVED EITHER BY REASON OF BUYER'S ACCEPTANCE OF SAID MATERIALS, ARTICLES AND GOODS OR BY PAYMENT FOR THEM.

PACKING AND SHIPPING. ALL ITEMS MUST BE PROPERLY PREPARED FOR SHIPMENT TO SECURE LOWEST TRANSPORTATION RATES AND COMPLY WITH CARRIER REGULATIONS. NO CHARGES WILL BE PAID BY BUYER FOR PACKING, BOXING, CRATING, OR CARTAGE OR OTHER EXTRAS UNLESS SO STATED IN THE PURCHASE ORDER. ALL SHIPMENTS TO BE FORWARDED ON ONE DAY VIA ONE ROUTE MUST BE CONSOLIDATED. TO THE EXTENT PRACTICABLE, ITEMS ORDERED UNDER SEPARATE PURCHASE ORDER NUMBERS SHALL BE SEGREGATED WITHIN THE PALLET, BOX OR SHIPPING CONTAINER. A SEPARATE PACKING SHEET FOR EACH ORDER INCLUDED IN A SHIPMENT, SHOWING PURCHASE ORDER NUMBER, MUST BE INCLUDED WITH EACH SHIPMENT. BROOKVILLE EQUIPMENT CORPORATION PART NUMBER AND PURCHASE ORDER NUMBER MUST BE REFERENCED ON ALL PACKING/SHIPPING DOCUMENTS AND INVOICES. SUPPLIERS ARE ASKED TO FORWARD AN INVOICE FOR ALL GOODS SUPPLIED OR SERVICES RENDERED NO LATER THAN THE DAY FOLLOWING THE DELIVERY OF THE GOODS OR THE RENDERING OF THE SERVICE AS THE CASE MAY BE. SELLER SHALL BE SOLELY RESPONSIBLE FOR RISK OF LOSS TO ANY MATERIALS, GOODS OR PRODUCTS SHIPPED TO BUYER UNTIL SAID MATERIALS, GOODS OR PRODUCTS ARE RECEIVED, INSPECTED AND ACCEPTED BY BUYER.

SHIPMENT OR DELIVERY AND QUANTITY. TIME IS OF THE ESSENCE TO SHIPMENT OR DELIVERY AND TO ANY OTHER PERFORMANCE REQUIRED OF SELLER. SHIPMENT OR DELIVERY SHALL BE IN ACCORDANCE WITH THE SCHEDULE SET OUT IN THE PURCHASE ORDER, AND IN EXACT QUANTITIES ORDERED. IF IT APPEARS SELLER WILL NOT MEET SUCH SCHEDULE OR IF SELLER FAILS TO MEET SUCH SCHEDULE, SELLER SHALL, UPON REQUEST OF BUYER, SHIP VIA EXPEDITED ROUTING NECESSARY TO EITHER MEET SUCH SCHEDULE OR TO RECOVER THE MAXIMUM POSSIBLE TIME LOST BY FAILURE TO SHIP OR DELIVER ON SCHEDULE, AND THE DIFFERENCE BETWEEN THE EXPEDITED ROUTING AND THE PURCHASE ORDER ROUTING COST SHALL BE BORNE BY SELLER. BUYER RESERVES THE RIGHT AT SELLER'S EXPENSE TO RETURN ANY GOODS SHIPPED IN ADVANCE OF THE SCHEDULE SET OUT IN THE PURCHASE ORDER.

IN THE EVENT THAT SELLER FAILS TO MAKE SHIPMENT AS HEREIN SPECIFIED, BUYER MAY CANCEL THIS ORDER, PROCURE THE MATERIAL ELSEWHERE AND/OR HOLD SELLER

RESPONSIBLE FOR ANY DAMAGES SUSTAINED BY BUYER. THE SPECIFIC QUANTITY ORDERED MUST BE DELIVERED IN FULL AND NOT CHANGED WITHOUT BUYER'S CONSENT IN WRITING. ANY UNAUTHORIZED QUANTITY IS SUBJECT TO BUYER'S REJECTION AND RETURN AT SELLER'S EXPENSE. UNAUTHORIZED "OVERAGES" WILL BE RETURNED AT SELLER'S EXPENSE.

CANCELLATION. BUYER RESERVES THE RIGHT TO CANCEL ALL OR PART OF THE UNDELIVERED PORTION OF THIS PURCHASE ORDER IF SELLER DOES NOT MAKE DELIVERIES AS SPECIFIED, TIME BEING OF THE ESSENCE OF THIS AGREEMENT, OR IF SELLER BREACHES ANY OF THE TERMS HEREOF INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF THE SELLER.

RECEIPT. BUYER SHALL BE DEEMED TO HAVE RECEIVED GOODS PROCURED HEREUNDER WHEN SUCH GOODS HAVE BEEN DEPOSITED AT THE BUYER'S DOCK AND ALL BILLS OF LADING OR OTHER SHIPPING PAPERS WHICH REQUIRE SIGNATURE HAVE BEEN SIGNED.

HAZARDOUS MATERIALS. BEFORE ANY CHEMICAL, MATERIAL OR EQUIPMENT THAT CONTAINS A CHEMICAL IS PERMITTED TO BE BROUGHT INTO A BUYER FACILITY, A MATERIAL SAFETY DATA SHEET (MSDS) MUST BE FORWARDED TO THE SAFETY MANAGER WHO WILL COMPLETE A REVIEW AND APPROVE OR REJECT THE ACCEPTANCE OF THE SHIPMENT(S). SHIPMENT(S) MADE TO ANY BUYER FACILITY NOT FOLLOWING THIS PROCEDURE WILL BE REJECTED AT BUYER'S DOCK AND RETURNED TO SELLER AT ITS SOLE EXPENSE AND LIABILITY.

INSPECTION/REJECTION/TERMINATION. ALL ITEMS ARE SUBJECT TO FINAL INSPECTION AND ACCEPTANCE OR REJECTION BY BUYER AT THE SHIPPING DESTINATION NOTWITHSTANDING ANY PRIOR PAYMENT OR INSPECTION AT SHIPPING SOURCE. ALL GOODS WHICH ARE REJECTED AS DEFECTIVE OR OTHERWISE NOT IN CONFORMITY WITH THE BUYER'S SPECIFICATIONS, OR THE TERMS AND CONDITIONS OF THE PURCHASE ORDER ARE REJECTED AT SELLER'S EXPENSE AND SELLER'S RISK OF LOSS. IF INSPECTION DISCLOSES THAT PART OF THE GOODS RECEIVED ARE NOT IN ACCORDANCE WITH BUYER'S SPECIFICATIONS OR THE TERMS OF THE PURCHASE ORDER, BUYER SHALL HAVE THE RIGHT TO CANCEL ANY UNSHIPPED PORTION OF THE ORDER. PAYMENT FOR GOODS ON THIS ORDER PRIOR TO INSPECTION SHALL NOT CONSTITUTE ACCEPTANCE THEREOF AND IS WITHOUT PREJUDICE TO ANY AND ALL CLAIMS THAT BUYER MIGHT HAVE AGAINST SELLER. ACCEPTANCE OF ANY ITEMS BY BUYER SHALL NOT BE DEEMED TO ALTER THE OBLIGATIONS OF SELLER OR THE RIGHTS OF BUYER AND ITS CUSTOMERS UNDER ANY PROVISION OF THIS PURCHASE ORDER. SELLER SPECIFICALLY RESERVES ANY AND ALL LEGAL RIGHTS AND REMEDIES IT MAY HAVE IN CONTRACT, TRESPASS OR OTHERWISE AGAINST THE SELLER FOR THE SELLER'S BREACH OF THE CONTRACT. NO WAIVER BY THE BUYER OF ANY BREACH OF THE CONTRACT BY THE SELLER SHALL BE CONSIDERED AS A WAIVER OF ANY SUBSEQUENT BREACH OF THE SAME OR ANY OTHER PROVISION. FAILURE ANALYSIS REPORTS ARE REQUIRED FOR ALL SYSTEM AND COMPONENT NON-CONFORMANCES.

PERFORMANCE. IN THE EVENT THAT ANY INSTALLATION IS INVOLVED, SELLER SHALL PROSECUTE THE SAME WITH ALL DILIGENCE, AND IN THE EVENT THAT IN BUYER'S OPINION SELLER UNREASONABLY DELAYS THE WORK, BUYER MAY ORDER SELLER TO CEASE WORK, AND AT BUYER'S OPTION COMPLETE OR SECURE THE COMPLETION OF THE WORK AT SELLER'S RISK AND EXPENSE.

PATENTS/TRADemarks/INTELLECTUAL PROPERTY. SELLER GUARANTEES THAT THE SALE OR USE OF THE MATERIALS, GOODS AND ITS PRODUCTS PURCHASED HEREUNDER WILL NOT INFRINGE ON ANY UNITED STATES OR FOREIGN PATENT, OR TRADEMARKS OR ANY OTHER PARTIES INTELLECTUAL PROPERTY AND COVENANTS AND AGREES TO SAVE HARMLESS AND INDEMNIFY BUYER, ITS SUCCESSORS, ASSIGNS, CUSTOMERS AND USERS OF THE MATERIALS OR GOODS AGAINST ANY AND ALL CLAIM, DEMAND, JUDGMENT, DECREE, FINE, PENALTY, COSTS AND EXPENSES, INCLUDING LEGAL FEES, RESULTING FROM ANY ALLEGED INFRINGEMENT, AND COVENANTS AND AGREES THAT SELLER, UPON REQUEST OF THE BUYER AND AT SELLER'S OWN EXPENSE, DEFEND OR ASSIST IN THE DEFENSE OF ANY SUIT OR ACTION WHICH MAY BE BROUGHT AGAINST THE BUYER OR THOSE USING ANY PRODUCT OF BUYER BY REASON OR ANY ALLEGED INFRINGEMENT OR ANY PATENT IN THE SALE OR USE OF SELLER'S MATERIALS, GOODS AND PRODUCTS.

EMPLOYMENT. THE NON-DISCRIMINATION CLAUSES CONTAINED IN SECTION 202 OF EXECUTIVE ORDER 11246, AS AMENDED BY EXECUTIVE ORDER 11375, RELATIVE TO EQUAL EMPLOYMENT OPPORTUNITY FOR ALL PERSONS WITHOUT REGARD TO RACE, COLOR, RELIGION, SEX OR NATIONAL ORIGIN, CFR 60-741 RELATIVE TO THE EMPLOYMENT OF QUALIFIED HANDICAPPED INDIVIDUALS AND CFR 60-250 RELATIVE TO THE EMPLOYMENT OF VIETNAM ERA AND DISABLED VETERANS, THE NON-DISCRIMINATION CLAUSES, CONTAINED IN THE AMERICANS WITH DISABILITIES ACT, RELATING TO EQUAL EMPLOYMENT OPPORTUNITY FOR DISABLED PERSONS, AND THE IMPLEMENTING RULES AND REGULATIONS PRESCRIBED BY THE SECRETARY OF LABOR ARE INCORPORATED HEREIN. IF THE PRICE HEREUNDER EXCEEDS \$50,000, BUYER'S PROVISIONS REQUIRED BY EXECUTIVE ORDER 11246 ARE INCORPORATED BY REFERENCE.

FORCE MAJEURE. BUYER SHALL NOT BE LIABLE TO SELLER OR BE DEEMED TO BE IN BREACH OF THE CONTRACT BY REASON OF DELAY IN PERFORMING, OR FAILURE TO PERFORM, ANY OF ITS OBLIGATIONS IN RELATION TO THE MATERIALS AND GOODS, IF THE DELAY OR FAILURE IS BEYOND THE BUYER'S REASONABLE CONTROL. WITHOUT LIMITING THE FOREGOING, THE FOLLOWING SHALL BE REGARDED AS CAUSES BEYOND THE BUYER'S CONTROL: (1) ACT OF GOD, EXPLOSION, FLOOD, TEMPEST, FIRE OR ACCIDENT; (2) WAR OR THREAT OF WAR, SABOTAGE, INSURRECTION, TERRORIST ACT, OR CIVIL DISTURBANCE; (3) ACTS, RESTRICTIONS, REGULATIONS, PROHIBITIONS OR MEASURES OF ANY KIND ON THE PART OF ANY GOVERNMENTAL, PARLIAMENTARY OR LOCAL AUTHORITY; (4) IMPORT OR EXPORT REGULATIONS OR EMBARGOS; (5) STRIKE, LOCK-OUTS OR OTHER INDUSTRIAL ACTIONS OR TRADE DISPUTES, WHETHER INVOLVING EMPLOYEES OF EITHER THE BUYER OR A THIRD PARTY; AND (6) POWER FAILURE OR BREAKDOWN IN MACHINERY.

BINDING EFFECT/NO ASSIGNMENT. THIS AGREEMENT SHALL BE BINDING ON THE BUYER AND SELLER AND THEIR SUCCESSORS AND ASSIGNS. SELLER MAY NOT ASSIGN OR TRANSFER THIS CONTRACT TO ANY OTHER PARTY.

APPLICABLE LAW. UNLESS SPECIFICALLY MODIFIED BY THIS CONTRACT, INCLUDING ANY ADDITIONS, TERMS AND CONDITIONS ATTACHED HERETO, THE LAW OF THE COMMONWEALTH OF PENNSYLVANIA INCLUDING, BUT NOT LIMITED TO, THE PROVISIONS OF THE UNIFORM COMMERCIAL CODE ADOPTED BY SUCH STATE, SHALL APPLY TO THE INTERPRETATION OF THIS CONTRACT AND THE PERFORMANCE OF THE PARTIES HERETO.