

PURCHASE ORDER TERMS AND CONDITIONS

(Revised 10/18/2019)

1. **Acceptance/Agreement.** This order (“Order”) is Buyer's offer to Seller and does not constitute an acceptance by Buyer of any offer or proposal of Seller to sell. Any reference to such offer to sell or proposal is solely for the purpose of incorporating the description and specifications of the goods and services contained therein to the extent that such description and specifications do not conflict with the description and specifications on the face of this Order. This Order consists only of the terms contained herein and on the face of this Order and any supplements, specifications or other documents expressly incorporated herein by reference. By acknowledging receipt of this Order (or by shipping the goods or performing the services called for by this Order), Seller agrees to the terms and conditions of sale contained in this Order. Any additional terms or conditions contained in any acknowledgement of this Order by Seller shall be deemed objected to by Buyer without need of further notice of objection and shall be of no effect of any additional terms or conditions. This Order constitutes the entire agreement between Buyer and Seller with respect to the subject matter hereof and the subject matter of such offer and seller shall be deemed to have so assented and acknowledged unless Seller notifies Buyer to the contrary in writing ten (10) days after receipt of this Order.

2. **Quantity.** Buyer is not obligated to purchase any quantity of goods and/or services except for such quantity(ies) as may be specified either: (i) on the face of an Order; (ii) in a “release” on the face of an Order; or (iii) on a separate written release issued by Buyer pursuant to an Order. The quantity of goods or services, if any, specified in requests for quotation or forecasts supplied by Buyer from time to time, or otherwise, is an estimate only. Unless otherwise agreed to in writing by Buyer, Seller shall not make material commitments or production arrangements in excess of the quantities specified in Buyer's Order or release and/or in advance of the time necessary to meet Buyer's delivery schedule. Should Seller enter into such commitments or engage in such production, any resulting expenses, costs or exposure shall be for Seller's account. Goods delivered to Buyer in excess of the quantities specified in Buyer's Order or release and/or in advance of schedule may be returned to Seller at Seller's risk.

3. **Default and Termination.** Buyer may terminate this Order or any part hereof for cause in the event of any default or failure by Seller to comply with any of the terms and conditions of this offer, including but not limited to late deliveries, deliveries of products which are defective, or which do not conform to this Order, and failure to provide Buyer, upon request, with reasonable assurances of future performance. In the event of termination for cause, Buyer shall not be liable to Seller for any amount and Seller shall be liable to Buyer for any and all damages sustained by reason of the default which gave rise to the termination. Buyer also reserves the right to terminate this Order or any part hereof for its sole convenience. In the event of such termination, Seller shall immediately stop all work hereunder, and shall immediately cause any of its suppliers or subcontractors to cease such work. Seller shall be paid a reasonable termination charge consisting of a percentage of the Order price reflecting the percentage of the work performed prior to the notice of termination plus actual direct costs resulting from termination. Seller shall not be paid for any work done after receipt of the notice of termination, nor for any costs incurred by Seller's suppliers or subcontractors which Seller could reasonably have avoided.

4. **Proprietary Information - Confidentiality - Advertising.** All specifications, documents, and prototype articles delivered by Buyer to Seller are the property of the Buyer. They are delivered solely for the purpose of Seller's performance of this Order and on the express condition that neither they nor the information contained therein shall be disclosed to others nor used for any purpose other than in connection with this Order without the prior express written consent of Buyer. Seller shall not advertise or publish the fact that Buyer has contracted to purchase goods from Seller, nor shall any information relating to the Order be disclosed without Buyer's written permission. Such specifications, documents and articles are to be returned to Buyer promptly upon its written request. Such request may be made at any time during or after completion of Seller's performance. The obligations under this clause will survive the cancellation, termination, or completion of this Order.
5. **Approval of Drawings and Data.** If this Order requires the submission of drawings and/or other data for approval, Seller shall submit same on or before the time specified in the Order (or if no time is specified, then as soon as possible.) Buyer will not reimburse Seller for any extra expense which Seller incurred as a result of having proceeded with performance prior to such approval. Seller may request partial or final approval of Buyer by such dates as will permit it to order and/or release for engineering and production all required materials and/or components in time to meet the specified shipment to delivery schedule and shall send Buyer special notification in case such schedule should be endangered by delays in receiving such approval.
6. **Buyer's Property.** All tools, equipment, dies, gauges, models, drawings and or other materials furnished by Buyer to Seller or made by Seller for the purpose of this Order or paid for by Buyer and all replacements thereof and materials fixed or attached thereto, shall be and remain the property of Buyer. All Buyer's property and, whenever applicable, each individual item thereof, will be plainly marked and otherwise adequately identified by Seller as "property of Sullair", will, at Seller's expense, be safely stored separate and apart from Seller's property wherever practicable, and will be kept free of all liens, claims, encumbrances and interests of third parties. Seller will not substitute any property for any of Buyer's property, will not deliver or make available to any third party any of Buyer's property or any property or goods developed, manufactured or created with the aid of any of Buyer's property and will not use any of Buyer's property or any property or goods manufactured, developed or created with the aid of Buyer's property, except in filling the Orders of Buyer. All Buyer's property, while in Seller's custody or control, will be held at Seller's risk and will be kept insured by Seller at Seller's expense in an amount equal to the replacement cost, with loss payable to Buyer. Upon completion by Seller of this Order, or upon the written request of Buyer at any time, Seller will prepare all Buyer's property for shipment and deliver such property to Buyer in the same condition as originally received by Seller, reasonable wear and tear excepted. Any of Buyer's property or any property or goods manufactured, developed or created with the aid of any Buyer's property which, for any reason, is not to be delivered to or accepted by Buyer will be destroyed by Seller unless otherwise directed by Buyer in writing. Buyer shall have the right, at all reasonable times, upon prior request, to enter Seller's premises to inspect any and all Buyer's property and any property or goods manufactured, developed or created with the aid of Buyer's property.

7. Warranty. Seller expressly warrants that all goods or services furnished, whether supplied directly by Seller or by supplier of Seller, under this Order, shall conform to all specifications and appropriate standards, and will be new, free of claims/liens/encumbrances of any nature (including without limitation title claims), and defects in material, workmanship, and design. In the event goods or services are to be rebuilt or made of refurbished material, Seller is required to obtain Buyer's approval in writing, in advance. Seller warrants that all such goods or services will conform to any statements made on the containers or labels or advertisements for any such goods or services and that such goods will be adequately contained, packaged, marked and labeled. Seller warrants that all goods or services furnished hereunder will be merchantable, will conform in all respects to any samples, and will be safe and fit for the particular purpose for which goods or services of that kind are normally used. If Seller knows or has reason to know the particular purpose for which Buyer intends to use the goods or services, Seller warrants that goods or services furnished hereunder will be fit for such particular purpose. Such goods and services will be provided in strict accordance with all specifications, samples, drawings, designs, descriptions or other requirements approved or adopted by Buyer. Any review or approval of drawings by Buyer will be for Seller's convenience, and any inspection, testing, acceptance or use of the goods or services furnished hereunder shall not affect the Seller's obligation under this warranty, including Seller's responsibility to meet all requirement of the Order, and such warranty shall survive inspection, testing, acceptance and use. Unless otherwise specified, Seller's warranty shall extend for a period of sixty (60) months after the goods are accepted by Buyer's designee. Buyer and its designee shall have the benefit of any other warranties that may be applicable. Seller's warranty shall run to Buyer, its successors, assigns and customers, and users of products sold by Buyer. In the event any goods and/or services are found to be defective or otherwise not in conformity with the warranties in this section during the warranty period, then Buyer, in addition to any other rights, remedies and choices it may have by law, contract or equity, and in addition to seeking recovery of any and all damages and costs emanating therefrom, at its option and sole discretion, and at Seller's expense may: (a) require Seller to promptly remove, reinstall, ship, repair, replace or correct defects of any goods or services not conforming to the foregoing warranty promptly, without expense to Buyer, when notified of such nonconformity by Buyer, with goods and/or services that conform to all requirements of the Order. Seller shall: (i) confirm receipt of Buyer's notification of a failure of the goods or services to conform to this warranty within twenty-four hours of Buyer's notice and take action to mitigate and contain any damages or costs; (ii) within forty-eight hours of Buyer's notice Seller shall provide a written plan describing the corrective action process and the schedule it will take to correct the failure to conform to this warranty; and (iii) within fourteen days provide, if Buyer requests in its sole discretion, a written long term corrective plan including the steps and schedule to permanently address the failure to conform to this warranty; (b) take such actions as may be required to cure all defects and/or bring the goods and/or services into conformity with all requirements of the Order and such corrections and replacements of such goods and services will be charged to Seller for all costs and expenses incurred by Buyer in doing so, including by not limited to: material, labor and handling costs, and any required re-performance of value added machining or other service; (c) reject and return all or any portion of such goods and/or services; and/or (d) termination of the Order. Any repaired or replaced good, or part thereof, or reperfomed services shall carry warranties on the same terms as set forth above. Any attempt by Seller to limit, disclaim or restrict any such warranties or remedies by acknowledgment or otherwise shall be null, void and ineffective.

8. **Price Warranty.** Seller warrants the prices for the articles sold Buyer hereunder are not less favorable than those currently extended to any other customer for the same or similar articles in similar quantities. In the event Seller reduces its price for such article during the term of this Order, Seller agrees to reduce the prices hereof correspondingly. Seller warrants that prices shown on this Order shall be firm and fixed and shall be complete, and no additional charges of any type shall be added without Buyer's express written consent. Such additional charges include, but are not limited to, shipping, packaging, labeling, custom duties, taxes, storage, insurance, boxing, crating.
9. **Set-Off.** Buyer shall be entitled to set-off any amount owing from Seller to Buyer or to any of Buyer's affiliated companies against any amount payable under this Order.
10. **Force Majeure.** Neither Buyer nor Seller shall be liable to the other for any failure to perform in accordance with this Order if such failure arises out of any cause or event beyond its reasonable control and without its fault or negligence, including, but not limited to, labor disputes, strikes, fires, acts of God, and accidents. In the event Buyer is delayed or restricted in its ability to take delivery and/or make use of the goods as originally contemplated by reason of any event beyond its reasonable control and without its fault or negligence, Buyer may postpone the delivery dates or cancel or modify this Order in whole or in part to such extent as is reasonable under the circumstances without any obligations or liability to the Seller.
11. **Patents.** Seller agrees upon receipt of notification to promptly assume full responsibility for defense of any suit or proceeding which may be brought against Buyer or its agents, customers, or other vendors for alleged patent infringements, as well as for any alleged unfair competition resulting from similarity in design, trademark, intellectual property or appearance of goods or services furnished hereunder, and Seller further agrees to indemnify Buyer, its agents and customers against any and all expenses, losses, royalties, profits and damages including court costs and attorney's fees resulting from any such suit or proceeding, and the costs of such representation shall be paid by Seller. The rights granted hereunder shall survive termination of this Order.
12. **Insurance.** In the event that Seller's obligations hereunder require or contemplate performance of services by Seller's employees, or persons under contract to Seller, to be done on Buyer's property, or property of Buyer's customers. Seller agrees that all such work shall be done as an independent contractor and that the persons doing the work shall not be considered employees of Buyer. Seller shall maintain all necessary insurance coverages including public liability and Workers' Compensation Insurance. Seller shall indemnify and hold harmless and defend Buyer from any and all claims or liabilities arising out of the work covered by this paragraph.
13. **Indemnification.** Seller shall defend, indemnify and hold harmless Buyer against all damages, claims or liabilities and expenses (including attorney's fees) arising out of or resulting in any way from any defect in the goods or services purchased hereunder, or from any act or omission of Seller, its agents, employees or subcontractors. This indemnification shall be in addition to the warranty obligations of Seller.

14. Changes. Buyer shall have the right at any time to make changes within the general scope of this Order. Such changes may include changes to: drawings, designs, specifications, technical clarifications, artwork, quantity, materials, packaging including method of shipment and time/place of delivery. If any such changes cause an increase or decrease in the cost, or the time required for the performance, an equitable adjustment shall be made and this Order shall be modified in writing accordingly. If any scrappage or obsolescence results from the change then the Buyer's liability shall be limited to the documented direct value of such materials and any documented direct labor expenses associated therewith. Unless Seller presents to Buyer an itemized statement of claim, only including reasonable, direct costs that will be necessarily be incurred as a direct result of the change, against Buyer within twenty (20) days after the receipt of notice of such change, Seller shall be conclusively deemed to have waived all claims against Buyer with respect hereto. Seller agrees to accept any such changes subject to this paragraph. No departure shall be made by Seller from Buyer's specifications, nor any change made in materials, sources of supply, or design, manufacturing or assembly processes unless agreed to in writing by Buyer. Any change(s) to the specifications requested by Seller must be in writing and is(are) subject to the receipt of written approval from Buyer's Engineering department, to be issued as Buyer's sole discretion. Failure to do so could result in penalties and/or termination of the Order. In the event that Seller desires to transfer any work under this Order to another site or make any material modification in its manufacturing process or the procurement of materials related to the goods, it shall first consult with and obtain the prior written consent of Buyer, which consent shall not be unreasonably withheld. Such consent by Buyer shall be subject to qualification of the new site under Buyer's supplier qualification standards. Buyer reserves sole right to accept or reject such changes. Nothing in this section, including any disagreement with Buyer as to the equitable adjustment to be made, shall excuse Seller from proceeding with an Order, as changed.

15. Inspection/Testing. Payment for the goods delivered hereunder shall not constitute acceptance thereof. Buyer shall have the right to inspect such goods and to reject any or all of said goods are in Buyer's judgment defective or nonconforming. Goods rejected which and goods supplied in excess of quantities called for herein may be returned to Seller at its expense and in addition to Buyer's other rights, Buyer may charge Seller all expenses of unpacking, examining, repacking and reshipping such goods. In the event Buyer receives goods whose defect or nonconformity is not apparent on examination, Buyer reserves the right to require replacement, as well as payment of damages. Nothing contained in this Order shall relieve in any way Seller from the obligations of testing, inspection and quality control. Buyer's failure to inspect, accept, reject or detect defects by inspection shall neither relieve Seller from responsibility for such goods or services that are not in accordance with the Order requirements nor impose liability on Buyer.

16. Assignments and Subcontracting. No part of this Order may be assigned or subcontracted without the prior written approval of Buyer.

17. Packaging. Seller shall include shipping marks, as specified by Buyer on all packaging. Unless otherwise specified, Seller shall pack the goods in accordance with industry standards and in such a manner as to be safe from damage or deterioration while in transit or storage under foreseeable conditions.

18. Shipment. If in order to comply with Buyer's delivery date it becomes necessary for Seller to ship a more expensive way than specified in this Order, any increased transportation costs resulting therefrom shall be paid for by Seller unless the necessity for such rerouting or expedited handling has been caused by Buyer.

19. Delivery. Time is of the essence in the performance of this Order, and if delivery of items or rendering of services is not completed by the time promised, Buyer reserves the right without liability in addition to its other rights and remedies to terminate this Order by notice effective when received by Seller as to items not yet shipped or services not yet rendered and to purchase substitute items or services elsewhere and charge Seller with any loss incurred.

20. Limitation on Buyer's Liability and Statute of Limitations. In no event shall Buyer be liable for anticipated profits or for special, incidental or consequential damages. Buyer's liability on any claim of any kind for any loss or damage arising out of or in connection with or resulting from this Order or from the performance or breach thereof shall in no case exceed the price allocable to the goods or services or unit thereof which gives rise to the claim. Buyer shall not be liable for penalties of any description. Any action resulting from any breach on the part of the Buyer as to the goods or services delivered hereunder must be commenced within one (1) year after the goods have been delivered.

21. Export Restrictions. Neither Seller nor Buyer shall commit any act or request the other party to commit any act which would violate either the letter or the spirit of the export control laws or regulations of the United States, or other export control laws, rules or regulations, as applicable, and neither party shall fail to take any action reasonably within its capability to assure compliance with such laws, rules or regulations. In transactions in which Seller is the exporter, Seller represents and warrants that it shall not, directly or indirectly, export, reexport or transship products, technology or software (the "Commodities") in violation of any applicable U.S. export control laws and regulations or any other applicable export control laws promulgated and administered by the government of any country having jurisdiction over the parties or the transactions contemplated herein. In transactions in which the Buyer is the exporter, Seller shall advise Buyer of any and all export restrictions and/or requirements applicable to the Commodities so that Buyer can comply with applicable export regulations. Seller shall cooperate with Buyer in providing information and documentation to enable Buyer to obtain required export license or other governmental authorization for export of the Commodities. Buyer shall have the right to refuse to accept shipment of the Commodities, or revoke its acceptance of the Commodities, if it is unable to obtain required export licenses or other governmental authorization, as a result of the breach of Seller's obligation set forth in this paragraph.

22. Suspension. Buyer may at any time, by notice to Seller, suspend performance of the work for such time as it deems appropriate. Upon receiving notice of suspension, Seller shall promptly suspend work to the extent specified, properly caring for and protecting all work in progress and materials, supplies and equipment Seller has on-hand for performance. Upon Buyer's request, Seller shall promptly deliver to Buyer copies of all outstanding Orders and subcontracts for materials, equipment and/or services for the work and take such action relative to such Orders and



subcontracts as Buyer may direct. Buyer may at any time withdraw the suspension as to all or part of the suspended work by written notice specifying the effective date and scope of withdrawal. Seller shall resume diligent performance on the specified effective date of withdrawal or as directed by Buyer.

23. Audit. Seller shall permit Buyer or its representatives to have reasonable access to the site(s) where work under this Order is performed to assess Seller's compliance with its representations and warranties. to assess Seller's work quality, conformance with Buyer's specifications and compliance with this Order. Upon reasonable notice by Buyer, all (a) goods, materials and services related in any way to the goods and services purchased hereunder (including without limitation raw materials, components, intermediate assemblies, work in progress, tools and end products) shall be subject to inspection and test by Buyer and its customers or representatives at all times and places, including sites where the goods and services are created or performed, whether they are at premises of Seller, Seller's suppliers or elsewhere; and (b) Seller's books and records relating to the Order shall be subject to audit and inspection by Buyer.

If any inspection, test, audit or similar oversight activity is made on Seller's or its suppliers' premises, Seller shall, without additional charge to Buyer: (a) provide all reasonable access and assistance for the safety and convenience of the inspectors and (b) take all necessary precautions and implement appropriate safety procedures for the safety of Buyer's personnel while they are present on such premises. Seller shall provide and maintain an inspection, testing and process control system acceptable to Buyer and its customers covering the goods and services to ensure compliance with the Order and shall keep complete records available to Buyer and its customers for five (5) years after completion of the Order. Acceptance of such system by Buyer shall not alter the obligations and liability of Seller under this Order.

24. Compliance With Laws. Seller warrants that all goods or services supplied hereunder shall have been produced or performed in compliance with and Seller agrees to be bound by all applicable federal, state and local laws, orders, rules and regulations. The Equal Employment Opportunity clauses in Section 202 of Executive Order 11246, Section 503 of the Rehabilitation Action of 1973, and Section 4212 of the Vietnam Era Veterans Readjustment Act of 1974, and the implementing rules and regulations of the Office of Federal Contract Compliance Programs (41 CFR, Chapter 60), as such clauses may be amended from time to time, are incorporated herein by reference.

25. Applicable Law. The contract shall be governed by and construed in accordance with the laws of the State of Indiana without regard to that body of law controlling conflict laws.

PURCHASE ORDER TERMS AND CONDITION (REV. 10/18/2019)

