

Purchasing Terms and Conditions

1. Definitions:

- a. "Buyer" means STEMCO PRODUCTS, INC. and "Seller" means the legal entity contracting with the Buyer.
- b. "Order" and "Purchase Order" are used synonymously.
- c. "Delivery Date" means the required date of delivery for Goods on the Purchase Order or Blanket Order Release; or the acceptance in total of the Services provided by the Seller.

2. Acceptance, Modification, Entire Agreement:

Placement of this order constitutes Buyer's offer to Seller upon terms and conditions stated herein and on the face of the purchase order and does not constitute an acceptance by the Buyer of any offer to sell. This order becomes a binding contract, subject to the terms and conditions thereof, when accepted by acknowledgment or commencement of performance and is binding on the heirs, successors, assigns, and representatives of the Seller. Placement of this order is expressly conditioned upon Seller's acceptance of all the terms and conditions of purchase contained on or attached to this order. Any acknowledgment form or other form of Seller containing terms and conditions of sale submitted to Buyer from Seller shall not have the effect of modifying the terms and conditions hereof. Any such additional or different terms and conditions are hereby objected to and rejected by the Buyer. Buyer may consider Seller's request for changes only if such request is made in writing and directed to specific clauses in this order within ten (10) days of issuance of this order. By acceptance of the order, Seller agrees to comply with the terms and conditions contained herein and to provide all Goods and/or Services as described within the purchase order. These terms and conditions constitute the entire agreement between the parties and supersede any previous oral or written representations, including but not limited to provisions in Seller's quotations, proposals, terms and conditions, acknowledgments, invoices or other documents. No change or modification to Buyer's terms and conditions shall be binding upon Buyer unless specifically accepted in writing.

3. Delivery:

Time is of the essence in regard to fulfilling this order. Seller shall deliver the Goods and/or Services ordered by Buyer no later than the Delivery Date. Seller shall immediately notify Buyer in the event that Seller's performance is delayed or likely to be delayed, in whole or in part, and Seller shall provide Buyer with all information regarding any reasons for such delay. Such notice shall not constitute a waiver by Buyer of any Seller's obligations under the purchase order. Buyer has the right to cancel all or a portion of this order which has not been delivered in accordance with the Delivery Date.

Seller will limit and phase expenditures, incurrence of costs, and purchases and subcontract commitments for raw materials and components in such fashion to ensure continuity in production and permit performance and completion of each production increment in sequence without creating any unreasonable accumulations of raw materials or work in process of components for any production increments.

If the specified mode of transportation for the Goods would not permit the Seller to meet the Delivery Date, Seller shall ship Goods by air freight or other expedient means acceptable to the Buyer and Seller shall pay the costs of such freight for such expedited shipment, over the cost of the specified mode of transportation.

Seller shall be liable for any production line stoppages or related expenditures incurred by Buyer or charged to Buyer by its customers, which are caused by the failure of Seller to deliver its Goods and/or Services in a timely manner. Default in delivery caused by Acts of God or other extraordinary events or occurrences beyond Seller's control and without its fault or negligence shall not make Seller liable therefore, provided Seller immediately notifies Buyer of said event and the estimated delay in delivery.

If the Goods and/or Services ordered by Buyer are in excess of the volume stated on the order, and/or its releases, or are delivered more than five (5) days prior to the Delivery Date, Buyer may reject such delivery of Goods and/or Services and may return such rejected Goods at Seller's own risk and expense, including, without limitation, transportation and insurance charges.

Buyer may delay delivery or acceptance occasioned by reason of *force majeure* or other causes beyond its control. Seller shall hold such Goods at the direction of the Buyer and shall deliver them when the cause affecting delay has been removed. Causes beyond Buyer's control include, without limitation, government action or failure of the government to act where such action is required, strike or other labor issues, fire, destruction or impairment of facilities, or Acts of God.

4. Default of Seller:

If Seller shall (a) fail to deliver Goods and/or Services within the time scheduled or in compliance to the Delivery Date or (b) fail to perform any other provision of this order or (c) become insolvent, or (d) file or have filed against it a petition under any state or federal bankruptcy or insolvency law, then, and in any such event, without prejudice to Buyer's other rights or remedies Buyer shall have the right at its option to terminate this order, in whole or in part. Upon any such termination Buyer may exercise any and all rights accruing to it, both at law including those set forth in the Uniform Commercial Code or in equity and may also (1) require Seller to deliver forthwith any or all Goods, or parts thereof, which have been produced, or are in process of production pursuant to this order, in which event Buyer shall pay Seller the order price for the acceptable completed items so delivered and shall reimburse Seller for its costs actually incurred with respect to the partially completed Goods so delivered, provided that such costs in no event shall exceed the order price equitably allocated therefore and (2) procure, for such items and in such manner as it may deem appropriate, Goods and/or Services similar to those terminated, and to recover

from Seller the excess cost incurred by Buyer in procuring such similar Goods and/or Services. Seller's obligations under the Warranty, Patent and Confidentiality provisions of this order shall survive such termination.

5. **Price:** This is a firm price order. Seller represents and warrants to Buyer that the price for Goods and/or Services provided under the purchase order are the lowest prices, whether or not published, for which the Seller has sold or is selling such Goods and/or Services, taking into account any differences in quantities and/or delivery schedule. Buyer shall be entitled to receive from Seller a price reduction if Seller offers substantially similar Goods or Services to others at a lower price (taking into account differences in quantities and delivery schedule) at any time during the period beginning on the date of the order and ending ninety (90) days after the final payment due date for such Goods or Services. Buyer may take volume discounts retroactively.

All payments due under the purchase order to Seller shall be paid in United States dollars not later than forty-five (45) days from the date of invoice from the Seller. Partial payments may be made at Buyer's option. Buyer may set-off any amount owed by Buyer to Seller against any amount owed Buyer from Seller. Seller's acceptance of payment constitutes an unconditional waiver and release of any statutory lien, mechanic's lien, stop notice, bond right, and claim for payment. Seller warrants, represents and covenants that when final payment is accepted from Buyer, title to all work, materials, and/or equipment shall pass to Buyer free and clear of all liens, claims, security interests or any other encumbrances; and all applicable taxes have been fully paid; and all laborers, mechanics, and subcontractors have been paid or will be paid in full from the final payment.

Seller shall pay, without charge to Buyer, any federal, state or local tax or other government charge or assessment relating to the production, sale or shipment of any Goods or provision of Services under the purchase order unless otherwise expressly agreed to in writing by the Buyer.

Seller shall make spare parts for Goods purchased pursuant to the order available to the Buyer at Seller's current price, less all applicable discounts.

All costs associated with custom product tooling shall be paid by Seller, unless otherwise expressly agreed to in writing by Buyer.

Seller shall bear responsibility for all errors contained in any invoice, acceptance, acknowledgement or confirmation it provides to the Buyer.

6. **Changes:** Buyer may make changes in the drawings and specifications on any item at any time. If such changes result in delay or additional expense to Seller, an equitable adjustment of price and delivery schedule will be made.
7. **Specifications:** If drawings, blueprints, or specifications are furnished by the Buyer, the purchase order shall be based upon such drawings, blueprints, or such specifications, and approval of samples by Buyer shall not relieve the Seller from strict and full compliance with such blueprints or specifications. Goods and/or Services not conforming to such blueprints or specifications may be rejected.
8. **Inspection / Acceptance:** Seller agrees to permit Buyer's inspectors to have access to Seller's plant at all reasonable times for the purpose of inspecting the items as set forth in this order and work in process for production of such items. All items are subject to final inspection and approval at Buyer's facilities or other place designated by Buyer. Such inspection shall be made within a reasonable time after delivery irrespective of the date of payment. The date of payment and the payment for any item purchased hereunder shall not constitute approval or acceptance of such material by Buyer and Buyer's right of inspection shall survive payment. Any inspection records relating to the Goods and/or Services on the order shall be available to Buyer for a minimum of one (1) year after delivery to Buyer. No inspection (including source inspection) test, approval (including design approval) or acceptance of Materials shall relieve the Vendor from its obligations hereunder or be deemed acceptance of the Materials.

Buyer may (1) assess Seller a fee associated with the delivery of defective Goods (2) assess the Seller for all incurred costs and may (3) return rejected items at Seller's expense and Seller shall bear all costs of return and risk of loss as to rejected items. Seller shall, at Buyer's election, replace any rejected items returned to Seller hereunder, refund the full purchase price thereof and bear the costs associated with any air freight or expedited delivery to the Buyer of conforming product to remedy any defects of nonconformity to specifications, drawings, or provided samples.

9. **Packaging and Shipping:** All items shall be prepared and packed for shipment in a manner that will prevent damage in transit. Buyer is not liable for extra charges for packing, cartage or any other expense related thereto unless stated in this order. Seller shall provide Buyer's part number, order number, line number and release number on all invoices, packing slips, container labels and any other shipping documentation.
10. **Warranty:** Seller warrants that all goods and/or services provided by it (i) shall be of good quality and workmanship and free of defects, latent or patent; (ii) shall conform to all specifications, drawings or descriptions which are supplied by Buyer; (iii) shall be merchantable and suitable and sufficient for their intended purpose; and (iv) shall be free from any claim of any third party., including without limitation any claims of infringement. Seller may not negate, exclude, limit or modify any warranty otherwise available to Buyer. Any attempt by Seller to do so is ineffective and shall not in any way bind Buyer. Buyer's inspection or acceptance of any goods or services, or Buyer's payment for goods or services shall not constitute a waiver by it of any warranty. None of the remedies available to Buyer for breach of any of the forgoing warranties may be limited except to the extent and in the manner agreed upon by

Buyer in a separate written agreement specifically designating such limitation and signed by an authorized representative of Buyer.

11. **Cancellation, Termination for Convenience:** Buyer reserves the right to cancel this purchase order, or any part thereof, at any time, even though Seller is not in default hereunder, by giving written notice to the Seller in the event of such cancellation. Buyer shall pay for all goods and services delivered and completed and an equitable settlement shall be arrived at for the costs incurred by Seller for goods and materials in process not to exceed thirty (30) days average procurement by the Buyer over the previous ninety (90) days prior to notification. Where cancellation is by reason of termination of a contract of the United States Government under which this purchase order has been placed, Buyer will pay the Seller at such time as Buyer is paid by the United States Government. Upon receipt of any notice of cancellation hereunder, Seller, unless otherwise directed, will immediately discontinue all work in process and immediately cancel all orders or subcontracts given or made pursuant to this purchase order. Exercise by Buyer of the rights of cancellation reserved in this paragraph shall give rise to no liability on the part of the Buyer except as specified in this paragraph and shall not have the effect of waiving damages the Buyer might otherwise be entitled to.
12. **Patent, Trademark, Copyright Indemnity:** Seller agrees to indemnify Buyer and its successors, assigns and customers and hold them harmless from and against all claims, liability, loss, damage or expense, including attorney's fees and expenses, arising from or by reason of any suit, claim or demand relating to trademark, patent or copyright infringement or litigation based hereon with respect to the Goods and/or Services, or any part thereof, covered by this order and such obligations shall survive acceptance of the Goods and/or Services and payment thereof by the Buyer. Seller agrees that it will assume the defense of the Buyer and/or its successors, assigns and customers and users of its products against any such aforementioned suit, claim, or demand, pendency of any such suit, claim or demand; provided that it is given reasonable notice of the pendency of any such suit, claim, or demand.
13. **Indemnity:** Seller will indemnify, defend and hold harmless Buyer, its affiliates, successors and assigns, and its and their respective officers, directors, employees, independent contractors, agents, successors and assigns (collectively, the "Indemnified Parties"), from and against any and all liabilities, losses, costs, expenses, claims and proceedings which any of the Indemnified Parties may suffer or for which any of the Indemnified Parties may become liable and which arise out of any of the following; Seller's breach of any provision herein or any other agreement between Buyer and Seller; the manufacture or delivery of Goods or any defect in the Goods and/or Services, workmanship or otherwise; any act or omission of the Seller; any actual or alleged infringements of any intellectual property right of any other party, resulting from any sale, use or manufacture of any Goods delivered hereunder; Seller's failure to comply with any federal, state, county or local laws, ordinance, regulations and codes; and any and all actions, suits, proceedings, demands, assessments, judgments, costs and expenses, including reasonable attorneys' and consultants' fees incident to any of the foregoing. If there is a claim against Buyer arising out of the foregoing, Seller will have the right, at its option and expense, to defend any such proceeding, claim or demand. If Seller defends such claim, Buyer shall still have the right, at its cost and expense, to participate in the defense with counsel of its own choosing. Buyer may retain counsel and conduct the defense of the proceeding, claim or demand in question as it may deem proper in its sole discretion, at the sole cost and expense of Seller. Seller may not settle any such proceeding, claim or demand without Buyer's consent, which shall not be unreasonably withheld.
14. **Subcontract, Assignment:** Seller shall not, without the prior written consent of Buyer, make any contract with any other legal entity for furnishing any of the completed or substantially completed Goods and/or Services covered by this order or assign this order or any right hereunder.
15. **Buyer's Property:** All tools, dies, jigs, patterns, equipment or material and other items purchased, furnished, charged to or paid for by Buyer and any replacement thereof, shall remain the property of Buyer. Such property shall be plainly marked to show it is the property of Buyer and shall be safely stored and maintained apart from other property held by Seller. Seller shall not substitute the property for Buyer's property and shall not use such property except in filling Buyer's orders. Seller shall hold such property at its own risk and upon Buyer's written request deliver the property to Buyer in the same condition as originally received by Seller, reasonable wear and tear excepted. Title to and right of possession to special tooling, dies, jigs, patterns and equipment, the cost of which is fully or substantially amortized in the price of the Goods purchased, shall remain with Seller but Seller shall, at no additional cost to Buyer, hold such special tooling for Buyer's exclusive use and Seller shall not dispose of such tooling without prior written approval of Buyer. Seller shall take all necessary measures to preserve Buyer's title to Buyer's property, free of all encumbrances. Buyer retains the right in addition to other rights provided by law, to enter Seller's premises and remove Buyer-owned property with or without a court order. Seller shall assume and shall indemnify Buyer against any and all liability for damages to property or injury to, or death of any persons which may arise from, may be incidental to the presence of, or may involve the use of Buyer-owned property whether such damage, injury or death is caused by defects in the property, negligence in the use thereof or otherwise.
16. **Drawings, Specifications and Technical Information:** The ideas, information and designs contained in or shown upon, and the drawings, specifications, photographs and other engineering and manufacturing information supplied by Buyer shall remain Buyer's property, shall be retained in confidence by Seller and not be disclosed to any other person or entity, and shall not be used nor incorporated into any product or item later manufactured or assembled by Seller for anyone other than Buyer. Any unpatented knowledge or information concerning Seller's processes, present or contemplated products or their uses, which Seller may disclose to employees of Buyer in connection with the ordering, acquisition and use by Buyer of the goods or services covered by this order shall, unless otherwise specifically agreed in writing, be deemed to have been disclosed as part of the consideration for this order and Seller agrees not to assert any claim against Buyer by reason of any alleged use to which any such information or knowledge may be put by Buyer.
17. **Chemical Substances:** Notwithstanding anything to the contrary hereafter represented by either party to the other, Seller warrants that each and every chemical substance sold or otherwise transferred by Seller to Buyer as of the time of such sale or transfer that is required or permitted to be reported for the inventory of chemical substances (409 CFR Part 710) has been reported to EPA either by Seller or by others for incorporation in the inventory of chemical

substances compiled and published by the administrator of the Environmental Protection Agency pursuant to the Federal Toxic substances Control Act (PL 94-469).

18. **Hazardous Materials:** Seller shall notify Buyer of any inherent hazard related to any materials which could be exposed during handling, transportation, storage, use, resale, disposal or scrap. Said notice shall be sent to the Buyer's Director of Supply Chain Management and shall specify the product name and part number, the nature of the hazard, proper precautions that must be undertaken by Buyer or others to protect against the hazard, and any additional information necessary to protect its interest.
19. **Compliance with Law:** Seller represents and warrants that the performance of this order in furnishing of goods and/or service called for shall be in accordance with the applicable standards, provisions and stipulations of all pertinent federal, state, or local laws, rules, regulations, executive orders or other ordinances, including but not limited to the Fair Labor Standards Act, as amended and of regulations and orders of the United States Department of Labor issued under Section XIV thereof, the Occupational Safety and Health Act of 1970, and the Toxic Substances Control Act, each as amended and in connection therein. Seller shall include the following legend on all invoices: "We hereby certify that the goods were produced in compliance with all applicable requirements of the Fair Labor Act, as amended, and of regulations and orders of the United States Department of Labor and that the goods as installed and/or used by Buyer will comply with the Occupational Safety and Health Act of 1970 as amended and the implementing rules and regulations promulgated by the Secretary of Labor".
20. **Equal Opportunity:** During the performance of this order, the Seller shall comply with provisions of Executive Order 11246, including all amendments thereto relative to Equal Employment Opportunity and the implementing rules and regulations of the Department of Labor on Equal Opportunity Employment, all of which are incorporated herein by specific references and Seller shall on Buyer's request, so certify.
21. **Gratuities:** Seller represents and warrants to Buyer that Seller has not offered or given any employee, agent, or representative of Buyer, or any government, any gratuity with the intent of securing any business from Buyer or favorable treatment under any agreement with Buyer. Any breach of this warranty shall be a material breach of the terms and conditions of each and every purchase order between Buyer and Seller.
22. **Waiver:** Failure of Buyer to insist on performance of any of these terms and conditions shall not be construed as a waiver of such items, conditions or requirements and shall not affect the right of Buyer thereafter to enforce each and every term, condition or requirement hereof.
23. **Severability:** If any language herein shall be invalidated for any reason, that language shall be considered deleted and the remainder shall be unaffected and shall continue in full force and effect to the fullest extent permitted by law.
24. **Survival:** The parties acknowledge and agree that the Terms and Conditions are intended to govern the rights, duties and obligations of the parties following the closing. Accordingly, this Agreement shall survive and shall not be deemed merged into, the execution or delivery of any Good and/or Service.
25. **Cumulative Remedies:** Nothing herein shall limit Buyer's rights in law or equity for damages resulting from the delivery of any Goods and/or Services. The remedies provided herein are cumulative and are in addition to any other remedies provided at law, or in equity, and nothing herein shall be construed as prohibiting Buyer from pursuing any other remedies at law or in equity available to it for any breach or threatened breach of these Terms and Conditions, all of such remedies being cumulative in every respect. No waiver of any breach or violation hereof shall be implied from forbearance or failure by Buyer to take action thereon.
26. **Choice of Law and Personal Jurisdiction:** This contract is made in the County of Harrison and shall be governed and construed in accordance with the laws of the State of Texas. Any action relating to this contract shall be instituted and prosecuted in the courts of the County of Harrison, State of Texas or the United States District Court for the Eastern District of Texas. Seller agrees to submit to the exclusive jurisdiction of such courts and further agrees not to contest such venue as a *forum non conveniens*. Pending any decision, appeal or judgment in such proceedings or the settlement of any dispute arising under this order, Seller shall proceed diligently with the performance of the order in accordance with decision of the Buyer.
27. **Miscellaneous:**
 - A. The relationship of Buyer and Seller is that of independent contractors.
 - B. Unless authorized by Buyer in writing, the names of Buyer, its parent, subsidiaries and/or affiliated corporations or any of their trademarks shall not be used by Seller.
 - C. No news release, public announcement, denial or confirmation of same or any part of the subject matter of this purchase order or any phase of this purchase order shall be made without the prior written approval of Buyer.