

Purchase Order Terms & Conditions

1. **GENERAL TERMS AND CONDITIONS**

UNLESS AGREED IN WRITING, EITHER (a) WRITTEN ACCEPTANCE BY SELLER OF ANY PURCHASE ORDER OR RELEASE ISSUED IN ANY FORM OR MEDIUM BY BUYER FROM TIME TO TIME, OR (b) THE COMMENCEMENT OF ANY WORK OR THE PERFORMANCE OF ANY SERVICES HERETO BY THE SELLER SHALL BE ACCEPTANCE BY AND CONDITIONS SET FORTH IN SUCH DOCUMENTS AS WELL AS THIS AGREEMENT.

2. **SPECIFICATIONS**

Seller shall comply with any specifications and delivery schedules stated in, or incorporated by reference into any purchase order or release (Purchase Order) issued pursuant hereto. Seller shall inform Buyer of any inconsistencies or ambiguities in Buyer's specifications of which Seller is or becomes aware.

3. **INSPECTION: REJECTION: PAYMENT**

- A. Buyer, Buyer's customer and/or agent shall have the right to inspect and test Seller's facility, goods, materials and workmanship at all times and places including, when practicable, during manufacture. Verification by the customer shall not absolve the supplier of the responsibility to provide acceptable product, nor shall it preclude subsequent rejection by the customer. If any such inspection or test is made on Seller's premises, Seller shall furnish all reasonable facilities and assistance for a safe and convenient inspection or test without additional charge to Buyer. Buyer's inspection of the goods, no matter when occurring, shall not be acceptance of any work-in-process or finished goods.
- B. Notwithstanding prior inspection, payment for or use of the goods, Buyer shall have the right to reject any such goods which do not conform to the requirements of the Purchase Order issued pursuant hereto. Buyer must exercise such right within six months following Buyer's receipt of the goods ordered, unless otherwise agreed in writing by the parties. Buyer shall return any rejected items to Seller, transportation collect (declared at full value, unless Seller advises otherwise), for credit or refund. Seller shall not replace such rejected items, unless Buyer gives Seller written instructions to do so. Buyer shall also have the right to repair such goods at seller's expense. If buyer repairs the goods, all terms and conditions set forth herein shall remain applicable to the goods. Buyer's right under this subparagraph shall be in addition to its rights under Paragraph 4 hereof entitled "Warranty". In all events of return, Buyer shall request a return authorization and return the equipment at Seller's direction and expense.
- C. Deliveries shall be made in quantities and at times specified in Buyer's releases. If buyer receives goods which are in excess of quantities specified in Buyer's delivery schedules and/or releases, Buyer need not make payment for such excess goods. Buyer may return any such excess at Seller's expense or, at Buyer's option; Buyer may keep such excess and credit it against future releases. Buyer may change the rate of scheduled shipments or direct temporary suspension of scheduled shipments, neither of which shall entitle Seller to a modification of the price for goods or services covered by this Agreement, or any Purchase Order issued pursuant hereto.
- D. Unless specifically altered by Buyer in writing, the time for payment shall be net 45 days from receipt by Buyer of a correct and complete invoice from Seller.

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4. WARRANTY

SELLER EXPRESSLY WARRANTS TO BUYER AND TO PURCHASERS OF BUYER'S PRODUCTS THAT AT THE TIME OF DELIVERY THE GOODS (INCLUDING TOOLING, IF ANY CALLED FOR BY THE PURCHASE ORDER ISSUED PURSUANT HERETO) WILL CONFORM TO THE APPLICABLE SPECIFICATIONS, DRAWINGS, SAMPLES AND/OR DESCRIPTIONS FURNISHED TO OR BY BUYER AND WILL BE MERCHANTABLE, FREE FROM DEFECTS IN DESIGN (TO THE EXTENT THAT SELLER FURNISHES THE DESIGN), MATERIALS AND WORKMANSHIP AND WILL BE SUITABLE FOR THE PURPOSES INTENDED WHETHER EXPRESSED OR REASONABLY IMPLIED. SELLER SHALL HANDLE AND BE RESPONSIBLE FOR EVERY CLAIM OF DAMAGE OR INJURY THAT IS BASED UPON A BREACH OF THE FORGOING WARRANTY OR, AT BUYER'S OPTION SELLER SHALL PROVIDE ALL REASONABLE ASSISTANCE TO BUYER IN BUYER'S HANDLING OF ANY SUCH CLAIMS.

5. PACKAGING: SHIPPING

- A. Seller agrees to (a) properly pack, label and ship goods in accordance with the requirements of Buyer's Transportation Department, its Supplier Manual and/or Supplier Packaging and Shipping Guidelines and the designated carriers and at the lowest possible transportation cost; (b) make only those charges for handling, packaging, storage or transportation of goods as expressly permitted by this Agreement, or any Purchase Order issued pursuant hereto; (c) provide packing slips with each shipment, noting buyer's Purchase Order number on each slip; (d) properly label each package using AIAG format label with the applicable part number, engineering level, and quantity in accordance with Buyer's instructions. Such bill of lading or shipping receipts shall include correct classification identification of the goods shipped, in accordance with the applicable carrier's requirements, as well as the Buyer's Supplier Packaging and Shipping Guidelines or other instructions. The labels on each package and identification of the goods on packing slips, bill of lading and invoices must enable Buyer to easily identify goods purchased. Seller shall reimburse Buyer for all expenses incurred by Buyer as a result of improper packing, labeling, routing, and shipping.
- B. Seller further agrees: (a) to promptly provide correct and complete invoices to Buyer after delivery of goods or performance; and (b) to accept payment by check or, at Buyer's discretion, other cash equivalent, including electronic transfer of funds. Seller's invoice must include a certification that all goods were produced in compliance with applicable requirements of section 6,7, and 12 of the Fair Labor Standards Act, as amended, and of regulations and orders of the United States Department of Labor issued in connection therewith.

6. PREMIUM SHIPMENTS: ROUTING DEVIATIONS

- A. If Seller's acts or omission result in Seller's failure to meet Buyer's delivery requirements (other than because of "Force Majeure") and buyer requires a more expeditious method of transportation for the goods than the transportation method originally specified, and/or buyer incurs additional expenses in shipping, including, but not limited to, expedited

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freight costs, overtime or special services provided by Buyer's own personnel for receiving inspection and/or traffic and material handling, overtime or special services provided by Buyer's customs brokers for processing the documentation related to border officials and employees or additional expenses imposed by any buyer's customers, then Seller shall be liable for expenses.

- B. If Seller uses an alternate method of transportation than that specified by Buyer in its Purchase Order, or Supplier Manual, or Seller in any way deviates from the Buyer's prescribed routing instructions, then Seller shall be liable for all costs.

7. INFRINGEMENT INDEMNITY

- A. As to the goods provided hereunder, Seller shall be liable for and shall indemnify and save Buyer, Buyer's customer and each subsequent purchaser or user thereof, harmless from any infringement claim, suit or action alleging that the manufacture, use or sale of such goods infringes any patent, trademark, copyright, semiconductor chip product mask, work right or other proprietary right. Seller's obligations shall apply even though the specifications or designs for the goods furnished by Buyer or by Buyer's customer.
- B. If any claim indemnified hereunder is made, Seller shall promptly notify the Buyer in writing, and shall assume and diligently conduct the entire defense thereof, at its own cost and expense; provided that the Buyer shall have the right, insofar as its interests are affected, at its sole election and at its own cost and expense, to request the court to permit it to intervene in any such suit or action or to cooperate in the defense thereof with Seller without releasing any obligation, liability or undertaking of Seller; and provided further, that Buyer shall have the further right insofar as its interests are affected, at Buyer's sole discretion, in which event Seller shall there by be released from any obligation arising from such infringement claim, suit or action under the infringement indemnity clause. Further, Seller, if requested in writing by Buyer, shall cooperate with Buyer in Buyer's defense of any alleged infringement claim.

8. CHANGES

- A. No modification of any Purchase Order issued pursuant hereto, shall be binding on Buyer unless made by a purchase order document (either a Change Notice, Supplement, Release, or Purchase Order Amendment) signed or electronically transmitted by a purchasing representative of Buyer.
- B. Buyer may unilaterally, by issuing a purchase order document or release, make changes within the general scope of this Agreement, or any Purchase Order issued pursuant hereto, in (i) the shipping or packing instructions, (ii) the place of delivery, (iii) any specifications and drawings, (iv) in any other matter in accordance with the provision of Buyer's Supplier Manual, and Seller shall comply there without delay.
- C. Within ten (10) days after receipt of notification of such change, Seller shall provide Buyer with a statement in such detail as Buyer may reasonably require, of the effect, if any, of such change on Seller's cost and ability to make timely deliveries. Seller's statement, in such change on Seller's statement shall be comprehensive, and shall contain sufficient supporting data to permit Buyer audit. Seller shall thereafter promptly furnish such supplemental and supporting information as Buyer shall request. Buyer, or its agent, shall have the right, prior or subsequent to payment, to audit and examine all books, records, facilities, work, material, inventories and other items relating to any statement of Seller. Buyer and Seller shall agree upon an equitable adjustment of the purchase price or the

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delivery schedule, or both, as soon as practicable and incorporate such agreement into the Agreement, or any Purchase Order issued pursuant hereto, by a purchase order document. Nothing in this Paragraph 8 shall excuse Seller from proceeding with the order as changed.

9. **ASSIGNMENT AND SET OFF**

- A. Seller shall not assign nor delegate performance of this Agreement, or any Purchase Order issued pursuant hereto, or any obligations relating thereto, without Buyer's prior written consent.
- B. Seller may assign claims for money due to Seller from Buyer arising out of this Agreement, or any Purchase Order issued pursuant hereto, but buyer shall not be required to pay the Assignee until Buyer receives written notice of the assignment, a true copy of the instrument of assignment, suitable documentary evidence of Seller's authority to so assign, and release from the Seller.
- C. In no event shall copies of this Agreement, or any Purchase Order issued pursuant hereto, or of any plans, specifications, or other similar documents relating to work under this Agreement, or any Purchase Order issued pursuant hereto, be disclosed or furnished to any Assignee or to any other person without Buyer's prior written consent. No assignment shall terminate the obligations of Seller, its agents, representatives, employees and assignees under Paragraph 18 hereof entitled "Confidential Disclosure."
- D. Buyer shall have the right to reduce and set off, against amounts payable hereunder, any indebtedness or other claim which Buyer, its subsidiaries and affiliates, may have against the Seller, its subsidiaries and affiliates, however and whenever arising.

10. **BUYER FURNISHED MATERIALS, TOOLING AND EQUIPMENT**

- A. If Buyer is required to furnish any materials, tooling and equipment to, or on behalf of, the Seller under this Agreement, or any Purchase Order issued pursuant hereto, Buyer shall have no liability to Seller for any delay in delivery of or failure to deliver, such materials, tooling and equipment; provided, however, that if as a result of such delay or failure Buyer shall terminate this order, it shall be terminated for the convenience of Buyer and settlement shall be made as provided in Paragraph 15, hereof entitled "Termination for Convenience".
- B. Title to any materials, tooling and equipment furnished to Seller by Buyer, or by any third party at the expense of buyer, shall remain in Buyer. Title to all special tooling or other tooling called for by this order shall vest in Buyer upon Seller's construction or acquisition and shall immediately be marked or tagged "Property of Franklin Precision Industry, Inc.", or as Buyer specifies. Buyer's material, tooling, equipment, shall be kept separate and part from Seller's and free of liens and encumbrances at Seller's sole cost and expense. The Seller shall cooperate and provide all documentation required for Buyer to record its rights in tooling, materials and/or equipment furnished or paid for by the Buyer under the Uniform Commercial Code to otherwise.
- C. Seller, at its sole cost and expense, shall maintain buyer's tooling, materials and equipment in first class condition and replace parts thereof as necessary to produce acceptable product for Buyer. The tooling, material and equipment shall be used by Seller exclusively for the manufacture of products for Buyer, or, if transferred to Seller for

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the purpose of performing repairs, for any reasonable and necessary uses incident to such repairs, and shall not be moved from Seller premises without prior written consent of buyer. The responsibility for taxes (other than taxes measured by Buyer net income) and the risk of loss of or damage to all such materials, tooling and equipment shall be borne by Seller at all times while in Seller's custody, care or control, including while in the hands of carriers. Seller shall insure the tooling, materials, and equipment with full fire and extended coverage insurance for the replacement value thereof for the entire time such tooling, materials and equipment are in Seller's possession in accordance with all the provisions of Paragraph 22 (B) and seller shall provide Buyer with Certificates of Insurance naming buyer as an additional insured whether or not requested to do so by the Buyer. Tooling, material and equipment furnished by buyer or paid for by Buyer, directly or indirectly, shall be delivered to Buyer, or any facility designated by Buyer, immediately upon (a) completion of production hereunder, or (b) Buyer's request, whichever occurs first. Seller understands that the materials, tooling and equipment described herein are essential for Buyer's performance of its contractual obligations and may be of a unique and/or proprietary nature. Accordingly, Seller understands that, in addition to seeking monetary damages, Buyer has the right to require specific performance of the obligations set forth herein. Such remedy may include the enjoining of Seller's use of such material, tooling and equipment as well as the immediate delivery of the same to Buyer.

- D. Buyer warrants to Seller that Buyer has good title to any materials, tooling, and/or equipment furnished under this Paragraph 10. Buyer's liability and Seller's remedy under this warranty are limited to the removal of any title defect or at the election of Buyer to the replacement of the equipment or parts which are defective in title. THE FORGOING WARRANTY FOR MATERIALS, TOOLING, AND/OR EQUIPMENT FURNISHED BY THE BUYER TO THE SELLER IS EXCLUSIVE AND IS GIVEN AND ACCEPTED IN LIEU OF ALL OTHER BUYER'S WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION THE PURPOSE, AND IN LIEU OF ANY OTHER BUYER'S WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND IN LIEU OF ANY OTHER OBLIGATION OR LIABILITY ON THE PART OF THE BUYER, WHETHER ARISING IN CONTRACT OR TORT. THE REMEDIES OF THE SELLER SHALL BE LIMITED TO THOSE PROVIDED HEREIN TO THE EXCLUSION OF ANY AND ALL OTHER REMEDIES INCLUDING, WITHOUT LIMITATION, INCIDENTAL OR CONSEQUENTIAL DAMAGES.

11. **CANCELLATION FOR BREACH**

- A. The Buyer may, by giving written notice to Seller, terminate all or any part of the contract without further liability to Seller if (a) the Seller fails to make delivery of goods or perform services within the time specified, or (b) the Seller fails to perform any other requirement of this contract and does not cure such failure or provide a plan for cure of such failure, acceptable to buyer within (10) days after receipt of notice from the Buyer specifying such failure. If the Buyer so terminates all or any part of this contract, the buyer may repurchase similar goods elsewhere and the Seller shall be liable to the Buyer for any excess cost. The Seller shall not, however, be liable for any such excess costs if the Seller's failure to perform arises out of any cause beyond the reasonable control and without the fault or negligence of the Seller, provided that Seller shall give to Buyer prompt notice in writing when it appears that such cause will result in failure or delay in making deliveries under this Agreement, or any Purchase Order issued pursuant hereto. The Buyer shall also be excused for failure or delay in performance hereunder due to any cause beyond its reasonable control and without its fault or negligence. However, any price increases that may be imposed upon Seller by its suppliers shall not excuse Seller's performance of its obligations to Buyer at the prices specified herein. The remedies

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provided herein are not exclusive and are in addition to any other remedy provided by law or this Agreement.

- B. The Buyer shall also have the right to immediately terminate this contract or any part thereof without further cost or liability to Buyer in the event of (i) a filing of voluntary or involuntary petition to have Seller declared bankrupt; (ii) the appointment of a receiver or trustee for Seller; (iii) the execution by Seller of an assignment for the benefit of creditors; (iv) insolvency of the seller; or (v) the Seller's inability to promptly provide buyer with adequate and reasonable assurance of timely performance provided; however, that the petition, appointment or assignment referenced in subparagraphs (i) through (iii) above is not vacated or nullified within fifteen (15) days of such event.

12. **FORCE MAJEURE**

Any delay or failure of either party to perform its obligations hereunder shall be excused if, and to the extent that is caused by an event or occurrence beyond the reasonable control of the party and without its fault or negligence, such as, by way of example and not by way of limitation, acts of God, action by any governmental authority (whether valid or invalid), fires, floods, windstorms, explosions, riots, natural disasters, wars, sabotage, or court injunction or order; provided that written notice of such delay (including the anticipated duration of the delay) shall be given by the affected party to the other party within ten days. During the period of such delay or failure to perform by Seller, Buyer, at its option, may purchase goods from other sources and reduce its schedules and/or releases to Seller by such quantities, without any liability to Seller, or have Seller provide the goods from other sources in quantities and at times requested by Buyer and at the price set forth in this Agreement, or any Purchase Order issued pursuant hereto. If requested by the Buyer, Seller shall, within ten days of such request, provide adequate assurances that the delay shall not exceed thirty days. If the delay lasts more than thirty days or Seller does not provide adequate assurance that the delay will cease within thirty days, Buyer may immediately cancel the Agreement, or any Purchase Order issued pursuant hereto, without any further liability to Seller.

13. **COMPLIANCE WITH LAWS: COUNTRY OF ORIGIN INFORMATION: CERTIFICATION**

- A. In the performance of the Agreement, or any Purchase Orders issued pursuant hereto, Seller shall comply with all applicable federal, state, and local laws, executive orders, ordinances, rules and regulations which may be applicable to Seller's performance of its obligations hereunder. Seller hereby certifies that the goods called for by this Agreement, or any Purchase Order issued pursuant hereto, have been or will be produced in compliance with the Fair Labor Standards Act, and insofar as applicable to this Agreement, or any Purchase Order issued pursuant hereto, the Walsh-Healey Public Contracts Act, or the Work Hours Act, and any amendments thereto, as well as with the provisions of any other federal law with respect to labor relations, minimum wages and hours of employment, now in effect or hereafter enacted, and with any and all rules and regulations issued under each and every such act. Seller agrees that this certification may be considered as the certificate contemplated by the amendment, dated October 26, 1949, to the Fair Standards Act.
- B. Seller upon request shall furnish any and all documents necessary for Buyer to obtain export credits and customs drawbacks. Seller also shall provide information and, if necessary, certify such information, as to the country of origin of the goods provided hereunder and the value added thereto in each country. Seller will provide such information with respect to the origin of the raw materials, place of processing, and assembly of any goods delivered hereunder so as to enable Buyer to certify such

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information under the laws of the United States or other applicable countries, including any and all trade agreements of any nature.

14. INSPECTION OF RECORDS

Buyer shall have access to Seller's premises and records during normal business hours, prior or subsequent to payment, to inspect work performed and to verify charges submitted with respect to any tooling acquired or constructed for Buyer. In the event that Seller is paid an amount, if any, by which such price exceeds Seller's actual cost as verified. Seller further agrees to retain all of the above records for a period of three (3) years after receiving final payments of such charges. Buyer shall have the right to review Seller's applicable costs.

15. TERMINATION FOR CONVENIENCE

- A. Without limiting the generality of the forgoing, the buyer may, by giving written notice to Seller, terminate this Agreement, or any Purchase Order issued pursuant hereto, in whole or in part, at any time and for any reason. Buyer shall have the right to terminate any purchase obligations in the event of an excusable delay.
- B. After Seller's receipt of such notice of termination, Seller shall, unless otherwise directed by buyer, immediately terminate all work under Buyer's Purchase Order and shall (1) terminate all orders relating to the performance of the work terminated by Buyer's notice of termination; (ii) settle all claims arising out of such termination of orders; (iii) transfer title and deliver to Buyer (1) all completed work which conforms to the requirements of Buyer's orders and/or releases, and (2) all reasonable quantities of work in process and materials produced or acquired in respect of the work terminated which are of a type and quality suitable for producing supplies which conform to the requirements of Buyer's orders and/or releases and which cannot reasonably be used by Seller in producing supplies for itself or for its other customers; (iv) take all action necessary to protect property in Seller's possession in which Buyer has or may acquire an interest; and (v) submit to buyer promptly, but not later than twenty days from the effective date of such termination its termination claim. Sellers shall thereafter promptly furnish such supplemental and supporting information as Buyer shall request. Buyer, or its agents, shall have the right, prior or subsequent to payment, to audit and examine all books, records, facilities, work, material, inventories and other items relating to any termination claim of Seller.
- C. Upon such termination, Buyer shall pay to Seller the following amounts without duplication: (a) the order price for all goods or services which have been completed in accordance with Buyer's order and/or releases and not previously paid for; (b) the actual costs of work-in-process and raw materials incurred by Seller in furnishing the goods or services under Buyer's order and/or releases; (c) Seller's actual costs of immediately terminating orders and settling claims with its suppliers; and (d) actual costs of protecting Buyer's property that is in Seller's possession. The costs referenced in this Subparagraph C shall be allowable only to the extent that such costs are reasonable in amount and are properly allocable or apportionable under generally accepted accounting principles to the terminated portion of this order, and such costs shall be reduced by the reasonable value or cost (whichever is higher) of any goods or materials used or sold by Seller with Buyer's written consent, and the cost of any damaged or destroyed goods or material. Buyer will make no payment for finished goods, work-in-process or raw materials fabricated or procured by Seller in amounts in excess of those authorized in delivery releases nor for any undelivered goods which is in Seller's standard stock or which are readily marketable. Payments made under this paragraph shall not exceed the aggregate price payable by Buyer for finished goods which would be produced by Seller under delivery or release schedules outstanding on the date of termination. Except as provided

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in this paragraph, buyer shall not be liable for and shall not be required to make payments to Seller, directly or on account of claims by seller's subcontractors, for loss of anticipated profit, unabsorbed overhead, interest on claims, product development and engineering costs, facilities and equipment rearrangements costs or rental, un-amortized depreciation costs, and general and administrative burden charges resulting from termination of this order.

- D. If the Seller fails to submit its termination claim within a 20-day period or such longer time as is mutually agreed upon in writing, the Buyer may, notwithstanding paragraph (B) above, determine on the basis of information available to it the amount, if any, due Seller with respect to the termination and such determination shall be final.
- E. Buyer shall have no obligation to Seller if Buyer terminates its purchase obligations because of Seller's default in accordance with the provisions of Paragraph 12 hereof.

16. **CUMULATIVE REMEDIES**

The rights and remedies afforded buyer by this Agreement shall be cumulative and additional to any other or further rights and remedies provided in law or equity. Buyer will make reasonable efforts to minimize any applicable damages. Seller, however, agrees to pay to Buyer the amount of any claims for payment made to buyer by Buyer's customers as well as any applicable costs of Buyer associated with Seller's breach of the Agreement and any Purchase Order issued pursuant hereto.

17. **PRICE WARRANTY**

If Seller shall sell the same, or substantially similar, goods in similar quantities to any other customer at a lower price than the price effect for buyer, the purchase price in effect hereunder shall be reduced to such lower price. Such reduction shall apply to all unshipped orders hereunder and all orders which were shipped subsequent to the effective date of such lower price.

18. **CONFIDENTIAL DISCLOSURE**

Seller shall protect as proprietary and keep confidential all proprietary information including, but not limited to, designs, processes, drawings, specifications, reports, data, terms and conditions and other technical or business information and the items furnished or disclosed to Seller by Buyer ("Proprietary Goods"). Unless otherwise provided herein or authorized by Buyer in writing, Seller shall use such information and items, and the features thereof, only in the performance of this Agreement, or any Purchase Order issued pursuant hereto. Seller shall not sell, or dispose of as scrap or otherwise, any completed or partially completed or defective Proprietary Goods without Buyer's written consent. Upon completion or termination of this agreement, or any Purchase Order issued pursuant hereto, at Seller's expense, dispose of all such proprietary information or goods pursuant to the terms of this Agreement or as Buyer may subsequently request. Buyer shall have the right to audit all of Seller's pertinent books and records in order to verify compliance with this contract, including this paragraph. The Seller shall include in its subcontracts hereunder provisions which provide to Buyer the same rights and protection as provided in this paragraph.

Any technical information or data furnished to Buyer in connection with any goods supplied or services rendered by Seller whether or not marked by a proprietary or confidential legend are disclosed to Buyer on a non-confidential basis.

19. **CAPTIONS**

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Captions used herein are for convenience or reference only and shall not limit nor extend the language of this Agreement.

20. ENTIRE AGREEMENT

The provisions of this contract constitute the complete and exclusive agreement between the parties hereto and supersede any and all previous communications, representations or agreements, whether oral or written, between the parties with respect to the subject matter hereof. This contract may only be modified by a purchase order amendment issued by Buyer as provided in Paragraph 8 (CHANGES) and agreed to, in writing, by both Buyer and Seller.

21. GOVERNING LAW

These terms and conditions shall be governed by and construed in accordance with the laws of the State of Kentucky. Buyer may bring any action or claim relating to or arising out of this Agreement, or any Purchase Order issued pursuant hereto, in the appropriate state or federal court in Kentucky, and the Seller hereby irrevocably consents to personal jurisdiction in any such court, hereby appointing the Secretary of State of the State of Kentucky as its agent for receiving service of process. Seller shall inform Buyer in writing of any intended action or claim, including the intended venue thereof, and shall not begin such action or claim outside Kentucky if Buyer elects otherwise within thirty days from receipt of such written notice.

22. INSURANCE

- A. Seller shall maintain insurance coverage in amounts not less than the following:
- a. Workers' Compensation - Statutory Limits for the state of states in which the work ordered under these terms and conditions is performed (or evidence of authority and financial ability to self-insure);
 - b. Comprehensive General Liability Insurance (including Products/Completed Operations and Blanket Contractual Liability) in which the limit of liability for personal injury or for property damage shall be \$1,000,000 per occurrence, or combined single limits of \$1,000,000 per occurrence for personal injury and property damage.
 - c. Automobile Liability Insurance (including owned, non-owned and hired vehicles) in which the limit of liability for personal injury or for property damage shall be \$1,000,000 per occurrence, or combined single limits of \$1,000,000 per occurrence for personal injury and property damage.
- B. All insurance policies must be satisfactory to the Buyer. At Buyer's request, Seller shall furnish to Buyer certificates of insurance containing the amount(s) of coverage, policy number(s) and detail(s) of expiration. If further requested by Buyer or required by this Agreement, all applicable policies will name the Buyer required by additional insured with coverage primary to any other coverage maintained by the Buyer, contain a complete waiver by the insurer of any right of subrogation against the Buyer, and/or provide that Buyer shall receive thirty days prior written notification from the insurer of any termination or reduction in the amount or scope of coverage. Seller's purchase of the required insurance coverage or the furnishing obligations or liabilities under any Purchase Order or release issued hereunder. In the event of Seller's breach of this provision, Buyer shall have the right to immediately terminate all or any part of this Agreement without further liability to Seller.

23. INDEMNIFICATION

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Seller shall indemnify and hold Buyer harmless from and against any liability, claims, demands, causes of action or expenses (including reasonable attorneys fees) for damages to the property of or injuries (including death) to the Buyer, its associates or any other person arising from or in connection with Seller's performance of work or use of Buyer's property or Buyer's proper use of Seller's products except for such liability, claim demand, cause of action or expense arising solely out of Buyer's negligence.

24. ADVERTISING

Seller shall not advertise or publish the fact that Seller has contracted to furnish Buyer the goods ordered by Buyer in Seller's advertising or promotional materials, unless buyer has first consented in writing. In the event of Seller's breach of this provision, Buyer shall have the right to immediately terminate this Agreement without liability to Seller.

25. CHANGES IN INGREDIENT AND PROCESS DISCLOSURE AND SPECIAL INSTRUCTIONS

Because Buyer is required to inform its customers of changes in processes or materials, Seller agrees to furnish in advance of making changes the following items: (a) a list of all ingredients in the goods that may be purchased by buyer from time to time; (b) the amount of one or more ingredient; and (c) information concerning any changes in or additions to such ingredients or changes in Seller's processes and (d) Material Safety Data Sheets for all such ingredients. Prior to and with the shipment of any equipment purchased by the Buyer from time to time, Seller shall furnish Buyer with sufficient written notice, including appropriate labels on goods, container and packing, of any hazardous material which is an ingredient or a part of any such goods. Seller shall also provide any special handling instructions necessary to best prevent bodily injury or property damage in the handling, transportation, processing, use or disposal of the goods, containers and packing shipped to Buyer.

26. EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION

These terms and conditions incorporate by reference all provisions of 41C.F.R. 60 - 250, as amended and all provisions of 41 C.F.R. 60 - 741, as amended. Seller certifies that it is in compliance with all applicable provisions of 41 C.F.R. 60 - 1.

27. NO IMPLIED WAIVER

The failure of either party at any time to require performance by the other party of any provision of any order placed by Buyer from time to time shall in no way affect the right of such party to require such performance at any time thereafter. Similarly, the waiver by either party of a breach of any provision of these terms and conditions or of any order placed by Buyer from time to time pursuant hereto shall not be a waiver of any succeeding breach of the same or any other provision.

28. RELATIONSHIP OF PARTIES

Seller and Buyer are independent contracting parties and nothing in this Agreement, or any Purchase Order issued pursuant hereto, shall make either party the agent or legal representative of the other party for any purpose whatsoever. Furthermore, neither party shall have any authority to assume or to create any obligation on behalf of or in the name of the other party.

29. SEVERABILITY

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If any of this Agreement, or any Purchase Order issued pursuant hereto, is invalid or unenforceable under statute, regulation, ordinance, executive order, or other rule of law, such term shall be deemed reformed or deleted, but only to the extent necessary to comply with such statute, regulation, ordinance, executive order or other rule of law. The remaining provisions of this Agreement, or any purchase Order issued pursuant hereto, shall remain in full force.

30. TOXIC SUBSTANCES CONTROL ACT ENVIRONMENTAL CLAIMS

The seller warrants that, to the best of Seller's knowledge, (a) all chemical substances comprising or used in the manufacture of the goods ordered by the buyer are, to the best of seller's knowledge listed in the TSCA inventory and are not banned from commercial use under TSCA and (b) proper use, storage or disposal of Seller's products by Buyer will not result in any claim against Buyer for environmental damage or remediation by Buyer's associates or third parties.

31. COMPETITIVE MARKET PRICE

If, during the term of this Agreement, buyer receives a bona fide offer from a manufacturer to sell to Buyer any goods of like quality, in like quantities as the then undelivered quantity of product(s) purchased pursuant to this Agreement under similar conditions, but at a lower price, Buyer may submit satisfactory evidence of such offer to Seller, if Seller does not agree, in writing, to reduce the price to such lower price for the respective quantities of products specified in the offer, buyer may purchase any or all such undelivered quantity of product(s) from said manufacturer. Buyer shall notify Seller promptly of such quantity to be purchased. The quantities so purchased by Buyer shall be deducted from the respective total quantities of any product(s) to be purchased by Buyer hereunder.

32. SUPPLIER PERFORMANCE CERTIFICATION

Buyer's "Supplier Expectation Manual" and all applicable specifications provided pursuant hereto shall be incorporated by reference in this Agreement and in any and all Purchase Orders issued pursuant to this Agreement.

33. QUALITY ISSUE RESPONSIVENESS

If quality issues arise concerning Seller's products, Seller agrees to immediately devote the necessary personnel and resources to meet with the Buyer to determine the most appropriate and timely method of investigating and resolving the applicable quality issue.

34. MATERIAL SAFETY DATA SHEETS

- A. Prior to the shipment of any item, Seller will provide Buyer with any and all Material Safety Data Sheets ("MSDS") that are related, directly or indirectly, to the items and that are prepared pursuant to applicable federal, state, and provincial law. Seller's obligation to provide the MSDS shall be a continuing obligation of Seller, and Seller agrees to promptly furnish to Buyer any modifications, amendments or supplements to the MSDS. Further, Seller agrees to promptly inform Buyer of any changes in materials or ingredients in items, and to promptly furnish Buyer with updated or new MSDS relating, directly or indirectly, to the items. Seller also agrees to provide Buyer with any other ingredient information related, directly or indirectly, to the items that is required to be provided by Seller under any current or future federal, state, provincial or local environmental law or regulation.

Purchase Order Terms & Conditions

- B. Seller agrees to notify Buyer immediately upon obtaining any information or indications that items supplied by, or to be supplied by, Seller have hazardous characteristics, regardless of the information provided in the MSDS. Following Buyer review of the MSDS and if requested by Buyer, Seller shall provide Buyer with any other information it requests concerning the ingredients or materials in the items.

SELLER ACKNOWLEDGES THAT ITS SALE OF ITEMS OR PROVISION OF SERVICES IS MADE SUBJECT TO THESE TERMS AND CONDITIONS AND TO THE TERMS OF ANY PERMANENT AMENDMENTS AND/OR ADDITIONAL DOCUMENTS. ALL PERMANENT AMENDMENTS AND ADDITIONAL DOCUMENTS ARE HEREBY INCORPORATED BY REFERENCE, NOTWITHSTANDING THAT SOME TERMS INCORPORATED BY REFERENCE ARE CONTAINED IN DOCUMENTS NOT ATTACHED TO THESE TERMS AND CONDITIONS.

In Witness Whereof, the parties have entered into these Terms and Conditions as of the Effective Date, irrespective of the date of execution.

Franklin Precision Industry, Inc.

By: _____

By: _____

Its: _____
("FPI")

Its: _____
("Supplier")

Date of Execution

Date of Execution

Effective Date: January 1, 2004