

TERMS AND CONDITIONS FOR PURCHASE ORDERS

Supplier agrees that the following Terms and Conditions ("Terms and Conditions") and the conditions set forth in accompanying "Quality Clauses for Suppliers" are incorporated into and govern all purchase orders (the "Purchase Order") between Supplier and McKellar Machine Products Ltd. (the "McKellar"):

1. **PRICE.** Price shall be as listed on the Purchase Order. If price terms are omitted from the Purchase Order, the price of the goods shall be the price last quoted to or paid by McKellar.
2. **TAXES.** Unless otherwise expressly set forth in the Purchase Order or required by applicable law, all prices include all applicable taxes and duties.
3. **PAYMENT & INVOICING.** McKellar shall pay Supplier's invoices (i) within thirty (30) days of receipt of an accurate and approved invoice; and (ii) upon completion of the services or delivery of the goods specified in the Purchase Order. Supplier shall set forth on each invoice the following, if applicable: (a) the Purchase Order number; (b) the number of cartons in shipment; (c) the Supplier's invoice number; and (d) the make, model number, serial number and type of product or service. Until McKellar receives Supplier's invoice containing all of the above information, no prompt payment time limits shall commence. In no event shall McKellar be liable to Supplier for interest or other late payment charge.
4. **DELIVERY.** All products and services must be delivered as specified in the Purchase Order. In the absence of specific shipping instructions, shipment shall be routed via the most economical mode of commercially reasonable transportation available. Time is of the essence with respect to delivery of products or services listed in the Purchase Order. Supplier must immediately advise McKellar if any product or service cannot be delivered as ordered by the stated date. McKellar shall be liable only for the shipping charges identified on the face of the Purchase Order. If McKellar is responsible for some or all of the shipping charges, shipping terms and rates must be agreed upon in advance. If Supplier elects a more expensive shipping method to meet a required delivery date, Supplier will be responsible for any increased shipping expense.
- a. **Partial Shipment:** At McKellar's option, in the event of shipment or receipt of less than all products or services ordered, McKellar may either accept shipment and pay only for the products or services received, pro rata, based on the unit price of the item ordered, or reject the entire shipment.
- b. **Late Shipment:** McKellar reserves the right to cancel the Purchase Order or any portion thereof if delivery is not made when and as specified, and charge Supplier for any loss sustained as a result of such cancellation. Further, McKellar may reject the late delivery without cancellation of the Purchase Order as to other subsequent required deliveries. Each shipment required under the Purchase Order is to be considered separately, and McKellar's right to reject a late delivery shall not be affected by acceptance of other late deliveries by Supplier. All such cancelled shipments shall be returned to Supplier at Supplier's expense.
- c. **Early Shipment:** Products delivered prior to the date specified, at McKellar's option, may be subject to anticipation and warehouse charges, payable by Supplier, or may be returned to Supplier, at Supplier's sole expense, to be held until proper shipping date.
5. **INSPECTION AND TESTING.** All products and services shall be subject to inspection and approval by McKellar after delivery. McKellar reserves the right to reject any products or services that it deems non-conforming, defective, unsafe, unfit, in excess of the Purchase Order quantities or in any other way unsuitable for its purposes. McKellar reserves the right to require replacement of rejected products or services as well as payment of damages, at Supplier's expense. Supplier shall, at McKellar's option, either (i) promptly repair or replace the defective goods or services at the Supplier's cost, or (ii) issue a full refund (including shipping and any other expenses incurred by McKellar). If Supplier does not replace rejected goods or services within a reasonable time, McKellar may purchase substitute goods or services elsewhere. If the cost of purchasing such substitute goods or services exceeds the price stated in the order, then Supplier shall pay the difference to McKellar. This payment shall not prejudice any other rights McKellar may have against Supplier.
6. **ACCEPTANCE.** Acceptance of the Purchase Order may be evidenced by Supplier's written notice of acceptance or by Supplier's timely commencement of performance.
7. **CHANGES.** McKellar reserves the right at any time prior to shipment to make changes as to: (i) specifications; (ii) methods of shipment or packaging; (iii) place of delivery; (iv) schedule of delivery; or (v) the quantities ordered. If any such changes cause an increase or decrease in the cost of or the time required for performance of a Purchase Order, an equitable adjustment may, in McKellar's sole discretion, be made in the contract price and/or the delivery schedule. Any claim by Supplier for adjustment under this clause shall be deemed waived unless asserted in writing within ten (10) days from receipt by Supplier of the change. If the cost of property made obsolete or excess as a result of such change is paid for by McKellar, McKellar shall prescribe the manner of disposition of such property.
8. **CANCELLATION.** McKellar may, after giving written notice to Supplier, cancel the Purchase Order prior to delivery. Upon a default by Supplier of any of its obligations hereunder, McKellar may, in addition to any other rights or remedies it may have, cancel the Purchase Order and seek damages from Supplier. If Supplier becomes insolvent, bankrupt, makes an assignment for the benefit of its creditors, or a receiver or trustee is appointed for any of Supplier's assets or any other type of insolvency proceeding or formal or informal proceeding for dissolution, liquidation or winding down of the affairs of the Supplier is commenced, McKellar may cancel this Purchase Order, and seek damages from Supplier in accordance with law. In the event of any cancellation hereunder, Supplier shall cease any work or delivery and observe any instruction from McKellar as to work in progress.
9. **INDEMNIFICATION.** Supplier shall indemnify, defend, and hold harmless McKellar, all of its affiliates, subsidiaries and parents, and their respective agents, officers, directors, managers, and employees from and against any and all claims, damages (including, without limitation, court costs, investigative costs and reasonable attorneys' fees), judgments, liabilities, fines, costs and expenses (including, without limitation, legal expenses) attributable to Supplier's products or services or any willful misconduct or negligence of Supplier or an authorized Supplier representative. Such indemnification obligations shall survive the cancellation or expiration of the Purchase Order.
10. **INSURANCE.** If insurance requirements are not specified in the Purchase Order, Supplier represents that as of the date of the Purchase Order, Supplier maintains comprehensive general liability insurance in an amount not less than \$1,000,000 combined single limit, worker's compensation insurance as required by law and automobile liability insurance for all vehicles to be used by Supplier in the performance of services or delivery of products under the Purchase Order.
11. **PREMISES.** Supplier must comply with all reasonable regulations and policies communicated by McKellar to Supplier concerning Supplier's conduct on McKellar's premises.
12. **LIMITATION OF LIABILITY.** In no event shall McKellar be liable for any claim of any kind, for any loss, or for any damage arising out of, in connection with, or resulting from the Purchase Order in excess of the price allocable to the products or services giving rise to such claims. Any action resulting from McKellar's default as to the Purchase Order must commence within one year after the cause has accrued. Notwithstanding anything herein to the contrary, McKellar shall have no liability for any consequential, special, punitive, incidental or indirect damages.
13. **CONFIDENTIALITY.** Supplier acknowledges that it is, may be or will be privy to Confidential Information (as defined below). Supplier agrees it will use the Confidential Information only in furtherance of its work under this Purchase Order and shall not transfer or otherwise disclose the Confidential Information to any third party except as provided for herein. Supplier shall: (i) give access to such Confidential Information solely to those of its employees with a need to have access thereto in furtherance of or in connection with this agreement or as required by applicable law; and (ii) take the same security precautions to protect against disclosure or unauthorized use of such Confidential Information that Supplier takes with its own confidential information, but in no event shall Supplier apply less than a reasonable standard of care to prevent such disclosure or unauthorized use. As used herein, "Confidential Information" means any and all information relating to McKellar and any of its respective affiliates that may be received by or be provided to Supplier from time to time, including, without limitation, equipment and business specifications, business records or data, trade secrets, and confidential planning or policy matters, business strategies, internal policies, and procedures, matters subject to attorney-client privilege, and any financial or accounting information, the existence of this or any other agreements or communications between Supplier and McKellar, and the terms of any such agreement, and all data, reports, interpretations, forecasts and records containing or otherwise reflecting information concerning any such person or entity, together with analysis, compilations, studies or other documents, whether prepared by Supplier or McKellar, which contain or otherwise reflect such information. Supplier shall not use the McKellar's name, or the names of its respective subsidiaries or affiliates, in any sales or marketing publication or advertisement, without the prior written consent of McKellar.
14. **SUPPLIER REPRESENTATIONS AND WARRANTIES.** Supplier represents and warrants that: (a) Supplier owns all rights, title and interests in the products and services and has the legal authority to sell, license or otherwise transfer the right to use or sell such items to McKellar; (b) the products and services covered under the Purchase Order are of good and merchantable quality and free from defects in design, material and workmanship, are safe and conform to applicable specifications, drawings, samples, descriptions and associated documentation provided to McKellar in writing; (c) the products and services, and the production and sale thereof, and all warranties, guarantees, representations by Supplier made or authorized to be made in connection therewith are in all respects in compliance with all applicable international (including applicable import and export regulations), federal, provincial, local laws, rules, and regulations; (d) the goods are fit for the use intended; (e) neither the products and/or services, nor their sale or use will infringe any patents, trademarks, copyrights, trade secrets, or similar intellectual property rights of any third party; (f) unless otherwise specified in this Purchase Order, the goods are new and not used or reconditioned; and (g) Supplier will comply with all federal, provincial and local laws, ordinances, rules and regulations applicable to its performance under this Purchase Order. The foregoing representations and warranties shall survive inspection and acceptance by McKellar. Without limiting the foregoing INDEMNIFICATION provision, Supplier agrees to indemnify and hold McKellar, and its affiliates, subsidiaries, employees, officers and directors, harmless from and against any and all claims, damages, demands, costs and losses which McKellar may suffer in the event Supplier breaches any of its obligations, representations and/or warranties under this Purchase Order and these Terms and Conditions.
15. **ASSIGNMENT AND SUCCESSORS.** Supplier shall not assign or delegate duties under the Purchase Order or these Terms and Conditions, or subcontract any part of the performance required under the Purchase Order, without the express written consent of McKellar. No such consent shall be deemed to relieve Supplier of its obligations to comply fully with the requirements of the Purchase Order. Subject to