



**TERMS AND CONDITIONS
(Purchase)**

1. **DEFINITIONS:** For purposes hereof, the term "BUYER" shall mean Eric Scott Leathers, Ltd. and the terms "SELLER" shall mean the person or entity identified as the "Seller" on the Purchase Order to which these Terms and Conditions are attached.
2. **ACCEPTANCE:** SELLER acknowledges that it has reviewed these Terms and Conditions and agrees to be bound by these Terms and Conditions. This Purchase Order is BUYER's offer to SELLER to purchase the materials, goods, products and/or items (collectively, the "Items") specified in the Purchase Order on the terms set forth on the Purchase Order and in these Terms and Conditions. The Purchase Order, including these Terms and Conditions, shall only become a binding contract upon the acceptance of the Purchase Order (including these Terms and Conditions) by BUYER in writing. These Terms and Conditions shall not be changed or modified except by a writing signed by a duly authorized representative of BUYER. BUYER hereby notifies SELLER that the terms and conditions included herein are the only terms and conditions under which BUYER agrees to be bound.
3. **PRICE:** Prices stated on the Purchase Order are firm and shall remain firm until deliveries have been completed unless otherwise expressly agreed to in writing by both parties. The SELLER agrees that any price reduction made with respect to the Items covered by this Purchase Order prior to the delivery of such Items to BUYER will be applied to this Purchase Order. All prices specified herein include all charges for inspection and packaging.
4. **CHANGES:** BUYER may, at any time, by written notice, make changes in the specifications, drawings, designs, samples, or other description to which the Items specified in the Purchase Order are to conform, in the method or manner of shipment and packaging, and in the place and /or time of delivery. If any such change causes an increase or decrease in the cost of, or the time required for, the performance of any part of the work under the Purchase Order, whether or not changed by such notice, an equitable adjustment shall be made in the price or the delivery schedule or both, and the Purchase Order modified in writing accordingly. Any claim by SELLER for an adjustment must be made in writing within thirty (30) days of the receipt of the change notice; *provided*, however, that BUYER may, in its discretion, receive and act upon a claim received at any time prior to final payment under the Purchase Order. Nothing in this clause shall excuse the SELLER from proceeding without delay to perform this Purchase Order as changed.
5. **DELIVERY:** Time is of the essence. Delivery will be strictly in accordance with BUYER's schedule. SELLER will immediately notify BUYER of any delays in shipping. BUYER reserves the right, without liability, to cancel this Purchase Order, in whole or in part, if SELLER fails for any reason to make delivery as required in accordance with BUYER's schedules.
6. **SPECIFICATIONS:** All Items ordered to Government or BUYER's specifications shall comply with such specifications current as of the date of this Purchase Order unless otherwise specified by BUYER. If SELLER makes any changes to product or manufacturing process, BUYER is notified in writing prior to any change being made.
7. **TERMINATION:** BUYER shall have the right to terminate this Purchase Order or any part thereof at any time, with or without cause, upon written notice to SELLER. Upon receiving a termination notice, SELLER shall immediately take all reasonable steps to avoid the incurrence of additional costs in connection with the Purchase Order after the effective date of the termination notice.
8. **SHIPPING AND PACKAGING:** All Items purchased under this Purchase Order must be packed and packaged to ensure its safe delivery in accordance with good commercial practice and where incorporated, BUYER's packaging specifications. All packaging must conform to all state, local, and federal regulations with regard to the storage, transportation, and disposal of materials. Damage to Items as a result of insufficient packaging during shipment shall be SELLER's responsibility and at SELLER's expense.

An itemized packing list must accompany each shipment. Packing slip must include purchase order number, quantity, item description, shipping date, and delivery address.

9. **INSPECTION:** BUYER or BUYER'S customers have right-of-access to SELLER's facility and applicable records. All Items shall be subject to inspection and testing at all times and places, including during the period of manufacture, by BUYER or BUYER's customer (and if the Purchase Order is placed under a Government contract, the Government). If any inspection or test is made on SELLER's premises, SELLER, without additional charge, shall provide all reasonable facilities and assistance for the safety and convenience of BUYER's (and Government's) inspectors or customers. Such inspections and tests shall be performed in such a manner as not to unduly delay the work. All inspections are for BUYER's (or the Government's) benefit and shall not create any acceptance or waiver. All Items are also subject to final inspection and acceptance at BUYER'S facility notwithstanding any payments or prior inspections. Such final inspection shall be made within a reasonable time after delivery.
10. **BUYER APPROVALS AND REVIEWS:** The review or approval by BUYER (or the Government) of any work hereunder or any samples, designs, drawings, specifications, or other documents or things prepared hereunder shall not relieve SELLER of any of its obligations under this Purchase Order nor excuse or constitute a waiver of any defects or nonconformities in any Items furnished under the Purchase Order, nor change, modify or otherwise affect any of the provisions of the Purchase Order, including, but not limited to, the prices and delivery schedule contained herein.
11. **WARRANTY:** Unless otherwise agreed to in writing by the parties, SELLER warrants as follows: (a) Items shall be free from all defects (including latent defects) in workmanship, material and design, and shall not be reworked, rebuilt or refurbished merchandise; (b) SELLER has good title to all Items sold to BUYER under the Purchase Order, free and clear of liens and other encumbrances; (c) the manufacture, distribution, use and sale of Items hereunder shall not infringe upon the patent, copyright, trademark, trade secret or any other proprietary right of a third party; (d) all Items ordered to specifications will conform thereto and to any drawings, samples or other description(s) furnished or adopted by BUYER; (e) At any point in time, during or after Purchase Order has shipped, SELLER will notify BUYER in writing of any nonconforming product and (f) Items not ordered to specifications will be fit and adequate for their intended purpose and will be merchantable, of good material and free from defect. The forgoing warranties and representations are in addition to and without prejudice to all other warranties expressed or implied by law. Such warranties, together with SELLER's service warranties and guarantees, if any, shall survive inspection, testing, acceptance of, and payment for, Items and shall run to BUYER, its successors, assigns and customers. BUYER may, at its option, either return for credit or refund or require prompt correction or replacement of the defective or nonconforming Items or part thereof. Return to SELLER of any defective or nonconforming Items and delivery to BUYER of any corrected or replaced Items shall be at SELLER's expense. Items required to be corrected or replaced shall be subject to the provisions of the clause hereto entitled "Inspection" in the same manner and to the same extent as Items originally delivered under this Purchase Order, but only as to the corrected or replaced part(s) thereof. Items that are required to be corrected or replaced due to defective item or nonconformity found in item, SELLER is required to answer a Corrective Action request.
12. **PROPRIETARY INFORMATION:** All written information obtained by the SELLER from BUYER in connection with this Purchase Order and which is identified as proprietary, including, but not limited to, any specifications, drawings, blueprints, and software programs, shall remain the property of BUYER, shall be used by the SELLER only to the extent necessary for performance of this Purchase Order and shall not be disclosed to any third parties without prior written consent of BUYER. Upon BUYER's request, promptly return to BUYER all such proprietary information that is in tangible form (including copies and summaries) or, at BUYER's option, destroy such proprietary information and provide BUYER with certification of such destruction. The obligations under this Section will survive the expiration or termination of the Purchase Order.
13. **ASSIGNMENT/SUBCONTRACTING:** SELLER shall not assign this Purchase Order or any of its rights under this Purchase Order nor delegate or subcontract any of its obligations of work under this Purchase Order without the prior written consent of BUYER. If BUYER approves, Seller shall communicate to supplier any critical characteristics and requirements of the Purchase Order.
14. **INFRINGEMENT INDEMNITY:** SELLER shall indemnify BUYER, its successors, assigns, agents, customers and users of the Items purchased under this Purchase Order against any loss, judgment, damage, liability, cost or expense (including attorneys' fees) incurred by any of them, and shall defend

all or any of them from any demand, claim, suit, or other proceeding of a third party involving infringement or alleged infringement of any patent, copyright, trademark, trade secret or any other proprietary right of the third party by the manufacture, distribution, use or disposition of any Items supplied under this Purchase Order. BUYER shall promptly notify SELLER of any demand or the filing of any suit for which BUYER is entitled to indemnification under this Section; shall provide SELLER reasonable assistance, at SELLER's request and sole expense, needed in the defense or settlement of any demand or suit; however, SELLER shall not settle any demand or suit without the consent of BUYER unless such settlement includes a full discharge and release of liability for BUYER.

15. **BUYER'S PROPERTY:** (a) All property used by SELLER in connection with this Purchase Order which is owned by, furnished to, charged to, or paid for by BUYER, including, but not limited to, materials, tools, dies, jigs, molds, patterns, fixtures, equipment, drawings and technical information, specifications, and any replacement thereof, shall be and remain the property of BUYER and subject to removal and inspection by BUYER at any time without cost or expense to BUYER and BUYER shall have free access to SELLER's premises for the purpose of inspecting or removing such property. All such property shall be identified and marked as BUYER's property, used only for this Purchase Order, and adequately insured by SELLER at SELLER's own expense for BUYER's protection. SELLER shall assume all liability for and shall maintain and repair such property and return the same to BUYER in its original condition, reasonable wear and tear excepted. When such property is no longer required hereunder, SELLER shall furnish BUYER with a list thereof and shall comply with any disposition instructions from BUYER.

(b) Materials, excluding U.S. Government property, furnished by BUYER in connection with this Purchase Order on other than a charge basis shall be deemed to be held by SELLER as bailee thereof. SELLER agrees to pay BUYER's replacement cost for all such material spoiled or not satisfactorily accounted for over and above two percent (2%) thereof allowable for scrap loss.

16. **TITLE:** Terms of shipping are FOB the BUYER's location unless otherwise noted within the terms of this purchase order. Title and risk of loss shall pass to BUYER upon receipt at BUYER's location.

17. **NOTICE TO BUYER OF LABOR DISPUTES:** (a) Whenever SELLER has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this order, SELLER shall immediately give notice, including all relevant information, to BUYER.

(b) SELLER agrees to insert the substance of this clause, including this paragraph (b), in any subcontract hereunder as to which a labor dispute could delay the timely performance of this order.

18. **COMPLIANCE WITH LAWS:** SELLER agrees to comply with all Federal, state and local laws, executive orders, rules and regulations applicable to its performance under this Purchase Order.

19. **TAXES:** SELLER is liable for and shall pay all taxes imposed on SELLER or BUYER by this Purchase Order except those that BUYER specifically agrees or is required by law to pay and which are separately stated on SELLER's invoice. Prices shall not include any taxes for which BUYER has furnished an exemption certificate.

20. **EQUAL OPPORTUNITY:** SELLER shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor thereunder unless that Executive Order or applicable regulations exempt SELLER or this order from compliance.

21. **HAZARDOUS MATERIALS:**

(a) Hazardous material, as used in this clause, includes (1) any material defined, as hazardous under the latest version of Federal, Standard No. 313 (including revisions adopted during the term of the contract), and (2) any material that could be hazardous or injurious to the health or physical safety of a human being, even if such hazard or injury can occur only from mishandling or misuse of the material.

(b) SELLER shall notify BUYER of every hazardous material, as defined in paragraph (a) of this clause, to be delivered under this Purchase Order. The hazardous material shall be properly identified and include any applicable identification number, such as National Stock Number or Special Item Number. This information shall also be included on the Material Safety Data Sheet submitted under this contract. SELLER shall supply instructional materials as appropriate.

- (c) SELLER shall comply with all applicable regulations relating to the transportation of hazardous materials.
22. **PUBLICITY, PROMOTION, OR ADVERTISING:** SELLER shall not, without BUYER's prior written consent, issue any news release, advertisement, publicity of promotional material regarding this Purchase Order, including denial or confirmation thereof.
23. **INSURANCE:** SELLER will maintain at all times while providing Items to BUYER under this Purchase Order, at SELLER's sole cost and expense, insurance coverages of the types and in such amounts as set forth below with a company that has an A.M. Best Co. rating of "A-" or better. Products liability and completed operations insurance must provide coverage with respect of claims involving bodily injury or property damage arising out of or in connection with the Items. SELLER's insurance coverage must be primary and not excess or contributing with any insurance or self-insurance maintained by BUYER.

<u>Type of Insurance</u>	<u>Amount of Coverage</u>
(a) <u>General Liability</u>	
Commercial General Liability (on an Occurrence Basis*)	\$3,000,000
Product Liability/Completed Operations	\$3,000,000
Advertising Injury	\$1,000,000
*Per occurrence limit	\$3,000,000
(b) <u>Auto Liability</u>	
Combined Single Limit- Bodily Injury and Property Damage	\$2,000,000
(c) <u>Workers' Compensation</u>	Statutory Limits
(d) <u>Employer's Liability</u>	\$1,000,000

24. **DISPUTES:** The parties will make reasonable efforts to resolve disputes without resort to litigation. Any litigation filed under the action shall be filed in either the Missouri state courts located in Ste. Genevieve, Missouri or in the federal courts located in the Eastern District of Missouri and SELLER consents to personal jurisdiction in such court. Pending the resolution, by litigation or otherwise, of any dispute arising under or relating to this Purchase Order, SELLER shall proceed diligently with the performance of this Purchase Order in accordance with BUYER's instructions. This Purchase Order shall be construed pursuant to the laws of the State of Missouri, except if this Purchase is placed under a Government contract, in which case federal common law shall apply to the extent that it interprets the language used in the order or addresses the issues raised in any dispute.
25. **RIGHTS, REMEDIES AND WAIVER:** The rights and remedies provided BUYER herein shall be cumulative and in addition to any other rights or remedies provided by law or equity. BUYER's waiver of a breach of any provision hereof shall not constitute a waiver of any other breach, including another breach of the same provision.