

Summit Polymers, Inc.
Terms and Conditions of Purchase - Engineering

1. **ACCEPTANCE.** Unless otherwise provided herein it is understood and agreed that the written acceptance by Seller of this purchase order or the commencement of any work or the performance of any services hereunder by Seller shall constitute acceptance by Seller of this purchase order and of all of its terms and conditions, and that such acceptance is expressly limited to such terms and conditions.

2. **INSPECTION.** One or more samples, as requested by Buyer, of each part to be manufactured from the Tooling to be supplied hereunder shall be fabricated from the Tooling and submitted to Buyer for tryout inspection in sufficient time to permit subsequent correction by Seller of any faults or defects in the Tooling revealed thereby before the completion date specified on the face of this purchase order. Prior to shipment, Seller shall inspect samples manufactured from the Tooling to be supplied hereunder and shall certify results in the manner requested by Buyer. Costs incurred by Seller in fabricating such samples and in correcting such faults or defects shall be borne by Seller.

3. **PROPRIETARY RIGHTS.**
 - (a) Seller warrants that (i) the sale or use of the goods ordered herein, and (ii) the sale or use of the goods ordered herein combination in accordance with Seller's specifications or recommendations, will not infringe any patents, copyrights, industrial design rights or other proprietary rights of Seller or others, and covenants that Seller, at seller's expense upon demand of Buyer, will investigate and deal with every claim that may be made and defend every suit, action or proceeding that may be brought against Buyer or against those selling or using any product of Buyer, for any alleged infringement of any patent, copyright, industrial design right or other proprietary rights by reason of the sale or use of such goods or the sale or use of such goods in combination in accordance with Seller's specifications or recommendations, and will pay all costs, damages, expenses and judgments that Buyer and those using or selling Buyer's products may sustain by reason of any such claim, suit, action or proceeding.

 - (b) Seller hereby grants to Buyer a nonexclusive, royalty free, irrevocable license to repair rebuild and relocate and to have repaired, rebuilt and relocated the goods purchased by Buyer under this purchase order.

 - (c) Seller hereby grants to Buyer and its domestic and foreign subsidiaries and irrevocable, nonexclusive, paid-up, worldwide license under each and every copyright of Seller that is applicable to any works of authorship fixed in any tangible medium of expression (including, without limitation, drawing, prints, manuals, and specifications) furnished to Buyer or any such subsidiary in the course of Seller's activity hereunder, to reproduce the copyrighted work, to prepare derivative works based thereon, to distribute copies of the copyrighted work to the public, and to display the copyrighted work publicly, subject to other provisions hereof.

 - (d) All technical information disclosed theretofore or hereafter by Seller to Buyer in connections with the goods or services supplied under or pursuant to this purchase order is disclosed or will be disclosed on a nonconfidential basis.

4. **TERMINATION AT OPTION OF BUYER.**
 - (a) Performance of work under this purchase order may be terminated by buyer at its option, in whole or in part, at any time by delivery, or by mailing of a written notice of termination to Seller.

- (b) After receipt of a notice of termination Seller shall, unless otherwise directed by Buyer, immediately terminate all work under this purchase order and shall, unless otherwise directed by Buyer (1) terminate all orders and subcontracts relating to this performance of the work terminated by the notice of termination; (2) settle all claims arising out of such termination of orders and subcontracts; (3) transfer title and delivery to Buyer (i) all completed work which conforms to the requirements of this purchase order, and (ii) all reasonable quantities of work in process and materials produced or acquired in respect of the performance of the work terminated which are of a type and quality suitable for producing suppliers which conform to the requirements of this purchase order and which cannot reasonably be used by Seller in producing suppliers for itself or for its other customers; (4) take all action necessary to protect property in Seller's possession in which Buyer has or may acquire an interest; and (5) submit to Buyer promptly, but no later than (one month in the case of partial terminations) its termination claim; provided, however that in the event of failure of Seller to submit its termination claim within such period, Buyer may determine, notwithstanding the provisions of subparagraph (c) hereof, 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.
- (c) Upon termination by Buyer under this Paragraph, Buyer shall pay to Seller the following amounts without duplication; (1) the purchase order price for all Tooling which has been completed in accordance with this purchase order and not previously paid for; (2) the actual cost incurred by Seller in accordance with the purchase order to the extent such costs are reasonable in amount and are properly allocable or apportionable under generally accepted accounting practices to the terminated portion of this purchase order, including the actual cost of work in process and materials delivered to Buyer in accordance with subparagraph (b) of this Paragraph, and including the actual cost of discharging liabilities which are so allocable or apportionable; and (3) the reasonable costs incurred by Seller in protecting property in its possession in which buyer has or may acquire an interest. Payments made under this subparagraph (c), exclusive of payments under subdivision (3) hereof, shall not exceed the aggregate price specified in this purchase order, less payments otherwise made or to be made.
- (d) Buyer shall have access to Seller's premises and records prior or subsequent to payment, to verify charges supporting any termination claim.
- (e) These provisions of this Paragraph shall not apply if this purchase order is cancelled by Buyer for the default of Seller.
5. **CHANGES.** Buyer may at anytime, by written change order, make changes in the drawings, designs and/or specifications applicable to the Tooling covered by this purchase order. If any such changes affect the time for performance or the cost of manufacturing such Tooling, Buyer shall make an equitable adjustment in the purchase price or the completion date, or both.
6. **TITLE.** The Tooling, defined as Tooling, Tooling Designs (both drawings and CAD), Tooling cutter paths, all Tooling aids (electrodes, duplicating aids, models, etc.), to be supplied hereunder, upon construction or acquisition thereof by Seller, shall become the property of Buyer and shall be immediately marked or tagged (as directed by Summit Polymers, Inc.). While the tooling is in Seller's possession, Seller shall (i) bear all risk or loss thereof and damage thereto, and (ii) at its own expense maintain the Tooling in first class condition and replace worn out tooling to the extent necessary to produce acceptable parts. The tooling shall not be commingled with Seller's property or that of a third person; shall not be used except for the manufacture of supplies for Buyer; shall not be moved from Seller's premises without prior written authority from Buyer; shall be deemed to be personal property; and upon request of Buyer, shall be delivered immediately to Buyer by Seller (FOB destination), properly packed and marked in accordance with the requirements of the carrier selected by Buyer to transport such Tooling or shall, upon request of Buyer, immediately be delivered to Buyer by Seller at

any location designated by Buyer, in which event Buyer shall pay to Seller the cost of delivering such property to such location, Buyer shall have the right to enter onto Seller's premises at all reasonable times to inspect the Tooling and Seller's records with respect thereto.

7. **REMEDIES.** The individual rights and remedies reserved herein shall be cumulative and additional to any other or further remedies provided in law or equity or in this purchase order. No waiver of any breach of any provision of this purchase order shall constitute a waiver of any other breach, or of such provision.
8. **MODIFICATION OF PURCHASE ORDER AND NON-ASSIGNMENT.** This purchase order contains the complete and final agreement between Buyer and Seller, and no agreement or other understanding in any way purporting to modify the terms and conditions hereof shall be binding upon Buyer unless otherwise agreed to by Buyer in writing on or subsequent to the date of this order. Seller shall not delegate in any manner to any other person the performance of any work or the supplying of any services under this purchase order except as agreed in writing. Seller may assign monies due and to become due under this purchase order; provided, however, that Buyer shall be entitled to assert against the assignee thereof all rights, claims, and defenses of every type (including, without limitation, rights of setoff, recoupment, and counterclaim), which buyer could assert against Seller, whether acquired prior to or subsequent to such assignment.
9. **STATEMENTS.** Statements must be rendered promptly after notification by Buyer of approval of samples fabricated from tooling covered by this purchase order.
10. **OTHER COMPLIANCE.** Seller agrees that (i) in the manufacture of supplies; and in the sale of supplies and the providing of services to Buyer, Seller shall comply with all applicable federal, state, and local laws (including Canadian laws) Executive Orders, and regulations thereunder and amendments thereto, including, without limitation, Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, relating to equal employment opportunity, the Federal Occupational Safety and Health Act of 1970, the Federal Hazardous Substance Act, the Transportation Safety Act of 1974, the Clean Air Act, the Toxic Substance Control Act, and the Federal Water Pollution Control Act, (ii) the suppliers sold by Seller to Buyer shall conform to the requirements of such laws, orders, and regulations, and (iii) this purchase order shall be deemed to incorporate by reference all the clauses required by the provisions of said laws, orders, and regulations.
11. **GENERAL.** Buyer shall have access to Seller's premises and records during usual business hours, prior to and subsequent to payment, to inspect work performed and to verify charges submitted to Seller against this purchase order or amendment. The price set forth in the purchase order or amendment shall be adjusted so as to credit Buyer in the 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 two years after receiving final payment of such charges.
12. **APPLICABLE LAW.** This purchase order shall be construed and governed according to the laws of the State of Michigan.
13. **WARRANTY.** Seller warrants that the Tooling covered by this purchase order will conform to the specifications, drawings, samples, or other description furnished or specified by Buyer, and will be fit and sufficient for the purpose intended merchantable, of good material and workmanship, and free from defect. The warranties and remedies provided for in this Paragraph and Paragraph 2 (Inspection) shall be in addition to those implied by or available at law and shall exist notwithstanding the acceptance by Buyer of supplies produced from Tooling and respect to which such warranties and remedies are applicable.