

OTC SERVICES INC. PURCHASE ORDER TERMS AND CONDITIONS

The Purchase Order Terms and Conditions set forth herein, and Addendum which may be attached hereto constitute the full and final expressions of the contract for purchase of material, supplies, services and/or equipment as described in the Seller's quotation (hereinafter referred to as "order") between OTC Services Inc. (hereinafter referred to as Buyer) and the Seller and supersedes all prior quotations, purchase orders, correspondence or communications whether written or oral between the Buyer and the Seller notwithstanding any contrary language in the Seller's quotation. Buyer shall be bound by these Purchase Order Terms and Conditions when Buyer has in its possession, unconditional written acceptance by the Seller of the within Purchase Order Terms and Conditions.

ACCEPTANCE OF THE CONTRACT IS EXPRESSLY LIMITED TO ACCEPTANCE OF THE TERMS AND CONDITIONS OF PURCHASE STATED HEREIN AND ANY ADDITIONAL OR DIFFERENT TERMS PROPOSED BY SELLER ARE REJECTED UNLESS EXPRESSLY AGREED TO IN WRITING BY BUYER.

No contract shall exist except as herein provided. No statement, representation or warranty not contained herein shall be binding on the Buyer unless made in writing by an officer or other authorized representative of the Buyer. Prior dealing, usage of the trade or a course or performance shall not be relevant to determine the meaning of this agreement even though the accepting or acquiescing party had knowledge of the nature of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code is used herein, the definition contained in the Code shall apply.

1. **PRICES.** Prices shown on this order are fixed and apply to the order "delivered duty free" to the named place of destination. Unless expressly agreed to in writing to the contrary, the costs of transporting, packing, and loading are included in the price. Changes in the price shall only be accepted by the Buyer if and so far as they are the result of written changes in or additions to the contract in the form of an Addendum executed by both parties.

2. **SHIPPING INSTRUCTIONS.** Seller shall observe specified shipping instructions. All goods will be properly contained, packaged and labeled with an appropriate purchase order number, if applicable. The Seller guarantees that the order is supplied with correct labeling and product information, and all instructions and directions, including those for transport, storage, handling, processing and use. The Seller shall be liable for damage caused by insufficient and/or inadequate packaging. Seller shall contract with carriers that comply with insurance requirements of federal and state regulatory agencies.

3. **DELIVERY DATE AND TIME.** By accepting the order from the Buyer, the Seller acknowledges that it is aware that any date and time given in the order for the delivery of material, supplies, services and/or equipment is essential to the Buyer. The Seller shall deliver the order to Buyer on the date and time that is stipulated in the order, unless the Buyer has agreed in writing to another date and time.

4. **TERM OF PAYMENT.** Standard terms are net within thirty (30) days from the later date of invoice or receipt of goods and/or services.

5. **INSPECTION.** All material and equipment shall be received subject to Buyer's inspection and rejection. Defective material and equipment or material and equipment not in accordance with Buyer's specifications will be held for Seller's instruction and at Seller's risk and, if Seller so directs, will be returned at Seller's expense. No goods returned as defective shall be replaced without a new order and schedule. Payment for material and equipment on this order prior to inspection shall not constitute an acceptance thereof, nor will acceptance remove Seller's responsibility for latent defects. Approval of design of the product by Buyer does not relieve Seller of its responsibility for satisfactory performance of the goods and/or services furnished hereunder. If any goods are defective, or not in compliance with this order, Seller shall, at its cost, promptly (i) remove and replace all such affected goods and (ii) clean, repair or replace, as required by Buyer, any of Buyer's equipment damaged by such affected goods. If Seller fails to comply with this agreement, Buyer may perform such tasks and shall promptly be reimbursed by Seller for all costs and expenses incurred in connection herewith. Payment, if any, made for any goods rejected hereunder shall be promptly reimbursed by Seller. Reimbursement may not be made by means of credit unless expressly agreed to in writing by the Buyer.

6. **CANCELLATION.** In addition to any other rights which Buyer may have, Buyer reserves the right to cancel this order or any portion hereof, and hold Seller responsible if the goods furnished pursuant to this order or any shipments hereunder are defective in any manner or not in compliance with this order or if shipping date specified is not satisfactory to it or if delivery is not made when and as specified or within a reasonable time if not specified. Buyer may cancel this order or any portion thereof if Seller is adjudicated bankrupt, if a petition under the Bankruptcy Act is filed and is not vacated within sixty days, if Seller makes any assignment for the benefit of creditors, if a receiver of the property of Seller is appointed, if action under any law for the relief of debtors is taken in respect of Seller, if Seller admits in writing that it is insolvent or unable to pay any of its debts as they may become due, or if Buyer becomes bankrupt or insolvent. Buyer may also suspend performance and delivery hereunder upon notice to Seller of such suspension.

7. **WARRANTY.** Seller expressly warrants that all the materials, equipment and work covered by this order will conform to the specifications, drawings, samples or other description furnished or specified by Buyer, to the terms of this order and to all applicable codes and standards, and will be merchantable, of good material and workmanship, free from liens, encumbrances and all defects and fit for the particular purpose required by Buyer. The Seller further warrants that new materials will be used and skilled personnel will be assigned for the supply of services and/or carrying out work related to the order. The term of the Seller's warranty period will not commence until the product and/or service has been received and accepted by the Buyer.

8. **REMEDIES.** Buyer shall have available to it all rights and remedies at law and in equity, including all remedies provided under the Uniform Commercial Code, notwithstanding any provision in Seller's invoice or other form relating to this transaction which seeks to limit Seller's liability and shall be entitled to recover any expenses (including reasonable attorney's fees) incurred by it in enforcing its rights hereunder and all other costs and damages related thereto. The remedies of Buyer herein reserved shall be cumulative, and additional to any other or further remedies provided in law or equity. No waiver of a breach of any provision of this contract shall constitute a waiver of any other breach, or of such provision.

9. **INTELLECTUAL PROPERTY.** Seller warrants and represents that said products and their sale or use, alone or in combination, will not infringe any U.S. or foreign patents or copyrights and agrees to defend, protect and save harmless Buyer, its successors, assigns, customers and users of its products, against all suits and from all costs, damages, claims and demands resulting from any infringement or alleged infringement of any patent rights or claims caused by or alleged to have been caused by the use of any materials or equipment furnished or used by Seller or any subcontractor retained by or through Seller and any crucial or alleged infringement involving the products furnished hereunder. Where payment is made for experimental, developmental or research work pursuant to this order, Seller agrees to disclose promptly all improvements and inventions resulting from said work and to assign said improvements and inventions to Buyer and do everything necessary to enable Buyer to obtain patents or other suitable protection, including copyrights, for said inventions in any and all countries.

10. **ASSIGNABILITY AND SUBCONTRACTING.** This order is not assignable by Seller without the express written consent of Buyer. The Seller shall not subcontract the order, or part of the order, without the express written consent of the Buyer. Buyer may freely assign this order to any successor in interest of a part or all of the assets of Buyer by way of merger, consolidation, sale or similar corporate reorganization.

11. **FORCE MAJEURE.** Buyer shall not be held responsible for acceptance of all or any part of the materials tendered for delivery under this order due to federal, state or municipal action, statute, ordinance or regulation, strike or other labor trouble, fire, windstorm or other incidents outside of Buyer's control which shall make such acceptance impossible or impractical.

12. **RIGHT OF SET-OFF.** Buyer shall have a right of set-off hereunder and shall be entitled, at any time, and from time to time to set-off against all amounts owing from Seller to Buyer or any of Seller's affiliated entities to Buyer, any amount owing or payable by Buyer to Seller or its affiliate entities in connection with the products or goods purchased hereunder. Buyer will not honor drafts under any circumstances.

13. **MEET OR RELEASE.** If Buyer is offered goods of equal or better quality, as reasonably determined by Buyer, than those sold hereunder at a lower price (after all allowances and discounts) or upon better terms and conditions in effect hereunder as determined by Buyer, then within ten days of notice of such offer, Seller shall elect either

that (a) the price or terms and conditions, as the case may be, with respect to all goods shipped by Seller to Buyer, shall be changed to those of such offer or (b) Buyer shall be released from its purchase obligation hereunder if Buyer so elects. If Seller fails to notify Buyer in writing within such ten day period of its election, clause (a) shall apply.

14. **MOST FAVORED NATION.** If, at any time during the term of this order, Seller or any affiliate sells goods of equal or better quality than the goods covered hereunder, or any substantially similar goods, at a lower price (after all allowances and discounts) or upon better terms and conditions (collectively the "Price") than the price or terms and conditions hereunder, as the case may be, then in effect (collectively "Buyer's Price"), Seller with respect to all goods shipped to Buyer after any such sale, shall change Buyer's Price to such lower Price. Buyer shall have the right, from time to time, to take such action as required in Buyer's judgment to verify Seller's compliance hereunder.

15. **RISK OF LOSS.** Unless otherwise expressly specified, risk of loss of and liability for goods shall pass to Buyer only upon delivery of the goods to Buyer's site as designated herein.

16. **HAZARDOUS MATERIALS.** All hazardous materials must be clearly marked by Seller and comply with applicable environmental federal, state and local laws, rules and regulations. Seller must use, handle, transport and dispose of all such hazardous materials in accordance with all such applicable environmental laws, rules and regulations and shall be responsible for any and all environmental remediation resulting from any use, transportation or disposal of hazardous materials.

17. **INFORMATION DISCLOSED TO BUYER.** Any knowledge or information which Seller shall have disclosed or may hereafter disclose to Buyer in connection with the purchase of the goods or services covered by this order, shall not, unless otherwise specifically agreed upon in writing by Buyer, be deemed to be confidential or proprietary information, and shall be acquired free from any restrictions, as part of the consideration for this order.

18. **INFORMATION DISCLOSED TO SELLER.** All specifications, drawings, technical information and data (collectively, the "information") previously or hereafter furnished by Buyer to Seller in connection with the purchase of the goods or services covered by this order shall remain the property of Buyer. The information shall not be used nor shall it be copied or duplicated in any manner. The information shall be used only in the manufacture or production of goods, equipment, or services for Buyer and shall be returned to Buyer whenever requested and, in any event, at the conclusion of the work. No information relating to this order shall be released, other than to Seller's employees immediately concerned with the work hereunder who shall be instructed to comply with this Paragraph 18, without the prior written approval of Buyer.

19. **CHANGES IN QUALITY.** Seller shall notify Buyer in advance in writing of all changes in raw materials, feedstocks, processing operations, material specification, or other changes which could in any way affect the quality of the goods delivered hereunder.

Changes in specification must be mutually agreed upon in a writing signed by Buyer and Seller.

20. **LAWS AND REGULATIONS.** Seller shall comply with all applicable federal, state and local laws, rules, regulations, orders and standards, including, but not limited to, those relating to occupational health and safety, transportation, labor, discrimination, affirmative action, products, environmental laws and any and all other applicable laws and governmental regulations which may in any way affect or be applicable to (i) Seller, (ii) the services or goods covered by this order, (iii) the furnishing by Seller of the goods or labor therefor, (iv) the prices charged by Seller or (v) the payment to be made by Buyer therefor.

21. **INDEMNITY.** Seller shall protect, indemnify and hold harmless Buyer, and any of its subsidiaries, affiliates, officers, directors, shareholders, employees, agents, workmen and servants ("Covered Parties") of and from any loss, cost, damage or expense, including reasonable attorneys' fees, and costs arising from: (i) any and all claims which may be made against Buyer, or any Covered Parties, by reason of injury or death to person, or damage to property, suffered, or claimed to have been suffered, by any person, firm, corporation, or other entity, caused by or alleged to have been caused by, any act or omission, negligent or otherwise, of Seller or any of Seller's employees, workmen, servants or agents; (ii) any and all damage to property of Buyer, or any Covered Parties, including property occupied or used by or in the care, custody or control of Seller, caused by, or alleged to have been caused by, any act or omission, negligent or otherwise, of Seller or any of Seller's employees, workmen, servants or agents; (iii) to the extent permitted by law, any and all claims which may be made against Buyer, or any Covered Parties, by reason of injury or death to person, or damage to property, however caused, or alleged to have been caused, and even though claimed to be due to the passive or active negligence of Buyer, or any Covered Parties, suffered, or claimed to have been suffered by any person whatsoever, including, Seller, or any of Seller's employees, subcontractors, workmen, servants or agents; and (iv) any and all penalties imposed on account of the violation of any law, rule or regulation, compliance with which is required by Seller, or any of Seller's employees, workmen, servants or agents. Any claim made by Buyer under this Section or for indemnification as provided in this order shall survive termination of this order.

22. **ENTIRE AGREEMENT.** This order contains the complete and final agreement between Buyer and Seller and no other agreements in any way modifying or adding to any of said terms and conditions will be binding upon Buyer unless made in writing and signed by Buyer's authorized representative. ANY CONFLICTING OR ADDITIONAL TERMS AND CONDITIONS SUPPLIED BY SELLER ARE HEREBY EXPRESSLY OBJECTED TO AND REJECTED. Buyer is unwilling to proceed with the order herein without the assent of the Seller to these terms and conditions. The terms and conditions of this order shall bind and inure to the benefit of the parties, their successors and permitted assigns.

23. **GOVERNING LAW AND VENUE.** This order and any agreement arising from this order shall be governed by and construed and enforced in accordance with the laws of the

State of Ohio. Any dispute arising under this order shall be adjudicated in the State or Federal Courts located in Stark County, State of Ohio, and the Seller waives any objection based on venue or personal jurisdiction.

24 SAVINGS (SEVERABILITY) CLAUSE. If any provision of this agreement is held unenforceable, then such provision will be modified to reflect the parties' intention. All remaining provisions of the agreement shall remain in full force and effect.

25. ELECTRONIC SIGNATURES. By entering into this agreement, Buyer and Seller are representing to the other that each can and will comply with the Ohio Uniform Electronic Transfer Act by retaining any and all electronic authorizations that are part of this transaction. Further, upon the request of either party for any part of the transaction or the entire transaction, the parties agree to provide original signatures, facsimile signatures, digitally scanned signatures, and/or other type of verifiable signature upon request.

26. CODE OF CONDUCT. Seller represents that it has followed customary business practices that are consistent with a strong code of ethical conduct in its transactions with Buyer. Seller has not provided to or received from Buyer gratuities, gifts (other than customary business gifts of nominal value) or remuneration that is not reflected in the order.

Acceptance of this order signifies acceptance in whole, not part, of Buyer's Terms and Conditions as written.