

PURCHASE ORDER TERMS AND CONDITIONS

1. GENERAL

Pursuant to this Purchase Order, including the face or font page of this Purchase order (the "Face Page") and the Terms and Conditions (the "T&Cs") below (collectively, this "Order"), the seller, vendor or supplier identified on the Face Page ("Seller") agrees to sell, and Heraeus Materials Technology LLC ("Buyer") agrees to purchase, certain products, goods and/or services described on the Face Page (the "Products").

2. ORDER ACCEPTANCE

This Order will be deemed accepted by Seller upon the earlier of Seller's (i) written acceptance of the Face Page, (ii) shipment of any Product, or (iii) failure to provide written notice of rejection to Buyer within five (5) business days after Buyer's issuance of the Face Page. Buyer may revoke or make any changes to this Order until accepted by Seller.

3. PURCHASE PRICE

This Order shall not be filled at prices higher than the purchase price(s) for the Products set forth on the Face Page (the "Purchase Price"). Applicable discounts shall be calculated from the date the Products are received by Buyer at the destination designated in this Order.

4. SAMPLES

If requested by Buyer, Seller will, at its expense, promptly deliver to Buyer a sample of the Products prior to shipment of the Products under this Order.

5. PACKING DOCUMENTATION

The Purchase Price includes all packing, handling, storage, container and transportation charges, unless otherwise specified on the Face Page. The Products must be packaged securely and each shipment must include documentation stating the exact quantities and description of the Products shipped. In the absence of such documents, Buyer's count and verification will be deemed final. Applicable quality certifications will accompany each Product shipment, unless otherwise specified on the Face Page. The Purchaser Order No. must be shown on the exterior of all shipping containers, invoices, bills of lading and other shipping documents.

6. DELIVERY

Time is of the essence. Delay in shipment or delivery will be reported immediately by Seller to Buyer. Buyer reserves the right to terminate this Order in whole or in part, with no liability to Seller, should Seller fail to make deliveries in accordance with the terms of this Order. The Purchase Price includes all shipping and transportation charges, unless otherwise specified on the Face Page.

7. WARRANTIES

Seller warrants that Seller has the right and authority to sell the Products to Buyer and Seller's performance of its obligations under this Order will not violate any laws applicable to Seller or any agreement to which Seller is party or by which it is bound. Seller further warrants that the Products will (i) conform to all written specifications, drawings, samples and other descriptions referred to in this Order, including those otherwise provided by Seller or Buyer, (ii) be merchantable and fit for its intended purpose, (iii) be free from defects in material and workmanship, (iv) not infringe, misappropriate or violate any intellectual or proprietary rights of any third party, (v) not have any lien, encumbrance or other security interest pending or asserted against them, and (vi) comply fully with this Order.

8. NONCONFORMING PRODUCTS

If any Product fails to fully comply with the terms of this Order, Buyer will have the right to reject such nonconforming Products and to return to Seller at Seller's risk and expense, including all transportation costs. If Buyer rejects any nonconforming Product, Seller will, at Buyer's discretion, (i) replace the nonconforming Products with Products at Seller's risk and expense (including transportation costs), (ii) refund Buyer for all amounts paid for the nonconforming Products, or (iii) offset Seller's account for the nonconforming Products. Payment for any nonconforming Products will not constitute acceptance of such, waive Buyer's rights to inspect the Products, or relieve Seller from its obligations for nonconforming Products. Nothing in this paragraph limits Buyer's right to assert any legal or equitable remedy.

9. TAXES

The Purchase Price includes all applicable federal, state and local taxes of any kind in effect on the date of this Order, unless otherwise specified on the Face Page. Seller will be responsible for all taxes applicable to Seller's income and business operations, including withholding taxes for its employees.

10. TITLE AND RISK OF LOSS

Title to and risk of loss of the Products will remain with Seller and not transfer to Buyer until the Products are actually received by Buyer or its designee at the delivery destination set forth on the Face Page.

11. BUYER PROPERTY – or Customer of Buyer (all below will reference buyer but will include Customer of Buyer)

Buyer may provide to Seller certain information (written and verbal), intellectual property, supplies, drawings, software, specifications, tools equipment, molds, fixtures and other proprietary items as Buyer may determine necessary for Seller to fulfill this Order (collectively, "Property"). Any scrap resulting from a manufacturing process performed on such Property also constitutes "Property." Buyer will, at all times, have and retain all rights, title, and interests to all Property. Seller will not cause or permit any lien, encumbrance or other security interest to be asserted against any Property. Without Buyer's prior written consent, Seller will not (i) disclose any Property, including the terms of this Order, except to its employees as necessary for Seller to perform its obligations under this Order, (ii) use any Property except as necessary for Seller to perform its obligations under this Order, or (iii) transfer any Property to a third party. Upon completion of this Order or at and/or, if requested by Buyer in writing, permanently destroy some or all of the Property. Seller assumes liability for loss and damage of the Property unless there is a written exception approved by Buyer. Except as provided herein, no license or grant of the Property is given to Seller. Some or all of the Property also constitute confidential information and trade secrets relating to the business, activities or products of Buyer or any of its affiliates (collectively, "Confidential Information"). If Buyer reasonably requests, Seller must execute a more extensive confidentiality agreement to be provided by Buyer to protect the Confidential information.

12. INDEMNIFICATION

Seller will indemnify, defend and hold harmless Buyer, Buyer's affiliates, Buyer's customers and each of the foregoing entity's directors, officers, employees and representatives against any and all claims, actions, liabilities, damages, losses, penalties, fines, costs and expenses, including attorneys' fees and costs, relating to or arising out of any act or omission of Seller in connection with this Order, including a breach of any term or condition under this Order.

13. LIMITATION OF LIABILITY

IN NO EVENT SHALL BUYER BE LIABLE TO SELLER OR SELLER'S AGENTS, OR ANY THIRD PARTY FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF, OR IN CONNECTION WITH, THIS AGREEMENT, WHETHER OR NOT BUYER WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

14. ASSIGNMENT

Neither this Order nor any part thereof may be assigned by Seller, whether voluntarily or by operation of the law, to a third party without the prior written consent of Buyer. Buyer may freely assign this Order or any part thereof.

15. COMPLIANCE WITH LAWS

Seller will comply with all federal, state and local laws applicable to, and in fulfillment of, this Order. All manufacturing and materials used in the manufacture of the Products will satisfy all governmental laws and regulations in existence at the time of manufacture related to safety and restricted, toxic or hazardous materials, including environmental, electrical and electromagnetic considerations applicable to the country of delivery set forth in this Order. Seller will provide to Buyer within three (3) business days of Buyer's request all Material Safety Data Sheets applicable to each Product.

16. CANCELLATION

Buyer reserves the right at any time, and from time to time, without cause, to cancel all or any part of the undelivered portion of this Order by written notice to Seller. Buyer will pay to Seller reasonable cancellation charges for work-in-progress equal to the actual cost of materials and direct labor incurred by Seller; provided, however, that such charges will not exceed the Purchase Price applicable to the Product(s). Buyer will not be liable to Seller for loss of anticipated profits or other special or consequential damages in the event of such cancellation. The provisions of this paragraph shall not limit or affect Buyer's right to terminate this Order for cause as set forth below.

17. TERMINATION FOR CAUSE

Buyer reserves the right at any time, and from time to time, to terminate this Order, in whole or in part, without any liability to Seller, for any of the following causes: (i) upon 15 days prior written notice to Seller of Seller's failure to perform any term under this Order and such failure is not cured within such 15-day period; (ii) immediately upon notice to Seller if Seller has breached, or Buyer reasonably believes that Seller has breached, any term under Section 11 hereof; and (iii) immediately upon Seller's notice to Seller is insolvent, files or has filed against it a proceeding in bankruptcy, has a receiver or trustee appointed for it or its assets, or makes a general assignment for the benefit of creditors, or is subject to other similar proceeding.

18. SURVIVAL

All terms of this Order will survive and remain enforceable in accordance with their terms after any cancellation or termination of this Order, except that the Face Page and Sections 1, 2, 3, 4, 5 and 6 shall have no further effect upon such cancellation or termination.

19. REMEDIES

The rights and remedies provided to Buyer herein are cumulative and in addition to any other rights and remedies provided by law or equity (or provided under the Uniform Commercial Code except to the extent modified herein).

20. DISPUTE RESOLUTION

This Order will be interpreted and governed in all respects according to the laws of the State of Arizona without giving effect to conflict of law rules. All disputes relating to or arising out of this Order will be brought and resolved in Chandler, Arizona. Notwithstanding the foregoing, nothing herein limits Buyer's ability to seek and obtain equitable relief in any court of competent jurisdiction.

21. MOST FAVORED CUSTOMER

Seller will treat Buyer as one of its most favored customers in all respects in all of its dealings with Buyer. Each aspect of the prices, warranties, benefits and other terms provided to Buyer under this Order are and will remain at least equal to the terms that have been offered and/or will be offered by Seller to its other customers. If Seller has provided or will provide better terms than those provided to Buyer under this Order, then those better terms are hereby incorporated into this Order.

22. NOTICES

Any notice, request, demand, or other communication that is required or permitted under this Order will be given via overnight courier service, or by fax with confirmation copies sent by overnight courier, to the address of Buyer specified on this Order. Notice so sent will be deemed effective when delivered by hand or the day following the date deposited with an overnight courier service.

23. SEVERABILITY

If any provision of this Order is held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions will remain in full force and effect.

24. INTERPRETATION

The headings contained in the T&Cs are for reference only and will not effect the construction or interpretation of the T&Cs. This Order will be construed without regard to any presumption or rule requiring construction against the party causing such instrument or portion thereof to be drafted or in favor of the party receiving a particular benefit under this Order. No rule of strict construction will be applied against either party. The word "including" means including means without limitation.

25. ATTORNEYS' FEES

If either party resorts to legal action to enforce any term of this Order, the prevailing party will be entitled to recover from the non-prevailing party the costs of such action, including attorneys' fees and costs.

26. ADDITIONAL AGREEMENTS

This Order constitutes the entire agreement of the parties with respect to the Products contained in this Order; provided, however, that if the parties have entered into or will enter into (i) a written master agreement generally governing the parties' rights and obligations with respect to Buyer's purchase and Seller's sale of goods or services and/or (ii) a written confidentiality or nondisclosure agreement covering Confidential Information (collectively, the "Additional Agreements"), such Additional Agreements will also govern the parties' rights and obligations with respect to this Order. To the extent there is any inconsistency or contradiction between the Face Page and the other Additional Agreements, the Face Page governs and controls. The T&Cs and the Additional Agreement will be read and construed together, but if there is any inconsistency or contradiction between the T&Cs and the Additional Agreement, the Additional Agreements govern and control.

27. AMENDMENT AND WAIVER

The provisions of this Order may be amended or waived only with the prior written consent of the Buyer. No course of conduct or failure or delay in enforcing the provisions of this Order shall affect the validity, binding effect or enforceability of this Order. Buyer shall not be bound by any term or condition contained in any of Seller's acknowledgement forms, invoices or other documentation.