

PURCHASE ORDER TERMS AND CONDITIONS

1. Complete Agreement.

This Order constitutes the complete agreement on the subject matter hereof. No modification of this order, nor the terms and conditions in any other document, shall be binding upon South Bend Controls ("SBC") unless made in writing and signed by an authorized representative of SBC.

2. Flowdown

All specifications stated in this Order, or by print referred to on this Order shall be applicable to all Sub-contractors and Suppliers; Seller shall convey all relevant specifications in all subcontracts awarded in performance of this order and shall be responsible for compliance.

3. Delivery.

Time is of the essence. Delivery must be effected within the time stated on this Order but neither party shall be liable for any default hereunder due to unforeseeable contingencies beyond its control and without its fault or negligence. Seller's default shall not be excused unless written notice of any such contingencies is given to SBC within five (5) days of the time that Seller first receives knowledge of the occurrence thereof. SBC may, at any time, suspend delivery or performance by written notice. Upon receipt of such notice, Seller shall promptly suspend performance until notified by SBC to proceed, whereupon Seller shall resume diligent performance.

4. Warranties.

Seller warrants that all articles, materials and workmanship will conform to applicable drawings, specifications, samples and/or other descriptions given to Seller, and will be of merchantable quality, fit for the particular purposes for which they are purchased, and be free from all defects. Without limitation of any rights and remedies which SBC may have by law for any breach of warranty, defective goods may, at any time within twelve (12) months after delivery, be returned at Seller's sole expense for credit, repair or replacement as SBC may direct, in its discretion.

5. Price Certification.

Seller warrants that the price(s) charged for the supplies/services specified in this Order are equal to or better than the price(s) that Seller would charge its most favored customer for the same, or substantially similar items or services, taking into account the quantity purchased and terms and conditions of sale. Seller further agrees that in the event of an announced price reduction prior to the completion of this Order, the price reduction shall be passed on to SBC for supplies remaining to be shipped or services still to be performed. No extra charges beyond those quoted are allowed unless specifically accepted in writing by SBC.

6. Material, Equipment, Tools and Insurance.

Unless otherwise specified, Seller is to supply all material and equipment required to execute this Order. Any material which SBC may furnish, on other than a charge basis, will be on consignment, and Seller shall pay for such material spoiled by Seller, or otherwise unaccounted for. All tools, materials, and equipment furnished by SBC shall be protected against loss or damage by insurance acceptable to SBC.

Tooling paid for by SBC is the sole property of SBC. This tooling must be surrendered to SBC when requested. If

surrender is refused SBC may obtain tooling by any legal means available. Seller shall pay costs of any legal fees incurred by SBC to obtain tooling from Seller.

7. Our Design; Confidentiality.

SBC retains all rights on designs, proprietary information and drawings furnished to Seller in confidence connected with this Order; Seller shall take precautions to preserve such confidentiality; and no design, data or drawing shall, without SBC's written permission, be incorporated in, or used in connection with, goods furnished to others or otherwise used except in the performance of this Order. All confidential materials, including copies and compilations containing the same, shall be returned to SBC upon termination of this Order or upon demand.

8. Cancellation On Account of Insolvency.

Either party may cancel this Order without liability in the event that the other party becomes bankrupt or insolvent or makes an assignment for benefit of creditors.

9. Patent Guarantee

Seller shall, with respect to any device or composition of Seller's design on Seller's standard manufacture, indemnify and hold harmless SBC, its customers and agents, from costs and damages as determined by any court of competent jurisdiction for infringement of any United States Letter Patent, by reason of the sale or normal use of such device or composition, provided that Seller is promptly notified of all such actual or potential infringement suits, and is given full and exclusive control of the defense thereof by SBC.

10. Assignment.

Any assignment of this Order or the obligations of Seller hereunder without the prior written consent of SBC is void. Any assignment of monies due or which may become due under this Order shall be subject to set-off recoupment or other lawful means of enforcing any present or future claim or claims which SBC may have against Seller, and shall not be made to more than a single assignee.

11. Changes in Drawings, Specifications.

SBC reserves the right to make changes in the drawings and specifications relating to this Order. If any such changes cause a subsequent variation in the cost of furnishing the goods covered hereby, the price of such goods shall be varied in the same ratio. Any claim hereunder shall be asserted within 10 working days of change.

12. Termination.

(A) SBC may terminate work under this Order in whole or in part at any time by written or facsimile notice. Such notice shall state the extent and effective date of such termination; and, upon the receipt thereof, the Seller will as and to the extent directed by SBC, stop work under this Order and the placement of further orders or subcontracts hereunder, terminate work under orders and subcontracts outstanding hereunder, and take any necessary action to protect property in the Seller's possession in which SBC has or may acquire an interest.

(B) If the parties cannot by negotiation agree within a reasonable time upon the amount of fair compensation to the Seller for such termination, SBC in addition to making

prompt payment of amounts due for articles delivered or services rendered prior to the effective date of termination, will pay to the Seller the following amounts without duplication:

(1) The contract price for all articles or services which have been completed in accordance with this Order, at the time of termination, and not previously paid for.

(2) (I) The actual costs incurred by the Seller which are properly allocable or apportionable under recognized commercial accounting practices to the terminated portion of this Order, including the cost of discharging liabilities which are so allocable or apportionable, and (II) a sum equal to two per cent of the part of such costs representing the costs of articles or material not processed by the Seller, plus a sum equal to eight per cent of the remainder of such costs, but the aggregate of such sums shall not exceed six per cent of the whole of such costs. For the purpose of subdivision (III) such costs shall exclude any charge for interest on borrowing and shall exclude the cost of discharging liabilities for parts, material and services not received by the Seller before the effective date of termination.

(3) The reasonable costs of the Seller in making settlement hereunder and in protecting property in which SBC has or may acquire an interest.

Payments made under this paragraph (B), exclusive of payments under sub-paragraph (3) shall not exceed the aggregate price specified in this order, less payments otherwise made or to be made.

(C) With the consent of SBC, the Seller may retain at an agreed price or sell at an approved price any completed articles, or any articles, materials, work in process or other things the cost of which is allocable or apportionable to this order under paragraph (B) (2) above, and will credit or pay the amounts so agreed or received as SBC directs. As directed by SBC, the Seller will transfer title to, and make delivery of any such articles, materials, work in process or other things not so retained or sold. Appropriate adjustment will be made for delivery costs or savings therein.

(D) The provisions of this article 12 shall not limit or affect the right of SBC to terminate this order for the default of the Seller.

(E) If this purchase order constitutes a subcontract under government prime contract, settlement of any claim under this article will be made pursuant to applicable government termination regulations.

13. Acceptance of Terms.

Commencement of work or shipment of all or any portion of the goods covered by this Order shall be deemed an acceptance of this Order upon the terms and prices set forth herein.

14. Government Standards.

Seller shall comply with all applicable federal, state and local laws, rules, regulations and executive orders in effect on the date of this Order, including, but not limited to the following, as amended: (a) the Fair Labor Standards Act; (b) the Federal Occupational Safety and Health Act of 1970; (c) the Toxic Substances Control Act of 1976; (d) the Walsh-Healy Public Contracts Act; (e) Defense Priority and Allocation

Requirements; (f) applicable Federal Equal Opportunity and Affirmative Action requirements as mandated by the Secretary of Labor (EO 11246); (g) The Americans with Disabilities Act of 1990; (h) the Affirmative Action clauses relating to Special Disabled Veterans and Veterans of the Vietnam Era; (i) and all applicable Executive Order(s) to include but not limited to EO 13224 concerning Terrorist Financing, and all other federal laws concerning labor relations, non discrimination in employment, minimum wages, over time compensation, and hours of employment. Seller agrees to indemnify and hold SBC harmless against any loss or liability due to Seller's violation or non compliance with such regulations. Upon SBC's request, Seller shall furnish evidence demonstrating such compliance.

15. Access to Plant and Records.

The Seller shall allow SBC, SBC's customer, regulatory agencies and/or any person designated by the head of any Government Executive Department right of entry to any place necessary to audit or verify the quality of contracted work, records and material. Seller shall further maintain complete records of all production and quality control activities, inspections and test and provide copies thereof to SBC upon request.

16. Inspection.

All supplies (which term includes without limitation raw materials, components, intermediate assemblies and end products) and workmanship utilized in the performance of this Order shall be subject to inspection and test by SBC and the Government/Customer to the extent practicable at all times and places including the period of manufacture. If any such inspection or test is made on Seller's premises, Seller shall provide, without additional charge, all reasonable facilities and assistance for safe and convenient inspection and test inspection and approval of Seller's plant does not preclude rejection for defects subsequently discovered. Seller shall provide and maintain, without additional charge, a test and inspection system acceptable to SBC covering the supplies and workmanship hereunder. Disposition of all material not conforming to SBC's drawings and/or specifications shall be determined by SBC's Materials Review Board unless authority for making such disposition has been specifically delegated to Seller by SBC in writing. Government Inspector may use drawings and other pertinent data required for adequate source inspection. Seller agrees to insert the substance of this clause, including this sentence, in all purchase orders and subcontracts issued under this Order.

17. Labor Disputes.

Whenever an actual or potential labor dispute is delaying or threatening to delay the performance of this Order, Seller will immediately give notice thereof to the SBC. Such notice shall include all relevant information with respect to such dispute. Seller will include this clause in each subcontract made under this Order.

18. Covenant Against Contingent Fees.

Seller warrants that it has not employed any person to solicit or secure this Order upon any agreement for a commission,

percentage, brokerage or contingent fee. Breach of this warranty shall give SBC the right to annul this Order, or, in its discretion, to deduct from the agreed price or consideration the amount of such commission, percentage, brokerage or contingent fee. This warranty shall not apply to commissions payable by Seller upon orders or sales secured or made through bona fide established, commercial or selling agencies maintained by the Seller for the purpose of securing business.

19. Officials Not to Benefit.

No government employee shall be admitted any share or part of this Order or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this Order if made with a corporation for its general benefit.

20. Indemnification.

Seller shall indemnify, defend and hold SBC harmless from and against any and all claims, liabilities and expenses, including attorneys fees, arising out of or in any manner connected with Seller's performance or breach of this Order, including without limitation claims for personal injury, death, property damage, economic loss, incidental or consequential damages, civil fines or sanctions, or punitive or other damages, whether arising in tort, contract, products liability, violation of intellectual property rights or noncompliance with applicable law.

21. Governing Law and Disputes.

This Order and all work performed hereunder is governed by the laws of the State of Indiana, and exclusive personal and subject matter jurisdiction and preferred venue for the resolution of all disputes and claims arising hereunder shall be in the St. Joseph Circuit Court in South Bend, Indiana. The prevailing party in any such litigation shall recover attorneys' fees and litigation expenses in addition to any other remedy available at law or equity.