

PURCHASE ORDER TERMS AND CONDITIONS

1. **ACCEPTANCE OF THIS ORDER** - Acceptance of this order is expressly limited to its exact terms, and by Seller's execution of the attached acknowledgement form and return thereof to Napco or by part or full performance, Seller agrees to be bound by the terms and conditions of this purchase order.

Napco objects to the inclusion of any different, conflicting or additional terms proposed by Seller in the acceptance of this order, and if Seller shall, for any reason whatever, use its own form of acknowledgement or acceptance, any terms, conditions or provisions thereof which would in any way modify, conflict with, differ from, add to or contradict any of the terms, conditions or provisions of this order shall be deemed to be waived. The terms, conditions and/or provisions of this order, upon acceptance, shall constitute the entire contract between the parties, shall prevail and govern in each instance over any purported acknowledgement or acceptance, and shall not be affected in any way for any reason not expressly set forth herein (including, without limitation, trade usage, past practice and prior agreements or dealings).

2. **PRICES** - Seller represents and agrees that the prices charged to Napco herein are not in excess of Seller's list, catalog or published prices, that the prices charged to Napco herein are not higher than prices charged to any other Purchaser of the Seller for similar or the same items.

3. **PACKING AND TRANSPORTATION** - Unless otherwise specified or agreed to in writing by Napco, all items to be delivered hereunder shall be boxed, crated or stored without charge and shall be packed and packaged (a) to insure safe arrival at their ultimate destination, (b) to secure the lowest transportation costs, and (c) to comply with requirements of common carriers. Seller shall be liable for all excess transportation or other charges and costs resulting from failure or neglect to follow and meet Napco's routing instructions and delivery schedule.

Any goods rejected by Napco or any goods wherein acceptance has been revoked for non-compliance with any of the terms and conditions set forth herein shall be stored and/or shipped at Seller's expense, such charges to include those of the initial shipping and storage enroute to Napco and any return cost thereof.

4. **CONDITIONS FOR DELIVERY AND LATE DELIVERY** - Seller is hereby notified that material and work ordered are required at the times and in the quantities specified in order to fulfil Napco's contractual commitments to its customers. Any failure of Seller to deliver in strict accordance with the terms hereof, except for acts of God, shall entitle Napco, without any resulting liability to Napco, in addition to any other rights or remedies which Napco may have, to cancel all or any part of this order. Advance and/or excess shipments may, at Napco's option, be rejected and returned to Seller's risk and expense.

When Seller has reason to believe that delivery will not be made in accordance with Napco's schedule. Seller agrees to promptly notify Napco by telephone or telegram of the same, to be followed promptly by written notification to Napco stating the cause (s) for the anticipated delay. In the event damages are sustained by Napco or to any customer of Napco, whether from cancellation, or continuance of all or part of this order that was occasioned by or arose out of Seller's failure to deliver at the scheduled time, or Seller's failure or neglect to notify or improper notification of any delay under this order, then seller shall be liable to and shall indemnify Napco for all resulting damages and expenses, including attorney's fees.

Any late order delivered to Napco in whole or in part without previous written authorization does not bind Napco and will not be considered an acceptance of said late order if such goods are returned within a reasonable period of time by Napco.

5. **WARRANTY** - Seller warrants that all items delivered pursuant to this order shall be of the quality, quantity, dimension and description and approved sample, if furnished as specified in this order and strictly in accordance with any and all specifications, drawings, samples, etc., if any, as approved by Napco: and free from all defects (including latent defects in workmanship and material and shall be fit and safe for the use for which it is intended; which warranties shall survive inspection, delivery and payment and shall run to Napco, its successors, assigns, customers and the user(s) of its products and shall not be deemed to be exclusive. Napco shall be promptly reimbursed for all costs and expenses of handling, inspection and return of defective item.

6. **RISK OF LOSS** - Seller assumes all risk of loss or damage to the items ordered (a) until actual delivery thereof to Napco and (b) after rejection thereof by Napco.

7. **INSPECTION** - At Napco's option. Seller shall promptly repair or replace defective material and work, without charge, or accord refund or credit for rejected material and work.

8. **CHANGES** - Napco may, at any time, and from time to time, by a written order or notice to the Seller specifically referencing this order, make any changes of any kind or nature herein and the Seller shall comply therewith and in each and every instance, while continuing to diligently perform under this order as so changed.

9. **SPECIAL MATERIALS PROVIDED BY NAPCO** - Any and all designs, drawings, specifications, metals, plastics, tools or raw materials, and any replacements thereof, hereinafter called "special materials" at any time furnished or paid for in whole or in part by Napco, or the cost of which is included in computing the purchase price specified in this order, or paid for separately by Napco, or which is based upon any design or process, confidential or proprietary to Napco, shall be and remain the sole property of Napco. Seller shall not directly or indirectly use any such special materials to or for the benefit of any third party whatever.

10. **SET-OFF** - Napco shall be entitled at all times to set off any amount owing at any time from Seller to Napco against any amount payable at any time by Napco to Seller.

11. **PATENT, TRADEMARK AND COPYRIGHT INDEMNITY** - Seller guarantees and agrees that all materials furnished, and the normal and expected use thereof, are and shall be free and clear of infringement of any patent, copyright or trademark and of any rights of any third parties, and shall comply with all applicable laws and regulations. Seller shall at its sole cost and expense defend, indemnify and save Napco and its customers harmless from any action, claim, damages, liabilities and expenses, including attorneys fees, arising out of or connected with any claimed infringement or the like or any breach or default hereunder.

12. **TERMINATION** - Napco, solely for reasons of convenience, may terminate or suspend the performance of work under this agreement in whole or in part from time to time by written or telegraphic notice.

13. **BREACH OR DEFAULT** - In the event that Napco terminates this purchase order in whole or in part due to Seller's default, and whether or not Napco has in fact terminated all or part of this order, Napco, in addition to recovering so much of the price as has been paid, may procure, upon such terms and in such manner as Napco may deem appropriate, items, work or services similar to those so terminated and Seller shall be liable to Napco for any excess costs for such similar items, work or services and Seller shall, in addition, be liable to Napco for any incidental and consequential damages (including attorneys fees) sustained or incurred by Napco in relation thereto (but less expenses saved in consequence of the Seller's breach).

14. **INDEMNIFICATION** - Seller shall indemnify Napco and hold Napco harmless from and against any and all loss, claim, damages, liability, cost, expenses (including reasonable attorneys fees) and any causes of action whatsoever arising out of or in connection with any act or omission of Seller, its agents, employees, representatives or subcontractors. Seller shall maintain public liability, property damage and employees' liability and compensation insurance as will protect Napco from any of said risks and from any claims under any applicable Workmens Compensation and/or Occupational Duties Acts.

15. **MODIFICATION** - Any changes proposed by Seller must have the written approval of an officer of Napco in order to be of any force or effect. Napco shall not be bound by any modification of this purchase order of the terms hereof or by any provision in Seller's quotation, acknowledgement or other communication unless an officer of Napco expressly agrees thereto in writing.

16. **GOVERNING LAW** - The terms, provisions and conditions of this purchase order and all matters arising out of the execution, construction, interpretation or breach thereof, shall be subject to and construed by the laws of the State of New York and Seller hereby irrevocably consents to the jurisdiction of the courts of the State of New York in connection with any transaction relating to or arising out of this invoice and the transactions contemplated hereby. In addition, Seller agrees to bring any actions, claims or legal proceedings in any way pertaining to those goods, or the execution, construction, interpretation or breach of its agreements with Napco in the courts or forum of the State of New York or in a Federal Court of the United States physically situated in New York and no other court or tribunal whatsoever.