

PLANSEE PURCHASE ORDER TERMS AND CONDITIONS

1. CONTRACT

This Purchase Order constitutes an offer to purchase goods and/or services upon a contract of sale between Plansee USA LLC ("Plansee" or "Buyer") and Seller (as designated on the face hereof). Seller's commencement of work on the goods and/or services subject to this Purchase Order or shipment of such goods, whichever occurs first shall be deemed an effective mode of acceptance of this Purchase Order. Any acceptance of this Purchase Order is expressly limited to acceptance of these terms and conditions. Any quotes or proposals for additional or different terms or other attempt by Seller to vary any of the terms of this offer are hereby rejected, and Buyer's acceptance is made conditional on assent to these terms and conditions exclusively found in this Purchase Order. The term "Products" as used herein shall mean that which Plansee is offering to purchase from Seller, whether it be materials and products to be manufactured and/or delivered, or services to be rendered, or both. This Purchase Order is revocable, in whole or in part, by Plansee any time prior to acceptance. Any notice of objection or variance of its Purchase Order must be approved by Plansee in writing.

2. DELIVERY, QUALITY, QUANTITY, RISK OF LOSS

Plansee production schedules and warranties to its customers are based upon the delivery date(s) on the face hereof or as designated by Plansee. **Time is of the essence**, and Seller shall be responsible for all damages of any kind incurred or suffered by Plansee or its customers caused by any delays. Without relieving Seller of its obligation of timely delivery, Seller agrees to notify Plansee immediately if at any time it appears that Seller may not meet the delivery schedule(s), which shall include reasons for the delay, actual or potential, the steps being taken to remedy the constraint(s) and the updated schedule of Seller. Unauthorized advance shipments and shipments other than for the quantity ordered are returnable at Seller's expense. In case of delays or untimely delivery, Plansee reserves the right, without prejudice to its other rights and remedies, to terminate this Purchase Order without liability by notice to Seller, effective when received, for Products not yet shipped and to purchase substitutes elsewhere and charge Seller with any loss or expenses incurred. If Plansee will furnish any item(s), Seller agrees to perform its obligations in a timely manner and according to schedule even if interruptions or delays occur in the supply of such furnished items, adjusting production and work schedules at no additional cost or liability to Plansee. Plansee may at any time postpone delivery of any of the Products for a reasonable time as to any particular scheduled shipment. Delivery shall not be deemed complete until the Products have been actually received, inspected and accepted by Plansee; the risk of loss shall not pass to Plansee until such acceptance.

3. FORCE MAJEURE

Buyer may delay delivery or acceptance occasioned by causes beyond its control without liability to Seller. Seller shall hold such Products at the direction of Buyer and shall deliver them when the cause affecting the delay has been removed. Causes beyond Buyer's control shall include, but are not limited to, government action or failure of the government to act where such action is required, strike or other labor trouble, fire, interruptions or delays among Buyer's other subcontractors or customers, or unusually severe weather.

4. CHANGES

Buyer shall have the right at any time to make changes in drawings, designs, specifications, materials, quantities, packaging, time and place of delivery, and method of transportation. If any such changes cause an increase or decrease in the cost, or the time required for the performance, an equitable adjustment shall be made, and this Purchase Order shall be modified in writing, accordingly. Seller agrees to accept any such changes subject to this paragraph. Any claim by Seller for equitable adjustment shall be deemed waived unless asserted in writing within thirty (30) calendar days from the date of Buyer's change notice.

5. WARRANTY

Seller expressly warrants that all Products, as defined above, furnished under this Purchase Order shall conform to all specifications and appropriate industry and professional standards, will be new, free and clear of any liens or encumbrances of any kind, and will be free from defects in material or workmanship. Seller warrants that all Products conform to any statements made on the containers or labels or advertisements for such Products, and that any Products will be adequately contained, packaged, marked and labeled. Seller warrants that all Products furnished hereunder shall be merchantable, and will be safe and suitable for the purpose for which Products of that kind are normally used. If Seller knows or has reason to know the particular purpose for which Buyer requires Products, Seller warrants that such Products will be fit for such particular purpose. Seller warrants that Products or services furnished will conform in all respects to samples. Inspection, test, acceptance or use of the Products furnished hereunder shall not affect the Seller's obligation under this warranty, and such warranties shall survive inspection, test, acceptance and use. Seller's warranty shall run to Plansee, its affiliates in the Plansee Group, successors, assigns and customers, and users of products sold by Plansee. Plansee may reject, demand replacement or withhold payment in case of non-conformity. Seller agrees to replace or correct defects, promptly, failing which Plansee may make such corrections or replace such Products and charge Seller for the costs incurred.

6. PATENTS

Seller agrees upon receipt of notification to promptly assume full responsibility for defense of any suit or proceeding which may be brought against Plansee or its agents, customers, or other vendors for alleged patent infringement, as well as for any alleged unfair competition resulting from similarity in design, trademark or appearance of Products furnished hereunder. And further, Seller agrees to indemnify Plansee, its agents and customers, against any and all expenses, losses, royalties, profits and damages including court costs and attorney's fees resulting from any such suit or proceeding, including any settlement. Plansee may be represented by and actively participate through its own counsel in any such suit or proceeding if it so desires, and the costs of such representation shall be paid by Seller.

7. INSPECTION/TESTING

Payment for Products delivered hereunder shall not constitute acceptance thereof. Plansee shall have the right to inspect such Products and to reject any or all of said Products which are in Plansee's judgment defective or nonconforming. Products rejected and Products supplied in excess of quantities called for herein may be returned to Seller at its expense and, in addition to its other rights Plansee may charge Seller all expenses of unpacking, examining, repacking and reshipping such Products. In the event Plansee receives Products whose defects or nonconformity is not apparent on examination, Plansee reserves the right to require replacement, as well as payment of damages. Nothing contained in this Purchase Order shall relieve in any way the Seller from the obligation of testing, inspection and quality control.

8. PACKING AND SHIPPING

(a) Seller shall ship only as specified herein, or as subsequently directed in writing, and in strict conformity with the governing tariff rules and regulations; (b) Seller shall pack or otherwise prepare all Products to meet carrier requirements and safeguard against damage from weather and transportation; (c) No charges shall be allowed for packing or cartage unless noted herein; (d) Unless otherwise agreed upon in writing by Plansee, Products must be shipped prepaid at Seller's expense; (e) Seller shall mark each package to show Purchase Order number and include a packing sheet; (f) The expense and risk of returning all Products, for whatever reason returned, shall be borne by Seller.

9. PRICE WARRANTY

Seller warrants that the prices for the Products sold Plansee hereunder are not less favorable than those currently extended to any other customer for the same or similar products in like grade quality and quantities. In the event Seller reduces or lowers its price for such Products during the term of this Purchase Order, Seller agrees to reduce the prices hereof correspondingly. Seller warrants that prices shown on this Purchase Order shall be complete and no additional charges of any type, such as shipping, labeling, custom duties, taxes, storage, insurance, boxing, crating, etc., shall be added without Plansee's express written consent.

10. PAYMENTS

Unless agreed otherwise, payments shall be made within forty-five (45) days upon the submission of proper invoices for Products delivered and accepted. With respect to any discount offered, time shall be computed from the date of delivery or from the date correct invoice is received by Plansee, whichever occurs last. Payment is deemed to be made, for the purpose of earning the discount, on the date Plansee's check is mailed.

11. PROPRIETARY INFORMATION, CONFIDENTIALLY, ADVERTISING

Seller shall consider all information furnished by Plansee to be confidential and shall not disclose any such information to any other person, or use such information for any purpose other than performing this Purchase Order, without written permission from Plansee. This paragraph shall apply to drawings, specifications, or other documents prepared by Seller for Plansee in connection with this Purchase Order. Seller shall not advertise or publish the fact that Plansee has contracted to purchase Products from Seller, nor shall any information relating to the Purchase Order be disclosed without Plansee's written permission. Unless otherwise agreed in writing, no commercial, financial, or technical information disclosed in any manner or at any time by Seller to Plansee shall be deemed secret or confidential, and Seller shall have no rights against Plansee with respect thereto except such rights as may exist under patent law.

12. DRAWINGS, MANUALS

Seller, if required as part of its performance hereunder, shall, on or before delivery, of any Products, supply any and all printed materials, such as catalogs, drawings, cuts, certified prints, characteristic curves, parts lists, service and technical manuals, and diagrams relating to such Products. The failure of Seller to deliver the foregoing printed material required shall constitute a basis for nonpayment of the price of the Products until delivery is made. All such printed materials supplied by, or specifically manufactured, made, or produced at the request of Plansee shall at all times be and remain the property of Plansee and shall be delivered to Plansee on demand.

13. INDEMNIFICATION AND INSURANCE

Seller shall defend, and indemnify and hold harmless Buyer, its affiliates and its customer(s) against all damages, claims or liabilities and expenses (including attorney's fees) arising out of or resulting in any way from any defect in Products purchased hereunder, from any other breach of its obligations hereunder or from any act or omission of Seller, its agents, employees, or subcontractors. This indemnification shall be in addition to the warranty and insurance obligations of Seller. To the extent that Seller's agents, employees or subcontractors enter upon premises occupied by or under the control of Buyer, in the course or performance hereunder, Seller shall take all

necessary precautions to prevent the occurrence of any injury, including death, to any person, or any damage for any property, arising out of any acts or omissions of such agents, employees or subcontractors. Except to the extent that any such injury or damage is due solely and directly to Buyer's negligence, Seller shall indemnify and hold buyer harmless against all losses, claims, liabilities, and expenses, including reasonable attorney's fees, arising out of any act or omission of its agents, employees or subcontractors. In addition, Seller agrees to carry adequate insurance covering all work and activities hereunder, as required by law and as is common practice in Seller's area of business, including but not limited to employee liability and worker's compensation, general liability, and professional liability insurance.

14. TERMINATION

(a) Plansee may modify the terms or conditions hereof or terminate work, hereunder in whole or in part at any time by electronic, fax or written notice, and upon the receipt thereof, Seller shall, to the extent directed by Plansee, stop both work and the placement of further orders or subcontracts, terminate work under orders and subcontracts outstanding, and take any necessary action to protect property in Seller's possession in which Plansee has or may acquire an interest. Plansee shall pay Seller's reasonable costs in making settlement hereunder in case of termination without fault of Seller, and in protecting property in which Plansee has or may acquire an interest, provided that total payments hereunder shall not exceed the aggregate price specified herein, and provided that such claims for payment must be asserted within thirty (30) calendar days from the date of receipt of notice of such modification or termination. Nothing contained herein shall relieve Seller from proceeding without delay in the performance of this Purchase Order as modified.

(b) Plansee may cancel and terminate this Purchase Order without any liability or obligation in the event of: (a) the commencing of any bankruptcy or insolvency proceeding by or against Seller; (b) Seller becoming insolvent; (c) Seller making any assignment for the benefit or creditors; (d) a writ of attachment or execution being levied or any property of Seller and not being released or satisfied within ten (10) days; (e) a receiver being appointed in any proceeding or action to which Seller is a party; (f) the failure by Seller to produce and deliver acceptable Products, or comply with any other instructions, terms, conditions or warranties applicable hereto; (g) any other event occurring which under applicable law would entitle Plansee to cancel and terminate this Purchase Order.

In the event of termination for cause (a through g above), Plansee may produce or purchase or otherwise acquire Products elsewhere on such terms or in such manner as Plansee may deem appropriate in its sole and absolute discretion, and Seller shall be liable to Plansee for any excess cost or other expenses incurred by Plansee. In no event shall Buyer be obligated to pay Seller any incidental damages as defined in UCC§ 2-710, and the total amount paid to Seller for any and all damages shall not exceed the aggregate price specified herein.

15. PROPERTY OF BUYER

Unless otherwise provided herein all parts, supplies, materials, drawings manuals, facilities, tools, jigs, dies, fixtures, patterns or equipment furnished to Seller by Plansee shall remain the property of Plansee. Seller shall bear all risk of loss and damage thereto, normal wear and tear excepted, while such property is in Seller's actual or constructive possession. Such property shall at all times be properly housed and maintained by Seller, shall not be commingled with the property of Seller or others, shall not be moved from Seller's premises without prior written authority from Plansee and shall, upon request by Plansee, be immediately returned to Plansee. With respect to Products supplied by Seller, identification under UCC §2-501 shall occur at the moment Seller accepts the Purchase Order. Seller shall not be excused from performing its obligations hereunder if the Products identified are destroyed. Substituted Products of equal quantity and quality shall be procured by Seller at its expense.

16. NON WAIVER REMEDIES; COST AND ATTORNEY'S FEES

The remedies herein reserved or created by Plansee shall be cumulative and additional to any other or further remedies provided at law or in equity. Plansee may remedy any breach of the terms or conditions hereof and may waive any breach of the terms or conditions hereof without waiving the breach remedied or without waiving any other prior or subsequent breach. Seller shall indemnify and hold Plansee harmless from and against all liabilities, losses and incidental damages and expenses, including Plansee reasonable attorney's fees, resulting from a claim based upon either strict liability, or from the breach of any of the terms and conditions hereof, whether negligent or otherwise, specifically including, but not limited to, the breach of any of Seller's warranties. Any action for breach hereof must be commenced within two years after the cause of action has accrued. For purposes hereof, a breach of warranty shall be deemed to accrue, not when the Products are received, but when the actual breach is discovered.

17. INVOICES; STATEMENTS

Unless otherwise provided in this Purchase Order, no invoice shall be issued and no payment will be made prior to physical delivery of Products, or completion of the rendering of services, to Plansee. Individual invoices showing this Purchase Order number, description of Products as shown herein, number of cartons shipped, and carrier and weight, shall be issued for each shipment applying hereto. Any Shipping charges and all applicable taxes, or charges for which Plansee has agreed to pay, and has not furnished an exemption certificate, shall be itemized separately on Seller's invoices: Unless such changes are itemized Plansee may take the application discount on the full amount of each invoice.

18. ASSIGNMENT

Seller shall not assign, delegate, subcontract or otherwise transfer any duties, obligations, rights or claims hereunder, in part or in whole, without prior written consent of Plansee, and any such attempted transfer shall be void. All claims for monies due or to become due from Plansee shall be subject to deduction by Plansee for any setoff or counterclaim arising out of this or any other of Plansee Purchase Order(s) with Seller.

19. SEVERABILITY

Any provisions of this Purchase Order found to be invalid, prohibited or unenforceable by law shall not have any effect on the remaining provisions hereof. The parties shall use reasonable efforts to promptly replace such provision(s) with a reasonable new provision(s) which, as far as legally permissible, shall approximate the purpose and intent of the original provision(s).

20. COMPLIANCE WITH LAWS AND CODE OF CONDUCT

Seller warrants and represents that it shall comply with all laws, regulations or government orders concerning the goods and/or services to be provided, including any national, international, state or local laws dealing with the environment, health and safety, labor and employment, insurance, transportation or storage of hazardous materials, and import/export or customs requirements, including the manufacture and shipment of goods purchased or returned hereunder. In particular, by accepting this Purchase Order, Seller covenants that it shall comply with the rules and regulations applicable to the Fair Labor Standards Act as amended, the Occupational Safety and Health Act (OSHA) as amended, and the Toxic Substances Control Act as amended. Further, Seller agrees to adhere to and act in a manner consistent with the principles and expectations set forth in the Plansee Code of Conduct and Supplier Policy, both of which are available upon request or at www.plansee.com > About us > Purchasing. In the event that Seller or the Products do not conform with such laws, regulations and policies and Plansee is penalized for such nonconformance, Seller shall indemnify Plansee, its affiliates and customers against all penalties, costs, and expenses including interest and attorneys' fees.

21. GOVERNMENT SUBCONTRACT

In the event that this Purchase Order bears a government contract number or reference, Seller agrees to comply with all pertinent provisions or flow-down clauses of said contract and any applicable Presidential directives and executive orders. All said provisions, flow-down clauses, and directives and executive orders as amended are herein incorporated by reference, which include inter alia the rules, regulations, and orders applicable to (a) Equal Employment Opportunity (E.O. 11246); (b) Affirmative Action for Workers with Disabilities (the Vocational Rehabilitation Act of 1973, 29 U.S.C. 793); and (c) Equal Opportunity for Disabled or Eligible Veterans (the Vietnam Era Veteran's Readjustment Assistance Act of 1974, 38 U.S.C. 4212a). **IN PARTICULAR, SELLER SHALL ABIDE BY THE REQUIREMENTS OF 41 CFR §§ 60-1.4(a), 60-300.5(a) AND 60-741.5(a) AS APPLICABLE. THESE REGULATIONS PROHIBIT DISCRIMINATION AGAINST QUALIFIED INDIVIDUALS BASED ON THEIR STATUS AS PROTECTED VETERANS OR INDIVIDUALS WITH DISABILITIES, AND PROHIBIT DISCRIMINATION AGAINST ALL INDIVIDUALS BASED ON THEIR RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN AND REQUIRE THAT COVERED PRIME CONTRACTORS AND SUBCONTRACTORS TAKE AFFIRMATIVE ACTION TO EMPLOY AND ADVANCE IN EMPLOYMENT INDIVIDUALS WITHOUT REGARD TO RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, PROTECTED VETERAN STATUS OR DISABILITY.** Further, Seller agrees to comply, as applicable, with the employee notice requirements set forth in 29 CFR Part 471, Appendix A to Subpart A and the veterans' employment reporting requirements under 41 CFR §61-300-10.

22. PRODUCT SAFETY NOTIFICATIONS

Seller will immediately notify Buyer by telephone and written communication within twenty-four (24) hours if any Product fails to comply with an applicable safety rule or standard or which contains a defect which could create or present a substantial risk to the health of or injury to the public or to the environment by itself or when used by Buyer within the scope of its intended purpose.

23. TAXES

Unless expressly provided otherwise in this Purchase Order, Seller shall be liable for and shall pay any sales, use, excise or other tax which may be imposed upon any of the goods/services or their sale, use or delivery.

24. ENTIRE AGREEMENT

This Purchase Order and any documents referred to on the face hereof, constitute the entire agreement between the parties.

25. AUDITS

Seller grants Plansee a right, during normal business hours, to access and to inspect all facilities concerning the performance of the Purchase Order, including audits or inspections of the facilities, equipment, testing, records, work processes and completed Products manufactured.

26. GOVERNING LAW

This Purchase Order shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts excluding its conflict of law rules and excluding the UN Convention on Contracts for the International Sale of Goods.