

DETORONICS CORPORATION PURCHASE ORDER TERMS AND CONDITIONS (DF-102)

THIS ORDER IS SUBJECT TO THE FOLLOWING CONDITIONS

Except where the context indicates otherwise, the term "Buyer" means DETORONICS CORPORATION. The term "Seller" means the legal entity contracting with the Buyer.

1. ACCEPTANCE

This purchase order constitutes Buyer's offer to Seller, and becomes a binding contract on the terms set forth herein when it is accepted by Seller either by acknowledgement or commencement of performance hereof. No revisions to this order shall be made valid unless in writing and signed by an authorized representative of Buyer; and no conditions stated by Seller in accepting or acknowledging this order shall be binding upon Buyer if in conflict with, inconsistent with, or in addition to the terms and conditions contained herein unless expressly accepted in writing by the buyer.

2. INSPECTION

All articles ordered will be subject to final inspection and approval by the Buyer after delivery at the plant of the Buyer, and notwithstanding prior payment, it being expressly agreed that payment shall not constitute final acceptance. Such inspection will be made within a reasonable time after delivery of the articles, irrespective of date of payment thereof. Buyer may hold any rejected articles at Seller's instructions at Seller's risk, or at Buyer's option, return them to Seller at Seller's expense, transportation collect, for credit or refund. No replacements of defective articles shall be made unless specified by Buyer in writing. Upon inspection and acceptance the liability of the Seller under this shall be limited to the liability for latent defects, fraud or such gross mistakes of the Seller as to amount to fraud.

3. DEFAULT AND SHIPMENT

Time and rate of delivery are of the essence on this order. Buyer, by written notice of default to Seller, may terminate the whole or any part of this order, if the Seller fails to make shipment of items, fails to perform the services within the specified time herein or any extension thereof, or if Seller fails to comply with other terms and conditions of this order. Seller shall bear any premium shipping costs necessary to meet contractual delivery schedule. Seller shall report any anticipated delay immediately for whatever cause. Items shipped substantially in advance of the delivery date set forth in this order shall not be invoiced prior to such date without the written consent of the Buyer. Over shipments are made on Seller's own responsibility. Buyer reserves the right to reject and return excess material or parts at Seller's expense.

4. WARRANTY

Unless otherwise agreed to in writing by the parties, Seller expressly warrants that all articles ordered to specifications will conform thereto and to the drawings, samples, or other description furnished or adopted by Buyer, or, if not ordered to specification, will be fit and sufficient for the purpose intended, and that all articles will be merchantable, of good material, and workmanship, and free from defect.

5. SPECIFICATION

All articles ordered to government or Buyer's specifications must comply with such specification current as of date of the order unless otherwise specified by Buyer.

6. BUYER'S PROPERTY

6a. Title to and the right to immediate possession of all tools, molds, dies, parts, supplies, jigs, fixtures, plans, drawings, specifications and all other equipment, materials and property that are furnished by Buyer for Seller's use hereunder; or are procured, produced, manufactured or fabricated by Seller in connection with Seller's performance hereunder; or are in any manner paid for directly or indirectly by Buyer (all of which is collectively referred to as "Buyer's Property"); shall at all times be and remain with Buyer. Seller shall take all measures which Buyer deems appropriate to perfect or evidence Buyer's title to all Buyer's Property, including without limitation executing and filing informational financing statements and other documents with respect thereto, and for such purpose Seller hereby irrevocably appoints Buyer as Seller's attorney-in-fact to execute all such documents in Seller's name and on Seller's behalf. Seller agrees to assume and pay all taxes assessed against Buyer's property while in the possession of Seller. Seller shall clearly mark or otherwise adequately identify all Buyer's Property as belonging to Buyer. Seller shall not transfer possession of any Buyer's Property to any third party, or delegate or assign any of Buyer's obligations with respect thereto, unless otherwise specifically agreed by Buyer in writing.

6b. While any Buyer's Property remains in Seller's possession, Seller shall at its expense maintain the same in good operating condition and repair and in compliance with all warranties contained herein Seller shall be responsible for and shall bear all risk of loss or damage to all Buyer's Property while in Seller's care, custody, possession or control, and shall insure such risks with full replacement value fire and extended coverage Insurance reasonably satisfactory to Buyer. Unless otherwise agreed by Buyer in writing, Seller will use all Buyer's Property solely and exclusively to perform for Buyer's benefit hereunder, and not for the benefit of any other party.

6c. Seller, as a material part of the consideration hereunder, hereby assumes all risk of damage to property or injury to persons arising from its use of all Buyer's Property. Seller shall indemnify Buyer from and hold Buyer harmless against any and all claims arising from Seller's use of all Buyer's Property, including all attorney's fees, expenses and liabilities incurred in the defense or settlement of any such claims, and, in the event of any claim against Buyer by any employee or agent of Seller, Seller's liability and indemnification obligation hereunder shall not be limited by any amount recoverable by such persons under worker's compensation or similar applicable law. Seller shall maintain such liability insurance with respect to its obligations under this Paragraph as Buyer may from time to time require.

6d. Buyer shall have the right to recover immediate possession of all Buyer's Property at any time, with or without cause, and without any additional charge or fee being assessed to Buyer by reason of such recovery. Upon Buyer's request, Seller shall deliver all Buyer's Property to Buyer, FOB Seller's dock, in good condition and repair, normal wear and tear only excepted.

7. CHANGES

Buyer shall have the right to make changes in, or additions to, the drawings and specifications, also to revise or issue additional instructions, to reduce or increase the quantity covered by this order. If such change causes a material increase or decrease in Seller's cost or time for performance of this purchase order, an equitable adjustment in price or time for performance will be made and this purchase order will be modified in writing accordingly, provided any claim for adjustment must be made by Seller within 30 days, after the date this change is ordered.

8. TERMINATION

8a. Buyer may terminate this order, or any part hereof, for its sole convenience. In the event of such termination, Seller shall immediately stop all work hereunder and shall immediately cause all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, Seller shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges Seller can demonstrate to the satisfaction of Buyer using its standard record keeping system, have resulted from the termination. Seller shall submit its claim no later than three (3) months after receipt of the termination notice. Seller shall make reasonably available to Buyer or Buyer's representative any books, records and papers supporting its claim. Seller shall not be paid for any work performed or costs incurred which reasonably could have been avoided. Upon Buyer's payment to Seller in accordance with this paragraph, title to all equipment, materials, work-in-progress, special tooling, finished products, and anything acquired for this contract, and any plans, drawings, specifications, information, and other things that would have been required to be delivered to Buyer, shall vest in Buyer.

8b. Buyer may cancel this order in whole or in part for Seller's default (i) if Seller fails or refuses to perform in accordance with any of the requirements of this order or to make progress so as to endanger performance hereunder, (ii) if Seller becomes insolvent or suspends any of its operations or if any petition is filed or proceeding commenced by or against Seller under any state or Federal law relating to bankruptcy, arrangement, reorganization, receivership or assignment for the benefit of creditors, or (iii) if Seller fails to provide Buyer, upon request, with adequate assurances of future performance. Any such cancellation will be without liability to Buyer except for completed items delivered and accepted by Buyer, payment for which can be set off against damages to Buyer. Buyer may require Seller to transfer title and deliver to Buyer any or all property produced or procured by Seller for performance of the work cancelled and Seller shall be credited with the reasonable value thereof not to exceed Seller's cost or the contract price, whichever is less. Seller will be liable for damages caused by its resulting from its default including but not limited to excess costs of reprocurement. If, after a default cancellation, it is determined that Seller was not in default, the cancellation shall be deemed a termination for convenience in accordance with subparagraph 8a of this Article. Buyer or its designee shall have the right to audit all elements of any termination claim and Seller shall make available to Buyer or Buyer's designee on request all books, records, and papers relating thereto. Cancellation of the order for default shall be without prejudice to any other rights and remedies of Buyer under statute or common law.

8c. To the extent this order is not terminated pursuant to subparagraphs 8a or 8b above, Seller shall continue performance.

9. PATENT INDEMNITY

To the extent the subject articles are not manufactured pursuant to design originated by the Buyer, Seller agrees it will save Buyer and/or its agents or customers harmless for any loss, damage or liability which may be incurred on account of infringement of U.S. patent rights with respect to such articles or materials, and that it will, at his own expense, defend any action, suit or claim in which infringement is alleged with respect to the sale or use of the articles or materials delivered hereunder, provided, Seller is duly notified as to suits against Buyer, and provided further Seller's indemnity as to use shall not apply to any infringement arising from use in combination with other items where such infringement would not have occurred from the normal use for which the article was designed.

10. INDEMNIFICATION

Seller shall indemnify and hold harmless Buyer, its directors, officers, employees, agents and invitees from and against all liability, demands, claims, losses, costs, damages and expenses, including but not limited to attorneys' fees, by reason or on account of property damage, death and personal injury of whatsoever nature or kind arising out of, as a result of, or in connection with the performance of this order that is occasioned by the actions or omissions of Seller or its subcontractors or suppliers of any tier.

11. ASSIGNMENT OF SUBCONTRACTORS

This order may not be assigned or subcontracted in whole nor may any assignment of any money due or to become due hereunder be made by Seller without in each case the prior, written consent of Buyer.

12. EXTRA CHARGES/PACKING AND SHIPPING

No charges of any kind, including charges for boxing or crating, will be allowed unless specifically agreed to by Buyer in writing. All items must be suitably packed and prepared for shipment to protect against damage and Seller will comply with carrier regulations. Buyer's count or weight shall be final and conclusive on shipments not accompanied by packing lists. Buyer must approve method of transportation and all transportation charges on all shipments must be fully prepaid by Seller where shipment is to B. Sellers plant. This includes transportation charges on the invoice and addition of prepaid freight bill. All invoices, packages, bills of lading, etc., must contain purchase order number.

13. REPRODUCTION

Seller shall acquire no rights in the specifications, drawings, designs, equipment, tooling, or data furnished by Buyer in connection with this order. Seller shall not reproduce or cause to be reproduced any articles therefrom or disclose or to be disclosed any information therein without prior written consent of Buyer.

14. PRICES, TAXES, AND NEW MATERIAL

If Seller's price or the regular market price of the articles covered hereunder, is lower than the price stated in this purchase order on the date of shipment of the article, Seller agrees to give Buyer the benefit or such lower price on any such article. Seller warrants that none of the items furnished under this order are surplus, used, remanufactured or reconditioned or of such age or so deteriorated as to impair the usefulness or safety thereof, unless otherwise specifically stated on the face of this order. Unless otherwise provided on the face of this order, THE PRICES APPEARING HEREIN INCLUDE ALL PACKAGING, CRATING AND FEDERAL, STATE AND LOCAL TAXES, IF APPLICABLE, AND ARE FIRM FOR THE DELIVERY PERIOD SHOWN.

15. PAYMENT TERMS

Payment periods and cash discount periods will be computed from either the date of delivery or acceptance of the items ordered or the date of receipt of correct and proper invoices prepared in accordance with the terms of the order, whichever is later. The payment date will be delayed on a day-for-day basis for any item that is delivered later than called for by the schedule on the face of this order.

16. ADVERTISING

Seller shall not, in any manner, advertise or publish that Seller has furnished or contracted to furnish to Buyer the articles mentioned herein without specific prior written consent from Buyer.

17. INVENTION

Any invention resulting from or arising out of performance by Seller or Seller's employees under this purchase order, which performance has been funded by Buyer, shall be the property of the Buyer.

18. SETOFF

Buyer may setoff any amount due from Seller to Buyer, whether or not under this order, from any amounts due to Seller under this order.

19. COMPLIANCE WITH LAWS

19a. Seller shall comply with all applicable federal, state and local laws, Executive Orders, rules and regulations during performance of this order, including but not limited to, the Occupational Safety and Health Act of 1970 as amended ("OSHA"); Toxic Substances Control Act as amended ("TSCA"); the Fair Labor Standards Act of 1938 as amended ("FLSA"); the Clean Air Act as amended; the International Traffic in Arms Regulations ("ITAR"); and the Anti-Kickback Act of 1986 as amended.

19b. Seller agrees to furnish information, within seven (7) days of Buyer's request, regarding payment, offer, or agreement to pay "political contributions" or "fees or commissions" (as those terms are defined at 22 C.F.R. 130) with respect to any sale by Buyer for which a license or approval is required from the Office of Defense Trade Controls, Department of State or any sale pursuant to a contract with the Department of Defense under Section 22 of the Arms Export Control Act (22 U.S.C. § 2762).

19c. Seller warrants that all representations and certifications furnished by Seller as required by law or regulation in connection with this order are accurate, current and complete as of the effective date of this order, and that to Seller's knowledge no person has been paid a kickback or illegal gratuity in connection with this order. Seller agrees to indemnify and hold Buyer and its customers harmless for any loss, damage or expenses sustained because any certification or representation herein or required by law or regulation made by Seller was inaccurate, non-current or incomplete or due to Seller's non-compliance with any applicable law or regulation.

19d. To the extent it is applicable to Seller's products, Seller shall at all times be in compliance with the Fastener Quality Act (Public Law 101-592 as amended by Public Law 105-234) as amended from time to time (the "Act"). Seller shall defend (with counsel of Buyer's choosing), indemnify and hold harmless Buyer from any and all claims, demands and causes of action brought by Buyer or by any third party against Buyer in any manner relating to Seller's failure to comply with the Act. Seller's indemnity shall include, but not be limited to, reimbursement of any costs associated with any return, recall or retrofit of parts sold under this order which are not in compliance with the Act.

20. INSURANCE

Seller will maintain and carry liability insurance which includes but is not limited to commercial general liability (including product liability and for services to be performed, completed operations liability) in a sum no less than \$3 million, automobile liability in a sum no less than \$3 million, workmen's compensation in an amount no less than the applicable statutory minimum requirement and employer's liability in an amount of no less than \$1 million, with insurance carriers acceptable to Buyer. Seller will, if requested by Buyer, furnish certificates of insurance from its carrier(s) on the foregoing coverages, which shall provide that such coverage shall not be changed without thirty (30) days advance written notification to Buyer from the carrier(s).

21. KEY PERSONNEL

Seller's personnel listed or identified as, Key Personnel in this order are considered by Buyer to be, critical to the successful performance of this Order, and were a substantial factor in Buyer's decision to award this Order to Seller. Buyer may consider any change by Seller in its Key Personnel as grounds for termination or cancellation under Article 8 of this Order.

22. PERFORMANCE OF INDIVIDUALS

Upon determination by Buyer at any time that the performance of Seller, or any of Seller's employees assigned to the work hereunder, does not meet Buyer's required standards, and upon notification to Seller of such determination, the failure of Seller to take appropriate corrective action may be considered grounds for termination or cancellation of this Order by Buyer.

23. DISPUTE RESOLUTION

Any controversy, claim or dispute arising out of or relating to this Agreement or the transactions contemplated by this Agreement, or the breach, termination, enforcement, interpretation or validity of this Agreement, including the determination of the scope or applicability of this Agreement to arbitrate, shall be determined by arbitration to be conducted in the state of California before a sole arbitrator. The arbitration shall be administered by the American Arbitration Association ("AAA") pursuant to its commercial rules and, if applicable, its supplementary procedures for large complex disputes.

24. CHOICE OF LAW

This Agreement shall in all respects be interpreted, construed and governed by and in accordance with the laws of the State of California, disregarding any conflict of laws provision which may require the application of the laws of another jurisdiction.

25. NON-WAIVER

No failure by Buyer to assert its rights under any provision of this order, or failure of Seller to perform any provision of this order, shall be effective as a waiver thereof unless consented to in writing by Buyer; nor shall any such waiver constitute an advance waiver of any other provision or failure to perform.

26. HEADINGS

Headings and captions set forth in this order are for convenience of reference only and are not intended to, nor do they, alter the meaning, content or enforceability of any Article hereof.

27. SEVERABILITY

In the event any provision of this order is held to be unenforceable or invalid by any court of competent jurisdiction, the validity and enforceability of the remaining provisions of this order will not be affected and, in lieu of such invalid or unenforceable provision, there will be added automatically as part of this order one or more provisions as similar in terms as may be valid and enforceable under applicable law.

28. ADDITIONAL TERMS AND CONDITIONS

Additional purchase order terms and conditions applicable under Government Contracts