



## Magee Plastics Company General Purchase Order Terms and Conditions

TIME OF DELIVERY is of the essence of this order. If Seller fails to make delivery within the time specified, purchaser shall have the right to reject all or any portion of the delivery and hold Seller responsible for any loss which purchaser sustains because of such failure. INVOICES - Seller shall submit original and one copy of all invoices showing cash discount, F.O.B. point, freight terms and product code. PACKAGES must bear purchaser's order number and show gross, tare and net weights and/or quality, whenever applicable. No packaging charge will be allowed by purchaser unless otherwise agreed prior to such shipment. QUALITY - Material is subject to purchaser's inspection and approval at a reasonable time after delivery. If quality requirements are not met the materials may be returned by purchaser at Seller's expense. WARRANTY - Seller warrants that all materials supplied under this order have been produced in compliance with all applicable laws of any Government Body, are good and merchantable quality and are fit for the purpose for which purchased. - TERMS AND CONDITIONS OF PURCHASE -

1. ACCEPTANCE. ALL OFFERS MADE BY BUYER TO SELLER MAY BE ACCEPTED ONLY ON THE EXACT TERMS AND CONDITIONS SET FORTH HEREIN AND ON THE FACE OF THIS PURCHASE ORDER (THE "ORDER"). SELLER SHALL BE BOUND BY THE TERMS AND CONDITIONS HEREUNDER (a) UPON RECEIPT BY BUYER OF SELLER'S ACKNOWLEDGEMENT, OR (b) WHEN SELLER HAS DELIVERED TO BUYER ANY GOODS ORDERED OR HAS COMMENCED PERFORMANCE OF ANY SERVICES ORDERED. ANY TERMS OR CONDITIONS PROPOSED BY SELLER THAT ARE INCONSISTENT WITH OR IN ADDITION TO THE TERMS AND CONDITIONS HEREIN CONTAINED ARE EXPRESSLY REJECTED AND SHALL BE VOID AND OF NO EFFECT.

2. ENTIRE AGREEMENT; AMENDMENT: The terms, conditions and provisions of this Order, together with the specifications, drawings, schedules, exhibits, or riders referred to herein or annexed hereto and by this reference made a part of this Order, constitute the entire agreement between the parties hereto and shall supersede all previous communications, representations or agreements, either verbal or written, between the parties hereto with respect to the subject matter of this Order. No change or modification on the face of this Order or by agreement or otherwise shall be binding upon Buyer until accepted in writing by its authorized representative. Buyer shall have the right to make changes in drawings, plans or specifications relating to articles on order or in packaging, time and place of delivery and method of transportation of said articles, and Seller shall comply with such changes immediately upon notification thereof. If any such change causes any increase or decrease in the cost of said article, an equitable adjustment shall be made between Buyer and Seller and the Order modified in writing accordingly. All claims for adjustments in prices by Seller resulting from such changes must be made within thirty (30) days from notice thereof. Subject to the foregoing, and without limiting the provisions of Paragraph 22 below, no orders may be filled by Seller at higher prices than last quoted or charged by Seller without Buyer's written consent.

3. DELIVERY.

(a) The specific services or quantity of goods ordered in any order must be performed or delivered in full and cannot be changed without the written consent of Buyer. Any unauthorized service or quantity of goods is subject to rejection by Buyer and return at Seller's expense.



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(b) No charges of any kind, including charges for boxing, packaging, reels, crating, cartage, insurance, or other extra charge will be allowed unless specifically agreed to in writing in advance by Buyer or noted on the face of this Order. All packaging, crating and insurance shall conform to the highest commercial standards. All goods shall be suitably packed or otherwise prepared for shipment to prevent damage in transit and to meet carrier's requirements, and classified to assure lowest transportation rates consistent with full protection against loss or damage. Each container must be marked with order number and other identification marks as shown on the face hereof. Risk of loss of or damage to all goods shall remain with Seller until accepted by Buyer at the delivery location. Buyer shall be notified as soon as possible when shipments will be made and of shipments made. Shipments sent C.O.D. without the written consent of Buyer will not be accepted and will be at Seller's risk. Freight or express charges must be prepaid by Seller when the price is F.O.B. destination. Parcel post shipments are Seller's risk.

(c) Seller shall place Buyer's purchase order number, contract number, and markings on all packages, bills of lading, express receipts, shipping cases, correspondence and invoices delivered to Buyer.

(d) Seller shall be solely responsible to do all things necessary with respect to the exportation of the goods or other items to be delivered hereunder from the country of origin, and shall pay all customs duties, tariffs, taxes, and fees required to be paid with respect to such exportation of such articles or other items from the country of origin. Seller also agrees to pay, and to indemnify and hold harmless Buyer from and against any direct or indirect customs duties, or similar imposts, costs, charges, interest and penalties, paid to the U.S. Government (including the Customs Merchandise Fee) relating to or arising out of the initial importation into the U.S. of such goods or other items delivered hereunder. All payments made pursuant to this provision shall be made on an after-tax basis.

(e) Seller guarantees that all goods and services to be delivered hereunder shall be delivered in accordance with the scheduled delivery date set forth in this Order. Except for delay caused by Buyer, where the delivery date is not met Seller shall credit to Buyer's account an amount equal to the product of the applicable percentage specified below and the total cost of the goods or services so delinquent: 0-15 days late, 5%; 16 -22 days late, 10% 23-30 days late, 20%. The parties agree that the foregoing credit is for late delivery only and is cumulative with, and does not exclude, any other right or remedy Buyer may have, at law or in equity, for breach of any term of this Order.

4. TITLE. Unless otherwise specified, title to the goods shall pass to Buyer at the F.O.B point or F.A.S. point set forth on the face of this Order (which, if no such point is specified, shall be our plant in Warrendale, Pennsylvania).

5. APPROVAL OF DESIGNS, DRAWINGS, AND PROCEDURES. When goods to be furnished under this Order are to be produced in accordance with plans, drawings, or procedures to be furnished by Seller, approval of such plans, drawings, and/or procedures by Buyer shall in no way reduce or modify Seller's obligation to meet performance and other requirements of the Order. By such approval, Buyer in no way assumes any part of Seller's responsibility for acceptable plans, drawings, or procedures, or the satisfactory performance of resulting goods manufactured in accordance with such plans, drawings or procedures.



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6. **TOOLS AND MATERIALS.** Seller is to furnish all standard tools, taps, dies, cutters, gauges and fixtures. Buyer will furnish special tools for Seller's convenience where available, but it is expressly understood that in so doing Buyer makes no guarantee whatsoever as to the accuracy of the tools furnished. No designs, tools, patterns, or drawings supplied by Buyer to Seller for use in manufacture of articles contracted for herein, shall be used in the production, manufacture or design of any other articles for any other buyer or for the maintenance or production of larger quantities than those specified except with the express consent in writing of Buyer. At the termination of this Order they, together with all excess materials, shall be disposed of as Buyer shall direct. All such designs, tools, patterns, drawings and materials supplied by Buyer shall be segregated by Seller in Seller's plant, and wherever possible, clearly marked so as to be easily identified as belonging to Buyer. Where materials are furnished by Buyer, title to and/or the right of immediate possession of such materials in all stages of manufacture shall be and remain in Buyer.

### 7. **INSPECTION.**

(a) Inspection by Buyer or Buyer's agent prior to shipment shall not relieve Seller from its responsibility of furnishing goods strictly in accordance with this Order, Buyer's instructions, specifications, and data and/or Seller's warranties (express or implied). When it has been specified that Buyer shall inspect goods ordered before shipments, Seller will notify Buyer promptly when the goods are ready for inspection, and Seller shall not ship the goods in any event without first obtaining Buyer's written approval.

(b) Notwithstanding the provisions in paragraph 4 and subparagraph 7(a) above, any goods or services ordered by Buyer from Seller are subject to inspection and approval by Buyer on arrival or upon performance. If reference to a contract with or for the United States Government, or any agency thereof, appears on the face of this Order, the goods or services ordered hereby shall also be subject to inspection by any officer of the United States or its agencies authorized to make such inspection. Buyer reserves the right to reject and refuse acceptance of goods or services that are not strictly in accordance with Buyer's instructions, specifications, and data, or are otherwise defective in material, workmanship or design. Goods or services not accepted will be returned to Seller at Seller's expense, and Seller shall bear all risk of loss or damage to rejected articles.

(c) Payment for any goods or services ordered by Buyer from Seller prior to inspection and approval shall not constitute acceptance thereof and shall be without prejudice to any and all claims that Buyer may have against Seller. Delivery of defective parts shall not be deemed to satisfy the delivery schedule required herein nor shall acceptance of any item be deemed to alter or affect the obligation of Seller or the rights of Buyer.

8. **REPRESENTATIONS, COVENANTS AND WARRANTIES.** By accepting any order from Buyer, Seller expressly warrants that the goods ordered shall be merchantable and that the goods or services shall conform in all respects to any express or implied warranties made by Seller to Buyer, shall be free from defects, whether patent or latent, in labor, material, design, workmanship and fabrication, and shall conform to any and all applicable specifications, drawings, samples, instructions, design plans, procedures, or other descriptions. Seller also expressly represents, covenants and warrants that the goods shall be fit for any and all particular purposes for which the goods ordered are required by Buyer of which the Seller has actual knowledge or reason to know. Seller hereby warrants that it has good title to the goods supplied and that they are free and clear



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from all liens and encumbrances of any nature whatsoever. Seller represents, covenants and warrants that it will comply, and by its shipment of goods hereunder represents, covenants and warrants that it has complied, with all applicable governmental laws, regulations, standards, procedures and general requirements, as well as currently effective executive orders. In connection with its performance hereunder, Seller covenants and agrees to obtain and pay for all permits, fees and licenses necessary for the prosecution of the work contemplated hereunder. Seller agrees that the representations, covenants and warranties set forth herein shall survive acceptance of the goods or services by Buyer and termination of this Order for a period of ten (10) years and shall be in addition to any warranties of additional scope given to Buyer by Seller. These representations, covenants and warranties shall run to Buyer and its successors, assigns, and customers, and to the users of Buyer's products. Acceptance or use of the goods and/or services furnished by Seller hereunder or payment therefore shall not affect any of Seller's obligations under this paragraph.

(b) To the extent the goods to be furnished hereunder are not manufactured pursuant to a design originated by Buyer, Seller, by accepting this Order, warrants that the sale or use of any and all goods or materials delivered hereunder will not infringe any United States or foreign patent and agrees that Seller will, at its sole cost and expense, defend any action, suit or claim in which a violation of patent rights is alleged with respect to the sale or use of any material or goods ordered hereby ("Claim"). Seller agrees to hold harmless and indemnify Buyer, its successors, assigns and customers, and each of them, for any claim, expense, cost, cause of action, fee (including attorney's fees) loss, damage or liability incurred on account of any violation or alleged violation of the forgoing warranties.

(c) In addition to the foregoing, in the event that the goods purchased or supplied hereunder, or any portion thereof, becomes the subject of any Claim, or if Seller in its reasonable judgment at any time decides that the goods purchased or supplied hereunder, or any portion thereof, shall become subject of such a Claim Seller shall promptly, but in any event, no more than thirty (30) days after receipt of notice from Buyer of a Claim or the likelihood thereof or the entry of any order or decree permanently or temporarily enjoining the use of the goods purchased or supplied hereunder, or any portion thereof, at its own expense and option either; (i) obtain for Buyer the right to use the infringing goods, or portion thereof, (ii) replace, modify, substitute, or update the infringing goods, or portion thereof, so that it becomes non-infringing; or (iii) remove the infringing item, or portion thereof, and refund the purchase price and all consequential and incidental damages incurred by Buyer for the installation and/or removal thereof.

9. **PAYMENT TERMS.** Terms of payment shall be as specified on the Order and, unless otherwise stated on the face of this Order, all payments are due within thirty (30) days following receipt of Seller's invoice by Buyer. Seller's cash discount period shall date from the receipt by Buyer of goods or services ordered, or from the date of receipt by Seller of an acceptable invoice accompanied by way bill, whichever is later. Payment of Seller's invoice is subject to adjustment for any shortage or rejection. The price set forth in this Order includes all sales, use and other taxes which are or may be imposed on this transaction. Payment for any shipment in advance of schedule may, at Buyer's option, be made on the basis of the scheduled delivery date. Seller shall invoice Buyer at the address set forth in the Order for goods and services provided hereunder. Such invoices will be paid in the amount billed subject to audit adjustment to be made on subsequent invoices or refund. Buyer may pay Seller's invoice before receipt of goods or services and thereby avail itself of any cash discounts, but by such payments Buyer does not waive any right to reject the goods or



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services and Buyer shall have a valid claim against Seller for any loss, shortage, defect delay or other default. In the event of a bona fide dispute over any amount contained in an invoice, Buyer may withhold payment of such disputed amount up to a maximum of twenty-five percent (25%) of such invoice without being in default hereunder. The parties agree to meet and resolve any disputed amounts as promptly as possible.

### 10. INDEMNITY; INSURANCE.

(a) Seller shall defend, indemnify and hold harmless Buyer together with its directors, officers, employees, assignees, customers, agents and shareholders (hereinafter collectively called the "Indemnified Parties"), from and against all claims, demands, suits, obligations, liabilities, damages, losses and judgments, including costs and expenses related thereto (including, but not limited to, reasonable attorneys' fees and expenses and any obligation or liability for loss of use or any other incidental or consequential damages, and any liability, obligation or claim in tort whether or not arising from the negligence, actual or imputed, of the Indemnified Parties in establishing the right to indemnification hereunder), which may be asserted against, suffered by, charged to or recoverable from the Indemnified Parties by reason of (i) injury to or death of any person, including, but not limited to, employees of Seller and Buyer and any passenger on any aircraft upon which the goods may be installed or services performed, or (ii) loss of or damage to any property, including, but not limited to, aircraft upon which the goods may be installed or services performed, and the event causing such injury, death, loss or damage in caused by the goods or services furnished hereunder and whether or not such event arises in any way from any form or fault or negligence of Buyer. It is the express intent of the parties that all indemnity obligations and/or liabilities assumed by Seller in this subparagraph (a) shall be without regard to the cause or causes thereof, whether or not such cause or causes may be the result of Buyer's negligence, be it sole, joint, concurrent, comparative, active, passive or imputed.

(b) Seller shall maintain insurance in the following amounts: (i) Worker's Compensation - Statutory limit

(ii) Commercial General Liability - Commercial general liability insurance shall include endorsements for: personal injury; contractual liability; completed operations/product liability; deletion of "XCU" exclusion when doing such work involving these exposures: naming Buyer as an additional insured; and provide severability of interest, cross liability, and independent contractors coverage.

(iii) Business Auto Policy - Such insurance to cover owned, non-owned and hired vehicles when doing work on Buyer's premises. Seller agrees to insure (or self-insure) all loss to owned or leased tools and equipment and agrees to obtain an endorsement from its insurance carrier waiving its right of subrogation against Buyer. Prior to the commencement of this Order, certificates of insurance shall be delivered to Buyer evidencing compliance with the insurance terms of this Order. All of the above insurance shall be written through a company or companies satisfactory to Buyer, and the certificates of insurance shall be of a type that unconditionally obligates the insurer to notify Buyer in writing at least thirty (30) days in advance of the effective date of any material change in or cancellation of such insurance. In no event shall the policy limits specified above the limit Seller's obligations to Buyer under this Order.

II. CONFIDENTIALITY; PUBLICITY. Seller shall not disclose any details connected herewith to any third party without the written consent of Buyer. This Order is placed by Buyer and accepted by



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Seller on the understanding that none of the goods or services covered by this Order shall be referred to, described, or illustrated in connection with publicity of any kind without prior written authorization from Buyer.

12. **SELLER AS INDEPENDENT CONTRACTOR.** Buyer and Seller acknowledge and agree that Seller is an independent contractor, and not an employee or agent of Buyer, and that Seller will have no authority to bind Buyer or otherwise incur liability on behalf of Buyer. Buyer will have no obligation whatsoever to provide any employee benefits or privileges of any kind or nature to Seller or its employees with reference to the wages, salaries or other remuneration paid or payable to Seller's employees, including without limitation, insurance or pension benefits. Further, Seller agrees that Buyer is not responsible to collect or withhold federal, state or local taxes, including income tax and social security, and that any and all such taxes imposed, assessed or levied as a result of this Order shall be paid by Seller or, if paid by Buyer, shall be reimbursed to Buyer by Seller upon demand. Seller further agrees upon request to furnish Buyer with any and all certificates and statements required by law or by any administrative agency to evidence compliance by Seller with the foregoing.

13. **SUBCONTRACTING.** Seller shall not subcontract any portion of work to be performed under this Order without the prior written consent of Buyer, which may be withheld in Buyer's sole and absolute discretion. The purchase of raw materials or standard or commercial materials is not to be deemed a subcontract within the meaning of this Order.

14. **ASSIGNMENT.** Neither this Order nor any interest herein or claim hereunder shall be assigned or transferred by Seller without Buyer's prior written approval, which may be withheld in Buyer's sole discretion. Buyer reserves the right to, and may at any time, assign this Order and any and all rights hereunder to the Government.

15. **TERMINATION OR AMENDMENT.** Buyer reserves the right to cancel or amend Purchase Orders, in whole or in part, for its sole convenience, by delivering to Seller a written notice at least (30) days in advance of such change of the effective date. In the event of such a Cancellation / Amendment of Purchase Order, Seller shall immediately stop all work hereunder, and shall immediately cause any of its Sellers or subcontractors to cease such work. Buyer's total liability to Seller shall be limited to (i) the prices of Articles or Services delivered to and accepted by Buyer prior to the effective date of termination, and (ii) at Seller's actual cost for any work in process, including raw materials, fabricated and unfabricated parts, exclusively for Buyer that Buyer has directed to be terminated and that the Seller substantiates cannot be used for another purpose up to the effective date of termination. Upon Seller's receipt of payment for any terminated work in process, such work will be shipped to Buyer pursuant to Buyer's instructions. Total Termination Costs shall not exceed the total purchase price for all Products to be delivered hereunder.

16. **DEFAULT; REMEDIES.**

(a) Without in any way limiting Buyer's rights under paragraph 21 below, if Seller ships to Buyer goods which are (i) delinquent per Order schedule, (ii) rejected for failure to meet specifications, (iii) subject to corrective action, and (iv) jeopardizing Buyer's contractual commitments, then Buyer retains the right to accomplish reasonable corrective action or rework at Seller's expense. Buyer shall



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contact Seller with regards to discrepancies. If at any time Seller, through delivery delinquencies, places Buyer in a position of having to order additional goods or services in order to fulfill Buyer's commitments, Buyer shall notify and debit Seller for additional costs incurred.

(b) Without in any way limiting Buyer's rights under paragraph 21 below, Buyer may, subject to the provisions of subparagraph (c) below, by written notice of default to Seller, immediately terminate the whole or any part of this Order in any one of the following circumstances:

(i) If Seller fails to make delivery of the goods or to perform the services within the time specified herein or any extension thereof; or

(ii) If Seller fails to perform any of the other provisions of this Order in accordance with its terms, and does not cure such failure within a period of 10 days (or such longer period as Buyer may authorize in writing) after receipt of notice from Buyer specifying such failure.

(c) In the event Buyer terminates this Order in whole or in part as provided in subparagraph (b) above, Buyer may procure, upon such terms and in such manner as Buyer may deem appropriate, goods or services similar to those so terminated, and Seller shall be liable to Buyer for any excess costs for such similar goods or services; provided, that Seller shall continue the performance of this Order as to that portion not terminated under the provisions of this paragraph.

(d) Seller shall replace, install, or correct promptly, without expense to Buyer, any goods and/or services not conforming to the warranties contained in paragraph 8 above, when notified of such nonconformance by Buyer. In the event Seller fails to replace, install, or correct goods and/or services as required in this subparagraph (d), Buyer may replace, install, or correct such goods and/or services and recover from Seller the cost of such correction, installation, or replacement. If Seller breaches any warranties as described above, or if Seller breaches this Order in any other way, then Buyer, in addition to the remedies described herein, shall be entitled to pursue, cumulatively, all remedies provided under the Uniform Commercial Code.

17. **WAIVER.** Failure of Buyer to insist upon strict performance of any of the terms and conditions herein shall not be deemed a waiver of any rights or remedies that Buyer shall have and shall not be deemed a waiver of any subsequent default of the terms and conditions hereof. The shipping or receiving of any goods or services under this Order shall not be deemed or be a waiver of any right for any failure by Seller to comply with any of the provisions of this Order.

18. **ATTORNEYS' FEES.** In the event any action or proceeding is brought to enforce, interpret or determine the rights of Buyer and Seller under this Order, the prevailing party (i.e., the party who, in light of the causes of action asserted and the relief sought, is afforded the greater relief) shall be entitled to recover from the other attorneys' fees and court costs incurred in connection with any such action or proceeding.

19. **TIME OF THE ESSENCE.** Buyer acknowledges that time is of the essence in performance of its obligations under the terms of this Order.

20. **REPRESENTATIONS OF SELLER.** Seller hereby makes the following representations and warranties to Buyer:

(a) Seller has full power, authority and legal right to execute, deliver and perform each and every term of this Order and of each of the agreements and documents referred to or contemplated herein,



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the same having been duly authorized and delivered by the authorized officers of Seller and constitute legal, valid and binding obligations of Seller, enforceable in accordance with such terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally and to general principles of equity.

(b) The execution of the Order and all agreements and documents contemplated herein and the performance by Seller hereunder or thereunder will not contravene or violate any contract indenture, agreement or other instrument binding upon Seller, or to which it is subject.

(e) There is no law or governmental regulation or order that would be contravened by the execution, delivery and performance of this Order by Seller.

(d) No consent of shareholders of Seller or of any holders of indebtedness of Seller or of any other person and no consent or approval of any filing or registration with any governmental authority, body, commission or agency is or will be required as a condition to the validity of this Order or any of the documents or agreements contemplated by this Order or as a condition to or in connection with the authorization, execution, delivery or performance hereof by Seller except those which have been duly made or obtained, certified copies of which have been or will be delivered to Buyer. The performance thereof will not violate or contravene any law, regulation, order, judgment or other similar obligation imposed by any government or regulatory agency, court, administrative or legislative body.

(e) There is no action or proceeding pending or threatened against Seller or any of its subsidiaries or associated companies, if any, before any court or administrative agency which if adversely determined would result in the inability of Seller to perform its obligations under this Order.

21. **ASSURANCE OF SUPPLY.** Seller shall provide written notice to Buyer ninety (90) days prior to the expiration of any collective bargaining agreement. Seller shall also periodically apprise Buyer of the status of collective bargaining agreement negotiations and an assessment of the effect such negotiations will have on Seller's ability to perform hereunder. In the event of a strike or work stoppage, or any occurrence beyond Seller's control which curtails Seller's ability to provide the goods or services set forth herein, Seller shall use its best efforts to redirect, reassign, or transfer Buyer's goods or services to unaffected Seller operations and procure such goods or services from Buyer approved sources so as to ensure uninterrupted supply to Buyer at no additional cost; provided, however, if Seller is unable to ensure uninterrupted supply at no additional cost to Buyer despite Seller's best efforts, then Buyer may, in its sole and absolute discretion, immediately terminate this Order and obtain such goods or services from any other source.

22. **MOST FAVORED CUSTOMER.** Seller agrees that under no circumstances shall the price for goods or services purchased hereunder be greater than the price charged to any other commercial airline customer, commercial aircraft manufacturer or a third party acquiring on behalf of a commercial airline or aircraft manufacturer, for similar goods or services acquired in the same or lesser quantities. If, prior to the expiration or cancellation of this Order, Seller shall contract to sell to others similar goods or services at more favorable prices or upon more favorable terms and conditions than those contained herein, Seller shall immediately make available to Buyer such more favorable prices for all open orders, and this Order shall be deemed amended accordingly.

23. **FAIR LABOR STANDARDS ACT; AFFIRMATIVE ACTION.** Without in any way limiting the provisions of paragraph 8 above, Seller agrees that all goods shipped and/or services rendered to





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Buyer shall be produced in compliance with (a) the applicable requirements of Fair Labor Standards Act and all regulations and orders issued there under by the United States Department of Labor and (b) the Rehabilitation Act of 1973 (Section 503), Executive Order No. 1 1246 and the Vietnam Era Readjustment Assistance Act (38 U.S.C. 4212) and their implementing regulations found at 41 CFR Parts 60-1, 60-2, 60-250,60- 741.

24. **APPLICABLE LAW.** These Terms and Conditions, this Order and any subsequent orders placed by Buyer to Seller hereunder shall be construed and enforced according to the laws of the State of Pennsylvania.