



GENERAL TERMS AND CONDITIONS OF PURCHASE



- (1) **ACCEPTANCE:** This Purchase Order ("Order") shall constitute Buyer's offer to purchase goods or services according to the terms hereof. Seller shall indicate its acceptance of this Order only by: (i) signing and returning the attached acknowledgement to Buyer, or by (ii) commencing any work on goods covered by this Order which are to be specially manufactured to Buyer's specifications; or by (iii) shipping any goods covered by this Order; or by (iv) beginning the performance for any service covered by this Order. By accepting this Order, Seller agrees to all the terms and conditions hereof. Any acceptance of this Order that proposes additional or different terms shall not operate as a rejection of this Order but shall be deemed a material alteration hereof and this Order shall be deemed accepted by the Seller without said additional or different terms. By acceptance of this Order, Seller acknowledges that the goods and services covered by this Order are intended for the timely manufacture or processing of goods for resale.
- (2) **QUANTITIES AND PRICES:** The specific quantity ordered must not be changed without Buyer's permission in writing. Any excess delivered may be returned at Buyer's option and at Seller's risk and expense. Buyer's count shall be accepted as conclusive on all shipments not accompanied by a packing slip. This Order must not be filled at higher prices than appears on the face hereof unless approved by Buyer in writing prior to shipment. Seller agrees and guarantees that the prices charged for the goods covered by this Order are not in excess of the prices charged to any other customer for the same type of items, in similar quantities. Unless otherwise agreed to in writing prices include charges for boxing, crating, packing, cartage, storage and handling.
- (3) **DELIVERY:** Time is of the essence. Should Seller fail to meet delivery requirements pursuant to the shipping instructions appearing on the face hereof, Seller shall be liable for any additional costs occasioned by the use of any transportation methods other than those specified. Buyer reserves the right to reject or return at Seller's risk and expense all articles or materials shipped in advance of the specified delivery date, or to accept and make payment for advance deliveries as though the material was received on the specific delivery dates.
- (4) **PACKING:** All correspondence must include the purchase order number and vendor identification number. Packing slips indicating contents, part number or description, purchase order number and vendor number are to be enclosed with each shipment. Any transportation charges paid by Seller with respect to which Seller is entitled to reimbursement shall be added to Seller's invoice as a separate item and the receipted freight bill shall be attached thereto. All returnable containers shall be invoiced by Seller and full credit rendered to Buyer upon return, at Seller's expense, in good condition and within a reasonable time. Seller covenants and warrants that the packaging of the goods ordered herein shall be adequate for the transit of the goods undamaged so long as the integrity of the container is maintained.
- (5) **CHANGES:** This Order, when accepted, shall supercede all prior understandings, transactions, and communications, whether oral or written, pertaining to the subject matter hereof. The terms and conditions appearing on both sides of this Order, together with any written instructions agreement or other understanding in any way purporting to modify the terms and conditions hereof shall be binding upon Buyer unless made in writing, dated subsequently and signed by Buyer's authorized representative. Buyer reserves the right, by written change order, to make changes in the quantity, specifications, delivery date and shipping instructions of the Order, and there shall be an adjustment in the purchase price and/or the delivery schedule as is equitable and mutually agreeable to Buyer and Seller. Seller shall submit to Buyer proposed adjustments within fifteen (15) calendar days of each change order, otherwise Buyer's determination of adjustments, if any, shall be final and binding on Seller.
- (6) **WARRANTIES:** Seller expressly warrants to Buyer, its successors, customers and users of its product that all the articles, material and work covered by this Order will conform to the specifications, drawings, samples or other description furnished or specified by the buyer, and will be of good material and workmanship, and free from defects in material, design, workmanship and title and Seller further warrants that they will be merchantable and fit and sufficient for the purpose intended. In case of ambiguity in specifications, drawings or other requirements of this Order, Seller, before proceeding, must consult Buyer, whose written interpretation shall be final. The warranties provided for in this paragraph shall be in addition to those implied by or available at law, shall exist notwithstanding the acceptance by Buyer of all or a part of the articles, material and work to which such warranties are applicable, and shall run to Buyer and its successors, customers and users for the articles, material and work furnished under this purchase order.
- (7) **INDEMNITY:** Seller agrees to indemnify the Buyer, its agents or employees and anyone selling or using any of Buyer's products, and to hold each of them forever harmless from and against all suits, administrative proceedings, claims, damages, judgements, liabilities, interest, legal fees, costs and expenses of any kind or nature whatsoever whether arising before or after completion of the delivery and installation of the goods covered by this Order, and in any manner directly or indirectly caused, occasioned or contributed to or claimed to be caused or contributed to by reason of acts, omissions, faults, breach of express or implied warranty, breach of any of the provisions referenced under Paragraph 18 of this Order, or negligence, whether active or passive, of the Seller, or of anyone acting under its direction or on its behalf in connection with the goods and any services furnished by the Seller to the Buyer under this Order.
- (8) **INDUSTRIAL PROPERTY INDEMNITY:** Seller warrants that the sale and/or use of the goods herein ordered will not infringe or contribute to the infringement of any domestic or foreign patent, trademark, industrial design or other industrial property right and agrees to defend every suit which shall be brought against Buyer, its agents, employees, or anyone selling or using any of said goods for an alleged infringement of any such industrial property right by reason of the sale or use of said goods, and to pay all expenses and fees for counsel which shall be incurred incident to defending every such suit, and all costs, damages and profits recoverable therein; and the buyer and all the parties sued shall have the right to employ counsel on their own behalf, or shall have the right to participate in the defense of such suit and whose fee shall be paid by the Seller. The only exception to the above being when the Order conforms to a design or pattern furnished by the Buyer.
- (9) **INSPECTION:** All goods shall be received subject to Buyer's rights of inspection and rejection. If rejected, materials will be held for disposition at the expense and risk of the Seller. No goods returned as defective are to be replaced without a formal re-ship order. Notwithstanding the foregoing, if materials received are defective, and supply or timing does not permit return or replacement, Buyer shall have the option, following notification of Seller, to rework such goods at Seller's expense. Payment for goods on this Order prior to inspection shall not constitute acceptance thereof and is without prejudice to any inspection or count by Buyer and all claims that Buyer may have against seller. Acceptance of merchandise by Buyer after inspection shall not release or discharge Seller's liability in damages or other legal remedy for breach of promise or warranty, expressed or implied, with respect to merchandise ordered hereunder.
- (10) **TERMINATION AT BUYER'S OPTION:** Buyer may terminate this Order in whole or in part at its convenience by written or telegraphic notice. Seller's termination claims shall be limited to the value of goods shipped and services rendered on the date of termination as well as the actual costs incurred by Seller required for the timely delivery of goods scheduled on this Order. In no event shall buyer be liable for anticipated profits or for incidental or consequential damages, nor for damages due to negligence, seller shall submit to Buyer a termination claim in the form specified by Buyer setting forth the amounts proposed to be due to Seller within thirty (30) days of the termination date, or Buyer may independently determine the amount due, if any, according to generally acceptable accounting principles. In any event, Buyer shall not be liable for any termination claims submitted more than ninety (90) days from the date of termination, this clause shall not apply in the event of Buyer's cancellation of this Order pursuant to Clause 11 of these Terms and Conditions.
- (11) **CANCELLATION FOR DEFAULT:** If Seller fails (i) to deliver goods or to perform services at the time specified herein or any extension thereof authorized by Buyer in writing, or (ii) to comply with any other provisions of this Order, 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, Buyer may be written notice of default to Seller cancel the whole or any part of the goods and services ordered without liability except for completed services and accepted goods and Buyer may purchase goods and services in substitution for those then due from seller and Seller shall pay Buyer any increase in cost above the Order price incurred by Buyer thereby. Provided, however, that with respect to finished, in-process otherwise unfinished work, Buyer shall have the right to take full title to and possession of all or part of such work immediately upon notice to seller of its intent to do so, regardless of whether or not final price terms have been agreed upon. If, after notice of default under this clause, it is determined that Seller was not in default, work affected by the cancellation shall be deemed terminated pursuant to Clause 10 above and the right and obligations of the parties shall be governed by such clause.
- (12) **ASSIGNMENT OR SUBCONTRACT:** This Order and the contract arising there from, shall not be assigned or subcontracted by the Seller, either in whole or in part, without the written consent of the Buyer.
- (13) **REMEDIES:** The individual remedies reserved in this Order shall be cumulative and additional to any other or further remedies provided in law or equity or in this Order. No waiver of any breach of any provision of this Order shall constitute a waiver of any other breach, or of such provision.
- (14) **BUYER'S PROPERTY:** Unless otherwise agreed in writing, all supplies, materials, tools and equipment of every description furnished or paid for by Buyer shall remain the property of Buyer. Such property shall be deemed to be personal and shall at all times be properly stored and maintained by Seller on its premises, separate and apart from Seller's property or that of any third party; it shall be marked "Property of Colonial Tool Group Inc." by Seller and shall not be used except for work performed for Buyer. Seller shall bear the risk of loss or damage to such property and shall at its expense insure all such property for the replacement value thereof against loss or damage of any kind, with loss payable to Buyer. Immediately, upon Buyer's request, such property shall be properly prepared for shipment as specified by Buyer, and delivered in good condition, except for normal wear and tear, f.o.b. Seller's plant, to Buyer.
- (15) **CONFIDENTIAL INFORMATION:** Seller agrees that all drawings, specifications, blueprints, samples, data and property furnished or paid for by Buyer and forming a part of this Order, either by reference or otherwise are the property of Buyer and are submitted in confidence with the understanding and agreement by Seller that all such property shall not be utilized, in whole or in part, by seller, either for itself or by it on behalf of any other person, firm or corporation, without written permission of Buyer.
- (16) **PROPRIETARY RIGHTS:** Seller agrees that all designs and inventions made in the course of filling this Order shall promptly be disclosed to and become the sole property of Buyer. Seller shall execute or obtain the execution of such papers, including patent applications and assignments, and shall perform all necessary acts to perfect ownership of such designs and inventions in Buyer, at no cost or expense to Seller. Seller waives all claims against Buyer and its customers for any liability with respect to rights, patent or otherwise, which Seller may have or obtain, by reason of any use which may be made of the designs, machines and processes furnished or developed hereunder.
- (17) **INSURANCE:** If this Order covers the performances of labour for Buyer, Seller agrees to indemnify and protect Buyer against all liabilities, claims or demands for injuries or damages to any person or property growing out of the performance of this contract, by Seller, its servants, employees, agents or representatives. Further, Seller represents that it has made proper provisions for adequate Workmen's Compensation and agrees to furnish insurance carrier's certificate showing that Seller has adequate Public Liability and Property Damage Insurance coverage. Said certificates must set forth amount of coverage, number of policy and date of expiration. The purchase of such insurance coverage or furnishing of the aforesaid certificates shall not be in satisfaction of Seller's liability hereunder or in any way modify Seller's indemnification of Buyer except that Seller shall not be obligated to indemnify Buyer for injuries or damages caused solely by the negligence of Buyer. If Seller is a self-insurer, he must have the Department of Labour or Industry in the province in which said labour is to be performed furnished a certificate of same to Buyer.
- (18) **COMPLIANCE WITH LAWS:** The Seller warrants that all goods covered hereby, and the manufacturing, packaging and labeling thereof, comply with all applicable Federal, Provincial and Municipal Statutes, regulations, by-laws and orders.
- (19) **ADVERTISING:** Seller shall not, without obtaining the written consent of buyer, in any manner advertise or publish the fact that Seller has contracted to furnish Buyer the articles herein ordered and for failure to observe this provision, Buyer shall have the right to terminate the contract resulting from the acceptance of this Order without any obligation to accept deliveries after the date of termination or make further payments except for completed articles delivered prior to termination.
- (20) **CUSTOMS REQUIREMENTS:** Canadian Seller shall furnish promptly all documents required for Customs Drawback purposes, properly completed in accordance with Government Regulations applicable thereto. Unless otherwise specified on the face hereof, all Canadian Customs Drawbacks are for the account of Buyer.
- (21) Foreign Seller, upon completion of the shipment hereunder shall mail to Buyer three invoices and four customs invoices certified in accordance with Canadian Customs' requirements. If shipment is made by motor truck, the customs invoices must accompany the shipment. Bills of Lading and other shipping documents must correspond in all detail with the certified invoices.

NOTE: ALL CONTRACTORS must be aware of and conform to all Safety Regulations as stipulated in Bill 70.