



Columbia Manufacturing, Inc. | 165 Route 66 East | PO Box 368 | Columbia, CT 06237-0368  
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## STANDARD TERMS AND CONDITIONS OF PURCHASE ORDER

- 1. Definitions.** “**Applicable Laws**” shall mean applicable federal, state and local laws, ordinances, codes, regulations, rules and orders. “**Buyer**” shall mean Columbia Manufacturing, Inc. “**Buyer Parties**” shall mean Buyer, its successors, assigns and agents, its affiliated, associated, parent and subsidiary companies and its officers, directors, agents and employees. “**Claims**” shall mean liabilities, losses, damages, claims, injury, actions, proceedings, costs and expenses, including but not limited to reasonable attorney’s fees and costs of litigation. “**Goods**” shall mean any goods (including any part or parts thereof) specified in the PO to be purchased by Buyer from Supplier and shall include any services related thereto. “**Party**” shall mean Buyer or Supplier individually. “**PO**” shall mean the purchase order, including any schedules attached thereto, to which these Terms are attached. “**Purchase Price**” shall mean the amount payable by Buyer to Supplier in accordance with the terms of the PO. “**Supplier**” shall mean the Supplier specified on the PO. “**Specifications**” shall mean all specifications, drawings, samples, models, diagrams, bulletins, engineering sheets or other materials provided by one Party to the other Party (Supplier agrees that in the event of a conflict between Specifications provided by Buyer and Specifications provided by Supplier, Specifications provided by Buyer shall control). “**Terms**” shall mean these terms and conditions. “**Workers**” shall mean persons employed by Supplier, its agents, and subcontractors or under its control.
- 2. Representations and Warranties.** Each Party represents and warrants to the other Party, as of the date of this PO, as follows: (a) Such Party is duly

organized, validly existing and in good standing under the laws of the jurisdiction in which it is established; and (b) The execution, delivery and performance of this PO and the transactions contemplated hereby (i) are within the authority of such Party, (ii) have been duly authorized by all necessary proceedings, (iii) do not conflict with or result in any breach or contravention of any provision of any Applicable Law to which such Party is subject, and (iv) do not conflict with any provision of any agreement or instrument binding upon such Party.

- 3. Acceptance and Limitations.** Shipment, in whole or in part, of Goods (or rendering, in total or in part, of services associated therewith) shall constitute acceptance of this PO and all the Terms.
- 4. Prices and Terms of Payment.** Unless otherwise expressly indicated in writing by Buyer, prices for all Goods are as noted on this PO, and may not be increased without the prior written consent of Buyer. If no price is set forth on the PO or otherwise mutually agreed upon, this PO shall be accepted and filled at the lowest of (i) the price most recently quoted for goods of the same type or (ii) the price at which goods of the same type were last shipped. Unless otherwise mutually agreed, Buyer will pay all invoices from Supplier pursuant to this PO within forty five (45) days after receipt of Supplier’s invoice. No interest charges or other penalties for late payment may be assessed by Supplier without the prior written consent of Buyer. Buyer may withhold or offset, from any amounts due to Supplier, any amounts claimed to be owed by Supplier to Buyer for any reason whatsoever. Discount terms provided for in this PO are based upon the assumption that invoices giving



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Buyer's correct PO number accompanied by the original bill of lading or express receipt will be in Buyer's possession within three days after the date of shipment of Goods; otherwise Buyer will assume that the discount is to be calculated from the date the bill reaches Buyer, allowing three days for transmission.

5. **Quantity and Type.** Quantity and type of Goods shipped hereunder shall not deviate from the amount and type specified herein unless otherwise agreed by Buyer.
6. **Shipment and Delivery.** Shipping and delivery charges shall be made in accordance with the PO and per the version of such PO in effect on such date. All shipments on which freight charges are due shall be prepaid. Collect shipments will not be accepted.
7. **Title.** Title and risk of loss or damage to the Goods shall pass from Supplier to Buyer in accordance with the applicable Incoterm stated in the PO and per the version of such Incoterms in effect on such date.
8. **Packing.** Buyer's PO number shall appear on the outside of each package and on all packing slips, invoices, and associated paperwork. A packing slip shall be included with each shipment.
9. **Inspections and Returns.** Goods are subject to Buyer's inspection and approval at destination, although there shall be no affirmative obligation on Buyer to so inspect and approve, and payment therefor by Buyer shall not constitute acceptance. Rejected Goods and Goods that are the subject of any warranty claim will be returned at Supplier's risk and all handling and shipping costs from and to Supplier's premises shall be borne by Supplier. Supplier shall promptly reimburse Buyer for all

shipping and handling costs paid by Buyer to return such Goods.

10. **Schedule.** Time is of the essence, and delivery of Goods shall be made in accordance with the schedule set forth in this PO. If accelerated shipping means are required to meet the delivery schedule for Goods set forth herein, or to minimize the lateness of delivery of Goods, excess shipping charges shall be borne by Supplier. Without limitation of the foregoing, Supplier shall promptly notify Buyer of any delays or threatened delays in the performance of this PO. Buyer may from time to time change schedules by means of reasonable advance written (including e-mail) or telephonic notice to Supplier; provided that, if Buyer fails to provide such notice, Supplier shall have the right to reimbursement for direct costs associated with Buyer's change in schedule. Buyer shall have no liability to pay for Goods delivered which are in excess of quantities specified in delivery schedules.
11. **Modification.** Buyer shall have the right by written order to make changes in the work, Specifications or quantity of this PO, provided any change in price, delivery or performance caused thereby shall be adjusted equitably by mutual agreement and documented by a written change order executed by both parties. All such changes shall be at Supplier's rates in effect for the original work, unless otherwise mutually agreed. If Supplier fails to submit a written request for adjustment in price or delivery within ten days after receipt of such change order, it shall be conclusively presumed that no change in price or delivery is to be made. Buyer further has the right to cancel all or part of this PO, for Buyer's own convenience, at any time by written notice, and Buyer shall pay reasonable cancellation costs in



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accordance with industry practice, provided in no event shall the total charges be in excess of the lesser of the price specified herein or demonstrable costs.

### **12. Default and Remedies.**

**Definition.** Except as otherwise provided in this Section, an event of default (“Event of Default”) under this agreement shall be deemed to exist upon the occurrence of any one or more of the following events; (i) insolvency of Supplier, (ii) the filing by Supplier of a voluntary petition of bankruptcy, (iii) the filing of an involuntary petition to have Supplier declared bankrupt, (iv) the appointment of a receiver or trustee for Supplier, (v) the execution by Supplier of an assignment for the benefit of creditors, (vi) any representation made by Supplier to Buyer that is misleading, (vii) either Party fails to perform its obligations under this agreement or (viii) the failure by Supplier to perform under the terms of any other contract with Buyer.

**Remedies for Breach.** If an Event of Default occurs pursuant to Section 12.a(vii), the performing Party shall notify the non-performing Party of such nonperformance and, if the nonperforming Party fails to cure such nonperformance within five days of receiving such notice, the performing Party may pursue any rights available to it under this agreement, law or equity. Upon the occurrence of an Event of Default that extends beyond any applicable cure period, the Party not in default shall have the right to terminate this agreement upon providing written notice to the other Party. In addition, Buyer shall have all of the rights provided for under the Connecticut UCC or any other Applicable Law. All of Buyer’s rights shall be cumulative, and none exclusive, to the extent

permitted by law. Buyer may, by written notice to Supplier, offset damages sustained by Buyer as a result of Supplier’s breach of any term of this PO against the Purchase Price and any other amount owed by Buyer to Supplier under this PO or any other agreement. Further, without limiting the foregoing and in addition to any other remedy available to Buyer, if three percent (3%) or more of any Goods furnished hereunder is found defective, Buyer may, at its option, reject the entire quantity of Goods or require Supplier to replace such entire quantity at no extra cost to Buyer, and in either case Supplier shall pay for the reshipment of such Goods to Buyer.

**Cancellation.** In addition to the remedies specified in Section 12.b above, Buyer may, at its option and without limitation of any of its other rights, cancel all or any unfilled part of this PO if Goods are not delivered within the time promised. Buyer shall have no liability for any damage resulting from such cancellation and reserves the right to charge Supplier with any loss or expense sustained as a result of such failure to deliver Goods. In addition, Buyer has the option to cancel the quantities of Goods ordered in full or partially if the government in the country of production and/or sale of Goods should impose any new tax of any kind whatsoever appertaining to the production, export and/or import of Goods, if Supplier refuses to compensate Buyer for such taxes.

**13. Indemnification.** Supplier agrees to indemnify, defend and forever hold the Buyer Parties harmless from and against any and all Claims, including, but not limited to claims brought by third parties arising from (a) Supplier’s design, manufacture, assembly, use, handling, processing, sale, damage,



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recall or distribution of Goods; (b) the performance of this PO by Supplier, its employees or agents, whether on or off Supplier's premises; (c) Supplier's breach of any representation, warranty or obligation hereunder; (d) the infringement or violation of any third party's patents, intellectual property or other rights arising out of or in connection with Supplier's use of Specifications, materials or other items provided to Buyer by Supplier and/or (e) Supplier's negligent and reckless acts or omissions and willful misconduct in the performance of its obligations under this PO, except to the extent that any Claim or Claims are caused solely by the gross negligence or willful misconduct of Buyer. Without limiting Buyer's other lawful remedies, if any Goods infringe third party rights, Supplier shall, at its expense, promptly procure all rights for Buyer's continued use of such Goods or replace such Goods with equivalent Goods which do not infringe upon third party rights.

**14. Limitation on Liability.** Except with respect to claims for indemnification arising under Section 13 of these Terms, under no circumstances shall Buyer be liable to the other supplier for any lost profits, loss of business opportunity, or any indirect, consequential, punitive or special damages suffered by such party from any cause whatever. No member, owner, agent, or employee of any Party hereto shall be personally liable on account of any claim another Party may have under or in connection with the matters contemplated by the agreement. In no event whatsoever shall Buyer have any liability to Supplier, arising out of or in connection with the Goods, the transactions contemplated hereby, or Supplier's or Buyer's conduct or actions in relation to any of the same or

to each other, in an amount in excess of, and Buyer's liability shall be strictly limited to, the purchase price for the Goods which give rise to Buyer's liability.

**15. Insurance.** Before commencing work, Supplier shall purchase and maintain, in effect at all times until final acceptance, insurance to protect Buyer on a primary and non-contributory basis from all insurable Claims arising from the acts or omissions of Supplier from at least AM Best rated A-VIII insurance companies authorized to do business in Connecticut. Supplier's insurance policies shall name all of the Buyer Parties as additional insureds and shall contain a waiver of subrogation in favor of Buyer Parties. Such certificates shall also evidence that the coverages are not subject to cancellation or material modification without thirty (30) days prior written notice to Buyer. In addition to and not in substitution for the foregoing provisions, Supplier waives all rights of recovery against the Buyer Parties and their insurance carriers for all Claims which are insured against by Supplier or covered by any insurance benefiting Supplier or which was required to be so insured or covered by Supplier as herein provided. Buyer's examination of, or failure to request or demand any evidence of insurance hereunder, shall not constitute a waiver of any requirement and the existence of any insurance shall not limit Supplier's obligation under any provision hereof.

**16. Supplier Warranties.** Supplier warrants: (a) all Goods furnished are (i) to be free from defects in materials or workmanship, (ii) to be of merchantable quality, (iii) to conform to all Specifications, (iv) to be fit for the intended purposes (as indicated on the PO, or if it is not so indicated, as indicated by Buyer to Supplier by



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means of any communication, written or oral), and (v) free of liens, claims and security interests of third parties; and (b) all Goods delivered hereunder, not of Buyer's design, will not infringe any patents or third party intellectual property rights. All warranties herein shall (I) survive Buyer's acceptance and payment, (II) inure to the benefit of Buyer, its successors, assigns and customers, (III) be construed as conditions as well as warranties and (IV) be in addition to, and not in lieu of, any warranties of Supplier arising under Applicable Laws. In addition, Supplier hereby assigns to Buyer all of its rights under warranties made to Supplier by any of its suppliers in connection with any Goods or ingredients or components thereof specifically acquired by Supplier for use in furnishing the Goods. Supplier shall have an obligation to immediately inform Buyer if Supplier becomes aware of any material fault in Goods accepted by Buyer or Goods that could have been materially affected by a fault in Supplier's related products. This obligation includes Supplier being notified by its suppliers of faulty incorporated supplies, tools or equipment. Notice of any warranty claim or of any defect may be given at any time within one (1) year after receipt of such Goods by Buyer. Supplier shall promptly pay on Buyer's behalf, or if Buyer pays, shall reimburse Buyer for, any and all damages, costs or expenses, including transportation charges, sustained or incurred by Buyer as a result of defect or breach of warranty.

**17. License.** Supplier hereby grants Buyer and its customers an irrevocable, nonexclusive, royalty-free license under any patent owned by Supplier or under which Supplier has license rights (a) to use and sell any equipment delivered hereunder and (b)

to use and sell any process carried out with the use of such equipment.

**18. Advertising.** Supplier agrees not to make reference to Buyer or Buyer's subsidiaries, owners, affiliates, successors or assigns in any advertising material of any kind, without the express written permission of Buyer.

**19. Safety/Site Rules.** All Workers shall be instructed in and familiar with safety rules and regulations applicable to the work being performed. Supplier shall have sole responsibility to see that all Workers are so informed and that industry best safety practices are followed. While performing all work, all Workers shall fully comply with all Applicable Laws.

**20. Taxes and Other Charges.** Except as may be otherwise provided in this PO, the Purchase Price includes all federal, State, and local taxes, duties, or other fees imposed by a governmental authority.

**21. Proprietary Information.** Supplier agrees for itself, its agents and employees, not to use (except to perform hereunder) or divulge to others any information designated by Buyer as proprietary or confidential or not generally known to the public. All Specifications as well as this PO are the proprietary and confidential information of Buyer or its customer. Should Supplier become aware of any of Buyer's customers, Supplier shall not, for any reason, either directly or indirectly, call upon, solicit, divert or take away, or attempt to solicit, divert or take away, any customers or business of Buyer.

**22. Security Interest of Buyer.** Supplier grants to Buyer a security interest, to the extent any advance payment is made by Buyer, in any Goods made or purchased for this PO and agrees, promptly upon request of Buyer, to sign and deliver to Buyer





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appropriate Uniform Commercial Code (“UCC”) forms evidencing such security interest.

**23. Development Orders.** If this PO calls for consultation or the development of equipment, Supplier agrees to disclose promptly and to assign to Buyer each invention or discovery made in the course of such development or consultation and to assist Buyer in all reasonable ways to secure worldwide protection of the ownership of such inventions or discoveries.

**24. Permits.** All permits necessary to comply with Applicable Laws will be duly obtained by Supplier, unless otherwise specifically agreed in writing by Buyer.

**25. Compliance with Law.** Supplier represents and warrants that, in the production, sale and furnishing of Goods, it has complied and shall comply with all Applicable Laws.

**26. Amendments.** These Terms may only be amended by written agreement of Supplier and Buyer expressly referring hereto.

**27. Assignment.** This PO and payment rights hereunder are not assignable by Supplier and no work called for herein shall be subcontracted without the prior written consent of Buyer.

**28. Waiver.** Buyer shall not be deemed to have waived any provision hereof, or any breach by Supplier of any provision hereof, unless such waiver is specifically set forth in writing and executed by an authorized officer of Buyer. No waiver by Buyer of any provision hereof or any breach or event of default by Supplier hereunder shall constitute a waiver of such provision on any other occasion or a waiver of any other breach or event of default by Supplier or of any other rights or remedies under this PO.

**29. Governing Law; Dispute Resolution.** This PO, these Terms and the transactions contemplated hereby shall be governed by, and construed and enforced in accordance with, the laws of the State of Connecticut without regard to its conflicts of law rules. The United Nations Convention on Contracts for the International Sale of Goods shall not be applicable to this PO, these Terms or any purchase or sale made hereunder. Any dispute, claim or controversy arising out of or relating to this PO, including whether the claims asserted are arbitrable, shall be referred to and finally determined by arbitration under the Commercial Arbitration Rules of the American Arbitration Association or, where an international dispute is involved, under the International Arbitration Rules of the International Centre for Dispute Resolution. The tribunal shall consist of one arbitrator, unless the claim amount exceeds \$500,000.00, in which case the tribunal shall consist of three arbitrators. The place of arbitration shall be Columbia, Connecticut. The language to be used in the arbitral proceedings shall be English. The arbitrator shall not have the jurisdiction to award multiple or punitive damages and/or attorneys’ fees (unless an express provision of this PO permits otherwise). The arbitrator shall not have the jurisdiction to consolidate the arbitration proceeding with any other arbitration or to join any parties in the arbitration who are not parties to this agreement. Except as otherwise specifically limited in this agreement, the arbitral tribunal shall have the power to grant any remedy or relief that it deems appropriate, whether provisional or final, including but not limited to conservatory relief and injunctive relief, and any such measures ordered by the arbitral tribunal shall, to the extent permitted by



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applicable law, be deemed to be a final award on the subject matter of the measures and shall be enforceable as such. Each party retains the right to apply to any court of competent jurisdiction for provisional and/or conservatory relief, including pre-arbitral attachments or injunctions, and such request shall not be deemed incompatible with the agreement to arbitrate or a waiver of the right to arbitrate. The parties specifically waive the right to participate in a representative capacity or as a member of any class of claimants pertaining to any claim. The parties understand that the arbitrator's decision will be final and binding, and that certain rights that a party may have in a court proceeding may not be available in arbitration.

**30. Entire Agreement.** These Terms, together with information contained on the PO, shall constitute the entire agreement and understanding of Supplier and Buyer with respect to the purchase of Supplier's goods, superseding all prior oral or written understandings relating thereto, and shall constitute a binding legal agreement. Any course of prior dealings, promise or conditions in connection therewith or usage of trade not incorporated herein shall not be binding upon either Party. If Supplier's form contains provisions inconsistent with the provisions hereof, these Terms shall prevail. Supplier's failure to object within 10 days to any terms contained herein shall constitute Supplier's acceptance of all the Terms. No waiver, alteration or modification of any of the provisions hereof shall be binding unless made in writing and signed by a specifically authorized representative of Buyer in accordance with the terms hereof. This PO is expressly limited to and expressly made conditional on Supplier's acceptance of these Terms, regardless of any different or additional

terms in Supplier's documents and regardless of whether such documents from Supplier were provided to Buyer before or after Buyer's sending of this PO. Buyer objects to any different or additional terms.

**31. Notice.** Any notice required or permitted to be given by either Party under these Terms shall be in writing and shall be delivered or sent by pre-paid post sent first class addressed to the Party to be served at the address of that Party as indicated on the PO, or such other address as may be notified by that Party, pursuant to these Terms, for this purpose. Any notice which is delivered shall be deemed to be served when handed to the addressee and any notice sent by pre-paid post first class shall be deemed to be served two business days after posting.

**32. Miscellaneous.** The terms of Section 2-615 of the UCC notwithstanding, the occurrence or existence of the following events and circumstances shall not excuse Supplier from the performance of any of its obligations hereunder: (a) any adverse change in the cost or availability of raw materials, supplies or semiprocessed goods from the date of this PO to the date of delivery of Goods; (b) fires, floods, explosions, accidents or breakdowns; (c) riots, strikes, slowdowns or other concerted acts of workmen, whether direct or indirect; and (d) any other cause similar to any of the foregoing.

**33. Survival.** The provisions of Sections 2 (Representations and Warranties); 13 (Indemnification); 14 (Limitation on Liability); 16 (Supplier Warranties); 17 (License); 18 (Advertising); 21 (Proprietary Information); 29 (Governing Law; Dispute Resolution); and 31



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(Notice) hereof shall survive the termination and/or expiration of this PO.

### **34. U.S. Government Property:**

(a) Buyer's purchase order will flow down the Government contract number and the contract's priority rating as well as a statement that all contract clauses in the specific contract are incorporated into the purchase order.

(b) Supplier shall allow Buyer or Government access to their facility with reasonable notice for the purpose of evaluating any product/service for which Buyer has pending order or for supplies/services previously delivered.

(c) If the purchase is subject to Federal Aviation Regulation 14 CFR Part 145-223(b), acceptance of the order will be deemed Suppliers consent to allow the FAA and/or EASA to inspect and observe any maintenance functions performed on behalf of Buyer in accordance with the regulation. If Supplier does not consent, Supplier is directed to not perform any activity and return all repair items to Buyer immediately

### **35. Buyer furnished items:**

(a) All material, including, without limitation, information, required to be furnished to Supplier under the PO ("Buyer Furnished Items") shall be delivered as specified in the PO, or, if not specified, in sufficient time to enable Supplier's timely performance. Buyer shall have no liability to Supplier for any delays or failures in the delivery of Buyer Furnished Items. If Buyer Furnished Items are not delivered to Supplier in sufficient time to enable Supplier to meet Delivery Dates, Supplier may notify Buyer of the delay and be entitled to an extension of such schedule equal to the period of the delay. Such

adjustment shall be Supplier's sole remedy for such delay.

(b) Buyer Furnished Items shall be used only for the purposes of the PO. Supplier shall not use Buyer Furnished Items on any other order without Buyer's written permission. Supplier shall, at its own expense: (i) establish and follow a preventative maintenance calibration and repair program for, (ii) safely store (separated from other material where practicable), and (iii) maintain, all Buyer Furnished Items in good, workable condition.

(c) Title to any Buyer Furnished Items shall remain with Buyer. Buyer, in order to protect its interests, may require Supplier to execute documents that are related to the Buyer Items, including, without limitation, UCC financing statements. Supplier shall plainly mark and adequately identify Buyer Furnished Items as being Buyer's property. Supplier shall not substitute any property for or modify Buyer-Furnished Items

(d) Upon Buyer's request, Supplier shall provide a written inventory of Buyer Furnished Items, including, without limitation, certification of compliance with this Section 35 and proof of adequate insurance covering full replacement cost of Buyer Items.

(e) Supplier shall, upon discovery, provide notification to Buyer if any Buyer Furnished Items are lost, damaged or destroyed. Upon completion or termination of the PO, or at any time upon Buyer's request, Supplier shall, at its own expense, dispose of Buyer Furnished Items in accordance with Buyer's instructions.