



*Built on Quality - Focused on Innovation*

601 Nalle Place • Culpeper, VA 22701 • Phone (540) 825-8334

## Standard Terms and Conditions of Purchase

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Hereinafter, **Bingham and Taylor Corporation** is referred to as “Buyer”, the Seller identified on the face of this order is referred to as “Seller”, and this order is referred to as “Order”.

1. **ACCEPTANCE:** This Order constitutes an offer by Buyer which is accepted by Seller solely in accordance with the terms set forth in this Order upon the earlier of Seller's: a) signing and returning a copy hereof; or b) commencement of effort or making delivery in whole or in part of articles or the furnishing of services required herein. All other terms and conditions are rejected unless specifically agreed to in writing and approved by the Buyer.
2. **ASSIGNMENT:** No part of the work under this Order shall be assigned or subcontracted without Buyer's prior written approval. If approval is obtained by the Buyer via an amended order, all applicable Supplier Quality Requirements and or specifications must be passed onto the Seller's subcontractor.
3. **TAXES:** The prices set forth in the Order include all applicable federal, state and local taxes and duties.
4. **COMPLIANCE WITH LAWS:** Seller agrees to comply with the applicable provisions of any federal, state, provincial, or local law or ordinance. Seller shall immediately notify in writing Buyer if Seller is suspended, debarred, or proposed for suspension or debarment from doing business with the U.S. Government. Seller shall comply with the most current export control laws.
5. **GOVERNING LAW:** The Order shall be governed by and subject to the ***laws of the State of Connecticut***
6. **INDEPENDENT CONTRACTOR:** The Seller is an independent contractor. The Seller assumes all liability and will hold Buyer harmless for all claims by or on behalf of Seller's workers.
7. **HAZARDOUS MATERIALS IDENTIFICATION (applicable to order for Goods/Products):** If any goods or materials deliverable under this Order may expose the Buyer, its employees, its customers, or its customers' employees to hazards or hazardous materials, the Seller shall advise the Buyer in writing thereof and fully prescribe precautions which should be taken to avoid harm to such persons.
8. **CHANGES:** Changes to this Order may only be made in writing and only by the Buyer's authorized contractual representative in any of the following areas: statement of work, technical requirements, specifications, drawings, designs, place of delivery, inspection, adjustments in quantities, and adjustments in delivery schedules. Buyer and Seller shall negotiate an equitable adjustment in the price and/or schedule, to reflect the change. Buyer shall modify this Order in writing. Unless otherwise agreed in writing, Seller must assert any claim for adjustment to Buyer's authorized contractual representative in writing and deliver a fully supported proposal to Buyer's authorized contractual representative within ten (10) days of receipt of the change. The Buyer's authorized contractual representative may examine Seller's relevant records to verify the amount of Seller's proposal. Failure of the Parties to agree upon any adjustment shall not excuse Seller from performing in accordance with Buyer's direction.
9. **PARTIAL INVALIDITY:** If any provision becomes void or unenforceable by law, the remaining provisions shall be valid and enforceable.



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10. **CONFIDENTIALITY:** The Seller shall keep confidential all designs, processes, drawings, specifications, reports, data and all other technical or proprietary information and all features of all parts, equipment, tools, gauges, patterns and other goods furnished or disclosed to the Seller by Buyer in connection with this Order. Seller shall use such information and goods and the features thereof solely in the performance of this Order. Upon completion or termination of this Order, Seller shall return all such information and goods to Buyer or make such other disposition thereof as may be directed by Buyer. The Seller shall release no publicity nor make any disclosure to third parties concerning its work under this Order without the prior written approval of the Buyer.
11. **DELIVERY:** Time is of the essence in this Order. The Buyer may refuse early deliveries. If deliveries under this Order are late, they may be expedited at the option of the Buyer and at the Seller's expense. Acceptance of a late Order shall not be a waiver of Seller's liability for damages caused by such lateness.
12. **PACKING:** Unless otherwise specified in this Order, Seller shall be responsible for safe and adequate packing conforming to the requirements of carriers' tariffs or, in the absence of such requirements, conforming to the best commercial practices.
13. **SHIPPING / TITLE / RISK OF LOSS OR DAMAGE:** Title and the risk of loss or damage of all goods shipped under this Order shall remain with the Seller until Seller's delivery to the F.O.B. point specified in this Order. If Seller does not use Buyer's specified carrier(s) and Buyer incurs additional freight cost as a result, such additional freight cost shall be Seller's responsibility.
14. **PRICE:** The Seller covenants that it sells the subject matter of this Order in the quantities ordered at no lower price than the price stated herein.
15. **TOTAL COST:** Unless otherwise indicated on the face of the Order, the prices stated on the Order include all shipping costs as well as any and all fees, levies, duties or other costs which may apply.
16. **PAYMENT:** Unless otherwise provided, terms of payment shall be Net sixty (60) days from actual delivery of Items or Services and Buyer's receipt of Seller's proper invoice.
17. **PUBLICITY:** Seller shall not publish, distribute, or use any information developed under or about the existence of this Order, or use the Buyer's name, logo, or trademark for the purpose of advertising, making a news release, or creating a reference without prior written approval of Buyer.
18. **RIGHT TO USE INFORMATION:** Unless the Seller shall indicate in writing that information disclosed by the Seller to the Buyer in the performance of this Order is confidential, the Buyer shall have unlimited rights to use such information for any purpose. The Seller shall promptly disclose to Buyer all copyrightable material and all inventions made in performance of this Order. All copyrights and all inventions first conceived or actually reduced to practice by the Seller in the performance of this Order shall be assigned to the Buyer.
19. **SPECIAL TOOLS/ MATERIALS/ INFORMATION:** If any special designs, sketches, drawings, blueprints, patterns, molds, models, tools, gauges, equipment or software shall be made or procured by Seller for this Order, Seller shall disclose the same to the Buyer and the Buyer shall become the immediate owner thereof (irrespective of disclosure). Such items shall be held by the Seller on consignment at the Seller's risk and shall be used exclusively in performance for the Buyer and subject to such disposition as directed by the Buyer.



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20. **EXCUSABLE DELAYS:** Neither party nor its sub-tier subcontractor(s) shall be liable for any delay or failure to perform due solely to acts of God or of the public enemy, acts of the Government in its sovereign or contractual capacity, fires, floods, epidemics, terrorism, quarantine restrictions, strikes, or other such causes beyond its control and without its fault or negligence. Failure of Seller's subcontractor(s) to perform does not in and of itself constitute an "excusable delay" under this Order. Seller shall notify Buyer in writing immediately of any delay to the performance of this Order. The notice shall include a proposed revised schedule but the notice and proposal or Buyer's receipt or acceptance thereof shall not constitute a waiver to Buyer's rights.
21. **STOP WORK ORDER:** Buyer may, from time to time, require Supplier to stop all or any portion of the work called for by the Order for a period of up to 120 days ("Stop Work Period") at each such time. Upon receipt of written notice detailing the length and scope of the Stop Work Period, Supplier shall immediately comply with its terms at no charge. Within the Stop Work Period, Buyer shall either: (i) cancel the stop-work order and Supplier shall resume work; or (ii) terminate the work covered by the stop-work order, for default or convenience, as the context requires, in accordance with the provisions of the Order.
22. **TERMINATION – Without Cause:** The Buyer has the right to terminate this Order at any time, or to suspend it by a stop work order. In the event of termination, the Seller shall cease all performance, cancel all outstanding procurements, and take no further steps toward delivery except that necessary for immediate and orderly shutting down of the work. The Buyer's liability for the Seller's partial performance shall not exceed the applicable and allocable cost of the proportion of the specified work actually performed by the Seller at the time of termination, plus a reasonable profit/fee, up to such point of termination. In no event, shall the Buyer's obligation for the terminated Order exceed the Order price prior to termination.
23. **TERMINATION – For Cause:** If Seller fails to make delivery or perform the services in accordance with this Order or fails to make progress as to endanger performance of the Order and does not cure such failure within (10) days after Buyer's notice, Buyer may terminate all or any part of this Order. In the event of such Termination for Cause, Buyer may purchase substitute goods/services elsewhere, and Seller shall be liable to Buyer for any excess cost occasioned by Buyer for such re-procurement costs, requalification costs, and other nonrecurring costs, except in the circumstance of any failure or delay constituting an "Excusable Delay" as set forth in the Section herein entitled "Excusable Delay".
24. **LIQUIDATED DAMAGES:** Should Buyer accept Products that are not delivered on or before the required delivery date, which option Buyer reserves, Seller shall be liable for all additional costs incurred by Buyer because of such delay(s), which may include, by way of illustration and not of limitation, additional expense related to additional or premium transportation charges, special handling expenses, and other various anticipated and unanticipated costs. The Parties agree that the nature and actual amount of costs associated with delivery delay are uncertain and difficult to calculate. Buyer may, therefore, choose in its sole discretion to require Seller to pay Buyer liquidated damages (which are not intended as a penalty) in lieu of actual damages measured by such costs. If Buyer chooses to recover liquidated damages, they shall be equal to one half percent (0.5%) of the total Contract cost of the delinquent item per day of delay, not to exceed twenty



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percent (20%) of the total Contract cost of such item, which the Parties agree represents a reasonable estimate of the additional costs to be incurred by Buyer in connection with a delivery delay. Buyer's choice to recover such liquidated damages for delayed delivery on any one or more occasion shall not, however, preclude Buyer from recovering the actual costs incurred because of delayed delivery on any other occasion. Neither shall Buyer recovery of liquidated damages for delayed delivery on any one or more occasion preclude Buyer from exercising its option to terminate this Agreement for an Event of Default by Seller, even if Seller has paid such liquidated or actual damages to Buyer on prior occasions, if repeated incidents of late deliveries in the aggregate (or a single significant incident of delay) materially adversely effect Buyer's ability to enjoy the bargained for benefits of this Agreement on an ongoing basis. Similarly, Buyer's choice to terminate this Agreement for Seller's default shall not preclude Buyer from pursuing any other remedy at law or in equity that that it may have against Seller for such default, including, without limitation, injunctive or mandatory relief in an appropriate case.

25. **QUALITY CONTROL:** Seller agrees to provide and maintain a quality control system acceptable to Buyer and to provide access to Seller's facility and or records at all reasonable times for periodic surveillance by Buyer.
26. **INSOLVENCY:** Buyer may cancel this Order if Seller files a petition under any Federal or State Bankruptcy Act or if Seller becomes insolvent or otherwise engages in any act which reasonably causes Buyer to deem Seller insecure.
27. **WAIVER:** Acceptance by the Buyer of any variations from any conditions of this Order shall not be construed as a waiver of the Buyer's rights to insist upon and hold the Seller liable for any future compliance with the waived condition.
28. **WARRANTY:** For twelve (12) months after receipt of each deliverable hereunder, the Seller warrants its work to be of professional quality and (except as quoted material is lawfully used and acknowledged) to be the original work product of members of the Seller's staff. The Buyer's remedy for breach of this warranty shall include the right to re-performance at the Seller's expense of all affected work product of the Seller. In addition, the Seller shall hold the Buyer harmless from, and defend against, any claim for plagiarism or infringement of Seller's intellectual property arising out of the Seller's performance of this Order.
29. **NON-COMFORMING PRODUCT:** If at any time the Seller suspects that they have provided a service or product that does not meet the specifications of the Order they must immediately contact the Buyer and provide in writing specifics as to the suspected non-conformance. If it determined such nonconformance requires an investigation or root cause and corrective action is required these actions shall be supported by the Seller ant no cost to the Buyer.
30. **TRAVEL AND OTHER DIRECT COST (ODC):** Unless specifically authorized on the face of this Order, no travel or ODC is permitted. If authorized, travel and ODC will be reimbursed by the Buyer at cost (exclusive of fee/profit). Out of town travel must be authorized in advance by the Buyer and travel receipts shall be provided for all expenses. All authorized travel and ODC payments will be subject to the limitations specified in this Order.
31. **PATENT INDEMNITY:** The Seller shall hold the Buyer harmless from all liability for infringement of any patent, trademark, trade secret or copyright with respect to any and all goods/services



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furnished under this Order, except insofar as the Buyer has provided detailed instructions causing such infringement. If the Seller is precluded from delivery under this Order due to such infringement, the Seller shall obtain the right to comply with this Order or shall propose viable alternatives, at the Seller's expense.

32. **INDEMNITY:** Seller agrees to indemnify, defend, and hold harmless Buyer, Buyer's insurers and Buyer's affiliates and their employees, agents, officers and directors for and from all losses, claims, suits, expenses, damages, and costs, including but not limited to all reasonable attorney's fees incurred or suffered by Buyer as the result of: a) Seller's breach of warranty; b) Injury or death of any person or damage/destruction of property arising out of Seller's failure to meet the warranties contained herein; c) latent defects in the goods/services provided hereunder; d) Seller's failure to comply with all Federal/State/Local laws and ordinances; e) negligent acts or omission of Seller. If this Order covers the performance on Buyer's premises, Seller agrees to indemnify and protect Buyer against all claims, damages, liabilities, cost and attorney's fees for injury or death to any person, or damage/destruction of property arising out of performance of this Order.
33. **INSURANCE:** (a) If this Order is for the performance of Services on Buyer's premises or Buyer's customer's premises, or Seller utilizes their own vehicles to deliver Goods to Buyer's facility, Seller shall maintain the following insurance in at least the minimum amounts stated herein. Seller shall also maintain, and Seller shall cause its subcontractors to maintain, such general liability, property damage, employers' liability, and worker's compensation insurance, professional errors and omissions insurance, and motor vehicle liability (personal injury and property damage) insurance as are maintained in their normal and ordinary course of business. Upon request by the Buyer, Seller shall provide certificates of insurance evidencing limits of not less than the following: Commercial General Liability Insurance - \$1,000,000; Workers Compensation Statutory for the jurisdiction where the work is to be performed - \$1,000,000; Automobile Liability insurance - \$1,000,000; Employer's Liability insurance with at least \$1,000,000 for each occurrence; All Risk Property Insurance replacement value (covering property of Buyer, custody or control of Seller and shall include Buyer as Loss Payee; Environmental Insurance (Contractor's Pollution Liability) - \$1,000,000; Fidelity or Crime insurance covering Seller employee dishonesty - \$1,000,000 and shall include Buyer as Loss Payee.

All Risk Property, and Fidelity or Crime, Seller shall name Buyer as an additional insured under each of the above policies and shall provide to Buyer, within fifteen (15) days of Buyer's issuance of a SOW and/or Order, a Certificate of Insurance evidencing compliance with this Section.

34. **ELECTRONIC TRANSMISSIONS:** The parties agree that if this Order is transmitted electronically, neither party shall contest its validity, or any acknowledgment thereof, on the basis that this Order or acknowledgment contains an electronic signature.
35. **EQUAL OPPORTUNITY EMPLOYER:** It is the policy of the Buyer to administer all company actions without regard to race, color religion sex or national origin. In accepting this order, the Seller agrees to abide by all provisions of all labor laws and regulations including but not limited to laws pertaining to Fair Labor Standards, Non-Segregated Facilities, and Affirmative Action for Handicapped Workers, Special Disabled and Vietnam Veterans.



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36. **ORDER OF PRECEDENCE:** In the event of any inconsistency or conflict between the provisions of this Order, such inconsistency or conflict shall be resolved by the following descending order of preference: 1. Order-specific provisions which are on the Order as additions to these terms; 2. These Terms and Conditions; 3. Statement of Work; 4. Supplier Quality Manual; 5. Nondisclosure Agreement.
37. **COMPLETE AGREEMENT:** This Order integrates, merges, and supersedes any prior offers, negotiations, and agreements concerning the subject matter hereof and constitutes the entire agreement between the parties and supersedes all previous communications, representations or agreements, either oral or written, between the parties hereto with respect to the order hereof, and no agreement or understanding varying or extending the same will be binding upon either party hereto unless in writing, signed by a duly authorized officer or authorized representative thereof.