

Standard Terms and Conditions

The only terms and conditions that apply to this purchase order are those set forth below. No terms or conditions in any form or other communication between Scheidt & Bachmann USA, Inc., a Delaware corporation as buyer, and the seller identified on the this order pertaining to this purchase, subsequent or prior to the issuance of this order, which in any way differ from or add to the terms and conditions set forth herein shall become part of the contract between the parties unless buyer expressly consents in writing thereto. Buyer's failure to object to any term or condition contained in any form or other communication from seller will not be waiver of the provisions hereof. The agreement by seller to furnish the articles or its furnishings such articles in whole or in part shall constitute acceptance by seller of this order and of the terms and conditions set forth herein.

1. **DEFINITIONS.** As used in this order the following terms shall have meanings set forth below: (a) "order" means this purchase order, (b) "articles" refers to the goods, products, supplies, parts, assemblies, materials, specifications, service or other items constituting the subject matter of this order to be furnished by Seller and Buyer hereunder.
2. **CHANGES.** Buyer at any time may change any one or more of the following by notice to Seller: (a) articles, service, quantities, specifications, drawings, blueprints, and data incorporated in this order, (b) method of packaging, packing or shipment, and (c) place and time of delivery. If any such change causes and increase of decrease in the cost of or the time required for Seller's performance hereunder, an equitable adjustment shall be made in the price or delivery schedule, or both. Any claim for adjustment by Seller shall be deemed waived unless asserted in writing within ten (10) days from the date Buyer notifies Seller of the change. Nothing contained in this section shall relieve Seller from proceeding without delay in the performance of this order as charged.
3. **DRAWINGS AND EQUIPMENT.** All drawings and other data, as well as all tools, dies, jigs, fixtures, patterns and other equipment (including any and all special equipment obtained in order to fill this and any other orders of Buyer and included in Seller's piece price to Buyer) furnished or specifically paid for by Buyer hereunder shall be Buyer's property, shall be held at Seller's risk, and upon demand shall be delivered to Buyer or duly accounted for. Such data and equipment shall be deemed loaned or as an integral part of articles ordered. Seller shall fully protect and insure Buyer's interest in such data and equipment and upon request shall supply Buyer with certification of such coverage.
4. **SHIPPING.** (a) All articles shall be properly packed, marked and shipped by an insured carrier in accordance with the requirements hereof and such other instructions as Buyer may furnish Seller. Shipments shall be routed in accordance with Buyer's instructions and Seller shall reimburse Buyer for all expenses incurred as a result of improper packing, marking or routing. Seller shall execute packing so as to accomplish, without involving delay, minimum transport charges. Articles shall be shipped in one lot unless Buyer specifically authorizes or requests partial shipments. (b) Unless otherwise provided, all transportation charges (including switching charges) shall be prepaid by Seller. (c) Unless otherwise provided herein, Buyer shall not be charged for containers, crating, boxing, bundling, dunnage, or storage. (d) Buyer's count or weight shall be final and conclusive on shipments not accompanied by an accurate packing list. (e) Buyer assumes no obligation for articles shipped in excess of the quantity ordered and not accepted by Buyer. Such shipments may be returned to Seller at Seller's sole risk and expense, including handling, storage and transportation charges. (f) Separate invoices shall be issued for shipments applying against different purchase order numbers. (g) Packing lists and invoices shall show Buyer's Purchase Order Number, Order Number, Buyer's Part Number, Manufacturer's Part Number and a short description of the components supplied. Each carton shall have an individual packing list describing the contents. One copy of the packing list shall be attached to the outside of the carton in a resealable plastic envelope with an additional copy placed inside the same carton. Two copies of invoice and two copies of packing list shall be attached to airway bill or bill of lading to accompany shipment. Two copies of invoice and one packing list shall be sent via airmail directly to Accounts Payable. Failure to comply with the above may delay payment.
5. **PRICE.** The per unit or total price set forth on the face of this order is firm, not subject to increase, and includes all packaging, crating, shipping, freight, insurance, license fees, permit fees and other costs and expenses as well as all applicable taxes on articles covered herein. If the price is omitted from this order, the price shall not be higher than Seller's lowest prevailing price for articles of like quality and quantity in effect on the date of this order. Buyer shall receive full benefit of any reduction in the price of any article covered by this order if made subsequent to Seller's receipt of this order.
6. **SHIPMENT OR DELIVERY SCHEDULE.** (a) Shipment and delivery must be effected within the time stated on the face of this order (time being of the essence). If Seller ships or tenders delivery more than ten (10) days prior to the date specified, Buyer shall have the following options: (1) accept delivery when tendered and postpone payment until the date payment would have been due, or (2) refuse to accept delivery without liability for any loss, damage or expense incurred or sustained by Seller, including costs of returning, storing or reshipping articles. If shipment and delivery is not made within the time stated, Buyer may cancel this order in whole or in part under Section 10. Neither party shall be liable for any default hereunder due to unforeseeable contingencies beyond its control and without its fault or negligence. Seller's default shall not be excused unless written notice of any such contingency is given to Buyer immediately upon its occurrence. Such notice shall not relieve Seller of its obligations to meet the agreed upon scheduled delivery or performance dates, but rather, it is intended to permit Buyer to have an opportunity to mitigate its damages. (b) Notwithstanding the provisions of Section 6(a), in the event of a strike or other labor dispute resulting in possible delay in Seller's performance hereunder, Buyer shall have the option, exercisable by written notice to Seller, to vest title in itself to tools, finished parts, raw materials or work in process and transfer to Buyer at a point outside Seller's plant. (c) If Seller's deliveries fail to meet the schedules specified, and if as a result Buyer requires Seller to make express or air shipments, partial shipments, or both, then Seller shall assume all resulting excess shipping charges.
7. **TERMS OF PAYMENT.** Payment shall be contingent upon delivery and upon receipt of proper invoices, and shall be due forty-five days from the date of delivery or date proper invoices are received, whichever is later. Payments made to Seller shall not be construed as (a) a proof of performance of this Order either in whole or in part or (b) acceptance of any defective or non-complying Articles.
8. **WARRANTIES-INSPECTION.** (a) Seller expressly warrants that all articles hereunder conform to the drawings, specifications, data or other descriptions furnished by Buyer, will be merchantable, will be free from defects in design, material or workmanship, will be fit and sufficient for the purpose or use intended and are new and unused. This warranty shall survive acceptance of the articles and will run to Buyer, its successors, assigns, and customers and to users of its products. Said warranty shall be in addition to any warranties of additional scope and shall continue for a period of twenty-four (24) months from date of delivery. Buyer shall have a reasonable time after delivery of the Articles to inspect same. If defective articles are replaced by Seller pursuant to the provisions of subparagraph (b) hereunder, the warranty terms will be renewed for such replacement articles. (c) Seller warrants that the prices listed herein do not exceed any net prices now given by Seller to any other customer for like articles under similar conditions, and if at any time during the life of this order it quotes or sells at lower net prices, such lower prices shall be substituted for the prices listed herein. (d) All articles shall be subject to final inspection and acceptance or rejection by Buyer after delivery, notwithstanding prior payment. Buyer may perform preliminary inspections both during and after manufacture at the premises of Seller or its subcontractors and Seller shall, without additional charge, provide all reasonable facilities and assistance required for convenient testing and inspection by Buyer. The foregoing shall not relieve Seller of its obligations to make full adequate testing and inspection and to furnish articles which conform to the contract requirements and which are free from defects. Payments for any articles shall not be deemed an acceptance thereof. (e) If articles furnished hereunder do not conform to Buyer's requirements, Buyer shall have the right to (1) reject and return same at Seller's expense for full credit, including transportation both ways; or (2) require the replacement or correction of the same at Seller's expense, including transportation both ways; or (3) accept same and either use it in its existing condition or make necessary corrections with an equitable reduction in the purchase price; or (4) cancel this order in whole or in part under Section 10. Should Seller fail to replace non-conforming articles with performing articles or provide mutually agreeable alternative arrangements within a reasonable time, Seller shall indemnify Buyer for all losses or damages resulting therefrom.
9. **TITLE.** Title to all Articles is warranted to be free and clear of all claims, liens, security interests, pledges and other encumbrances. Title shall pass to Buyer upon delivery of the Articles to Buyer. Seller shall not deliver to Buyer any Articles against which there are any mortgages, conditional bills of sale, security interests, pledges or other encumbrances. All risk of loss, damage or destruction of the Articles is the responsibility of Seller until title passes to Buyer.
10. **TERMINATION.** (a) Buyer requires strict performance of every term and condition of this order (time being of the essence) and if articles are rejected by Buyer as non-conforming Seller shall have no right to cure. Buyer may by written notice to Seller cancel for default this order in whole or in part if Seller: (1) fails to deliver articles within the time specified in this order, (2) fails to deliver conforming articles or perform any of the provisions of this order, or fails to make progress so as to endanger performance hereunder, or (3) becomes insolvent or commits an act of bankruptcy or if reorganization proceedings are commenced by or against Seller or Seller executes an assignment for the benefit of creditors. (b) If this order is cancelled for default, Buyer shall have any and all rights and remedies which the law provides for failure to perform including the right to charge Seller with the costs incurred by Buyer in fabricating or procuring replacement articles from alternative sources to the extent that such costs exceed the purchase price herein. Buyer shall have no obligation to Seller with respect to the cancelled portion of this order and Buyer's liability shall be limited to payment for the delivered portion at the rate specified on the face hereof (although this order has been fully or not fully completed) (c) Buyer may for any reason terminate work under this order, in whole or in part, at any time giving written notice to Seller. Seller shall thereupon immediately stop work on this order or the terminated portion thereof and notify any subcontractors to do likewise. Seller shall be entitled to reimbursement for actual costs incurred up to and including the date of termination, determined in accordance with recognized accounting principles. Seller shall also be entitled to a reasonable profit on the work done prior to such termination at a rate not exceeding that used in establishing the original purchase price. The total of such claim shall not exceed the pro rata portion of this order, which is cancelled. All termination claims hereunder shall be subject to inspection and audit by Buyer.
11. **SET OFF.** Buyer shall have the right to set-off any amounts owing from Seller to Buyer (or any of its associated or affiliated companies) against any amounts due and owing to Seller (or any of its associated or affiliated companies including agents and representatives) with respect to this order or any subsequent order.
12. **PATENT INDEMNITY.** (a) Seller hereby indemnifies Buyer its successors, assigns, agents, customers and users of its products against loss, damages or liability, including costs and expenses which may be incurred on account of any suit, claim, judgment or demand involving infringement or alleged infringement of any patent right in the manufacture, use or disposition of any article supplied hereunder. Seller shall notify Buyer of any such suits instituted against it and shall permit Buyer to participate in the defense of same or make settlement in respect thereof. (b) If the article or any part thereof is held to constitute an infringement and the use thereof is enjoined, Seller shall, at its own expense, either procure for Buyer the right to continue using the article or any part thereof, replace same with a non-infringing article or part, or so modify same that it becomes non-infringing. In the event of the impossibility of the foregoing options, at Buyer's option and without prejudice to Buyer's rights, Seller shall grant Buyer a cash rebate for the purchase price of such product. (c) Where the performance hereunder includes experimental, development, or research effort and such work is paid for in whole or in part by Buyer, Seller shall disclose to Buyer all confidential processes or know-how to trade secrets resulting there from and on request shall assign to Buyer each invention and property resulting there from.
13. **CONFIDENTIAL INFORMATION.** (a) All information contained in drawings, specifications, blueprints and data, ect. which is submitted to Seller pursuant to this order is proprietary to Buyer, and Seller shall not make use of or disclose except as necessary to perform this order. (b) Any information which is proprietary to Seller and disclosed in the products of documents furnished to Buyer hereunder shall be deemed to have been disclosed as part of the consideration for this order and Buyer shall have full right to its use as Buyers deems fit.
14. **GOVERNMENT CONTRACT PROVISIONS.** In the event the articles purchased hereunder are for ultimate use for contracts or subcontracts by a public body that are funded by federal money, the following additional clauses of the Federal Acquisition Regulations ("FAR") in effect on the date of this Order, will apply to this Order and are incorporated as if set forth herein in full below:

TITLE	FAR SECTION
Examination of Records by Comptroller General	55.215-1
Contract Work Hours and Safety Standards	
Act-Overtime Compensation-General	52.222-4
Equal Opportunity	52.222-26
Affirmative Action for Special Disabled and Vietnam Era Veterans	52.222-35
Clear Air and Water	52.223-2
Authorization and Consent	52.227-1
Stop-Work Order	52.212-13
Notice to the Government of Labor Disputes	52.222-1
Affirmative Action for Handicapped Workers	52.222-36
Notice and Assistance Regarding Patent and Copyright Infringement	52.227-2
Walsh-Healy Public Contracts Act	52.222-20
Rights in Technical Data and Computer Software	DOD FAR Supplement 52.227-7013
15. **APPLICABLE LAW.** This contract shall be governed by the laws of the Commonwealth of Massachusetts.
16. **REMEDIES.** All rights and remedies provided Buyer herein shall be cumulative and in addition to any other rights and remedies provided by law or equity. Buyer's waiver of any violation by Seller shall not constitute a waiver of any other violation.
17. **FACILITIES AND SPECIAL EQUIPMENT.** Seller warrants that it now has, or can readily procure without assistance of Buyer, all facilities necessary for the timely performance of this order. Special dies, tools, patterns, and the like used in manufacture of the articles shall be furnished by and at the expense of Seller.
18. **INDEMNITY.** Seller shall indemnify and hold harmless Buyer its officers employees, agents, and invitees from and against all claims, judgments, liabilities, losses, injuries, and damages of every nature (including costs and expenses incident thereto) caused by the acts or omissions of Seller, its officers, employees, agents, invitees, or vendors, directly or indirectly arising out of the performance of this order or any acts of omissions of Seller's subcontractors or suppliers.
19. **ADVERTISING.** Any advertising of this order or public statement, written or oral, relating thereto (including the articles supplied hereunder and pictures, descriptions or samples thereof) by Seller is prohibited except with Buyer's written approval.
20. **TAXES AND PERMITS.** Seller shall pay all governmental, municipal or other taxes, levies, duties and/or compulsory payments resulting from this order. Seller shall procure any required export permit, and Buyer shall procure any required import permit.
21. **ASSIGNMENT.** Neither this order nor any part thereof may be assigned, nor performance hereunder delegated without Buyer's prior written consent.
22. **COUNTERTRADE (OFFSET).** Buyer may use all or any part of the value of its Purchase Order for countertrade (offset) purposes, including but not limited to: (a) fulfilling Buyer's countertrade or industrial benefit obligations; (b) transferring to third parties the countertrade credits granted to the Buyer against the Purchase Order; and (c) retaining credits for application to Buyer's future countertrade obligations.
23. **SEVERABILITY.** Should any provision of this Order be invalid as a matter of law, such invalidity shall affect only such provision and shall not invalidate or affect the remaining provisions of this Order.