



Purchase Order Terms and Conditions

- 1. General.** This Purchase Order is an offer by LIFT to the seller listed on the accompanying Purchase Order ("Seller") and acceptance is limited to its provisions without additions, deletions, or other modifications. A Purchase Order does not constitute an acceptance by Buyer of any offer or proposal by Seller, whether in Seller's quotation, acknowledgement, invoice or otherwise. In the event that any Seller quotation or proposal is held to be an offer, that offer is expressly rejected and is replaced in its entirety by the offer made up of Buyer's Purchase Order. Any reference to any Seller quotation or proposal is solely for identification of the goods and/or services and shall not be deemed to incorporate any Seller terms. Buyer will not be responsible for goods or services delivered without issuance of a Purchase Order.
- 2. Acceptance.** This Purchase Order will be deemed accepted by acknowledgement providing anticipated delivery dates, or by commencing performance by Seller. This Purchase Order, and Seller's acceptance of the Purchase Order, are strictly limited to the terms and conditions: (i) specified herein; (ii) specified on the face of the accompanying Purchase Order; and (iii) if applicable, specified in Buyer's written agreement with Seller. Acceptance of all or part of the goods or services shall not (i) waive Buyer's right to cancel or return all or any portion of the goods or services that do not conform to all applicable requirements; (ii) bind Buyer to accept future shipments of goods or services; (iii) preclude Buyer from making any claim for damages or breach of warranty; or (iv) constitute acceptance of any Seller terms. Buyer may at any time, by written order, make changes within the general scope of this Purchase Order in any one or more of the following: (i) drawings, designs or specifications; (ii) method of shipment or packing; and (iii) place of delivery. If any such change causes an increase or decrease in the cost of, or the time required for, the performance of this Purchase Order, Seller may request an adjustment in the price or delivery schedule, or both, and the Purchase Order shall be modified in writing accordingly upon agreement by the parties. In the event of a disagreement regarding any required adjustment, Seller shall proceed with the Purchase Order, as changed, notwithstanding the dispute. Any request for such adjustment by Seller shall be made within 21 days after notice of the change or shall be deemed waived.
- 3. Compliance with Laws.** Seller warrants to Buyer that the goods and services shall be provided, manufactured, shipped, stored, and otherwise handled in strict compliance with all applicable laws, codes, ordinances, regulations, and industry standards, including, but not limited to, 2CFR 200 of the Code of Federal Regulations.
- 4. Title.** Title conveyed to Buyer by Seller shall be good and merchantable and its transfer rightful. The goods and services shall be delivered free and clear of any lien, security interest, claim or encumbrance whatsoever. FOB terms are stated in the Purchase Order.
- 5. Indemnity.** Seller agrees to defend, indemnify and hold harmless Buyer, officers, directors, shareholders, affiliated entity, employees, agents, representatives, successors and assigns ("Indemnitees") from all losses, liabilities, damages, and/or expenses which may be sustained or claimed against an Indemnitee: (i) arising out of defective goods or negligent services hereby ordered; (ii) arising from injury to Seller's employees while in the course of providing goods or services to Buyer or affiliated entity; (iii) arising from Seller's use of automobiles, trucks, or heavy equipment; (iv) based on a claim that the goods or services supplied by Seller infringe a patent, copyright, or trademark or misappropriate a trade secret of a third party; or (v) any other breach by Seller of any term of this Purchase Order. Seller shall, at the request of Buyer, or affiliated entity, defend any such claim, action or lawsuit. If the goods or services become, or in Seller's opinion, are likely to become, the subject of any infringement claim, Seller shall do one of the following at Seller's option and expense: (i) procure for Buyer the right to continue using the goods or services; or (ii) replace or modify the goods or services so that they become non-infringing without losing functionality. The indemnity under this Paragraph 5 shall survive delivery and acceptance of goods and services and termination or expiration of this Purchase Order and/or Buyer's written agreement with Seller, if applicable.
- 6. Price.** The price for goods and services ordered hereby shall be the lower of: (i) the price stated on the accompanying Purchase Order or (ii) the list price charged by Seller at the time of shipment of the goods or provision of services. Price is inclusive of applicable taxes, freight, all packaging and handling, transportation, and insurance. Prices are not subject to increase for any reason including, but not limited to, change in Seller's costs, unless explicitly indicated on the face of this Purchase Order or agreed to in writing by Buyer. Seller warrants that the price charged to Buyer is not higher than the price charged by Seller to any other customers at the time of shipment of goods or provision of services of the same kind and quality taking into account quantity discounts.
- 7. Invoices.** Seller shall issue a separate invoice for each separate shipment. Each invoice shall include: (i) the Purchase Order number; (ii) Buyer's part numbers; and (iii) quantities shipped. Undisputed amounts shall be paid within 30 days of receipt and acceptance of goods or services and a correct invoice. Delays in receipt of goods or services, acceptance of goods or services, or a correct invoice will be just cause for Buyer to withhold payment without losing discount privileges. Cash discounts, if any, shall be computed as commencing with receipt of the invoice or goods or services, whichever is later. In addition to any right of setoff or recoupment allowed by law, all amounts due Seller (or its affiliates) shall be considered net of indebtedness or obligations of Seller (or its affiliates) to Buyer (or its affiliates) and Buyer (or its affiliates) may set off against any such amounts. In the event that any invoice or other claim by Seller is disputed, or if Seller disputes any set off by Buyer, Buyer shall have the right to withhold all disputed amounts pending resolution.
- 8. Warranties.** Seller warrants that the goods or services delivered, the packaging, labeling and sorting thereof, any installation, repair, and maintenance of goods, and any other performance pursuant to this Purchase Order, will: (i) be free of infringement of property rights of third parties, including without limitation, any patent, trademark, trade name, copyright or right of publicity, or misappropriate any trade secret or violate any license or any other rights; (ii) be free from defects in material and workmanship, be of even kind and quality and run without variation; (iii) be of merchantable quality; (iv) be fit for the intended use of the Buyer, Buyer's customers and any other intended uses of such goods, which uses Seller acknowledges are known to Seller; (v) shall be new and not refurbished; and (vi) be of grade and performance, and otherwise in conformity with, all specifications, blueprints, designs, drawings, samples, models, descriptions, instructions, and other items referred to in this Purchase Order. Seller warrants that all services provided under this Purchase Order shall be performed in competent, workmanlike manner consistent with industry best practice. Seller also warrants that the goods or services to be delivered hereunder were produced in compliance with all applicable requirements of the Fair Labor Standards Act of 1938 as amended, including specifically Sections 206, 207, 212 and 215, and all regulations and orders of the U.S. Department of Labor issued under Section 14 thereof. Seller shall maintain, solely at Seller's cost and expense, all licenses, permits, approvals, and the like necessary to conduct its business and perform its obligations under this Purchase Order.
- 9.** It is the intent of both Buyer and Seller that the applicable terms, conditions and requirements of Buyer's customer shall flow through Buyer to Seller to the extent that they do not conflict with the terms of the Purchase Order. Seller shall comply with all such customer terms and Seller thus agrees to indemnify and hold harmless Buyer from any and all claims and demands from Buyer's customer relating to any actual or alleged problem or issue with the goods or services provided by Seller under any Purchase Order or Seller's non-compliance with customer terms.
- 10. Inspection.** Buyer shall have the right, but not the obligation, to inspect and test the goods or services ordered at any time, including during the manufacture and construction, or preparation, notwithstanding any prior payment or inspection. Defective goods or services not in compliance with Buyer's drawings, specifications or standards may at any time be rejected even though such goods or services may have previously been inspected and accepted. Without limiting any rights it may have, Buyer at its sole option may require Seller, at Seller's expense, to: (i) promptly repair or replace any or all rejected goods and/or services; or (ii) refund the fees paid for any or all rejected goods and/or services. All such rejected goods will be held for Seller's prompt instruction and at Seller's risk. Rejected goods will be transported for return to Seller or destroyed at Seller's cost. Nothing contained herein shall relieve in any way Seller from the obligation of testing, inspection, and quality control. Payment for goods or services prior to inspection shall not constitute acceptance thereof and is without prejudice to all claims Buyer may have against Seller or any other party.
- 11. Remedies and Right to Cover.** If Seller repudiates this Purchase Order or fails to make delivery within the time specified herein, time being of the essence in connection with this Purchase Order (or, if no time of delivery has been specified, within a reasonable time after acceptance by Seller), or if Buyer rejects the goods or services or revokes acceptance thereof, then with respect to any and all goods or services involved, Buyer may pursue any remedy available including, without limitation, cancellation of this Purchase Order in whole or in part. In addition to recovering so much of the price as has been paid and irrespective of whether Buyer has cancelled this Purchase Order, Buyer may "cover" and have damages as to all goods and services affected whether or not they have been identified in this Purchase Order. Buyer may "cover" by making, in good faith and without unreasonable delay, any reasonable purchase of or contract to purchase goods or services in substitution for those due from Seller. Buyer shall recover from Seller as damages the difference between the cost of cover and the contract price together with any incidental or consequential damages. All remedies afforded to Buyer under the Purchase Order are in addition to, and shall not be construed to limit, any other remedy available to Buyer under law or equity.
- 12. Limitation of Liability.** BUYER'S LIABILITY TO PAY ANY AMOUNT TO SELLER FOR ANY REASON SHALL NOT EXCEED THE AMOUNT BUYER HAS AGREED TO PAY SELLER FOR THE GOODS OR SERVICES. BUYER SHALL NOT BE LIABLE TO SELLER FOR ANY CONSEQUENTIAL, INCIDENTAL OR SPECIAL DAMAGES OR COMMERCIAL LOSSES ARISING FROM THE PURCHASE OF GOODS AND/OR SERVICES REGARDLESS OF THE CAUSE OF ACTION OR THE FORM OF THE CLAIM FOR DAMAGES, EVEN IF BUYER IS INFORMED OF THE POSSIBILITY OF SUCH DAMAGES.
- 13. Assignment, Successors, Relationship.** Seller shall not assign this Purchase Order or any rights, nor delegate any duties to any third party without written approval from Buyer. Any attempt to do so will be void. This Purchase Order shall inure to the benefit of the parties hereto and their respective successors and permitted assigns. Each party is an independent contractor of the other party.
- 14. Confidential Information.** Buyer's confidential and proprietary information includes, without limitation, its business plans, business strategies, marketing plans, industry and competitive information, technology, product, and proposed product information; pricing and cost arrangements and agreements with Buyer, distributors, customers, suppliers, licensors and licensees,



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information relating to its customer base, information concerning employees and financial information. All such confidential and proprietary information shall (a) remain the property of Buyer, (b) be carefully preserved and maintained by Seller at its expense, and (c) be promptly returned to Buyer or satisfactorily accounted for upon completion of this Purchase Order or upon Buyer's written demand. Seller acknowledges that, unless covered by a separate nondisclosure or confidentiality agreement signed by Buyer, all Seller's information is provided to Buyer on a non-confidential basis.

- 15. Intellectual Property.** Each party retains ownership of its respective background intellectual property. Buyer shall be the sole owner of all deliverables provided under this Purchase Order, including, but not limited to, any idea, invention, concept, design, prototype, produce configuration, process, technique, procedure, system, plan, model, program, software or code, data, specification, drawings, diagram, flow chart, documentation, or the like, that are created in the course of performing any Purchase Order and any associated intellectual property rights therein. Seller grants to Buyer an irrevocable, non-exclusive, royalty-free, worldwide license with the right to grant sublicenses to affiliates to use any background intellectual property or other intellectual property owned or controlled by Seller or its affiliates to make, have made, repair, use, sell, and import any deliverables provided by Seller under this Purchase Order.
- 16. Force Majeure.** Failure of Buyer to take shipments of goods or receive services hereunder, if occasioned by fire, explosion, flood, war, accident, interruption of or delay in transportation, labor trouble, governmental regulation or other action, disease or pandemic, or any other circumstances of like or different character beyond Buyer's reasonable control, or if occasioned by partial or complete suspension of operations at any of Buyer's offices or other business locations, shall not subject Buyer to any liability to Seller by reason thereof, but, at Buyer's option, the total quantity covered by this Purchase Order may be reduced by the extent of omitted shipments or services, or the specified delivery period may be extended by a time equal to that during which shipments or services shall be so omitted and such shipments shall then be made or services performed during the period of extension. Seller expressly acknowledges that Seller's performance cannot be excused under this provision and Seller assumes the risk that circumstances beyond its control may affect Seller's performance.
- 17. Waiver.** A waiver of any term, condition or default of this Purchase Order shall not be construed as a waiver of any other term, condition, or default, and shall not affect any rights or remedies subsequently arising under the same or similar clauses. Any failure of the Buyer to insist upon the performance of any term or condition of this Purchase Order, or to exercise any right hereunder, shall not be construed as a waiver of the further performance of any such term or condition or the exercise in the future of any such right.
- 18. Entire Agreement.** The Purchase Order, including these Purchase Order Terms and Conditions and all documents incorporated by reference in the Purchase Order, represents the entire understanding between Buyer and Seller, shall supersede all prior understandings and agreements relating to the subject matter hereof, and may be amended only by written mutual agreement of the parties. In the event of a conflict between the terms and conditions of this Purchase Order and any amendment thereto, the Purchase Order shall govern and control.
- 19. Governing Law and Jurisdiction.** This Purchase Order shall be governed by and interpreted in accordance with the laws of the State of Michigan. All terms used in this Purchase Order, which are defined in the Uniform Commercial Code as adopted in the State of Michigan, shall have the same meaning herein as such code. Seller consents to the exclusive jurisdiction of the appropriate state court in Wayne County, Michigan or, if original jurisdiction can be established, in the federal court in the U.S. District Court for the Eastern District of Michigan, Southern Division, for any legal or equitable action or proceeding arising out of, or in connection with, each Purchase Order. Seller specifically waives any and all objections to venue in such courts.
- 20. Severability.** If any term(s) of the Purchase Order is invalid or unenforceable under any statute, regulation, ordinance, executive order or other rule of law, such term(s) shall be deemed reformed or deleted, as the case may be, but only to the extent necessary to comply with such statute, regulation, ordinance, order or rule, and the remaining provisions of the Purchase Order shall remain in full force and effect.