

## Terms and Conditions of Purchase

BY ACCEPTING THIS PURCHASE ORDER, AND/OR PERFORMING HEREUNDER, SELLER AGREES TO COMPLY FULLY WITH THE TERMS AND CONDITIONS OF PURCHASE. ACCEPTANCE OF THIS PURCHASE ORDER IS EXPRESSLY LIMITED TO THE TERMS AND CONDITIONS OF THIS ORDER AND NONE OF THE SELLER'S TERMS AND CONDITIONS SHALL APPLY IN ACKNOWLEDGING THIS ORDER OR IN THE ACCEPTANCE OF THIS ORDER. ACCEPTANCE BY CEPHAM INCORPORATED (HEREINAFTER CALLED "CEPHAM"), OF THE GOODS, SERVICES OR WORK DELIVERED UNDER THIS PURCHASE ORDER SHALL NOT CONSTITUTE AGREEMENT TO SELLER'S TERMS OR CONDITIONS. SELLER MAY NOT SHIP UNDER RESERVATION.

1. If this Order is transmitted by electronic mail, fax, telecopier or by other means of electronic transmission, such transmission shall have the legal significance of a duly executed original delivered to the Seller, but only if the Transmit Terminal Identification on the Data Sheet includes the notation "CEPHAM." and the date of transmission from Cepham is the same as the Date of Order shown on the Data Sheet.
2. **Modifications** - Changes, modifications, waivers, additions or amendments to the terms and conditions of this order shall be binding on CEPHAM only if such changes, modifications, waivers, additions, or amendments are in writing and signed by a duly authorized representative of CEPHAM.
3. **Applicable Law** - The validity, interpretation, and performance of these terms and conditions and any purchase made hereunder shall be governed by the laws of the New Jersey, USA, in force at the date of this order. Where not modified by the terms herein, the provisions of such state's enactment of Article 2 of the Uniform Commercial Code shall apply to this transaction.
4. **Compliance with Law** - Seller agrees that at all times it will comply with all applicable federal, state, municipal and local laws, orders and regulations, including but not limited to those affecting or limiting prices, production, purchase, sale, and use of material. If requested by CEPHAM, Seller agrees to timely certify compliance with such laws in such forms as CEPHAM may request.
5. **Release of Information** - Neither party hereto shall, without the prior written consent of the other party (which shall not be unreasonably withheld), publicly announce or otherwise disclose, except to the U.S. Government, when the Purchase Order references a U.S. Government contract or subcontract number, the existence or the terms of this agreement, or release any publicity regarding this Agreement. This provision shall survive the expiration, termination, or cancellation of this Agreement. Any knowledge or information which Seller may disclose to CEPHAM shall not be deemed to be confidential or proprietary information and shall be acquired by CEPHAM free from any restrictions as to use or disclosure thereof.
6. **Indemnity**- In the event Seller, its officers, employees and agents or any of them enter premises owned, leased, occupied by or under the control of CEPHAM in the performance of or in connection with this order, Seller agrees to indemnify and hold CEPHAM, its officers, agents and employees harmless from any loss, cost, damage, or bodily injury (including death) of whatsoever kind or nature arising out of, or incidental to the performance, delivery or installation of this order occasioned in whole or in part by any action or omission of Seller, its employees, officers and agents or any of them. Seller will maintain general comprehensive liability, property damage and automobile liability insurance, including contractual endorsement and products hazards coverage, in reasonable amounts covering the obligations set forth in this order and, upon request, it will provide CEPHAM with a Certificate of insurance indicating the amount of such insurance. Seller agrees to defend and indemnify CEPHAM and its customers from and against all claims, Actions, liabilities, losses and costs and expenses arising out of the death or injury to any person, property damage or loss, or economic injury arising out of this order.
7. **Waiver** - Any failure of CEPHAM to enforce at any time, or for any period of time, any of the provisions of this purchase order shall not constitute a waiver of such provisions not of CEPHAM's right to enforce each and every provision.
8. **Acceptance and Warranty** - Final acceptance of material by CEPHAM will not be until after arrival at the CEPHAM facility from which this order originates, unless otherwise specified herein. Seller warrants that all articles, material and work supplied by Seller under this order conform to the requirements, specifications, drawings, samples or other descriptions furnished or adopted by CEPHAM and that they are of good material and workmanship and free from all defects in manufacture or design, and are of merchantable quality and fit for their intended purpose. Such warranties by Seller shall run to the benefits of CEPHAM, its employees and purchaser's from CEPHAM. Seller's warranty shall be effective for a period of two years from the date of acceptance of goods by CEPHAM, or for such longer period as specified by CEPHAM. All articles and material returned to Seller for breach of warranty hereunder shall be at Seller's expense, including expenses and penalties incurred by CEPHAM in recalling such articles and materials which have been delivered to CEPHAM's customers and expense of redelivery. Seller agrees that shipment of materials against this P.O. constitutes certification that all articles or goods included in this shipment conform in all respect to the applicable requirements, specifications, and drawings. Seller will make process control data, inspection, and test reports covering the articles or goods and their parts available for review and subject to examination by CEPHAM or its authorized representative to verify conformance to such applicable specifications and drawings. However, a certificate of conformance must accompany individual shipments when so specified on applicable drawings, or on the front of this purchase order. Any articles or materials not accepted by CEPHAM may be returned to Seller at Seller's expense for full credit of the purchase price. Inspection may be performed at CEPHAM's option on a statistical sampling basis. The entire lot may be rejected based on defeats revealed by such sampling. At CEPHAM's option, the rejected lot will be either returned to the Seller for replacement or credit or 100% screened by CEPHAM with cost of screening paid by Seller. The initial inspection performed at CEPHAM on receipt of material is a conditional acceptance, and shall not waive the right of CEPHAM to return material to Seller which exhibits or develops defects due to latent causes during or after installation or testing of the end product.
9. **Patents and Copyrights**- Seller agrees to indemnify and to save CEPHAM, its officers, agents, employees, and vendees (mediate and immediate) harmless from any and all loss, expense, damage, liability, claims or demands either at law or in equity for actual or alleged infringement of any patent invention, design, trademark, or copyright arising from the purchase, use or sale of materials or articles required by this purchase order, except where such infringement or alleged infringement arises by reason of designs for such materials or articles originally furnished to Seller by CEPHAM.
10. **Changes** - CEPHAM may change from time to time any of the drawings, specifications or instructions for work covered by this purchase order and Seller shall comply with such change notices. If such changes result in a decrease or increase in Seller's cost or in the time for performance, and adjustment in the price and time for performance may be made by the parties in writing, provided, however, that Seller notifies CEPHAM of the request for such adjustments within thirty (30) days after receipt by it of the change notice.
11. **Termination**- CEPHAM may terminate the work to be performed hereunder in whole or in part at any time without cause by written notice to seller. Such notice shall state the extent and effective date of such termination and, upon the receipt of such notice, Seller will comply with the directions pertaining to work stoppage hereunder and the placement of further orders or subcontracts hereunder. The parties shall thereupon employ their best efforts to agree by negotiation, within three (3) months upon the amount of reimbursement, if any, to be paid to Seller for such termination. Termination under this provision shall not be deemed a breach of contract. The provisions of this paragraph shall not limit or affect the right of CEPHAM to terminate this order for cause and shall not apply to a termination with cause. Seller shall mitigate its claim to the maximum extent, and in any event no claims shall exceed the lesser of fair market value or actual cost of raw materials and work in progress material which Seller shows cannot be diverted to other uses. No claim shall be asserted or honored for loss of expected profits, or for any consequential or incidental damages, due to cancellation.
12. **Payment Terms** - The payment term agreed upon is mentioned in P.O.
13. **Time of Delivery** - The delivery dates indicated by CEPHAM for the articles, material or work to be supplied under this purchase order are of the essence. Failure to meet agreed upon delivery shall be considered a breach of the contract; furthermore, Seller agrees to pay to CEPHAM any penalty and damages imposed upon or incurred by CEPHAM for failure of Seller to deliver articles, materials, or work on such delivery dates.
14. **Attachments** - Any attachments referenced on the front side of this order shall be deemed for all purposes to be an integral part of this order. In the event of irreconcilable conflict between such referenced attachments and the terms stated herein, the terms of such contracts shall control.
15. **Packing and Shipping Instructions** - Seller agrees to insure that shipments are properly packed and described in accordance with CEPHAM specifications and/or applicable carrier regulations.