



Purchase Order Terms and Conditions

SCOTT GROUP STUDIO AS PURCHASER

1. Acceptance-Agreement. Seller's commencement of work on the goods or services subject to this purchase order and the terms contained herein, as amended as provided herein (the terms of the purchase order and the terms contained herein being collectively referred to as the "Order") shall be deemed an effective mode of acceptance of this Order. Any acceptance of this Order is limited to acceptance of the express terms contained in the Order. Any proposal for additional or different terms or any attempt by Seller to vary in any degree any of the terms of the Order is hereby objected to and rejected by Purchaser, but such proposals shall not operate as a rejection of Purchaser's offer unless such variances are in the terms of the description, quantity, price or delivery schedule of the goods or services, but shall be deemed a material alteration thereof, and this Order shall be deemed accepted by Seller without said additional or different terms. If this Order shall be deemed an acceptance of a prior offer by Seller, such acceptance is limited to the express terms contained in the Order.

2. Termination for Convenience of Purchaser. Purchaser reserves the right to terminate this Order or any part hereof for its sole convenience. In the event of such termination, Seller shall immediately stop all work hereunder, and shall immediately cause any of its suppliers or subcontractors to cease such work. Seller shall not be paid for any work done after receipt of the notice of termination, nor for any costs incurred by Seller's suppliers or subcontractors which Seller could reasonably have avoided.

3. Termination for Cause. Purchaser may also terminate this Order or any part hereof for cause in the event of any default by the Seller, or if the Seller fails to comply with any of the terms and conditions of this Order. Causes allowing Purchaser to terminate this Order for cause include, but are not limited to, late deliveries, deliveries of products which are defective or which do not conform to this Order, performances of services which do not conform to this Order, and failure to provide Purchaser, upon request, reasonable assurances of future performance. In the event of termination for cause, Purchaser shall not be liable to Seller for any amount, and Seller shall be liable to Purchaser for any and all damages, including incidental and consequential damages, sustained by reason of the default which gave rise to the termination, including, without limitation, any damages associated with reworking products or product returns. Seller expressly waives any right to notice of termination and the failure by Purchaser to notify Seller of its termination for cause hereunder shall not operate as a waiver of Purchaser's right to any damages afforded to it pursuant to this paragraph.

4. Proprietary Information-Confidentiality-Advertising. Seller shall consider all information furnished by Purchaser to be confidential and shall not disclose any such information to any other person, or use such information itself for any purpose other than performing pursuant to this Order, unless Seller obtains written permission from Purchaser to do so. This paragraph shall apply to drawings, specifications, or any other documents or information disclosed or prepared in connection with this Order. Seller shall not advertise or publish the fact that Purchaser has contracted with Seller, nor shall any information relating to the Order be disclosed, without Purchaser's written permission. Unless otherwise agreed in writing, Purchaser shall have no obligation to keep confidential any information or documents.

5. Warranty. Seller expressly warrants that all goods or services furnished under this Order shall conform to all specifications and appropriate standards, will be new, and will be free from defects in material or workmanship. Seller warrants that all such goods or services will conform to any statements made on the containers or labels or advertisements for such goods, or services, and that any goods will be adequately contained, packaged, marked and labeled. Seller warrants that all goods or services furnished hereunder will be merchantable, and will be safe and appropriate for the purpose for which goods or services of that kind are normally used. If Seller knows or has reason to know the particular purpose for which Purchaser intends to use the goods or services, Seller warrants that such goods or services will be fit for such particular purpose. Seller warrants that goods or services furnished will conform in all respects to samples. Inspection, test, acceptance or use of the goods or services furnished hereunder shall not affect the Seller's obligation under this warranty, and such warranties shall survive inspection, test, acceptance and use. Seller's warranty shall run to Purchaser, its successors, assigns and customers, and users of products sold by Purchaser. Seller agrees to replace or correct defects of any goods or services not conforming to the foregoing warranty promptly, without expense to Purchaser, when notified of such nonconformity by Purchaser, provided Purchaser, in its sole discretion, elects to provide Seller with the opportunity to do so. In the event of failure of Seller to correct defects in or replace nonconforming goods or services promptly, Purchaser may make such corrections or replace such goods and services and charge Seller for the damages, including any incidental and consequential damages, incurred by Purchaser in doing so.

6. Price Warranty. Seller warrants that the prices for the articles sold to Purchaser hereunder are not less favorable than those currently extended to any other customer for the same or similar articles in similar quantities. In the event Seller reduces its price for such article during the term of this Order, Seller agrees to reduce the prices hereof correspondingly. Seller warrants that prices shown on this Order shall be complete, and no additional charges of any type shall be added without Purchaser's express written consent. Such additional charges include, but are not limited to, shipping, packaging, labeling, custom duties, taxes, storage, insurance, boxing, crating.

7. Force Majeure. Purchaser may delay delivery or acceptance occasioned by causes beyond its control. Seller shall hold such goods at the direction of the Purchaser and shall deliver them when the cause affecting the delay has been removed. Purchaser shall be responsible only for Seller's reasonable, direct, and documented additional costs in holding the goods or delaying performance of this Order at Purchaser's written request, and such costs shall be approved, in advance, by Purchaser in writing. Causes beyond Purchaser's control shall include, without limitation, governmental action or failure of the government to act where such action is required, strike or other labor trouble, fire, or unusually severe weather.

8. Intellectual Property. Any works, ideas, discoveries, designs, developments, customizations, inventions, patents, products, or other information (collectively "Intellectual Property") developed in whole or in part by or on behalf of Seller in connection with or relating to the Order shall be the exclusive property of Purchaser including, but not limited to, custom software programming services, advertising and brand development, and design development. Upon request, Seller shall sign all documents and otherwise cooperate with Purchaser as necessary to assign, confirm and perfect the exclusive ownership of all Intellectual Property rights to Purchaser. Seller agrees upon receipt of notification to promptly assume full responsibility for defense of any suit or proceeding which may be brought against Purchaser or its affiliates, agents, customers, or other vendors for alleged infringement or violation of any right or law related to intellectual property, and Seller further agrees to indemnify Purchaser, its affiliates, agents and customers against any and all expenses, losses, royalties, profits and damages, including court costs and attorney's fees, resulting from any such suit or proceeding, including any settlement. Purchaser may be represented by and actively participate through its own counsel in any such suit of proceeding if it so desires, and the costs of such representation shall be paid by Seller.

9. Independent Contractor; Insurance. Seller agrees that all work done pursuant to this Order shall be done by Seller as an independent contractor and that the persons doing such work shall not be considered employees of Purchaser. Seller shall maintain all necessary insurance coverages, including public liability and Workman's Compensation insurance.

10. Indemnification. Seller shall defend, indemnify and hold harmless Purchaser against all damages, claims or liabilities and expenses, liquidated or unliquidated, direct or indirect, whether now known or unknown (including attorney's fees) arising out of or resulting in any way from the performance of this Order. This indemnification shall be in addition to the warranty obligations of Seller.

11. Changes. Purchaser shall have the right at any time to make changes in drawings, designs, specifications, materials, packaging, time and place of delivery and method of transportation. If any such changes cause an increase or decrease in the cost, or the time required for the performance, an equitable adjustment shall be made and the Order shall be modified in writing accordingly by Seller and Purchaser. Seller agrees to accept any such changes subject to this paragraph.

12. Inspection/Testing. Payment for the goods or services delivered hereunder shall not constitute acceptance thereof. Purchaser shall have the right to inspect goods and to reject any or all of said goods that are in Purchaser's judgment defective or nonconforming. Goods rejected and goods supplied in excess of quantities called for in the Order may be returned to Seller at its expense and, in addition to Purchaser's other rights, Purchaser may charge Seller all expenses of unpacking, examining, repacking, and reshipping such goods. In the event Purchaser receives goods whose defects or nonconformity is not apparent on examination, Purchaser reserves the right to require replacement, as well as payment of damages as provided herein. Nothing contained in this Order shall relieve in any way the Seller from the obligation of testing, inspection and quality control. Purchaser shall have the right, at reasonable times, to inspect Seller's premises.

13. Audit Right. Where appropriate, Purchaser shall have the right to audit product quality at Seller's premises.

14. Entire Agreement. This Order shall constitute the entire agreement between the parties.

15. Assignments and Subcontracting. No part of this Order may be assigned or subcontracted by Seller without the prior written approval of Purchaser. Purchaser may assign the Order in its sole discretion without notice to or approval of Seller.

16. Setoff. All claims for money due or to become due from Purchaser shall be subject to deduction or setoff by the Purchaser by reason of any counterclaim arising out of this or any other transaction with Seller. Seller shall have no right to setoff or deduct money due from Seller for any reason whatsoever.

17. Shipment. If in order to comply with Purchaser's required delivery date it becomes necessary for Seller to ship by a more expensive way than specified in this Order, any increased transportation costs resulting therefrom shall be paid for by Seller unless the necessity for such rerouting or expedited handling has been caused by Purchaser and Purchaser has consented to such increase(s) in writing.

18. Waiver. Purchaser's failure to insist on performance of any of the terms or conditions herein or to exercise any right or privilege or Purchaser's waiver of any breach hereunder shall not thereafter waive any other terms, conditions or privileges whether of the same or similar type.

19. Delivery. Time is of the essence of this contract and if delivery of items or rendering of services is not completed by the time promised, Purchaser reserves the right, without liability in addition to its other rights and remedies, to terminate this Order by notice effective when received by Seller as to items not yet shipped or services not yet rendered and to purchase substitute items or services elsewhere and charge Seller with any loss incurred.

20. Limit on Purchaser's Liability-Statute of Limitations. In no event shall Purchaser be liable for anticipated profits or for incidental or consequential damages. Purchaser's liability on any claim of any kind for any loss or damage arising out of or in connection with or resulting from this agreement or from the performance or breach thereof shall in no case exceed the price allocable to the goods or services or unit thereof which gives rise to the claim. Purchaser shall not be liable for penalties of any description. Any action resulting from any breach on the part of Purchaser as to the goods or services delivered hereunder must be commenced within one year after the cause of action has accrued.

21. Compliance with Scott Group Supplier Manual. The Seller further acknowledges that adherence to the requirements set forth in Supplier Manual is a condition of doing business and represents a commitment to lawful, ethical, and responsible business practices. Failure to comply may result in corrective action, including suspension or termination of the business relationship.

22. Compliance with Laws. Seller agrees that all goods shipped to the Purchaser under the Order will be produced in full compliance with all applicable laws including, but not limited to, the Fair Labor Standards Act. Seller further agrees that it shall not engage in the employment of child, forced, indentured, involuntary, prison or uncompensated labor. Purchaser may, upon notice, inspect Seller's plant and facilities at reasonable times to determine compliance with the provisions set forth in the Order. In addition to any other remedies contained herein, Purchaser shall have the right to immediately terminate this Order and any other agreements with Seller if it determines that Purchaser is in violation of this paragraph.

23. Choice of Law; Venue. This Order shall be governed by, and construed under the internal laws of the State of Michigan, without regard to principles of conflict of law, as the same may be from time to time in effect, including, without limitation, the Uniform Commercial Code as in effect in the State of Michigan. Any and all actions concerning any dispute arising from or related to the Order shall be filed and maintained in the Circuit Court of Kent County, Michigan or in the federal District Court for the Western District of Michigan. The parties specifically consent and submit to the exclusive jurisdiction and venue of such state or federal court, and irrevocably waive any objections either may have based on improper venue or forum non conveniens to the conducting of any proceeding in any such court.