

PURCHASE ORDER CONTRACT TERMS AND CONDITIONS

1. The Factory warrants that the Products shall i) conform as to quality and descriptions with the particulars stated in the order; ii) be of sound materials and workmanship and of merchandise quality; and iii) correspond in all respects with the specifications provided by Buyer.

2. The Factory hereby acknowledges that it is fully aware that the products are bought by Buyer for resale or for further processing and resale.

3. The shipment date(s) specified in the order is/are of the essence for this contract and must be strictly complied with the Factory. Buyer reserves the right to refuse any merchandise and to cancel all or any part of this contract if seller fails to ship all or any part of the merchandise in accordance with the terms of the contract. Acceptance of any part of the contract shall not bind buyer to accept future shipments, nor deprive Buyer of the right to return merchandise already accepted. Buyer's trade-name, trademarks, and other identification shall be removed by seller at seller's expense from all merchandise returned by Buyer.

4. Save as otherwise stipulated in the relevant documentary credit, the Factory/Seller shall send to Buyer a complete set of the shipping documents in respect of the products not more than _____ days after shipment. Separate invoices must be mailed to Buyer for each purchase order and each shipment. Merchandise must be accompanied by bill of lading or other shipment receipt. If freight is prepaid but chargeable to Buyer, seller must also submit the original freight bill with invoice.

5. The materials supplied by Buyer shall at all times remain the property of Buyer, and the Factory/Seller will not use the materials supplied or any part thereof or permit them to be used for any other than the manufacture of the product pursuant to the order. Furthermore, any production-specification information provided by Buyer, whether or not used in conjunction with a company name or trademark, shall be used only for the express purpose for which such information was provided and shall not be transferred to any other person without Buyer's written permission.

6. Merchandise designed by Buyer shall not be manufactured for Seller's own use, or for the use of any individual, partnership, or corporation other than buyer. Seller shall not release to parties other than buyer any information relating to the merchandise, or furnish to such parties any sample thereof, with the prior written consent of the Buyer.

7. The party to whom this order confirmation is addressed hereby warrants that he, she or it (as the case may be) shall ensure that the goods are manufactured in the country or territory specified herein and that such manufacture and the supply of the goods, shall have been produced in compliance with all applicable laws, ordinances, rules, and regulations and other requirements of the local jurisdiction, the United States, and any other import destination jurisdiction, including but not limited to the Textile and Wool Fiber Products Identification Acts, Customs origin and marking regulations, the Flammable Fabrics Act, the Consumer Products Safety Commission Act, FCC, and FDA requirements, etc. Furthermore, the merchandise covered by this purchase order shall not contain dog or cat hair or fur and must be formaldehyde free.

8. Seller warrants that with regard to all merchandise sold to Buyer and for which flammability standards have been issued, amended, or continued in effect under the Flammable Fabrics Act, as amended, reasonable and representative tests, and prescribed by the Federal Trade Commission have been performed which show that the merchandise, at time of its shipment or delivery by seller, conforms to all requirements of the Act.

9. Seller warrants that the merchandise has been manufactured in accordance with the samples furnished by Seller and approved by Buyer and/or the standards, specifications, and inspection criteria furnished by Buyer. Seller represents further that the materials used in the manufacture of the merchandise conform to the standards and specifications and inspection criteria furnished by Buyer.

10. Seller warrants that the merchandise is fit and safe for consumer use, and acceptance of this contract shall constitute an agreement upon Seller's part to indemnify and hold Buyer harmless from all claims, liability, loss, damage, and expense incurred or sustained by Buyer by reason or any breach of such warranty.

11. Acceptance of or payment for all or any part of the merchandise shall not be deemed to be a waiver of Buyer's right either to cancel or return all or any part hereof at Seller's expense, a) because of failure to conform to this contract or to Buyer's standards and specifications or inspection criteria, b) by reason of defects, latent or patent, or other breach of warranty, or (c) failure to make any claim for damages, including manufacturing costs occasioned to Buyer. Such rights shall be in addition to any other remedies provided by law. Buyer shall have right to sell nonconforming merchandise or merchandise in breach of warranty, and Seller shall reimburse Buyer for the difference between the total expenses incurred by Buyer in connection with such sale and the proceeds received by Buyer from such sale. If Buyer elects to return nonconforming merchandise in breach of warranty seller shall reimburse buyer for any amounts paid by Buyer on account of the purchase price of merchandise and any costs incurred by buyer in connection with the delivery or return of such merchandise. Final inspection shall be at the premises of Buyer within a reasonable period of time after acceptance.

12. The party to whom this order confirmation is addressed hereby warrants that he, she or it (as the case may be) shall ensure that the goods are manufactured in the country or territory specified herein and that such manufacture and the supply of the goods shall have been produced in compliance with all applicable employment laws and regulations, including, but not limited to, all wage and benefit payment laws, all child labor laws and regulations, all wage and benefit payment laws, all laws and regulations concerning the hours of work, all laws and regulations governing the safety laws and health of workers and all laws and regulations concerning discrimination in employment.

13. The party to whom this order confirmation is addressed hereby warrants that the, she or it (as the case may be) shall ensure that the goods are manufactured in the country or territory specified herein and that such manufacture and the supply of the goods shall in all respects comply with that country or territory's laws as to the origin of the goods and the issuance, where applicable, of an export license or visa for the goods.

14. The party to whom this order confirmation is addressed hereby warrants that he, she or it (as the case may be) shall ensure that it will not knowingly utilize prisoner, forced, or child labor in the manufacture of products and that he, she or it will not knowingly purchase materials from companies which have knowingly utilized prisoner, forced or child labor.

15. Buyer, and/or its agents shall have the right to examine work in process and all finished and packaged merchandise. Such inspection shall not constitute a waiver of Seller or factory's responsibility. Any variance in quantity shall be less than 5%. No merchandise shall be shipped without Certificate of Inspection issued by Buyer or Buyer's agent.

16. All quality control inspections, except normal in line and final inspections, must be paid for by the factory or Seller, and the cost of such inspections shall include not only the time of the Q.C. inspector, but also traveling expenses, meals and accommodations.

17. All cartons must be properly labeled with their P.O. number, item number, number of pieces, gross weight, net weight and country of origin.

18. All cargo must be maintained and controlled in compliance with Buyer's cargo security procedures.

19. Factory shall have no right to subcontract manufacture of the merchandise [or to change factory location] without prior approval from Buyer, or Buyer's agent.

20. The Seller and/or Factory hereby agree and undertake to indemnify and hold Buyer harmless against all damages, losses, claims, demands, proceedings, costs or expenses (including all legal costs on all full indemnity basis) howsoever arising or incurred by Buyer as result of or in connection with the Factory breach of any of the terms of the order or default in the performance of any of its obligations hereunder including but not limited to i) all additional costs and expenses incurred by Buyer in obtaining other goods in replacement of the products; ii) all additional freight, demurrage, storage charges, customs duties, insurance premium or bank charges and all other expense thereby incurred; iii) all loss of profits on resale suffered by Buyer; and iv) all claims, demands, suits, actions, and proceedings made or brought by any ultimate purchaser of the products or any other person and all liabilities, damages, costs and expenses (including legal costs on a full indemnity basis) which Buyer may suffer or incur as a result of or in connection with such breach or default on the part of the factory or Seller.

21. Factory and Seller agree to indemnify Buyer, and hold Buyer harmless from and against all claims, liability, loss, damage or expenses, including attorney fees, arising from or by reason of any material misstatement or omission in export documents or in required certificates as to labor practices or cargo security. Any such material misrepresentation or omission shall automatically constitute a breach of contract allowing for immediate cancellation of the order by Buyer, and liability by the seller to Buyer for any and all damages assessed.

22. Seller agrees to indemnify Buyer and hold Buyer harmless from and against all claims, liability, loss, damage or expense, including counsel fees, arising from or by reason of any actual or claimed trade-mark, patent or copyright infringement, or any litigation based thereon, with respect to any part of the merchandise, and such obligation shall survive acceptance of the merchandise and payment thereof by Buyer.

23. When Seller fails to deliver the merchandise by the date specified in the purchase order to the port of export, the contract price for the merchandise shall be reduced at buyer's option prior to shipment by _____ percent of by any amount equal to the difference between (1) the estimated cost of shipping the goods by ocean freight to the port of entry specified in the in the purchase order; and (2) the estimated cost of such other faster means of transportation as may then reasonably be chosen by Buyer for transportation of the merchandise to the port of entry so as to permit Buyer to meet its scheduled delivery dates to the extent possible. Buyer shall be entitled to deduct the expense from its payments regardless of the payment method.

24. This contract may not be modified or terminated orally, and no modification or termination nor any claimed waiver of any of the provisions hereof shall be binding unless in writing and signed by the party against whom such modification, termination, or waiver is sought to be enforced.

25. The failure of Buyer to object to the manner or performance of any of the terms herein shall not be considered a waiver of any rights or remedies, past, present, or future. Buyer reserves the right to insist upon strict compliance herewith at all times.

26. It is hereby declared by the parties hereto that if any dispute arises out of two or more contracts between the parties, Buyer can set off an/or counterclaim or any contract against the factory/Seller notwithstanding that there may be no connection between the contract on which the factory/Seller is suing and the one on which Buyer claims a set-off or counterclaim, and should judgment be entered against Buyer, in respect of any contact(s), the Factory cannot execute the judgment unless and until Buyer set-off and/or counterclaim has been disposed of by the relevant court or by settlement. This clause shall apply notwithstanding any rule or law to the contrary.

27. This contract shall be construed and interpreted and its performance shall be governed by the law of the State of [STATE], U.S.A.