

Cooper & Turner

Conditions of Purchases (page 1 of 4)

1. DEFINITIONS AND INTERPRETATION

- 1.1 In these Conditions:
- 1.1.1 "the Buyer" means Cooper & Turner Industries, Inc. or Cooper & Turner Manufacturing, Inc., as applicable as identified on the Order.
- 1.1.2 "Buyer's Goods" means any articles or things belonging to the Buyer or any of its affiliates or any of their respective contractors or agents (other than Supplier).
- 1.1.3 "These Conditions" means these Conditions of Purchases set out in this document and includes any special conditions or other terms specified in the Order and any exhibits or attachments to the Order provided by Buyer.
- 1.1.4 "USD" means the United States Dollar.
- 1.1.5 "Goods" and "Services" means the goods and/or services, as applicable, to be properly and timely supplied by the Supplier pursuant to the applicable order.
- 1.1.6 the "Order" means the purchase order placed by the Buyer.
- 1.1.7 the "Supplier" means the individual, firm, company or other party with whom the Buyer contracts.
- 1.2 The headings in these Conditions are for convenience only and are not for the purpose of interpretation.
- 1.3 Any reference in These Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.
- 1.4 If any provision of These Conditions (or of any other conditions or other terms that may be agreed in writing between the Buyer and the Supplier) is or becomes illegal, void or unenforceable for any reason, the validity of the remaining provisions shall not be affected.
- 1.5 References to clauses are to clauses of These Conditions, unless stated otherwise.
- 1.6 If there is any inconsistency with the express terms of the Order and the express terms of These Conditions then the express terms of the Order shall prevail.

2. CONTRACT TERMS, VARIATIONS AND REPRESENTATIONS

- 2.1 The contract made between the Buyer and the Supplier shall be subject only to These Conditions and the applicable Order (collectively the "Contract"). Representatives or agents of the Buyer have no authority to agree any terms or make any representations inconsistent with These Conditions unless the inconsistent term is identified in an Order that is executed by an executive officer of the Buyer.
- 2.2 In accepting the Order, the Supplier agrees to be bound by These Conditions and the terms and conditions identified in the Order and no others. Supplier agrees that no terms, conditions or other provisions identified in any documentation (including, but not limited to any quotes or invoicing documentation) provided by Supplier shall have any force or effect and Supplier hereby irrevocably waives any of its rights to claim enforcement of any such Supplier provided terms, conditions or provisions.
- 2.3 The Buyer shall be bound by the Order only if it is signed by an executive officer of the Buyer. If an Order signed by an executive officer of the Buyer is submitted to the Supplier and Supplier fails to reject the Order (by emailing such rejection to rejectedorders@cooperturnerbeck.com) within three business days of its submission, the Supplier shall be deemed to have accepted the Order.
- 2.4 The Buyer reserves the right to require modifications to the Order upon notice to Supplier. If Buyer provides one or more modifications to the Supplier, the Supplier shall promptly respond to the Buyer identifying the updated price to address the modifications, the updated price to become effective only upon written approval from the Buyer.
- 2.5 The Buyer or its representatives may inspect the Goods, Services or the Buyer's Goods at any reasonable time at the Supplier's premises. No such inspection shall constitute an acceptance by the Buyer or relieve the Supplier of any of its obligations under the Contract.
- 2.6 Unless specifically stated otherwise in the Order, the Supplier shall submit to the Buyer the number of samples identified by the Buyer and obtain the Buyer's approval before manufacturing the Goods.

3. SPECIFICATION OF GOODS AND/OR SERVICES

- 3.1 The Goods and/or Services shall conform in all respects with the Order and any specifications, requirements and minimum standards identified in or attached to the Contract or provided by the Buyer to Supplier by email or otherwise related to the Order (hereinafter collectively the "Specifications").
- 3.2 Supplier represents and warrants that the Goods shall-
- 3.2.1 be of first class materials and workmanship, without any defects and as safe as persons generally are entitled to expect.
- 3.2.2 be equal in all respects to all samples, patterns and Specifications.
- 3.2.3 Satisfy any and all standards of performance specified in the Order, including all Specifications.
- 3.2.4 be fit for any particular purpose for which the Goods are being bought.
- 3.3 The Services shall be carried out with all reasonable skill and care and in no case with less than Industry Standard skill and competency.
- 3.4 The Goods (including all materials and components) provided by the Supplier shall:-
- (i) be new, (ii) be suitable, safe and fit for the purposes for which Buyer is purchasing and using them for, (iii) be produced, packaged and transported in compliance with all applicable laws and regulations (hereinafter collectively "Laws"), and (iv) not be produced in violation of the rights (including intellectual property rights) of any third party entity or individual. All Services shall
- (a) be performed to the satisfaction of the Buyer, and (b) in compliance with all applicable Laws.

4. INSPECTION AND TESTING

- 4.1 The Supplier shall allow the Buyer or its representative adequate time to inspect and test the Goods (or the Buyer's Goods as the case may be) during manufacture or processing at the place of manufacture - The Supplier shall provide the Buyer with all facilities reasonably required for inspection and testing.
- 4.2 Before despatching or delivering up the Goods (or Buyer's Goods as the case may be) the Supplier shall carefully inspect and test them for compliance with the Contract.

5. REJECTION

- 5.1 In addition to Buyer's inspection and testing rights identified in Section 4, Buyer may inspect the Goods upon receipt or during a reasonable period of time following receipt.
- If any Goods are found on inspection by the Buyer or its customer not to comply in all respects with the Contract, the Buyer may reject some or all of them (whether or not payment for them has been made to the Supplier). Upon such rejection the Buyer may at its option:-
- 5.1.1 return such Goods to the Supplier at the Supplier's risk and expense for a full credit or prompt replacement of fully compliant Goods (at the Buyer's option); or
- 5.1.2 itself correct or repair them (or engage a third party to do so), and it shall be entitled to prompt reimbursement from the Supplier for all associated costs and fees incurred; or
- 5.1.3 instruct the Supplier to attend where the Goods may be situated and the Supplier shall then promptly fully rectify such Goods on site.

- 5.2 The exercise of the rights provided in clause 5 shall not prejudice or limit any claim for damages and costs that the Buyer may have in respect of any breach by the Supplier of its obligations under the Contract or any failure of the Goods or Services to comply with the provisions of the Contract.

6. REPAIR OR REPLACEMENT OF GOODS AND/OR SERVICES

- 6.1 Without prejudice to any other rights it may have, the Buyer may at any time, at its option, require the Supplier (at the Supplier's expense and as soon as reasonably practicable) to carry out again any Services that do not fully comply with the Contract and make a prompt and proper repair or replacement of all Goods that are or become defective where such defects are due to:-
- 6.1.1 faulty design by the Supplier or its sub-contractors

Conditions of Purchases (page 2 of 4)

- 6.1.2 the Supplier's erroneous data
- 6.1.3 inadequate or faulty materials or workmanship; and/or
- 6.1.4 the Supplier's failure to strictly adhere to the Specifications or any other breach of the Supplier's express or implied obligations under the Contract.
- 6.2 The provisions of clause 6.1 shall apply to repaired and replacement Goods and to Services carried out again as they do to Goods and Services as originally supplied.
- ### 7 DELIVERY
- 7.1 The Supplier shall deliver the Goods (or the Buyer's Goods as the case may be) in properly packaged form to the address or addresses and/or delivery points specified in the Order or subsequently specified by the Buyer in writing (email is acceptable). If the Order identifies the Buyer retrieving the Goods from the Supplier's production location, then the Supplier shall promptly notify the Buyer when the Goods are properly and fully completed and packaged and ready for Buyer's (or its agents) retrieval.
- 7.2 The Supplier shall deliver the Goods (or the Buyer's Goods) on the date identified on the Order or as subsequently identified by the Buyer between the hours of 7 am and 3 pm.
- 7.3 Time is of the essence in the delivery of the Goods and the provision of Services, and if the Supplier fails to timely deliver or provide, the Buyer shall be entitled to terminate all or a portion of the Contract. If Buyer terminates under the prior sentence, the Buyer shall, without prejudice to any other rights or remedies available to Buyer under the Contract, common law or equity, be entitled to recover from the Supplier any additional expenditures that Buyer may incur in obtaining other goods or services in replacement of those Goods or Services in respect of which the Contract has been terminated.
- The headings in these Conditions are for convenience only and are not for the purpose of interpretation.
- 7.4 The Buyer shall have the right to refuse to accept Goods delivered in advance of the date specified in the Order or otherwise agreed.
- 7.5 The Buyer may return at the Supplier's expense any Goods delivered in excess of the quantity ordered.
- 7.6 Subject to clauses 7.1 to 7.4, the Supplier shall immediately rectify or replace any Goods damaged, destroyed or lost in transit.
- 7.7 The Supplier shall be liable for any damage caused to the Buyer's premises or property during delivery.
- 7.8 The Supplier shall and/or shall ensure that its employees and agents shall, when at the Buyer's premises wear appropriate safety equipment at all times, comply with all OSHA and other applicable governmental regulatory requirements and comply with all applicable Buyer policies.
- ### 8 PRICES AND PAYMENT
- 8.1 The Goods and Services shall be supplied at the prices identified in the Order. Without the Buyer's express written authorization, the Supplier shall not be entitled to increase those prices for any reason nor to impose any additional charges for any tariffs, fuel surcharges, packaging, shipping, carriage, insurance or delivery of the Goods or Services. The price identified on the Order shall be inclusive of any applicable or required taxes or other governmental imposed fees or charges.
- 8.2 USD shall apply unless specifically stated otherwise on the Order.
- 8.3 The Supplier shall send with each delivery a packing list showing all Goods delivered and the applicable Order number.
- 8.4 All Goods shall be accompanied by documentation permitting the Goods to be traced to their raw material batch together with details of mechanical properties and/or tensile hardness and any other details that the Buyer requests. In the case of raw materials, they shall be supplied with a certificate of test and analysis.
- 8.5 Unless otherwise agreed in writing, invoices (which shall include the applicable Order number, information and details that permits the Buyer to readily and easily understand all charges and all Good delivery dates and any other details and documentation requested by Buyer) shall be payable 60 days after the last day of the month following the month in which:-
- 8.5.1 the delivery is effected; or
- 8.5.2 the Services are completed
- whichever is the later.
- 8.6 No payment made shall imply acceptance of any of the Goods or Services supplied or performed by the Supplier, nor in any way restrict any claims or rights the Buyer may otherwise have against the Supplier.
- ### 9 RISK AND PROPERTY
- 9.1 Subject to clause 9.2, the risk of loss in the Goods shall continue with the Supplier until the Buyer's receipt of the Goods. Buyer's receipt of the Goods shall not prejudice in any manner Buyer's right to reject some or all of the Goods received.
- 9.2 Where payment or part payment for the Goods is made before delivery, property (but not risk) in the Goods shall pass on such payment or part payment without prejudice to any right of rejection that the Buyer may have. The Supplier shall identify such Goods as the property of the Buyer.
- 9.3 The Buyer may in its discretion make packaging materials available for collection by the Supplier but shall not be responsible for loss or damage to them.
- 9.4 All property rights in the Buyer's Goods shall at all times remain vested in the Buyer and they shall be identified by the Supplier as belonging to the Buyer.
- ### 10 PACKAGING, LABELLING, INSTRUCTIONS AND WARNINGS
- 10.1 The Supplier warrants that the labelling and packaging of the Goods will comply with all applicable Laws and with all applicable Specifications.
- 10.2 The Supplier shall supply with the Goods all written instructions, information and warnings relating to the Goods that are required under applicable Law, that are necessary or appropriate for their safe use and in compliance with all Specifications.
- 10.3 The Supplier warrants that the Goods will be properly packed and secured so as to reach the delivery address in an undamaged condition.
- ### 11 INDEMNITY
- 11.1 The Supplier shall fully indemnify and hold harmless the Buyer and its affiliates and their respective employees, agents, officers, directors, successors and assigns (collectively "Buyer Indemnities") from and against each and any loss, liability, damages, fees, costs (including legal costs and attorneys fees) and expenses arising from or incurred by reason of any infringement or alleged infringement or any unauthorized use or alleged unauthorized use of any patent, registered design, copyright, design right, trade mark, trade name or other intellectual property right of any third party by the possession, use, hire, sale or offer for hire or sale of the Goods or by the use or disposal of the Buyer's Goods. The indemnity in this clause 11.1 shall not apply with respect to that liability that arises solely based on the Supplier following a design furnished by the Buyer that the Buyer specifically mandated that the Supplier use.
- 11.2 The Supplier shall fully indemnify and hold harmless the Buyer Indemnities from and against each and any loss, liability, damages, fees, costs (including legal costs and attorneys fees) and expenses arising from or incurred by reason of any breach of the Contract by Supplier or any of its subcontractors, including but not limited to all loss of or damage to the Buyer's Goods and any other goods belonging to the Buyer that may occur from the time such goods or Buyer's Goods are first in the Supplier's possession, custody or control until the time they are delivered to the Buyer, however such loss or damage may be caused and whether or not attributable to any negligence on the part of the Supplier or negligence or willful default by the Supplier's servants or agents.
- 11.3 The Supplier shall fully indemnify the Buyer Indemnities against any loss of or damage to any property or any injury to or death of any person and against any other loss or damage (both direct and consequential) suffered by the Buyer Indemnities and caused by or arising out of any negligent act or omission, violation of Laws or willful misconduct of the Supplier, its employees, agents or subcontractors or by any defect in the raw materials used in the design, processing, manufacture, storage or transport of the Goods to the Buyer.
- ### 12 DOCUMENTS, DESIGNS AND TOOLING
- 12.1 All plans, drawings and designs supplied by or at the request of the Buyer to the Supplier for the purposes of the Order shall remain the Buyer's property. The Supplier shall treat them as confidential and shall use them only for the purposes of the Order. The Supplier shall deliver them up to the Buyer upon completion of the Contract or promptly upon Buyer's request, whichever is the earlier.
- 12.2 Unless otherwise agreed in writing, all tools, dies, patterns and other equipment supplied to the

Conditions of Purchases (page 3 of 4)

- Supplier by the Buyer or manufactured and obtained by the Supplier wholly or partly at the Buyer's expense (including any replacement) shall be and remain the Buyer's property, and shall be clearly marked by the Supplier as "Property of Cooper & Turner Limited", and shall be used only for the purposes of the Order and shall be promptly returned to Buyer at Supplier's cost upon Buyer's request.
- 12.3 All intellectual property rights in any plans, drawings, designs, inventions, discoveries, tools, dies, software, goods or other materials provided by Buyer or originated by the Supplier or its agents, sub-contractors or employees for the purposes of the Order shall belong to and be solely owned by Buyer and are hereby assigned to the Buyer. The Supplier shall upon demand execute an assignment or other confirmatory documentation presented by Buyer confirming Buyer's rights and ownership in the Goods and Services and all associated intellectual property rights with a full waiver of all moral rights in them in favor of the Buyer.
- 12.4 The Supplier shall be responsible for any errors or omissions in any drawings, calculations, packing details or other particulars supplied by it whether such information has been approved by the Buyer or not provided that such errors or omissions are not due to inaccurate information furnished in writing by the Buyer.
- 13 CONFIDENTIALITY**
- 13.1 The Supplier shall not use the Buyer's name for advertisement or publicity without the Buyer's prior written consent. The Supplier warrants that neither it, nor its employees, agents or sub-contractors will either during the Contract's term or at any time thereafter disclose any confidential, proprietary, or trade secret information, data or materials of the Buyer (or its customers, employees, agents or vendors) or that is supplied by the Buyer to Supplier or made accessible to the Supplier in relation to the Contract. Supplier also warrants that it shall use all commercially reasonable efforts to prevent the unauthorized disclosure and access to any of the information, data and materials described in the prior sentence and to use such information, data and materials only for the limited purpose of satisfying and properly performing the Order.
- 14 TERMINATION**
- 14.1 The Buyer shall be entitled to terminate all or a portion of the Contract without liability to the Supplier by giving notice (email is acceptable) to the Supplier at any time if the Supplier is in breach of any of the terms of the Contract and fails to cure such breach within ten (10) days of receipt of written notice of such breach from the Buyer. In addition, Buyer shall be entitled to terminate all or a portion of the Contract without liability to the Supplier by giving notice (email is acceptable) to the Supplier immediately at any time if:-
- 14.1.1 the Supplier makes any voluntary arrangement with its creditors, becomes insolvent, becomes bankrupt (or has a voluntary or involuntary bankruptcy filing occur that is not discharged within 30 days) or becomes subject to an administration order or goes into liquidation Or receivership; or
- 14.1.2 an administrative receiver or administrator is appointed over any of the Supplier's property or assets; or
- 14.1.3 the Supplier ceases, or threatens to cease, to carry on business; or
- 14.1.4 the Buyer reasonably believes that any of the events mentioned above is about to occur in relation to the Supplier and notifies the Supplier accordingly.
- 14.2 If the Buyer exercises any of its rights under clause 14.1 this shall not prejudice or affect any right of action or remedy which has already accrued to it at that time or which may accrue to it thereafter.
- 15 FORCE MAJEURE**
- 15.1 If the Buyer is affected by events beyond its reasonable control (including, without limitation, the imposition of governmental obligation or restriction, pandemic, epidemic, labor dispute, trade disputes, damage to its goods or property or the suspension or cancellation of an order by one or more of its customers) it shall be entitled without incurring any liability to the Supplier to require the Supplier to defer any delivery of Goods or the provision of any Services for such a period as may be reasonably necessary or to cancel any Order. Subject to clause 15.2, if the Buyer cancels any Order the Supplier shall be entitled after 90 days to payment of any sum that the Supplier has reasonably incurred in carrying out any work prior to the date of cancellation in the provision of Services or the production of Goods for delivery to the buyer under the
- order, provided that within 30 days from the date of cancellation the Supplier has submitted to the Buyer in writing its claim for payment together with all information and documentation reasonably necessary to enable the Buyer to verify the claim.
- 15.2 The sum referred to in clause 15.1, when aggregated with any monies already paid in relation to the Order, shall not exceed the Contract price.
- 16 ASSIGNMENT**
- 16.1 The Supplier shall not without the Buyer's written consent assign, transfer, hold upon trust for any third party or sub-contract (in whole or in part) any of its rights or obligations under the Contract. Any such consent shall not relieve the Supplier of any of its obligations under the Contract. To the extent that the Buyer consents to the Supplier leveraging an agent or subcontractor in its performance under the Contract, Supplier is responsible for any breaches of the Contract by such parties.
- 17 WAIVER**
- 17.1 If the Buyer waives any breach of the Contract by the Supplier this shall not be construed as a waiver of any subsequent breach of the Contract or any other provision.
- 18 PROPER LAW AND JURISDICTION**
- 18.1 These Conditions shall be governed by and construed in all respects in accordance with Colorado law. Each party hereby submits to the exclusive jurisdiction and forum of the state and federal courts located in Colorado.
- 19 NON-SOLICITATION AND NON-DISPARAGEMENT**
- 19.1 During the term of this Contract, and for a period of six (6) months thereafter, Supplier shall not solicit, hire, employ, or attempt to solicit, hire, employ or otherwise, directly or indirectly in any manner, acquire, engage, or attempt to acquire or engage the services of, any person employed by Buyer at any time during the term. Supplier shall also promptly inform Buyer in writing if at any time during the term and for six (6) months thereafter, Supplier intends to start to provide goods or services identical to or similar to any of the Goods to an individual or entity selling products or services competitive to those offered for sale by Buyer. During the term of this Contract, and for a period of six (6) months thereafter, Supplier shall not and shall ensure that its employees and agents do not, make any oral, written or electronic communications or statements that are negative, defamatory, slanderous, libelous or critical of the Buyer or its employees or agents or products or services.
- 19.2 During the Term of this Contract, Supplier shall, at Supplier's expense, maintain all insurance reasonable for a company such as Supplier and in no case no less than that required by Law, including without limitation, worker's compensation insurance.
- 20 WARRANTY**
- 20.1 Supplier represents and warrants that (i) Supplier has the right to enter into and perform this Contract and that such performance will not violate the terms of any other agreement to which Supplier is a party; (ii) Supplier has no outstanding agreement or obligation that is in conflict with any of the provisions of this Contract or that would preclude Supplier from complying with the provisions hereof; (iii) Supplier possesses all necessary skills, experience, and qualifications to properly and timely provide the Goods and Services, and that Supplier shall produce and provide the Goods and Services to the best of Supplier's ability, using the best technical practices, procedures, care and judgment, in a diligent, professional and workmanlike manner, in accordance with no less than accepted industry standards; (iv) Supplier shall properly accomplish each assignment under this Contract and shall perform all ancillary services and support to ensure that the Goods provided by Supplier hereunder work properly and meet all Specifications; (v) Supplier will satisfy all employer related obligations of any personnel that it places with Buyer associated with the Goods or that it engages to prepare or deliver the Goods and/or Services, including but not limited to all payment of benefits and employer obligations under applicable laws and all withholdings of required taxes associated with the Goods and Services such personnel perform and provide, and (vi) Supplier shall assist and satisfy any obligations that Buyer's customers require of Buyer that Buyer needs Supplier to satisfy to enable Buyer to satisfy its obligations to its customers.
- 20.2 If a legal action is brought under the Contract, the prevailing party in any such legal action or proceeding shall, in addition to any other relief, be entitled to recover its costs and reasonable attorney's fees from

Conditions of Purchases (page 4 of 4)

the other party.

- 20.3 For a period of three years following Buyers receipt of any Goods from Supplier (the "Warranty Period") Supplier warrants that the Goods will continue to satisfy the Section 3 obligations. If during the Warranty Period the Buyer identifies any default of Supplier's Section 3 obligations, Buyer shall promptly notify Supplier of such and Supplier shall promptly address and resolve such defaults to the satisfaction of the Buyer at Supplier's sole cost and expense and shall indemnify Buyer for any damages, charges, and costs and fees (including reasonable attorneys fees) incurred by Buyer related in any manner and resulting in any way from such Supplier defaults.
- 20.4 Buyer reserves the right to adjust an Order to the extent that Buyer determines that an inadvertent error was made