

THE BROCK GROUP
TERMS AND CONDITIONS OF PURCHASE

(Applicable to All Purchase Orders)

THIS AGREEMENT CONTAINS PROVISIONS RELATING TO INDEMNITY, RELEASE, LIMITATION OF LIABILITY AND ALLOCATION OF RISK FOR PURCHASES MADE BY BROCK SERVICES, LLC AND ITS AFFILIATES (“BROCK”)

1. General: Prompt acceptance of this Purchase Order for Material and/or Services (“Order”) is requested but, in any event, any delivery hereunder shall constitute an acceptance of the Order pursuant to these terms and conditions (“Conditions”). Acceptance of this Order is expressly limited to these Conditions, and any additional or different terms of Supplier are hereby rejected.
2. Warranty/Guarantee: Supplier represents, warrants and guarantees that all materials, equipment, supplies or goods delivered hereunder (collectively, the “Material”) (a) are merchantable and will pass without objection under industry standards and are and fit for the purpose of which they are normally used, (b) are new and conform to the description specified or to any specifications, drawings, designed or technical data previously specified, (c) are free of all defects in material, quality or workmanship, (d) are free of any liens or encumbrances, other adverse claims of ownership and claims of infringement on intellectual property rights, (f) are in conformity with all applicable local, state and federal laws, rules and regulations affecting the sale, purchase, manufacture, processing and delivery of the Materials. If the Material or any of their contents are subject to laws governing safety or hazardous substances, Supplier represents and warrants that it has disclosed such considerations to Brock. If the Order calls for installation, maintenance or other services, all such Services are warranted to be performed in a good and workmanlike manner and in compliance with the highest industry standards and all applicable codes. All warranties extend for a period of no less than four (4) years from delivery date or any completion by Supplier (or its contractors) and shall inure to the benefit of Brock’s assigns, successors and customers; provided that the warranties concerning liens, encumbrances, ownership and intellectual property rights shall extend for any period of time during which any such rights may be enforced.
3. Price, Payment and Invoicing: Prices shall be as specified in the Order. Payment term is net 60 days from the date of receipt of invoice. No extra charges of any kind will be allowed unless prior written consent is specifically provided by Brock. Supplier shall submit invoices, in number of copies specified on the face of the Order, on date of shipment for each and every separate shipment. Delays in receiving invoices, errors, or omissions shall be considered just cause for withholding payment without loss of cash or time discount privileges. In the event of a disputed invoice amount, Brock may withhold all payment on the invoice until the dispute is resolved.
4. Liens: Supplier shall not permit any liens to attach to the premises or jobsite of Brock and shall promptly procure the release of any such lien and hold Brock harmless from all loss, cost, damage, or expense (including, without limitation, attorney’s fees and expenses) incidental thereto. Supplier hereby authorizes Brock to withhold payments due in an amount to cover such indemnification obligations and to pay any such liens.
5. Cancellation: Brock reserves the right to cancel the Order or make changes in quantities, specifications and/or delivery schedules (a) if material is not shipped as specified; (b) for causes due to any acts or demands of the United States Government, its departments or political subdivisions; (c) for causes due to fires, strikes, or any causes beyond Brock’s control; or (d) if the Material or Services are not in accordance with the representations, warranties and guarantees as herein required from Supplier.
6. Shipments: Unless stated otherwise on the Order, all Materials purchased hereunder if delivered from Supplier’s stock are purchased F.O.B. Brock’s facility, Freight Prepaid and Allowed. Supplier shall use its own trucks, contract carriers and/or common carriers as agreed to by Brock. Special order or direct deliveries of Materials from the manufacturer, if other than Supplier, will be F.O.B. Brock’s facility, Freight Prepaid and Charged with delivery charges on a “pass-through” basis only and not subject to any markup. There shall be no charge for packing or crating, unless noted on the face of the Order. All Material must be so packed as to secure lowest possible freight rates and must be shipped by cheapest means possible to ensure timely, safe transportation with no accompanying loss, unless otherwise noted. Brock shall be notified as soon as possible when shipments will be made and of shipments made. Drivers and other Supplier or delivery personnel are required to abide by Brock’s safety regulations and rules of conduct while on Brock’s property or property of a third-party on which Brock’s jobsite is located, in addition to all rules and regulations imposed by law and by

the jobsite owner. Supplier shall promptly notify Brock whenever it appears to Supplier that it will not be able to deliver any part of the Materials specified. Brock, in addition to any other remedies available to it, may terminate the Order without any further liability. If Brock accepts short shipments or late deliveries of Materials, such acceptance shall not constitute a waiver of any of Brock's rights and remedies.

7. Returns and Excess Quantities: Brock may, at its discretion, return any Materials for any reason whatsoever, if in same condition as received from Supplier, within thirty (30) days of receipt by Brock. Brock shall receive credit for the Brock's purchase price for such returned Material, without any restocking fees. Brock shall not be liable for payment for Material delivered to Brock that is in excess of quantities specified on Purchase Orders. Supplier agrees to accept for return, at its expense including transportation charges, excess Materials delivered to Brock, providing such merchandise is in same condition as received from Supplier. If Supplier refuses the return thereof, the excess Materials shall be deemed abandoned by Supplier and Brock may dispose of the same without further liability of Brock to Supplier.
8. Assignments: Neither the Order nor any interest or rights therein shall be assigned or transferred by Supplier without Brock's prior written approval. Brock may at any time assign the Order and any and all rights hereunder.
9. Inspection: Brock shall have the right to inspect all Material ordered before shipment and after arrival at any shipping destination. Brock may reject any and all Material not conforming to any applicable plan, specification or description. Such rejected Material held by Brock or by any affected third party pending Supplier's disposition will be at Supplier's sole risk and expense.
10. Product Alerts: In order to assure the proper and safe use of Material, Supplier warrants that it shall furnish together with all Material offered all appropriate so-called "product warnings" adequate to permit such proper and safe use of the Material.
11. INDEMNITY OBLIGATIONS:
 - BROCK AGREES TO PROTECT, INDEMNIFY, HOLD HARMLESS AND DEFEND CUSTOMER, ITS OFFICERS, DIRECTORS, AND EMPLOYEES, FROM AND AGAINST ALL CLAIMS, PENALTIES, FORFEITURES, SUITS AND COSTS AND EXPENSES INCIDENT THERETO (INCLUDING COSTS OF DEFENSE, SETTLEMENT, AND REASONABLE ATTORNEY'S FEES), WHICH IT MAY HEREUNDER INCUR, BECOME RESPONSIBLE FOR, OR PAY OUT AS A RESULT OF DEATH OR BODILY INJURY TO ANY PERSON, DESTRUCTION OR DAMAGE TO ANY PROPERTY TO THE EXTENT THAT SUCH DAMAGE IS CAUSED BY ANY NEGLIGENT ACT OR WILLFUL MISCONDUCT OF BROCK OR ITS EMPLOYEES.
 - CUSTOMER AGREES TO PROTECT, INDEMNIFY, HOLD HARMLESS AND DEFEND BROCK, ITS OFFICERS, DIRECTORS, AND EMPLOYEES, FROM AND AGAINST ALL CLAIMS, PENALTIES, FORFEITURES, SUITS AND COSTS AND EXPENSES INCIDENT THERETO (INCLUDING COSTS OF DEFENSE, SETTLEMENT, AND REASONABLE ATTORNEY'S FEES), WHICH IT MAY HEREUNDER INCUR, BECOME RESPONSIBLE FOR, OR PAY OUT AS A RESULT OF DEATH OR BODILY INJURY TO ANY PERSON, DESTRUCTION OR DAMAGE TO ANY PROPERTY TO THE EXTENT THAT SUCH DAMAGE IS CAUSED BY ANY NEGLIGENT ACT OR WILLFUL MISCONDUCT OF CUSTOMER OR ITS EMPLOYEES IN THE PERFORMANCE OF WORK.
12. PATENT INDEMNIFICATION: SUPPLIER, ITS HEIRS, SUCCESSORS, ASSIGNS AND LEGAL REPRESENTATIVES, AGREES TO DEFEND, PROTECT, AND HOLD HARMLESS BROCK GROUP

AND ITS CUSTOMERS AGAINST ALL CLAIMS, COSTS (INCLUDING EXPERT AND ATTORNEYS' FEES) AND LIABILITIES FOR INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADEMARK OR OTHER INTELLECTUAL PROPERTY RIGHT WHICH ARISES FROM THE MANUFACTURE, USE OR SALE OF THE MATERIALS FURNISHED HEREUNDER. FURTHER WHERE BROCK'S USE OR OTHER BENEFIT FROM THE MATERIALS SHOULD BE ADVERSELY AFFECTED AS A RESULT OF ANY SUCH CLAIMS, SUPPLIER EXPRESSLY AGREES TO REMEDY, UPON WRITTEN DEMAND BY BROCK, THE ADVERSE EFFECTS, INCLUDING ITS FURNISHING EQUIVALENT SUBSTITUTE MATERIALS OF EQUAL OR BETTER QUALITY AND/OR COMPENSATING BROCK FOR ALL DAMAGES INCURRED AS A RESULT OF SUCH EFFECTS.

13. Proprietary Rights: All drawings, designs, specifications, descriptions, technical data and other information ("Information") furnished to Supplier by Brock for use with the Order constitute the property and/or trade secrets of Brock. Supplier expressly covenants and agrees that it will treat the Information as strictly confidential and use the Information only to complete the Order and to return the Information upon completion or termination of the Order along with all copies or reproductions thereof. Supplier agrees that copies of the Information can be made only with Brock's prior written consent.
14. Compliance with Laws: Supplier warrants that no applicable laws or regulations shall be violated in the manufacture or sale of the Material or performance of the Services hereunder, and that Supplier shall comply with, and adhere to, all applicable laws and regulations which may apply to Supplier in connection with the Order. SUPPLIER SHALL DEFEND, INDEMNIFY, AND HOLD BROCK GROUP HARMLESS AGAINST ANY CLAIMS IN RESPECT THEREOF. Without limitation to the generality of the foregoing, Supplier shall strictly comply with, and adhere to, all applicable laws and regulations pertaining to environment, health and safety, and to trade and export control. When the Material (or part thereof) are subject to governmental export control laws and regulations, Supplier shall provide Brock with applicable Export Commodity Classification Numbers and Harmonized Tariff Schedule Numbers per item, including certificates of manufacture in accordance with the origin rules imposed by governmental authorities.
15. Enforcement: No right, remedy or election hereunder or at law or in equity shall be deemed exclusive but shall, wherever possible, be cumulative with all other rights, remedies or elections. The parties agree that the state or federal courts located in Harris County, State of Texas shall be the exclusive forum for the adjudication of any controversy or dispute relating to these Conditions and/or the Order, and both parties hereby consent to the personal jurisdiction of such courts for all such purposes. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas without regard to the choice of law rules, statutes, or laws thereof. Should any provision hereof be held invalid or illegal, such holding shall not affect the validity of the remaining provisions. Acceptance of, or Supplier's offer to provide, the Material and/or Services is expressly limited to these Conditions, and any additional or different terms of Supplier are hereby rejected. The Order and these Conditions constitute the final, complete and exclusive agreement between Supplier and Brock and no agreement or understanding, oral or written, in any way purporting to modify or negate these Conditions, whether contained in Supplier's bid documents, order acknowledgement, invoice or in any other of Supplier's forms or elsewhere, shall be binding on Brock, unless agreed to in writing and executed by an officer of both parties. In addition to any other legal or equitable remedies, Brock shall have the right to demand adequate assurances respecting Supplier's timely and conforming performance of the Order and these Conditions and inspect Supplier's books and records to ensure compliance therewith. Failure to enforce any or all of the Order and these Conditions in a particular instance shall not act as a waiver or preclude subsequent enforcement.
16. Miscellaneous: Supplier shall be responsible and liable for any and all payroll taxes and employee benefits due its employees, and shall HOLD HARMLESS AND INDEMNIFY Brock Group for any such taxes and benefits that it may be required to pay in connection with the Order. Time is of the essence in the performance of Supplier's obligations hereunder. All captions are for convenience and do not constitute a part of these Conditions. The parties expressly agree that the "U.N. Convention on Contracts for the International Sale of Material" and the "Convention on the Limitation Period in the International Sale of Material" do not form a part the Order, nor these Conditions, and the same are hereby expressly renounced for all purposes. The Brock companies are separate legal entities and are not entering into this Agreement as joint venturers, partners or otherwise in any capacity that would render them jointly or jointly and severally liable hereunder. Further, no Brock entity is a guarantor or surety for any other Brock entity.