



TERMS AND CONDITIONS

1. **Definitions.** “**Buyer**” means Hutchens Industries, Inc. or the division thereof indicated on the front side of this Purchase Order or its successors or assigns. “**Products**” means all goods and services to be provided pursuant to this Purchase Order. “**Purchase Order**” means the terms and conditions set forth on the front side hereof along with the Terms and Conditions set forth herein. “**Seller**” means the person, corporation or other entity providing Products to Buyer, and Seller’s successors or permitted assigns.

2. **Acceptance.** This Purchase Order constitutes an offer by Buyer to purchase the Products. Acceptance of this offer is limited to the terms set forth in this Purchase Order. Buyer’s offer and Seller’s acceptance shall together constitute a contract (this “Contract”). Seller shall expressly indicate its acceptance of this offer by signing and returning the Acceptance Copy of this Purchase Order to Buyer. If no such express acceptance occurs, Seller shall be deemed to have accepted this offer if Seller does not reject this Purchase Order within ten (10) days after Seller’s receipt of this Purchase Order, or, if shipment of the Products occurs prior to such time, Seller shall be deemed to have accepted this offer when Seller ships the Products. Additional of different terms in any documents of Seller are hereby objected to and rejected, but such additional or different terms shall not operate as a rejection of this offer, unless such additional or different terms relate to the description, quantity or price of the Products, but instead shall be deemed a material alteration and this offer shall be deemed accepted by Seller without said additional or different terms. In the event such additional or different terms relate to the description, quantity or price of the Products, such additional or different terms shall operate as a rejection of this offer.

3. **Inspection.** Payment for the Products shall not constitute acceptance. Buyer shall have the right to inspect such Products and to reject any Products that are in Buyer’s judgment defective or nonconforming. Products rejected may be returned to Seller at Seller’s expense and Seller shall pay all expenses attributable to such rejection.

4. **Price Warranty.** Seller warrants that prices shown on this Purchase Order are complete and no additional charges will be added without Buyer’s written consent. Such additional charges include, without limitation, shipping, packaging, taxes, storage, and insurance.

5. **Warranty.** Seller warrants to Buyer, customers of Buyer, and users of products sold by Buyer, that the Products will conform to all specifications, drawings, samples or other description furnished to or by Buyer and will be fit and sufficient for the purpose intended, merchantable, of good material and workmanship

and free from any defects. If buyer elects, Seller shall replace or correct defects of any Products that do not conform to this warranty without expense to Buyer. If seller fails to correct defects in or replace nonconforming Products promptly, Buyer may make such corrections or replace such Products and charge Seller for the cost thereof. Inspection, acceptance or use of the Products furnished hereunder shall not affect Seller's obligations under this warranty, and such warranties shall survive inspection, acceptance and use. Seller further warrants that the Products are free of liens and other encumbrances and that Seller will transfer to Buyer good and marketable title to the Products.

6. Indemnity. Seller agrees to defend, hold harmless and indemnify Buyer and its officers, directors, employees, representatives and agents from and against any loss, expense (including witness and attorneys' fees), damages, costs and judgments arising in any way from product liability, negligence, warranty or legal claim of any type made by any entity or person, including Buyer's customers and the users of Buyer's products, relating to the use or misuse of the Products (including without limitation death or injury to persons or damage to property) and for the performance, breach or nonperformance of this Contract by Seller, including without limitation (i) breach of the warranty set forth in paragraph 5, (ii) any claim of infringement (whether actual or alleged) of any patents, trademarks, trade usages or copyrights by reason of use or sale of the Products by Buyer or its customer, or (iii) the failure of the Products or the manufacturer thereof to comply with any applicable industry, federal, state and/or local laws, rules, regulations and standards.

7. Insurance. Seller shall obtain and keep in force for three (3) years after the last delivery under this Contract general comprehensive liability insurance covering each occurrence of bodily injury and property damage in an amount of not less than \$1 million (or any other amount Buyer may indicate in this Contract) combined single limit with special endorsements providing coverage for:

- (a) Products and Completed Operations Liability;
- (b) Blanket Broad Form Vendor Liability; and
- (c) Blanket Contractual Liability

If services are performed under this Contract on Buyer's premises, Seller shall also obtain Premises Operations, Personal Injury, and Independent Contractor's Protective Liability endorsements, and shall further obtain Worker's Compensation, Employer's Liability, and Automobile Liability Insurance coverage in amounts acceptable to Buyer. If requested, Seller shall furnish Buyer with a certificate evidencing the required insurance.

8. Delivery. Time is of the essence of this Contract and delivery shall be effected and accepted within the time agreed upon.

9. Risk of Loss. Seller shall bear all risk of loss or damage in transit on items covered by this Contract until the Products have been actually delivered to and accepted by Buyer at the destination specified on the front

side of this Purchase Order. The term "F.O.B" in this Purchase Order refers to transportation charges only and it does not vary the foregoing provisions of this paragraph.

10. Changes. Buyer shall have the right at any time to make changes in specifications, drawings, samples, and the time, place, and method of shipment. Seller agrees to accept any such changes, and, if such changes result in increased or decreased cost to Seller, Seller and Buyer shall make an equitable adjustment in the purchase price. Buyer and Seller shall modify this Contract in writing accordingly.
11. Termination. Buyer reserves the right to terminate all or any portion of this contract for its convenience. In such event Seller shall immediately stop all work on the Products, shall observe any instructions from Buyer with respect to work in process, and shall be paid reasonable termination charges. Buyer may also terminate all or any portion of this Contract for cause in the event of any default by Seller or if Seller fails to comply with any of the terms and conditions of this Contract. "For Cause" termination includes, without limitation, early or late shipments of Products that are defective or nonconforming. In the event of any termination for cause, Buyer shall not be liable to Seller for any Products not received and retained by Buyer, and Seller shall be liable for, and shall hold Buyer harmless from, any damages occasioned by Seller's breach or default. If it should be determined that Buyer has improperly terminated this Contract for cause, such termination shall be deemed to be for Buyer's convenience.
12. Consignment. Any material furnished by Buyer on other than a charge basis in connection with this Contract shall be deemed as held by Seller on consignment and Seller agrees to pay for all such materials spoiled by it or not otherwise satisfactorily accounted for.
13. Governing Law. This Contract shall be governed by and construed and interpreted in accordance with the laws of the State of Missouri applicable to agreements made and to be performed entirely within such State.
14. Exclusive Forum. SELLER IRREVOCABLY AGREES THAT, SUBJECT TO BUYER'S SOLE ELECTION, ALL ACTIONS OR PROCEEDINGS IN ANY WAY, MANNER OR RESPECT ARISING OUT OF OR FROM OR RELATED TO THIS CONTRACT OR THE PRODUCTS SHALL BE LITIGATED ONLY IN COURTS HAVING SITUS WITHIN KANSAS CITY, MISSOURI OR SPRINGFIELD, MISSOURI. SELLER HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY LOCAL, STATE OR FEDERAL COURT LOCATED WITHIN SAID CITIES AND STATE. SELLER HEREBY IRREVOCABLY APPOINTS AND DESIGNATES THE CORPORATION COMPANY, WHOSE ADDRESS IN 7733 FORSYTH BLVD., CLAYTON, MISSOURI 63105, OR ANY OTHER PERSON OR ENTITY HAVING AND MAINTAINING A PLACE OF BUSINESS IN SUCH STATE, WHOM SELLER MAY FROM TIME TO TIME HEREAFTER DESIGNATE. HAVING GIVEN THIRTY (30) DAYS WRITTEN NOTICE THEREOF TO BUYER, AS SELLER'S TRUE AND LAWFUL ATTORNEY AND DULY AUTHORIZED AGENT FOR ACCEPTANCE OF SERVICE OF LEGAL PROCESS. SELLER AGREES THAT SERVICE OF SUCH PROCESS UPON SUCH PERSON SHALL

CONSTITUTE PERSONAL SERVICE OF SUCH PROCESS UPON SELLER. SELLER HEREBY WAIVES ANY RIGHT IT MAY HAVE TO TRANSFER OF CHANGE THE VENUE OF ANY LITIGATION BROUGHT WITH RESPECT TO THIS AGREEMENT.

15. Entire Agreement – Assignment – Waiver – Cumulative Remedies. This Contract constitutes the complete and exclusive statement of the terms of the agreement between the parties and cancels and supersedes all prior communications between the parties. No agreement or other understanding in any way modifying the terms of this Contract will be binding upon Buyer unless made in writing and signed by Buyer's representative. No part of this Contract may be assigned or subcontracted by Seller without the prior written approval of Buyer. All claims for money due or to become due from Buyer shall be subject to deduction or setoff by Buyer by reason of any counterclaim arising out of this or any other transaction with Seller. Buyer's failure to insist on any right shall not operate as a waiver of any other right. The rights and remedies provided for in this Contract shall be cumulative and additional to any other or further remedies provided in law or equity.

16. Missouri Sales Tax Exemption Certificates. The following applies only if the MST box on the face hereof is checked. The Purchaser hereby certifies that it is engaged in the manufacturing business and that any purchases herein described are for the purpose of further manufacture and will become an ingredient or component of a new product to be resold in the normal course of business. We further certify that if any property so purchased tax free is used or consumed by the firm as to make it subject to the Sales or Use Tax we will pay the tax due direct to the proper taxing authority when state law so provides or inform the seller for added tax billing. Code number of purchaser

- 1027309-3 Hutchens Industries, Inc.