

# NORTH AMERICAN HÖGANÄS Co.

## Conditions of Purchase

This purchase order is Buyers offer to the Seller named on the reverse side hereof, and when accepted by Seller within thirty (30) days of the date hereof either by acknowledgment or by performance, shall be a binding contract between Buyer and Seller subject to the terms and conditions hereof (“ Agreement” ).

1. ACCEPTANCE. No acceptance shall be effective that varies the terms hereof or proposes additional terms. Any such proposals shall be deemed to be rejected unless expressly approved by Buyer in writing. Unless accepted by Seller within thirty (30) days of the date hereof, this purchase order shall expire.

2. EXTRA CHARGES. Any charges for materials and/or services beyond those specifically set forth herein are rejected unless agreed to by Buyer in writing

3. DELIVERY. Partial shipments or deliveries shall not be permitted without the prior written consent of Buyer. Seller acknowledges that time is of the essence of this Agreement, and should Seller fail to comply with Buyers delivery schedule or otherwise breach its obligations hereunder, Buyer may terminate the Agreement without liability. Seller shall give Buyer timely notice of any anticipated delays in shipment or performance. Subject to the foregoing, Seller will not be liable for damages for delays in delivery due to causes beyond its reasonable control. Seller shall be responsible for suitable packing of goods to be delivered. All shipments shall be legibly marked and accompanied by identifying documentation.

4. WARRANTIES. Seller warrants that all goods sold hereunder will conform to applicable specifications, drawings, descriptions and samples, and will be merchantable, of good workmanship and material and free from defect. Unless manufactured pursuant to detailed designs furnished by Buyer, Seller assumes design responsibility and warrants the goods to be free from design defect and suitable for the purposes intended by Buyer. Sellers warranties, together with its service guarantees, shall run to Buyer and its customers or users of the goods and shall not be deemed to be exclusive. Inspection, approval, acceptance, use or payment by Buyer or its customers for all or any part of the goods shall in no way affect their respective warranty rights whether or not a breach of warranty had become evident at the time.

5. WORK ON BUYERS OR CUSTOMERS PREMISES. If Sellers work pursuant to this Agreement involves operations by Seller on the premises of Buyer and/or of a customer of Buyer, Seller shall take all precautions in the performance of such work necessary to prevent any injury to persons or property arising therefrom and shall indemnify and hold harmless Buyer and/or its customer, as applicable, against any and all claims for injury to person or property and reimburse Buyer for any and all loss arising out of or related to any act or omission of Seller, its agents, employees or subcontractors as the case may be.

6. REJECTIONS. If any of the goods provided by Seller pursuant hereto are found at any time to be defective in material or workmanship, or otherwise not in conformity with the requirements of this Agreement, Buyer, in addition to any other rights which it may have under warranties or otherwise, shall have the right to reject and return such goods at Sellers expense. Such goods shall not be replaced without prior written authorization from Buyer.

7. BUYERS PROPERTY. To the extent Seller may use the equipment, tools, and/or other materials of Buyer in fulfilling its obligations pursuant to this Agreement, all such materials shall remain the property of Buyer. Such materials, while in Sellers custody or control, shall be held at Sellers risk and shall be insured by Seller at Sellers expense in an amount equal to the replacement costs of the same.

8. SUB-CONTRACTING AND ASSIGNMENT. The rights and obligations created by this Agreement may not be assigned or otherwise transferred by Seller without the prior written consent of Buyer. No delegations of performance under this Agreement, whether by subcontract or otherwise, shall relieve Seller of responsibility for full performance without the consent of Buyer.

9. COMPLIANCE WITH LAWS. Seller shall comply with all applicable Federal, State and local laws as amended, and rules and regulations issued there under, including but not limited to the Fair Labor Standards Act of 1938, the Occupational Health and Safety Act of 1970, and those with respect to equal employment opportunity. Where such laws or regulations so provide, the required provisions thereof are incorporated by reference herein. Seller shall furnish a more particular certificate of compliance upon request by Buyer.

10. PATENTS. Seller shall defend and hold harmless Buyer and its affiliated companies, their successors, assigns, customers and users of their products from all damages, claims, demands, actions, expenses and other costs arising out of or based upon actual or alleged infringement of any United States or foreign patent, trademark, copyright, trade secret or other proprietary right covering or purporting to cover the acquisition, use, consumption or resale of goods or services delivered under this

Agreement. In the event the use of any product or service provided to Buyer pursuant hereto is permanently enjoined by reason of any such infringement or alleged infringement, Seller shall, at its own expense and at its sole option, (i) procure for Buyer the right to continue using the product, (ii) modify such product to render it non-infringing, (iii) replace such product with non-infringing goods, or (iv) refund the purchase price and the transportation costs paid by Buyer for such product or service.

11. TERMINATION. (a) If Seller defaults in the performance of its obligations hereunder or ceases to conduct its operations in the normal course of business (including any inability to meet its obligations as they mature) or if any proceeding under the bankruptcy or insolvency laws is brought by or against Seller, or a receiver for Seller is appointed or applied for or an assignment for the benefit of creditors is made by Seller, Buyer may, at its discretion and without liability, terminate this Agreement with respect to goods not delivered and/or service not yet provided.

(b) Buyer may at its convenience terminate this Agreement, in whole or in part, at any time by written notice to Seller who shall thereupon stop work immediately, notify subcontractors, if any, to stop work, and protect any of Buyers property then in Sellers possession. Seller shall promptly advise Buyer of the quantities of applicable work and material on hand or purchased prior to such a termination and the most favorable disposition that Seller can make thereof. All claims by Seller based on such a termination must be asserted, in writing and in full, within ninety (90) days from the date of notification of the termination, or they shall be waived. Buyer shall pay Seller the Agreement price of finished work and the actual costs of Seller that are properly allocable by recognized accounting practices to work in process and raw material; less, however, the agreed value of any items used or sold by Seller to others with Buyers consent. The payment provided under this clause shall constitute Buyers only liability in the event this Agreement is terminated as provided herein. The foregoing provisions of this clause shall not apply to any termination by Buyer for default of Seller or other action of Buyer permitted under the provisions of this Section 11.

(c) If the goods covered by this Agreement are standard stock items of Seller, Buyer may, at its option, upon fifteen (15) days prior written notice, cancel any unshipped portion of this Agreement without further obligation hereunder except to make payment, subject to other applicable terms hereof, for the materials delivered prior to the effect date of such cancellation.

(d) Buyer shall not be liable for failure to take delivery of material or work or render any other performance in the event fire, accidents, labor difficulties, governmental actions, third party failures or any other condition beyond Buyers reasonable control renders it commercially impractical for Buyer to do so.

12. CONFIDENTIALITY. Seller hereby acknowledges that Buyers specifications and other technical and/or commercial data are the exclusive property of Buyer and are confidential in nature. Seller agrees to hold in confidence all confidential information and shall not, without Buyers prior written consent, disclose to any third party such confidential information. Any such information may be used by the Seller only to fulfill its obligations pursuant to this Agreement. Nothing herein shall give Seller any right, title or interest in or to any proprietary rights of Buyer or its affiliates.

13. INSURANCE. Seller shall maintain in full force and effect, until the first anniversary of the completion of Sellers performance hereunder, with an insurance company satisfactory to Buyer, comprehensive general liability insurance, including coverage for products liability and personal injury with respect to all claims and damages arising out of the manufacture, distribution, sell, or use of the products and/or any actions or inactions taken by the Seller pursuant to or in fulfillment of its obligations under this Agreement. Such policies shall have policy limits sufficient to provide adequate protection, at Buyers reasonable judgment, for Seller against any such claim for damages and in no event shall have policy limits of less than Two Million Dollars (\$2,000,000.00) per claim. Such policy shall name the Buyer as an additional insured. Seller shall maintain applicable workers compensation insurance with respect to its own employees. Copies of certificates evidencing such insurance policies shall be delivered by Seller to Buyer within three (3) days after the execution of this Agreement. Sellers liability to Buyer under this Agreement shall not be limited to the amount or terms of such insurance.

14. GOVERNING LAW. This Agreement shall be governed by and construed with the laws of the State of Pennsylvania. Any claims or legal actions by one Party against the other shall be commenced and maintained only in the Court of Common Pleas of Somerset County, Pennsylvania and/or in the Federal Courts of Western District of Pennsylvania. Both Parties hereby submit to the jurisdiction and venue of any such Court.

15. NO AMENDMENT. The Agreement shall supersede any other agreement or understanding between Buyer and Seller relating to the subject matter hereof made prior to the date hereof. This Agreement may not be amended or modified except by a written agreement executed by the Parties hereto.