



Terms & Conditions

1. GENERAL

1.1 DEFINITIONS:

- (a) "Tek84 Inc." - means the purchaser of Goods and/or Services hereunder and will be referred to as "Purchaser".
- (b) "Force Majeure Event" - means an event such as a fire, riot, flood, labor dispute, natural disaster, prolonged, major internet or telecommunications failure, epidemic, terrorist act or other reason of a like nature. It does not include events caused by the fault or negligence of the Supplier, or events that are reasonably avoidable.
- (c) "Good(s)" - means the materials, supplies, items, and/or equipment, or any part of the foregoing covered by this Order.
- (d) "Order" - means this Purchase Order.
- (e) "Services" - means the work and/or services to be performed by the Supplier pursuant to this Order.
- (f) "Vendor" or "Supplier" - means the contractor, consultant, service provider or seller of Goods and Services designated on this Order and includes its employees, agents, subcontractors, independent contractors and all other classes of persons providing any Goods or performing any Services hereunder.

- 1.2 Except where condition 8 applies, these terms and conditions apply to every order placed by Purchaser with any individual, firm, organization, or company ("Vendor", "the Vendor", "Supplier", or "the Supplier"). Any terms and conditions contained within or attached to any document of any kind which are inconsistent with the terms and conditions outlined in this document, or which attempt to add to or modify these terms and conditions in any way shall not be deemed acceptable or legally binding unless expressly and clearly accepted by Purchaser in writing. Should the Supplier be unable to supply such written agreement, the Supplier agrees to waive or withdraw the supplemental or modifying terms and conditions and contract with Purchaser exclusively on the basis of these terms and conditions. Acceptance of goods and/or services by Purchaser shall not constitute or be deemed to constitute acceptance of Vendor-supplied or otherwise non-standard terms and conditions by Purchaser. All parties affirm that the contract shall commence and the Supplier will be bound contractually to fulfill the obligations outlined within these terms and conditions upon the issuance of a purchase order ("the contract") to the Supplier by Purchaser.

1.3 ACCEPTANCE OF ORDER

To accept this Order, the Supplier must provide written acknowledgement of such acceptance to Purchaser. If for any reason the Supplier fails to provide written acknowledgement of its acceptance, any conduct by the Supplier that recognizes the existence of a contract pertaining to the subject matter hereof shall constitute an acceptance by the Supplier of this Order and all of its terms and conditions. Any terms proposed in the Supplier's acceptance of this Order that add to, vary from, or conflict with the terms herein are hereby rejected. If this Order has been issued by Purchaser in response to a bid, solicitation, estimate, proposal or other written offer by the Supplier and if any of the terms herein are additional to or different from any terms of such bid, solicitation, estimate, proposal or other written offer, then the issuance of this Order by Purchaser shall constitute an acceptance of such bid, solicitation, estimate, proposal or other written offer subject to the express conditions that the Supplier assents to such additional and different terms herein, and the Supplier shall be deemed to have so assented unless the Supplier notifies Purchaser to the contrary in writing within 7 days of receipt of this Order.

2. PURCHASE ORDER

2.1 The Supplier agrees to ensure the goods and/or services provided shall:

- (a) correspond with the quantity, type, sort, quality and description defined in the purchase order;
- (b) meet performance standards, benchmarks, and delivery schedule specified on the purchase order or as specified to the Supplier by Purchaser;
- (c) be of satisfactory quality and fit for any purpose specified by the Supplier or specified to the Supplier by Purchaser;

(d) where applicable, be free from defects in design, materials and workmanship and remain so for a period of 30 days from the delivery date;

(e) comply with all applicable statutory, legal, and regulatory requirements relevant to the manufacturing, production, labelling, packaging, storage, handling, and delivery of the specified goods.

2.2 ORDER NUMBERS:

Purchaser will communicate a purchase order number (the "Purchase Order Number") to the Supplier by telephone, fax or e-mail. The Supplier shall include the Purchase Order Number on every packing sheet, invoice and every other communication related to this order. Packing sheets should reference Purchaser part numbers.

2.3 CHANGES: Purchaser may make changes to any services to be performed or to any goods to be specifically manufactured, but no change shall be effective, nor shall Purchaser be obligated to pay any increase in compensation as a result of a change, unless Purchaser issues a written change order. Changes which increase or decrease pricing shall be revised as mutually agreed to in writing.

2.4 INSPECTION:

All items are subject to final inspection and acceptance by Purchaser at the destination notwithstanding any prior payment or inspection at the source. Acceptance of any items by Purchaser shall not be deemed to alter the obligations of the Supplier or the rights of Purchaser and its customers under the Warranty clause or any other provision of this purchase order.

2.5 SHIPMENT OR DELIVERY:

Time is of the essence for shipment or delivery and to any other performance required of the Supplier. Shipment or delivery shall be in accordance with the schedule set out in the purchase order and in exact quantities ordered. If it appears the Supplier will not meet such schedule or if the Supplier fails to meet such schedule, the Supplier shall, upon request of Purchaser and in addition to any other rights or remedies provided to Purchaser by law or under this purchase order, ship via expedited routing necessary either to meet such schedule or to recover the maximum possible time lost by failure to ship or deliver on schedule, and the difference between the expedited routing and the purchase order routing cost shall be borne by the Supplier. Purchaser reserves the right, at the Supplier's expense, to return any goods shipped in advance of the schedule set out in the purchase order.

In the event the Supplier fails to deliver the goods, or perform the services, specified by the date specified in the purchase order, Purchaser may, at its option, terminate the contract without notice.

2.6 REJECTION:

Purchaser shall notify the Supplier if any items, goods and/or services delivered hereunder are rejected for being nonconforming and/or failing to comply with Purchaser purchase order and/or submitted instructions. The Supplier shall issue Purchaser a credit for all costs and expenses with respect to such rejected items or replace or correct rejected items, at Purchaser's election. Purchaser may, at its option, either return the goods to the Supplier at the Supplier's own expense and risk of loss; reject the goods and/or services at the Supplier's risk; require the Supplier to replace the goods or re-perform the services; accept in whole or part such goods and/or services supplied by the Supplier without prejudice to or limitation of any rights held by Purchaser to claim damages or other compensation for loss, damage, or material failure suffered as a result of the Supplier's failure to comply with these terms and conditions.

2.7 WARRANTY:

The Supplier warrants that all goods delivered hereunder shall be merchantable, fit for their particular purpose and free from defects, whether latent or apparent. The Supplier warrants that all services performed hereunder shall be performed in a good and workmanlike manner by qualified, trained personnel, free from errors. The Supplier warranties shall be enforceable by Purchaser and shall run to Purchaser's customer(s).

2.8 PACKING AND SHIPPING:

All items must be properly prepared for shipment to secure lowest transportation rates and comply with carrier regulations. No charges will be paid by Purchaser for packing, crating, or cartage unless so stated in the order. All shipments to be forwarded on one day via one route must be consolidated. To the extent practicable, items ordered under separate Purchase Order Numbers shall be

segregated within the pallet, box or shipping container. A separate packing sheet for each order included in a shipment, showing Purchase Order Number, must be included with each shipment.

2.9 CANCELLATION:

Purchaser may cancel this Purchase Order in whole or in part by written or telegraphic notice if:

- (a) The Supplier becomes insolvent or makes a general assignment for the benefit of creditors, or a receiver/liquidator is appointed or applied for, or the Supplier admits in writing its inability to pay its debts as they become due;
- (b) Or any proceeding under any applicable federal or state bankruptcy or insolvency law is brought by or against the Supplier;
- (c) Or the Supplier defaults in the performance of any term or condition which it is obligated to perform hereunder. If the cost of completion of the order is in excess of the contract price, then the Supplier shall be liable for such excess. However, except with respect to default of subcontractors, the Supplier will not be liable for any excess costs if the failure to perform arises out of causes beyond control and without the fault or negligence of the Supplier or its subcontractors, unless the merchandise or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to comply with the order. The rights and remedies of Purchaser as provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Purchase order.

3.0 CHANGES:

Purchaser may, at any time, by written notice and without notice to the sureties or assignees, make changes within the general scope of this Purchase Order in any one or more of the following:

- (1) drawings, designs, or specifications;
- (2) method of shipping or packing;
- (3) place of delivery;
- (4) delivery schedule.

Should any such change increase or decrease the cost of, or the time required for performance of this Purchase Order, proper adjustments shall be made in price or delivery schedule or both, as the case may be. No claim by the Supplier or such adjustment will be valid unless received by Purchaser within 30 days from date of such change, or such longer period, as may be authorized by Purchaser in writing. Nothing contained in this clause shall relieve the Supplier from proceeding without delay in the performance of this Purchase Order as changed.

3.1 PRICING, PAYMENTS, AND OFFSET

3.2 PRICING: Prices paid for goods and/or services shall be the prices established in the purchase order, including, but not limited to, packaging costs, insurance fees, restocking fees and shipment of goods (and/or provision of services). No extra charges, if any, will be incurred unless agreed upon in writing by Purchaser.

3.3 INVOICES/PAYMENT

3.4 With regard to goods, the Supplier agrees to invoice Purchaser upon delivery or at any time after delivery of the goods. Regarding services, the Supplier agrees to invoice Purchaser in full, monthly, or quarterly as specified in the purchase order.

3.5 Purchaser may, without limiting its other rights or remedies, offset (i.e., set off) any amount owed to it by the Supplier against any amount owed by Purchaser to the Supplier.

3.6 A separate invoice shall be issued for each shipment and for each Purchase Order Number, with the Purchase Order Number stated on the face of the invoice. No invoice shall be issued prior to shipment of goods, and no payment shall be made prior to receipt and acceptance of conforming goods and invoice. Payment terms commence upon receipt of a correct invoice. Purchaser will pay all invoiced amounts to the bank account specified in writing by the Supplier within 30 days of receiving a valid and correct invoice. The Supplier acknowledges and agrees that contractors are required to register their company on a Purchaser nominated marketplace or Buyer e-procurement system. The Supplier shall receive electronic purchase orders and Purchaser shall receive electronic invoices via such marketplace.

3.7 INTEREST:

Purchaser does not authorize and shall not pay any interest charges or any late fees for late payments of invoices, provisions stated on packing lists, invoices, or other documents to the contrary notwithstanding.

4. CONTRACT CONFIDENTIALITY

The Supplier agrees to treat all confidential information belonging to Purchaser as confidential subject matter or reasonable known to be confidential, including, but not limited to, designs, processes, drawings, specifications, reports, data and other technical or proprietary information and the features of all parts, equipment, tools, gauges, patterns and other items furnished or disclosed to the Supplier by Purchaser in connection with this purchase order and protect it accordingly. The Supplier agrees not to disclose any such information without the prior written consent of Tek84 Inc and shall not use Purchaser's confidential information except as contemplated in this purchase order. Upon completion or termination of this purchase order, the Supplier shall return all Purchaser's Confidential Information to Purchaser or make such other disposition thereof as may be directed and approved by Purchaser and shall certify to such return or destruction.

5. RESPONSIBILITY FOR PROPERTY: Unless otherwise provided in this purchase order, the Supplier, upon delivery to it or manufacture or acquisition by it, of any materials, parts, tooling or other property, the title to which remains with Purchaser, assumes the risk of and shall be responsible for any loss or damage. The Supplier, pursuant to the provisions of this purchase order, but in any event upon completion thereof, shall return such property to Purchaser in the condition in which it was received, reasonable wear and tear excepted, except to the extent that such property has been incorporated into items delivered under this purchase order or has been reasonably consumed in performance of work under this purchase order.

6. TITLE AND RISK OF LOSS: The Supplier warrants title to all goods sold and bears the risk of loss or damages to the items purchased under this purchase order until they are delivered in conformity with this purchase order at Purchaser's delivery point specified in this purchase order or installed, as required pursuant to the purchase order, and, upon such delivery or installation, title shall pass to Purchaser. Passing of title shall not constitute acceptance of the items by Purchaser

7. GENERAL

7.1 Force majeure: Neither party shall be liable to the other due to any delay or failure to perform its obligations under the Contract if and to the extent that such delay or failure is caused by circumstances beyond the reasonable control of that party which, by their nature, could not have been foreseen by such a party or was unavoidable if foreseeable. Should such circumstances prevent the Supplier from supplying the specified goods and/or services for more than 4 (four) weeks, Purchaser may, without limiting its other rights or remedies, provide written notice to the Supplier to terminate this contract with immediate effect.

7.2 Assignment and subcontracting: The Supplier agrees not to assign, transfer, subcontract or deal in any other manner with all or any of its rights and obligations under the contract without prior written consent from Purchaser Any attempts to do so will be null and void. The price quoted by the Supplier includes the price of any goods or services obtained from any subcontractor or vendor to the Supplier, unless otherwise agreed in advance by Purchaser. The Supplier shall incorporate these terms and conditions on any order or subcontract approved by Purchaser and procured from third parties pertaining to this purchase order. The Supplier shall remain fully responsible for all work performed by such third parties and shall indemnify and hold the Supplier harmless for any payment required to be made to any such parties.

7.3 Notices: Any communication required to be given under or in connection with this contract shall be in writing.

7.4 No waiver: No delay, neglect, or forbearance on the part of either party in enforcing against the other party any of the terms or conditions specified by the contract will be, or deemed to be, a waiver or prejudice in any way against any right of that party under this contract.

7.5 No partnership: No partnership of any kind between any parties is intended by, or constituted through, this agreement.

7.6 Variation: Any variation, including any additional terms and conditions, to the contract will only be binding and enforceable when agreed to in writing and signed by Purchaser.

7.7 Severance: Should any provision of this contract, in whole or in part, be held to any extent to be unlawful or unenforceable under any enactment or rule of law, the remaining provisions shall stand in full force and effect.

7.8 Statutory Requirements: The Supplier shall comply with all statutes, orders, regulations or bylaws related to the execution and fulfillment of this contract and agrees to indemnify Purchaser against all losses, claims or liabilities, expenses, proceedings or

otherwise resulting from the Supplier's noncompliance with the same. The Supplier warrants that all goods and services supplied under this purchase order shall comply with all applicable federal, state, and local laws, rules, regulations and ordinances at the time of delivery or performance. For on-site performance of services, if applicable, the Supplier shall adhere to all safety, health or other administrative requirements, rules, regulations or procedure of Purchaser and its facilities where services are performed and shall provide to Purchaser a health and safety declaration if requested.

8. CONTRACT TERMINATION

In addition to clause 2.5 and 7.1, if at any time after the contract commences the Supplier:

- a) Commits a material or persistent breach of contract and (provided said breach may be remedied) fails to make good faith remedy of said breach within 7 (seven) days after receiving notice of the breach;
- b) Commits a material breach which cannot be rectified;

Purchaser may opt to terminate the contract with immediate effect.

8.1 Purchaser may terminate all or any portion of this purchase order at any time by giving notice to the Supplier. In the event of termination without cause, Purchaser's liability shall be the lesser of:

- (a) a reasonable price for raw materials, components, work in progress, and any finished units on hand;
- (b) Or the contract price per finished unit, after giving effect to any discount Purchaser would otherwise be entitled to.

8.2 In the event of termination without cause of any separate services specifically ordered, liability shall be the lesser of:

- (a) a reasonable price for properly performed services rendered prior to termination
- (b) Or the contract price for the services. If any hourly or other time-based rate for services is specified in this purchase order, such rate shall be used in determining a reasonable price.

THE FOREGOING STATES PURCHASER'S ENTIRE LIABILITY FOR TERMINATION. Additionally, Purchaser may, by notice to the Supplier, terminate in whole or in part this purchase order in the event of suspension of the Supplier's business, insolvency of the Supplier, institution of bankruptcy, reorganization, or liquidation proceedings by or against the Supplier, the appointment of a trustee or receiver for the Supplier's property or business, any assignments by the Supplier for the benefit of creditors or a breach that is not cured after notice detailing such breach. The rights and remedies of Purchaser provided in this Termination clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this purchase order.

9. INSURANCE AND INDEMNITY

9.1 The Supplier agrees to hold harmless and indemnify Purchaser in full against all costs, expenses, damages and losses (incurred directly or indirectly). This includes any interest, fines, legal and other professional fees, and expenses awarded against, incurred by, or paid by Purchaser arising from contract performance or any breach of these terms and conditions by the Supplier, as well as any term or obligation implied by law or any statutory provision that may be in force from time to time. The Supplier agrees to maintain at all times all required insurance coverage and provide written evidence of such coverage to Purchaser upon request.

9.2 This indemnity shall apply without regard to whether the claim, damage, liability or expense is based on breach of contract, breach of warranty, negligence, strict liability, or other tort. This indemnity shall survive delivery and acceptance of goods or services. In any interparty dispute, the prevailing party shall be entitled to reasonable legal costs and expenses, including attorneys' fees.

10. TERMS AND CONDITIONS These terms and conditions will apply unless Purchaser specifies different terms and conditions in its quotation documentation, or via other contracts entered by the parties. Should Purchaser specify such changes and apply different terms and conditions in writing, those terms and conditions will override the purchase order terms and conditions and will apply instead of these.