

TERMS/CONDITIONS

1. ACCEPTANCE OF CONTRACT

The parties shall be bound by this order, and its terms and conditions, when Seller (a) executes and returns the acknowledgement copy of this order, or (b) delivers to Buyer any of the items ordered, or (c) renders for Buyer any of the services ordered herein. No contract shall exist except as hereinabove provided. This order constitutes the entire contract between Buyer and Seller, and supersedes all previous agreements, whether oral or written. Acceptance of this order may be made only in the terms and conditions set forth herein, and any proposed changes or additions to this order by the Seller are objected to and hereby rejected.

2. AMENDMENTS

No agreement or understanding to modify this contract shall be binding upon the Buyer unless in writing and signed by Buyer's authorized agent. All specifications, drawings, and data submitted to Seller in connection with this order are hereby incorporated and made a part hereof.

3. CHANGES

Buyer reserves the right to change specifications, drawings, or quantities of the products or services covered by this order, subject to equitable adjustment for any necessary differences in price or time of delivery.

4. WARRANTY

The Seller warrants that the said goods and/or services delivered or furnished hereunder shall conform to the description and specifications herein provided, shall be of good material, and workmanship, merchantable, adapted for the purpose intended and free from defects. Seller represents and warrants that the goods covered by this order have been manufactured or furnished in accordance with the requirements of the Fair Labor Standards Act, the Occupational Safety and Health Act of 1970, and all other applicable federal, state, and local laws, rules, and regulations.

5. PROPERTY FURNISHED TO SELLER BY BUYER

Unless otherwise agreed to in writing, all special dies, molds, patterns, jigs, fixtures, and any other property furnished to the Seller by the Buyer, or specifically paid for by the Buyer, for use in the performance of this contract, shall be and remain the property of the Buyer, shall be subject to removal upon the Buyer's instruction, shall be used only in filling orders from the Buyer, shall be held at the Seller's risk, while in its custody or control in an amount equal to the replacement cost thereof, with loss payable to the Buyer. Copies of policies or certificates of such insurance will be furnished to Buyer on demand.

6. DELIVERY AND RISK OF LOSS

Time is of the essence of this contract, and if delivery to the point of destination of items or rendering of service is not completed by the time promised, Buyer reserves the right without liability, in addition to its other rights and remedies, to terminate this contract by notice effective when mailed to Seller, as to stated items not yet delivered to the point of destination and services not yet rendered, and to purchase substitute items or services elsewhere. All risk of damage to or loss of the goods and services covered hereunder from any cause whatsoever shall be and remain in Seller until goods are delivered to Buyer at Buyer's destination specified herein, or until the services are completed pursuant to this order.

7. INSPECTION

Materials or equipment purchased hereunder are subject to inspection and approval at the Buyer's destination. Buyer reserves the right to reject and refuse acceptance of items which are not in accordance with the instructions, specifications and drawings. Items not accepted will be returned to Seller at Seller's expense. Payment for any article hereunder shall not be deemed an acceptance thereof.

8. TERMINATION

Buyer shall have the right to terminate this order, in whole or in part, by giving 30 days prior written, verbal, or telephonic notice to Seller. Upon receipt of such notice, Seller shall, unless the notice directs otherwise, immediately discontinue the work and the placing of orders for materials, facilities and supplies and shall make every reasonable effort to procure cancellation of all such existing orders or contracts upon terms satisfactory to Buyer. Seller shall thereafter do only such work as may be necessary to preserve and protect work already in progress and to protect materials, plant and equipment on such work or in transit thereto. In case of such termination, it is agreed that Seller shall be entitled to prorated compensation for the unpaid portion of the contract already performed, including material for which firm contracts have been made, to which Buyer shall be entitled. Any termination claim must be submitted to Buyer within sixty (60) days after the effective date of termination. The foregoing shall be the sole remedy available to Seller in the event of termination by Buyer. In addition, Buyer may by written, verbal, or telephonic notice to Seller, cancel this order, in whole or in part, for default (i) if the Seller fails to deliver goods or services within the time specified in this order, (ii) if the Seller fails to deliver goods or services which conform to the contractual requirements or to perform any of the provisions of this order, or so fails to make progress as to endanger performance of this order in accordance with its terms, or (iii) if the Seller becomes insolvent or if bankruptcy proceedings are filed by or against the Seller.

9. PATENTS

By accepting this order, Seller agrees to defend, protect, and save harmless HME, Incorporated, its assigns, customers, and users of this product against all suits at law or inequity, and from any and all damage, claims, demands, and for actual or alleged infringements of any letters, patents, or trademarks, by reason of the sale or use of the articles hereby ordered.

10. PRICE

Unless otherwise stated on the reverse side hereof, all prices stated are F.O.B. destination. Any cash discount shall be deducted at the expiration of the grace period dating from the date of receipt by Buyer of the invoice. Invoices and cash discount invoices received without supporting papers shall not be paid until completed as specified. The date of receipt of completed final supporting papers in all cases governs the date of payment and computation of the grace period for cash discounts. Buyer shall receive the benefit of the amount of any general reduction in the price of any goods or services of the same or similar size, quantity, and/or quality covered by this order that may be made by Seller during the period of performance hereunder. If the price is omitted on this order, except where the order is given in acceptance of quoted prices, it is agreed that Seller's price will be the lowest prevailing market price and in no event is this order to be filled at higher prices than last previously quoted or charged without Buyer's written consent.

11. ADVERTISING

Seller agrees not to release any advertising copy mentioning Buyer or quoting the opinion of any of Buyer's employees unless such copy is approved by Buyer before release.

12. INDEMNITY

To the extent permitted by law, Seller shall indemnify, hold harmless, and defend Buyer, its directors, officers, agents, employees, successors, and assigns from any and all loss, damage, liability, or expense, including all incidental and consequential damages, and including attorney's fees, by reason of damage to property, including loss of use thereof, personal injury, including death, or otherwise, arising out of, or alleged to rise out of, either in whole or in part Seller's performance hereunder due to any reason whatsoever, whether or not any act, omission, or negligence of Buyer contributed thereto, including, without limitation, any action for negligence in the manufacture of, or any defect in, any goods sold hereunder or in the performance of any services hereunder.

13. MISCELLANEOUS

Seller may not delegate or assign this order, any of the performance hereof, hereunder, or any of the duties or claims hereunder without prior written consent of the Buyer.

The waiver by one party of any breach of this order or the failure of one party to enforce at any time or for any period of time the provisions hereof, shall be limited to the particular instance. Said waiver shall not operate or be deemed to waive any future breaches of this order or shall not be construed to be a waiver of any provisions, except for the particular instance.

If any provision of this order shall contravene or be invalid under the laws of any particular state, country, or jurisdiction, such contravention shall not invalidate the entire order, but said order shall be construed as if not containing the particular provision or provisions held to be

invalid, and the rights of obligations of the parties hereto shall be construed and enforced accordingly.

This order shall be construed according to the laws of the State of **Illinois** and the rights thereunder given to the Buyer are cumulative and are in addition to every remedy herein given, now or hereafter existing, at law and in equity, by statute or otherwise.

14. FORCE MAJEURE

Either party to this purchase order shall be free from liability for failing to perform hereunder if such failure is caused due to acts of God, labor difficulties, fires, or other causes beyond the reasonable control of the affected party. In the event that Seller is unable to perform for such reasons beyond its reasonable control, Buyer shall have the right to either continue the delivery dates until Seller is able to perform or terminate this purchase order.

15. LIENS

All items to be furnished hereunder and all property to be returned to Buyer shall be free and clear of any and all liens and encumbrances whatsoever.