



## PURCHASE ORDER TERMS & CONDITIONS

**THESE TERMS AND CONDITIONS SHALL CONSTITUTE AN INTEGRAL PART OF THE PURCHASE ORDER AND ARE INCORPORATED THEREIN AS PART OF THE PURCHASE ORDER.**

1. **PRICE:** This is a firm price Purchase Order, inclusive of all federal, state and local taxes, for all Goods and Services covered by this Purchase Order. Seller shall not fill any Purchase Order at a price higher than the price stated on the Purchase Order, unless agreed upon in writing, by both Buyer and Seller.
2. **TERMS OF PAYMENT:** The Purchase Order stipulates the payment terms, or if not stipulated payment shall be Net sixty (60) days. The Seller shall provide one copy of a detailed invoice (hard copy or electronic) to Buyer's Accounts Payable Department. Invoices for finished and unfinished goods, components, parts, raw materials, maintenance, repair, and office supplies (collectively "Goods") or services ("Services") shall be dated no earlier than the date of shipment or completion of service and shall be itemized and include Buyer's purchase order number and line item numbers. If applicable, the discount period begins upon receipt of invoice, receipt and inspection of Goods or services, or date any applicable discrepancy is resolved, whichever date is later. Payment shall not be deemed Buyer's acceptance of the Good or Services. Buyer shall have a reasonable period of time after delivery to inspect and either accept or reject some or all of the Goods or Services for any defective, damaged, or nonconforming Goods and Services.
3. **CHANGES:** The Buyer reserves the right at any time to issue a written change order or amendment to the Purchase Order concerning any of the following: (a) specifications, drawings, and data incorporated in the Purchase Order where the Goods to be furnished are to be specifically manufactured for the Buyer; (b) quantity; (c) methods of shipment or packaging; (d) place of delivery; (e) time of delivery; or (f) any other matters affecting this Purchase Order.
4. **TERMINATION:** Buyer may terminate the Purchase Order for its convenience, in whole or in part, at any time prior to the shipment by written or electronic notice to Seller. Upon Receipt of such termination notice, Seller shall promptly comply with the directions contained in such termination notice and shall, as required, (a) take action necessary to terminate the work as provided in the termination notice, minimizing costs and liabilities for the terminated work, and (b) continue the performance of any part of the work not terminated by the Buyer.
5. **ASSIGNMENT:** Neither the Purchase Order nor any right to payment or monies due or to become due under the Purchase Order may be assigned by Seller without the prior written approval of Buyer. Without the prior written approval of Buyer, no part of Seller's performance under the Purchase Order may be subcontracted or assigned by Seller to any other person, firm, or entity.
6. **PACKING:** Seller shall be responsible for proper packaging of Goods to prevent damage during transit. No charge will be allowed or paid by Buyer for tapes, transportation, packing, storage, or crating unless expressly ordered in writing by Buyer. Damage to any Goods not packed or crated to insure proper protection to same shall be repaired or replaced at the expense of Seller. Buyer shall have the option to return any damaged Goods to Seller at Seller's sole cost and expense. A packing list must accompany each shipment and contain the following information: (a) the Purchase Order number; (b) Buyer's part number; and (c) quantity. Buyer's weight and/or count will be accepted as final and conclusive on all shipments not accompanied by a packing list.
7. **TRANSFER OF TITLE AND FREIGHT TERMS:** The terms of delivery, point of title passage, and the shipping method/carrier shall be made as specified on the Purchase Order, which as specified shall be interpreted in accordance with Incoterms 2010 (<http://www.iccwbo.org/incoterms>). C.O.D. shipment will not be accepted unless agreed to in writing prior to shipment. C.O.D. payments do not waive the right of Buyer to inspection and acceptance or rejection of the Goods so supplied.
8. **INSPECTION:** All Goods and Services furnished under the Purchase Order shall be subject to inspection and test by Buyer at all times and places and will be subject to Buyer's final inspection and approval within a reasonable time after delivery. Buyer may reject Goods and Services not in accordance with Buyer's instructions, specifications, drawings, data, or Seller's warranty (expressed or implied), or for untimely delivery. Buyer may at its election and in addition to other rights or remedies available to Buyer, require Seller to either (a) promptly replace or correct the damaged, defective, or nonconforming Goods or Services at its sole cost and expense or (b) return damaged, defective, or nonconforming Goods or Services to Seller at Seller's sole cost and expense. Buyer shall have no further obligation for such Goods or Services. Payment for any Goods or Services shall not be deemed Buyer's acceptance and in no event shall Buyer incur any liability for payment for damaged, defective, or nonconforming Goods or Services.
9. **RESOLUTION OF CONFLICTS OR INCONSISTENCIES OCCURRING IN THE ORDER:** It is Seller's responsibility to comply with this Purchase Order and all referenced documents, and to clarify with Buyer any inconsistencies or conflicts in any parts of the Purchase Order or referenced documents.



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Should Seller fail to contact Buyer to resolve conflicts or inconsistencies, Seller will be solely responsible for errors resulting from said conflicts or inconsistencies. Where documents are referenced, the version in effect at the time of order placement shall apply.

10. **WARRANTIES:** By accepting this Purchase Order, Seller warrants that the Goods and Services furnished will be free from defects in Goods and Services and workmanship, merchantable, and in full conformity with Buyer's specifications, drawings, and data, and Seller's descriptions, promises, or samples, and that such Goods and Services will be fit for Buyer's intended use, provided Seller has reason to know of such use, and that Seller will convey good title to the Goods and Services, free and clear from all liens, claims, and encumbrances. Upon Buyer's request, Seller shall furnish Buyer with a formal waiver or release of all liens by Buyer and/or Buyer's suppliers.

Seller warrants that Goods and Services covered by this Purchase Order shall not infringe any patent, design, mask work, copyright or trademark, of any third party, either directly or contributorily. Seller agrees to indemnify Buyer and hold Buyer harmless from and against all liability, loss, damage and expense, including reasonable counsel fees and costs of litigation, resulting from any claim of infringement and any litigation relating thereto. In the case where Goods, Services, or a part thereof are held to constitute infringement and the use of the Goods or Services or a part thereof is enjoined, Seller shall, at the expense of Seller, either (a) procure for Buyer the rights to continue to using the Goods or Services, (b) replace the Goods or Services so that they become non-infringing, or (c) retake the Goods or Services and refund to Buyer the purchase price and transportation and installation cost of the Goods or Services. Such obligations shall survive acceptance of the Goods and Services and payment therefore by Buyer.

Seller's warranties shall extend to Buyer, its successors, assigns, customers, and users of Buyer's Goods and Services.

11. **GOODS MATERIAL LICENSE:** Buyer grants to the Seller a non-exclusive, non-transferable, royalty-free limited license to use any trademarks, specifications, ideas, know-how, molds, jigs, dies, tooling, supplies and other materials developed by, owned by, paid for, or provided by Buyer to Seller (the "Weiler Corporation Materials"). Such Weiler Corporation Materials shall be used solely for the purpose of manufacturing, developing, or designing Goods and Services for Buyer. Seller shall not have the right to grant sublicenses of Weiler Corporation Materials or use them for any purpose other than for its performance under this Purchase Order. Seller acknowledges that Buyer owns the Weiler Corporation Materials, and Seller further acknowledges and agrees that all improvements, advances, developments, modifications, or enhancements of any such Weiler Corporation Materials shall be owned solely and exclusively by Buyer. Seller covenants and agrees that it shall not reverse-engineer, disassemble, copy, or replicate any Weiler Corporation Materials.

12. **CONFIDENTIALITY; LIMITED USE:** Unless otherwise agreed by Buyer in writing, Seller shall keep confidential and not disclose to any third party, any confidential and/or proprietary materials provided by Buyer to Seller in connection with Seller's performance of this Purchase Order or prepared by Seller specifically for Buyer pursuant to this Purchase Order, including but not limited to any drawings, masters, software, specifications, raw materials, components, data, business information or plans, customer lists or other customer information ("Confidential Information"). Upon Buyer's request, Seller shall promptly return to Buyer all Confidential Information not consumed in the performance of this Purchase Order, together with any copies in Seller's possession. Seller shall use Confidential Information solely for Seller's performance of this Purchase Order for Buyer, and Seller shall not, without Buyer's prior written consent, directly or indirectly use Confidential Information or information derived therefrom in performing services or providing goods for any other customer of Seller, or any other person or entity.

13. **INDEMNIFICATION:** Seller agrees that it shall indemnify, defend, and hold Buyer, its customers, subcontractors, and suppliers harmless from and against all claims, demands, suits, losses, damages, liability, actions, judgments, costs, and expenses (including, but not limited to, reasonable attorneys' fees and other expenses of litigation), suffered, incurred, or asserted by or against Buyer (a) by reason of Seller's breach of a warranty, (b) by reason of Seller's infringement of any patents, copyright, or trademarks, (c) by reason of Seller's breach of any term of this Purchase Order, or (d) by reason of personal injury, including death, or property damage sustained by a third party, resulting from or arising out of an act or omission of Seller, or Seller's agents, employees, or contractors in fulfillment of this Purchase Order.

14. **CUSTOMS OBLIGATIONS, ORIGIN CRITERIA, CTPAT, AND ISF PROGRAM:** Buyer shall be responsible for applicable U.S. Customs duties unless otherwise agreed to in writing by the parties. As instructed, Seller shall mark all Goods and/or packaging with the country of manufacture (origin) and provide Harmonized Tariff codes. Seller shall be responsible for obtaining any import or export licenses, visas, and quotas and paying any fees therefore. Seller's invoices shall contain all information necessary to clear U.S. Customs. If any Goods are eligible for preferential duty program, such as Generalized System of Preferences (GSP) or Free Trade Agreements, Seller shall furnish all documentation to establish eligibility of such Goods. Seller shall promptly notify Buyer of any changes in the country of manufacture (origin) supplied.



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In the event of commencement of any antidumping investigation, Seller agrees to reasonably cooperate with the investigating governmental bodies and Buyer, by promptly providing any required information from Seller regarding any Goods including, without limitation, prices, quantities, and terms of sale in its home market.

The Seller is solely responsible for submitting ISF (Importer Security Filing) information to Buyer's specified broker twenty-four (24) hours before Goods are loaded. Seller agrees that it shall indemnify, defend, and hold the Buyer harmless from any penalties incurred due to Seller not filing, filing late, or filing incorrect information.

Seller acknowledges that Buyer may undertake inspections or request information for the purpose of qualifying and complying with a U.S. CTPAT (Customs Trade Partnership Against Terrorism) program, and Seller covenants and agrees to promptly and fully cooperate with any such initiatives, inspections, or requests for information.

15. **REGULATORY COMPLIANCE:** Seller represents and warrants that Goods and Services covered by this Purchase Order will comply with all applicable treaties, laws, regulations of the place of manufacture and Canadian, European Union and U.S. state and federal laws, regulations and standards concerning (a) Good standards and the importation, sale, design, manufacture, packaging and labeling of its Goods, (b) regulating the sale of Goods, and (c) relating to the environment and/or the toxic or hazardous nature of Goods or their constituents, including the U.S. Toxic Substances Act, the U.S. Occupational Safety and Health Act, the U.S. Hazardous Communication Standard, the Federal

Hazardous Substances Act, the California Proposition 65, European ROHS standards, and other current and subsequently applicable requirements (collectively, the "Laws"). Seller further represents and warrants that it has obtained all permits, licenses, and certifications necessary for the Goods to be exported out of the country of origin, imported in the United States, delivered to Buyer and used or sold within the United States, and that Seller covenants and agrees that it shall furnish promptly on request and provide all information and certifications evidencing compliance with Laws.

If Seller is supplying Buyer hazardous materials regulated by the US Department of Transportation, California Proposition 65 or ROHS regulated Goods ("Hazardous Products"), then Seller shall inform Buyer in writing of same, and properly warn, label, package and ship such Hazardous Products in accordance with Laws. Further, prior to shipment and upon request Seller shall identify and provide to Buyer compliant material safety data sheet information and ROHS information for covered Goods.

Buyer reserves the absolute right to refuse acceptance of, or reject and return to Seller at Seller's sole cost and expense any material, Goods or Services that fail to conform to any Laws, or for which Seller fails to package, ship, label or inform Buyer as required by any applicable Law.

16. **GOVERNING LAW:** This Purchase Order shall be governed by applicable federal laws of the U.S.A. and the laws of the Commonwealth of Pennsylvania, U.S.A, excluding Pennsylvania's principles of conflicts of laws. Seller irrevocably agrees that any legal action or proceeding seeking the enforcement or interpretation of the Purchase Order or these terms and conditions may be brought only in the courts of the Commonwealth of Pennsylvania in Monroe County, Pennsylvania or the Federal District Court for the Middle District of Pennsylvania in Scranton, Pennsylvania (the "Courts"). By its acceptance of the Purchase Order, Seller hereby irrevocably submits itself to the jurisdiction of any such Courts, and waives any objection it may now or hereafter have to the placing of venue in any such Courts and right to remove any such action or proceeding to another court.

17. **BUYER'S TERMS AND CONDITIONS APPLY:** Acknowledgment of the Purchase Order, commencement of work pursuant to the Purchase Order or shipment of any Goods, shall be deemed an acceptance of these Terms and Conditions. No modification of or release from this Purchase Order shall be binding unless agreed to in writing by the Buyer and Seller and specifically labeled as a modification or release. Unless specifically agreed otherwise in writing by Buyer and Seller, the terms and conditions of the Purchase Order supersede any submitted by Seller in any proposal or acknowledgment.

18. **WORK PERFORMED ON BUYER'S OR BUYER'S CUSTOMER'S PREMISES:** If Seller's work under the Purchase Order involves activities or operations by Seller on the premises of Buyer or one of Buyer's customers, Seller shall take all necessary precautions and such additional precautions as Buyer or Buyer's customer may prescribe to prevent the occurrence of any injury to persons or property during the progress of such work and, except to the extent that any such injury is due solely and directly to Buyer's or Buyer's customer's negligence, Seller shall indemnify and hold Buyer harmless against all claims, demands, actions, suits, liability, damage, or loss (attorneys' fees and litigation expenses) which may result in any way from any act or omission of Seller, or Seller's agents, employees, or contractors. Seller shall maintain such public liability, property damage, and employer's



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liability and compensation insurance as will protect Buyer and Buyer’s customer from said risks and from any claims under any applicable worker compensation and occupational disease acts and provide acceptable evidence of such coverage prior to entry upon such premises.

- 19. **BUYER AND SELLER:** The “Buyer” as hereinafter used means “Weiler Corporation” and the term “Seller” means the person, firm, or corporation from which the Goods and Services described on the Purchase Order has been ordered.
- 20. **NOTICE:** All notices under this Purchase Order shall be in writing communicated by the parties. Seller and Buyer shall each provide the other party with hours of operation, electronic addresses and telephone and fax numbers for persons authorized to communicate on their behalf regarding the Purchase Order and all matters relating to or arising from or in respect of the Purchase Order. Notice shall be deemed delivered upon email delivery unless a notice on non-delivery is received.
- 21. **ENTIRE AGREEMENT:** Unless superseded by a specific signed agreement between Buyer and Seller, the agreement between Buyer and Seller shall consist of the Purchase Order, these Terms and Conditions, and all attachments referred to in the Purchase Order or in the Terms and Conditions, which it shall constitute the entire agreement of the Buyer and Seller with regard to the subject matter contained herein. All other prior or contemporaneous representations, warranties, covenants, writings, documents, or agreements between Seller and Buyer, or their representatives, with respect to the subject matter are hereby superseded. The term “Purchase Order” as used herein means the first and continuation pages of Buyer's completed Purchase Order form, including any special provisions contained therein. This agreement may not be modified except by mutual written agreement of Buyer and Seller.

**Accepted and Agreed to by:**

Company:

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By:

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Signature:

Title:

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Date:

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