

## MADICO PURCHASE ORDER TERMS AND CONDITIONS

### A. ACCEPTANCE

Notification to Buyer of commencement of performance pursuant to this Purchase Order, constitutes acceptance hereof by Seller.

### B. DELIVERIES

Time is of the essence of this Purchase Order. If delivery of the goods ("Goods") is delayed beyond the time indicated herein for any reason including, without limitation, sellers insolvency, bankruptcy, or assignment for the benefit of creditors, Buyer reserves the right, without liability, and in addition to its other rights and remedies, to cancel this order by mail, email, or facsimile notice, or verbal notice timely confirmed in writing (which notice shall be effective when received by or communicated to Seller) as to any of the Goods not shipped, to purchase substitute Goods elsewhere, and to charge Seller with any loss incurred. Unless otherwise specifically agreed to by Buyer, any provision for delivery of the Goods in installments shall not be construed as making the obligations of Seller severable. Whenever any delay (or threatened delay) in delivery foreseen by Seller, Seller shall immediately notify Buyer of such threatened or actual delay, but any such notice will not affect any rights of Buyer hereunder. Buyer reserves the right to refuse deliveries made in advance of the delivery date in the Purchase Order.

Shipments shall be shipped only by a licensed carrier by the route and class of service taking the lowest transportation rate (including rail, motor truck, express, parcel post, and inland, inter-coastal or coast-wide vessel service), unless otherwise instructed. Seller shall comply with any special shipping instructions as may be issued by Buyer. Any losses accruing from deviation from Buyer's instructions will be charged to Seller's account. Shipments F.O.B. Seller's plant shall be released at a declared valuation of the true replacement value. Seller shall be responsible for safe packaging and packing of the Goods. Seller shall separately number all cases, packages and other containers showing the corresponding numbers of the invoices involved. An itemized packing slip, bearing Buyer's Purchase Order number, must be placed in each container; no charge shall be made for packaging, packing or storage unless stated on the face of this Purchase Order. Seller will comply with any shipping and routing instructions of Buyer on face of the Purchase Order.

Seller shall notify Buyer at the time of shipping of the Goods, and provide Buyer with a copy of the bill of lading or shipping document and the packing list applicable hereto. All such documents and correspondence shall refer to Buyer's Purchase Order number. Packing lists must bear a complete description of the Goods shipped. Risk of loss or damages in the course of delivery shall be upon the Seller until the Goods are received at Buyer's destination, unless otherwise agreed in writing.

Receipt of the Goods shall not constitute acceptance by the Buyer, notwithstanding any agreement of Buyer to pay transportation charges.

### C. PRICE AND PAYMENT

The prices stated on the Purchase Order include packing, crating, and transportation F.O.B. point shown. Buyer will not be responsible for any charge not shown on the face of the Purchase Order, other than applicable taxes. Seller warrants that the price charged for the Goods or Services covered by this Purchase Order is the lowest price charged by Seller to similar classes of Buyers. Seller agrees that any price reduction applicable to the ordered Goods subsequent to the order date but prior to delivery will be applicable to this Purchase Order. Seller shall mail the invoice for the Goods to Buyer. The cash discount period will date from Buyer's receipt of the ordered Goods or from receipt of the invoice, whichever is later. Buyer reserves the right to refuse any shipments sent C.O.D., and all Goods attendant therewith are sent at Seller's risk.

Within seven (7) days after shipment, Seller shall forward to Buyer the invoice with a copy of the packing slip, bill of lading, and express receipt or parcel post receipt, all bearing Buyer's Purchase Order number and signed by the carrier, evidencing the fact that the shipment has been made.

Unless indicated otherwise on the face of this Purchase Order, invoices are due sixty (60) days from date of receipt of Goods by Buyer. Cash discounts, if any, will be according to those indicated on the face of this Purchase Order.

### D. TERMINATION

Buyer may terminate this Purchase Order, in whole or in part, for convenience, after the Purchase Order has been accepted. Such termination shall be by mail, email, or facsimile notice, or verbal notice timely confirmed in writing and shall be effective upon receipt by Buyer. After receipt of such notice of cancellation, and except where otherwise directed by Buyer, Seller shall forthwith: 1) stop work under this Purchase Order on the date and to the extent specified in such notice of termination; 2) place no further orders or subcontracts for materials, service, or labor except as may be necessary for completion of such portions of this work as may not be terminated; 3) terminate orders and subcontractors relating to the performance of any work terminated by such notice of termination; and 4) negotiate the settlement of all claims arising out of such termination of order and subcontracts, subject to this approval by Buyer. Buyer shall be entitled to receive all fabricated and unfabricated parts, works in process, and completed work, supplies and other materials produced as part of or acquired in the respect of performance of the work terminated.

The parties shall negotiate in good faith a fair compensation to the Seller for such termination. Buyer shall pay for Seller, without duplication, the agreed upon price for Goods which have been completed prior to termination and the actual costs incurred by Seller which are properly allocable or apportionable under recognized commercial accounting practices to the terminated portion of the Purchase Order. In no event shall the total sum to be paid to Seller on the Purchase Order exceed the price specified in this Purchase Order.

Seller shall maintain adequate records pertaining to the costs of performing the Purchase Order, in such detail as will accurately reflect all net costs, direct and indirect, of labor, materials, equipment, supplies, and services for which payment is to be made hereunder. Such records shall be subject to audit by Buyer in the event of cancellation. In the absence of such records, Buyer shall be under no obligation to pay the termination costs provided herein to the extent that such costs cannot be established with reasonable accuracy.

In the event of any proceedings, voluntary or involuntary, in bankruptcy or insolvency by or against Seller, the inability of Seller to meet its debts, as they become due, or in the event of an appointment, with or without Seller's consent, of an assignee for the benefit of creditors or of a receiver, then Buyer shall be entitled at its sole option to cancel any undelivered portion of this Purchase Order without any liability whatsoever, and may hold Seller accountable for any additional costs or damages.

### E. INTELLECTUAL PROPERTY RIGHTS

Seller warrants that the Goods do not infringe upon or constitute an unauthorized use of any patent, trade secret, copyright, or other intellectual property right, and Seller agrees to defend at Seller's expense, and indemnify Buyer against, all claims, suits, actions, or proceedings, in law or equity, against Buyer, its successors, assigns, customers, and users of any of the Goods, of actual or alleged infringement or

unauthorized use of any such patent, copyright, trade secret, or other intellectual property right resulting from or arising out of the sale of the Goods. Buyer further agrees to pay and discharge any and all judgments, decrees, penalties, and settlements which may be rendered or reached in any and all such claims, suits, actions, or proceedings against the Buyer, its successors, assigns, customers, and users.

### F. WARRANTY

Seller warrants to Buyer that the Goods delivered pursuant to this Purchase Order shall be of good materials and workmanship, free from defects, and shall conform to the specifications, drawings, or samples specified or furnished to Buyer. This warranty shall survive any inspection, delivery, acceptance, or payment by Buyer. Seller also warrants that all Goods delivered hereunder shall be merchantable and fit for their intended purpose. Receipt, payment, use, or resale of the Goods by Buyer shall not release Seller of any Seller's obligations, representations, or warranties hereunder.

### G. INSPECTION AND ACCEPTANCE

All Goods are subject to Buyer's inspection, testing, and approval, both at Seller's plant and at Buyer's point of destination. Buyer reserves the right to reject and refuse acceptance of any Goods which do not comply with all of the terms of this Purchase Order, and Seller's warrantee. Rejected Goods shall continue to be deemed the property of Seller and shall be held for the Seller's disposition at the Seller's risk and expense, or, at Buyer's sole discretion or at Seller's direction, shall be returned to Seller freight collect, at Seller's risk. Payment for any Goods shall not be deemed as acceptance thereof.

### H. DEFECTIVE GOODS

Seller shall promptly correct any defect in the rejected Goods, or replace such Goods at Seller's expense, following notice of such rejection from Buyer, specifying the defect. Any payment made by Buyer for such Goods shall be refunded by Seller, unless Seller promptly corrects the discrepancy or replaces the Goods at Seller's expense.

If Seller shall fail to so act within five (5) days of such notice, Buyer may, at its option, cancel the then remaining balance of this Purchase Order by notice, and as to all or any part of the Goods, and purchase substitute Goods elsewhere to replace both the defective Goods and the balance of Goods in the cancelled Purchase Order, and charge Seller with any loss incurred.

### I. EXCESS GOODS

Except for quantities of Goods in excess of those ordered constituting customary quantity variations common to the trade or industry, any quantity of Goods in excess of the amount ordered need not be accepted, and if such excess Goods are received, they may be returned to Seller by Buyer at Seller's risk and expense, or held for pick up by Seller.

### J. FABRICATIONS AND MATERIAL COMMITMENT

Buyer shall not be responsible for any of Seller's commitments for materials or fabrication in advance of the time necessary to meet delivery dates specified herein unless agreed to by Buyer in writing in advance.

### K. COMPLIANCE WITH LAW

Seller agrees to comply with the provisions of all applicable federal, state, and local laws, regulations, rules, and ordinances applicable to this Purchase Order and the purchased Goods, including, without limitation, any fair labor standards or statutes and any statute or regulation regulating occupational safety and health. Seller shall, following Buyer's reasonable request, certify such compliance to Buyer in writing.

### L. BUYER'S PROPERTY

Buyer shall at all times have title to all drawings and specifications furnished by Buyer to Seller and intended for use in connection with this Purchase Order. Seller shall use such drawings and specifications only in connection with this Order and shall not disclose such drawings and specifications or any information pertaining to Buyer, this Purchase Order, or Buyer's affairs, to any person, firm or corporation other than Buyer's or Seller's employees, subcontractors, or Government Inspectors. Seller shall, upon Buyer's request or upon completion of the Purchase Order, promptly return all drawings, specifications and documents, embodying such information as was supplied by Buyer.

Unless otherwise agreed in writing, all drawings, specifications, tools, dies, molds, jigs, patterns, machinery, fixtures, equipment, software, and any other property furnished to Seller by Buyer, or paid for by Buyer for use in the performance of this Purchase Order, shall be and remain the sole property of Buyer, shall be subject to removal upon Buyer's instruction, shall be used only in filling orders from Buyer, shall be held at Seller's risk, and kept insured by Seller while in Seller's custody or control. The insurance shall be in an amount equal to the replacement cost thereof, with the loss payable to Buyer.

### M. TAXES

Except as otherwise provided, the prices stated do not include sales, use, excise, or similar taxes applicable to the sale of Goods. All such taxes and charges shall be shown separately on Seller's invoice.

### N. ASSIGNMENT

Seller shall not delegate any duties nor assign any rights or claims under this Purchase Order without the express prior written consent of Buyer. Any assignment or delegation made without Buyer's consent shall be null and void.

### O. REMEDIES

No remedy provided herein shall be deemed exclusive of any other remedy available at law or equity. All claims for monies due or to become due from Buyer shall be subject to deduction by Buyer for setoff or counterclaim arising out of this or any other of Buyer's Purchase Orders to Seller.

### P. GOVERNING LAW

This Purchase Order and the acceptance of it shall, as provided herein, constitute a contract made in, and to be governed in all respects by the laws of, the Commonwealth of Massachusetts, and the courts of the Commonwealth of Massachusetts shall have sole and exclusive jurisdiction over any disputes arising hereunder.

### Q. NOTICES

Any notice required or otherwise given pursuant to this Purchase Order shall be in writing and shall be hand delivered, mailed certified mail, return receipt requested, postage prepaid, or by recognized delivery service. Any notice to Buyer shall be addressed as follows: Purchasing Manager, Madico, Inc., 64 Industrial Pkwy., Woburn, MA 01801

### R. WAIVER

No claim or right arising out of a breach of the provisions hereof can be discharged in whole or in part by a waiver or a renunciation of the claim or right unless the waiver is in writing signed by the aggrieved party. Failure by Buyer to insist upon strict performance shall not constitute a waiver of any of the provisions of this Purchase Order or a waiver of any default.