



Hilliard

THE HILLIARD CORPORATION • 100 WEST FOURTH STREET • ELMIRA, NEW YORK 14901

TERMS AND CONDITIONS OF PURCHASE

(1) ACCEPTANCE:

This order constitutes an offer by The Hilliard Corporation ("Purchaser") to the supplier to whom this purchase order is issued ("Seller") to purchase the articles, materials, services or equipment covered by this purchase order ("Product") exclusively upon the terms and conditions set forth herein (or expressly incorporated by reference) and shall become a binding contract including such terms and conditions upon Seller's signing and returning an acknowledgement copy of this order. No other document containing terms and conditions other than those specified herein, written by seller to purchaser shall be binding unless signed by the person who signed this purchase order and returned to seller. In the absence of such a document as described above, all deliveries of Product must conform to the terms, conditions and specifications of the purchase order.

(2) PRICES:

The price charged to the Purchaser shall not exceed the price stated on this purchase order. Where no prices are stated on this order, the price charged shall be the lesser of (1) Seller's lowest prices for products or services of like grade and quality or (2) the fair market value of the products or services. The prices stated on this purchase order shall be deemed to include any and all charges associated with Purchaser's order, and Purchaser shall not be responsible for any extra charges, including but not limited to charges for freight, packing, storage, taxes, tooling or tool maintenance unless specifically listed on this purchase order.

(3) DELIVERY:

Time is of the essence for this purchase order. Product shall be delivered, and services provided in accordance with any and all shipping and delivery instructions provided by Purchaser. If Purchaser does not provide any shipping or delivery instructions, Seller shall pack and ship the product in accordance with sound commercial practices. Unless otherwise specified, all Product shall be tendered in a single delivery.

The Product must be delivered no sooner than 5 working days prior to, and no later than the delivery date specified on the face of the Purchase Order. Product delivered early may be returned at Purchaser's option at the Seller's expense. Seller shall immediately notify Purchaser if Seller has reason to believe that any scheduled delivery will be late. Seller shall be responsible for any additional costs and expenses incurred by Purchaser as a result of late delivery. Unless otherwise specified in this purchase order, terms of delivery of the Product are F.O.B. destination with freight prepaid.

(4) QUALITY:

All Product sold and delivered to Purchaser pursuant to this order shall be in full conformity with Purchaser's specifications set forth or referred to in this agreement. If Purchaser provides no specifications on this purchase order, the Product delivered must be of commercial quality and must conform to Seller's published specifications and samples provided to Purchaser. If any specifications or instructions provided by Purchaser appear to conflict with other specifications or instructions or are insufficient or unclear, it shall be the duty of Seller to request clarification from Purchaser and Seller shall bear all risks and liabilities arising from failure to obtain such clarification. Purchaser shall have the final authority to determine whether the Product delivered is nonconforming under provided specifications and instructions.

(5) QUANTITY:

Unless specifically stated on this order, Purchaser will accept only 5% deviation in order quantity. Any change in order quantity over 5% must have written approval by Purchaser to Seller. In the event of Seller's delivery of a quantity of Product in excess of that ordered by Purchaser plus a 5% deviation, Purchaser shall have the right to return the excess shipment at Seller's expense. If Seller delivers a quantity of Product below the quantity ordered by Purchaser, reduced by a 5% deviation, Purchaser shall have the right to either return the entire shipment at Seller's expense or retain the Product delivered and demand delivery of the remaining Product ordered. In any event, Purchaser shall be obligated to Seller only to the extent of the lesser of (1) the purchase price set forth on this purchase order, or (2) the purchase price set forth on this purchase order, ratably reduced by the amount the quantity of goods and/or services delivered fails to meet the quantity of Product ordered.

(6) INSPECTION OF GOODS:

Purchaser reserves the right to inspect and approve or reject Product within a reasonable time after delivery. Rejected Product may be returned to seller at Seller's expense and are not to be replaced without a new order from Purchaser. Acceptance or payment for Product delivered does not waive Purchaser's right to assert a breach of warranty or another claim. Seller shall promptly reimburse Purchaser for all damages sustained by Purchaser as a result of failure of Product delivered to conform to the provisions and specifications set forth in this purchase order. The purchaser is not required to inspect the Product delivered, and no inspection or failure to inspect will reduce or alter the Seller's obligations under this purchase order.

(7) INVOICES:

All invoices to the Purchaser must contain the Purchaser's order number, part number, description of goods, unit cost, and total cost. Terms and charges of invoice must be the same as terms and charges of this order unless modified in writing by the purchaser upon Seller's request. Seller shall be solely responsible for any delay in payment by Purchaser caused by failure of Seller to provide Purchaser with invoices meeting the requirements of this paragraph. In the event Purchaser pays an unrelated third party as a result of a security breach or other similar compromise of Seller's systems, processes or controls, Purchaser shall be deemed to have made such payment under its contract with seller.

(8) ROUTING:

Unless otherwise specified, shipper must forward by most direct route and over routes taking through rates. Excessive or additional charges caused by the Seller's misrouting or splitting of shipments without Purchaser's approval will be charged against Seller.

(9) WARRANTY:

Seller warrants that the goods furnished under this order (A) do not infringe on any United States or Canadian patent, (B) comply with all applicable Federal, State, local and foreign laws, regulations, orders, and standards, including without limitation the Occupational Safety and Health Act of 1970, the Fair Labor Standards Act of 1938, the Consumer Product Safety Act of 1972, the Motor Vehicle Safety Act of 1966, all environmental laws, the Civil Rights Act of 1964, and the Americans with Disabilities Act of 1990, and all regulations and guidance promulgated under any of the foregoing, as such laws, regulations, orders, standards, and/or guidance are in effect at the time of delivery, (C) are free from defects in title, labor, material, or fabrication, (D) conform to specifications, drawings, samples or other descriptions given, (E) are suitable for purpose intended, (F) are of merchandise quality, (G) if of Seller's design, are free from defects in design. Except for the continuing warranty of title, if there is any breach of warranties stated in items (C) – (G) herein within one year of delivery, or such longer period as may be specified in Seller's applicable warranty terms in effect on the date of purchase, Seller agrees to repair or replace any defective or non-conforming item at no cost whatsoever to Purchaser. Notice of breach of warranty shall be sufficient if given in writing to Seller within ninety (90) days of discovery of such breach. Seller agrees to defend, indemnify, and hold harmless Purchaser from all liability, expense or damage arising from any breach of warranty given by Seller to Purchaser, whether express or implied. In addition, if the breach is material in Purchaser's judgment, Purchaser may cancel and at Seller's expense return all goods to Seller for full credit. All warranties and remedies stated herein are cumulative and in addition to any other remedies and warranties provided by law.

(8) INSURANCE:

Seller must carry insurance protection sufficient to meet all the liabilities that are mentioned herein and will furnish proof to Purchaser upon request

(9) ASSIGNMENT:

Seller may not assign or subcontract this purchase order or any or all of its responsibilities thereunder without the express written consent of Purchaser.

(10) CANCELLATION WITHOUT CAUSE:

Purchaser reserves the right to cancel this order without cause either in whole or in part prior to shipment by Seller. Cancellation must be in writing by the Purchaser and received by the Seller prior to shipment. Purchaser will be liable only for goods received prior to cancellation and for the reasonable, direct costs and expenses incurred by Seller in performance or preparation for performance of its obligations under this order prior to the date of termination, less full credit for materials or tooling reusable by Seller and less the full salvage value of materials and tooling which cannot be reused by Seller. In the event that Purchaser provided no specifications or instructions with respect to the Product to be delivered, Purchaser's obligation to Seller shall not exceed the purchase order price for the Product shipped and not returned by Purchaser prior to the date of cancellation. No cancellation charges may be issued against this purchase order.

(11) CANCELLATION FOR CAUSE:

Purchaser may cancel this order or any part thereof for cause without any obligation or liability to Seller. "Cause" shall include, but not be limited to, (i) Seller's material breach of any provisions of this purchase order, or (ii) Seller's insolvency or bankruptcy.

(12) EXCUSABLE FAILURE OR DELAY:

Neither Purchaser nor Seller shall be held responsible for any failure or delay in performance under this purchase order, where such failure or delay is attributable to any act of God or of the



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public enemy, war, compliance with laws, governmental acts or regulations not in effect as of the date of this purchase order, fire, flood, quarantine, embargo, epidemic, unusually severe weather, strikes, lockouts or other labor difficulties, riots or other causes similar to the foregoing and beyond the reasonable control of the party affected. If a party seeks to excuse a delay or failure in its performance under this section, the party must promptly notify the other party of the reasons for the failure or delay and must exert its best efforts to complete performance in an expeditious fashion.

(13) WORK PRODUCT:

All work product developed by Seller in connection with its performance under this Agreement shall be Purchaser's property, and all right, title and interest in such work product shall belong exclusively to Purchaser. Seller shall assign all such work product to Purchaser upon the termination or completion of this purchase order and shall not retain any copies of such work product. Seller shall, at purchaser's request, execute and deliver such documents as may be necessary, appropriate, convenient or expedient to protect, register, enforce or evidence Purchaser's interest in such work product.

(14) CONFIDENTIALITY:

Upon acceptance, this purchase order and any attachments hereto signed and approved by Purchaser's authorized representative shall constitute the sole and exclusive agreement between the parties with respect to the Product and shall supersede all prior agreements or understandings as may have existed between the parties with respect to the Product.

(15) EXCLUSIVE AGREEMENT:

Upon acceptance, this purchase order and any attachments hereto signed and approved by Purchaser's authorized representative shall constitute the sole and exclusive agreement between the parties with respect to the Product and shall supersede all prior agreements or understandings as may have existed between the parties with respect to the Product.

(16) GOVERNING LAW:

This purchase order shall be governed by the laws of the State of New York, without regard to conflict of law's provisions.

(17) CONFLICT MINERALS:

Seller shall disclose any "Conflict Minerals" included in the products, components, or materials supplied, manufactured or contracted to be manufactured by Seller for Buyer under this agreement. The term "Conflict Minerals" shall have the meaning ascribed to it under Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protections Act, meaning wolframite, cassiterite, columbite-tantalite (coltan), gold and their derivative metals: tantalum, tin and tungsten. Such information will be disclosed to Buyer using the Conflict Minerals Template developed by the Electronic Industry Citizenship Coalition ("EICC"). The information will be submitted prior to the time of delivery of materials, components, or products to Buyer. Seller shall obtain Buyer's prior written consent before providing any material, components or products to Buyer that include Conflict Minerals that originated from the Democratic Republic of Congo ("DRC") or the nine adjoining conflict countries: Angola, Burundi, Central African Republic, the Republic of the Congo, Rwanda, South Sudan, Tanzania, Uganda, and Zambia. Seller shall maintain effective accounting procedures, internal controls and audit procedures necessary to verify that any Conflict Minerals included in materials, components, or products provided to Buyer did not originate from the DRC or the nine adjoining countries, and to verify compliance with this Article. Buyer shall be permitted to audit such records as reasonably necessary to confirm Seller's compliance with this Article. Seller shall defend, indemnify and hold Buyer harmless for all fines, penalties, expenses or other losses sustained by Buyer as a result of Seller's breach of this Article.

(18) HAZARDOUS MATERIALS:

Seller shall notify Purchaser of every article sold to Purchase that contains material hazardous or injurious to the health or physical safety of anyone even if said hazard or injury may only occur due to mishandling or misuse. Seller shall identify and label such materials and notify Purchaser of the effects of such materials on persons. For each article, Seller shall provide Purchaser warning labels or instructional material sufficient to warn those coming in contact with the hazardous materials and its possible effects.

(19) IMPORTER SECURITY FILING:

Seller agrees to provide Purchaser with timely, accurate and complete information with respect to all goods purchased from Seller as required for compliance with all applicable regulations, e.g., the Importer Security Filing issued by U.S. Customs and Border Protection. Seller agrees to defend, indemnify, and hold harmless Purchaser from and against all transportation, detention or storage related charges or fees and any government fees or penalties that Purchaser incurs as a result of Seller's failure to provide said required information.