

## Tank Utility, Inc. Purchase Order Terms and Conditions

**1. Acceptance of Order (“Acceptance”).** This purchase order is Tank Utility, Inc.’s (including its subsidiaries; collectively, “Tank”) offer to Seller and becomes a binding contract, subject to the terms hereof, when accepted by acknowledgement or commencement of performance by Seller. Tank objects to all additions, exceptions, or changes to these terms, whether contained in any printed form of Seller, by oral proposal or elsewhere, unless expressly approved by Tank in writing. To the extent there are any inconsistencies between any terms proposed by Seller and those contained in this order, the latter will control. This order may be revoked without penalty any time prior to acceptance with or without cause. This order is subject to cancellation by Tank in whole or in part at any time prior to shipment, in which events Tank shall reimburse Seller on a negotiated basis, for reasonable expenses incurred to the time of cancellation.

**2. Warranty.** Seller warrants that all the materials, articles and services furnished hereunder will be in exact conformity with this order and with any order description, specification, drawing or sample supplied by Seller or Tank, shall be free from defects in material and workmanship and shall be merchantable and fit for the purpose, if any, indicated by Tank to Seller. Seller warrants that all such goods or services will conform to any statements made on the containers, labels or advertisements for such goods or services, and that all goods will be adequately contained, packaged, marked and labeled. Inspection, test, acceptance or use of the goods or services furnished hereunder shall not affect Seller’s obligation under this warranty, and all warranties shall survive inspection, test, acceptance and use. Seller’s warranty shall run to Tank, its successors, assigns, customers and users of products sold by Tank. Seller agrees to replace or promptly correct defects of any nonconforming goods or services without expense to Tank. If Seller fails to correct defects in or replace nonconforming goods or services promptly, Tank, after reasonable notice to Seller, may make such corrections or replace such goods and services, and charge Seller any cost incurred.

**3. Packaging and Shipment.** Seller is expected to adhere to Tank requirements and expectations as set forth in the Domestic and International Routing Guides which the Seller shall request from Buyer. Seller shall ship all goods FCA nearest ocean port (for foreign sellers) or FCA Seller’s dock (for domestic sellers) whichever is applicable (INCOTERMS 2010) (the applicable shipment point being the “Delivery Point”) whereby risk of loss and title will transfer to Tank at the Delivery Point. The delivery schedule specified on the face hereof, or as revised in writing by Tank, must be strictly adhered to. Tank may refuse to accept premature shipments and/or billing, partial shipments, and quantities in excess of ordered material.

**4. Inspection and Acceptance of Goods.** All goods shall be delivered subject to Tank’s right of inspection and rejection. Payment for goods on this order prior to inspection shall not constitute acceptance thereof and acceptance of the goods by Tank shall not relieve Seller from any of its obligations and warranties. Defective goods or goods which fail to conform in any respect with Tank’s specifications will be held by Tank for no more than 30 days while awaiting Seller to provide instructions regarding return of the product at Seller’s expense. If return authorization is not received at Tank within 30 days, Tank reserves the right to dispose of the failed goods and process a debit memo. Tank shall have the right to cancel any unshipped portion of the order quantity.

**5. Price.** Prices must not be in excess of those last quoted. Tank shall receive the benefits of any price reduction by Seller made effective after receipt of this Order but before delivery. No additional charges of any kind will be allowed unless agreed to and supported by Tank provision of new or revised purchase order prior to shipment.

**6. Invoices.** Separate invoices must be rendered for each shipment to show Tank’s purchase and part numbers and the invoice with the last shipment should state "order completed". Bills of lading must accompany invoices and include weight and rate of freight. A packing list must be placed in all packages and boxes and a purchase order number must appear on all invoices, packing slips and bills of lading.

**7. Indemnity.** Seller shall defend, indemnify and hold harmless Tank against all damages, claims or liabilities and expenses (including reasonable attorneys’ fees) arising out of or resulting in any way from any defect or nonconformance in the goods or services purchased hereunder, or from any act or omission of Seller, its agents, employees or subcontractors. Tank may be represented by and actively participate through its own counsel at its own expense in any suit or proceeding. Seller shall not obligate Tank to any legal settlement without the express written consent of Tank. Except for articles manufactured to Tank’s own specifications and plans, Seller agrees to defend, protect, indemnify and hold harmless, Tank and its customers from all costs, expenses or damages arising out of any actual or claimed patent infringement pertaining to the item covered by this Order or any uses contemplated by the parties at the time of delivery to Tank.

**8. Offsets.** Without prejudice to any other right or remedy it may have, Tank may deduct all or any part of any damages it may suffer (resulting from any breach of the contract by the Seller) from any amount payable by Tank to the Seller.

**9. Anti-Corruption.** Seller agrees that in performing its duties under these Terms and Conditions it will not offer, promise, or make any payments, loans, gifts of money, or anything of more than nominal value to an official or employee of any government; or to an official or employee of any department, agency, or instrumentality of a government; or to an employee of any corporation or entity owned or controlled by a government; or to an immediate family member of such officials or employees; or to any political party, party official, or political candidate; or to any other person if Seller knows or has reason to believe that any part of the payment, loan, or gift will be given directly, indirectly, or through a third party to any of the persons described above. Seller represents and warrants that none of its agents, partners, owners, principals, or employees is or will be an official or employee of any government department, entity, instrumentality, or government-owned corporation, nor of any political party, nor is any of them a political candidate. Seller agrees that it has no right to assign any portion of this contract, and that it will not use sub-agents, representatives, or sub-partners that have not been approved in writing by Tank. Seller agrees to make and keep books, records and accounts that accurately, fairly, and in reasonable detail reflect its performance hereunder.

**10. Compliance with Laws.** In the performance of the Seller and in the furnishing of material under this order, Seller agrees to comply with all applicable laws and regulations thereunder, including without limitation, those with respect to wages, hours, labor conditions and the Occupational Safety and Health Act of 1970. If this order (or sub-contract) covers material and/or services to be utilized in the fulfillment of a Government Contract, Seller (or Contractor) agrees to comply with the Equal Opportunity Clause set forth in Section 202 of Executive Order 11246 (and any amendments thereto), the Affirmative Action Clause prescribed by the Vietnam Era Veterans Readjustment Assistance Act of 1974; Minority Business Enterprises Clause requirements of Executive Order 11625; and the Affirmative Action Clause prescribed by Executive Order 11758 unless exempt from such compliance.

**11. Entire Agreement/Assignment.** This order constitutes the entire agreement between the parties (except for any master supply agreement) and may not be modified or amended except by a writing signed by Tank. It may not be assigned or subcontracted by Seller without Tank’s prior written consent.

**12. No Waiver.** Failure of Tank to insist upon strict performance of any of the Terms and Conditions in this order shall not be considered a continuing waiver of any of Tank’s rights, or of such Terms and Conditions.

**13. LIMITATION OF LIABILITY.** NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT TO THE CONTRARY, AND IRRESPECTIVE OF ANY FAULT, NEGLIGENCE, OR GROSS NEGLIGENCE OF ANY KIND, IN NO EVENT SHALL TANK OR ANY OF ITS DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS BE LIABLE TO SELLER FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, RELIANCE, PUNITIVE OR INDIRECT DAMAGES.

**14. Governing Law.** This order will be construed in accordance with, and all disputes will be governed by, the laws of the State of Wisconsin, without regard to its conflict of laws rules. The parties specifically waive application of the UN Convention on Contracts for the International Sale of Goods. Seller irrevocably consents to the personal jurisdiction of the state and federal courts in and for the State of Wisconsin, United States, and irrevocably waives any claim it may have that any proceedings brought in such courts have been brought in an inconvenient forum.

**15. Proprietary Information – Confidentiality.** Seller shall consider all information furnished by Tank to be confidential and shall not disclose any such information to any other person, or use such information itself for any purpose other than performing this purchase order unless Seller obtains written permission from Tank to do so. This paragraph shall apply to drawings, specifications or other documents prepared by Seller for Tank in connection with this purchase order. Seller shall not advertise or publish the fact that Tank has contracted to purchase goods from Seller, nor shall any information relating to the purchase order be disclosed without Tank’s written permission. Unless otherwise agreed in writing, no commercial, financial or technical information disclosed in any manner or at any time by Seller to Tank shall be deemed secret or confidential, and Seller shall have no rights against Tank with respect thereto except such rights as may exist under the patent laws.