

PO Terms - Services - International

These purchase order terms and conditions will be applicable whenever (1) a U.S. based Eaton operation or plant issues a purchase order to a service provider outside of the U.S. and Canada; OR (2) a non-U.S. Eaton operation or plant issues a purchase order to a service provider.

1. Acceptance of Order:

1.1 Buyer shall not be bound by this order until Service Provider executes and returns to Buyer the acknowledgment copy of this order. Service Provider shall be bound by this order and its terms and conditions when it executes and returns the acknowledgment copy, when it otherwise indicates its acceptance of this order or when it renders for Buyer any of the services ordered herein.

1.2 This order expressly limits acceptance to the terms and conditions stated herein, and any additional or different terms or conditions proposed by Service Provider are rejected unless expressly assented to in writing by Buyer. No contract shall exist except as hereinabove provided, unless otherwise mutually agreed by the parties hereto in writing.

2. Amendments:

2.1 The parties agree that this order, including the terms and conditions on the face and reverse side hereof together with any documents attached hereto or incorporated herein by reference, contains the complete and final contract between Buyer and Service Provider; that no agreement or understanding to modify this order shall be binding upon Buyer unless in writing and signed by Buyer's authorized representative.

3. Changes:

3.1 Buyer reserves the right at any time to make written changes in any one or more of the following: (a) place of delivery; (b) time or frequency of delivery; (c) manner of delivery.

3.2 If any such change causes an increase or decrease in the cost of, or the time required for, performance of this order, Service Provider shall be entitled to claim an equitable adjustment in the price or delivery schedule, or both. Any claim for adjustment under this Article shall be deemed waived unless asserted within twenty (20) days from the date of receipt by Service Provider of the change order; provided, however, that Buyer, if it decides in its sole discretion that the facts justify such action, may receive and act upon any such claim submitted at any time prior to final payment under this order. Any claim by Service Provider for adjustment under this Article must be approved by Buyer in writing before Service Provider proceeds with such change.

4. Delivery:

4.1 Time is of the essence in the performance of this order, and if rendering of services is not completed at the times specified, Buyer reserves the right without liability, and in addition to its other rights and remedies, to take either or both of the following actions: (a) terminate this order by notice effective when received by Service Provider as to services not yet rendered and to purchase substitute services elsewhere and charge Service Provider with any loss incurred.

4.2 Neither party shall be liable for defaults due to causes beyond its control and without its fault or negligence; provided, however, that when Service Provider has reason to believe that deliveries will not be made as scheduled, written notice setting forth the cause of the anticipated delay will be given immediately to Buyer.

4.3 If Service Provider's delay or default is caused by the delay or default of a subcontractor, such delay or default shall be excusable only if it arose out of causes beyond the control of both Service Provider and subcontractor and without the fault or negligence of either of them and the services to be rendered were not obtainable from other sources in sufficient time to permit Service Provider to meet the required delivery or performance schedule.

5. Prices and payment terms:

5.1 The prices accepted by Buyer and confirmed in the Purchase Order are fixed for the duration of the Purchase Order and may not be modified without the written agreement of the Buyer and Service Provider. Price increases shall not be binding on Buyer unless evidenced by a purchase order change notice or revision issued and signed by Buyer's authorized representative.

5.2 Invoices shall be issued by Service Provider on a weekly or monthly basis, as required by Buyer. Payment for Services rendered by Service Provider shall be made by Buyer within Ninety (90) days after the date of receipt of a corresponding correct invoice from Service Provider.

6. Employer's Obligations:

6.1 As an independent company, Service Provider agrees that it has and will have sole responsibility for the health, safety, and welfare of its employees, subcontractors, and agents providing the Services. For Services provided at Buyer's locations, customers' locations or other project sites, Service Provider (and its employees, agents and subcontractors) must take all required precautions relating to environmental, safety and health ("EHS") with respect to the Services, including compliance with all applicable legal requirements, Buyer's Safety Policy and EHS Handbook (available at <http://www.eaton.com/EatonCom/OurCompany/DoingBusiness/SellingtoUs> and incorporated into Eaton's Supplier Code of Conduct), and any additional site, project, or other specific health and safety requirements and protocols specified by Buyer ("Buyer's EHS Requirements," all of which are incorporated by reference herein). In the event that Service Provider fails to comply with Buyer's EHS Requirements, Buyer reserves the right to require Service Provider to stop the Services and remove its employees, agents and subcontractors from the location until Service Provider has taken appropriate corrective actions. Service Provider shall be solely responsible for all costs, liabilities and claims associated with such stoppage, and shall not charge Buyer for any resulting stoppages. The rights and remedies of Buyer in this Article are in addition to, and not in lieu of, Buyer's other rights and remedies under the order (including termination of the order).

6.2 Service Provider will provide the Services and perform any other obligations in strict compliance with all applicable laws. Buyer will not be responsible for monitoring Service Provider's compliance with any applicable laws.

6.3 Service Provider will comply with all equal employment opportunity and non-discrimination requirements.

6.4 Whenever any actual or potential labor dispute delays or threatens to delay the timely performance of Services, or any of Service Provider's other obligations, Service Provider will immediately give written notice to Buyer and take all reasonable steps to prevent or resolve the dispute.

6.5 Service Provider will not subcontract any of the Services to other persons or entities without the prior written approval of Buyer. Buyer reserves the right to interview such subcontractors prior to performing any work. All obligations imposed upon Service Provider will be similarly imposed by Service Provider upon any authorized subcontractors. Service Provider's execution of any subcontracts, including subcontracts approved by Buyer, will not relieve, waive or diminish any obligation Service Provider may have to Buyer. Fees for subcontracted Services will be included in the fees and costs billed by Service Provider.

7. Service Provider's Warranties:

7.1 Service Provider warrants that all services performed for or on behalf of Buyer will be performed in a competent, workmanlike manner and shall be free from faults and defects. Said warranties shall be in addition to any warranties of additional scope given by Service Provider to Buyer. None of said warranties and no other implied or express warranties shall be deemed disclaimed or excluded unless evidenced by a purchase order change notice or revision issued and signed by Buyer's authorized representative.

8. Relationship:

8.1 The relationship of Buyer and service Provider is that of independent parties, and neither party is an employee, agent, partner or joint venture of the other. Service Provider shall be solely responsible and liable for any employment-related taxes, insurance premiums or other employment benefits respecting Service Provider's activity. Buyer shall not be responsible for the payment of any duties or taxes imposed on the income or profits of the Service Provider.

8.2 Nothing in this order shall be construed to preclude Buyer from independently developing, or acquiring from other third parties, any service identical or similar to the Services contemplated herein.

9. Property of Buyer:

9.1 Unless otherwise provided in this order or agreed to in writing, property of every description including but not limited to all tooling, tools, equipment and material furnished or made available to Service Provider, title to which is in Buyer, and any replacement thereof shall be and remain the property of Buyer. Such property other than material shall not be modified without the written consent of Buyer. Such property shall be plainly marked or otherwise adequately identified by Service Provider as being owned by Buyer and shall be safely stored separately and apart from Service Provider's property.

9.2 Service Provider shall not use such property except for performance of work hereunder or as authorized in writing by Buyer. Such property while in Service Provider's possession or control shall be listed in writing and kept in good condition, shall be held at Service Provider's risk, and shall be kept insured by Service Provider, at its expense, in an amount equal to the replacement cost with loss payable to Buyer. To the extent such property is not material consumed in the performance of this order, it shall be subject to inspection and removal by Buyer and Buyer shall have the right of entry for such purposes without any additional liability whatsoever to Service Provider. As and when directed by Buyer, Service Provider shall disclose the location of such property, prepare it for shipment and ship it to Buyer in as good condition as originally received by Service Provider, reasonable wear and tear excepted.

10. Special Tooling:

10.1 The term "special tooling" as used in this Article shall be deemed to include all jigs, dies, fixtures, molds, patterns, special cutting tools, special gauges, special test equipment, other special equipment and manufacturing aids, and drawings and any replacements of the foregoing, acquired or manufactured or used in the performance of this order, which are of such a specialized nature that, without substantial modification or alteration, their use is limited to the performance of the services of the type required by this order. The term does not include (a) items of tooling or equipment heretofore acquired by Service Provider, or replacement thereof, whether or not altered or adopted for use in the performance of this order, (b) consumable small tools, (c) general or special machine tools or similar capital items, or (d) tooling, title to which is in Buyer.

10.2 Service Provider agrees that special tooling shall be retained and not used or reworked except for performance of work hereunder or as authorized in writing by Buyer. While in Service Provider's possession or control, Service Provider warrants that it will keep the special tooling in good condition fully covered by insurance, and will replace it when lost, destroyed, or necessary for performance of work hereunder.

10.3 Upon cessation or termination of the work under this order for which the special tooling is required, Service Provider shall furnish Buyer a list of the services for the manufacture or performance of which such special tooling was used or designed and shall transfer title to and possession of the special tooling to Buyer for an amount equal to the unamortized cost thereof, or dispose thereof as Buyer may direct in writing. In addition, Buyer shall have the right to take possession of, including the right of entry for such purpose, any special tooling, title to which Buyer acquires hereunder, without any additional liability whatsoever to Service Provider.

11. Confidentiality, Inventions:

11.1 All information furnished or made available by Buyer to Service Provider or to Service Provider's employees or subcontractors in connection with the services covered by this order shall be treated as confidential and shall not be disclosed by Service Provider, its employees and subcontractors to any third party either in whole or in part, without Buyer's prior written consent. Service Provider agrees not to assert any claim against Buyer with respect to any information which Service Provider shall have disclosed or may hereafter disclose to Buyer in connection with the services covered by this order.

11.2 Service Provider agrees that all designs, drawings, processes, compositions of material, specifications, software, mask works or other technical information made or furnished by Service Provider in connection with the services covered by this order, including all rights thereto, shall be the sole and exclusive property of Buyer, free from any restriction, and Service Provider shall protect same against unauthorized disclosure to or use by any third party. Service Provider agrees that, as to all inventions and improvements in such designs, drawings, processes, compositions of material, specifications, software, mask works or other technical information made or furnished by Service Provider in connection with the services covered by this order.

11.3 Service Provider will promptly identify and disclose such inventions or improvements to Buyer and execute or obtain the execution of any papers as may be necessary to perfect ownership of the inventions or improvements in Buyer or as may be necessary in the obtainment, maintenance, or enforcement by Buyer of any patent, trademark, copyright, trade secret, mask work right or other proprietary right pertaining to the inventions or improvements.

11.4 The confidentiality provisions and the obligations of this paragraph shall survive termination or completion of this order.

12. Intellectual Property Indemnification:

12.1 Service Provider agrees (a) to defend, indemnify and hold harmless Buyer, its successors and customers against all claims, demands, losses, suits, damages, liability and expenses (including reasonable attorneys' fees) arising out of any suit, claim or action for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark, copyright, mask work or other proprietary right by reason of the services covered by this order, including infringement arising out of compliance with specifications furnished by Buyer, or for actual or alleged misuse or misappropriation of a trade secret resulting directly or indirectly from Service Provider's actions, (b) to waive any claim against Buyer under the Uniform Commercial Code as adopted by the State of Ohio, U.S.A. or otherwise, including any hold harmless or similar claim, in any way related to a claim asserted against Service Provider or Buyer for patent, trademark, copyright or mask work right infringement or the like, including claims arising out of compliance with specifications furnished by Buyer.

12.2 Service Provider assigns to Buyer all right, title and interest in and to all trademarks, copyrights, and mask work rights in any material created for Buyer in connection with this order. The obligations of this paragraph shall survive termination or completion of this order.

13. Indemnification:

13.1 Service Provider further agrees to indemnify and save Buyer harmless from any and all losses, liabilities, damages,

claims, demands, suits, actions, proceedings, subrogations and expenses, including court costs and reasonable attorneys' fees, related in any way to this order, or the services performed under this order, which are claimed or made by any person, firm, association or corporation, including employees, workers, servants or agents of Service Provider and his subcontractors arising from any cause or for any reason whatsoever.

13.2 Service Provider further agrees, upon receipt of notification, to promptly assume full responsibility for the defense of any and all such suits, actions, or proceedings which may be brought against Service Provider or against Buyer. In the event Buyer's machinery or equipment is used by Service Provider in the performance of any work that might be required under this order, such machinery or equipment shall be considered as being under the sole custody and control of Service Provider during the period of such use by Service Provider.

13.3 IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR CONSEQUENTIAL, INCIDENTAL OR SPECIAL DAMAGES ARISING FROM ANY CLAIM OR ACTION HEREUNDER, BASED ON CONTRACT, TORT OR OTHER LEGAL THEORY.

14. Insurance:

14.1 Service Provider agrees to indemnify and protect Buyer against all liability, claims or demands for injuries or damages to any person or property growing out of the performance of this order.

14.2 Service Provider further agrees to furnish evidence of insurance showing that Service Provider has and will maintain adequate insurance coverage during the life of this order in the opinion of Buyer, including but not limited to comprehensive general liability insurance. Such evidence of insurance must set forth the name of the insurer, policy number, expiration date, and limits of liability. Compliance by Service Provider with insurance requirements does not in any way affect Service Provider's indemnification of Buyer under Article 13 above.

15. Order Cancellation:

15.1 Buyer shall have the right to cancel for default all or any part of the undelivered portion of this order if Service Provider fails to make reasonable progress towards completion of the order at the times specified, if Service Provider does not make deliveries as specified in the delivery schedule, if Service Provider breaches any of the terms hereof including warranties of Service Provider, if Service Provider makes an arrangement, extension or assignment for the benefit of creditors, if Service Provider dissolves or otherwise ceases to exist or liquidates all or substantially all of its assets, if Service Provider becomes insolvent or if Service Provider generally does not pay its debts as they become due.

15.2 Upon direction of Buyer, Service Provider shall also protect and preserve property in its possession in which Buyer has an interest. The rights and remedies of Buyer set forth in this Article are in addition to, and not in lieu of, any other remedies which Buyer may have in law or equity or pursuant to other Articles of this order.

15.3 If, after cancellation pursuant to this Article, it is determined by a court of competent jurisdiction, or otherwise, that the Service Provider was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued pursuant to Article 16 hereof.

16. Termination:

16.1 Buyer may terminate performance of work under this order in whole or from time to time in part by written notice of termination, whereupon Service Provider will stop work on the date and to the extent specified in the notice and terminate all orders and subcontracts to the extent they relate to the terminated work.

16.2 Within 60 days after receipt of such notice of termination, Service Provider will submit all its claims resulting from such termination. Buyer will have the right to check such claims at any reasonable time or times by inspecting and auditing the records, facilities, work or materials of Service Provider relating to this order.

16.3 Buyer will pay Service Provider without duplication, the order price for finished work accepted by Buyer, based on any audit Buyer may conduct and United States generally accepted accounting principles. Buyer will make no payments for finished work in excess of any order or release. Notwithstanding the above, payments made under this Article shall not exceed the aggregate price specified in this order less payments otherwise made or to be made. Payment made under this Article constitutes Buyer's only liability in the event this order is terminated hereunder.

16.4 Except as otherwise provided in this order, the provisions of this Article will not apply to any cancellation by Buyer for default by Service Provider or for any other cause allowed by law or under this order.

16.5 Except as otherwise provided in Article 15, the provisions of this Article will not apply to any cancellation by Buyer for default by Service Provider.

16.6 In no event shall Service Provider be entitled to anticipatory profits or to special or consequential damages under this

order.

17. Compliance with Applicable Laws, Personal Data Processing:

17.1 Service Provider agrees that, in the performance of this order, it will comply with all applicable laws, statutes, rules, regulations or orders of the jurisdiction where work performance under this order is carried out, as well as all applicable laws of the United States of America, including but not limited to the U.S. Foreign Corrupt Practices Act, Trading With The Enemy Act, Arms Export Control Act and regulations of the Office of Foreign Assets Control.

17.2 In providing the Services, Service Provider may have access or may be required by Buyer to access one or more of Buyer's databases, applications, reports, documents and/or other information in hardcopy or electronic form that contain or process or may receive data relating to identified or identifiable individuals ("Personal Data"). Such individuals may include Buyer's employees, temporary workers, contractors, consultants, students, customers or end-users. Service Provider acknowledges and agrees that Personal Data, in whichever form, is of a very sensitive nature, and hereby undertakes to keep Personal Data strictly confidential and to use it only within the limits authorized by Buyer and in accordance with applicable law for the purpose of providing the ordered Services.

17.3 Service Provider will use the Personal Data in accordance with the applicable Data Protection and Privacy laws including the adoption of the required technical and organizational security measures. Furthermore, Service Provider agrees to comply with the Personal Data Processing Clauses available at http://www.eaton.com/content/dam/eaton/support/selling-to-eaton/files/po_terms/Personal-Data-Processing-Clauses.pdf and incorporated by reference herein.

18. Buyer's Global Sourcing Code of Supplier Conduct:

18.1 Service Provider hereby agrees to comply fully with the Eaton Corporation Global Sourcing Code of Supplier Conduct, which is incorporated by reference herein, and is available on Eaton Corporation's public website at www.Eaton.com.

19. Waiver:

19.1 The failure of Buyer to insist, in any one or more instances upon the performance of any of the terms, covenants or conditions of this order or to exercise any right hereunder, shall not be construed as a waiver or relinquishment of the future performance of any such terms, covenants or conditions or the future exercise of such right, but the obligation of Service Provider with respect to such future performance shall continue in full force and effect.

20. Assignment:

20.1 None of the sums due or to become due nor any of the work to be performed under this order shall be assigned nor shall Service Provider subcontract for completed or substantially completed material called for by this order without Buyer's prior written consent.

21. Remedies:

21.1 The remedies provided for herein shall be cumulative and in addition to any other or further remedies provided by law or equity. Buyer shall have the right to set off against any amounts payable by Buyer to Service Provider under this order or any other agreements between Buyer and Service Provider any amounts which Service Provider owes to Buyer under this order or otherwise.

21.2 In the event of any disputes arising under this order, Buyer and Service Provider shall proceed diligently with the performance required hereunder pending resolution of any such dispute. If any portion of this order is invalid or unenforceable, the remaining portions of this order shall remain valid and enforceable.

22. Dispute Resolution:

22.1 In the event of a dispute between the parties arising out of or related to this order which solely concerns monetary damages or money due, the parties agree that a meeting shall be held promptly attended by representatives of each party having decision-making authority regarding the dispute to attempt in good faith to negotiate a resolution of the dispute.

22.2 If the parties do not succeed in negotiating a resolution of the dispute, the parties shall use their best efforts to select an alternative dispute resolution procedure ("ADR"), such as a "mini trial" or mediation, to resolve the dispute. If the parties are unable to agree upon a form of ADR within an additional fifteen (15) days, then either party may pursue other available remedies upon written notice to the other party.

22.3 If the parties are able to agree upon a form of ADR, they shall pursue its implementation in good faith and in a timely manner. In the event the ADR does not result in a resolution of the dispute, then either party may pursue other available

remedies upon written notice to the other party.

22.4 All disputes hereunder shall be resolved in the English language. Notwithstanding anything to the contrary herein, any dispute arising hereunder that is not subject to or resolved using an ADR procedure, shall be finally decided by one or more arbitrators in accordance with the Rules of arbitration of the Chamber of Commerce and Industry of Geneva (Switzerland) by three arbitrators, two appointed by the parties respectively and one by the President of the Chamber of Commerce and Industry of Geneva, Switzerland. The Arbitration will be held in Geneva, Switzerland, and in English language.

23. Governing Law:

23.1 This agreement shall be governed, interpreted and construed by, and in accordance with, the laws of the country where the Buyer has registered offices, without regard to the conflict of laws provisions thereof, and expressly excluding the United Nations Convention on Contracts for the International Sale of Goods, 1980 as amended.

24. Prevailing Language:

This agreement shall be governed, interpreted and construed in the English language hereof, regardless of any translations that may be made into any other language.

25. Product Stewardship Requirements: In the event that items are provided by Service Provider to Buyer under this order, Service Provider must comply itself, and must cause its suppliers, to comply, with all Product Stewardship Requirements (as defined herein) that are applicable to the items delivered under this order, as a result of the place the items are created or delivered to Buyer or the ultimate place Buyer's own products or its customers' products are sold or used.

(a) Product Stewardship Requirements include, but are not limited to:

(1) All applicable standards and legal requirements concerning chemical composition, labeling, recycling, packaging and product end-of-life disposal, including, but not limited to: the International Material Data System (IMDS) system, the European Union Waste Electrical and Electronic (WEEE) Directive, the European Union Restriction of Hazardous Substances (RoHS) Directive, the European Union End-of-Life Vehicle (ELV) Directive, the European Union Registration, Evaluation and Authorization of Chemicals (REACH) regulation, the European Union Batteries and Accumulators and Waste Batteries and Accumulators Directive, their respective revisions, their national implementations, amendments or successor systems, and their equivalents in other jurisdictions;

(2) All applicable standards and legal requirements concerning product design for safety, energy and resource efficiency, recyclability, including associated product marking and labeling requirements;

(3) All applicable standards and legal requirements concerning product packaging and transportation, including but not limited to: the regulations of the U.S. Department of Transportation concerning transportation of hazardous materials, including, but not limited to, training of personnel, packaging, marking, labeling, documenting, placarding, and responding to emergencies, the International Maritime Organization and the International Air Transport Association (IATA) and their respective revisions, amendments or successor systems, and their equivalents in other jurisdictions; and

(4) Any requirement of Buyer or Buyer's customer(s) concerning the chemical composition, design, labeling, recycling, packaging and end-of-life of any item provided to Buyer by Service Provider under this order, including but not limited to use restrictions or bans on certain substances.

(b) Compliance with Product Stewardship Requirements includes, but is not limited to, Service Provider doing each of the following at its sole cost and expense, if required by any Product Stewardship Requirements:

(1) Identifying the chemical composition of each item provided to Buyer by Service Provider including the chemical names and quantities contained in the item;

(2) Immediately providing Buyer with documentation in the format specified by Buyer, of the chemical composition of the items provided to Buyer under this order together with sufficient information to allow safe use of the items, and providing updated documentation to Buyer in the event of any changes to the item;

(3) Eliminating certain regulated substances used in, with, or in connection with the items provided under this order;

(4) Pre-registering, registering with, or notifying the regulatory agencies with respect to the chemical composition of the items provided by Service Provider under this order;

(5) If requested by Buyer, providing Buyer with evidence (including analytical test reports) that the items provided to Buyer under this order comply with Product Stewardship Requirements;

(6) If any Product Stewardship Requirements prohibit the delivery to Buyer of the items to be provided under this order, immediately informing Buyer and proposing an alternate solution to ensure the continuity of supply to Buyer in compliance with Product Stewardship Requirements and this order; and

(7) Cooperating with Buyer in evaluating the item's environmental and sustainability aspects and impacts throughout its life-cycle assessments in accordance with international standards, including its repair, maintenance and end-of-life disposal. Upon Buyer's reasonable request, Service Provider will provide Buyer with data, information and documents evidencing Service Provider's support of the foregoing efforts and, to the extent not otherwise business confidential, the parties will share associated life-cycle data and analyses.