

CTA ACOUSTICS, INC. - GENERAL TERMS AND CONDITIONS

1. **COMPLIANCE WITH APPLICABLE LAW.** Seller represents and warrants that all materials, supplies, and equipment (hereinafter referred to as "materials") delivered and services furnished hereunder are conveyed with good title and free of any liens or encumbrances whatsoever, and also conform with applicable laws, ordinances and regulations including the Federal Occupational Safety and Health Act and Seller will defend and save Buyer harmless from loss, liability or expenses by reason of any actual or alleged violation thereof. Seller agrees to indemnify and hold buyer harmless from any loss, expenses or damages (including attorney's fees) arising out of any claim that the item or process, which is the subject of this purchase order, or the sale or use thereof.
 2. **CLAIMS AND WARRANTIES.** Seller represents and warrants that materials furnished by it shall (except when otherwise specified on the face of this order) be merchantable, new and of first grade and that Seller's services will be performed in a skillful and workmanlike manner. Seller represents and warrants that materials are fit for the purpose for which they are purchased. Seller is responsible for and will make good any defects in workmanship and/or materials covered by this purchase order, which defects become apparent within 12 months from the date of putting same into service. Seller is not relieved of the responsibility imposed by this clause, either as to the proper packing, quality of materials or specifications by reason of acceptance by Buyer.
 3. **PATENTS.** Seller warrants that the products ordered do not infringe on any United States or foreign patent, or on any other right of any other person. Seller shall indemnify and hold Buyer harmless against any claim of infringement of patent or such other rights relating to the manufacture of the products ordered, and shall bear all cost and expenses, including reasonable attorney's fees, arising from or related to any such claim. As used herein, the term "claim" includes, without limitation, any claim for the temporary or permanent injunctive relief in any action from such infringement of patent or other rights. Buyer agrees to give prompt notice to Seller of any claim of patent infringement and to provide reasonable assistance to Seller in the defense thereof.
 4. **NOTICES.** All notices and other communications relative to Purchases, Bids, Inquiries, etc. must be addressed to the Buyer in care of the Purchasing Department.
 5. **SELLER'S CHANGES TO ORDERS.** Changes in Purchase Orders shall not be made except upon written application to, and subsequent to written authority of the Purchasing Department.
 6. **PARTIAL SHIPMENTS.** Partial shipments must be identified as such on the shipping memoranda and on invoices. Mark "PARTIAL" for the preliminary consignments, and "FINAL" for the completing shipment.
 7. **QUANTITY.** The quantity of material ordered must not be exceeded without permission in writing having first been obtained from the Buyer.
 8. **PRICE.** This order must not be filled at higher prices than last quoted or charged without written authority from the Buyer.
 9. **CONTAINERS.** No charges for boxing or crating will be accepted unless previously arranged in writing.
 10. **SELLERS DEFAULT.** In case of default by Seller, Buyer may obtain materials and services from other sources and hold Seller responsible for any damages occasioned thereby.
 11. **INSPECTION OF MATERIALS.** Materials are subject to inspection and test by Buyer and ultimate purchaser at manufacturer's plant. Final Payment shall not be due until final inspection and acceptance by Buyer at its facility, unless otherwise negotiated by the parties.
 12. **ANALYSIS OF FURNISHED MATERIALS OR SERVICES.** If this Purchase Order requires Seller to furnish materials or services, Seller shall furnish Buyer with any analysis of such materials or services that Buyer may reasonably require.
 13. **EFFECT OF CONFLICTING PROVISIONS.** If any of the provisions of Seller's proposal, sales contract or other writing are in conflict with the terms of this Purchase Order, the terms of this Purchase Order shall govern. Buyer's failure to object to either oral or written contradictory provisions contained in Seller's acknowledgments or communications shall not be deemed acceptance thereof. In the absence of written acceptance of these terms and conditions by Seller, delivery of any materials or goods ordered hereunder shall constitute acceptance of the terms and conditions herein stated.
 14. **ASSIGNMENT.** No assignment of the Purchase Order or of Seller's obligations hereunder shall be made, in whole or in part, without Buyer's written consent.
 15. **CANCELLATION.** The right is reserved to cancel this order without liability of Buyer to Seller if not filled within the time specified or within a reasonable time if no time is specified. **CANCELLATION OF THIS ORDER SHALL NOT CONSTITUTE A WAIVER BY BUYER OF ANY RIGHTS BUYER MAY HAVE FOR SELLER'S DEFAULT.**
 16. **FAIR LABOR STANDARDS ACT.** The filling of this Purchase Order shall constitute a warranty on the part of the Seller, that it has complied with all provisions of the Fair Labor Standards Act of 1938 (Federal Wage and Hour Law) as amended. Breach of this warranty by Seller will render the Seller liable to the Buyer for the total amount of any fines, together with all costs of suit and legal fees levied against or paid by the Buyer by reason of any prosecution instituted against it under the provisions of said act. The Buyer reserves the right, upon receiving written authoritative information that the Seller has violated said Act, to cancel this order and/or to refuse delivery hereon; and further to return to Seller any or all material delivered hereon, at Seller's expense and obtain reimbursement thereof.
 17. **MAINTENANCE OF INSURANCE.** If Seller's employees, subcontractors or others under Seller's control perform services hereunder at Buyer's premises or at premises of others, Seller shall maintain and shall require subcontractors, if any, to maintain the following kinds of insurance with minimum limits as set forth below:

(a) Workman's Compensation.	Statutory
(b) Employer's Liability.	\$1,000,000 each occurrence
(c) Contractor's comprehensive general liability (including contractual liability and if subcontractors are employees, contractor's protective liability).	\$1,000,000 bodily injury each occurrence \$1,000,000 property damage each occurrence
(d) Automobile public liability (including hired automobiles and non ownership liability).	\$1,000,000 bodily injury each occurrence \$1,000,000 property damage each occurrence
(e) Umbrella or Excess Liability	\$1,000,000 each occurrence
- Before commencing to perform such services, Seller shall furnish insurance certificates as directed by Buyer, satisfactory in form and substance to Buyer, showing the above coverage's, and providing for at least ten days prior written notice by the insurance company of cancellation or modification.
18. **SERVICES PROVIDED AT BUYER'S PREMISES OR DIRECTION.** If Seller's employees, subcontractors or others under Seller's control perform services at Buyer's premises or at Buyer's direction at premises of others, (I) such persons shall comply with all rules and regulations of such premises and (II) Seller shall keep materials and the premises on which the work is to be done free and clear of all liens for material and labor incident to the performance of Seller's services hereunder.
 19. **INDEMNITY AGREEMENT.** Seller agrees to protect, defend, indemnify and hold Buyer harmless from and against any and all expenses, claims, demands or causes of action of every kind and character arising in favor of any person, including both the Buyer's and Seller's employees, on account of personal injuries or death, or damages to property arising out of incident to or resulting directly or indirectly from the performance of Seller hereunder, whether such loss, damage, injury or liability is contributed to by Buyer or it's employees and whether due to imperfections of any materials furnished by Buyer or by premises themselves or any equipment thereon whether latent or patent or from other causes whatsoever, except that Seller shall have no liability for damages caused by the sole negligence of Buyer.
- Also Buyer will not be responsible for, and Seller agrees to protect, defend, indemnify, and save Buyer harmless against, any and all expenses, claims, demands, or causes of action of every kind and character arising in favor of Seller's employees or agents on account of occupational illnesses due, or allegedly due, to exposure to the products or by-products of the Buyer's manufacturing process, including without limitation, Asbestos and Fiberglass, arising out of incidents to, or resulting directly or indirectly from the performance by Seller hereunder.
20. **LIABILITY LIMITATIONS.** Seller's exclusive remedy shall be for damages and no claim of any kind, and whether based on contract, strict liability, breach of warranty, negligence or otherwise, shall be greater in amount than the purchase price of the quantity of the product in respect of which damages are claimed. **IN NO EVENT SHALL BUYER BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES WHETHER SELLER'S CLAIM IS BASED ON CONTRACT, STRICT LIABILITY, BREACH OF WARRANTY, NEGLIGENCE OR OTHERWISE.**
 21. **TAXES.** Sales and Use Tax shall be governed by the laws of the Commonwealth of Kentucky
 22. **MODIFICATION.** No modification, amendment, extension, renewal, rescission, termination or waiver of any of the provisions contained herein, or any future representation, promise or condition in connection with the subject matter hereof, shall be binding upon either party unless in writing and signed by an officer on its behalf.
 23. **GOVERNING LAW.** The terms and conditions hereof shall be governed and construed in accordance with the laws of the Commonwealth of Kentucky. Any controversy or claim arising out of or related thereto, shall be settled by arbitration unless settled by agreement of the parties.
 24. **HEADINGS.** The headings contained in this document are for convenience of reference only and will not affect the meaning or interpretation of this Agreement.