

## DORSTENER WIRE TECH, INC., PURCHASING TERMS AND CONDITIONS

### **GENERAL**

Prompt acceptance of this Order is requested, but, in any event, any delivery hereunder shall constitute an acceptance hereof and of all its terms. This Order is a final, complete and exclusive statement of the agreement between the parties and may not be modified, supplemented, explained or waived by parol evidence, Seller's acknowledgements, course of dealing, usage of trade, or in any other manner except in writing signed by an authorized representative of Dorstener Wire Tech, Inc., ("DWT"). Any references in this Order to Seller's Proposal or Quotation are only to describe the materials or work covered hereby and do not constitute an acceptance of any terms set forth therein. DWT values the confidence and good will of its customers and suppliers. We offer our products only on their merit and we expect our customers to judge and purchase our products and services solely on the basis of quality, price, delivery and service. Likewise, we buy only on merit, and we judge and purchase solely on the basis of quality, price, delivery and service. This policy of ours applies in all relationships with our customers and suppliers.

1. **PERFORMANCE BY SELLER** Time is of the essence for this Order and it is essential it be performed and filled on the specified date(s) and that the work progress in a timely fashion. Seller warrants that material and work furnished hereunder shall be of the highest grade and quality, unless otherwise specified. At DWT's option, any portion of the materials or work not complying with the requirements hereof, expressed or implied, may be returned at Seller's risk and expense, including transportation both ways, for prompt correction of defects. This Order is issued to Seller in reliance on Seller's personal performance, and Seller may not assign this Order or the partial payment of any sums due hereunder, or subcontract any substantial part of the performance of work other than for standard commercial supplies. Seller warrants and certifies that, in the manufacture, production, acquisition, sale and delivery of materials purchased hereunder, it has complied with all applicable provisions of federal, state and local law, including but not limited to, the Fair Labor Standards Act of 1938, Title VII of the Civil Rights Act of 1964, the Rehabilitation Act of 1973, the Vietnam Era Veterans Readjustment Assistance Act of 1974, Executive Order 11246, and the Occupational Safety & Health Act of 1970, as any of the foregoing are amended, together with regulations promulgated pursuant thereto, and all required provisions of the foregoing are hereby incorporated herein by reference, as if fully set forth herein. Seller warrants and represents that the sale or use of its products does not infringe any United States or foreign patent or other intellectual property, and will indemnify DWT against all judgments, decrees, costs and expenses resulting from alleged infringement, and agrees that Seller will, upon request of DWT and at Seller's own expense, defend any suit or action which may be brought against DWT, or those selling or using any product of DWT, by reason of any alleged infringement of any patent or other intellectual property in the sale or use of Seller's products. Seller shall defend, indemnify and hold DWT harmless from and against any and all claims, liabilities and causes of action connected with or arising out of Seller's performance hereunder, even if the same is caused or contributed to by the negligent act or omission, or a contractually assumed obligation of DWT. Seller's foregoing indemnity obligation shall be supported by adequate liability insurance furnished by Seller, at its sole cost and expense, in the amount of not less than One Million Dollars (\$1,000,000.00) per occurrence and shall contain an endorsement by which the insurer extends the coverage thereunder to the extent necessary to include the contractual liability of Seller arising by reason of the indemnity provisions set forth herein.

2. **PRICES AND TERMS** Seller warrants and represents to DWT that, on or about the time of this Order, Seller has not sold nor is selling any goods of the kind, in quality or quantity, described in this Order, to any entity on terms more favorable than those offered and/or otherwise made available to DWT, including, without limitation, the price and payment terms applicable to the goods, warranties, allowances, or rebates. If, at any time during the pendency of this Order, Seller sells any goods to an entity other than DWT on terms that are more favorable taken as a whole than those offered and/or otherwise made available to DWT ("Triggering Event"), Seller shall immediately: (a) notify DWT in writing describing the more favorable terms offered; and (b) enter into an amendment to the applicable Order(s) and provide DWT with terms that are at least as favorable as such other terms. Such amendment(s) shall apply to all pending and future Orders, and retroactively to all Orders for goods that were shipped, or for which payment was made beginning thirty (30) days prior to the occurrence of the Triggering Event. If, on or about the time of this Order, DWT is able to purchase from a seller goods of like quality and in a quantity not more than herein specified, and upon like terms and conditions, at a price lower than the price named herein, Seller agrees that it shall provide DWT with pricing terms at least as favorable to those otherwise available to DWT.

3. **CERTAIN CHARGES OR EXPENSES NEGATED** Unless otherwise specifically provided herein, (i) no charges for transportation, packing, crating, cartage, storage or containers, shall be allowed, (ii) Seller shall pay, all applicable sales and similar type taxes which are not imposed by law on DWT, and (iii) any information or data disclosed or furnished to DWT by Seller hereunder shall be deemed sold as part of the price hereof, nonproprietary and free of all restrictions whatsoever. Seller shall indemnify and hold harmless DWT from any such taxes owed by Seller, if any, whether a claim is asserted against DWT either prior to or after the termination hereof.

4. **NONCONFORMING GOODS DEFECTS** DWT may reject nonconforming goods and is not required to accept replacements or substitutes or permit cure of defects in any goods rightfully rejected. No inspection, test, delay or failure to inspect or test, or failure to discover any defective or nonconforming goods by DWT shall relieve Seller of any of its obligations herein nor impair DWT's right to reject defective or nonconforming goods.

5. **SET-OFFS** Seller agrees that DWT shall have the right to set-off against any amounts which may become due to Seller under this Order, or otherwise, against any amounts which Seller may owe to DWT, whether arising under this Order or otherwise.

6. **DWT'S PROPERTY** DWT retains title to all drawings, designs, specifications and technical data furnished to Seller for use with this Order and the same shall be treated as DWT's Confidential Information, shall be used by Seller only to complete this Order, shall not be disclosed to anyone else, and shall be returned upon completion or termination of this Order, along with all copies or reproductions thereof, provided copies or reproductions shall be made only with DWT's written consent. All materials, including tools, special dies and patterns, furnished or specifically paid for by DWT, shall be the property of DWT, shall be returned to DWT when no longer required hereunder, shall be used only to complete this Order, and shall be segregated and clearly identified as property of the DWT. Seller assumes all risk and liability for loss or damage thereto, except for normal wear, and agrees to permit inspection and supply detailed statements of inventory upon request of DWT.

7. **CHANGES** DWT may at any time by written notice, make changes within the general scope of this Order. If any such change affects the time for or cost of performance, an equitable adjustment shall be made in the delivery schedule, purchase price or both by agreement of the parties. All claims by Seller for adjustment under this clause must be asserted in writing and in full within thirty (30) days from the date of notification of the change or shall be waived. Nothing herein shall excuse Seller from proceeding with the Order as changed. No extras shall be allowed except pursuant to written changes and this clause.

8. **TERMINATION** DWT may at any time terminate this Order, in whole or in part, by written notice, whereupon Seller shall terminate work pursuant to the terms of such notice. Seller shall promptly advise DWT of the quantities of applicable work and material on hand or purchased prior to termination and the most favorable disposition that Seller can make thereof. Seller shall comply with DWT's instructions regarding disposition of such work and material. All claims by Seller, based on such termination, must be asserted in writing and in full within ninety (90) days from the date of notification of the termination, or shall be waived. DWT shall pay Seller the purchase order price of finished work and the cost to Seller (excluding profit or losses) of work in process and raw material, less, however, (i) the agreed value of any items used or sold by Seller with DWT's consent and (ii) the reasonable value or cost (whichever is higher) of any defective, damaged or destroyed work or material, and any items sold or used by Seller without DWT's consent.

DWT will make no payments for finished work, work in progress or raw material fabricated or procured by Seller unnecessarily in advance or in excess of DWT's delivery requirements. DWT shall not be liable for any incidental or consequential damages as a result of its termination of this Order. The payment provided under this clause shall constitute DWT's only liability in the event this Order is terminated as provided herein. The foregoing provisions of this clause shall not apply to any termination by DWT for default of Seller or under any provisions hereunder. To the extent this Order covers items normally carried in inventory by Seller (as distinguished from items specially made to DWT's specifications), DWT shall have no liability for any termination of this Order, in whole or in part, prior to actual shipment and for any termination, within ten (10) days after receipt by DWT, its liability shall be limited to returning said items and reimbursing Seller for direct costs of handling and transportation. DWT shall not be liable for failure to take delivery of material or work, or render any other performance, as a result of any *Force Majeure* event, including but not limited to, Acts of God, fire, accidents, labor difficulties, governmental actions, third party failures, or any other conditions beyond DWT's reasonable control, which render it commercially impractical for DWT to do so.

9. **GOVERNMENT CONTRACTS** If this Order is for material or work under a Government Contract or Subcontract, all contract provisions applicable hereto and required by law, order, regulation or DWT's Government Contract or Subcontract, are hereby incorporated by reference, as fully as if set forth herein in full, where necessary to make the context of

such provision or clauses applicable to this Order, the terms "Contractor", "Contract", and "Government" or "Contracting Officer" (or terms of similar import) shall mean respectively, Seller, this Order and DWT.

10. **HAZARDOUS GOODS** All goods shall be free of Hazardous materials including but not limited to lead, mercury, radioactive elements, and chemical or items that may be harmful to human health. If hazardous materials are contained in any product ordered by DWT, all documentation required to accompany the hazardous materials under federal, state and local law must be provided to DWT upon receipt of goods (i.e. MSDS Sheets). All illegal or undeclared hazards are the responsibility of Seller and Seller will indemnify and hold DWT harmless for any claims or damages arising out of the transportation or delivery of the illegal or undeclared hazardous material.

11. **GOVERNING LAW AND JURISDICTION, DISPUTE RESOLUTION** – All Orders shall be governed by and construed in accordance with the laws of the State of Texas, including the Texas Uniform Commercial Code. Any judicial proceeding arising out of this agreement shall be adjudicated in a Texas state court of competent jurisdiction with venue of the action being situated in Harris County, Texas. By entering into this agreement, Seller hereby submits itself to the jurisdiction of the state courts of Harris County, Texas.

12. **SEVERABILITY** – If any one or more of the provisions contained in this agreement shall be declared invalid, illegal or unenforceable in any respect under the applicable law, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired, and in such case the parties hereto oblige themselves to reach the purpose of the invalid provisions by a new, valid and legal stipulation.