

A&C Catalysts, Inc.
Purchase Order Terms and Conditions

1. ACCEPTANCE. This order for the purchase of the goods or services (collectively the "Goods") described on the face of this form constitutes Buyer's offer to Seller. This purchase order shall be deemed accepted by Seller either by written acknowledgement on the face hereof or, in the absence of such acknowledgement by delivery of any Goods. Acceptance by Seller shall create a firm contract solely on the terms and conditions of this order, which may not be modified by any of Seller's order forms or other documents or in any other manner without Buyer's express written consent to such modification. Seller is hereby notified of Buyer's objection to any terms inconsistent herewith and to any additional terms proposed by Seller in accepting or acknowledging this Purchase Order and such terms shall not become a part of this agreement unless accepted in writing by Buyer. Neither Buyer's subsequent lack of objection to any such terms, nor the acceptance of Goods ordered hereby, nor payment therefor, shall constitute or be deemed an agreement by Buyer to any such terms. Buyer may withdraw Buyer's offer or revoke acceptance at any time prior to shipment of Goods.
2. PACKING. The Goods shall be packed and shipped by Seller in accordance with Buyer's instructions and with good commercial practice to insure that no damage results from transportation, weather or other foreseeable conditions. In the absence of a packing list, Buyer's count as to the Goods shipped shall be final and conclusive.
3. DELIVERY AND CHARGES. Unless otherwise stated on the face of this order, all deliveries are F.O.B. Buyer's facility listed on the face of this order. The prices stated on the face of this order include all insurance, packing, freight, taxes and other charges to the point of destination unless otherwise specifically noted. If Seller delivers the Goods prior to the delivery date designated on the face of this order, Buyer shall be entitled to refuse delivery and, at Seller's expense, provide for the delivery of the Goods to a warehouse, and for their storage and re-delivery to Buyer on the proper delivery date. By providing for such transportation and storage, Buyer shall not be deemed to have waived any rights to reject other than those based on the early delivery. Time is of the essence on this order and if deliveries are not made at the time and in the quantity specified on the face hereof, buyer may cancel this order in whole or in part, without any liability.
4. RISK OF LOSS. Seller shall bear all risk of loss for the Goods until they are physically delivered to Buyer's facility.
5. INSPECTION AND REJECTION. All Goods, raw materials, work in progress, and components to be incorporated into the Goods, as well as Seller's plant and premises, may be inspected and tested by Buyer at all reasonable times, including during the period of manufacture. A&C Catalysts, Inc.'s authorized agent, representative, customers or regulatory authorities reserve the right to conduct Quality Systems and performance audits to ensure A&C Catalysts, Inc., customer and industry regulatory requirements are being complied with. Seller or any subcontractor shall, at their own expense, provide safe and convenient means of inspection to Buyer's inspectors. Buyer shall be entitled to charge Seller for any additional inspection costs which result from such items not being ready or available for inspection or testing or if such inspection or testing is conducted after a prior rejection of any Goods. Seller shall provide and maintain an inspection system acceptable to Buyer with respect to any Goods and shall keep complete records of the inspection work until three years after the conclusion of the warranty period specified herein. Notwithstanding any other inspection, the Goods are subject to final inspection and acceptance at Buyer's facility, or at such other location as is specified in writing by Buyer, and no prior inspection or payment shall be deemed an acceptance or a waiver of any rights or shall in any way relieve Seller from its obligations or liabilities hereunder. Without limiting any of Buyer's other remedies, Buyer shall be entitled to reject any defective or nonconforming Goods, in whole or in part, and at its option, return them to Seller for cash refund or credit. Any rejected Goods may also be held at Seller's risk if Seller does not remove the Goods within ten days after notice of rejection and Buyer may sell or otherwise dispose of any rejected Goods for Seller's account. Buyer shall further be entitled to full reimbursement for any transportation charges, packing, or any other charges incurred in connection with the receipt, reshipment or disposition of nonconforming or defective Goods.
6. PRODUCT WARRANTIES. Seller warrants that the Goods shall be free from any defects in material or workmanship, be merchantable within the meaning of the Commercial Code in the state where Buyer's principal office is located, conform to any specifications or drawings given by Buyer, and be fit for any particular purpose or other requirement communicated to Seller. Seller also warrants that any Goods not manufactured pursuant to detailed specifications or drawings furnished by Buyer shall be free from any design defects and that any Goods sold by sample shall be of the same quality as the sample and conform in all other respects to the sample. Seller expressly warrants that it has title to the Goods free from any liens, claims or encumbrances whatsoever. All implied warranties shall extend to Buyer, its successors, and customers, and to all users of the Goods for a period of one year after delivery. All express warranties remain in effect to the maximum extent permitted by law. In addition to any other remedies available if any warrant is breached, Buyer or such other parties may at their option, either cancel the order or return any or all of the Goods for cash refund or credit, at their option.
7. PRICE WARRANTY. Seller warrants that the prices indicated on the face hereof are no higher than those being charged to any other purchaser of comparable quantity and quality of Goods. In addition, any discount made available to any purchaser before the last date of the month following the shipment of any or all of this order shall retroactively apply to this order and Seller shall promptly credit Buyer with the amount of such discount.
8. INFRINGEMENT. Seller shall indemnify and hold harmless Buyer from and against any and all loss, liability, damage, or expense, including attorney fees incurred by Buyer by reason of any claim or suit for alleged infringement of any copyright, trademark, patent or other proprietary right resulting from or arising in connection with the manufacture, sale, use, performance, or other disposition of Goods furnished hereunder, or the performance of any work hereunder. Seller shall defend any such claim or suit and pay all costs and expenses related or incidental thereto, provided, however, that Buyer shall have the right, at its option, to participate in the defense of any such claim or suit without relieving Seller of any obligations hereunder.
9. TRADEMARKS. Buyer warrants it has the right to have Seller affix requested trademarks to the Goods. Seller shall not acquire or claim any right, title or interest in any such trademarks or utilize any such trademarks on any other goods it produces.
10. BUYER-FURNISHED PROPERTY. Seller shall not use, reproduce or appropriate for use, or disclose to anyone other than Buyer any material, tooling, dies, drawings, designs or any other property or data furnished by Buyer. All such property or data and all molds, tooling or other property or data manufactured by Seller at Buyer's expense, shall remain Buyer's, shall be kept separate from other materials, shall be clearly identified as Buyer's property and shall be used solely in connection with the performance of this order. With the exception of normal wear and tear and damage resulting solely from Buyer's negligence, Seller shall bear the risk of loss or damage to any such property or data

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which shall be returned to Buyer upon 10 days written notice from Buyer. Seller hereby indemnifies and holds Buyer harmless from any damages resulting from any delays in returning such property or data.

11. TERMINATION / CANCELLATION. Buyer may cancel this total Purchase Order or any unfilled portions thereof at any time. In addition to and without limiting any of Buyer's other remedies, Buyer may cancel this order in whole or in part, without any liability to Seller hereunder, if the Goods, or any part thereof, are not delivered or performed at the times, at the places, in the manner, at the prices and in the quantities set forth on this Purchase Order, or if any of the terms or conditions herein are breached, if any action is taken with commences a voluntary or involuntary state of federal bankruptcy or insolvency proceeding against Seller or if a receiver or similar official is appointed for any substantial part of Seller's assets. If Buyer cancels or suspends this order in whole or in part at any time for any other reason, Seller shall, to the extent specified in Buyer's notice, promptly suspend work, terminate any work being performed by others under any outstanding subcontracts with respect to the Goods, take all other reasonable steps to minimize its expenses with respect to the Goods, and take all necessary action to protect all property in Seller's possession in which Buyer has or may acquire an interest. Any claim for damages resulting from such cancellation or suspension must be submitted to Buyer within 60 days after Seller has been notified to cancel or suspend the order. Any cancellation or suspension by Buyer shall be without prejudice to any of Buyer's claims for damages or its other rights against Seller. Buyer, at its option, may accept the late or nonconforming Goods, and Seller will agree to an equitable adjustment in the price of those Goods. If Buyer elects to cancel this Purchase Order, Buyer shall have the option to take any goods, work or other items included in this Purchase Order whether finished, unfinished, or in process, upon such terms as Buyer and Seller may negotiate. If Buyer has instructed Seller to suspend work, by no later than 90 days after the giving of such instruction, Buyer must either cancel the order or instruct Seller to continue the work. If Buyer elects to continue, Seller shall, within 30 days after such election to continue, submit to Buyer any claim it may have for adjustment of price, delivery schedule or any other item affected by the work stoppage.

12. MODIFICATION. Buyer may, from time to time, by written instructions, or drawings issued to Seller, make changes to any aspect of this order, and the provisions of this order shall apply to all such changes, additions, and modifications. No work, addition or alteration will be paid for unless performed pursuant to and in accordance with the written order of Buyer. If any work or change in work affects the price or the time required for performance, Seller shall notify Buyer thereof within 15 days of change order and no adjustment in price or schedule shall be binding upon Buyer unless Buyer has agreed in writing to the same. However, nothing herein shall excuse Seller from immediately proceeding with the change.

13. COMPLIANCE WITH LAWS. Seller shall comply with all federal, state and local laws, and executive regulations and orders, including, without limitation, the applicable requirements of sections 6, 7, and 12 of the Fair Labor Standards Act, as amended, and of regulations and orders of the U.S. Department of Labor issued under applicable requirements of Executive Order 1141 and 11246, as well as the Rehabilitation Act of 1973, as amended, Occupational Health and Safety Act (OSHA), Hazardous Materials Transportation Act and Toxic Substances Control Act (TSCA) and regulations issued hereunder. Further, Seller warrants that all chemical substances furnished which are required or permitted to be reported to the U.S. and/or Canadian Environmental Protection Agency (EPA), as applicable, are listed as chemical substances in the Agency's current inventory listing. Seller agrees to indemnify, defend, and hold Buyer harmless from any expenses, loss, damage or liability resulting from the failure of Seller to comply. Seller hereby guarantees that any food, drug or cosmetic that may be covered hereby, or comprising or being a part of any shipment or other delivery hereunder, will not at the time of such shipment or delivery be adulterated or misbranded within the meaning of the Federal Food, Drug and Cosmetic Act, as amended, or within the meaning of any State Food and Drug Law, the adulteration or misbranding provisions of which are identical with, or substantially the same as, those of the Federal Food, Drug and Cosmetic Act, or be an article which may not under the provisions of said Act or Law be introduced into interstate or intrastate commerce. Material ordered hereby is warranted to conform to applicable FDA Regulations pertaining to such material and its intended use.

14. INDEMNITY AND INSURANCE. Seller hereby indemnifies and holds Buyer, its employees, customers, and any other user of the Goods, harmless from all claims or expenses, including, without limitation, reasonable attorneys' fees, which may arise from any property damage, personal injury or death resulting from any purchase, sale, or use of the Goods. Seller shall maintain insurance against such risks and, upon Buyer's request, shall deliver certificates of such insurance to Seller. Such insurance shall be in amounts satisfactory to Buyer, and shall name Buyer as an additional named insured. If any party purchasing Goods from the Buyer threatens to bring any action or claim, or brings any such action or claim against Buyer asserting that such Goods are not fit or safe for consumer use or are not merchantable or fit for the particular purpose intended, then, in addition to any other remedies which it may have, Buyer shall be entitled to tender to Seller, at its plant, any remaining Goods of the nature complained about for cash refund or full credit, at Buyer's option, and shall be entitled to recover all expenses incurred in connection with such action or threatened action.

15. SET-OFF. Buyer may, at its option, set-off any of Seller's indebtedness to Buyer against any indebtedness owed to Seller or its subsidiaries.

16. ASSIGNMENT. Buyer shall not assign the order or any interest herein, including without limitation, any of Seller's obligations or rights to payment. Any such attempted assignment or delegation shall be void.

17. GOVERNING LAW. Any disputes arising under this purchase order shall be adjudicated only by a state or federal court located within the state of Buyer's principal location, and each party to this purchase order hereby expressly submits itself to the personal jurisdiction of those courts for this purpose. All disputes arising under this purchase order shall be governed by, and resolved according to, the laws of such state.

18. NOTICE OF LABOR DISPUTES. Seller shall promptly give notice to Buyer of any actual or potential labor disputes which may delay or threaten to delay the performance of this order. Seller shall similarly require notice from any of its subcontractors of any actual or potential labor dispute and shall promptly provide Buyer with all relevant information regarding any such actual or potential dispute.

19. COSTS AND ATTORNEYS' FEES. If any judicial action is brought to enforce this order, the prevailing party shall be entitled to such costs, including, without limitation, such reasonable attorneys' fees as the court may award.

20. ENTIRE AGREEMENT. The terms and conditions set forth on both sides of this purchase order form constitute the entire understanding between the parties except for any other oral or written representations or warranties made by Seller with respect to the Goods.

21. WAIVER. A waiver relative to a breach of any provision of this agreement shall not constitute a waiver of any other breach of the same or any other provision.

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22. FUTURE ORDERS. Seller is aware that Buyer's purchase orders are customarily prepared after orders for goods or services have been placed orally by Buyer and that in certain cases in the future, Seller may actually deliver goods or services prior to receipt of Buyer's purchase orders. Seller expressly agrees that until such time as Seller is otherwise notified or until such time as Buyer and Seller otherwise agree in writing, the terms and conditions set forth on this side of the order shall apply to all future orders, even if purchase orders are not delivered for such orders or if they are delivered to Seller after shipment of the goods or services.

23. FORCE MAJEURE. Delay in performance or failure to perform hereunder shall be excused to the extent caused by act of God, labor trouble, fire, act of governmental authority, failure of transportation or supplies, accident or any other cause beyond the reasonable control of the party claiming such excuse and not the result of its failure to exercise due diligence. The party claiming such excuse shall give written notice to the other party as soon as practicable after occurrence of the event giving rise to the claim and shall provide in such notice its best estimate of the expected delay period.

24. MISCELLANEOUS. If any provision of this order or portion hereof, is held to be unenforceable or invalid, all other remaining provisions or portions hereof shall remain valid and enforceable. All paragraph headings are used for convenience only and shall not control the interpretation of any of the terms and conditions herein.

25. FEDERAL GOVERNMENT CONTRACTS. If the Goods covered by this order are to be used by Buyer in whole or in part for the performance of a federal government contract, all applicable provisions of such contract and of the Federal Acquisition Regulations, 48 C.F.R. Chapter 1 (Parts 1-99) or if such federal government contract relates to the Department of Defense, of the Defense Federal Regulations, 48 C.F.R. Chapter 1 (Parts 201-299), are incorporated herein by reference. Seller shall execute certificates of compliance as requested by Buyer. To the extent applicable, The Equal Opportunity and Affirmative Action clause at 41CFR60-1.4, 41CFR60-250.4 and 41CFR60-741 (5A) are hereby incorporated by reference in this purchase.

26. PERMITS AND LICENSES. Seller shall obtain, at its expense, and possess at all times during performance hereunder, all necessary releases, permits, licenses or other authorizations required to fulfill Seller's obligations hereunder. Seller shall give all necessary notices and pay all fees required by law.

27. SUBCONTRACTS. If this order involves the use of subcontractors, the names and references of all proposed subcontractors shall be submitted in writing by Seller to Buyer, and Buyer shall have the right to reject such subcontractors which it deems unsatisfactory. Seller shall not sublet any portion of the work without written permission of Buyer. Such permission shall not, however, relieve Seller from responsibility for the conduct and work of all subcontractors. Seller, in subletting any part of the work, shall bind each subcontractor by a contract incorporating all the terms, obligations and conditions provided for by this order, in so far as the same may be applicable to the work of the subcontractor, without in any way creating any contractual relations between such subcontractor and Buyer. Seller shall properly direct and control the subcontractors, being responsible for the correlation of the work of Seller and that of the subcontractors.

28. INDEPENDENT CONTRACTOR. Seller has no authority to hire any persons on Buyer's behalf and each person employed or used by Seller shall be Seller's and not Buyer's employee, servant or agent, and further, that Seller is performing all of said work as an independent contractor.

29. SECURITY INTEREST. Buyer hereby reserves, and Seller hereby grants to Buyer, a security interest in the items covered by this order to the extent, and in the amount, of the payment to be made by Buyer to Seller under this order in advance of delivery of such Goods to Buyer, and Seller hereby authorizes Buyer to file, and will assist Buyer in filing, a financing statement or any other document necessary to enable Buyer to perfect and continue such security interest in the items.

30. WORK ON BUYER'S PREMISES; CLEANUP; SAFETY. In the event this order involves work to be done on Buyer's premises and Buyer has delivered a separate agreement covering such work, such agreement shall have priority over this order in the event of a conflict in terms and this order will incorporate such agreement's terms. In addition, after the completion of the work, Seller shall leave the work area clean and ready for use, and shall remove all tools, scaffolding, and surplus materials. In the performance of the work, Seller will comply with all safety regulations issued by Buyer and all Buyer's company policies supplied to Seller and will require like compliance by all subcontractors.

31. QUALITY REQUIREMENTS. Suppliers of direct materials are required to be certified to ISO 9001: 2008 or equivalent unless exempted by Buyer. Any non-certified suppliers are subject to an on-site quality audit by Buyer. Suppliers of direct materials should provide one (1) year advanced written notification of any changes to the manufacturing process, quantities, or a discontinuation in manufacture of the material. A manufacturing process change is defined as any change in raw materials, formulas, suppliers of raw materials, manufacturing location or any change in the process that might affect the identification or performance of a product. In the event that a discontinuation becomes inevitable and unavoidable, in addition to providing the above notice period, Seller shall allow Buyer the opportunity to make a last time purchase of at least one year's supply of the material prior to the actual date of discontinuation. Seller shall notify the buyer in a timely manner where non-conformance goods exist currently or with previously produced or delivered goods. Suppliers of test and/or calibration services shall be accredited to ISO/IEC 17025 "General requirements for the competence of testing and calibration laboratories" or national equivalent. Buyer must approve non-accredited suppliers of these Services.