

**L'Garde, Inc.**

**Purchase Order Terms and Conditions**

1. THIS ORDER AND MODIFICATIONS TO IT
  - A. This order includes all documents that are expressly attached to or incorporated by reference in it. Those documents shall have the same effect as if fully set forth in this Order.
  - B. The provisions of this Order are the complete and exclusive statement of the agreement between the parties and supersede all prior dealings of any kind between them about any matter covered by this Order. Buyer shall not be bound by any modification or alteration of this Order, or any notice, directive, approval or determination, unless it is in the form of a written instruction signed on behalf of Buyer by a person assigned to Buyer's procurement department and responsible for administration of this Order.
  - C. All work covered by this order, and all other responsibilities of Seller shall be performed at Seller's expense, for the fixed price of this Order, with no adjustment to that price as expressly provided in this Order.
  
2. SELLER'S ACCEPTANCE OF THIS ORDER. The earliest of (i) written acceptance by Seller, (ii) initiation by Seller of performance, of (iii) Seller's submission of any invoice hereunder shall constitute full and unqualified acceptance by Seller of all terms of this order.
  
3. SELLER'S RESPONSIBILITY. Seller warrants that it has fully examined all requirements of this order and all conditions related to Seller's performance, including but not limited to labor, material, and skills. Seller warrants that it has, or can readily obtain during performance, all resources needed to perform this Order. Seller warrants that it is familiar with all federal, state, and local laws, regulations, and other governmental directives that may relate to this Order and performance under it, and that Seller has complied, and will comply, with such laws, regulations and directives in every respect that may be relevant to this Order. Buyer shall have the right to recover from Seller any damages resulting from Seller's breach of warranty under this clause.
  
4. INVOICES, CLAIMS, AND PAYMENTS
  - A. Buyer shall pay Seller the allocable portion of the price only upon the later of (i) final acceptance by Buyer of the supplies or services and (ii) receipt by Buyer of proper Invoices from Seller. Seller shall provide a separate invoice for each shipment of supplies or major increment of services. The due date or first day of any discount period shall be the later of (i) the first working day of Buyer after final acceptance of the supplies or services, or (ii) Buyer's receipt of proper invoices. Unless freight is separately itemized, any discount taken shall be based on the full amount invoiced.
  - B. By virtue of its submission to Buyer, each invoice or claim from Seller shall be deemed to include a warranty by Seller that all amounts claimed by Seller are due and proper. In addition to any other rights Buyer may have under this order, Buyer shall have a right of action against Seller for any breach

of such warranty. Upon request by Buyer, Seller shall provide written certification of Seller's invoices of claims in such terms, and with such signatures, as Buyer may prescribe, and Buyer may ignore any claim not so certified. Seller shall ensure that each of Seller's subcontractors at all tiers are bound by the same obligations as are imposed on Seller by this paragraph B.

5. PACKAGING, RISK, AND TITLE

- A. Seller shall follow the best commercial practice for packaging all supplies under this Order except to the extent that this Order expressly specifies different packaging. Seller shall mark all packages and correspondence with the P.O. and part number.
- B. Except as otherwise stated in this Order, title to supplies shall pass to Buyer only upon Buyer's final acceptance of the supplies. Risk of loss or damage remains with Seller until (i) delivery to carrier, if transportation is f.o.b. origin and (ii) delivery to Buyer at destination, if transportation is f.o.b. destination; except that risks of loss or damage as to supplies that do not conform to this Order remains with Seller until Seller's cure of the defect. Nothing in this Clause imposes on Seller any liability for loss or damage caused solely by Buyer's negligence or gross misconduct.

6. ASSIGNMENT AND SUBCONTRACTING. Without Buyer's written consent, Seller may not (i) assign or transfer any right of Seller under this Order, or (ii) delegate or subcontract any portion of Seller's responsibilities under this Order, except that Seller may delegate or subcontract work expressly identified as subcontracted or delegated in Seller's quotation to Buyer or in negotiations with Buyer on that quotation. Buyer shall not be bound by any action in violation of this Clause. Buyer's rights shall not be diminished, nor shall its obligations (including, but not limited to, those related to the amounts Buyer must pay) be increased by any assignment, transfer, delegations, or subcontract, whether in compliance with or in violation of this Clause. Seller holds Buyer harmless against any such increase in Buyer's rights and decrease in Seller's obligations. Buyer's consent to any assignment or transfer may not be unreasonably withheld but may be conditioned on such terms as Buyer deems appropriate.

7. WARRANTY-QUALITY. In addition to, and without limiting, any warranties that may appear elsewhere in this Order, Seller warrants that all work shall conform fully to this Order and shall be free from all deficiencies. To the extent that design is by Seller or any of Seller's Subcontractors or suppliers. Seller warrants that all articles furnished shall be fair and sufficient for the purposes intended, and that Seller has fully informed himself of the purposes that are intended. All warranties of Seller or received by Seller on any item or part delivered hereunder shall run to Buyer and Buyer's customer and shall remain in effect as to article and each increment of service for one year after final regardless of when delivery occurred and whether or when payment occurred. Upon notification by Buyer, Seller shall promptly either repair or replace defective article and segment of service, or if Buyer chooses, an equitable reduction in price shall be made. Notwithstanding the foregoing, Buyer may in its sole discretion, as to any article that is a standard item sold commercially in substantial quantities, accept by express notation written on the face of this Order all standard warranties of required by this Clause.

8. **WARRANTY-PRICE.** Seller warrants that any price charged under this order does not exceed the price charged to any other customer of Seller for like quantities of the same article or service. Upon Buyer's request, Seller shall provide Buyer with proof of Seller's compliance with this warranty. Buyer shall have the right to recover from Seller the amount by which any price charged under this Order exceeds the figure Seller warrants under this Clause.
9. **OFFSETS.** Buyer may offset against sums otherwise due Seller any amounts Buyer In good faith claims to be due from Seller, whether such claims arise under or outside this Order.
10. **PUBLICITY.** Without obtaining Buyer's prior written permission, Seller may not publicly disclose that Seller has furnished or may furnish for Buyer or Buyer's customer the supplies or services covered by this Order or make public any other information concerning this Order.
11. **BUYER'S REMEDIES.** All rights and remedies of Buyer set out in this Order are cumulative and in addition to any remedies provided by law or equity. Waiver by Buyer of any failure by Seller shall not be a waiver of any other failure, and all provisions of this Order shall remain in full effect, unless terminated by Buyer.
12. **SURVIVAL OF PROVISIONS.** The provisions of this Order shall survive any termination of this order as well as any acceptance and final payment under this Order.
13. **INSPECTION, ACCEPTANCE, AND REJECTION**
  - A. All products are subject to final inspection and acceptance at destination, notwithstanding the f.o.b. point or any payment or prior inspection at source. Final inspection and acceptance will be made at a reasonable time after receipt of Products.
  - B. Inspection and Acceptance of any Products by Buyer shall not be deemed to alter or affect the obligations of Seller or the rights of Buyer and its customers under warranty herein as may be provided by law.
  - C. Buyer's failure to inspect any of the Products hereunder shall neither relieve Seller from responsibility for such Products as are not in accordance with the requirements of this Order nor impose liability on Buyer therefor.
  - D. Any tender of Products which is nonconforming as to the quality, quantity, or delivery schedule shall constitute a breach of this Order and Buyer shall have the absolute right to reject such Products. Buyer shall notify Seller as to such rejection and Buyer shall have all remedies as provided by law and this Order.
14. **PARTIAL INVALIDITY.** If any provision of this Order is or becomes void or unenforceable by force of operation of law, the other provisions shall remain valid and enforceable.



15. TAXES. All prices herein, unless otherwise provided, include all applicable Federal, state and local taxes as may be assessed against Seller except those sales or use taxes required by law to be paid by Buyer.

16. APPLICABLE LAW. This Order shall be governed by the law of the State of California.

17. CONFLICT OF TERMS. Buyer's Supplemental Terms and Conditions, when specified herein, prevail over Buyer's General Terms and Conditions in the event of a conflict.