

SAELENS CORPORATION TERMS & CONDITIONS OF PURCHASE

1. **ACCEPTANCE/ENTIRE AGREEMENT:** This purchase order constitutes an offer by Saelens Corporation ("Buyer") to purchase from Seller the goods and/or services referenced in this purchase order exclusively under these terms and conditions. No amendment, modification or waiver of any of these terms and conditions shall be effective against Buyer except as set forth in writing signed by Buyer's authorized representative. Terms and/or conditions proposed by Seller in its acceptance or otherwise which are additional to or different from these terms and conditions are objected to without further notification from Buyer and shall not become a part of this purchase order. This purchase order shall be deemed accepted by Seller and shall constitute the entire agreement between the parties with respect to the subject matter hereof upon any of the following: (a) Seller's acknowledgement of the purchase order; (b) Seller's commencement of performance; or (c) Seller's acceptance of payment under this purchase order.
2. **PRICES:** All prices are firm for the term of this Agreement, and no additional charges will be allowed unless specifically provided for on the face hereof. Notwithstanding the prices set forth herein, Seller agrees that if Seller sells the Products or similar products in like quantities to any third parties at a price less than that set forth herein, Seller shall make the same price available to Buyer.
3. **INVOICES; PAYMENT:** A separate invoice in duplicate shall be rendered for each shipment made on any order. All invoices, shipping memoranda and bills of lading shall be dated and mailed on the day of actual shipment of the Products. Seller shall not deliver invoices to any employee of Buyer; all invoices shall be mailed to Buyer at its general office in Johnson Creek, Wisconsin. Unless otherwise specified herein, Buyer will pay invoices for Products shipped to Buyer or its designee within thirty (35) days of receipt of the Products or receipt of any invoice, whichever is later.
4. **DELIVERY; ANTICIPATION:** Seller shall deliver the Products within the time, which is of the essence, in the quantities and at the prices specified on the face hereof or in any document attached hereto or referred to herein, in accordance with Buyer's specifications (as well as the sample approved by Buyer, if any). If Seller fails to comply with such requirements, Buyer may, in addition to any other rights or remedies, cancel this order and be relieved of all liability for any undelivered portion. Seller shall not anticipate delivery by purchasing materials or manufacturing quantities in excess of what is required to meet Buyer's delivery schedule. Products received in advance of Buyer's delivery schedule may, at Buyer's option, be returned at Seller's expense or be accepted and payment withheld until the scheduled delivery date. Failure by Buyer to insist upon strict performance shall not constitute a waiver of any of the provisions of this order or waiver of any default.
5. **DOCUMENTATION, PACKING AND SHIPPING:** Each package, bill of lading, shipping memorandum and invoice must be marked conspicuously with Buyer's purchase order number. One itemized delivery ticket bearing the Buyer purchase order must be left with the Products. All Products shall be suitably packed and shipped in accordance with shipping instructions specified herein and otherwise in accordance with the requirements of common carriers so as to obtain the lowest transportation cost. Buyer shall have the right to route all shipments. No charge shall be made to Buyer for packaging, boxing or cartage unless separately itemized on the face hereof. Seller shall be liable to Buyer for any loss or damage resulting from Seller's failure to act so as to provide adequate protection during shipment. Additional expenses, charges or claims incurred as a result of deviation from the specified route, non-compliance with other shipping instructions or improper description of the shipment in shipping documents shall be Seller's responsibility. Immediately upon shipment Seller is to notify Buyer, advising of complete shipping and routing information. The risk that Products may be lost, damaged or delayed in transit shall be borne by Seller until actual receipt of them by Buyer in conformity with the terms of this order.
6. **INSPECTION:** Seller shall allow Buyer access to Seller's plant at all reasonable times to inspect any Products (and work-in-process relating thereto). Seller, without additional charge, shall provide all reasonable facilities and assistance for the safety and convenience of the inspectors in the performance of their duties at Seller's plant. Notwithstanding prior inspections, all Products are subject to final inspection and approval at Buyer's plant or other place designated by Buyer. Such inspection shall be made within a reasonable time after delivery, irrespective of the date of payment. Notwithstanding any payment that may be made, no goods are to be deemed accepted until Buyer has had a reasonable opportunity to inspect them. Buyer's inspection before, during or after manufacture and delivery shall not constitute a waiver of a subsequent rejection of any such goods by reason of undiscovered or latent defects.
7. **REJECTED PRODUCTS:** Payment for any goods under this purchase order shall not constitute acceptance thereof and Buyer reserves the right to inspect all goods purchased hereunder at Buyer's discretion and at Buyer's option and to reject nonconforming goods or services. At Buyer's option and at Seller's risk and expense, Buyer may return non-conforming goods to Seller, require Seller to grant a full refund or credit to Buyer for non-conforming goods, hold non-conforming goods for disposition by Seller or rework non-conforming good to correct non-conformances. Buyer shall not be liable for failure to accept any part of the goods or services purchased hereunder if such failure is the result of any cause beyond the control of Buyer including without limitation, fires, floods, acts of God, inability to obtain necessary materials or total or partial shutdown of Buyer's facilities for any cause.
8. **MODIFICATIONS:** No Buyer order may be modified except by means of a formal change order issued by Buyer's Purchasing Department, but Buyer may cancel or modify this order (including without limitation: the drawings, specifications, quantities, delivery schedules, place of delivery or methods of shipment or packaging on any item at any time) and Seller agrees to accept the cancellation or make such changes. If such changes result in an increase or decrease in cost, an equitable adjustment of price and delivery schedules may be made, or Buyer may, at its option, terminate this contract pursuant to paragraph 13 hereof if agreement on an equitable adjustment cannot be reached. Seller must assert claims for equitable adjustment within ten days of the change order. This order, together with any change orders or instructions, shall constitute one contract.
9. **WARRANTY/REMEDY:** In addition to its standard warranty and/or service guaranty, Seller warrants that all goods supplied hereunder shall be free and clear of all liens and encumbrances, good and merchantable title thereto being in the Seller, be free from any defects in design, material or workmanship (latent or otherwise) and be of good and merchantable quality, conform to Buyer's specifications and the sample approved by Buyer, as the case may be, and be fit for the known purposes for which purchased hereunder and comply and have been produced, processed and delivered in conformity with all applicable federal, state or other laws, administrative regulations and orders. The foregoing warranties shall survive inspection, delivery and payment and shall run in favor of Buyer, its successors and assigns and its customers, whether direct or indirect. If Seller breaches the foregoing warranty, or fails to perform or comply with any provision of this Agreement, Seller is liable to Buyer for all damages arising therefrom. Buyer expressly retains all its rights and remedies provided by law in the event of such breach. Without limiting the foregoing, Buyer may at its option require Seller to repair or replace, at Seller's expense, any Products that breach Seller's warranty even if such Products are located other than at Buyer's facility. In the event that any breach requires a field campaign for such repair or replacement, or Seller otherwise initiates a field campaign to repair a Product, Seller agrees that Buyer, at its option, may participate in any such field campaign at Seller's expense. Seller further agrees to give Buyer 30 days' prior written notice, where reasonably possible, of any field campaign Seller initiates.
10. **NON-ASSIGNABILITY:** Seller shall not assign or sublet the work to be done hereunder without the prior written consent of Buyer; but this provision shall not restrict Seller in the procurement of component parts or materials. If this order shall be terminated for Buyer's convenience, Buyer's liability to Seller with respect to such parts or materials shall not exceed the amount for which Seller would be liable to its supplier or suppliers if such liability were determined on the basis of paragraph 13 hereof.
11. **TAXES:** Except as otherwise expressly set forth on the face of this order, Buyer shall not be liable for any federal, state or local taxes, duties, customs, or assessments of any kind in connection with the sale, purchase, transportation, use or possession of the Products ordered hereunder.
12. **INDEMNITY:** Except for Products ordered in accordance with Buyer's design, Seller warrants that the sale or use of Products furnished hereunder will not infringe or contribute to infringement of any patent, copyright, trade secret, trade name, trademark or any proprietary right of another in the United States or elsewhere, or subject Buyer or its customers (direct or indirect) to royalties in the United States or elsewhere, and Seller shall indemnify Buyer, its successors and assigns and its customers whether direct or indirect, against any and all losses, damages and expenses (including attorneys' fees and other costs of defending any action) which they, or any of them, may sustain or incur as a result of an alleged breach of this warranty. If any Product or the use thereof is held to constitute infringement of any intellectual property right and the use thereof is enjoined, Seller shall, at its expense, either procure for Buyer, its dealers and customers, the right to continue using said Product or replace said Product with a substantially equal, but non-infringing product, acceptable to Buyer; or, if further use of the Product is not possible, Seller will accept the return of any unsold Product and refund to Buyer the purchase price and transportation costs thereof. Seller also shall hold harmless and indemnify Buyer, its successors and assigns and its customers whether direct or indirect, against any and all losses, damages and expenses (including attorneys' fees and other costs of defending any action) which they, or any of them, may sustain or incur as a result of any claim of negligence, breach of warranty or strict liability in tort in connection with the Products, except such as may be caused solely by the negligence of Buyer, its successors and assigns, and/or its customers.
13. **CANCELLATION BY BUYER:** Buyer shall have the right to cancel this order without cause and in such event Buyer's liability for cancellation shall be limited to Seller's actual cost for work and materials incurred prior to notification by Buyer, applicable solely to this order. Buyer may, at its option, cancel this order without liability to Seller (except for conforming shipments previously accepted by Purchaser) in the event Seller shall cease to exist or become insolvent or the subject of bankruptcy or insolvency proceedings or shall commit a material breach in the performance of any part of its obligation hereunder.
14. **TOOLS, DRAWINGS, SPECIFICATIONS AND TECHNICAL INFORMATION:** Any and all tools, dies, jigs, fixtures, forms, patterns, molds and the like (together referred to as 'Tools'), computer software, drawings, specifications, photographs and other engineering and manufacturing information supplied by Buyer or its customer shall remain the property of Buyer or its customer and shall be treated by Seller as confidential information. Seller shall insure, and bear the risk of loss of, any property of Buyer in Seller's possession for performance of the contract. Tool charges convey ownership of the Tools to Buyer. Seller shall use any Tools for which Buyer has an obligation to pay, and any other Tools or other property of Buyer, exclusively for Buyer, and shall deliver such Tools (and other property of Buyer) to Buyer or its customer upon completion of this order or upon replacement. Buyer or its customer also shall have the right to remove or repossess the above-described Tools and other property at any time upon termination or cancellation, with or without cause, of any order or part thereof, free of any claims by Seller for lien or otherwise against the same. Any information which Seller may disclose to Buyer with respect to the design, manufacture or sale or use of the Products shall be deemed to have been disclosed as part of the consideration for this order and Seller shall not assert any claim (other than a claim for patent infringement) against Buyer by reason of Buyer's use thereof.
15. **CONFIDENTIAL INFORMATION:** In addition to the confidentiality obligation imposed in paragraph 14 hereof, Seller also shall keep confidential, and not disclose to any third party, information specific to any of Buyer's purchases or proposed purchases (including without limitation the quantities, delivery dates and Buyer's intended use of any such purchases) without Buyer's express written consent. Seller shall in no event use (for sample, display or otherwise) Products manufactured specifically for Buyer or information related to such Products without Buyer's express written consent. At Buyer's request, Seller agrees to enter a separate confidentiality agreement applicable to Seller's sale of products to Buyer, which agreement shall include restrictions comparable to those provided herein.
16. **COMPLIANCE WITH LAWS, EXECUTIVE ORDERS AND REGULATIONS:** Seller warrants that the goods and services supplied hereunder will have been produced or provided in compliance with, and Seller will comply with, all applicable laws, orders, rules, regulations, ordinances and conventions without limitation, those that relate to equal employment opportunity, wages, hours and conditions of employment, discrimination, occupational health/safety, motor vehicle safety and environmental matters. At Buyer's request, Seller shall certify in writing its compliance with the foregoing. Seller shall indemnify and hold Buyer harmless from and against any loss, cost, damage, expense or liability claim (including attorney's fees and other costs of defense) arising from or relating to Seller's violation of this clause.
17. **DELAY; NOTICE OF DELAY AND LABOR DISPUTES:** Buyer shall not be liable for failure to accept any part of the goods or services purchased hereunder if such failure is the result of any cause beyond the control of Buyer including without limitation, fires, floods, acts of God, strikes, differences with employees, casualties, delays in transportation, inability to obtain necessary materials, utility services for machinery, or total or partial shutdown of Buyer's facilities for any cause. Acceptance of any part of the goods ordered hereunder shall not bind Buyer to accept future shipments or waive its right to revoke acceptance of goods previously delivered.
18. **HAZARDOUS MATERIALS:** Seller shall notify Buyer of every article ordered hereunder which contains material hazardous or injurious to the health or physical safety of persons even though said hazard or injury may occur only due to mishandling or misuse of the article. In addition, Seller shall identify the hazardous or injurious material and notify Buyer of the effects of such material on human beings and the physical manifestations that could result. For each article so identified, Seller shall supply Buyer warning labels or instructional material appropriate to warn persons coming in contact therewith of the hazard and its effects.
19. **REMEDIES:** The rights and remedies of Buyer set forth herein shall be in addition to any rights or remedies which Buyer may have otherwise.
20. **GOVERNING LAW: THIS OFFER AND ANY AGREEMENT OF SALE RESULTING FROM THE ACCEPTANCE HEREOF SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF WISCONSIN (WITHOUT REFERENCE TO PRINCIPLES OF CONFLICTS OF LAWS). THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL NOT BE GOVERNED BY THE PROVISIONS OF THE 1980 U.N. CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS.**