

LEMKE INDUSTRIAL MACHINE LLC

Standard Terms and Conditions for Lemke Industrial Machine LLC

1. **Acceptance and Governing Provisions.** This order for Product(s) and/or services (the "Purchase Order") by Lemke Industrial Machine LLC ("Lemke") is expressly conditioned upon and limited to Seller's unqualified acceptance of the terms, conditions and instructions of this Purchase Order and any associated Supply Agreement (if any) between Lemke and the Seller (the "Supply Agreement") (collectively the "Terms"). The rights of the parties shall be governed exclusively by the Terms. Seller's commencement of work on the Product(s) subject to this Purchase Order, shipment of the Product(s) subject to this Purchase Order, or acceptance of payment under this Purchase Order constitutes an unqualified acceptance by Seller of this Purchase Order and the Terms. Any attempt by Seller to vary in any degree the Terms in any acceptance, acknowledgment, confirmation or other communication of any kind containing additional, inconsistent, or different terms and conditions is hereby expressly objected to and rejected. Such attempted variances shall not operate as a rejection by Seller of the offer made in this Purchase Order and this Purchase Order shall be deemed accepted by Seller without such additional, inconsistent, or different terms and conditions. Lemke's acceptance of Product(s) and services, or signature acknowledging receipt of products or services, shall not be deemed to be an acceptance of any additional, inconsistent, or different terms proposed by Seller. No prior course of dealing, trade usage, or verbal agreement modifies, adds to, or amends this Purchase Order unless it is in writing and signed by Lemke. All Purchase Orders must be acknowledged within twenty-four (24) hours of receipt. Lemke may revoke this Purchase Order upon written notification to Seller anytime before acceptance of the Product(s) or services. Such revocation shall be effective upon receipt by Seller. Capitalized terms used herein shall have the meaning as set forth herein or in the applicable Supply Agreement.

2. **Documents.** Lemke's Purchase Order Number must be shown on all packing lists, containers, invoices and correspondence relating to this order. Invoice and original bill of lading shall be mailed to Lemke's address promptly after shipment shall be made. Seller shall include a copy of all applicable Material Safety Data Sheets (MSDS) with Lemke's Order.

3. **Change Orders.** Lemke reserves the right at any time to make changes to this Purchase Order (a "Change Order"), including without limitation changes to: (i) specifications, drawings, and data incorporated herein or in the Supply Agreement if the items to be furnished are to be specially manufactured for Lemke; (ii) methods of shipment or packing; (iii) place of delivery; (iv) time of delivery; or (v) amount of Product. All such Change Orders must be in writing signed by Lemke. If any such Change Order causes an increase or decrease in the cost of or the time required for performance under this Purchase Order, an equitable adjustment shall be made in the price or delivery schedule, or both. Seller agrees to accept any Change Orders subject to this paragraph, subject to negotiation of the equitable adjustment. Seller shall perform under the Purchase Order as changed by the Change Order while negotiation or other determination of the equitable adjustment is taking place. Notwithstanding the foregoing, any claim by Seller for adjustment under this paragraph shall be deemed waived unless provided to Lemke in writing within twenty (20) days from delivery of the Change Order to Seller. Seller shall immediately notify Lemke in writing of any potential deviations from such specifications, drawings, or approved samples and of any potential process deviations that may change the performance or appearance of the Product(s). No such substitution, change, modification or deviation by Seller will be permitted without the prior written consent of Lemke, which may be withheld for any reason. If Seller proposes any substitution or deviation, Seller guarantees that the substitution is equal in quality, capacity, durability, ease of maintenance, and ease of installation to the Product(s) originally specified. Failure of Seller to comply with any of the requirements set forth above shall entitle Lemke, in addition to any other rights or remedies, to cancel this Purchase Order and be relieved of any and all liability for losses or damages arising therefrom. Under no circumstances may Seller use substitute materials, or replace or repair defective materials, by welding or otherwise without Lemke's prior written consent.

4. **Delivery, Delay, and Anticipation.** Time is of the essence under this Purchase Order and the Supply Agreement. Seller shall deliver the Product and/or Services: (i) in the quantities specified in this Purchase Order or the Supply Agreement, (ii) within the time specified in this Purchase Order or the Supply Agreement, (iii) in accordance with the specifications, drawings, or approved samples, and (iv) at the prices specified on the face of this Purchase Order or in the Supply Agreement. Seller shall meet Lemke's time requirements for delivery of Product(s) and performances of services specified in this Purchase Order or the Supply Agreement one hundred percent (100%) of the time. If shipment is delayed beyond the last date on which shipment by the method contemplated herein would result in delivery guaranteed on or before the required delivery date herein, Seller shall make shipment by the most expeditious method of transportation available. Any additional cost of such method of shipment shall be borne by Seller. Seller understands that any delivery delay will cause Lemke's work to be disrupted and delayed, and Seller shall be responsible and liable to Lemke for any losses, damages, or expenses sustained as a result of such failure to deliver. Seller shall not unreasonably anticipate delivery by purchasing materials or manufacturing quantities in excess of what is reasonably required to meet Lemke's delivery schedule. In the event of Seller's inability to timely deliver Product(s) or services, Lemke may, at its option,

obtain the Product(s) or services from an alternative source and charge Seller for any increased costs.

5. **Shipping, Packaging, and Risk of Loss.** Unless otherwise stated on the Purchase Order or in the Supply Agreement, the shipping terms for all Product(s) purchased hereunder are F.O.B. destination at Lemke's address. Lemke shall have the right to route all shipments. All Product(s) shall be suitably packed, marked with Lemke's purchase order number, and shipped in accordance with shipping instructions specified and otherwise in accordance with the requirements of common carriers so as to obtain the lowest transportation cost. Packing slips must be included with all shipments showing order number, type of good, quantity, and whether the order has been shipped partial or complete. The order number must be shown on each item, packing slip, and invoice. No charge shall be made to Lemke for boxing, packing, crating, carting, drayage, or storage unless separately itemized on the face hereof. Regardless of shipping terms, all risk that the ordered Product(s) may be lost, damaged, destroyed or delayed in transit shall be upon Seller until conforming Product(s) have been actually received, inspected, and formally accepted by Lemke. Seller shall be liable to Lemke 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, noncompliance with other shipping instructions, or improper description of the shipment in shipping documents shall be assumed by Seller. Seller must mail, fax, or electronically mail to Lemke's issuing office on the day of shipment a bill of lading or other notice of shipment or shipping receipt that describes the material and sets forth the order number and car number, if carload shipment, and any invoice (in duplicate).

6. **Inspection, Acceptance, and Rejection.** All Product(s) and services purchased hereunder (and work-in-process relating thereto) shall be subject to inspection and testing by Lemke, (or a governmental agency when Product(s) are being produced under a government contract), at its sole discretion, at any reasonable time and from time to time before, during, or after manufacture and delivery. If any inspection or test is to be made on the premises of Seller, Seller shall provide all reasonable facilities and assistance for the safety and convenience of the inspectors in the performance of their duties without any additional charge. Notwithstanding prior inspections, all Product(s) and services are subject to final inspection and approval at Lemke's plant or other place designated by Lemke, and notwithstanding any payment that may be made, no Product(s) are deemed accepted until such final inspection and approval. Lemke's inspection before, during, or after manufacture and delivery shall not constitute a waiver of the right of subsequent rejection by reason of any undiscovered or latent defect. If any Product(s) or services are rejected, Lemke shall have the right, at its sole option, to (i) obtain substitute Product(s) or services and charge the Seller any difference in cost in obtaining them; (ii) request Seller correct the defect or nonconformity at no additional cost; (iii) correct the defect or nonconformity itself and charge Seller for the cost incurred in doing so; or (iv) return the Product(s) to Seller at Seller's risk and expense at the full invoice price plus transportation charges and expenses for unpacking, examining, repacking and reshipping. Seller shall promptly remove at its expense any Product(s) that Lemke designates as non-conforming. Product(s) supplied in excess of the exact quantity in the Purchase Order may be returned to Seller at Seller's expense in addition to Lemke's other rights. In the event Lemke receives Product(s) with defect(s) or nonconformity(ies) that are not apparent on examination, Lemke reserves the right to require replacement, payment of damages, and any other remedy available in these Terms or in the Supply Agreement. Nothing contained in this Purchase Order or Supply Agreement shall relieve in any way Seller from the obligation of testing/inspection and quality control. Seller shall not replace Product(s) returned as defective unless so directed by Lemke in writing. Remedies identified in this Section 6 are in addition to all other remedies available at law or equity, or as identified herein.

7. **Payment Terms.** Unless otherwise specified on the face of the Purchase Order or in the Supply Agreement, payments shall be made one percent (1%) ten (10) days, net forty-five (45) days as more particularly set forth in Section 15. Seller represents and warrants that Lemke's pricing shall be the same or lower than pricing for any of Seller's other customers.

8. **Warranties.** Seller warrants that the Product(s) to be furnished hereunder shall (i) be free and clear of all liens and encumbrances, good and merchantable title thereto being in Seller; (ii) be free from any defects in design, material, or workmanship (latent or otherwise) and of good and merchantable quality; (iii) conform to specifications, drawings, data, and samples, (whether furnished by Lemke or Seller) and any other representations made by Seller; (iv) be fit for the use intended by Lemke; and (v) comply and have been produced, processed, packaged, labeled, delivered, and sold in conformity with all applicable federal, state, and local laws, codes, rules, regulations, orders, and ordinances, including, without limitation, environmental protection, energy and labor laws and regulations, and applicable industry codes and standards, including the Occupational Safety and Health Act of 1970 and the Construction Safety Act of 1969, as amended from time to time. Seller also warrants that all services (i) will be performed in a professional and workmanlike manner, using best of industry standards, and (ii) shall be free from defaults, errors, and omissions. Seller shall furnish all necessary equipment, labor, materials, mechanical and technical capability, tools and other facilities, items, and services necessary to complete the Product(s) or services

required under this Purchase Order or the Supply Agreement. Seller acknowledges that it knows (i) the particular purpose for which the Product(s) and/or services covered by this Purchase Order or the Supply Agreement are required and (ii) that Lemke has relied upon Seller's skill and judgment to select and furnish suitable Product(s)/services. These representations and warranties shall survive inspection, acceptance and subsequent use of resale or other disposition of the Product(s) or services, as well as payment therefore by Lemke, and shall also run to Lemke's successors, assigns, customers and users of Lemke's products that contain, incorporate or embody Product(s) or services purchased under this Purchase Order or the Supply Agreement. Lemke objects to any provision limiting its rights or remedies under applicable law. SELLER AGREES TO INDEMNIFY LEMKE AGAINST ANY AND ALL LIABILITY, LOSS, DAMAGE, EXPENSE, INCLUDING REASONABLE ATTORNEYS' FEES, SUSTAINED BY LEMKE FOR FAILURE OF THE PRODUCT(S) AND/OR SERVICES TO REASONABLY CONFORM TO THE ABOVE WARRANTIES. THIS INDEMNITY IS IN ADDITION TO ANY OTHER REMEDIES AVAILABLE TO LEMKE AT LAW OR IN EQUITY.

9. Special Tooling.

- a. Designs, tools, jigs, dies, forgings, fixtures, templates, patterns and drawings (the "tools") furnished by Lemke and tools made or acquired by Seller for performance of Lemke's order, the cost of which is separately quoted or amortized in the unit price, shall remain or become the property of Lemke. Such tools shall be used exclusively for production under Lemke's orders.
- b. Lemke shall not be obligated to reimburse Seller for the cost of any tools, unless specifically agreed to in writing by Lemke.
- c. When charges paid by Lemke for tools do not convey title, they shall be used exclusively for production under Lemke's orders during their useful life or until otherwise disposed of by mutual agreement. Seller will supply goods made from such tools in such quantity as Lemke may, from time to time, require under this or future orders. In the event Seller is unable or fails to supply such goods, the Lemke shall have the option of purchasing such tools without delay at original market cost, so as not to endanger the manufacturing of the Lemke's products.
- d. Reproducible drawings for tools to be made or acquired by Seller for performance of Lemke's order shall be submitted to Lemke for approval prior to the manufacture or acquisition of such tools.
- e. Seller will maintain the tools in first-class condition and will make replacements where necessary. Seller will not make any alterations in such tools without Lemke's specific written authorization. Upon completion or cancellation of this order, such tools shall be disposed of as Lemke shall direct.
- f. Tools made or acquired by Seller for performance of Lemke's order, the cost of which is chargeable to Lemke, shall be separately identified by Seller as directed by Lemke. Payment for such tools will not be made until acceptable articles have been received and approved by Lemke and satisfactory evidence is received by Lemke that proper identification has been made.

10. Indemnification. Seller shall defend, indemnify and hold harmless Lemke, its parent, subsidiaries, and affiliates, and the respective directors, officers, employees, and agents, and their successors, assigns, and customers (whether direct or indirect) of any of the foregoing, (collectively the "Indemnified Parties") against any and all liabilities, losses, damages, and expenses (including reasonable attorneys' fees and other costs of defending any action) that any of the Indemnified Parties may sustain or incur as a result of any and all claims, demands, suits, actions, fines, penalties, or charges of any nature whatsoever, including but not limited to, claims based on negligence, breach of warranty, personal injury or death, strict liability in tort, or under any other theory of law, as a result of (i) violation of any law, ordinance, rule, or regulation by Seller or its officers, directors, shareholders, employees, agents, customers, representatives, successors, assigns, or invitees; (ii) death, personal injury, property damage, or any other injury, damage or claim arising out of the actions of Seller or its employees, agents, representatives, customers, successors, assigns, or invitees in satisfying this Purchase Order; (iii) Seller's breach or nonperformance of this Purchase Order or the Supply Agreement; or (iv) any actions arising out of or resulting in any way from any delay in delivery, defect or deficiency in the Product(s) or by the negligence or fault of Seller in performing its duties under this Purchase Order or the Supply Agreement. Seller shall fully indemnify and hold harmless the Indemnified Parties as set forth above, whether or not any negligence or other fault of the Indemnified Parties contributed to, or is claimed or alleged to have contributed to, the claim, action, damage, loss, cost, liability, or expense. The only instance in which Seller shall not fully indemnify and completely hold harmless the Indemnified Parties is where the claim is based solely upon the alleged fault of Lemke and Lemke's fault is adjudicated to be the sole cause of all of the claim, action, damage, loss, liability, or expense. Seller's obligation to indemnify Lemke shall survive the termination, cancellation, expiration, or completion of this Purchase Order and the Supply Agreement.

11. Intellectual Property Infringement Indemnity. Except as provided in subsection (b) below, Seller warrants that the sale or use of Product(s) or services furnished hereunder will not infringe or contribute to infringement of any patent, copyright,

trademark, trade secret, or other proprietary right, or subject the Indemnified Parties to royalties in the United States or elsewhere. In addition:

- a. Seller hereby agrees to defend, indemnify and hold harmless the Indemnified Parties against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever, including reasonable attorney's fees, arising out of any actual or alleged direct or contributory infringement of or inducement to infringe, any United States or foreign patent, trademark, copyright or other intellectual or industrial property right or for the actual or alleged misuse or misappropriation of a trade secret by reason of the manufacture, use, sale, license, or import of the Product(s) or services supplied by Seller under this Purchase Order or the Supply Agreement.
- b. The preceding subsection shall not apply if the infringement directly and solely results from a detailed design or specification supplied by Lemke to Seller, if Seller has not participated in or contributed to the development of such design or specification in any way.
- c. Seller waives any claim against the Indemnified Parties, under the Uniform Commercial Code or otherwise, including any hold harmless or similar claim, in any way related to a claim asserted against Seller or Lemke for infringement or the like.

12. Work on Lemke's Premises: If Seller's performance of this Purchase Order and the Supply Agreement involves or results in the presence of Seller or its agents on Lemke's premises or on the premises of Lemke's customer(s), Seller shall take all necessary precautions to assure that its work and other activities are carried out in a safe and proper manner and Seller shall defend, hold harmless and indemnify Lemke against any and all liability arising out of such work and Seller's presence on the premises. Seller shall also maintain such public liability, property damage, and employer's liability and workers' compensation insurance as will protect Lemke from risk and from any claims under any applicable workers' compensation acts. Any and all information or materials (whether they relate to manufacturing, marketing, products, or anything else) to which Seller or its agents are exposed while on Lemke's premises shall be considered Confidential Information.

13. Insurance. Seller shall maintain insurance coverage in amounts not less than the following: (i) Workers' Compensation - statutory limits for the state or states in which this order is to be performed or evidence of authority to self-insure; (ii) Employer's Liability - \$500,000; (iii) Commercial General Liability (including Products, Completed Operations, and Blanket Contractual Liability) - \$2,000,000 per person, \$4,000,000 per occurrence Personal Injury, and \$2,000,000 per occurrence Property Damage or \$2,000,000 per occurrence Personal Injury and Property Damage combined single limit, and (iv) Automobile Liability including owned, non-owned, and hired vehicles - \$1,000,000 per person, \$1,000,000 per occurrence Personal Injury and \$1,000,000 per occurrence Property Damage or \$1,000,000 per occurrence Personal Injury and Property Damage combined single limit. At Lemke's request, Seller shall furnish to Lemke certificates of insurance setting forth the amounts of coverage, policy number(s), and date(s) of expiration for insurance maintained by Seller. Such certificates will provide that Lemke shall receive thirty (30) days' prior written notification from the insurer of any termination or reduction in the amount or scope of coverage. Seller's purchase of appropriate insurance coverage or the furnishing of certificates of insurance shall not release Seller of its obligations or liabilities under this order.

14. Damages. Seller shall be responsible for any and all losses, liabilities, damages, and expenses, including incidental and consequential damages and attorneys' fees and other costs of prosecuting an action for breach, which Lemke may sustain or incur as a result of any breach of this Purchase Order or the Supply Agreement.

15. Payments, Terms, Prices, Security Interest. Unless otherwise specified on the face of the Purchase Order or in the Supply Agreement, payments shall be one percent (1%) ten (10) days, net forty-five (45) days from the later of the date all Product(s) and/or services are received by Lemke or the invoice is received by Lemke. Seller agrees that Lemke may, at any time, without prior notice to Seller, set off the amount of any liability due to Seller in connection with this Purchase Order and the Supply Agreement against any liability of Seller due to Lemke or any subsidiary of Lemke. Lemke shall not be billed at prices higher than those stated in the Supply Agreement or this Purchase Order, and no additional charges of any kind shall be imposed, unless authorized by a Change Order. Seller represents that the prices charged for the Product(s) and services under this Purchase Order are the lowest prices charged by Seller to other purchasers and that these prices comply with applicable governmental regulations in effect at time of quotation, sale, or delivery. If Lemke makes any payment before Lemke's receipt of the Product(s) or services ordered hereunder, Seller hereby grants Lemke a security interest in such Product(s) (including raw materials and work-in-process to become part of such Product(s)), and all proceeds of any of them to secure performance of Seller's obligations hereunder. Seller agrees to execute and deliver such financing statements as Lemke may reasonably consider necessary or appropriate to perfect its security interest. If Seller fails to execute and deliver such financing statements to Lemke within

five (5) days of Lemke's request, Seller hereby irrevocably grants to Lemke a power of attorney appointing any employee of Lemke designated by Lemke as Seller's attorney, with full power to sign Seller's name to such financing statement. All acts of such attorney are ratified and approved by Seller. A photographic or other reproduction of this document may be filed as a financing statement in all states where permitted.

16. **Taxes.** Lemke shall not be liable for any federal, state, or local taxes, duties, customs, or assessments in connection with the sale, purchase, transportation, use, or possession of the Product(s) ordered hereunder, except those expressly set forth in the Supply Agreement, if any. All such taxes, if any, shall be stated separately on invoices.

17. **Fair Labor Standards Certificate.** Seller hereby certifies that all Product(s) furnished hereunder shall have been produced in compliance with all applicable requirements of Sections 6, 7, and 12 of the Fair Labor Standards Act of 1938, as amended, and of regulations and orders of the Administrator of the Wage and Hour Division issued under Section 14 thereof, and in accordance with all applicable state and federal laws and regulations governing general conditions for labor employed in the production of such Product(s).

18. **Non-Assignability.** Seller shall not assign or sublet the work to be done hereunder without the prior written consent of Lemke, which may be withheld by Lemke for any reason, but this provision shall not restrict Seller in the procurement of component parts or materials. To the extent Seller procures any parts or materials to be furnished hereunder, Seller agrees to require compliance with the provisions of this order, including all warranties, by its manufacturing supplier or suppliers as though such supplier or suppliers were the Seller hereunder, and if this order shall be terminated for Lemke's convenience. Lemke reserves the right to assign or transfer this Purchase Order.

19. **Termination.**

a. Lemke reserves the right to terminate this Purchase Order, or any part hereof, without cause and for its sole convenience. In the event of such termination, Seller shall immediately stop all work hereunder, and shall immediately cause any of its suppliers or subcontractors to cease such work. Seller shall not be paid for any work done by Seller or its suppliers or subcontractors after Seller's receipt of the notice of termination, nor for any costs incurred by Seller's suppliers or subcontractors after this point. Lemke's liability for cancellation of this Purchase Order under this paragraph shall be limited to Seller's out-of-pocket cost for work and materials applicable solely to this Purchase Order that have already been expended when notice of cancellation is received by Seller, reduced by the fair market resale value of such work-in-process.

b. If Seller is in violation of any of the terms of this Purchase Order or the Supply Agreement, Seller shall be considered to be in default. Acts constituting Seller default shall include (without limitation) late deliveries, deliveries of Product which are defective or which do not conform to this Purchase Order and the Supply Agreement, and failure to provide Lemke, upon request, of reasonable assurances of future performance. If Seller is in default, Lemke may, at its sole option and upon notice to Seller, (i) immediately terminate this Purchase Order or (ii) suspend acceptance of deliveries during the period of time Seller remains in default. If Lemke terminates this Purchase Order for Seller default, Lemke shall have no liability of any kind to Seller except for payment for conforming shipments previously accepted by Lemke. In the event of termination for Seller default, Seller shall be liable to Lemke for any and all damages sustained by reason of the default giving rise to the termination.

c. In the event Seller shall cease to exist, become insolvent, execute an assignment for the benefit of its creditors, or become the subject of bankruptcy, receivership, or insolvency proceedings, Lemke may, at its option, cancel this order without any liability to Seller except payment for conforming shipments previously accepted by Lemke. If Lemke terminates this Purchase Order under this paragraph, Lemke shall have no liability of any kind to Seller except for payment for conforming shipments previously accepted by Lemke.

d. Any termination for any reason by Lemke shall be without prejudice to Lemke's rights hereunder. The exercise of Lemke's right to terminate this Purchase Order shall not be deemed an election of remedies and shall be in addition to all other rights and remedies available to Lemke under this Purchase Order or by law or equity.

20. **Written Notice and Waiver.** No verbal order, objection, claim or notice by either party to the other shall be of legal effect or binding, and no evidence of such order, objection, claim or notice shall ever be introduced in any suit in law or equity wherein these parties are interested, both parties agreeing to execute and delivery in writing all communications from them under which the other party is to be charged, notified, or affected, and when same are given verbally, they shall be held as not material or binding, and none of the provisions of this order, plans or specification shall be held to

be waived or interpreted, by reasons of any act whatsoever, or in any matter, other than by an express waiver, or definitely agreed interpretation thereof in writing, and no evidence shall be introduced of any other waiver of interpretation. Any waiver of strict compliance with the provisions of this order shall not be deemed a waiver of any other provision or of Lemke's right to insist upon subsequent strict compliance with such provisions.

21. **Force Majeure.** Neither party shall be liable for any damage as a result of any delay in delivery or failure to accept delivery due to any act of God, embargo or other governmental act, regulation or request, fire, accident, strike, slowdown or other labor difficulties, war, riot, any other delays beyond such party's control that shall affect the other party's ability to receive or use the Product(s) or services. In the event of such delay, the date of delivery shall be extended for a period equal to the time lost because of the delay. If such delay or extension is in excess of fourteen (14) days, Lemke may cancel or terminate the Purchase Order.

22. **Remedies Cumulative, Waiver.** The rights and remedies of Lemke set forth herein shall be in addition to any rights or remedies that Lemke may otherwise have. No waiver of a breach of any provision of this contract shall constitute a waiver of any other breach, or of such provisions.

23. **Nondiscrimination / Rehabilitation and Readjustment Acts.** Seller shall comply with all provisions of Section 202 of Executive Order 11246, as amended by Executive Order 11375 or subsequent Executive Orders, with the rules and regulations set forth by the Secretary of Labor in effect as of the date of this order, and with Sec. 503 of the Rehabilitation Act of 1973 and The Vietnam Era Veterans Readjustment Assistance Act of 1974, 38 U.S.C. 2012.

24. **Applicable Law, Venue, Jury Waiver.** This Purchase Order and the rights and obligations hereunder shall be governed by and construed in accordance with the internal laws of the state of Wisconsin without regard to the choice of law principles of Wisconsin. Any action concerning this Purchase Order shall be commenced in Marathon County, Wisconsin. The parties hereby waive their right to a jury trial in any such action. 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 Product(s).

25. **Limitation of Lemke's Liability.** LEMKE'S LIABILITY ON ANY CLAIM OF ANY KIND FOR ANY LOSS OR DAMAGE ARISING OUT OF OR IN CONNECTION WITH THIS PURCHASE ORDER OR THE SUPPLY AGREEMENT, OR FROM THE PERFORMANCE OR BREACH THEREOF BY LEMKE SHALL IN NO CASE EXCEED THE PURCHASE PRICE ALLOCABLE TO THE PRODUCT(S) OR SERVICES GIVING RISE TO THE CLAIM. LEMKE SHALL NOT BE LIABLE TO SELLER, UNDER ANY CIRCUMSTANCES, FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, LABOR COSTS OR LOST PROFITS) OR FOR ANY GENERAL, SPECIAL, INDIRECT, EXEMPLARY, PUNITIVE, OR OTHER DAMAGES OF ANY KIND OR NATURE WHATSOEVER ARISING HEREUNDER OR UNDER ANY OTHER PURCHASE ORDER OR AGREEMENT BETWEEN SELLER AND LEMKE. THE PROVISIONS OF THIS SECTION SHALL SURVIVE ANY TERMINATION, EXPIRATION, CANCELLATION, OR COMPLETION OF THIS PURCHASE ORDER OR THE SUPPLY AGREEMENT, HOWEVER ARISING. LEMKE SHALL NOT SUFFER ANY LIABILITY WHATSOEVER TO SELLER FOR LEMKE'S FAILURE TO PERFORM ITS OBLIGATIONS HEREUNDER WHERE SUCH FAILURE IS DIRECTLY OR INDIRECTLY CAUSED BY OR CONTRIBUTED TO ANY EVENTS OR OCCURRENCES CONSTITUTING FORCE MAJEURE, AS SET FORTH IN SECTION 20 HEREOF.

26. **Statute of Limitations.** Any action resulting from any breach on the part of Lemke as to the Product(s) or services delivered under this Purchase Order or the Supply Agreement must be commenced within one (1) year after the cause of action has accrued. However, as a prerequisite to bringing any claim, Seller must give written notice to Lemke of the alleged claim within seven (7) days of the occurrence of the events giving rise to the alleged claim.

27. **Interpretation.** This Purchase Order shall not be construed against one party or the other based on which party drafted any portion or thereof.

28. **Electronic Transactions.** The parties intend that this Purchase Order can be electronically submitted and accepted, that the email addresses provided on the first page of this Purchase Order can be used to provide any required notice or communications.

ACCEPTED THIS __ DAY OF _____, 20__.

By: _____

Print Name: _____

Title: _____