



## PURCHASING TERMS AND CONDITIONS

1. ACCEPTANCE AND GOVERNING PROVISIONS – This order is not an acceptance of any offer to sell but is an offer to purchase which may be accepted only by execution of the acknowledgement copy hereof by Seller and return of such copy to Fast-Rite Fasteners, Inc (“Buyer”) within ten (10) days from the date of this order set forth on the reverse side hereof, or by any other expression of acceptance including shipment hereunder. Upon acceptance, this order shall constitute the entire agreement between the parties (except for any additional warranties given by Seller) superseding any and all previous communications and negotiations. Unless specifically agreed to in writing by Buyer, signed by duly authorized personnel of Buyer, no additional or different term or provision (except additional warranties given by Seller) or any quotation, acknowledgement, invoice or other for supplied by Seller shall become part of the contract notwithstanding Buyer’s failure to specifically object to such forms or provision. The agreement of sale resulting from the acceptance of this order shall be construed and interpreted in accordance with the internal laws of the State of Illinois.
2. DOCUMENTS AND PAYMENTS – Seller shall prepare invoices in triplicate for each Purchase Order showing cash discount terms, point of shipment, and country of manufacture (country of origin). Transportation charges must be prepaid if goods are sold FOB origin and must be included on invoice. No drafts will be accepted by Buyer, all purchases are on open account to be paid by Buyer’s check. Buyer’s Purchase Order Number, appearing on the face side hereof, must be shown on all packing lists, bills of lading, containers, invoices and correspondence relating to the order. All applicable supplemental documents or invoices shall be surrendered promptly by Seller at Buyer’s request. Seller’s price shall be the lowest prevailing

price in effect during the life of this order. If the price is omitted on the Purchase Order, in no event is the order to be filled at a higher price than was last previously quoted or charged without Buyer’s written consent. Statement of account must be sent to Buyer’s Accounting Department as soon as possible after the first of each month. Errors and omissions on statements or invoices will be considered just cause for withholding settlement without loss of any privileges.

Any assignment of monies due or which may become due under this order shall be subject to setoff, recoupment or other lawful means of enforcing any present or future claim or claims which Buyer may have against Seller, and shall not be made to more than a single assignee. This Provision shall not be construed as permitting the assignment of seller’s obligation to perform hereunder.

3. DELIVERY, DELAY AND ANTICIPATION – Seller is to include with each shipment all necessary documents to insure prompt delivery to Buyer. Seller shall deliver the goods, in the quantities, within the time or times in accordance with the specifications (and any sample or model approved by Buyer) and at the prices specified on the face side hereof or in any document attached hereto or related to herein. Failure of Seller to comply with such requirements shall entitle Buyer, in addition to any other rights and remedies, to cancel this order and be relieved of all liability for any undelivered portion. Any failure by Buyer to exercise its remedies with respect to any installment shall not be deemed to constitute a waiver with respect to subsequent installments. Seller shall not unreasonably anticipate delivery by purchasing materials or manufacturing quantities in excess of what is reasonably required to meet



## **FAST-RITE INTERNATIONAL**

Buyer's delivery schedule. Goods 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.

4. **SHIPPING AND RISK OF LOSS** – All goods must be suitably packed, marked and shipped in accordance with shipping instructions of Buyer and otherwise in accordance with the requirements of common carriers so as to obtain the lowest transportation cost. Seller shall comply with all state, federal and international shipping regulations regarding the shipping and labeling. Buyer shall have the right to route all shipments. Routing specified may not be changed without Buyer's written permission. No charge shall be made to Buyer for packing, boxing or cartage unless separately itemized on the face hereof, but 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. Risk of loss shall be upon Seller until conforming goods are delivered to and have been inspected and accepted by Buyer. 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 Seller's responsibility. Buyer and Seller shall assist each other in procuring all documents and other information required to ship items ordered hereunder or necessary for the prosecution of claims against carriers arising out of any such shipment.
5. **INSPECTION** – All goods purchased hereunder shall be subject to inspection and testing at the discretion of the Buyer at any reasonable time and from time to time before, during or after manufacture or delivery of said goods. Notwithstanding any payment that may be made, no goods are to be deemed accepted until Buyer

has had an opportunity to inspect and test them. Any goods which may be defective, show physical signs of damage, or are not in accordance with specifications, including but not limited to quantity or performance, may be rejected by Buyer.

Seller's delivery of goods in excess of that provided for in this Purchase Order shall not obligate Buyer to purchase any such excess. Excess quantities of goods may be returned to Seller and Seller shall reimburse Buyer for any costs or expenses including all transportation charges incurred by Buyer with respect thereto. Buyer's count of the goods shall be conclusive.

In the event said rejected goods have been paid for by Buyer, they may be returned and charged back to Seller, in which event Seller will allow a credit to pay the charge back, including Buyer's inspection and handling expenses and transportation both ways. Goods are not to be replaced except on written instructions from Buyer. Acceptance of or payment for all or any part of the goods furnished under this order shall not be deemed to be a waiver of Buyer's right to cancel or return all or any part thereof because of failure to conform to this order or by reason of defects, latent, or patent, or other breach of warranties, not to make any claim for damages, including manufacturing costs and loss of profits or other special damages occasioned by Buyer. Such rights shall be in addition to any other remedies provided by law or in this order. Where goods are rejected by Buyer which are already installed, Seller shall at once remove such rejected work and replace same with work or materials satisfactory to Buyer.

6. **WARRANTIES** – In addition to its standard warranty, Seller warrants that all goods supplied hereunder shall:



## **FAST-RITE INTERNATIONAL**

- (a) be free and clear of all liens and encumbrances, good and marketable title thereto being in the Seller.
- (b) Be free from any defects in design, material or workmanship and of good and merchantable quality.
- (c) Comply and have been produced, processed, delivered and sold in conformity with all applicable federal, state or other laws, administrative regulations and orders.

The foregoing warranties shall survive inspection, delivery and payment.

If any goods shall be found to be unsatisfactory, defective or inferior in quality, or not to conform to Buyer's specifications or any other requirements hereof (including Seller's warranties), Buyer may, at its option, retain such goods at an adjusted price, hold such goods at Seller's risk and expense pending Seller's specific instructions or return them to Seller for replacement, credit or refund, as Buyer shall direct. Buyer shall be reimbursed by Seller for all of its costs and expenses in connection with the storage, handling, packaging and/or transporting of any such defective or otherwise nonconforming goods, and Seller shall assume all risk or loss or damage in transit to goods returned by Buyer pursuant hereto.

### **7. COMPLIANCE WITH FLSA AND OSHA (U.S. SELLERS) AND OTHER LAWS -**

Seller hereby certifies that all goods furnished hereunder shall have been produced in compliance with all applicable requirements of Section 6, 7 and 12 of the Fair Labor Standards Act of 1938, as amended, and of regulations and orders of the Administrator of the Wages 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 goods. Seller in the performance of this contract shall comply with all provisions of Executive Order 15246 and of all the rules and regulations and relevant orders pursuant thereto which may require development of a written affirmative action compliance program.

Seller, in accepting Buyer's order, certifies it is in compliance with the Occupational Safety and Health Standards Act of 1970 (OSHA) and the orders, rules and regulations issued pursuant thereto as in effect on the date of such acceptance. Seller shall comply with all other laws and regulations the Government of the United States and all subdivisions thereof, of any state and of any subdivision thereof, or any executive order which hereafter may govern the manufacture, sale or delivery of the goods contemplated by this purchase order and will furnish certificate of compliance upon request of Buyer.

### **8. CHANGES OR CANCELLATION BY BUYER – Buyer reserves the right to make**

changes in the drawings and specifications referring to this order, if any such change causes a substantial variation to the cost of furnishing the goods covered hereby, the cost of such goods shall be varied in the same ratio. Any claim hereunder shall be asserted promptly.

Buyer shall have the right to cancel this order without cause, and Buyer's liability for cancellation of the order without cause shall be limited to Seller's actual cost of work and material applicable solely to this order which shall have been expended when notice of cancellation shall be received by Seller. Buyer may, at its option, cancel this order without liability to Seller (except for conforming shipments previously accepted by Buyer) in the event Seller shall cease to exist or become insolvent or the subject of bankruptcy or insolvency



## **FAST-RITE INTERNATIONAL**

proceedings or shall commit a material breach in the performance of any part of its obligations hereunder. Shipments are subject to postponement by Buyer.

9. **TAXES** – Buyer shall not be liable for any taxes, duties, customs, or assessments in connection with the purchase and/or ordered hereunder except such as are expressly set forth on the face hereof.

10. **INDEMNIFICATION AGAINST CLAIMS** – Seller shall be liable to Buyer for, and shall defend, hold Buyer harmless and indemnify Buyer from and against, any and all claims, losses, damages and expenses, which may be asserted against or be incurred by Buyer, whether direct or indirect, foreseeable or unforeseeable, including those resulting from injuries to any person or damage to any property, caused in any manner by reason of the default or breach of any term or condition of this Purchaser Order, the performance or failure to perform hereunder, the negligence, whether active or passive, or intentional act, or, any act or failure to act of Seller, or Seller's agent, in connection with the furnishing of the goods covered by this Purchase Order, or because of any imperfection or defect in said goods, or based upon any theory of product liability or strict liability in tort, or because of the failure of such goods to be in accordance with the description of such goods as may appear in any category or other literature as is furnished by Seller or utilized by Buyer, or because of the failure of such goods to be produced in compliance with the applicable requirements of this Purchase order.

11. **TOOLS AND MATERIALS PROVIDED BY BUYER** – Tools, dies, jigs, fixture, patterns and other – Tools, dies, jigs, fixtures, patterns and other equipment necessary for producing material on this order, shall be considered Buyer's property and for Buyer's use only, and are subject to removal at any time on

demand; provided, however, that cost of such equipment was paid by Buyer or absorbed by material commitments.

Unless otherwise specified, Seller is to supply all material and equipment required to execute this order. Any material which Buyer may furnish, on other than a charge basis, will be on consignment, and Seller shall pay for such material spoiled by Seller, or not otherwise satisfactorily accounted for. All materials and equipment furnished by Buyer shall be protected against loss or damage by insurance provided by Seller, which is acceptable by Buyer.

12. **WORK DONE ON BUYERS PREMISES** – If the work and service covered by this order or any part thereof are to be performed by Seller on Buyer's premises Seller shall indemnify and hold harmless, to the fullest extent not prohibited by law, Buyer, its directors, officers, agents and employees from and against all claims, damages, losses, expenses and attorney's fees arising out of or relating to the performance of this order and arising by reason of any act or failure to act, negligent or otherwise, of Buyer, of Seller, of any subcontractor or consultant having a contract with Seller, and of anyone directly or indirectly employed by Seller in connection with fulfilling Seller's obligations under this order. It is the intent and purpose of this provision that the indemnity provided herein shall specifically include the acts and omissions of Buyer. Prior to commencement of the work hereunder, Seller shall furnish Buyer with proof of insurance satisfactory to Buyer in all instances.

(a) Seller shall perform the work in a workmanlike manner, and to provide all supervision required to perform the work. Control over the means and manner in which the work is performed shall be the exclusive responsibility of Seller. Seller acknowledges that it is familiar with



## **FAST-RITE INTERNATIONAL**

all requirements of the work, the conditions related thereto and all applicable safety laws and regulations. Unless specifically noted herein, Seller shall provide all labor, materials, transportation, scaffolding, sheathing, apparatus, wages, work, machinery, water, heat, licenses, permits, or similar items reasonably implied by this order as necessary to complete the work in a safe and workmanlike manner.

(b) Seller agrees that where installation is required, if its workmen leave the work before its completion for any reason whatever, Buyer may, three days after serving written notice on Seller, employ any other means of completing the work covered by this order and deduct all associated costs from the contract price. Seller shall reimburse Buyer for said costs in the event the contract price has already been paid or there remains unpaid an insufficient amount to cover Buyer's costs.

(c) Seller, for itself and all persons or corporation doing labor or furnishing materials for Seller in and about the erection and construction of any work covered herein, hereby expressly waives any and all liens of any kind or nature to which it and/or they are, or may be, entitled under any statute or otherwise. Seller further agrees and covenants to disclose this provision of this order to all persons or corporations doing labor or furnishing materials before any labor or materials are furnished and before any other subcontract is made by Seller.

13. **PATENT, TRADEMARK AND COPYRIGHT INFRINGEMENT, TRADE SECRETS** – Seller warrants that it has good and transferable title to the Product, free from any claim of any third party. Seller further warrants that neither the Product nor the sale or use thereof infringes or will infringe any United States or foreign letters patent or copyright and Seller shall defend and hold Buyer harmless from and against all costs, expenses, including attorney's fees, and damages

or loss arising from, any claims, demands and actions which may be asserted against Buyer, its successors, assigns and customers (whether direct or indirect) for all alleged patent, trademark and copyright infringement resulting from the use or resale of goods covered by this Purchase Order. Seller shall pay damages and costs awarded against Buyer and shall otherwise indemnify and hold Buyer harmless against all costs, expenses (including attorney's fees), and judgments related to such claims, demands and actions. In the event the goods are asserted by Seller to be protected by one or more patents owned or controlled by Seller and suit is instituted to declare any such patent or its claims invalid or so limited in scope as to impair the goods' commercial protection, in addition to all other remedies provided to Buyer herein. Buyer shall have the right to cancel this Purchase Order without obligation or liability.

Where goods are made in accordance with blueprints or designs furnished by Buyer, Seller shall not furnish the same goods or parts thereof to any third party without Buyer's written permission.

Buyer retains ownership of all proprietary data disclosed to Seller by Buyer in connection with this order. Seller shall not disclose proprietary data disclosed to Seller by Buyer in connection with this order. Seller shall not disclose proprietary data to others except where prior to Buyer's disclosure to Seller (1) proprietary data is already known to the general public (2) Seller had written evidence or knowledge of proprietary data or (3) information is given to Seller by a third party not under obligation to maintain the data in confidence. For the purpose of this paragraph, "proprietary data" means all designs, engineering and technical information (whether patentable or not) and other information concerning Buyer's trade secrets. Such other information includes but is not limited to, secrets of manufacture contained in Buyer's manufacturing methods or processes,



treatment and chemical composition, plant layout and tooling, to the extent that such other information is not disclosed by inspection or analysis of the goods covered by the order.

#### UCLAIMS;

**ARBITRATION.** Any dispute or claim relating to these terms and conditions or the sale of goods ("Claim") that cannot be settled amicably between the parties shall be settled by arbitration, in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The decision of the arbitrator(s) shall be final and binding upon the parties and judgment upon the award may be entered in any court having jurisdiction thereof.

**WAIVER.** Failure by Buyer to exercise or enforce any rights hereunder shall not be deemed to be a waiver of any such right nor operate so as to bar the exercise or enforcement thereof at any time or times thereafter.

**SUCCESSORS.** These Terms bind Buyer and its successors and permitted assigns.

June 2011