

Wilbert Plastic Services
Standard Terms and Conditions of Purchase

- 1) ACCEPTANCE AND ACKNOWLEDGEMENT – Buyer shall not be bound by the purchase order until Seller receives and returns to Buyer the acknowledgement copy of the order. Seller shall be bound by the purchase order, including all terms and conditions, when it executes and returns the acknowledgement, or when it delivers to the buyer any of the items ordered or renders to the Buyer any of the services herein. Any different or additional terms contained in an acceptance are hereby objected to. In the event this purchase order is used by the Buyer as a written conformation of an oral contract or as written acceptance of an offer to sell received from Seller, such confirmation or acceptance is hereby expressly made conditional on Seller's assent to the additional or different terms herein. This purchase order and any contract resulting therefrom shall be governed by and construed under the laws of the State of North Carolina.
- 2) PRICE – Seller shall not be paid at prices higher than listed on this purchase order unless authorized by a Purchase Order Revision issued and signed by the buyer. Seller represents that the price charged for the items or services covered by this order, is the lowest price charged by Seller to buyers of a class similar to Buyer under conditions similar to those specified in this order and that prices comply with applicable government regulations in effect at the time of quotation, sale, and delivery. Seller agrees that any price reduction made in merchandise covered by this order subsequent to the placement of this order but prior to shipment of such merchandise will be applicable to this order.
- 3) INVOICING AND CASH ACCOUNTS – Invoices must be received promptly. All invoices for items or services requested via purchase order must be mailed to: Wilbert Inc. 2001 Oaks Parkway, Belmont, NC 28012 Attn: Accounts Payable.
- 4) AMENDMENTS – Buyer shall have the right at any time before completion of the order to make changes in quantities, in drawings and specifications, in delivery schedules, and in methods of shipment and packaging. If such changes cause an increase or decrease in prices or in the time required for performance, Seller shall promptly notify Buyer thereof, and an equitable adjustment made. Buyer is not bound to any changes unless a Purchase Order Revision is issued and signed by the buyer. None of the terms and conditions of this purchase order may be altered, added to, or superseded except by written instrument signed by an authorized representative of the buyer and delivered by Buyer to Seller. Each shipment received by Buyer from Seller shall be deemed to be only upon the terms and conditions contained in this purchase order, notwithstanding any terms and conditions contained in any acknowledgement, invoice, or any other form of Seller.
- 5) TERMINATION – Buyer may at any time terminate all or any part of undelivered quantities on this purchase order, or any revisions thereof, or any release and shipping schedule pursuant thereto. Seller agrees that any termination charges made in consequence shall be limited to costs of materials and labor incurred on items cancelled prior to their cancellations.
- 6) PACKING, MARKING, AND SHIPPING – (a) All supplies shall be properly packed, marked and shipped in accordance with the requirements of the common carrier transporting such supplies and of this purchase order and in a manner which will permit the securing of the lowest transportation rates. Seller shall route shipments in accordance with Buyer's instructions. Seller shall reimburse Buyer for all expenses incurred by Buyer as a result of improper packing, marking or routing; (b) Seller shall mark each package with Buyer's purchase order number; (c) Seller shall pay all transportation charges unless otherwise agreed to in writing by Buyer; (d) unless otherwise provided herein, no charge shall be made by Seller for containers, crating, boxing, bundling, dunnage, drayage or storage; (e) Seller shall not insure shipment's for Buyer's account without definite instructions; (f) deviation from shipping and billing instructions given herein will be at Seller's risk.
- 7) INSURANCE – The cost on all in-transit insurance shall be paid by Seller except as otherwise expressly stated in this purchase order.
- 8) RISK OF LOSS – Without regard to any F.O.B. or other delivery terms stated herein, risk of loss as to goods sold hereunder shall pass from Seller to Buyer when goods are duly delivered to Buyer.
- 9) DELIVERIES - Seller is to ship conforming product on time and free of damage for delivery per the released purchase order. If Seller for any reason does not comply with delivery or performance dates specified in the purchase order, Buyer may cancel all or any undelivered or uncompleted parts of this order, without any liability to Buyer on account thereof. Seller shall not ship ahead of schedule unless so authorized by the Buyer.
- 10) WARRANTY – Seller warrants that the supplies covered by the order will conform to the specifications, drawings, samples or other description furnished or specified by Buyer, and will be fit and sufficient for the purpose intended, merchantable, of good material and workmanship and free from defect.
- 11) PATENTS – Seller guarantees that the sale or use of any or all articles or materials delivered hereunder, will not infringe any patent, that Seller will, at its own expense, defend any action, suit or claim in which any infringement of Patent Rights is alleged with respect to the sale or use of said articles or materials; and that Seller will save Buyer and/or its customers from any loss, damage or liability, including attorney's fees and expenses, which may be incurred on account of Infringement of Patent Rights with respect to the articles or materials delivered unless said articles and materials are produced in accordance with Buyer's designs and specifications.
- 12) INDEMNITY – (a) In the event that any goods sold and delivered hereunder shall be defective in any respect whatsoever, Seller shall indemnify and save harmless Buyer from all loss or expense, including attorney's fees and expenses, by reason of all accidents, injuries or damages to persons or property in any manner arising out of or incident to the use, possession or sale of such goods, whether or not such article has been incorporated in and made part of another product by Buyer, (b) if Seller's work under this order involves operations by Seller on or about the premises of Buyer, Seller shall, in connection with such operations (i) protect, indemnify and save harmless Buyer from and against all loss or expense in any way arising out of, connected with, or related to any act or omission of Seller, its officers, employees, agents or subcontractors; (ii) maintain insurance amounts satisfactory to Buyer such as will protect Buyer from any claims for public liability, property damage, and from any claims under any applicable employer liability, Workmen's Compensation or Occupational Disease Acts; (iii) furnish evidence to Buyer of the maintenance of insurance by Seller.
- 13) CONFIDENTIALITY – Seller shall treat as strictly confidential all specifications, drawings, blueprints, samples, models, and other information supplied by Buyer. Seller shall not without prior written consent of Buyer disclose or divulge to any third person or persons any such information not previously known by Seller or not common knowledge in the industry.
- 14) TOOLS, DRAWINGS, ETC. – Unless otherwise agreed to in writing, all special dies, molds, patterns, jigs, fixtures, drawings, and any other property furnished to Seller by Buyer, or specifically paid for by Buyer, for use in performance of this order shall be and remain the property of Buyer, shall be subject to removal upon Buyer's instruction, shall be used only in fulfilling orders from Buyer, shall be held at Seller's risk, and unless Buyer has notified Seller to the contrary, shall be kept insured by Seller at Seller's expense while in its custody and control in an amount equal to its replacement cost thereof, with loss payable to Buyer. Copies of policies or certificates of such insurance will be furnished to Buyer on demand.
- 15) ASSIGNMENT – This contract may not be assigned without written consent of Buyer.
- 16) INSPECTION – Materials or equipment purchases hereunder are subject to inspection and approval at Buyer's destination. Buyer reserves the right to reject and refuse acceptance of items which are not in accordance with instructions, specifications, drawings or data or Seller's warranty (express or implied). Items not acceptable will be returned to Seller at Seller's expense. Payment for any articles hereunder shall not be deemed acceptance thereof.
- 17) GOVERNMENT CONTRACTS – If this purchase order is for services or material under a government contract, all of the provisions of the government contract including applicable government procurement regulations shall apply to this purchase order.
- 18) EXCEPTIONS – Modifications hereof appearing on the face of this order shall prevail whenever they are in conflict with the printed matter contained on this page.
- 19) LAWS, REGULATIONS and CHEMICAL SUBSTANCES – In furnishing goods and services required under this order or any amendment thereto, Seller represents, warrants, and agrees that it will comply with the provisions of all applicable laws, regulations and orders. Without limiting the generality of the foregoing, Seller specifically agrees to comply with the following: Occupational Health and Safety Act as amended (OSHA), Toxic Substances Control Act as amended (TSCA), and Fair Labor Standards Act as amended (FLSA), and all regulations and executive orders issued pursuant to such Acts. By acceptance of this order, Seller certifies that the chemical substances furnished pursuant to this order have been properly labeled, that proper information and materials safety data sheets have been provided to Buyer pursuant to any legislation and that all purchased materials used in part manufacture satisfy all government and safety constraints on restricted, toxic, and hazardous materials, as well as environmental and electromagnetic considerations applicable to the country of manufacture and sale.
- 20) FORUM – Any litigation concerning this purchase order shall be exclusively in the forum of a state or federal court located in Gaston County, North Carolina.