

Standard Commercial Purchase Order Terms and Conditions

Trico Technologies Corporation, its affiliates and subsidiaries (herein after collectively “Buyer”) and the person entity to whom this purchase order is directed (herein after “Seller”) agree to the following Terms and Conditions.

1. Acceptance

Acceptance of the offer represented by this Purchase Order is expressly limited to the terms of this Purchase Order. Signing and returning the acknowledgment copy of this Purchase Order (if included herewith) or , in any event, commencement of performance hereunder shall constitute acceptance of this Purchase Order. “The terms and conditions set forth herein, to the extent that there is any conflict with Trico’s Master Purchase Agreement, shall be superseded by those terms set forth in the Master Purchase Agreement”.

2. Price

Purchase prices shall be as stated on the face of this purchase order, and shall not be subject to escalation without Buyer’s consent. Notwithstanding the above Seller agrees that purchase prices charged shall not be less favorable than those extended to any other customer for the same or like articles in equal or lesser quantities, and that if prices for such articles are reduced prior to delivery, prices hereunder shall be reduced correspondingly. Purchase prices are inclusive of all extra charges, including charges for packing, containers, insurance, and transportation, except as otherwise specifically provided on the face of this order. All taxes based upon and measured by sale, use or manufacture shall be shown separately on Seller’s invoice. Delays in receiving Seller’s statement or invoice, and also errors and omissions on statements, shall be grounds for withholding settlement without losing discount privilege.

3. Changes

Buyer may at any time by a written order, and without notice to sureties, make changes within the general scope of this Purchase Order, in any one or more of the following:

- (i) Drawings, designs or specifications, where the supplies to be furnished are to be specially manufactured for Buyer in accordance therewith;
- (ii) Method of shipment or packing;
- (iii) Time and/or place of delivery; and amount
- (iv) The period of performance of work, and Seller shall comply therewith.

If any such change causes an increase or decrease in the cost of, or the time required for the performance of any part of the work under this Purchase Order, whether changed or not changed by any such order , an equitable adjustment shall be made in the Purchase Order, price or delivery schedule, or both, and the Purchase Order shall be modified in writing accordingly. Any claim by Seller for adjustment under this clause must be asserted within thirty (30) days from the date of receipt by Seller of the notification of change; provided, however, that Buyer, if it decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this Purchase Order where the cost of property made obsolete or excess as result of a change is included in Seller’s claim for adjustment, Buyer shall have the right to prescribe the manner of disposition of such property. Failure to agree on any claim for equitable adjustment under this clause shall be a dispute and the Seller may thereupon pursue any remedy which it may have in any court of competent jurisdiction. Pending the resolution of any such dispute the Seller shall diligently pursue the performance of the Purchase Order as changed. Except as expressly provided for elsewhere in this Purchase Order as the parties agree that there shall be no adjustment in the price or time for performance hereunder unless an authorized representative of Buyer’s Purchasing Department shall have directed a change hereto by the issuance of a written Change Order to this Purchase Order.

4. Payment and Discounts

Payment for goods and/or services covered by this order will be made in U.S. dollars unless otherwise stated on P.O.. All payment periods and cash discount periods will be computed either from date of delivery of the goods ordered, or date of receipt of correct and proper invoices prepared in accordance with the terms of Buyer’s order, whichever date is later, For purposes of determining whether payment has been made on time or whether the discount has been earned, payment is deemed to be made on the date of postmark of Buyer’s check. Upon reasonable notification to Seller, Buyer may withhold and deduct from any part of the price due under this order all or any part of the damages, including consequential damages, resulting from any breach of terms and conditions contained herein, or any other amount which Seller owes Buyer or any of Buyer’s associated companies, arising out of or related to the transaction which is subject of this order or which is otherwise due from Seller or Buyer.

5. Invoicing

One (1) invoice shall be mailed immediately after each shipment to:

Trico Products Corporation
Accounts Payable
1995 Billy Mitchell Blvd.
Brownsville, TX 78521

Delays in receiving invoice; errors or omissions on invoice; or lack of supporting documentation required by the terms of this Purchase Order, will be cause for withholding settlement without losing discount privilege.

All checks will be issued to the Seller’s name and address specified in the Seller’s block on the Purchase Order unless proper authority for deviation is supplied to Buyer’s Accounts Payable Department.

6. Delivery

Time of delivery as stated in this order is of the essence. The Seller must notify the appropriate Buyer as soon as possible but no later than 10 business days in advance of delivery schedule that will not be met or if material is on back order. If Seller for any reason (binding but not limited to labor disputes, force majeure, work stoppings, acts of God or Civil unrest) does not meet the time of delivery as to all goods ordered, Buyer may at its option either approve the revised delivery schedule, reduce the total quantity covered by this order by the amount of omitted shipments reducing the price prorata, or terminate the order, without liability for any such revision, reduction or termination, Deliveries made more than 5 days in advance of the designated schedule are prohibited without Buyer’s prior written consent. **Date stated on P.O. is on dock at Trico, not ship date.**

7. Labor Disputes

Whenever an actual or potential labor dispute is delaying or threatens to delay the performance of the work, the Seller shall immediately notify the Buyer in writing. Such notice shall include all relevant information concerning the dispute and its background.

8. Late Shipments

If Seller is not able to meet Seller’s Committed Delivery Date, Seller shall either ship the Order on an expedited basis or offer and deliver a substitute product which is acceptable to Buyer as determined in Buyer’s sole and absolute discretion. Seller will pay all costs in excess of those that would have been incurred by Buyer had Seller performed according to the Instructions resulting from Seller’s expedited shipments or substitute products. If Buyer must use alternate sources of methods to satisfy its supply requirements because of Seller’s failure to perform in accordance with this Agreement, then Seller shall be responsible for all costs in excess of those Buyer would have otherwise incurred had Seller performed according to this agreement .

9. Shipping

Except as otherwise expressly provided herein, title to and risk of loss on all items shipped by Seller to Buyer shall pass to Buyer upon Buyer's inspection and acceptance of such items at Buyer's plant. An itemized packing slip **referencing Buyer's purchase order numbers, part number**, and any special instructions must be plainly marked on all invoices, packages, bill of lading, and shipping orders. Shipping memos or packing lists must accompany all material. Bill of lading or shipping receipts shall accompany each invoice. Buyer's count or weight shall be final and conclusive on shipments not accompanied by shipping memos or packing lists. Failure to provide packing slips with proper numbers may result in excusable delay in processing Seller's invoices. All shipments to be made per Buyer's vendor routing instructions:

10. Trico's Property

All tooling, parts, scheduled and Specifications and all reproductions thereof, and any other property furnished to Seller by Buyer, or paid for by Buyer shall be the property of Buyer, clearly so identified, and subject to removal at any time upon Buyer's demand, and shall be used only in filling orders from Trico or its nominee. Seller assumes all liability for loss of, and damage to, such property and Seller shall, unless otherwise directed in writing by Trico, insure at Seller's expense such property in amount equal to the replacement cost thereof with loss payable to Buyer.

11. Indemnification

Seller shall indemnify, defend and hold Buyer harmless from and against any claim, loss, damage, expense or liability (including reasonable attorney's' fees and costs) (collectively, "Losses") that may result, in whole or in part, from any warranty or product liability claim by a third party with respect to the Products sold to Buyer by Seller that are deficient or defective or by reason of Seller's failure to comply with the representations, warranties and covenants of this Agreement or the requirements of any applicable law, rule or regulation.

12. Disputes

Any dispute arising hereunder which is not disposed of by agreement shall be decided by the Buyer who shall set forth its decision in writing and mail or otherwise furnish a copy thereof to Seller. **Buyer's decision shall be final and conclusive, unless within ninety (90) days from the date of receipt of the decision by the Seller, the Seller submits the controversy or claim to arbitration in Brownsville, Texas,** or such other location to be designated by the Buyer, in accordance with the rules of the American Arbitration Association. A copy of such submission shall be simultaneously furnished to the Buyer. Any judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

Pending final decisions or arbitration of any dispute hereunder, the Seller shall proceed diligently with performance of this purchase order and in accordance with Buyer's decision.

13. Warranties, Reworks, and Recalls

Warranty. Seller represent and warrant that the Product are merchantable, free from any defects in material or workmanship and shall perform in accordance with any manufacturer's warranties. If any Product fails to satisfy the Warranty during the Warranty Period, whether or not resold and shipped by Buyer, Buyer shall give written notice of such defective Product(s) to Seller within 45 days of the date that Buyer becomes aware of such failure and shall deliver the defective Product(s) to Seller within 45 days of the date when Buyer receives possession of such defective Product(s). At Buyer's election, (I) Buyer may require that Seller promptly deliver to buyer replacement Products, (ii) Buyer may set off that portion of the Purchase price attributable to the defective Products against current of future amounts owing to Seller, or (iii) Seller shall credit any amounts owing from Buyer for that portion of the Purchase Price attributable to the defective Products. Buyer shall ship any defective or non-conforming Products to Seller on a freight prepaid basis and, at Buyer's election, deduct the amount of such prepaid freight from amounts owed to Seller or receive prompt reimbursement from Seller. If Buyer elects to receive replacement Products, Seller shall deliver such replacement Products to Buyer FOB Delivery Point on an expedited basis. All costs associated with the return of Products to Seller and the redelivery of conforming Products to Buyer for failure to satisfy the Acceptance Testing or Warranty shall be at Seller's sole cost and expense.

14. Overshipments

Subject to inspection and acceptance, Buyer will be liable for payment only for quantities ordered and delivered unless otherwise specified. Overshipments must have prior written approval from Buyer. Overshipments not authorized shall be held at Seller's risk and expense for a reasonable time awaiting shipping instructions. Shipping charges for return shall be at Seller's expense.

15. Release Authorization

When deliveries are specified to be in accordance with Buyer's written releases, (I.E. 2 weeks safety stock etc.) Seller will not fabricate or assemble any goods, nor procure required materials, nor ship any supplies, except to the extent authorized by such written releases or provisions of this order specifying minimum fabrication or deliver quantities.

16. Inspection and Rejections

Trico may inspect and evaluate all goods (including all tooling and material used in their manufacture), and all services at times and places designated by Buyer. Seller will perform its inspections as designated by Buyer and Seller will make inspection systems, procedures and records available to Buyer upon request. Notwithstanding payment or any prior inspection, Buyer may reject, require correction, or return the goods to the Seller (at Seller's expense and risk of loss) any goods delivered or services rendered that do not conform to applicable requirements. Without limiting its remedies, after notice to Seller, Buyer may either (I) replace or correct any non-conforming goods or services and charge Seller the cost of such replacement or correction, or (II) cancel the order for default.

17. Packing, Marking, and Shipment

Seller will pack and mark goods in accordance with Buyer's instructions, secure the lowest transportation rates, meet carrier requirements and assure delivery free of damage and deterioration. Seller is responsible for the goods until delivery at the designated FOB point. Prices specified include all charges and expenses for containers, packing and crating, and transportation to the FOB point. All containers, packing and crating material will become the property of Buyer on delivery. Buyer may specify the carrier and/or method of transportation and Seller will process shipping documents and route shipment of the goods from the FOB point accordingly per Buyer's instructions.

18. Title and Risk of Loss

(a) Unless this purchase order specifically provides for earlier passage of title, title to supplies covered by this purchase order shall pass to Buyer upon formal acceptance, regardless of when or where Buyer takes physical possession.

(b) 1. Unless this purchase order specifically provides otherwise, risk of loss of damage to supplies covered by this purchase order shall remain with Seller until, and shall pass to Buyer upon:

(i) delivery of the supplies on board a carrier, if transportation is FOB Origin.

(ii) acceptance by Buyer or delivery of possession of the supplies to Buyer at the destination specified in this purchase order, whichever is later, if transportation is FOB Destination.

2. Notwithstanding (1) above, the risk of loss of or damage to supplies which fail to conform to the contract shall remain with Seller until cure or acceptance at which time (1) above shall apply.

(c) Notwithstanding (b) above, Seller shall not be liable for loss of or damage to supplies caused by the negligence of officers, agents or employees of Buyer acting within the scope of their employment.

19. Customs

Seller to complete all NAFTA certification per NAFTA instructions called out on face of P.O. If customs determines that, based on the NAFTA Certificates supplied by you, our claim for NAFTA is invalid or incorrect, we reserve the right to assess you any duties or penalties, including legal fees, we incur.

20. Work On Buyer's Premises

When work under this purchase order is performed on Buyer's premises, Seller agrees to indemnify and protect the Buyer against all liability for injury or damages to any person or property arising therefrom. Seller agrees upon request to furnish a certificate from its insurance carriers showing that it carries a workmen's compensation, public liability and property damage insurance coverage acceptable to Buyer.

21. Applicable Law

The Laws of the State of Texas shall be deemed applicable to all aspects of the transaction covering material ordered hereunder

22. Compliance with Laws

Seller agrees to comply with, and represents and warrants that it has complied with, all applicable laws, regulations, and ordinances of the United States, all states, and all other governmental bodies, authorities, and agencies in the manufacture and shipping of these goods. In addition, Seller specifically represents, warrants and certifies to the following:

- A. That all goods were produced in compliance with all applicable requirements of Sections 6,7, and 12 of the Fair Labor Standards Act, as amended, and of regulations and orders of the United States Department of Labor issues under section 14.
- B. That he has complied with the non-discrimination clauses contained in Section 202 of Executive Order 11246, and Title VII of the Civil Rights Act of 1964. relative to equal employment opportunity for all persons without regard to race, color, religion, sex, or national origin, and implementing rules and regulations, which herein are incorporated.
- C. That all work performed and the equipment and any other property delivered hereunder shall comply with the applicable occupational safety and health standards promulgated under the Occupational Safety and Health Act of 1970, and regulations adopted thereunder
- D. That all provisions of the Walsh-Healy Public Contracts Act have been complied with, Seller agrees to indemnify the Buyer and its customers and hold them harmless for damages sustained by them as a result of any breach of this paragraph.

Whether this purchase order is construed as an offer, acceptance, or confirmation of an existing contract, the buyer's assent is expressly conditioned upon the full and complete protection afforded by the uniform commercial code in relation to warranties, remedies, and all other rights of the Buyer under the code without limitation. The Buyer hereby objects to any attempted limitation on such code protection in any oral, written, or printed statement from the vendor, regardless of the character or such statement.

23. Stop Work Order

Buyer may at any time, by written order to the Seller, require Seller to stop all or any part of the work called by this Purchase Order for a period of ninety (90) days and for any further period agreed to by the parties. Upon receipt of such order, the Seller shall forthwith comply with its terms and take all reasonable steps to minimize the incurrence of cost allocated to the work covered by the order during the period of work stoppage. Within ninety (90) days or any extension thereof after delivery of a Stop Work Order, Buyer shall either (I) cancel the Stop Work Order, (ii) cancel the Stop Work Order and make changes to the Purchase Order as described in the paragraph entitled "Changes" herein, or (iii) terminate the work covered by this Purchase Order as permitted under the Articles of this Contract

24. Administrative Authority

All matters pertaining to administration of this Purchase Order shall be referred to or coordinated with Buyer's Purchasing Department. Correspondence should be directed to:

Trico Technologies Corporation
Corp. Purchasing Dept..
1995 Billy Mitchell Boulevard.
Brownsville, TX 78521

25. Delay in Delivery of Data

Seller agrees that the technical data called for hereunder (including but not limited to MSDS, certifications, handbooks, service manuals, and maintenance information), if any, will be delivered no later than the time of respective times herein specified. If such data remains undelivered, unless the delay in delivery thereof arises out of the cause beyond control and without the fault and negligence of Seller within the meaning of the clause hereof entitled "Default", the buyer may withhold payment to Seller for any of the amounts then due, refuse approval of Seller's invoices and refuse to accept further deliveries hereunder from Seller or take any other action authorized by law regulations now or hereafter in effect including termination of Purchase Order for default to the extent and in the manner authorized by said clause, and may take any or all of the foregoing actions separately or in combination.

26. Rejections

If any of the supplies, material or services are found to be defective in material or workmanship or otherwise not in conformance with the requirements of this Purchase Order at any time after delivery, the Buyer, in addition to any other rights which it may have under warranties or otherwise, shall have the right to reject and return such supplies, material or services be corrected or replaced promptly with satisfactory supplies, material or services in accordance with directions accompanying the notice of rejection

27. Insurance

Seller shall maintain, with reputable companies, insurance in amounts sufficient to protect Buyer from any and all public liability and Workmen's Compensation claims during the performance of this Buyer entrusted into care of Seller. Buyer may demand evidence of adequate insurance and Seller shall provide same on request.

28. Advertising

Seller shall not, without first obtaining the written consent of Buyer, in any manner advertise or publish the fact that Seller has supplied or contracted to supply Buyer the items herein mentioned.

29. Rights and Reservations

Seller shall keep confidential all designs, processes, drawings, specifications, reports, data and other technical property information and the features of all parts, equipment, tools, gauges, patterns, and other items furnished or disclosed to the Seller by Buyer in connection with this order. Upon completion or termination of this order, Seller shall return all such information and items to Buyer. Where research, experimental or developmental work will be involved in the performance of this Purchase Order, the Seller grants to the Buyer an irrevocable non-exclusive royalty-free license to practice or have practiced all resulting inventions or discoveries, whether of not patentable, including but not limited to any act, method, process, machine, manufacture, design or composition of matter, or any new and useful improvement thereof, unless said license is specifically excluded in writing on the face of this Purchase Order.

30. Drawings, Designs, and Specifications

Unless specially excluded on the face of this Purchase Order, Buyer, upon termination of this Purchase Order either for cause or convenience, may at its own option, use all drawings, sketches, designs, design data, specifications, technical and scientific data and memoranda of every description relating to this Purchase Order whether created by the Buyer or Seller, without further compensation to Seller. Unless otherwise stated in writing, on the face of this Purchase Order, Buyer's use of Seller's above mentioned memoranda shall be on a non-exclusive basis.

31. Special Tooling

Except as may be otherwise provided and subject to Article 30 in this Purchase Order, jigs, dies, fixtures, molds, patterns, special gauges, special test equipment, and other items of special tooling shall be furnished by and at the expense of Seller. Where procurement cost includes tooling expense, title to such tools shall be in Buyer. Special tooling shall be kept in good condition by Seller and when necessary shall be replaced by Seller, all without expense to Buyer. Title to special tooling shall remain in Seller, except that Buyer may, at any time, reimburse Seller for the cost of part or all special tooling and upon payment therefor shall become the owner thereof, entitles to possession at the completion of this Purchase Order, or at such earlier date as the parties may agree.

32. Force Majeure

Buyer may delay delivery or acceptance occasioned by causes beyond control. Seller shall hold such goods at the direction of the Buyer and shall deliver them when the cause affecting the delay has been removed. Purchaser shall be responsible only for Seller's direct additional costs in holding the goods or delaying performance of this agreement at Buyer's request. Seller shall also be excused if delivery is delayed by the occurrence of unforeseen and unforeseeable events, provided Seller notifies Buyer Purchaser its best estimate of such events as soon as they occur, and gives Buyer its best estimate of revised delivery dates. If any delay exceeds 30 days from the original delivery date, Buyer may cancel this order without any liability. If Seller's production is only partially restricted or delayed, it shall use its best efforts to accommodate the requirements of Buyer, including giving this order preference and priority over those of other customers which were placed after this order

33. Default

(a) Buyer may, subject to the provisions of paragraph (c) below, by written notice of default to Seller, terminate the whole or any part of this Purchase Order in one of the following circumstances:

- (i) If Seller fails to make delivery of the supplies or to perform the services within the time specified herein or any extension therefor; or
 - (ii) if Seller fails to perform any of the other provisions of this Purchase Order, or so fails to make progress as to endanger performance of this Purchase Order in accordance with its terms and in either of these two circumstances does not cure such failure within a period of ten(10) days (or such longer period as Buyer may authorize in writing) after receipt of notice from Buyer specifying such failure.
- (b) In the event Buyer terminates the Purchase Order in whole or in part as provided in paragraph (a) of this clause, Buyer may procure, upon such terms and in such manner as Buyer may deem appropriate, supplies or services similar to those so terminated, and Seller shall be liable to Buyer for any excess costs of such similar supplies or services.
- (c) Except with respect to defaults of subcontractors, Seller shall not be liable for any excess costs if the failure to perform the Purchase Order arises out of causes beyond the control and without the fault or negligence of the Seller. Such causes may include but are not restricted to, acts of God or the public enemy, acts of Buyer, acts of Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather; but in every case the failure to perform must be beyond the control and without the fault or negligence of Seller. If the failure to perform is caused by the default or a subcontractor, and if such default arises out of causes beyond the control of both Seller and the subcontractor and without the fault or negligence of either of them, Seller shall not be liable unless the materials to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit Seller to meet the required delivery schedule.
- (d) If this Purchase Order is terminated as provided in paragraph (a) of this clause, Buyer, in addition to any other rights provided in this clause may require Seller to transfer title and deliver to Buyer in the manner and to the extent directed by Buyer, (i) any completed supplies, and (ii) such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information and contract rights (herein called "manufacturing materials") as Seller has specifically produced or specifically acquired for the performance of such part of this Purchase Order as has been terminated; and Seller shall, upon direction of Buyer, protect and preserve property in possession of Seller shall, upon direction of Buyer, protect and preserve property in possession of Seller in which Buyer has an interest. Payment for completed supplies delivered to and accepted by Buyer shall be at the Purchase Order, price, prorated as applicable if supplies are partially completed. Payment for manufacturing material delivered to and accepted by Buyer and for protection and preservation of property shall be in an amount agreed by Seller and Buyer.
- e) If after notice of termination of this Purchase Order under the provision of this clause, it is determined for any reason the Seller was not in default under the provisions of this clause, or that the fault was excusable under the provisions of this clause, the rights and obligation of the parties shall be the same as if the notice of termination has been issued pursuant to the clause of this Purchase Order entitled "Termination for Convenience".
- (f) The rights and remedies of Buyer provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law under this Purchase Order.
- (g) The failure of Buyer to insist upon strict performance of any of the terms of this Purchase Order or to exercise any rights herein conferred, shall not be construed as a waiver of Buyer's right to assent or rely on any such terms or rights on any future occasion.
- (h) It is understood and agreed that Seller shall reimburse for reasonable attorney's fees necessarily incurred by Buyer in order to enforce the provisions of this Purchase Order, or to secure and/or damage for the breach thereof, or in pursuing any other remedy hereunder at law or in equity.

34. Termination for Cause

Buyer reserves the right to terminate this Contract or any part thereof if Seller does not make delivery as specified in this Purchase Order or is Seller breaches any other terms of this Purchase Order including warranties of the Seller. Termination for cause shall be upon written notice and shall limit Buyer's liability solely to payment for material and supplies delivered and accepted prior to termination or services rendered and accepted prior to termination provided such material, supplies, or services are in conformance with the terms and conditions of this Purchase Order. In no event shall Buyer be liable for payment for any material, supplies, or services which is the basis for termination cause.

35. Termination for Convenience

The performance of work under this Purchase Order may be terminated in whole or from time to time in part, by the Buyer for its convenience and Buyer's liability shall not exceed the actual cost of material or labor directly chargeable to the canceled portion of this Purchase Order as determined by accepted Cost Accounting methods in addition to payment for all completed supplies and services already delivered and accepted by Buyer under this Purchase Order.

36. Termination of Agreement

Either party may terminate this Agreement at its convenience and without cause on ninety (90) days advance written notice to the non-terminating party. This termination for convenience shall not constitute a waiver by the parties of any relief or remedy for any prior default of breach of this Agreement, or for any subsequent non-performance of an obligation which its own terms survives such termination.