

Banneker Industries, Inc. Purchase Order General Terms and Conditions

- 1.0 **DEFINITIONS** – Hereinafter: “Buyer” shall refer to Banneker Industries, Inc.; “Seller” shall refer to the business entity or individual who is supplying product(s) and service(s) in support of the Purchase Order; “Terms” shall refer to this Purchase Order General Terms and Conditions; “Product” shall refer to all products and services provided in support of the Purchase Order.
- 2.0 **GENERAL** – These Terms, together with Buyer’s Purchase Order, constitute an offer to purchase Product from Seller. These Terms apply to transactions that are executed outside of an existing or formalized Supply Agreement. If there is such an agreement, the terms and conditions therein supersede these Terms.
- 3.0 **ACCEPTANCE OF TERMS** – Seller’s acceptance of Buyer’s Purchase Order is considered acceptance of these Terms. Amendments or exceptions to these Terms must be mutually agreed in writing by Seller and Buyer. Buyer hereby expressly rejects any additional or different provisions, terms, or conditions that are not included herein or on Buyer’s Purchase Order.
- 4.0 **PURCHASE OF PRODUCT** – A written Purchase Order from Buyer is required for all sales of Product. Buyer agrees to purchase the Product, subject to adherence to these Terms and Purchase Order instructions and flow down provisions, and to pay Seller the purchase price as set forth in the Purchase Order. Seller is obliged to confirm all orders in writing within one (1) business day of receipt of a Purchase Order.
- 5.0 **AMENDMENT OF PURCHASE ORDER** - Buyer reserves the right at any time to modify the Purchase Order, upon notice to Seller. Upon such notice, Buyer and Seller shall negotiate any changes to price, delivery date, or scope of work and shall submit such change(s) to a writing signed by both parties.
- 6.0 **PURCHASE PRICE** – Product shipped against a Purchase Order shall be invoiced at the price set forth in such Purchase Order. Seller warrants that prices for the Product are not less favorable than those currently extended to any other customer for the same or like articles in comparable quantities. Buyer shall be protected from a decline in price on the undelivered portion of this Purchase Order.
- 7.0 **SUBSTITUTION** – Seller agrees not to substitute materials without prior written acceptance by Buyer.
- 8.0 **SUB-TIER NOTIFICATIONS** – Seller shall flow down to its permitted subcontractors or assigns, all quality notes, key characteristics, and other instructions as stated on Buyer’s Purchase Order.
- 9.0 **NOTIFICATION** – Seller is required to notify Buyer in writing in advance of Product delivery of any and all changes to part design, specifications, manufacturing process, or manufacturing location and Buyer shall not be obligated to accept such change(s) if the Products do not comply with the requirements set forth on the Purchase Order or if the cost of such Products increases.
- 10.0 **DELIVERY ACCEPTANCE** – Goods or services shall be considered accepted upon posting of a material receipt in the Buyer’s ERP system.
- 11.0 **PAYMENT TERMS** – Payment terms shall be stated on Buyer’s Purchase order. Terms of payment shall begin on the date Product is accepted by Buyer. Payment shall be made to Seller in accordance with the period established.
- 12.0 **DOCUMENTATION** – All drawings, standards, or other documents provided by Buyer to Seller to acquire the Product shall remain the property of the Buyer and may not be used for any other purpose, reproduced, or made available to third parties by Seller. Seller shall surrender all documentation without delay, if so requested by Buyer.
- 13.0 **ORDER FULFILMENT** - Partial or over-shipments will not be accepted without prior written approval from Buyer unless otherwise permitted pursuant to the subject Purchase Order.
- 14.0 **PACKAGING AND SHIPPING** – All goods shall be packaged to prevent damage or deterioration in accordance with ASTM D-3951 Standard Practice for Commercial Packaging. No charges for handling or freight will be paid by Buyer unless agreed to in the Purchase Order. Product sold as F.O.B. Origin (place of shipment) shall be shipped freight collect against Buyer’s account, unless otherwise specified in the Purchase Order. Expedited shipping costs for late or replacement Product shall be paid by the Seller.

- 15.0 **TITLE & RISK OF LOSS** – Unless otherwise agreed in the Purchase Order that the Products are to be shipped FOB Origin, title and risk of loss to the Product shall pass to Buyer upon acceptance of delivery.
- 16.0 **WARRANTY** – Seller warrants that Products furnished comply with the requirements of the subject Purchase Order, and are free from defects in design, material, manufacture, and workmanship. This shall include any Products supplied by Seller’s permitted subcontractors.
- 17.0 **CERTIFICATION OF AUTHENTICITY** – Seller certifies that Product furnished for the Purchase Order is traceable to the point of manufacture. Upon instruction on the Purchase Order or written request, the Seller will furnish supporting documentation (Certificate of Conformance).
- 18.0 **QUALITY** – Buyer shall notify Seller of any defects of Products promptly upon discovery. Upon such notice, Seller shall replace Product or cancel the order without financial liability to Buyer and shall notify Buyer within two (2) business days whether the defective Products are to be replaced (and the delivery date for such replacements) or the order is to be cancelled. In urgent or special cases, Buyer and Seller may agree that rework of Product by Buyer is necessary. Seller may be responsible for material and labor fees associated with Buyer’s rework activities.
- 19.0 **CANCELLATION** – Buyer reserves the right to cancel this Purchase Order, or any portion of the Order, without liability, if (1) delivery is not made by the confirmed delivery date; (2) Seller fails to meet these Terms or Purchase Order instructions; (3) Seller fails to meet the price, quantity, or quality requirements of the Purchase Order; (4) Seller makes an assignment for the benefit of creditors, becomes insolvent or bankrupt, or any case or proceeding shall have been commenced by or against the Seller in bankruptcy or seeking liquidation, dissolution or winding up, and any such event shall have continued for sixty (60) days without being dismissed. Buyer also reserves the right to cancel for any other reason permitted by the Uniform Commercial Code then in effect in the State of Rhode Island.
- 20.0 **INFORMATION SECURITY** – Upon request, Buyer shall be provided a copy of Seller’s Business Continuity and Disaster Recovery plan. Within 72 hours, Seller will inform Buyer of any event resulting in data compromise, including, but not limited to, cyber and insider threat events. If the event impacts Buyer’s controlled unclassified information (CUI) or proprietary information, Seller shall notify Buyer of the event within 24 hours of occurrence. Both parties shall report other information security events to the other party, at terms that would be applicable for either party to report an event to the media, government, authorities, or other external party.
- 21.0 **FORCE MAJEURE** – Seller shall not be liable for any delay or failure to deliver Product if caused by governmental regulations, labor disputes, strikes, war, riots, insurrection, civil commotion, mobilization, explosion, fire, flood, accident, storm, or other causes beyond Seller’s reasonable control. Similarly, Buyer shall not be liable for failure to accept delivery of Product for above causes.
- 22.0 **RELATIONSHIP** – Buyer and Seller acknowledge that they are each independent parties and neither shall be deemed an agent or representative of the other, or have authority to bind the other in any manner whatsoever.
- 23.0 **INDEMNIFICATION** – Seller shall, at its expense, indemnify, defend and hold harmless Buyer and Buyer’s affiliates from any and all third party claims, liability, demands, causes of action, or proceedings of whatever kind, arising out of, by reason of, or connected with any good or service provided by the Seller, any breach of the Seller of any of its obligations, or any other act, omission or negligence of the Seller or Seller’s subcontractors or agents. Upon request, Seller shall pay or reimburse Buyer or Buyer’s affiliates for all costs and expenses related to such claims, demands, litigation, proceedings, losses, or damages, including, but not limited to, reasonable attorneys’ fees.
- 24.0 **COMPLIANCE** – Seller represents and warrants that it and all of its subcontractors hereunder are in compliance with the applicable federal, state, or local laws or ordinances and regulations, including, without limitation, the U.S. Foreign Corrupt Practices Act (“FCPA”), the U.S. Anti-Kickback Act (“Anti-Kickback Act”), each as currently amended, and agrees to indemnify, defend, and hold harmless Buyer from the consequences of any violation of such provisions by Seller, its employees or agents to the fullest extent permitted by law. Seller acknowledges that it is

familiar with the provisions of the FCPA and the Anti-Kickback Act, and certifies that Seller will adhere to the requirements thereof. In particular, Seller represents and agrees that Seller will not make any payment or give anything of value, directly or indirectly to any governmental official, any foreign political party or official thereof, any candidate for foreign political office, or any commercial entity or person, for the purpose of influencing such person to purchase Seller's or Buyer's products or services or otherwise benefit the business of Seller or Buyer. Seller shall comply with all provisions or contractual clauses referenced on the Purchase Order.

25.0 **JURISDICTION AND VENUE** – This Agreement shall be interpreted in accordance with the laws of the State of Rhode Island without giving effect to Rhode Island's conflict of laws provisions. Any action brought hereunder shall be brought exclusively in the courts residing in the State of Rhode Island.

26.0 **No Waiver.** Any waiver of any breach of any term or condition between Buyer and Seller shall not operate as a waiver of any other breach of such term or condition or of any other term or condition of this Agreement.

27.0 **Severability.** If any provision, term or condition between Buyer and Seller relative to the purchase and sale of Products shall be held to be invalid or unenforceable, such provision shall be ineffective only to the extent of such invalidity or unenforceability without invalidating the remaining provisions of these Terms or the Purchase Order, as the case may be.

28.0 **Headings.** The headings used in this Agreement are included for convenience only and are not to be used in the interpretation of any term or condition between Buyer and Seller .

29.0 **Notices.** "Notice" or "written notice" shall be deemed to have been duly served upon receipt if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if sent by registered or certified mail or by nationally recognized overnight courier providing proof of delivery to, the last business address known to the party giving notice. Parties may change their address for notice purposes by giving notice of such change, provided that such notice is effective only on receipt.

30.0 **Successors and Assigns.** The terms and conditions of these Terms and the Purchase Order shall inure to the benefit of and be binding upon the respective permitted successors and assigns of the parties. Neither party may assign the performance of its obligations, or any part thereof, without written consent of the other in its sole discretion. No permitted assignment shall relieve the assignor of its duties and obligations prior to the effective date of such assignment.

31.0 **Advice of Counsel.** Each party acknowledges that it has had the opportunity to seek the advice of independent legal counsel, and has read and understood all of the terms and provisions of the Agreement between them.

32.0 **Entire Agreement.** These Terms and the Purchase Order, constitutes the sole and entire Agreement between the parties, and supersedes all prior oral or written agreements, commitments, representations, or understandings with respect thereto. No other document or amendment shall be part of this Agreement, unless in writing and signed by each party's duly authorized representative.