

## **OSCAR WINSKI CO., INC. BUYER'S TERMS AND CONDITIONS**

**Contract.** This purchase order supersedes and cancels all prior communications between the parties, except as specifically provided herein or shown on the face of this order. No conditions in the acceptance by seller and no subsequent agreements or communications in any way modifying the provisions of this order or increasing charges under this offer shall be binding unless made in writing and signed by the authorized representative of buyer.

**Warranty.** This purchase order is specifically conditioned upon the existence of the implied warranty of merchantability, express warranties of description and any implied warranties of fitness for a particular purpose arising in the transaction. Seller warrants that such goods are free from defects in material and workmanship, as well as design, if designed by seller, and are fit and sufficient for the purpose intended by buyer and its customers. Such warranties, in favor of buyer and its customers, together with full remedies available under the Uniform Commercial Code are a condition of this purchase order.

All descriptions, if not otherwise provided, shall refer to industry standards or past practice and dealing between the parties, if more restrictive. Seller agrees to provide the purchase goods in compliance with all relevant governmental standards for incorporation into highway semi-trailers and to hold harmless and indemnify buyer for all losses, including damage to property or injury to persons, cause by any breach of the terms of this purchase order, incurred by buyer or buyer's customers or anyone claiming through them.

**Inspection and rejection.** In case of any defect or noncompliance with the provisions of this order, buyer shall have the right to reject. Seller shall bear all risks as to rejected goods, except for loss destruction or damage to the goods caused by buyer's gross negligence. Rejected goods shall be returned at seller's expense or, at buyer's option and expense authorization, replaced in place or through shipping new goods promptly, at seller's expense. Buyer may replace such goods at seller's cost. Buyer may charge seller for all costs and damages relating to shipping, handling, inspecting and replacing defective goods, including costs related to delays. Payment for any goods shall not be deemed an acceptance thereof.

**Time of essence.** Buyer uses the "just in time" inventory systems and all terms relating to the time and manner of shipment are of the essence and must be strictly complied by the seller. Equal opportunity. Seller warrants and certifies that, unless exempt, it will comply with all law, rules, regulations and orders of the United States of any state or political subdivision thereof and in particular those pertaining to equal opportunity in employment, executive order nos. 11246, 11701 and 11758 and any amendments thereto.

**OSHA.** Seller agrees to comply with the provisions of the Occupational Safety and Health Act of 1970 and the standards and regulations issued thereunder or any other federal, state or local law or regulation of the same or similar nature, and certifies that all items furnished under this order will confirm to and comply with such laws, standards and regulations. Seller agrees to hold harmless and indemnify buyer for all damages and expenses incurred by any breach of the foregoing.

**Patent indemnity.** As to any item, the design for which is not furnished by buyer, seller shall defend any action against buyer or its customer or those claiming through them for patent infringement, and seller shall hold harmless and indemnify such persons from all damages (direct as well as incidental and consequential) and expenses, including attorney's fees

**Buyer's property.** All designs, tools and materials furnished by buyer, together with any replacements or additions, shall remain the property of buyer and shall not be used for any purpose other than this or other orders by buyer, nor disclosed to any other person without buyer's permission; and shall be returned to buyer on demand.

**Non-waiver.** Buyer's failure at any time to require strict performance by seller of any provision hereof shall not waive compliance with other requirement hereof nor shall it waive buyer's right thereafter to demand strict compliance therewith.

Termination. In the event of seller's failure to comply with any term of this order, including a schedule for delivery, buyer may terminate this contract upon written notice to seller. Buyer may then substitute for such goods and charge all costs (including incidental and consequential) for substituting such goods to seller.

**Governing law.** This purchase order, and any ensuing contract or transaction, shall be governed by the law of the state of Indiana and any action concerning this purchase order or transaction shall be instituted in the courts which sit in Tippecanoe County, Indiana.

Where the buyer specifies an association number as a part of the description all the specification such as tolerance, strength of material, mechanical and physical, quality control, measurements are incorporated in this order.

Any acceptance of shipments by our receiving department acknowledges quantity only and specifically do not constitute an acceptance or acknowledgement with regard to compliance of materials.

Seller agrees to ship merchandise via buyer's specified carriers.