

Astemo Americas, Inc.
PURCHASE ORDER TERMS AND CONDITIONS

Acceptance/Agreement

This order is Buyer's offer to Seller and does not constitute an acceptance by Buyer of any offer or proposal by Seller to sell. Any reference to such offer to sell or proposal is solely for the purpose of incorporating the description and specifications of the goods and services described therein to the extent that such description and specifications do not conflict with the description and specifications on the face of this order. This order consists only of the terms contained herein and on the face of this order and any supplements, specifications or other documents expressly incorporated herein by reference. By acknowledging receipt of this order (or by shipping the goods or performing the services called for by this order) Seller agrees to the terms and conditions of sale contained in this order. Any additional terms or conditions contained in any acknowledgment of this order by Seller shall be deemed objected to by Buyer without need of further notice of objection and shall be of no effect nor in any circumstances binding upon Buyer unless expressly accepted by Buyer in writing. Acceptance or rejection by Buyer of any such additional terms or conditions shall not constitute an acceptance of any other additional terms or conditions. This order constitutes the entire agreement between Buyer and Seller with respect to the subject matter of such offer and Seller shall be deemed to have so assented and acknowledged unless Seller notifies Buyer to the contrary in writing within ten (10) days of receipt of this order.

Default and Termination

Buyer may terminate this order or any part hereof for cause in the event of any default or failure by Seller to comply with any of the terms and conditions of this order, including but not limited to late deliveries, deliveries of products which are defective or which do not conform to this order, and failure to provide Buyer, upon request, with reasonable assurances of future performance. In the event of termination for cause, Buyer shall not be liable to Seller for any amount and Seller shall be liable to Buyer for any and all damages sustained by reason of the default which gave rise to the termination. Buyer also reserves the right to terminate this order or any part hereof for its sole convenience. In the event of such termination, Seller shall immediately stop all work hereunder, and shall immediately cause its suppliers or subcontractors to cease such work. Seller shall be paid a reasonable termination charge consisting at maximum of a percentage of the order price reflecting the percentage of the work performed prior to the notice of termination plus actual direct costs resulting from termination, but in no event shall such termination charge exceed the amounts payable under any pending Supplier Release. Seller shall not be paid for any work done after receipt of the notice of termination, nor for any costs incurred by Seller's suppliers or subcontractors which Seller could reasonably have avoided. Buyer will make no payment for finished work, work in process, or raw material fabricated or procured by Seller unnecessarily in advance or in excess of Buyer's delivery requirements as authorized by Buyer's Supplier Release. Buyer shall have access to Seller's premises and records, prior or subsequent to payment, to verify charges supporting any termination claim. All claims by Seller based on such termination must be asserted, in writing and in full, within 30 calendar days from the date of notification of the termination; provided that if Seller fails to submit its termination claim within such period, Purchaser shall have the right to unilaterally determine, on the basis of the information then available to it, the amount, if any, due Seller with respect to the termination, and such determination shall be final.

Proprietary Information - Confidentiality - Advertising

All specifications, documents, and prototype articles delivered by Buyer to Seller are the property of Buyer. They are delivered solely for the purpose of Seller's performance of this order and on the express condition that neither they nor the information contained therein shall be disclosed to others nor used for any purpose other than in connection with this order without the prior express written consent of the Buyer. Seller shall not advertise or publish the fact that Buyer has contracted to purchase goods from Seller, nor shall any information relating to the order be disclosed without Buyer's written permission. Such specifications, documents and articles are to be returned to Buyer promptly upon its written request. Such request may be made at any time during or after completion of Seller's performance. The obligations under this paragraph will survive the cancellation, termination, or completion of this order.

Approval of Drawing and Data

If this order requires the submission of drawings and/or other data for approval, Seller shall submit same on or before the time specified in the order (or if no time is specified, then as soon as possible.) Buyer will not reimburse Seller for any extra expense which Seller incurred as a result of having proceeded with performance prior to such approval. Seller may request partial or final approval of Buyer by such dates as will permit it to order and/ or release for engineering and production all required materials and/or components in time to meet the specified shipment and delivery schedule and shall send Buyer special notification in case such schedule should be endangered by delays in receiving approval.

Buyer's Property

All tools, equipment, dies, gauges, models, drawings, or other materials furnished by the Buyer to Seller or made by Seller for the purpose of this order or paid for by the Buyer and all replacements thereof and materials fixed or attached thereto, shall be and remain the property of the Buyer. All Buyer's property and, whenever practicable, each individual item thereof, will be plainly marked and otherwise adequately identified by Seller as "Property of Astemo" and will, at Seller's expense, be safely stored separate and apart from Seller's property wherever practicable, and will be kept free of all liens, claims, encumbrances and interests of third parties. Seller will not substitute any property for any of Buyer's property, will not deliver or make available to any third party any of Buyer's property or any property or goods developed or created with the aid of Buyer's property, except in filling the orders of Buyer. All Buyer's property, while in Seller's custody or control, will be held at Seller's risk and will be kept insured by Seller at Seller's expense in an amount equal to the replacement cost with loss payable to Buyer. Upon completion by Seller or this order, or upon the written request of Buyer at any time, Seller will prepare all Buyer's property for shipment and deliver such property to Buyer in the same condition as originally received by Seller, reasonable wear and tear excepted. Any of Buyer's property which or any property or goods manufactured, developed, or created with the aid of any Buyer's property which for any reason, is not to be delivered to or accepted by Buyer will be destroyed by Seller unless otherwise directed by Buyer in writing. Buyer shall have the right at all reasonable times upon prior request to enter Seller's premises to inspect any and all Buyer's property or goods manufactured, developed, or created with the aid of Buyer's property.

Warranty

Seller expressly warrants that all goods or services furnished under this order shall conform to all specifications and appropriate standards, will be new, free of liens and defects in material and workmanship. Seller warrants that all such goods or services will conform to any statements made on the containers or labels or advertisements for any such goods or services and that such goods will be adequately contained, packaged, marked, and labeled. Seller warrants that all goods and services furnished hereunder will be merchantable and will be safe and fit for the particular purpose for which goods or services of that kind are normally used. If Seller knows or has reason to know the particular purpose for which Buyer intends to use the goods or services, Seller warrants that goods and services furnished hereunder will conform in all respects to samples, inspection, testing, acceptance, or warranty and such warranties shall survive inspection, testing, acceptance and use. Unless otherwise specified, Seller's warranty shall extend for a period of twelve (12) months after the goods are accepted by Buyer's designee. Buyer and its designee shall have the benefit of any other warranties that may be applicable. Seller's warranty shall run to Buyer, its successors, assigns and customers, and users of products sold by Buyer. Seller agrees to replace or correct defects or any goods or services not conforming to the foregoing warranty promptly without expense to Buyer, when notified of such nonconformity, provided Buyer elects to provide Seller the opportunity to do so. In the event of failure of Seller to correct defects in or to replace nonconforming goods or services promptly, Buyer, after reasonable notice to Seller, may make such corrections or replace such goods and services and charge Seller for the cost incurred by Buyer in doing so.

Price Warranty

Seller warrants that the price for articles and services sold Buyer hereunder are not less favorable than those currently extended to any other customer for the same or similar articles in similar quantities or for similar services. In the event Seller reduces its price for such article or service during the term of this order, Seller agrees to reduce the prices hereof correspondingly. Seller warrants that prices shown on this order shall be complete, and no additional charges of any type shall be added without Buyer's express written consent. Such additional charges include, but are not limited to, shipping, packaging, labeling, custom duties, taxes, storage, insurance, boxing and crating.

Force Majeure

Neither Buyer nor Seller shall be liable to the other for any failure to perform in accordance with this order if such failure arises out of any cause or event beyond its reasonable control and without its fault including, but not limited to, labor disputes, strikes, fires, acts of God and accidents. In the event Buyer is delayed or restricted in its ability to take delivery and/or make use of the goods as originally contemplated by reason of any event beyond its reasonable control and without its fault or negligence, Buyer may postpone the delivery dates or modify this order in whole or in part to such extent as is reasonable under circumstances without any obligations or liability to the Seller.

Patents

Seller agrees upon receipt of notification to promptly assume full responsibility for defense of any suit or proceeding which may be brought against Buyer or its agents, customers, or other vendors for alleged patent infringements as well as for any alleged unfair competition, infringement of trade secret or other intellectual property rights resulting from similarity in design, trademark, intellectual property or appearance of goods or services furnished hereunder and Seller further agrees to indemnify Buyer, its agents and customers against any and all expenses, losses, royalties, profits and damages including court costs and attorney's fees resulting from any such suit or proceeding if it so desires, and the cost of such representation shall be paid by Seller. The rights granted hereunder shall survive termination of this order.

Insurance

In the event that Seller's obligations hereunder require or contemplate performance of services by Seller's employees, or persons under contract to Seller, to be done on Buyer's property, or property of Buyer's customers, the Seller agrees that all such work shall be done as an independent contractor and that the persons doing the work shall not be considered employees of the Buyer. Seller shall maintain all necessary insurance coverages including public liability and Workman's Compensation Insurance. Seller shall indemnify and save harmless and defend Buyer from any and all such claims or liabilities arising out of the work covered by this paragraph.

Indemnification

Seller shall defend, indemnify, and hold harmless Buyer and its customers against all damages, claims or liabilities and expenses (including attorney's fees) arising out of or resulting in any way from any defect in the goods or services purchased hereunder or from any act or omission of Seller, its agents, employees or subcontractors. This indemnification shall be in addition to the warranty obligations of Seller.

Changes

Buyer shall have the right at any time to make changes in drawings, designs, specifications, materials, materials, packaging, time and place of delivery and method of transportation. If any such changes cause an increase or decrease in the cost or the time required for the performance, an equitable adjustment shall be made and this order shall be modified in writing accordingly. Unless Seller presents to the Buyer an itemized statement of claim against the Buyer within twenty (20) days after the receipt of notice of such change, the Seller shall be conclusively deemed to have waived all claims against the Buyer with respect hereto. Seller agrees to accept any such changes subject to this paragraph.

Inspection/Testing

Payment for the goods and services delivered hereunder shall not constitute acceptance thereof. Buyer shall have the right to inspect such goods/services and to reject any or all of said goods/services which are in Buyer's judgment defective or nonconforming. Goods rejected and goods supplied in excess of quantities called for herein may be returned to Seller at its expense and in addition to Buyer's other rights. Buyer may charge Seller all expense of unpacking, examining, repackaging, and reshipping such goods. In the event Buyer receives goods whose defects or nonconformity is not apparent on examination; Buyer reserves the right to require replacement as well as payment of damages. Nothing contained in this purchase order shall relieve Seller in any way from the obligation of testing, inspection, and quality control.

Assignments and Subcontracting

No part of this order may be assigned or subcontracted without the prior written approval of Buyer.

Packing

Seller shall include shipping marks, as specified by Buyer, on all packing. Unless otherwise specified, Seller shall pack the goods in such a manner as to be safe from damage or deterioration while in transit or storage under foreseeable conditions.

Shipment

If in order to comply with Buyer's delivery date it becomes necessary for Seller to ship a more expensive way than specified in this order, any increased transportation costs resulting therefrom shall be paid for by Seller unless the necessity for such rerouting or expedited handling has been caused by Buyer.

Delivery

Time is of the essence in the performance of this order, and if delivery of items or rendering of services is not completed by the time promised, Buyer reserves the right without liability in addition to its other rights and remedies to terminate this order by notice effective when received by Seller as to items not yet shipped or services not yet rendered and to purchase substitute items or services elsewhere and charge Seller with any loss incurred.

Limitation on Buyer's Liability and Statute of Limitation

In no event shall Buyer be liable for anticipated profits or for special incidental or consequential damages. Buyer's liability on any claim of any kind for any loss or damage arising out of or in connection with or resulting from this order or from the performance or breach thereof shall in no case exceed the price allocable to the goods or services or unit thereof which gives rise to the claim. Buyer shall not be liable for penalties of any description. Any action resulting from any breach on the part of Buyer as to the goods or services delivered hereunder must be commenced within one year after the goods have been delivered or services rendered.

Export Restrictions

Seller agrees to comply, and do all things necessary for Buyer to comply, with all applicable federal, state and local laws and regulations, including regulations of the United States Departments of Commerce and State relating to the export of technical data and commodities insofar as they relate to the transactions contemplated herein. Seller agrees to advise Buyer of any and all export restrictions and/or requirements concerning the goods covered by this order so that Buyer can comply with the same. Buyer shall have the right to refuse accepting shipment of the goods or revoke its acceptance, if it is unable to obtain required export licenses or other governmental authorization as a result of Seller's breach of this paragraph.

Compliance with Laws

Seller warrants that all goods or services supplied hereunder shall have been produced or performed in compliance with and Seller agrees to be bound by all applicable federal, state and local laws, orders, rules and regulations. The Equal Employment Opportunity clauses in Section 202 of Executive Order 11246, Section 503 of the Rehabilitation Act of 1973, and Section 4212 of the Vietnam Era Veterans Readjustment Act of 1974, and the implementing rules and regulations of the Office of Federal Contract Compliance Programs (41 CFR, Chapter 60), as such clauses may be amended from time to time and as applicable, are incorporated herein by reference.

Applicable Law

The contract shall be governed by and construed in accordance with laws of the State of Kentucky.