

**D&H Industries**  
**Purchase Order Terms and Conditions**  
**(August 2019)**

1. Buyer's Purchase Order is an offer to purchase to Seller and does not constitute an acceptance by Buyer of any offer to sell, proposal, quotation or similar form of Seller; any reference to such is solely for Seller's convenience in incorporating the description of the Goods being purchased, and, to the extent such description and specifications do not conflict with the description and specifications on the Purchase Order, Seller's acknowledgement of Buyer's Purchase Order (or shipment of Goods, commencement of work on such Goods, or performance of services called for herein) shall constitute an acceptance of Buyer's Purchase Order. These Purchase Order Terms, together with Buyer's Purchase Order, are the exclusive agreement between the parties for the purchase of the Goods, materials and/or equipment ("Goods") however, should Buyer and Seller execute an independent agreement covering the scope of the Purchase Order, the independent agreement shall prevail should any conflict in terms arise.
2. Any acceptance of Buyer's Purchase Order by Seller is expressly limited to the terms and conditions contained herein and any supplements, specifications or other documents expressly incorporated by Buyer's reference. Any terms or conditions proposed in Seller's acknowledgement or acceptance of Buyer's Purchase Offer which are additional to, different from or vary in any degree with these Terms and Conditions or the Purchase Order are hereby objected to and rejected by Buyer without need of further notice; any such proposed terms and conditions shall be of no effect and shall not be binding upon Buyer unless accepted by Buyer in writing.
3. Time is of the essence for all Goods or documentation to be delivered by Seller. As used herein, the term "Delivery" means supply of all Goods complete with all required documentation. Seller shall deliver the Goods and/or services covered by the Purchase Order in accordance with the prices and terms of delivery set forth on the Purchase Order or, if no price is specified in the Purchase Order, at the lower of the price last billed or quoted to Buyer. In no event shall Buyer be required to pay for the Goods and/or services covered by the Purchase Order at a price higher than that specified in the Purchase Order unless authorized in writing by Buyer. Except as otherwise provided in the Purchase Order, the price includes all applicable federal, VAT, state, local or excise taxes and duties, customs and inspection fees.
4. Delivery is F.O.B. Seller's dock. All freight and other charges are included in the price and no extra charges by Seller of any kind shall be allowed unless specifically authorized in writing by Buyer. Freight costs shall be borne by Buyer.
5. Time is of the essence with respect to the delivery of any Goods. Delivery shall be made

both in quantities and in accordance with the specifications set forth herein. Goods which are delivered in advance of schedule without authorization from Buyer may, at Buyer's option be returned to Seller at Seller's risk and expense for proper delivery or held by Buyer (or at Buyer's option stored at Seller's expense) until the date the Goods are scheduled for delivery.

6. All Goods covered by the Purchase Order shall be packaged, marked and otherwise prepared in the manner specified by Buyer and shipped in the manner and by route and carrier designated by Buyer (or if no designation has been made, in accordance with good commercial practices so as to avoid any damage in transit). If the Goods are not accompanied by a packing list, Buyer's count or weight shall be conclusive. If Seller utilizes returnable containers, Buyer shall return such containers within a reasonable time, reasonable wear and tear accepted.

7. Buyer's payment is due in accordance with the terms and conditions of the Purchase Order following Seller's delivery of acceptable Goods to the F.O.B. point and/or the accepted performance of the services specified in the Purchase Order and Buyer's receipt of Seller's correct invoice received on or after the date of delivery.

8. Proprietary Information and data disclosed to Seller, including: patterns, drawings, samples or prototypes, designs, concepts, ideas, tools, dies or plans, by Buyer ("Proprietary Information") is disclosed in confidence and shall remain Buyer's sole property, and such items or any copies, articles or parts therefrom will not be furnished to others without Buyer's written consent. No rights or licenses are granted to Seller in any Buyer Proprietary Information. Supplier shall only use the information or data supplied by Buyer solely to accomplish the work covered by the Purchase Order and for no other purpose whatsoever. If samples or prototypes of the Goods covered by the Purchase Order have been furnished by Buyer to Seller prior to Seller commencing production of the Goods, all Goods delivered to Buyer shall conform to such samples and no change in the Goods or their method of production, including changes in raw material, equipment, processing conditions or production location shall be made without written acceptance by Buyer of same.

9. Buyer may at any time make changes to the Purchase Order by telephone (followed by written confirmation if requested by Seller) or by email in the designs or specifications of the Goods, the total quantity of the Goods, materials or services to be furnished, the method of shipment or packing or the place of delivery, inspection, testing and acceptance. If such changes cause an increase in the cost of, or time required for, performance of the Purchase Order, an equitable adjustment shall be negotiated provided Seller asserts to Buyer same within ten (10) calendar days of its receipt of the notification of such change; if Buyer receives no notification, there shall be no increase in the price to be paid for the Goods and/or services.

10. If any of the Goods or services are defective or otherwise not in conformity with the requirements of the Purchase Order, Buyer shall have such rights and remedies as are more specifically set forth in the warranty provisions permitted under Wisconsin law and its Uniform Commercial Code including without limitation thereby performance of Seller's warranty that the Goods and/or services to be furnished hereunder: (i) shall be merchantable, (ii) shall be

delivered free from defects in the design material and workmanship and in accordance with the applicable drawings, designs, specifications or other documents upon which the Purchase Order is based, and (iii) shall, where Seller is aware or has reason to know of the purpose for which the Goods and/or services are intended, be fit for such particular purpose. Seller's warranty shall extend to Buyer, its successors, assigns and customers and to the users of its products which utilize or incorporate the Goods and/or services and such warranty shall survive any delivery to, or inspection, testing, acceptance and/or payment by, Buyer. In addition to any other rights or remedies, Buyer reserves the right to reject any Goods or services not in conformity with Seller's warranty and may, at its option, either return such Goods or services to Seller for full credit or refund or require that Seller at its expense correct or replace such Goods or services with conforming Goods or services. In the event Seller fails to correct or replace any nonconforming Goods or services promptly after notification and authorization from Buyer, Buyer may, by contract or otherwise, correct or replace such Goods and/or services and either charge Seller for the cost incurred by Buyer thereby or off-set or equitably adjust the Purchase Order price for such Goods or services. Any Goods or services rejected by Buyer and returned to Seller shall be at Seller's risk and expense and Seller shall reimburse Buyer for all expenses incurred including, without limitation thereby, the cost of inspecting, unpacking, examining, repacking, storing and reshipping such Goods or services.

11. Seller shall indemnify, defend and hold Buyer, its officers, directors, shareholders, employees, agents, customers and the users of its products (which utilize or incorporate Seller's Goods and/or services) harmless from and against any and all damages, liabilities, claims, loses, costs and expenses (including reasonable attorney's fees) paid or incurred by them arising out of or relating or incidental to: (i) a breach of any of Seller's warranties, promises or covenants as contained in the Purchase Order, (ii) death or injury to any person, damage to any property or other damage or loss by whomever suffered as a result, in whole or in part, from the manufacture, use, purchase or sale of the Goods and/or services covered by the Purchase Order.

12. Inspection records of Seller shall be maintained and available for Buyer's review for three years following delivery of Goods and/or services to Buyer - if unavailable it shall be presumed (upon Buyer's election) that the records would verify that the Goods and/or services did not comply with Seller's warranty.

13. Seller shall obtain and maintain at its expense such public liability and property damage insurance with broad form vendor's endorsement (including products liability, completed operations, contractor's liability and protective liability), automotive liability insurance, and workmen's compensation and employer's liability insurance as will adequately cover Seller's obligations under the Purchase Order.

14. Buyer shall have the right to terminate the Purchase Order, in whole or in part, at any time, for its convenience upon written notice to Seller. Upon such termination, Seller's sole remedy shall be payment of the Purchase Order price for any completed Goods or services which conform to the requirements of the Purchase Order and the actual costs incurred by

Seller for any partially completed Goods and/or services and materials produced or acquired by Seller specifically for the performance of the Purchase Order to the extent such costs are reasonable in amount, are properly accountable to the terminated portion of the Purchase Order, and cannot be recovered by sale or other disposition of the Goods and/or services remaining.

15. Buyer reserves the right at any time to cancel the Purchase Order without liability when, in its sole opinion, financial conditions of Seller so warrant. Alternatively, in any such case, in addition to and not exclusive of any other remedies herein or by law provided (including Buyer's right to recover damages), Buyer may require proof of Seller's progress on the Purchase Order and ability to timely perform.

16. Buyer's Purchase Order may not be assigned nor subcontracted by Seller, in whole or in part, without the prior written consent of Buyer.

17. Unless otherwise agreed to in writing, all tools, patterns, equipment or other materials furnished to Seller by Buyer, or paid for by Buyer and any replacements thereof or materials affixed or attached thereto shall be and remain the personal property of Buyer. Unless specified to the contrary herein, Buyer's personal property shall be adequately identified to establish Buyer's ownership thereof, shall be safely stored and insured at Seller's expense, shall be kept free of all liens or encumbrances, and shall not be modified without Buyer's written directions. Seller shall return such personal property to Buyer immediately upon notification from Buyer and Buyer shall have the right to enter upon Seller's premises at all reasonable times to take possession of same and to inspect such property and Seller's records relating thereto.

18. Seller warrants that the Goods covered by the Purchase Order and the services performed pursuant hereto conform to the standards or requirements established under federal, state and local laws, ordinances, rules and regulations relating to the manufacture and sale of the Goods and/or performance of the services covered by the Purchase Order including but not limited to those of OSHA, EPA, Toxic Substances Control Act, Fair Labor Standards Act, Federal Food, Drug and Cosmetic Act, Consumer Product Safety Act and Fair Packaging and Labeling Act. In the event Seller knows or has reason to know that any ingredient in the Goods covered by the Purchase Order are or may become harmful to persons or property, or that the design or construction of the Goods is defective in any manner which is or may become harmful to persons or property, Seller shall immediately give notice thereof, including all relevant information with respect thereto, to Buyer.

19. At Buyer's option, Buyer's Purchase Order may be suspended and/or delayed for any cause beyond Buyer's control, including but not limited to, labor unrest, strikes, slowdowns, embargoes, riots, civil unrest, war and other outbreaks of hostilities, fire, flood, earthquake, lightening, explosion, acts of God, equipment failure, delays of its carriers or suppliers, unavailability or shortage of materials, equipment or energy, and government acts, demands and regulations including failure to grant or renew necessary authorizations or licenses.

20. These Terms and Conditions and any Purchase Order shall be governed by and construed under the internal laws of the State of Wisconsin without regard to its rules of conflict of laws and shall be binding on the successors and assigns of Buyer and Seller. All actions brought by any party hereto to enforce, terminate, alter, define, or otherwise resolve any dispute or disagreement arising out of this agreement shall be brought in Circuit Court of Ozaukee County or the Eastern District of Wisconsin Federal Court and said court shall have jurisdiction and venue over any dispute or disagreement arising out of this agreement. NEITHER THESE TERMS NOR ANY PURCHASE ORDER SHALL BE GOVERNED BY THE PROVISIONS OF THE 1980 UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS, AND THE PARTIES HEREBY DISCLAIM APPLICATION THEREOF.