



TALLMAN TECHNOLOGIES INC.  
PURCHASE ORDER TERMS AND CONDITIONS:

1. **ENTIRE AGREEMENT.** This Order, together with the applicable purchase or supply agreement executed in writing by both parties, if any (collectively, the "Purchase Agreement"), constitutes the entire agreement between Tallman Technologies Inc or its affiliate/subsidiary named in the Order (hereafter called "Tallman") and Seller. If Seller issues its own form of acknowledgment to this Order, such act shall constitute Seller's unqualified acceptance of this Order, and any different or additional terms and conditions contained in such acknowledgment are hereby objected to by Tallman and shall not in any way be incorporated into the agreement between the parties, unless specifically agreed to in writing by Tallman. Seller's commencement of performance hereunder with the consent of Tallman shall in all cases constitute Seller's unqualified acceptance of the Terms and Conditions herein.
2. **DELIVERY.** Unless otherwise specified on the face hereof, delivery of goods shall be DDP (Incoterms 2010) Tallman plant. Title and risk of loss shall pass upon such delivery. Seller agrees to deliver goods in the quantities, within the time, and in accordance with the specifications (and approved sample, if furnished) specified on the face hereof. Time is of the essence with respect to delivery of goods and/or completion of services. Any failure in this regard shall entitle Tallman, in addition to any other rights or remedies, to cancel the Order and be relieved of all liability to Seller. Tallman reserves the right to reject any delivery made in advance of schedule unless Seller obtains prior written permission. Tallman's acceptance of any goods before or after the specified delivery date or otherwise shall not constitute a waiver of Tallman's right to cancel as to future deliveries. Seller may not make any allocations related to this Purchase Agreement without the consent of Tallman.
3. **PRICE.** Substitutions or changes in price shown here on must have Tallman's approval before delivery and/or performance. If this Order is unpriced, the price shall be the lower of the last quotation price or current market price. This Order shall not be subject to any surcharges, extras or other additional charges not specifically stated on the face hereof. Any cash-discount period will begin with the later of receipt/completion or invoice date.
4. **WARRANTY.** Seller warrants that all goods and/or services will conform to the specifications identified on the face of the Order (and approved sample, if furnished); be of the quality, quantity, dimensions and description as specified in this Order; be fit for the particular purpose of Tallman; and be free from defects in material, design and workmanship, including latent defects. The foregoing warranties shall survive inspection, delivery and payment and shall not be deemed to be exclusive. In addition to any other rights or remedies, in the event Seller provides Tallman with non-conforming goods or services Seller shall, at Tallman's option, repair or replace such non-conformity, or credit or refund Tallman's account in amount equal to amount paid there for or Tallman may retain the same and make an equitable adjustment of price. Further, Seller shall reimburse Tallman for all losses, costs and damages incurred by Tallman as a result of or pursuant to Seller's provision of such nonconforming goods and/or services, including any incidental and consequential damages incurred by Tallman relating thereto (including reasonable attorneys' fees).
5. **INSPECTION AND TESTS.** Inspection and testing of goods and/or services may be made by Tallman at any time or place directed by Tallman. No inspection or approval by Tallman shall relieve the Seller from responsibility for errors, omissions, or non-conformities in goods and/or services provided hereunder.
6. **INTELLECTUAL PROPERTY.** Seller warrants that the goods and/or services furnished to Tallman under this Order and Tallman's use thereof shall be free of and not constitute infringement or misappropriation of any U.S. or foreign patent, copyright, trademark, trade secret or other proprietary right. Seller shall indemnify, defend and hold Tallman harmless, at Seller's expense, from and against any claim, suit or proceeding brought against Tallman, its successors, assigns, customers or users based upon any allegation that the goods and/or services provided by Seller or Tallman's use of them constitute infringement or misappropriation of any Canadian or foreign patent, copyright, trademark, trade secret or other proprietary right. Seller, after obtaining Tallman's prior written approval to any applicable terms, may settle any such claim, suit or proceeding, provided that any such settlement may not impose any obligation or hardship on Tallman. Seller shall pay all damages, costs and expenses incurred by Tallman, its successors, assigns, customers or users as a result of such claim, suit or proceeding or in connection with the defense of any claim of infringement or misappropriation, including Tallman's attorneys' fees. All works for hire completed to fulfill the purchase order shall belong to Tallman, including any intellectual property that may result from those works for hire.
7. **CHANGES.** Tallman may make subsequent written changes in the drawings, designs, specifications and/or date for delivery of goods and/or completion of services. With Tallman's prior written consent, if any such changes (1) materially change the cost of furnishing the goods or services, the price stated on the Purchase Agreement shall be adjusted by the amount of such increase or decrease, or (2) increase or decrease the time required for performance hereunder, the time for delivery and/or completion of the services stated in the Purchase Agreement shall be adjusted accordingly.
8. **DESIGN, TOOLS, ETC.** Any design, pattern, tool, die, jig, fixture, drawing, or test equipment furnished to Seller by Tallman in connection with the Purchase Agreement shall remain Tallman's property, to be returned to Tallman upon request, and shall not be used in the manufacture of any goods or the performance of any services for third parties. Seller shall not copy or duplicate such items, and Seller agrees to treat such items as proprietary information of Tallman and shall not in any manner distribute or publish any information regarding the same without the prior written approval of Tallman. Seller acknowledges that it shall not have, nor will it assert, any mechanic's lien upon any such items, and Seller shall neither permit nor suffer any mechanic's lien being placed on any such item. Whenever Seller shall have in its possession any property belonging to Tallman, Seller shall be deemed an insurer of all such property.
9. **PACKING.** Seller shall be responsible for safe and adequate packing of any goods. No charge will be made by Seller for packing, boxing or cartage unless fully and separately itemized on the face hereof. Any damage to any goods not packed to insure proper protection shall be charged to Seller.
10. **COMPLIANCE WITH LAWS.** Seller represents and warrants that the goods and/or services have been or will be manufactured and sold, or otherwise performed and completed, in strict compliance with all applicable laws, regulations and orders; and Seller covenants to indemnify, save and hold Tallman harmless of and from all costs, damages and expenses (including attorneys' fees) sustained by Tallman, directly or indirectly, as a result of any breach or inaccuracy of such representation and warranty. Tallman will not accept delivery of any hazardous material without prior review of a Material Safety Data Sheet ("MSDS") specifying all ingredients. Seller will be responsible for all demurrage and shipping cost incurred due to Seller's failure to provide complying MSDS. All MSDSs must be forwarded to Tallman's Purchasing Department prior to shipment with reference to Purchase Order Number.
11. **DEFAULT, INSOLVENCY, ETC.** If Seller shall default in any respect or become insolvent or if a petition in bankruptcy or insolvency is filed by or against Seller under Federal law, Tallman reserves the right to terminate and cancel the Purchase Agreement or any portion of this Order that is incomplete at the time of the aforementioned act or acts.
12. **GOVERNING LAW AND JURISDICTION.** This agreement shall be governed by and construed in accordance with the laws of the Province of Ontario without giving effect to any choice-of-law or conflict-of-law rules of any jurisdiction. Seller, for itself and its successors and assigns, hereby expressly and irrevocably consents to the exclusive jurisdiction of the provincial courts of the Ontario for any litigation relating to any matter which is the subject of this agreement. Seller waives objections based on *forum non conveniens* or venue of any SUCH action.
13. **MISCELLANEOUS.** A waiver by Tallman of any breach by Seller of any provision shall not be construed as a waiver of any other breach of such provision or of any other provision of the Purchase Agreement. Tallman may at any time insist upon strict observance of any or all conditions as stated herein, notwithstanding any previous custom, practice, or course of dealing to the contrary. Seller shall not assign or sublet the work to be done hereunder without the prior written consent of Tallman. Tallman may at any time set off any amounts due from Seller to Tallman against any amounts which may be due or owing from Tallman to Seller under this Purchase Agreement.