

## **Hammill Manufacturing Co. ("Hammill") Standard Terms and Conditions**

**1. Acceptance.** Seller's acceptance of an order for goods or services ("Purchase Order") from Hammill shall be deemed to be Seller's unconditional acceptance of all terms of these Standard Terms and Conditions without modification. Any purported modification to these Standard Terms and Conditions by Seller shall be ineffective unless expressly agreed to in writing by Hammill prior to acceptance. These Standard Terms and Conditions and any Purchase Order may not be modified, amended, or altered, in whole or in part, except by a written instrument signed by Seller and Hammill.

**2. Orders.** All Purchase Orders shall be subject to these Standard Terms and Conditions and must be in writing. Verbal orders are not binding on Hammill. Hammill reserves the right to cancel or modify any order at any time prior to Seller's shipment of the good or provision of services, or even after shipment or provision if the goods or services do not conform to the Purchase Order.

**3. Price and Payment.** The price for all goods or services shall be as set forth in the Purchase Order. Payment terms shall be Net 45 days, 2% discount for payment within 10 days.

**4. Delivery.** Delivery shall be made to the location specified in the Purchase Order. Time for delivery is of the essence. Seller shall be responsible for all costs of transportation and insurance and shall use the carrier designated by Hammill.

**5. Warranty.** Seller expressly warrants that all goods and services furnished under a Purchase Order shall conform to all specifications and appropriate standards, will be new, and will be free from all defects in material and workmanship. Seller's warranty shall run to Hammill, its successors, assigns, customers, and users of products sold by Hammill. Seller's sole obligation under this warranty shall be to repair or replace, at Seller's option, any defective goods or services. This warranty is in addition to, and not in lieu of, all other warranties, express or implied, including, without limitation, the implied warranties of merchantability and fitness for a particular purpose; provided, however, in the event of failure of Seller to correct defects or replace nonconforming good or services promptly, Hammill, after reasonable notice to Seller, may make such corrections or replace such goods and services and charge Seller for the cost incurred by Hammill.

**6. Limitation of Liability.** Seller shall be liable for all damages arising out of or relating to these Standard Terms and Conditions, any Purchaser Order issued, or the goods and services, including, without limitation, direct, indirect, incidental, special, consequential, and punitive damages, loss of profits, loss of use, or loss of data.

**7. Indemnification.** Seller agrees to indemnify and hold harmless Hammill from and against any and all claims, losses, damages, liabilities, costs, and expenses (including attorneys' fees) arising out of or resulting from (i) any defect in the goods or services purchased hereunder, (ii) Seller's negligence or willful misconduct, (iii) any claim that the goods or services infringe upon any third party's intellectual property rights, or (iv) Seller's breach of these Standard Terms and Conditions and any Purchase Order issued.

**8. Confidentiality.** Seller shall consider all information furnished by Hammill to be confidential and shall not disclose any such information to any other person or use such information itself for any purpose other than performing this contract, unless Seller obtains written permission from Hammill to do so. This paragraph shall apply to drawings, specifications, or other documents prepared by Seller and Hammill in connection with any Purchase Order.

**9. Insurance.** Seller shall maintain, at its own expense, commercial general liability insurance, workers' compensation insurance, professional liability insurance and any other insurance reasonably necessary for such goods and services offered by Seller. Hammill shall provide Seller with certificates of insurance naming Seller as an additional insured on all applicable policies and provide Hammill copies thereof as requested.

**10. Set-off.** Hammill shall have the right, without prior notice to Seller, to set off and apply any amounts owed by Seller to Hammill, whether arising under a Purchase Order or otherwise, against any amounts payable by Hammill to Seller pursuant to these Standard Terms and Conditions. This right of set-off shall be in addition to any other rights and remedies available to Hammill at law or in equity.

**11. Governing Law.** These Standard Terms and Conditions and any Hammill Purchase Order shall be governed by and construed in accordance with the laws of the State of Ohio. Any dispute arising out of or relating hereto shall be brought in a court of competent jurisdiction in Lucas County, Ohio.

**12. Force Majeure.** Hammill may delay delivery or acceptance occasioned by causes beyond its control. Seller shall hold such goods at the direction of Hammill and shall deliver them when the cause affecting the delay has been removed. Causes beyond Hammill's control shall include, but not limited to, government action or failure of the government to act where such action is required, strike, pandemic, or other labor trouble, fire, or unusually severe weather.

**13. General.** Seller is an independent contractor and not an employee or agent of Hammill. These Standard Terms and Conditions and any Purchase Order issued constitute the entire agreement between the parties with respect to the subject matter hereof and supersede all prior or contemporaneous communications, representations, and agreements, whether oral or written. If any provision herein is held to be invalid or unenforceable, such provision shall be struck and the remaining provisions shall remain in full force and effect. Hammill may assign any Purchase Order in whole or in part without Seller's prior written consent. Seller may not assign a Purchase Order without Hammill's express written consent. No waiver by either party of any breach or default hereunder shall be deemed to be a waiver of any subsequent breach or default of the same or a different nature.