

Resonac Powdered Metals America, Inc.
ISO/TS 16949-ISO 14001 Registered
1024 Barachel Lane * Greensburg, IN 47240
Telephone:(812)663-5058 * Fax:(812)663-8118

TERMS AND CONDITIONS

GENERAL. The term "Buyer" means Resonac Powdered Metals America, Inc. or its duly authorized representative. The term "Supplies" means goods and/or services designated on the face hereof (including without limitation raw materials, components, parts, assemblies, intermediate assemblies, technical data, equipment, materials, tooling, dies, molds, gauges, drawings, services or any other item) to be provided hereunder to the Buyer by the supplier designated on the face hereof ("Seller"). This Purchase Order ("Order") includes the terms and conditions on the face and reverse side hereof (and any additional terms and conditions attached hereto by Buyer).

ACCEPTANCE. Seller's written acceptance or commencement of any performance or service under this Order shall constitute Seller's acceptance of these terms and conditions. Buyer objects to and rejects all terms and conditions proposed by Seller which are different from or in addition to this Order, and such terms shall not become a part of the Order. If this Order is deemed to be an acceptance of a prior offer by Seller, such acceptance is conditional on Seller's assent to all additional of different terms and conditions contained herein.

CHANGES, AMENDMENTS, MODIFICATIONS. The terms and conditions contained herein cannot be changed in any manner without the express written approval of Buyer pursuant to a purchase order amendment/alteration.

PRICES. Except as provided herein and unless otherwise approved in writing by Buyer, all prices are firm, all prices are complete and unless otherwise provided on the face hereof. Buyer shall not be obligated to pay any charges for packing, crating, boxing, bracing, containers, insurance, freight, shipping, transportation, delivery, cartage or any related or similar item and service, and Seller shall be solely responsible for all federal, state, and local excise, sales or use taxes applicable to the sale of Supplies and for any license, privilege or income or receipt tax imposed on Seller, and shall indemnify Buyer against liability therefor. If Buyer agrees to be responsible for any of the above taxes, they shall be billed as separate items on Seller's invoices, Seller warrants that the prices of Supplies set forth herein do not exceed those charged by Seller to any other customer purchasing the same items in like or similar quantities.

DELIVERY. Time is of the essence; deliveries shall be made both in quantities and at times specified in buyer's schedules. Upon the occurrence of late delivery or partial shipment by Seller, Buyer may at it's option, either approve a revised delivery schedule and/or service performance schedule or terminate this Order with the right to reject goods and/or services in whole or in part, in addition to any other remedies available to it. Should buyer agree to accept partial or late deliveries in lieu of a single delivery, Seller agrees to pay, at no expense to Buyer, all additional expense, losses or costs reasonable incurred as a result of the failure to accomplish a timely single delivery. Buyer shall not be required to make payment for goods delivered to Buyer which are in excess of quantities specified in Buyer's delivery schedules, any such excess to be held at Seller's cost and risk. Buyer of breach of warranty, Seller shall, at Buyer's direction, either repair or replace the defective item or agree to an equitable adjustment in the order price.

QUALITY. Seller expressly warrants that all Supplies delivered to Buyer shall be (i) free from defects (ii) of merchantable quality and fit and sufficient for the purposes intended by Buyer, (iii) free from defects in material and workmanship, (iv) in conformity with any plans, drawings, or other specifications furnished, specified, developed or approved by Buyer and any applicable standards established by any governmental authority or otherwise officially regulated, and (v) fully satisfactory to Buyer in terms of quality. This warranty and all implies warranties shall be deemed conditions of this Order. This warranty shall survive inspection, acceptance and payment, and shall run to Buyer, its successors, assigns, customers and users of its products, and shall not be deemed exclusive of other warranties, express or implied. Upon notification by Buyer of breach of warranty, Seller shall, at Buyer's direction, either repair or replace the defective item or agree to an equitable adjustment in the order price.

INSPECTION/REJECTION. All supplies delivered to Buyer shall be subject to Buyer's rights of inspection and rejection under applicable law, notwithstanding prior payment. Payment of Supplies prior to inspection shall not constitute acceptance. Buyer shall have the right to inspect at seller's plant at any reasonable time. In the event Supplies or the tender of delivery fail, in any respect to be conforming to the commercial unit or units thereof and rejects the rest, in either case by giving Seller reasonable notice thereof. In the event Buyer rejects Supplies or tender of delivery due to excess in quantity, Seller shall, at Buyer's request and within such reasonable period of time as Buyer shall specify, withdraw such excess from Buyer's facility at Seller's expense and risk. Seller's failure to withdraw such excess within the time so specified shall entitle Buyer, at Buyer's option, to charge Seller for storage and handling, or to dispose of such excess Supplies, without liability to Buyer. In the event of a shortage of Supplies delivered or tendered to Buyer, Seller shall, within such reasonable period of time as Buyer shall specify, deliver conforming Supplies to fill such shortage. In the event Buyer rejects Supplies or tender of delivery for any other reason, Seller shall, at Buyer's request and within such reasonable period of time as Buyer shall specify, withdraw such rejected Supplies from Buyer's facility at Seller's expense and risk, and reimburse Buyer for any payments Buyer any have made with respect thereto, and, at Buyer's request, Seller shall tender a conforming delivery by such date as Buyer shall reasonably specify. No replacement of rejected Supplies may be made, however, without Buyer's prior written consent.

REMEDIES. In the event any Supplies, in whole or in part, are in any respect defective or otherwise nonconforming to this Order, Buyer shall have without limitation or modification, and in addition to all other rights and remedies provided for by law or this Order, the right to recover any and all claims, losses liabilities, damages and expensed, including without limitation any incidental damages, consequential damages, lost profits, loss from business interruption, processing costs associated with the use of defective or otherwise nonconforming Supplies, and costs and expensed associated with repair or replacement, travel, shipping, transportation, packing, crating, delivery, freight, handling, cartage, etc., or specific performance of this Order, or replacement of this nonconforming Supplies, and replevin of Supplies identified hereto; singly or in any combination, at Buyer's option. All rights and remedies of Buyer, whether provided by this Order or by law, shall be nonexclusive and cumulative and may be exercised singly or concurrently by Buyer in its sole discretion.

PROPRIETARY INFORMATION. Seller agrees that all documents, drawings, specifications, publications, schedules and the like received from Buyer for the performance of this Order and all technical information contained therein ("Proprietary Information") are the property of the Buyer and are received by Seller in confidence on the condition that such Proprietary Information will not be transmitted, reproduced, used or disclosed to any person or organization by Seller (except as necessary for the performance of this Order) without the express prior written approval of Buyer. All Proprietary information received from Buyer shall be returned at Seller's expense to Buyer immediately upon Buyer's request, or at Buyer's direction immediately upon cancellation or termination on a general contract between the parties, in any, otherwise immediately upon cancellation or termination of this Order.

INSURANCE. Seller agrees, if and when requested by Buyer, to procure a policy or policies of insurance in form satisfactory to Buyer, insuring all property on Seller's premises owned by Buyer against loss or damage resulting from fire, malicious mischief, vandalism, and other perils which may be included within the terms "extended coverage". For as long as Seller's obligations under this Order continue, Seller shall maintain, within limits for bodily injury and or property damage of at least the amounts shown on the face of this Order, Worker's Compensation Insurance, public liability insurance, and if the use of automobiles is required, automobile public liability insurance. Seller also shall require any subcontractors who may enter upon Buyer's premises to maintain such insurance. All insurance required under this section shall contain a clause providing for ten (10) days prior written notice to Buyer from the insurance company of any change or cancellation. If no limits are shown on the face of this Order, Seller and any subcontractor shall maintain such insurance in the amounts and with such companies as the Buyer shall reasonably request, Seller and its subcontractors, if any, shall furnish satisfactory proof of such insurance.

COMPLIANCE WITH LAWS. Seller represents, warrants and agree that it shall comply with all applicable federal, state and local laws, Executive Orders, rules and regulations covering the production, sale, delivery and installation of the Supplies and the furnishing of services hereunder including, but not limited to, the Federal Occupational Safety and Health Act of 1970, the Federal Hazardous Substances Act, the Transportation Safety Act of 1974, the Hazardous Materials Transportation Act, the Clean Air Act, the

Toxic Substances Act, the Federal Water Pollution Control Act, the Fair Labor Standards Act, and such amendments to such acts and regulations and orders as may be promulgated thereunder. In addition, if applicable to the good manufactured and sold and/or furnishing or service hereunder, Seller shall comply with Executive Order 11246, 11375 and 11458, Section 503 of the Rehabilitation Act of 1973 and Section 402 of the Vietnam Veterans Readjustment Act, all relating to equal employment opportunity. This Order incorporates by reference all provisions of such laws, rules or regulation pertaining to hazardous or harmful substances.

HAZARDOUS SUBSTANCES. Seller agrees to promptly furnish Buyer Material Safety Data Sheets conforming to the requirements of the Occupational Safety and Health Administration's Hazard Communication Standard Title 29, C.F.R. Part 1910, 1200 with respect to the Supplies issued pursuant to this pursuant to this Order, and to furnish any other information on the goods and/or substances contained therein which is necessary for buyer to comply with the Hazard Communication Standards and/or other laws or regulations pertaining to hazardous or harmful substances.

FORCE MAJEURE. Strike, riots, wars, insurrections, civil commotions, embargoes, port congestion, actions by any government, fires, accidents, explosion, floods or other similar events or causes beyond Buyer's control which shall affect Buyer's ability to receive and/or use the Supplies covered hereby shall constitute valid grounds for suspension by Buyer of shipment of Supplies covered hereby without penalty or liability, upon written notification to Seller.

CANCELLATION; TERMINATION. Buyer may cancel all or any part of this Order, without liability to Seller, is Seller (a) fails to timely perform services or deliver goods as required in this Order, (b) repudiates or breaches any term or condition of this order, including Seller's warranties, and fails to cure such breach within ten (10) days after receipt of written notice from Buyer specifying such breach, or (c) become insolvent, makes assignment for the benefit of creditors, is the subject proceeding for the appointment of a receiver or trustee, or files a voluntary petition in bankruptcy or is the subject of an involuntary petition in bankruptcy. Buyer reserves the right to terminate this Order or any part thereof for the sole convenience of Buyer at any time prior to shipment upon written notice to Seller in which event Seller shall be entitled to actual incurred costs to the termination date plus 5% of such costs.

NO WAIVER. The failure of Buyer to enforce at any time any of the provisions hereof shall in no way affect the validity of this Order or any part hereof or the right of Buyer thereafter to enforce each and every such provision. No waiver of any breach of this Order shall be held to be a waiver of any other subsequent breach.

GOVERNING LAW; FORUM FOR DISPUTES. This Order shall be a contract made and entered into in the State of Indiana and shall be governed by the laws of the State of Indiana, notwithstanding any state's choice of law rules to the contrary. Any litigation instituted by Seller against Buyer pertaining directly or indirectly to any transactions between the parties or otherwise pertaining directly or indirectly to the business relationship of the parties must be filed by Seller before a court of competent jurisdiction in the State of Indiana. Seller consents irrevocably to the jurisdiction of the Indiana courts over its person in the event that Buyer elects to institute litigation against Seller in Indiana pertaining to any such matters. In such event, service of process may be made upon Seller as provided by Indiana law, or shall be considered effective if served by certified mail, return receipt requested, or by air courier, with signature required.

INDEMNIFICATION BY SELLER. Seller shall appear, defend (through counsel satisfactory to Buyer) indemnify and hold harmless Buyer, its agents, successors and assigns and users of its product from and against all actions, litigation, reasonable claims liabilities, losses, damages (whether direct, indirect, incidental, consequential or otherwise), expenses and costs (including attorney's fees and expert's fees) which may arise out of, relate to, or be connected in any way with the Supplies covered by this Order.

SEVERABILITY. In the event that any clause, sentence or provision of this Order shall be determined to be invalid, void or unenforceable, the remaining portions shall remain in force and effect as if the invalid, void or unenforceable portion were not a part hereof. Should the severance of any portion hereof affect a material right of obligation of a party, the part so affected may terminate this Order on ten (10) days written notice to the other party.

ENTIRE AGREEMENT. Except when issued pursuant to an existing written contract between Seller and Buyer, this constitutes the entire agreement between Buyer and Seller relating to the sale and purchase of Supplies or Services covered hereby and supersedes all prior oral or written representations and agreement with respect thereto. If this Order is issued pursuant to or covers any Supplies which are the subject of an existing contract between Buyer and Seller, all the terms and conditions of this Order.

Please complete below information and return by e-mail to kristi.miller.xmsbc@resonac.com. By signing below you confirm that you and/or your company agree with the above terms and conditions.

COMPANY

ADDRESS

CITY STATE ZIP

NAME

TITLE

DATE