

### Terms and Conditions

The Terms and Conditions in this Sales Acknowledgement and on any attachment hereof, including those limiting warranties, are intended by the parties as the final expression, and contain the complete and exclusive statement of the terms and conditions of this Agreement superseding all previous or simultaneous communications either oral or written. Seller's quotations are offers which may only be accepted in full. If Buyer's order or other form (including without limitation Buyer specification) or any conflicting oral representation by any agent, distributor, or employee of PerformCoat of Michigan, LLC, states terms that are in addition to or different from those set forth herein, this writing shall be deemed notification of objection to such additional or different terms. NO MODIFICATION OF THESE TERMS AND CONDITIONS SHALL BE BINDING ON PerformCoat of Michigan, LLC UNLESS RECEIVED IN WRITTEN FORM WITHIN TEN DAYS AND SIGNED BY AN AUTHORIZED EMPLOYEE of PerformCoat of Michigan, LLC. The party designated on the face hereof herein after referred to as "Buyer".

#### Terms

Payment terms of 30net shall be applied to invoices. An interest charge of 1.5% per month will be charged on past due balances which is an effective rate of 18% per annum or the maximum amount allowed by the law, whichever is less. All payments made shall be in US dollar.

#### Taxes

Unless expressly stated, all prices quoted do not include any applicable Federal, state, or local taxes except those attributable to Seller's income. If Seller shall be required to pay such charges, either on its own behalf or on behalf of the Buyer, with respect to material covered by this order, such charges shall be added to the prices shown on quotations and invoices.

#### Delivery

Unless otherwise stated on the face of quotations and invoices, all shipments of goods are in accordance with Seller's standard packaging and shipping policies and shall be F.O.B. Seller's facility. Advance reasonable written requests for shipment by buyer's preferred carrier of routing will be honored. All scheduled completion dates are estimated. Seller will use commercially reasonable efforts to ship by the date specified; however, Seller shall not be liable for any delay or failure in the estimated shipment or delivery of the product or for any damages suffered by reason thereof.

#### Risk of Loss

Risk of loss of, or damaged to, the finished product or any portion thereof, shall pass to the Buyer upon delivery to carrier F.O.B. or in the event of delay by Buyer, delivery shall be deemed to have occurred upon date of notice to the Buyer that the material is ready for shipment.

#### Limited Warranty

Seller warrants that the product manufactured and the service provided by it shall be free from material defects in workmanship and material for a period of six months from the date of delivery as described above. Should any failure to conform to this warranty arise within said period, Seller shall, upon prompt notification thereof and provided that the product has been stored and handled in accordance with good industry practice and with any specific Seller recommendation, correct such nonconformity by furnishing a replacement product, F.O.B., shipment point, or, at its option, by reworking the defective product, or, at its option, pay replacement cost up to 3 times the treatment cost of part in question. Items repaired or replaced and designs corrected under warranty are warranted only for the remainder of the original warranty period. Seller's limited warranty obligations hereunder shall not apply to issues arising out of work performed by others upon, or in connection with, Seller's product without Seller's expressed written consent and Seller shall not be liable or responsible for any back-charges for such work performed by others upon, or in connection with Seller's product. In no case may authorized back-charges exceed the purchase price of the specific products and part on which back-charges were requested. In no case may authorized back-charges exceed three times the purchase price of the specific treatments of the parts on which back-charges were requested. THE FORGOING WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER WRITTEN OR IMPLIED, IN FACT, OR IN THE LAW.

#### Shortages

Shortages must be reported in writing to Seller within ten days of receipt of material, otherwise shipment is presumed to be in accordance with bill of lading and packing list.

#### Limitation of Liability

IN NO EVENT, SHALL SELLER, ITS EMPLOYEES, SUBCONTRACTORS OR ITS VENDORS BE LIABLE IN CONTRACT, TORT, STRICT LIABILITY, WARRANTY OR OTHERWISE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, SUCH AS BUT NOT LIMITED TO, LOSS OF ANTICIPATED REVENUES OR PROFITS, LOSS OF USE OF SYSTEM, NONOPERATION OR INCREASED COST OF OPERATION OR OTHER EQUIPMENT OR COST OR CAPITAL, EVEN IF ADVISED ON ADVANCE.

The liability of Seller, its representatives, subcontractors or vendors, with respect to this contract or anything done in connection therewith, or from the manufacture, sale, delivery, resale, and technical direction covered by this contract, whether in contract, in tort, in warranty, in strict liability or otherwise, shall not exceed the purchase price on the contract.

No action arising of any claimed breach of this agreement or transaction under this agreement may be brought by Buyer more than three months after the cause of action has accrued.

THE REMEDIES OF THE BUYER SET FORTH IN THIS DOCUMENT ARE EXCLUSIVE, THE PARTIES ACKNOWLEDGE THAT THE LIMITATIONS OF LIABILITY CONTAINED IN THIS SECTION ARE A FUNDAMENTAL AND INTEGRAL PART OF THE BASIS OF EACH PARTY'S BARGAIN HEREUNDER, AND SELLER WOULD NOT ENTER INTO THIS AGREEMENT ABSENT SUCH LIMITATIONS.

#### Force Majeure

Seller shall not be liable for any loss or damage resulting from delay in the prosecution or completion of the work caused by labor disputes, floods, fires, riots, thefts, accidents, inability to obtain labor, materials, components, or fuel, acts of Government, or any

other cause which is beyond the reasonable control of Seller. Seller agrees to notify Buyer if any of these events occur. Seller has the right in the event of any of the above contingencies, to cancel this agreement or any part thereof without any resulting liability.

#### Cancellation/Termination/Failure to Take Delivery

Buyer agrees that an order shall in no event be subject to cancellation except by prior written consent of Seller, and then only if Seller is fully reimbursed for work performed and material used. If Buyer cancels all or part of an order, Buyer shall pay Seller the greater of an amount to a) 100% of the price for order in question, or b) the actual and consequential damages incurred by Seller, including without limitation Seller's anticipated profit and expense already incurred by Seller.

#### Indemnification

To the extent that Buyer's agents, employees, or subcontractors enter upon premises occupied by or under the control of Seller, or any of its customers or suppliers, Buyer shall take all necessary precautions to prevent injuries, including death, to any person or damage to any property, arising out of any actions or omissions of such agents, employees, or subcontractors. Except to the extent that any such injury or damage is due to Seller's gross negligence, Buyer shall indemnify and hold Seller harmless against all losses, claims, liabilities, and expenses, including reasonable attorney's fees, arising out of any act or omission by Buyer, its agents, employees, or subcontractors, and Buyer shall maintain such Public Liability, Property Damage and Employee's Liability Compensation insurance as will protect Seller from liability under any applicable Occupational Health and Safety, Workman's Compensation, Occupational Disease Acts or similar laws. Neither party shall delegate any duties nor assign any rights or claims hereunder, without prior written consent of the other party.

#### Non-Waiver Remedies: Cost and Attorney's Fees

The remedies of Seller herein reserved or created shall be cumulative and additional to any other or further remedies provided at law or in equity. Seller may remedy any breach of the terms or conditions hereof without waiving the breach remedied or without waiving any other prior or subsequent breach. Buyer shall pay Seller any cost and expenses, including attorney's fees, incurred by Seller in exercising and of its rights or remedies hereunder or enforcing any of the terms or conditions hereof.

#### Special Tools and Fixtures

Unless otherwise agreed in writing, all the tools, fixtures, technologies and processes, if any, required for the manufacture of the goods and services shall remain the sole property of Seller and shall be retained in Seller's possession, whether or not Buyer has paid Seller for such items. These items shall be used in filling orders of Buyer. Unless otherwise agreed in writing, Seller may also use such items at any time to fulfill orders of other customers. If a period of six months has elapsed since the receipt of any order from Buyer requiring the use of such items, Seller may thereafter make any use or disposition of such items without any communication with or accounting to Buyer for such use or disposition or proceeds thereof.

#### Information Disclosed

Unless otherwise disclosed in writing to Seller, no information or knowledge heretofore or hereafter disclosed to Seller in the performance or in connection with the terms hereof, shall be deemed to be confidential or proprietary and any such information or knowledge shall be free from restrictions, other than a claim from patent infringement, as part of the consideration hereof.

#### Waiver

Waiver by Seller of any of these Standard Terms and Conditions shall not constitute a waiver of any other of these Terms and Conditions.

#### Severability

Any provisions hereof prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remaining provisions hereof.

#### Governing Law

The Sales acknowledgement, its acceptance, sale of product or service, and any other matter arising out of the transaction contemplated hereunder shall be governed by the laws of the State of Michigan without regard to its conflicts or the UN convention for the international Sale of Goods.

#### Notices

Any written notice provided for herein to be given to Seller by Buyer shall be mailed or delivered to Seller's address stated in the Sales Acknowledgement or to an address and/or person subsequently designated in writing by Seller. Likewise, any notice to be given to Buyer by Seller shall be mailed to or delivered to Buyer at address stated in Sales Acknowledgement or to an address and/or person subsequently designated in writing by Buyer.

#### Headings

The headings used herein are for reference purposes and shall not affect the meaning of interpretation hereof.

The terms and conditions constitute the complete and exclusive agreement between the parties concerning the subject matter thereof and supersede all prior representations, statements and promises made by Seller which are not expressly stated in said terms and conditions.

Please contact us: PerformCoat of Michigan, LLC, 319 McIntyre Lane, Springfield, MI 49037  
phone 269-680-2468, [info@performcoat.com](mailto:info@performcoat.com), [www.performcoat.com](http://www.performcoat.com)