

GILBARCO INC.

**PURCHASE ORDER
TERMS AND CONDITIONS**

ACCEPTANCE of this order is expressly limited to the terms and conditions contained herein and any additional terms and conditions contained in Seller's response hereto shall be deemed objected to by Gilbarco Inc. (hereinafter called "GILBARCO" or "Buyer"), without need for further notice of objection, and such conflicting or additional terms shall be of no effect nor in any circumstances binding upon GILBARCO. Seller will be deemed to have assented to all terms and conditions by the return of the signed acceptance copy of this order, or if part of the described items is shipped, services rendered or performance otherwise commenced. If this purchase order is in response to a proposal of quotation made by Seller to GILBARCO, specifications, prices, and delivery listed thereon are applicable only to the extent the Seller's quotation or proposal is specifically reference on the face of this order; provided, however, that to the extent that terms and conditions contained herein are in conflict with, inconsistent with, or additional to the terms and conditions of Seller's offer to GILBARCO. GILBARCO's acceptance by this order is expressly conditioned upon Seller's assent to GILBARCO's version of such conflicting, inconsistent or additional terms and conditions.

1. Changes: GILBARCO may at any time make changes in drawings, specifications, designs, delivery schedules, quantities, place of delivery, and packing and shipping instructions related to this order. If any such changes causes a variation in the cost of furnishings the goods or services covered hereby, and/or in the time required to perform this order, and equitable adjustment in price and/or delivery schedule shall be made. No claim by Seller shall be valid unless submitted within 15 days from the date notice of any such change is received by Seller. Nothing in this clause shall relieve Seller from proceeding without delay in the performance of this order as changed. However, if GILBARCO decides that the facts justify such actions, it may receive and act upon any such claim at any time prior to final payment under this order. GILBARCO engineering, technical and other personnel may from time to time render assistance or give technical advice to, or exchange information with Seller's personnel concerning this order. However, such assistance, advice, statements or exchange of information shall not constitute a waiver with respect to any of the Seller's obligation or GILBARCO's rights hereunder or be authority for any change in the goods or services called for hereunder. Any such waiver or change to be valid and binding upon GILBARCO must be in writing and signed by an authorized representative of GILBARCO's Purchasing Department.

2. Prices and Taxes: By acceptance of this purchase order, Seller certifies that the prices stated herein are not in excess of prices quoted or charged any other purchaser in similar quantities for substantially similar goods or services. That Seller agrees that any price reduction made in merchandise covered by this order subsequent to the placement of the order will be applicable to this order. Unless otherwise indicated on the face of this order, the prices set forth herein shall be firm prices and shall be deemed to include all federal, state, and local taxes applicable to the sale of the goods and/or services ordered.

3. Delivery: Time is the essence of this order. If Seller fails to make delivery or perform the service at the time agreed upon or performs the work hereunder in such a fashion as endangers its ability to make timely delivery or to render timely performance or services, GILBARCO reserves the right to cancel, purchase elsewhere, and hold Seller accountable for any additional costs or damages incurred by GILBARCO. Acceptance of any items after delivery date or otherwise shall not constitute a waiver of GILBARCO's rights to demand timely performance as to future deliveries or to recover damages for the late delivery or offset such against the purchase price. If it appears Seller will not meet agreed delivery schedule, Seller shall promptly notify GILBARCO in writing and, if requested by GILBARCO, ship via premium routing to avoid or minimize delay to the maximum extent possible, the added cost to be borne by Seller. This is in addition to GILBARCO's other remedies. Items received more than 15 days before schedule date may at GILBARCO's option, be returned at Seller's expense, or be accepted and payment therefore withheld until the time when it would have been due had the items arrived at the proper time.

4. Warranty: In addition to Seller's standard warranty and all warranties implied by law, Seller warrants that at the time of delivery thereof all items delivered hereunder will be in strict conformity with the specifications (and approved sample, if furnished) and free from defects, including latent defects, which warranty shall survive inspection, delivery, and payment. If a sample item has been or is to be submitted by Seller to GILBARCO, Seller shall obtain GILBARCO's written approval and thereof before proceeding hereunder no modification thereof shall be binding upon GILBARCO. Articles not in conformity herewith may, at GILBARCO's option, be returned to Seller at Seller's expense for repair, replacement, credit or refund as GILBARCO may direct, or GILBARCO may retain same at a proper adjustment of price. Seller shall be liable to GILBARCO for any consequential damages suffered by GILBARCO as a result of Seller's breach of warranty. GILBARCO shall be reimbursed for all expense of handling inspection, and return the defective articles. It is understood and agreed that the foregoing remedies are cumulative and are not intended to limit or exclude any remedies provided by law. Seller's warranties (and any more favorable warranties, service policies, or similar undertakings of Seller) shall be enforceable by GILBARCO's customers and the users of GILBARCO's goods as well as by GILBARCO.

5. Inspection: Payment for the goods or services furnished hereunder shall not constitute acceptance thereof. All goods are subject to Buyer's inspection, at the source if deemed necessary by Buyer or required by government regulation. If any of the

goods are found at any time to be defective in design, material or workmanship, or otherwise not in conformity with the requirements of this order, Buyer in addition to any other rights which it may have under warranties or otherwise shall have the right to reject and return such goods (plus inbound transportation charges if bought F.O.B. shipping point) at Seller's expense. Such goods shall not be replaced without written authorization by Buyer/ Buyer may reject the entire shipment, where it consists of a quantity of similar articles and sample inspection discloses that the articles inspected contain defective material or workmanship or do not conform to specifications or samples, unless Seller agrees to reimburse Buyer for the cost of complete inspection of the articles included in such shipment.

6. Indemnification: To the extent that Seller's agents, employees or subcontractors enter upon premises occupied by or under the contract of GILBARCO or any of its customers or suppliers the course of the performance of this order. Seller shall take all necessary precautions to prevent the occurrence of any injury (including death) to any person, or any damage to property, arising out of any acts or omissions of such agents, employees or subcontractors, and except to the extent that any such injury or damage is due solely and directly to GILBARCO's negligence, shall indemnify GILBARCO against any loss, claim, damages, liability expense (including court costs and reasonable attorney fees) and cause of action, whatsoever, arising out of any act or omission of the Seller, its agents, employees, or subcontractors. Seller shall maintain such public liability, property damage and employee's liability and compensation insurance as will protect GILBARCO from any of said risks and from any claims under any applicable Workmen's Compensation and Occupational Disease Acts. Seller further agrees to indemnify GILBARCO and hold it harmless from and against any and all losses and expenses, including court costs and reasonable attorney fees (except losses arising solely out of GILBARCO's negligence) which GILBARCO may sustain by reason of claim, demand, legal action of judgment based upon (a) alleged patent trademark or copyright infringement arising out of the use or sale of such merchandise; (b) defects, either latent or patent in the design, manufacture, preparation or handling of such merchandise by Seller or those in privity with it; (c) the use by any person of such merchandise; (d) Seller's delivery or service activity; or (e) Seller's breach of any express or implied warranty. Seller shall have the right, at its expenses, to defend said claims, provided, that before yielding the defense of a claim, GILBARCO may require that adequate security be furnished against any potential resulting judgments.

7. Termination: GILBARCO may terminate, for its convenience, work under this purchase order in whole or in part at any time by written or telegraphic notice Seller. In the event of termination of work under this purchase order the convenience of GILBARCO, Gilbarco will reimburse Seller for its actual direct expenditures incurred in good faith prior to or by reason of such termination if the materials had been approved and released for manufacture prior to cancellation, less, however, any amount recoverable as useable inventory or scrap value; except that, if this purchase order applies to the performance of a prime contract with the U.S. Government or a subcontract or purchase order thereunder, the terms and provisions regarding the rights of the parties hereto in termination set out below shall govern. Reimbursement upon termination shall not apply in the event GILBARCO shall terminate because of the default of Seller and in no event shall reimbursement plus payments previously made exceed the total consideration hereof.

8. Default: In the event Seller shall fail to comply with any part of its obligation of this order, including terms and conditions hereof, GILBARCO may terminate this order in full or in part, and may consider such noncompliance as a breach of contract. This insolvency or adjudication of bankruptcy of the filing of a voluntary petition of bankruptcy or the institution by or against Seller or any proceeding under the Bankruptcy Act, or the making of an assignment for the benefit of creditors by, or the appointment of a receiver for Seller shall be a material breach hereof, GILBARCO expressly reserves the right to cancel this order for default and hold Seller accountable for any additional costs or damages incurred by GILBARCO in the case of such breach, and no action by GILBARCO shall constitute a waiver of any such right or remedy.

9. Compliance with Law: In furnishing goods and/or services required under this order or any amendment thereto, Seller represents, warrants, and agrees that it shall comply with the provisions of all applicable Federal, State and local laws, regulations, and order. Without limiting the generality of the foregoing, Seller specifically agrees to comply with all applicable standards, provision and stipulations of the FAIR LABOR STANDARDS ACT OF 1938, as amended (52 STAT. 1060, 29U.S.C. § 201), including specifically sections 6, 7, and 12 of the Act, and Seller shall so warrant and represent on each invoice for goods delivered pursuant hereto. Seller further warrants that the products, including the packing and packaging of such products, and/or services covered by this purchase order will comply with the regulations and standards of Pub. L.91-596 OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (29U.S.C.651-85STAT. 1950, 29U.S.C. § 651), and with Pub. L.92-573 CONSUMER PRODUCTS SAFETY ACT (86 STAT. 1207, 15 U.S.C. § 2051), the TOXIC SUBSTANCES CONTROL ACT, as amended, and Seller hereby indemnifies and saves harmless GILBARCO from or against any and all losses, penalties, and expense (including court costs and reasonable attorney's fees) resulting from Seller's noncompliance therewith.

10. Equal Opportunity: Where no exemption applies the Seller shall comply with Executive Order 11246 as amended by Executive Order 11375 or any appropriate prior or subsequent Executive Order pertaining to nondiscriminatory personnel policies and practices, including the Rehabilitation Act of 1973, P.L. 93-112, 39 Fed. Reg. 113, June 11, 1974. Seller shall comply with any and all Local, State, and Federal Safety and Health Regulations which may be applicable and agrees to save GILBARCO harmless from any losses, damages, claims or demands of whatever nature which might arise as a result of Seller's failure to observe said regulations. "Unless exempt, this Customer and Seller shall abide by the requirements of 41

CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability. If applicable, the Customer and Seller shall also abide by the requirements 41 CFR § 61-300.10 regarding veterans' employment reports and 29 CFR Part 471, Appendix A to Subpart A regarding posting a notice of employee rights."

11. GILBARCO Property: All material including tools, furnished or specifically paid for by GILBARCO shall be the property of GILBARCO, shall be subject to removal at any time without additional cost upon demand by GILBARCO, shall be used only in filling orders from GILBARCO, shall be kept separate from other materials or tools, and shall be clearly identifies as the property of GILBARCO. Seller assumes all liability for loss or damage, with the exception of normal wear and tear, and agrees to supply detailed statements of inventory, upon request of GILBARCO. In the event that Seller fails or refuses to return Buyer's tooling or dies, including attorney's fees.

12. Drawings and Specifications: GILBARCO shall at all times have title to all drawings and specifications furnished by GILBARCO to Seller and intended for use in connection with this order. Seller shall use such drawings and specifications only in connection with this order and shall not disclose such drawings and specifications to any person, firm, or corporation other than GILBARCO's or Seller's employees, subcontractors, or Government inspectors. The Seller shall, at GILBARCO's request or upon completion of the order, promptly return all drawings and specifications to GILBARCO. Seller shall impose and enforce these use restrictions on its employees, subcontractors and suppliers.

13. Notice of Labor Dispute: Whenever Seller has knowledge that any actual or potential labor dispute may delay this order. Seller shall immediately notify and submit all relevant information GILBARCO. Seller shall insert the substance of this entire clause in any subcontract hereunder as to which a labor dispute may delay this order.

14. Assignment: No assignment of ant rights, including rights to moneys due or to become due hereunder, or delegation of any duties under this order shall be binding upon GILBARCO unless and until it's written consent has been obtained.

15. Applicable Law: This order shall be governed by the Laws of the State of North Carolina.

16. Identification and Invoicing: Purchase Order number must appear on every invoice, tag, box, package, shipping papers, or any other communication. A packing slip must accompany each shipment. Render separate invoices in duplicate for each shipment applying against this order. Invoices with bills of lading or prepaid expense bills attached should be directed to the Accounts Payable Department, Greensboro, N.C., unless otherwise specified. Invoices are not to cover more than one Purchase Order. Invoices for transportation charges must be supports by carrier's receipt bill. Invoices must show cash discount terms. Buyer reserves the right to calculate discount period from date of shipment or from date correct invoice is received at the proper office of the Buyer, whichever is later.

17. Freight: Shipments against this order must be routed as specified by Buyer, otherwise any extra expense incurred is to be charged to and assumed by Seller. In the event routing is not specified, ship least expensive way.

The following contractual clauses apply to this order:

A. Contractor* agrees to comply with all laws and regulations applicable to any activities carried out in the name of or on behalf of GILBARCO Inc. under this agreement and any amendments to it.

B. Contractor* agrees that all financial settlements, billings, and reports rendered o GILBARCO Inc. under this agreement will fully and accurately report all transactions handled for the account of GILBARCO Inc. in reasonable detail.

C. Contractor* agrees to notify GILBARCO Inc. promptly upon discovery of any failure to comply with the provisions of paragraphs (A) and (B) above.

*Or any other designation used in this contract such as the term "Seller," "Vendor," or the contracting party's names.

ADDITIONAL PROVISIONS

1. Adequate Assurances: If the Seller's financial condition is found to be or becomes unsatisfactory to Buyer during the term of this contract, or should Seller's ability to perform become doubtful, Buyer may demand immediate assurance of performance, and in the event that such assurance is not forthcoming within 5 working days, Buyer may terminate this contract and also terminate all other contracts covering purchases buy Buyer of Seller's products whether or not Seller may otherwise be in default, and no rights shall accrue to Seller against Buyer on account of such termination. Buyer's duties hereunder are conditioned upon the continuance of the Seller's solvency and Seller's ability to perform within the delivery schedule.

2. Gratuities: Seller has not and will not offer or give to any employee, agent or representative of Buyer and gratuity with a view towards securing any business from Buyer by influencing such person with respect to the terms, conditions, performance, or award of any contract with or order from Buyer. Any breach of this warranty shall be a material breach of each and every contract between Buyer and Seller.

3. Patents: Seller agrees to defend Buyer and its customers from any and all suits for infringements of letters patent, copyright, trademark, misappropriation of trade secrets, and/or breach of confidential relationship which suit results from the use or sales of goods, and delivered under this order, and will indemnify and hold Buyer and its customers harmless, in any such

suit for any or all costs, and for recovery by way of profits, damages or otherwise arising out of such suit; provided, however, the foregoing shall not apply where goods are made to Buyer's specification or design.

4. Insurance: Seller shall maintain at all times during the performance of labor or services for Buyer under the contract which results from the acceptance of this order, workers' compensation insurance with applicable statutory limits, employer's liability of \$1,000,000 limit, and comprehensive public liability insurance including products completed operations, automobile and contractual liability coverage's with limits of \$500,000/\$1,000,000 bodily injury, and \$500,000 property damage (\$50,000 property damage-automobile) or a combines single unit of \$1,000,000 per occurrence. Seller shall furnish an insurance certificate and/or state issued certificate evidencing the above coverages. Insurance certificates must be endorsed to provide that Buyer shall be notified in writing 10 days prior to any substantial modification or termination to the subject policy.

5. Liens: If this order covers job site work, Seller shall be solely responsible for all claims of whatever nature arising out of nonpayment for services, labor, and materials furnished or contracted for by Seller in performance of work hereunder, including all liens which may be levied against Buyer or its customers. Before final payment, or at any time upon Buyer's request, Seller shall furnish Buyer with an affidavits conforming to the laws of the state in which the work is performed on in absence of any such law than an affidavit satisfactory to Buyer setting forth the names and amounts due to remaining unpaid to all persons furnishing services, labor, or materials hereunder. Buyer shall have the right to pay directly to all Seller's creditors all such amounts as may be due them and deduct same from payments to Seller.

6. Chemical Substances Identification: By acceptance of this purchase order, Seller certifies that the chemical substance(s) furnished pursuant to this order has been properly labeled, and that proper information of the substance(s), e.g. material safety data sheets, have been provided to Buyer pursuant to any Federal, State, or Local legislation.

7. Force Majeure: Buyer may delay delivery or acceptance occasioned by caused beyond its control. Seller shall hold such goods at the direction of the Buyer and shall deliver them when the cause affecting the delay has been removed. Buyer shall be responsible only for Seller's direct additional costs in holding the goods or delaying performance of this agreement at Buyer's request. Causes beyond Buyer's control shall include government action or failure of the government to act where such action is requires, strike or other labor trouble, fire, or unusually severe weather.

8. Government Contracts: In the event that the order bears a governmental contract number on the face hereof, Seller agrees to comply with all pertinent provisions, agreements, and clauses of said contract, pertinent Presidential directives and executive orders, and all applicable regulations to the extent that they apply to the subject matter of this order and all such pertinent provisions, agreements, clauses, directives, executive orders, and regulations are hereby incorporated by reference. A copy of said contract of part thereof that Buyer deems applicable to this order will be given to the Seller upon request.

9. Hazardous Materials: Any materials required by this order that are deemed hazardous will be packed, marked, and shipped by the Seller to comply with all present and future Federal, State, and Local regulations and will further comply with any special company requirements.