

## DEFINITIONS & INTERPRETATION

1.1 In these Terms and Conditions the following words shall have the following meanings:

1.2 "Vendor" or "Supplier" means the individual, firm or company selling, and/or providing the services, materials and/or products named in the Purchase Order.

1.3 "Flexitallic" shall mean Flexitallic US, LLC, Custom Rubber Products, LLC or Flexitallic Canada, Ltd. whichever may be named on the face of the Purchase Order.

1.4 "Force Majeure" shall be deemed to include all laws and regulations of the federal, or any state or local government, and all agencies and instrumentalities of any such government, domestic or foreign; acts of the civil or military authorities or any acts of any foreign government; acts of God; war or other violence; blockades; embargoes, sabotage; epidemics; fires; wind and water; strikes; lock-outs or other industrial disturbances. Any delay resulting from any such law, regulation, act or conditions shall extend the time for delivery for the period during which the effects of such delay persist.

1.5 "Confidential Information" means all knowledge, information or materials (whether provided orally, in hardcopy or electronic or other form or media) whether of a technical or financial nature or otherwise relating in any manner to the business affairs of Flexitallic; material samples, devices, demonstrations, know-how or other materials of whatever description, whether subject to or protected by copyright, patent, trademark, registered or unregistered; and financial reports, financial statements, trade secrets, or technical data, including, but not limited to, that information which relates to Flexitallic's products, operations, business processes, designs, business plans, product implementations, pricing policies, employees, customers, and/or vendors disclosed by one Party to another. "Confidential Information" also includes any information which can be obtained by examination, testing or analysis of any product, hardware, any component part, software or material samples provided by Flexitallic to Vendor/Supplier under the terms of this Purchase Order, and

1.6 Reference to the singular shall include the plural, the masculine shall include the feminine and vice versa.

## SUPPLY OF MATERIALS, SERVICES, OR PRODUCTS

2.1 These terms and conditions shall apply to and be incorporated into all agreements between Flexitallic and Vendor/Supplier and shall prevail over any other terms or conditions contained, or referred to, in any work order, invoice or shipping document provided by Vendor/Supplier.

2.2 If the Vendor/Supplier has a Global Supply Agreement, Master Services Agreement or Master Products Agreement with Flexitallic, and there is a conflict with any of these terms and conditions and the terms of such an agreement, the terms of the particular Global Supply Agreement, Master Services Agreement or Master Products Agreement shall prevail.

2.3 Vendor or Supplier will supply all Materials, Services and/or Products in accordance with all specifications of Flexitallic, including all specifications stated in any particular order provided by Flexitallic.

2.4 All Materials, Services, and/or Products will be provided by Vendor/Supplier to Flexitallic at the location(s) and destination(s) designated by Flexitallic. If requested by Flexitallic, Vendor/Supplier will identify the source for any Materials it supplies under this Purchase Order

#### PRICING AND PAYMENT

3.1 All sales will be in U.S. Dollars unless another currency is specified on the face of this Purchase Order.

3.2 Flexitallic will pay Vendor/Supplier's invoices upon receipt of the delivery of each shipment of the Materials, Services or Products ordered by Flexitallic under this Purchase Order. Payment of the net invoice amount will be made by Flexitallic as is otherwise specified on the face of this Purchase Order. If no payment terms are specified they shall be sixty (60) days net.

#### SHIPPING

4.1 All shipment terms will be as specified on the face of this Purchase Order. If no shipping terms are specified they shall be FOB Destination. Transfer of title of the Materials or Products hereunder shall occur upon receipt and acceptance of the Materials or Products by Flexitallic at the destination warehouse identified in the Purchase Order for such Materials or Products.

4.2 Vendor/Supplier will comply with all applicable specifications for the Materials, Services or Products with each order, and will maintain sufficient quality control records to evidence its compliance with that standard. Any Materials, Services, or Products that Flexitallic determines do not meet its specifications will be replaced by Vendor/Supplier free of charge or Flexitallic may reject those Materials, Services or Products and deduct the charges for those rejected Materials, Services or Products from any payment due on any invoice pending payment or subsequently received by

Flexitallic from Vendor/Supplier until the full price of those non-conforming Materials, Services or Products has been fully reimbursed to Flexitallic.

4.3 Vendor/Supplier also agrees to comply with all shipment and manufacturing deadlines for any order of the Materials, Services or Products by Flexitallic, and Vendor/Supplier agrees to provide as much advance notice as possible to Flexitallic, in the event Vendor/Supplier experiences any condition or circumstance that might result in a delay with regard to any order of Materials, Services or Products. Vendor/Supplier shall not be liable to Flexitallic for any loss or damage occasioned by delay in delivery or non-delivery of any Materials, Services, or Products under this Agreement due to Force Majeure.

#### INSPECTION AND TESTING

5.1 All Materials, Services, and Products are subject to inspection by Flexitallic upon delivery. All Materials, Services, and Products delivered in accordance with this Purchase Order will be deemed to have been accepted by Flexitallic unless; (a) claims for shortage in delivery or delivery of nonconforming Materials, Services, or Products are reported in writing to Vendor/Supplier within sixty (60) days from the date they are used or installed by Flexitallic or its customers or (b) defects in the Materials, Services or Products are reported in writing to Vendor/Supplier within sixty (60) days from the date they are used, completed and/or installed by Flexitallic or its customers, whichever is later.

5.2 Upon reasonable notice by Flexitallic, Vendor/Supplier shall provide authorized representatives or agents of Flexitallic with reasonable access to Vendor/Supplier's facilities in order to verify compliance by Vendor/Supplier with its duties and obligations under this Purchase Order. Upon Flexitallic's request, Vendor/Supplier will make available to Flexitallic during any inspection complete, accurate records, drawings, specifications, and technical data for the Materials, Services or Products to the extent such items are readily available. Upon request, Vendor/Supplier shall give random samples of the Materials or Products from regular production runs to Flexitallic for inspection and approval.

5.3 Vendor/Supplier shall test or cause to be tested each order of any of the Materials or Products before shipment to Flexitallic for compliance with the standards and specifications set forth herein or otherwise agreed by the Parties in writing. Vendor/Supplier shall retain a sample of each order tested for three (3) years from the date of shipment. For each order of the Materials or Products shipped, Vendor/Supplier shall prepare a certificate of compliance setting forth the items tested, the applicable specifications and test results. Vendor/Supplier shall forward such certificates to Flexitallic, or its designee, at the time the Materials or Products are shipped or, if agreed by Flexitallic in writing, make such certificates available to Flexitallic by other means at other dates and times.

## CONFIDENTIALITY

6.1 Vendor/Supplier agrees that all Confidential Information which it receives from Flexitallic (whether directly or indirectly) will be regarded as confidential, maintained confidential, and kept separate from any other information of the Vendor/Supplier, and no part of it will be divulged by the Vendor/Supplier to any third party at any time and in any form whatsoever without the prior written consent of Flexitallic.

6.2 Vendor/Supplier shall take all measures reasonably necessary to protect the Confidential Information received from Flexitallic, at least as great as the measures it takes to protect its own confidential information and trade secrets. Vendor/Supplier shall segregate all Confidential Information from the confidential information of others in order to prevent commingling.

6.3 Vendor/Supplier agrees that irreparable injury may result to Flexitallic, if Vendor/Supplier breaches this confidentiality provision or any other Confidentiality Agreement between Flexitallic and Vendor/Supplier and money damages may not be a sufficient remedy for any such breach. Vendor/Supplier agrees that in the case of breach by Vendor/Supplier, Flexitallic shall be entitled, in addition to such other remedies as may be available under applicable law, to a restraining order, injunction or other equitable relief prohibiting Vendor/Supplier from engaging in any such act or specifically enforcing this confidentiality provision as the case may be.

## INSURANCE AND WARRANTY

7.1 Vendor/Supplier shall procure and maintain, commercial general liability insurance coverage in a minimum amount of \$1,000,000 per occurrence and \$10,000,000 in the aggregate in reputable insurance carriers having an AM Best Rating of A or better. Such commercial general liability insurance shall include endorsements for products liability, completed operations, and contractual liability coverage(s).

7.2 In addition to other express and implied warranties, Vendor/Supplier specifically warrants that:

7.2.1 its Materials, Services or Products shall conform to the applicable specifications and standards, and shall be merchantable, free from defects in workmanship, materials, manufacture, and design, fit for the purposes intended and new (unless otherwise agreed by the ordering Flexitallic Company);

7.2.2 Its Materials, Services or Products shall be certified (if applicable) and comply with all applicable laws (including without limitation environmental and safety laws, rules, and regulations);

7.2.3 Vendor/Supplier shall have good and marketable titles to all Materials, Services or Products delivered to Flexitallic, and they shall be free from any security interest, lien or encumbrance; and

7.2.4 its Materials, Services or Products do not infringe any patent, copyright, trademark or any other intellectual property of any third party.

#### GENERAL PROVISIONS

8.1 Vendor/Supplier shall comply with all applicable laws, ordinances, rules and regulations and best industry practices relating to the Materials, Services or Products including, without limitation, with respect to health, safety and the environment, economic sanctions laws, trade.

8.2 Time is of the essence in the performance of this Agreement.

8.3 Should any of the provisions of these Terms and Conditions be held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not be affected thereby and these Terms and Conditions will be construed as if not containing the particular invalid, illegal or unenforceable provision or provisions, and the rights and obligations of the parties hereto shall be construed and enforced accordingly.

8.4 These Terms and Conditions and the transactions under this Purchase Order shall be construed, governed and enforced in accordance with the laws of the State of Texas, without regard to any conflicts of laws principles. All suits related to disputes under these Terms and Conditions and this Purchase Order shall be brought in the state courts of Harris County, Texas.