



TERMS AND CONDITIONS OF PURCHASE

Parties.

The term "Seller" refers to the addressee set forth on the face of Lantek's purchase order, and the term "Lantek" refers to Lantek Corporation, a New Jersey corporation with offices in Sparta, New Jersey.

Scope.

The following terms and conditions apply to all Lantek purchase orders, in addition to any terms set forth on the face of an individual purchase order or in any plans, specifications or other documents incorporated by reference (each, an "Order"). Acceptance by Lantek of any offer from Seller is expressly limited to the terms and conditions of the Order, and Lantek hereby objects to and shall not be bound by any additional, different or conflicting terms, whether printed or otherwise, in any other communication between the parties (including on any of Seller's forms, letters or other communications), it being understood that the terms and conditions of the Order shall prevail notwithstanding any such additional, different or conflicting terms. Any proposal for additional or different terms or any attempt by Seller to vary in any degree any of the terms of an offer in Seller's acceptance, is hereby objected to and rejected, but such proposals shall not operate as a rejection of the offer unless such variances are in the terms of the description, quantity, price or delivery schedule of the goods, but shall be deemed a material alteration thereof, and the offer shall be deemed accepted by Seller without said additional or different terms. If the Order shall be deemed an acceptance of a prior offer by Seller, such acceptance is limited to the express terms and conditions contained in the Order. Additional or different terms or any attempt by Seller to vary in any degree any of the terms of the Order shall be deemed material and are objected to and rejected, but the Order shall not operate as a rejection of the Seller's offer unless it contains variances in the terms of the description, quantity, price or delivery schedule of the goods.

Acceptance and Limitations.

The Order shall be deemed accepted by Seller on the earlier of (a) shipment of goods ordered, in total or in part, or (b) within 3 days of issuance by Lantek, absent written notification by Seller to Lantek of non-acceptance.

Changes.

Lantek may make changes to the Order at any time and Seller shall accept such changes. If a change by Lantek causes an increase or decrease in the cost or time required for Seller's performance, the parties shall agree, as soon as practicable, to an equitable adjustment of the purchase price and/or delivery schedule, as applicable, and incorporate such changes as a revision change to the Order. No other form of notification or oral agreement shall be binding on Lantek.

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29 Brookfield Dr, Sparta,
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Termination for Convenience.

Lantek may, by written notice to Seller, terminate the Order, or any part thereof, for any or no reason, for Lantek's convenience. Upon notice of termination, Seller shall immediately stop all work and cause its suppliers and/or subcontractors to stop all work in connection with the Order. If Lantek terminates for convenience, Lantek shall pay Seller for goods accepted as of the date of termination, and, subject to Section 8, for Seller's actual, reasonable, out of pocket costs incurred directly as a result of such termination. Lantek shall have no responsibility for work performed after Seller's receipt of notice of termination.

Termination for Cause.

Lantek may, by written notice to Seller, terminate the Order, or any part thereof, if Seller breaches any of the terms and conditions of the Order, becomes insolvent or files for bankruptcy protection. By way of example, (a) failure by Seller to make timely, complete and conforming delivery of goods, or (b) breach of the representations or warranties set forth in the Order, shall entitle Lantek to terminate the Order for cause. If Lantek terminates for cause, Lantek shall have no payment obligations to Seller. Should a court of competent jurisdiction subsequently determine that Lantek's termination for cause was wrongful or unjustified, then such termination shall be automatically considered a termination for convenience under Section 5 and Seller shall have all rights under that provision, but no other rights or claims for damages.

Damages.

Without limiting Lantek's rights and remedies at law or in equity, Lantek reserves the right to charge Seller for any loss, expense (including reasonable attorneys' fees) or damage sustained as a result of Seller's failure to deliver conforming goods or other breach of the Order, including without limitation, expenses incurred in connection with Lantek's purchase of substitute goods, incidental damages and consequential damages resulting from Seller's failure or breach.

Limitation of Lantek's Liability.

Lantek shall not be liable to Seller, its employees, representatives, agents, suppliers, or subcontractors for any anticipated profits or incidental damages (except to the extent expressly provided in Section 5) or consequential damages. Without limiting the foregoing, Lantek's liability for any claim arising directly or indirectly under or in connection with the Order shall in no event exceed the cost of the goods giving rise to the claim. Lantek shall have no liability for penalties of any kind.

Packing

Lantek's purchase order number and specific delivery location must appear on the outside of each package and on all packing slips, invoices, and related documents. A packing slip must be included with each shipment. Except as expressly provided in the Order, Seller shall pack, mark and prepare all shipments properly and to meet the carrier's requirements, at Seller's expense. Seller shall comply with Lantek's routing and shipping instructions issued by Lantek. If such instructions have not been provided, they shall be requested by Seller from Lantek.

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Freight Charges.

Except as expressly provided in the Order, packing, shipping and unloading are included in the purchase price set forth in the Order and LanTek shall not be charged any additional amounts for such services. Unless otherwise agreed by LanTek in writing, all shipments on which freight charges are due must be prepaid and collect shipments cannot be accepted.

Timely Delivery.

Time is of the essence in fulfillment of the Order. Shipment and delivery shall be made in accordance with the Order; provided, that if not addressed in the Order, delivery shall be made within thirty (30) days of LanTek's issuance of the Order. LanTek may, at its option, and without limitation of any of its other rights, cancel any unfilled part of the Order if complete, conforming delivery is not made within the times specified. LanTek is not required to accept partial or incomplete delivery. Acceptance of any part of the Order shall not bind LanTek to accept any future shipments.

Inspection.

LanTek shall have the right to inspect and test all goods delivered under the Order. Neither receipt nor payment for goods shall constitute acceptance. LanTek may reject any or all items that are nonconforming, as determined in LanTek's sole reasonable judgment. LanTek's failure to inspect shall not relieve Seller of any of its responsibilities. Material shipped in quantities in excess of LanTek's stated requirements may be returned at Seller's expense. If goods are rejected, they will be held at Seller's risk and expense and Seller shall bear the risk of loss or damage to such goods until received by Seller. Seller will maintain accurate and reasonably detailed records relating to manufacturing, analysis, testing, shipments, certifications and validations of the delivered goods. Upon LanTek's request Seller will promptly provide a copy of such records to LanTek.

Risk of Loss.

Seller shall bear the risk of loss of or damage to all goods purchased pursuant to the Order until they are received by LanTek.

Warranties.

Seller warrants that all goods, material, work product, and merchandise supplied under the Order (a) shall strictly conform to all specifications, drawings, samples, or other descriptions furnished to and approved by LanTek, (b) shall be fit and serviceable for the purpose intended, as agreed to by LanTek and Seller, (c) shall be of good quality and free from defects in design, materials and workmanship, (d) shall be new and not refurbished or reconditioned, unless expressly agreed in writing by LanTek, (e) be genuine goods and branded accordingly and appropriately, and provided by the manufacturer specified, and (g) shall not infringe any patent, copyright, mask work, trademark, trade secret or other intellectual property, proprietary or contractual right of any third party.

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In addition, Seller warrants that Lantek shall have good and marketable title to all goods purchased by Lantek pursuant to the Order, free of all liens and encumbrances and that no licenses are required for Lantek to use or sell such goods. Neither receipt of goods, material, work product or merchandise nor payment therefor shall constitute a waiver of this provision. If a breach of warranty occurs, Lantek may, in its sole discretion, and without waiving any other rights, return for credit or require prompt replacement of the nonconforming goods.

Indemnity.

Seller shall defend and indemnify Lantek and hold it harmless from and against any and all loss, cost, liability or expense, including reasonable attorneys' fees, arising out of or resulting in any way from any actual or claimed infringement of any patent, copyright, mask work, trademark, trade secret or other intellectual property, proprietary or contractual right of any third party, with respect to the goods provided under the Order.

Seller shall defend and indemnify Lantek and hold it harmless from and against any and all damages, costs, expenses, losses, claims, demands, liabilities, awards, judgments, and obligations, including reasonable attorneys' fees, arising out of or resulting in any way from any defect in or nonconformity, whether known or unknown, of the goods purchased hereunder, Seller's breach of any of its warranties, covenants or other obligations under these terms and conditions, or from any other act or omission of Seller, its agents, employees or subcontractors. This indemnification is in addition to the warranty obligations of Seller herein.

Insurance.

Seller shall obtain and maintain in full force and effect (i) commercial general liability insurance, on an occurrence basis, including a contractual liability coverage endorsement with respect to Seller's indemnification obligations under these terms and conditions, at least in the sum of \$1,000,000 per occurrence and \$3,000,000 in the aggregate, and (ii) product liability insurance relating to the goods to be sold hereunder of at least Five Million Dollars (\$5,000,000.00), by an insurance company licensed to do business in the United States covering risks in the United States, and shall name Lantek as an additional insured, as its interests may appear. Promptly upon the parties' execution of an Order, Seller shall furnish to Lantek, an original certificate of insurance evidencing the required coverage. Such certificate required to be provided hereunder shall contain a provision that such policies shall not be canceled or modified without at least thirty (30) days prior written notice to Lantek.

Use of Lantek's Name.

Seller agrees not to use (a) Lantek's name, (b) the name of any employee or agent of Lantek, or (c) any trademarks, service marks or trade names owned or controlled by Lantek, in any sales, promotional, advertising or other publication, without the express prior written permission of Lantek. In no event shall Seller or its employees, agents or subcontractors represent themselves as employees or agents of Lantek.

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Invoice Payments.

Unless otherwise specified in the purchase order, Lantek shall pay the invoiced amount within forty-five (45) days after Lantek's receipt of a correct and proper invoice. Unless otherwise specified, all quotes and amounts paid under the Order shall be in U.S. Dollars. Seller shall bear the risk of fluctuation in foreign exchange rate. Lantek shall have no obligation to pay any amount prior to Lantek's receipt of a correct and proper invoice for such amount prepared in accordance with the Order. Except as expressly provided in the Order, payment shall not be due until final acceptance by Lantek. Lantek shall have the right to reduce and set off against amounts payable under the Order any indebtedness or other claim which Lantek may have against Seller, however and whenever arising.

Discount Terms.

If cash discounts are offered and identified, such discount periods will be computed from the date of delivery of the goods ordered; or the date of Lantek's receipt of a correct and proper invoice, whichever is later. Payment or other terms identified on the Seller's invoice which are contrary to those of the Order shall have no force and effect unless acted upon or approved in writing by Lantek. Lantek will make every effort to pay invoices within the terms prescribed in the Order, however, in no event will Lantek be obligated to pay late fees or penalties for invoices paid outside the Order terms.

Compliance with Laws.

Seller represents and warrants that, in the production and sale of goods to be delivered pursuant hereto, Seller has complied with all applicable federal, state, and municipal laws and regulations, including, without limitation, (a) all such laws and regulations pertaining to health, safety and environmental standards, (b) all such laws and regulations pertaining to design, manufacture, testing, labeling, and transportation of such goods, and (c) all such laws and regulations pertaining to affirmative action, nondiscrimination, and equal opportunity, including without limitation, the requirements of the Fair Labor Standards Act of 1938, as amended.

Taxes.

Unless prohibited by law, Seller shall pay all federal, state or local tax, transportation tax, or other tax which is required to be imposed upon the goods to be sold and delivered pursuant hereto. The purchase price set forth in the Order shall be deemed to include any and all taxes.

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Confidentiality.

Seller shall preserve in strict confidence all confidential, sensitive or proprietary information of LanTek received from LanTek ("Confidential Information"), whether or not marked "Proprietary" or "Confidential," and whether oral or written, using the same degree of care as it takes to preserve and safeguard its own confidential or proprietary information (but in no event less than a reasonable degree of care.)

Confidential Information shall not include information that Seller can demonstrate by written evidence was publicly available at the time of disclosure or was independently developed by Seller without reference to Confidential Information. Seller will not (i) disclose or cause to be disclosed at any time any Confidential Information obtained from LanTek, or (ii) use or cause to be used any of such Confidential Information for any purpose, except as required in fulfilling the Order. Seller represents, warrants and covenants that it shall maintain physical, electronic and procedural safeguards designed to (1) insure the security, integrity and confidentiality of all Confidential Information, (2) protect against any anticipated threats or hazards to the security, integrity or confidentiality of Confidential Information, and (3) protect against unauthorized access to or use or disclosure of Confidential Information.

Entire Agreement.

The Order represents the entire agreement between Seller and LanTek with respect to the goods described in the Order.

No Assignment.

Seller may not assign, transfer or subcontract any part of the Order without the prior written consent of LanTek, and any assignment in violation of this provision shall be null and void.

Severability.

If any provision of the Order is determined to be invalid, illegal or unenforceable, the remaining provisions of this Agreement remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable.

Waiver.

No waiver by LanTek of any provision of the Order or any breach hereunder shall be deemed a waiver of any other provision or subsequent breach, nor shall any such waiver constitute a continuing waiver. Delay or failure of LanTek to insist on strict performance of any provision of the Order or to exercise any rights or remedies hereunder shall not be deemed a waiver.

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Governing Law.

All matters arising under or related to the Order shall be construed and enforced in accordance with the laws of the State of New Jersey, without regard to conflicts of law rules. Seller irrevocably consents to the personal jurisdiction of the state courts in Sussex County, New Jersey, or of the United States District Court for New Jersey in Newark, New Jersey, and irrevocably waives any claim it may have that any proceedings brought in such courts have been brought in an inconvenient forum. In the event LanTek takes or maintains any action to enforce its rights hereunder and prevails, Seller shall reimburse LanTek for its reasonable costs and expenses incurred, including, without limitation, reasonable fees and disbursements of counsel and other advisors and professionals.

Notice.

Any communications required by the Order shall be in writing and shall be delivered by hand, by fax (receipt confirmed), by email, by express mail services, or by registered or certified mail, postage prepaid, at or to: if to LanTek at: 29 Brookfield Drive, Sparta, NJ 07871, Attention: President; if to Seller, then to the address set forth on the purchase order, or to such other address or to such other person as any party shall have last designated by written notice to the other party. All communications so delivered shall be deemed given upon receipt.

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