

Standard Purchase Order Terms and Conditions – Brunswick Boat Group Companies

SHIPPING AND BILLING

- A. All materials, goods and products (collectively, "materials") shall be suitably packed, marked, and shipped in accordance with the requirements of common carriers in a manner to secure lowest transportation cost and no additional charge shall be made to the Buyer therefore unless stated herein.
- B. No charge shall be made by the Seller for drayage or storage, unless otherwise stated herein.
- C. Unless otherwise specified herein, Seller shall properly mark each package with Buyer's order number, factory, plant and/or dock number, and where multiple packages comprise a single shipment, each package shall also be consecutively numbered. Purchase order number, Buyer's part number, Seller's part number, package number and plant number shall be shown on packing slips, bill of lading and invoices.
- D. Two copies of your packing slips must accompany each shipment.
- E. Original bill of lading, or other shipping receipt, for each shipment shall be promptly forwarded by Seller to Traffic Manager or Receiving Supervisor at destination plant.
- F. Seller agrees to describe material on bill of lading or other shipping receipt and to route shipment in accordance with instructions issued by Buyer.
- G. Two copies of your invoice, showing prices and extension, must be mailed in accordance with directions appearing on the face of this Purchase Order ("order"). Separate invoices are required for each individual shipment unless otherwise arranged.
- H. Payment due dates, including discount periods, will be computed from the date of receipt of materials or date of receipt of correct invoices (whichever is later) to date Buyer's check is issued.
- I. Seller agrees to notify Buyer when unable to ship on date specified on this order.
- J. In order to avoid unnecessary duplication of insurance, Seller shall notify the carrier not to show any valuation for insurance purposes, on freight and express shipments by Rail, Inland Waterway or Air, when the shipping terms are F.O.B. point of shipment.

GENERAL TERMS AND CONDITIONS

- 1. **ACCEPTANCE** – The shipment of materials ordered hereunder, or any part thereof, shall be deemed a full acceptance by the Seller of this order, subject to the terms and conditions herein. Any different or additional terms in the Seller's confirmation of this order are hereby objected to and rejected and such inconsistent or additional terms shall not be binding on Buyer.
- 2. **CONTRACT** – The Contract resulting from the acceptance of this order is to be construed according to the laws of Tennessee without regard to its conflicts of law principles. Assignment of such contract and/or this order by Seller (by any means, including by operation of law) or any interest therein, or any payment due or to become due hereunder, without the written consent of Buyer, shall be void.
- 3. **PRICES** – Buyer shall not be billed at prices higher than those stated on the front of this order. Unless otherwise specified, the price stated includes all charges for packing, hauling, storage and transportation to point of delivery. Seller will pay all delivery charges in excess of any delivery charge Buyer has agreed to pay. The price stated includes all taxes except state or local sales or use taxes or similar taxes which Seller is required by law to collect from Buyer. Such taxes, if any, shall be separately stated in Seller's invoice and paid by Buyer unless an exemption is available. Seller agrees that any price reduction made with respect to the items covered by this order subsequent to its placement but prior to payment will be applicable to this order.
- 4. **DELIVERY** – Deliveries are to be made both in quantities and at times specified in schedules furnished by Buyer. Buyer will have no liability for payment for material or items delivered to Buyer which are in excess of quantities specified in the delivery schedules. Buyer may from time to time change delivery schedules or direct temporary suspension of scheduled shipments. The delivery terms shall be specified on the order.
- 5. **DEFAULT** – Time is of the essence in the performance of this order. Except in instances of delay which are due to causes beyond the reasonable control and without the fault or negligence of Seller and its suppliers, Buyer may by written notice of default to Seller terminate the whole or any part of this order in any one of the following circumstances: (i) if Seller fails to perform within the time specified herein or any extension thereof; or (ii) if Seller fails to perform any of the other provisions of this order, or so fails to make progress as to endanger performance of this order in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of ten (10) days (or such longer period as Buyer may authorize in writing) after receipt of notice from Buyer specifying such failure. As an alternate remedy, and in lieu of termination for default, Buyer, at its sole discretion, may elect (1) to extend the delivery schedule and/or (2) to waive other deficiencies in Seller's performance, in which case an equitable reduction in the order price shall be negotiated. In the event Seller for any reason anticipates difficulty in complying with the required delivery date, or in meeting any of the other requirements of this order, Seller shall promptly notify Buyer in writing. If Seller does not comply with Buyer's delivery schedule, Buyer may require delivery by fastest way and charges resulting from the premium transportation must be fully prepaid and absorbed by the Seller. The rights and remedies of the Buyer provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law, at equity or under this order.
- 6. **TRANSPORTATION** – No charges for unauthorized transportation will be allowed. Any unauthorized shipment which will result in excess transportation charges must be fully prepaid by the Seller.
- 7. **EXTRA CHARGES** – No extra charges of any kind including interest charges, service charges or carrying charges, will be allowed unless specifically agreed to in writing by the Buyer.
- 8. **WARRANTY** – Seller expressly warrants that all the material and work covered by this order will conform to the specifications, drawings, samples or other description furnished or specified by Buyer, and will be merchantable, of good material and workmanship and free from defect. Seller expressly warrants that all the material covered by this order will be fit and sufficient for the purposes intended. The foregoing warranty shall survive Buyer's inspection, acceptance and use of the materials. Seller hereby extends to Buyer any and all warranties received from Seller's suppliers and agrees to enforce such warranty on Buyer's behalf.
- 9. **HAZARDOUS MATERIALS** – Seller shall notify Buyer of every article ordered hereunder which contains material hazardous or injurious to the health or physical safety to persons even though said injury may occur

due to mishandling or misuse of the article. In addition, Seller shall identify the hazardous or injurious material and notify Buyer of the effects of such material on human beings and the physical manifestations that could result. For each article so identified, Seller shall supply Buyer warning labels or instructional material appropriate to warn persons coming in contact therewith of the hazard and its effects. Any materials required by this order that are hazardous under federal, state or local statute, ordinance, regulation or agency order will be packaged, labeled, marked and shipped by the Seller to comply with all federal, state and local regulations then in effect including but not limited to the provisions of the Hazardous Materials Transportation Act. Material Safety Data Sheets as required by the OSHA Hazard Communication Standard shall be provided by Seller upon delivery to the Buyer.

- 10. **TERMINATION** – The Buyer may terminate all or part of this order at any time by written notice to Seller. Upon termination, Buyer shall pay Seller a reasonable cancellation fee for materials that are custom or unique for Buyer, consisting of (a) a percentage of the price equivalent to the percentage of work performed prior to the notice of termination less (b) the scrap value of the materials used. Buyer shall have no obligation for work done after the notice or for work done that Seller could reasonably have avoided. Such fee shall be Seller's sole remedy for such cancellation. For standard materials, Buyer shall not incur any cancellation fees.
- 11. **SET-OFF** – Buyer shall be entitled at all times to set off any amount owing at any time from Seller to Buyer or any of its affiliated companies against any amount payable at any time by Buyer in connection with this order.
- 12. **INSPECTION** – All material shall be received subject to Buyer's inspection and rejection. Defective material or material not in accordance with Buyer's specifications will be held for Seller's instruction and at Seller's risk and if Seller so directs, will be returned at Seller's expense. Seller shall reimburse Buyer for any materials returned as defective. No materials returned as defective shall be replaced unless authorized by Buyer. Payment for material on this order prior to inspection shall not constitute an acceptance thereof.
- 13. **CHANGE IN SPECIFICATIONS** – Buyer reserves the right at any time to make changes in drawings and specifications as to any material and/or work covered by this order. Any difference in price or time for performance resulting from such changes shall be equitably adjusted and the contract shall be modified in writing accordingly.
- 14. **MATERIAL FURNISHED BY BUYER** – Unless otherwise agreed in writing, all tools, equipment or material furnished to Seller by Buyer or specially paid for by Buyer, and any replacement thereof, or any items affixed or attached thereto, shall be and remain the personal property of Buyer. Such property, and whenever practical, each individual item thereof, shall be plainly marked or otherwise adequately identified by Seller as "Property of Brunswick" and shall be safely stored separate from Seller's property. Seller shall not substitute any property for Buyer's property and shall not use such property except in filling Buyer's orders. While in Seller's custody or control such property shall be held at Seller's risk, shall be kept insured by Seller at Seller's expense in an amount equal to the replacement cost with loss payable to Buyer, and shall be subject to removal at Buyer's written request, in which event Seller shall prepare such property for shipment and shall redeliver to Buyer in the same condition as originally received by Seller, reasonable wear and tear excepted, all at Seller's expense.
- 15. **TOOLS** – Unless otherwise herein agreed, Seller at its own expense shall furnish, keep in good condition and replace when necessary all dies, tools, gauges, fixtures and patterns necessary for the production of the material ordered. The cost of changes in the aforementioned items necessary to effect design or specification changes ordered by Buyer shall be paid for by Buyer. Buyer has the option, however, to take possession of and title to any dies, tools, gauges, fixtures and patterns that are special for the production of the material covered by this order and shall pay to Seller the unamortized cost thereof; provided, however, that this option shall not apply if the material hereby ordered is the standard product of Seller or if a substantial quantity of like material is being sold by Seller to others.
- 16. **REMEDIES** – The remedies herein reserved shall be cumulative, and in addition to any other or further remedies provided in law or equity. No waiver of breach of any provision of this contract shall constitute a waiver of any other breach, or of such provision. Any waiver must be in writing.
- 17. **PATENTS** – By accepting this order, Seller agrees to indemnify and hold harmless Buyer, its successors, assigns, customers, and users of its materials, against and from all suits at law or in equity, and from all claims, losses, costs, damages, judgments, penalties, and liabilities of any kind (including reasonable attorney's fees) arising out of or related to actual or alleged infringement of any intellectual property rights, including without limitation United States or foreign patents, copyrights, trade name or trade dress, by reason of the possession, use or sale of the material ordered.
- 18. **TECHNICAL INFORMATION DISCLOSED TO BUYER** – Seller agrees not to assert any claim (other than a claim for patent infringement) with respect to any technical information which Seller shall have disclosed or may hereafter disclose to Buyer in connection with the materials or services covered by this order.
- 19. **BUYER'S INFORMATION** – Seller shall keep confidential all "Confidential Information" of Buyer and its affiliates. For purposes of this order, the term "Confidential Information" shall mean all information, whether in written, oral, electronic, or other form, relating in any way to the materials, services, business, operations, sales, distribution, assets, technology, financial condition, marketing strategy and/or analysis, or prospects of Buyer or its affiliates. By way of illustration, but not of limitation, Confidential Information may include inventions, concepts, designs, structures, formulas, techniques, processes, models, samples, drawings, financial information, supplier, employee, and customer data or proposal information, and any information that representatives of Seller may observe while on Buyer's premises or in doing business with each other, including but not limited to information regarding Buyer's novel manufacturing technologies. Seller shall not disclose, use, or copy any Confidential Information, except as required for the performance of this order, and shall take all reasonable precautions to prevent any unauthorized disclosure.
- 20. **INDEMNIFICATION AND INSURANCE** – Seller agrees to indemnify and hold harmless Buyer against and from all claims, losses, costs, damages, judgments, penalties, and liabilities of any kind (including reasonable attorney's fees) arising out of or related to any breach of warranty, whether express or implied, or the acts or omissions of Seller or its employees, agents, contractors, or representatives. Seller further agrees to furnish, upon Buyer's request, insurance certificates showing that the Seller has insurance coverages in amounts not less than the following: Workmen's Compensation-Statutory Limits for State or

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States in which work is to be performed, Employer's Liability \$1,000,000, Commercial General Liability bodily injury and property damage combined single limits of \$2,000,000 per occurrence/\$4,000,000 general aggregate, products/completed operations aggregate \$4,000,000 and contractual liability \$2,000,000, Comprehensive Automobile Liability for owned, hired and non-owned motor vehicles \$2,000,000 each occurrence combined single limit bodily injury and property damage. Said certificate must set forth the amount of coverage, number of policy and date of expiration. Brunswick Corporation and each of its affiliates, subsidiaries, officers, employees and agents shall be named as additional insureds on the above general liability and automobile liability policies. All insurance maintained by Seller pursuant to these requirements shall be primary in respect to any claims or liabilities and any insurance maintained by Buyer shall be excess and non-contributing. If Seller is a self-insurer, the certificate of the Department of Labor and Industry of the State in which said labor is to be performed must be furnished by such Department directly to Buyer. The purchase of such insurance coverage or the furnishing of the aforesaid certificate shall not be a satisfaction of Seller's liability hereunder or in any way modify Seller's indemnification of Buyer.

21. **ADVERTISING/PUBLICITY** – Without Buyer's prior written permission, Seller shall not advertise or publish the fact that Buyer has contracted to purchase materials or services from Seller, disclose information related to this order, or use the name of Buyer or any of its customers in advertising or other publications. If Seller fails to observe this provision, Buyer shall have the right to terminate the contract resulting from the acceptance of this order without any obligation to accept deliveries after the date of termination or make further payments except for completed articles delivered prior to termination.
22. **INSOLVENCY** – Buyer may forthwith cancel the contract resulting from the acceptance of this order in the event of the happening of any of the following: insolvency of the Seller; the filing of a voluntary petition in bankruptcy; the filing of an involuntary petition to have Seller declared bankrupt provided it is not vacated within thirty (30) days from the date of filing; the appointment of a Receiver or Trustee for Seller provided such appointment is not vacated within (30) days from the date of such appointment; or the execution by Seller of an assignment for the benefits of creditors.
23. **GOVERNMENT REGULATIONS** – In the performance of this order, Seller agrees to comply with all applicable federal, state or local laws, rules, regulations, or ordinances, including without limitation, those administered by the United States Occupational Safety and Health Administration (OSHA), Environmental Protection Agency (EPA), and state environmental regulatory agencies.
24. **NON-DISCRIMINATION** - Seller agrees that in providing all materials or services hereunder it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, disability, or because he or she is a disabled veteran or veteran of the Vietnam era. Without in any way limiting the generality of the foregoing or Section 23 above, if this order relates to a government contract Seller expressly represents and warrants, in addition to the foregoing, that it has complied with all state and federal rules, regulations, orders and/or guidelines concerning federal contract compliance programs, non-discrimination and equal employment opportunity set forth in Title 41 Chapter 60 of the Code of Federal Regulations and equivalents, including, without limitation, 41 CFR 60-1.4(a); 41 CFR 60-250.5 and 41 CFR 60-741.5.
25. **PRIVACY STATEMENT** – Buyer will use personal data which Seller has provided to respond to requests for inquiries or in connection with this order. Seller may contact Buyer at any time to request updates or amendments to such personal data. For additional information on Buyer's privacy practices, please review Buyer's policy available at www.brunswick.com.