



Purchase Order Terms and Conditions of Exxelia DeYoung Inc.

(Version 23/Nov/2017)

All Purchase Orders accepted by Exxelia DeYoung Inc. are subject to terms and conditions of sale contained herein. Any terms set forth in any Buyer's Purchase Order, acknowledgement or other document that are in addition or inconsistent with this Agreement shall be null and void and will be of no force or effect.

1. **LIMITED WARRANTY:** Exxelia DeYoung Inc. warrants for a period of one (1) year from the date of shipment to Buyer that all products, upon delivery to Buyer, are free from defects in workmanship and material and shall conform to the specifications. If any product is defective in material or workmanship or fails to meet the requirements of this Purchase Order, Buyer shall inform Exxelia DeYoung Inc. and return such products for correction or replacement. Exxelia DeYoung Inc.'s liability for such rejected products being limited solely to the cost of transportation expenses plus the responsibility of repairing such returned products.
This warranty does not extend to any of our products which fail to operate by reason of improper installation, application, or that have been subject to misuse, neglect, or accident or have been repaired or substantially altered outside our factory.
The warranties set forth in this section are exclusive and in lieu of all other warranties whether statutory, express or implied and the warranties of merchantability and fitness for a particular purpose and all other warranties arising from course of dealing or usage of trade are hereby excluded. The remedies provided herein are Buyer's sole and exclusive remedies for any failure of Exxelia DeYoung Inc. to comply with its warranty obligations. Correction of the nonconformities in the manner and for the period of time provided herein shall constitute complete fulfillment of Exxelia DeYoung Inc.'s obligation regarding defective articles, whether the claims by Buyer are based in contract, in tort (including negligence) or otherwise.
2. **PATENT, TRADEMARK AND COPYRIGHT INDEMNIFICATION:**
 - a. Exxelia DeYoung Inc. agrees to and shall, at its opinion, either negotiate and/or defend all claims, suits or proceedings brought against Buyer if the manufacturing of any product supplied hereunder constitutes an infringement of any patent, copyright or trademark provided Exxelia DeYoung Inc. is notified promptly in writing and is given complete authority and information required for the defense or settlement of same. Exxelia DeYoung Inc. shall pay all judgements, decrees, compromises, costs and expenses arising from any charge or infringement against Buyer, but Exxelia DeYoung Inc. shall not be liable for compromises incurred or made by Buyer without Exxelia DeYoung Inc.'s prior written consent.
 - b. Notwithstanding the foregoing, Exxelia DeYoung Inc. shall have no obligation with respect to claims of infringement based upon use of the products in combination with products supplied by others or Exxelia DeYoung Inc.
 - c. The foregoing states the entire liability of Exxelia DeYoung Inc. for all loss or damage whatsoever to Buyer and its subsidiaries, arising from infringement of patents, trademarks, and copyrights.
3. **TERMS:** All customers are subject to a check of business history and credit worthiness. Unless stated otherwise on the face of the Exxelia DeYoung Inc. quotation or order acknowledgment, payment terms for goods are net 30 days from date of invoice, to firms with an approved line of credit, and all special charges (NRE, set-up, tooling, etc.) are due at time of Purchase Order.
4. **PRODUCT / PROCESS DESIGN DISCLAIMERS:** When required by Buyer, or when Exxelia DeYoung Inc. deems necessary, first article(s) and/or first article inspection report(s) are submitted for customer evaluation. Written approval of, and/or payment for the first articles, and/or placement of additional Purchase Orders for the same product, constitutes customer approval, validation, and acceptance of the design. Exxelia DeYoung Inc. reserves the right to make any changes to the process design it deems necessary, including substitution of component materials, to improve manufacturability, reliability, cost and/or quality; provided form, fit, and function are not affected.
When Exxelia DeYoung Inc. controls the drawing, it reserves the right to make these changes and/or substitutions without the consent or approval of Buyer, unless otherwise agreed upon in writing between Exxelia DeYoung Inc. and Buyer.
When Buyer controls the design, Exxelia DeYoung Inc. will, prior to implementing these changes and/or substitutions, obtain consent or approval in writing from Buyer, unless otherwise agreed upon in writing between Exxelia DeYoung Inc. and Buyer.
5. **PRICES:** Quoted prices apply to current Purchase Order only. When the total quantity of product ordered is not released or scheduled for delivery at time of order, the price of the product, when released, is subject to adjustment based on raw material and labor costs involved. Due to volatility in energy and metals markets, price and lead time are subject to change at time of order acknowledgement or shipment based upon material

availability, costs, and surcharges in place at that time. Exxelia DeYoung Inc. reserves the right to pass through metal and/or fuel surcharges at time of shipment. Exxelia DeYoung Inc. will make reasonable effort to mitigate such changes and surcharges. Unless confirmed otherwise in writing, pricing does not include First Article Inspections, Product or Process Qualifications, Agency Approvals, customer mandated Production Part Approval Processes (PPAPs) or other special requirements. Such requirements will incur additional charges and schedule adjustments.

6. **LEAD TIME / RELEASE SCHEDULES:** All orders to be shipped complete within 12 months of the original Purchase Order date unless otherwise agreed to in writing. Quoted lead time are "ARO" (after receipt of order), reflecting time from order placement to shipment. Lead time is dependent upon availability of raw material and production capacity at time of order. Actual delivery dates will be confirmed within seven (7) working days ARO.
7. **OVER / UNDER SHIPMENT:** Exxelia DeYoung Inc. reserves the right to manufacture and ship, and Buyer agrees to accept, up to 10% over or under the quantities ordered. In cases where materials or parts are furnished by the customer, 10% excess is required to allow for any losses or deviations.
8. **SUBCONTRACTING:** Exxelia DeYoung Inc. reserves the right to outsource orders, in whole or in part, to qualified subcontractors, unless expressly prohibited in writing between Exxelia DeYoung Inc. and Buyer.
9. **TAXES:** Buyer agrees to pay or reimburse Exxelia DeYoung Inc. for sales, excise, or other tax levied by any government agency, federal, state, local, or foreign, which they require be collected or paid upon the sale of the items quoted and any tax upon Exxelia DeYoung Inc. measured in whole or part by the amount of such sale.
10. **CHANGES AND CANCELLATIONS:** Any change in Buyer's drawing or specification required by Buyer may be made only after an equitable adjustment, mutually negotiated by both parties. Due to the custom nature of our business, all Purchase Orders are non-cancellable and non-returnable (NC/NR) except on such terms as to protect Exxelia DeYoung Inc. against loss and expressly agreed to in writing. All schedule changes must be made at least 6 weeks prior to scheduled delivery. Design changes will be assessed on the basis of materials and labor required to comply with the design changes and any obsolescence created by the change. Obsolescence charges apply to material, work in process, completed items, and any and all tooling.
11. **TERMINATION:**
 - a. **FOR CONVENIENCE:** Buyer may terminate this Purchase Order for convenience, with forty-five (45) day written notice. Buyer's liability shall include the cost of completed items, work in process and raw materials purchased for this Purchase Order.
 - b. **FOR DEFAULT:** Either party may terminate this Purchase Order if the other party: fails to correct any breach within thirty (30) days of a written cure notice, or becomes insolvent, or files a petition in Bankruptcy Court and such proceeding has not been dissolved.
12. **FORCE MAJEURE:** Exxelia DeYoung Inc. shall not be held responsible for any delay or failure hereunder caused by fire, strike, embargo, government requirement, civil or military authorities, and acts of God or by the public enemy, acts of omissions of carriers, utility failure, or other causes beyond Exxelia DeYoung Inc.'s control.
13. **LIMITATION OF LIABILITY:** Exxelia DeYoung Inc. shall not be liable to Buyer under this Purchase Order. Whether in contract, in tort (including negligence), under any warranty or otherwise for any special, indirect, incidental or consequential loss or damage or loss of profits or revenues resulting from, arising out of or in connection with this sale or from the performance or breach thereof, or from the manufacture, sale, delivery, resale, repair or use of any product covered by or furnished under this Purchase Order.
14. **INDEMNIFICATION:** Buyer agrees to defend, indemnify and hold harmless Exxelia DeYoung Inc. from and against any and all claims, including third party claims, which constitute a claim or claims beyond the remedies provided herein. Buyer's obligation to defend, indemnify and hold harmless Exxelia DeYoung Inc. shall apply even if Exxelia DeYoung Inc. is negligent, legally at fault or liable under the laws of any country.
15. **GENERAL:**
 - a. If any of the provisions of this agreement are invalid under any applicable statute or rule of law, such provisions are to that extent, deemed omitted, but the remainder of the provisions otherwise remain in effect.
 - b. No provisions of this agreement shall be deemed waived, amended or modified by either party, unless such waiver, amendment or modification is in writing and signed by both parties.
 - c. If the products covered by this Purchase Order are to be used in making parts or equipment under a contract with a department or agency of the United States, Exxelia DeYoung Inc. will comply with any provisions of such contract which are construed as mandatory flow downs, but reserves the right to limit inspection or proprietary processes and areas as deemed necessary.
 - d. All matters regarding this Purchase Order shall be interpreted in accordance with the laws of the State of Washington and any controversy that cannot be settled directly shall be settled by arbitration subject to the liability limitations set forth above, in accordance with the rules then prevailing of the American Arbitration Association, and judgement upon the award rendered may be entered in any court having jurisdiction thereof.