



TERMS AND CONDITIONS OF PURCHASE

THESE TERMS AND CONDITIONS OF PURCHASE (“Agreement”) apply to all purchase orders (“Orders”) for Goods placed by any division, subsidiary, or affiliate within the FISHER BARTON family of companies, including Fisher-Barton Inc.; Fisher Barton Blades, Inc.; Fisher Barton Technology Center, Inc.; Thermal Spray Technologies, Inc.; Zenith Cutter, Inc.; Accurate Specialties Inc.; and Fisher-Barton Specialty Products, Inc. (the applicable division, subsidiary or affiliate shall be referred to hereinafter as the “Buyer”).

- Acknowledge receipt of this Purchase Order IMMEDIATELY. Purchase Order Number is in upper left-hand corner of Purchase Order.
 - Render separate invoices of EACH and EVERY SHIPMENT.
 - Render INVOICES IN DUPLICATE (unless otherwise instructed, immediately following shipment) priced and extended.
 - All shipments are to be made as noted on the face of this order, and notices sent to consignee.
1. **PRICE.** This is a fair price order.
 2. **TERMS OF PAYMENT.** Unless otherwise specified in the body of the Purchase Order, the standard terms of payment shall be NET60 (sixty) days.
 3. **ATTACHMENTS.** Documents designated by Buyer in the body of the Purchase Order, including supplemental terms and conditions, if any, are incorporated for reference the same as if set out in full therein. Documents and other material received by Recipient directly or indirectly from Buyer shall be and remain the exclusive property of Buyer Recipient shall return all such documents and other material to Buyer promptly upon request, including all copies, duplicates, and extracts thereof.
 4. **CHANGES.** The Buyer reserves the right at any time to issue a written change order or amendment to the Purchase Order concerning any of the following: (a) specifications, drawings, and data incorporated in the Purchase Order where the items to be furnished are to be specially manufactured for the Buyer; (b) quantity; (c) methods of shipment or packaging; (d) place of delivery; (e) time of delivery; or (f) any other matters affecting this Purchase Order.
 5. **MODIFICATIONS AND ASSIGNMENTS.** No changes or modifications in this order or Terms and Conditions herein shall be made except upon Buyer’s written authority. Seller shall not assign or contract to assign order or any part thereof or the right to receive any payments due or to become due Seller without Buyer’s written consent in advance.
 6. **PACKING AND CARTAGE.** No charge for packing or cartage will be allowed except as stated herein. **NO VENDOR LOGOS ON PARTS OR PACKAGING unless approved by Buyer.** Vendor logos permissible on external shipping containers only
 7. **SHIPMENT.** If the goods are not shipped in accordance with Buyer’s direction and the instructions set out in this order, Seller shall pay to Buyer any excess cost occasioned it thereby.
 8. **PATENTS.** By accepting this order, Seller represents, warrants and guarantees that the articles, materials or goods described herein, and the sale or use of them, will not infringe or contribute to the infringement of any United States or foreign Letters Patent or copyright, either in the U.S.A. or foreign countries, and Seller agrees at Seller’s expense to defend, protect and save harmless Buyer, its successors, assigns, customers and users of its products, against all suits at law or in equity, and from all damages, claims and demands for actual or alleged infringement of any patent or copyright.
 9. **EXCESS GOODS.** Buyer must agree to and provide prior approval to any shipped quantity changes to this PO. Otherwise, all orders are to ship with exact amount stated. Goods in excess of those specified will not be accepted, and such goods will be held at Seller’s risk. Buyer may, and at Sellers direction shall, return such goods at Seller’s risk, and all transportation charges both to and from the original destination, shall be paid by Seller.

10. **TERMINATION.** Buyer may terminate this order for its convenience, in whole or in part, by written or telegraphic notice at any time. If this order is terminated for convenience, any claim of Seller shall be settled on the basis of reasonable costs it has incurred in the performance of this order.
11. **DELAYS.** If Seller shall: fail or refuse to proceed with this order, or if Seller shall fail to make delivery or Buyer, to accept delivery, according to the delivery schedule, the other party may cancel the then remaining balance of the order unless the delay is an excusable delay as hereinafter defined. An excusable delay shall not constitute a default hereunder. The "excusable delay" as used in this paragraph means any delay in making or accepting deliveries which results without fault or negligence on the part of the party involved and which is due to causes beyond its control including, without being limited to, acts of God or the public enemy, any preference, priority or allocation order issued by the Government or any other act of the Government, act of the other party hereto, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, and delays of a supplier due to such causes. Each party promptly notifies the other of any such delay and the cause thereof. Buyer reserves the right to cancel any order delinquent beyond sixty days. A processing fee may be applicable at the time of cancellation.
12. **QUALITY.** Supplier agrees to comply with the "Supplier/Customer Expectation Manual" in part, or whereas applicable for given materials, parts, products, or services supplied by Seller. Additionally, where appropriate, the Seller agrees to the use of statistical process controls which shows the Product characteristics and the use of applicable control charts on said characteristics and a tracking system so that individual parts may be traced back to their hot steel or original batch. Inspection of Products and shipments to show conformity with standards and drawings shall be the responsibility of the Seller. Seller will provide reasonable access to its facilities, operations, and records to such auditors and inspectors as Buyer may from time to time reasonably designate for the purpose of performing audits or inspections of Seller's performance under this Purchasing agreement. Any 3rd party certified or noncertified, management system in effect at the time of this agreement, based on Seller selection and approval, shall be maintained throughout the duration of this agreement. Any such revocation, major infractions, or probationary actions taken against the Seller's management system shall be communicated in writing to the Buyer when such actions are taken. Seller agrees to timely respond and take action in response to formal corrective/preventive action requests, as warranted, to identify root cause(s) and subsequent action(s).
13. **WARRANT.** Seller expressly warrants that all the articles, material and work covered by this order, including any special tools, dies, jigs, patterns, machinery and equipment obtained at Buyer's expense by Seller for the performance of this order which are to be the property of the Buyer, will conform to the specifications, drawings, samples or other description furnished or adopted by the Buyer, and will be of good material and workmanship, and free from defects, and if the articles are not ordered to Buyer's specifications, Seller further warrants that they will be merchantable and fit and sufficient for the purposes intended. Buyer does not imply any warranty other than the expressed warranty contained in this agreement.
14. **INSPECTION AND ACCEPTANCE.** Inspection and test of the articles by Buyer may at Buyer's option be made at Seller's plant and/or the point of destination. At the Buyer's option the Buyer may make a surveillance of the Seller's inspection, quality and reliability procedures as well as the data supporting same. Acceptance of the goods or payment by Buyer shall not relieve Seller from any of its obligations and warranties hereunder. In no event shall payment be deemed to constitute acceptance.
15. **MANUFACTURING CHANGES. ANY DEVIATIONS FROM THE PART DRAWINGS AND/OR STANDARD PROCESSES MUST BE APPROVED IN WRITING PRIOR TO PROCEEDING WITH THE MANUFACTURING OF THE PARTS LISTED ON THIS PURCHASE ORDER.**
16. **DEFECTIVE GOODS.** If any of the goods fail to meet warranties contained in Paragraph 13, Seller, upon notice thereof from Buyer, shall promptly correct or replace the same at Seller's expense. If Seller shall fail to do so, Buyer may cancel this order as to all such goods and in addition, may cancel the then remaining balance of this order. After notice to Seller, all such goods will be held at Seller's risk, Buyer may, and at Seller's direction shall, return such goods to Seller at Seller's risk, and all transportation charges, both to and from the original destination, shall be paid by Seller. Any payment for such goods shall be refunded by Seller unless Seller promptly corrects or replaces the same at its full incurred expense. Seller shall be liable for all incurred costs, including where appropriate installation costs, any and all damages and costs, to Buyer as a result of any breach of warranty caused by manufacturing defect of any Product covered by this agreement including reasonable attorney fees incurred to enforce the Terms and Conditions of this agreement.

17. **PRODUCT LIABILITY.** Seller agrees to defend, protect, and hold harmless Buyer, its successors, agents, and dealer against any and all claims for personal injury, property, consequential or special damages resulting from improper or defective material, workmanship or design, but only if Seller is promptly notified in writing of any such claim and given the right to defend, cooperate in the investigation and defense of any such claim or suit, Sellers obligation shall not extend to, or include, claims resulting from the use of any goods in combination with unsuitable goods not furnished under this Agreement, or from an unauthorized modification or alteration of the goods.
18. **INDEMNITY.** Except as provided otherwise in the clauses on patents and product liability, in no case shall Buyer indemnify or hold harmless Seller against any and all claims for personal injury, property, consequential or special damages resulting from improper or defective material, workmanship or design in products purchased from Seller hereunder.
19. **CONSIGNMENT.** Machinery, equipment, tools, jigs, dies, patterns, drawings, specifications, and samples furnished to Seller by Buyer on other than a charge basis shall be returned to Buyer or otherwise satisfactorily accounted for. Unless otherwise agreed, Seller, at its expense, shall insure all such items for the reasonable value thereof against loss or damage of any kind.
20. **COMPLIANCE WITH LAWS.** In fulfilling any part or all of this order, Seller agrees to comply with all applicable laws and regulations and to indemnify Buyer against all liability for Seller's failure to comply.
21. **SPECIAL TOOLS.** Unless otherwise stated all special tools, dies, jigs, patterns, machinery, and equipment needed by Seller for the performance of this order shall be obtained by Seller at its own expense and shall be the property of Seller.
22. **TAXES.** Unless otherwise stated, the prices do not include sales, use, excise, and similar taxes applicable to the goods furnished hereunder or the materials used in the manufacture thereof. All such taxes and charges shall be shown separately on Seller's invoices.
23. **REMEDIES.** No remedy herein provided shall be deemed exclusive of any other remedy allowed by Law.
24. **CONFIDENTIALITY.** This document and any material transmitted, including intellectual property, hereunder may contain information proprietary to BUYER, or one of its affiliates and such information is not to be used by the recipient for any purpose other than the purpose for which it was transmitted. Buyer proprietary information includes, without limitation, any and all non-public data, drawings, formulas, methods, techniques, discoveries, processes, know-hows, equipment designs, technical data and the like, whether or not it is or could be covered by a patent, copyright, or trademark. The information shall be maintained in confidence and not disclosed to third parties without the written consent of the Buyer.
25. **"GOODS" AND "SERVICES".** The term "goods" as used herein means any and all materials, parts, products, machines, tooling, test equipment, technical data, computer software, computer software documentation, and other tangible items or documentary information furnished or required to be furnished by Seller under this order. The term "services" means any and all technical assistance, support, maintenance, consultation, construction work, and other effort furnished or required to be furnished by Seller under this order other than labor furnished in connection with the production of goods.

