



1. **Contract:** "Buyer" means DAK Americas LLC; "Supplier" means the entity to whom the Order is issued; "Order" means a written purchase order sent by Buyer's authorized purchasing agent to Supplier and all terms and other information provided by Buyer, including with these terms and conditions of purchase; "Goods" means any products ordered by Buyer pursuant to the Order. The Order constitutes an offer by Buyer to Supplier to purchase the Goods only on the terms and conditions stated in the Order. Buyer expressly notifies Supplier of its objection to any different and/or additional terms proposed by Supplier, including but not limited to any terms and conditions contained in any order confirmations, acknowledgments, invoices, or any other format of Supplier. The Order shall be deemed accepted by the Supplier upon a) Supplier's commencement of performance on the Order, or b) Supplier's confirmation of the Order without written objections to the terms of the Order. The Order may be modified only by written agreement, including facsimile or e-mail, signed by both parties, expressly modifying the Order. The Order, together with these terms and conditions of purchase, contains the entire agreement of the parties relating to the Goods and supersedes all previous and contemporaneous agreements, understandings, usage of trade, and courses of dealing, whether written or oral.
2. **Pricing and Quantity:** Prices and quantity for the Goods shall be the prices and quantities specified in the face of the Order. Any cash discount shall be calculated from the date a properly documented invoice is received at the invoice "To" location. Prior payment to secure cash discount does not constitute acceptance by Buyer of the Goods furnished on this Order. Buyer's count or its weight shall be final and conclusive, except in case of proven error, adjustment shall be made.
3. **Freight Terms, Packaging and Ship Via:** No transportation or packaging charges shall be placed on the invoice unless specifically agreed to by Buyer. When transportation or packing charges have been agreed to, they will be identified and listed as separated line on Suppliers invoice. All Goods purchased on freight terms "Collect" shall be shipped via carriers nominated by Buyer. If nominated carrier is not available or deemed by Supplier as unsuitable, Supplier shall request alternate carrier from Buyer.
4. **Title and Risk of Loss:** Unless otherwise specified in the Order, title and risk of loss of Goods shall pass from Supplier to Buyer upon delivery of such Goods at the F.O.B site specified in the Order.
5. **Inspection and Acceptance:** Goods furnished on this Order shall be subject to Buyers or its designees inspection and approval at any reasonable time during manufacture or after delivery. Goods rejected for just cause will be held for Suppliers disposition, risk and expense. Acceptance of the Goods by Buyer shall take place when all terms of the Order have been met, and Buyer has inspected and tested the Goods. No delay in inspecting, rejecting or testing the Goods shall be deemed an acceptance of them or a waiver of any of the Buyer's rights or remedies hereunder. Acceptance by Buyer shall not constitute a waiver of any claim which the Buyer may have regarding the Goods or the Order, including without limitation a claim under any warranty or a claim for the failure to meet any required delivery date.
6. **Warranty:** Supplier expressly warrants that the Goods will be free and clear from all liens, claims and encumbrances; meet Supplier's Goods literature, all referenced or attached specifications, tolerances, limitations, drawings, samples and information; be of merchantable quality, free from defects on workmanship and material, be fit for such purposes as expressed in the Order, or are reasonable inferable from the terms of the Order.
7. **Liability:**
 - A) Should any Goods, fail to conform with the warranties of Article 6 Suppliers sole liability and Buyers sole remedies shall be as follows: Supplier shall replace the non-conforming Goods promptly following Buyers notification or, at Buyers option, refund the purchase price. Supplier also shall reimburse Buyer for any cost incurred by Buyer to remove, store, transport or dispose of non-conforming Goods.
 - B) To the extent permitted by law, neither party shall be liable to the other for any special, consequential or punitive damages, even if caused by negligence, willful misconduct or breached of contract. The preceding sentence and the liability / remedies limitations of A) above do not apply to, and each party shall indemnify and defend the order against (i) fines or civil penalties; (ii) loss or damage to the indemnified party's property; and (iii) costs (including legal fees and expenses) and liability arising from claims, suits, causes of action, action, judgments, by third parties (including legal fees and expenses) and liability arising from claims, suits, causes of action, action, judgments by third parties (including either party's employees) based on death, personal injury, loss or damage to property or the environment to the extent (i), (ii) and (iii) are caused by the negligence, willful misconduct or breach of contract of the indemnifying party.
8. **Delivery Time:** The time of delivery specified in the Order is of the essence to the order.
9. **Quality:** Buyers goal is to use Goods produced by Supplier directly into Buyers manufacturing process. Supplier shall give sufficient prior notice to Buyer of any change(s) in raw materials, manufacturing processes, manufacturing location, or test methods for mutual assessment of the probable effect on Buyers process or product performance.
10. **Proprietary Rights:** Supplier represents and warrants that the Goods specified in the Order shall not infringe any United States or foreign patent, trademark or copyright; and the Supplier shall defend and hold Buyer harmless against all liability, loss and expense (including legal expense) arising out of any claim of infringement or misappropriation of (i) any patent covering the Goods delivered hereunder, their making, their use by Buyer for their intended purpose, and (ii) any copyright, trademark, trade secret or other proprietary right with respect to the Goods.
11. **Proprietary Information:** Any information furnished to Buyer relating to or as a result of this Order shall be considered non confidential unless otherwise agreed to by Buyer in a separated written agreement. All technical information supplied by Buyer and designated as confidential, shall be held in confidence by Supplier. Such information shall not be reproduced, used or disclosed to others by the Supplier without Buyers prior written consent and shall be returned to Buyer upon the completion of Suppliers obligations under this Order or upon demand.
12. **Advertising:** Supplier shall not release any photograph, drawing, data, or article relative to the manufacturer, sale, or installation of any Good furnished hereunder, where Buyer or Buyers location is named or shown without first receiving Buyer's written consent.
13. **Ethics; Conflicts of Interest:** Supplier shall not pay any salaries, commissions or fees, or make any payments or rebates to any employee or officer of Buyer, or any designee of any such person, or favor any such person with gifts or entertainment of significant cost or value, or enter into any business arrangements with any such employee or officer other than as a representative of Buyer.



14. **Audits:** To verify Suppliers compliance with this Order, Buyer may, at its sole expense, audit Suppliers records including all books, documents, agreements, and any other information that may have an effect on or be related to this Order excluding (a) the cost of material, equipment, or services paid for on a lump sum or unit price basis, and (b) Suppliers profit margin. Supplier shall cooperate fully with Buyer in conducting any such audits. All audits will be conducted in accordance with professional auditing standards and during normal business hours. Buyer's right to audit shall remain in effect until 2 years after termination, cancellation or completion of this Order.

15. **Compliance with Laws:** Supplier certifies that it strictly complies with all applicable laws, rules, ordinances, orders, rulings and regulations of all domestic and foreign governmental branches, departments, agencies, commissions and courts having jurisdiction covering the production, sale, packaging, labeling, and delivery of the Goods or services specified in the Order. All laws, rules, ordinances, orders, rulings and regulations applicable to the Order, and any contractual clauses or provisions required thereby, are hereby incorporated by reference.

16. **Termination:** Buyer may at any time, without cause, terminate this Order in whole or in part upon written notice to Supplier. In such event Supplier shall be entitled to a reasonable termination change consisting of percentage of the Order price reflecting the percentage of the work satisfactory performed prior to termination. Such termination change shall be Suppliers sole remedy. Upon Buyers written request. Supplier shall preserve, protect and deliver to Buyer at Buyers expense materials on hand, work in progress, and completed work, both in its own and its suppliers plant.

17. **General Provisions:** A) Governing Law: The Order and any controversy relating to it or the Goods purchased shall be governed by the laws of the State of North Carolina, excluding its conflicts of law principles. The United Nations Convention on the International Sale of Goods is expressly excluded and shall not apply. Any action or proceeding relating to the Order or their enforcement, or to the Goods shall be commenced and heard only in the state courts for Mecklenburg County, North Carolina or the United States District Court for the Western District of North Carolina. Supplier and Buyer hereby consent and submit to the jurisdiction and venue of those courts. B) Assignment: This Order is not assignable by either party without the prior written consent of the other. C) Drawback: Upon request. Supplier agrees to furnish completed CF-7543 (Certificate of Delivery) or CF-7577 (Certificate of Manufacture and Delivery) and retain substantiating documentation pursuant to 19 U.S.C. Section 1313. D) Force Majeure: No liability shall result to either party from delays in performance or non performance caused by circumstances reasonably beyond the control of party affected. The affected party shall provide the non-affected party with prompt written notice of the situation. The non-affected party hereby reserves its right to terminate this Order immediately.