



Briggs & Stratton, LLC

STANDARD CONDITIONS OF PURCHASE

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1. **Entire Agreement:** This Agreement, the Agreement Documents, and Buyer's Supplier Manual at www.thepowerportal.com, contain the entire agreement of the parties and supersede any prior proposals, agreements, or negotiations, whether written or oral, and may only be modified in writing signed by both parties. Any terms on any Seller invoice or transfer documents will not modify this Agreement. E-mail and other electronic communication are valid writings and may be deemed acceptance, when applicable. If any provision of this Agreement is deemed void, the remaining parts of this Agreement will remain in full force and effect. The failure of Buyer to insist upon strict performance of any provision of this Agreement or to exercise any right arising out of this Agreement shall not act as a waiver of Buyer's rights.
3. **Governing Law:** This Agreement shall be governed by the laws of the State of Delaware. The provisions of the 1980 U.N. Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.
4. **Assignments:** Seller may assign any purchase order to Seller's wholly owned subsidiaries, and any such subsidiaries shall be bound by this Agreement. Seller may not assign this Agreement or any purchase order, or the right to payment, to any third party without Buyer's consent.
5. **Buyer Subsidiary Purchases:** This Agreement applies to any Buyer subsidiary that purchases Products from Seller. Neither Buyer nor any of its subsidiaries shall be jointly and severally liable for any of the others' separate purchases. Buyer's and its subsidiaries' purchases shall be aggregated for any calculations that depend on Buyer's purchase levels.
6. **Independent Contractor:** Buyer and Seller are independent contractors, and neither party may obligate the other to any third party. The breaching party will indemnify the other for any breaches, damages, and costs incurred from any unapproved third party obligations.
7. **Cancellation and Termination:**
 - a. **Cancel Purchase Order for Convenience:** Buyer may cancel any part of a purchase order for convenience upon written notice to Seller. Buyer will pay Seller for delivered Products and the reasonable work-in-process and inventory costs Seller incurred up to the date canceled, not to exceed the original order cost, which must be submitted in 30 days of Buyer's cancellation.
 - b. **Cancel Purchase Order for Default:** Buyer may cancel any part of a purchase order without liability if Seller is in default for more than 10 calendar days, even if default is caused beyond Seller's reasonable control. If Buyer cancels due to Seller's default, Seller will be liable for any costs and damages incurred by Buyer that are fully, or in part, attributable to Seller's default and may be required, in Buyer's sole discretion, to deliver to Buyer some or all Products in Seller's finished goods inventory as of the date of termination, provided such Products were included in Buyer's most recent Forecast.
 - c. **Terminate Entire Agreement:** Buyer may terminate this Agreement for convenience upon written notice to Seller. Buyer will pay Seller for delivered Products and the reasonable work-in-process and inventory costs Seller incurred for open purchase orders up to the date of the termination. Buyer may negotiate with Seller to complete open purchase orders.
8. **Purchase Order Changes:** Buyer may change any purchase order. Buyer and Seller will negotiate any resulting price or delivery changes, which must be approved in writing by Buyer.
9. **Delays and Availability:** Seller acknowledges and agrees that time is of the essence. Seller must meet the delivery schedule and fulfill quantities actually ordered by Buyer without making excess material or production commitments, or using expedited shipping methods. Seller will be responsible for all costs



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associated with any excess material or production commitments and for any expedited shipping to meet its obligations hereunder.

10. Transportation: Unless otherwise agreed by the parties in writing, transportation of Products and risk of loss shall be governed by FCA – Named Place for domestic shipments, and FOB – Port of Origin for international shipments (INCO Terms 2020). Seller will transport all Products via Buyer's designated carriers with the transportation charges collect or third party billing on drop shipments. Seller must provide Buyer with an Advance Ship Notice ("ASN") with each shipment the same day the shipment departs Seller's facility. Failure to provide an ASN in accordance with these requirements will result in a penalty of \$350 per occurrence. All amounts due from Seller to Buyer pursuant to this provision shall be set-off from any amounts due and owing from Buyer to Seller.

11. Title: Title to the Products shall transfer when delivered to the first carrier if shipped FCA or FOB, Title to the Products shall transfer when the Products are delivered to the Buyer's door under other transportation terms.

12. Inspection / Returns: Buyer has a reasonable period to inspect Products on delivery and may return any defective or nonconforming Products. Seller shall pay Buyer for all unpacking, examining, repacking, and reshipping costs, including Buyer's cost of sorting and reworking.

13. Payment Terms: Seller will invoice Buyer in accordance with Buyer's invoice requirements.. Provided Seller is in full compliance with the terms and conditions of this Agreement, Buyer will make payment to Seller within seventy-five (75) days of receipt of an undisputed invoice.

14. Set-Off: Buyer may set off any amount Seller or any affiliated company owes Buyer against any amount Buyer owes Seller under this Agreement.

15. Buyer's Property: Everything Buyer provides or pays for will be Buyer's property, including tools, dies, test equipment, material, inventions, trade secrets, and business information. Seller will mark Buyer's property "Property of Briggs & Stratton, LLC", keep it in good repair, use it only for Buyer's Products, and insure it at replacement cost, with loss payable to Buyer. At Buyer's request, Seller will return Buyer's property within 30 days at Seller's expense in the same condition originally received by Seller, reasonable wear excepted.

16. Intellectual Property Infringement: Seller will not use or incorporate any copyrighted, patented, or proprietary materials of others in Products without authorization, and will defend Buyer against any such claims. If a Product is enjoined, Seller will at its expense procure the right for Buyer to use the Product, replace it with a non-infringing equivalent, or, with Buyer's written approval, remove the Product and refund the purchase price and the transportation and installation costs.

17. Indemnification: Seller will indemnify, and hold harmless, Buyer and Buyer's directors, officers, employees, agents, distributors, dealers, and resale customers against all claims, losses, costs, and damages, including incidental and consequential damages and reasonable attorney fees arising from:

- a. Injury or Damage on Buyer's Premises: Any bodily injury, personal injury, death, or property damage due to any act or omission by Seller or Seller's agents or contractors, except to the extent Buyer is determined to have been proportionately negligent in causing such injury, death, or property damage.
- b. Defects, Infringement, or Breach: (i) Any alleged or actual defects in the Products, whether latent or patent, due to design, warning, or manufacture; or (ii) Failure to conform with any applicable health and safety law requirements; (iii) Any alleged or actual, direct or indirect, infringement of any



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patents, trade secrets, trademarks, or service marks by the use, sale, or lease of any Products; (iv) Any breach of the representations or warranties contained herein or made by Seller, or Seller's failure to meet the required delivery timing of the Products.

18. Publicity and Trademarks: Seller will not use Buyer's products or its name in any promotional activity or publicly comment on the existence of this Agreement, in either case without Buyer's prior written consent. Buyer's and Seller's trademarks, service marks, trade names, and logos shall remain their exclusive property. Neither Buyer nor Seller may use the other's marks in any manner, including but not limited to public broadcast, advertisement, or document without the others' prior written consent.

19. Confidentiality: In addition to any other confidentiality agreement that may exist between them, Buyer and Seller shall keep all of each other party's information confidential and will not disclose or use it for any purpose other than manufacturing Buyer's Products. This excludes information: (i) publicly available, (ii) already in Seller's possession, (iii) received from a party with no confidentiality obligation to Buyer, or (iv) independently developed by Seller. Furthermore, nothing shall prohibit Seller from disclosing confidential information that is subject to protection under any foreign, federal, state, or local whistleblower law. In addition, Seller agrees that Buyer may use any of the Products supplied hereunder as samples for seeking quotes for similar or replacement Products.

20. Data Privacy: Each of the parties hereto acknowledges that business contact information of its employees that is shared by such party (the "provider") with the other party (the "recipient") may constitute protected personal data pursuant to the European Union General Data Protection Regulation or other applicable laws (collectively, "Privacy Laws"). The provider represents and warrants to the recipient that it has taken all actions necessary to permit the sharing thereof in accordance with applicable Privacy Laws and that use by the recipient of such information is necessary to serve the provider's legitimate interests, in furtherance of the parties' commercial relationship as described herein. The recipient of such information agrees that it will use such information solely in connection with legitimate interests of that relationship.

21. Audit Rights: Buyer may inspect and copy, without charge, any documents Seller has relating to performing this Agreement and compliance with this Agreement, including records of application engineering and testing. In addition, Buyer may view any facilities or processes related to this Agreement, including those relating to production quality. Any audit conducted pursuant to this Agreement will be conducted during normal business hours and upon reasonable advance notice to Seller. Seller must maintain all documents related to this Agreement for a period of at least seven (7) years after final payment is received under this Agreement.

22. Limitation of Liability: Buyer shall not be liable to Seller for any consequential, special, punitive, or indirect damages arising out of this Agreement. In no event shall Buyer's liability to Seller exceed the value of purchase orders issued to Seller within the preceding twelve (12) months.

23. Dispute Resolution: If a dispute is not resolved by general negotiation in 30 days, Buyer and Seller will participate in at least four hours of non-binding mediation before pursuing litigation or other legal remedies. This will occur in Milwaukee, Wisconsin with a mutually-agreed mediator, splitting costs equally.

24. Seller Representations and Warranties:

a. **Compliance with Law:** Seller represents and warrants that:

i. **Local and International Laws and Treaties:** All Products have been, or shall be, produced, packaged, labeled, shipped, and invoiced in accordance with the applicable requirements of federal, state, and local laws of the US and all other countries in which the Products are produced or



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delivered, including, but not limited to, the Force Labour Convention of 1930, as amended 1957, and the United Nations Convention on the Rights of the Child of 1989.

ii. **Prices:** Prices charged and allowances made available to Buyer are in compliance with the Robinson-Patman Act.

iii. **Fair Labor Standards Act:** Seller and Seller's sub-suppliers will comply with all labor practices, including the Fair Labor Standards Act of 1938, as amended, and the Equal Pay Act of 1963, as amended.

iv. **Non-Discrimination:** Seller will comply with Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1967 (ADEA), as amended, Sections 501 and 505 of the Rehabilitation Act of 1973, Titles I and V of the Americans with Disabilities Act of 1990, as amended (ADA), Civil Rights Act of 1991, and Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA), and all equivalent applicable state and local laws.

b. **Environmental, Health & Safety, and Certifications:** Seller represents and warrants the items below, and Seller will immediately notify Buyer by telephone, followed by written confirmation within 24 hours, of any Products that violate applicable health or safety rules or standards.

i. **Chemicals:** Each chemical substance listed or contained in a Product complies with applicable federal, state, and local environmental, health, and safety laws including the Toxic Substances Control Act, Occupational Safety and Health Act, and Federal Hazardous Substances Act, as amended, the European Union REACH and RoHS Directives, and Buyer's most current Supplier Manual at www.thepowerportal.com.

ii. **Safety Laws:** The Products comply with the applicable safety laws, including the US Consumer Product Safety Act, as amended, and applicable industry standards and warrants it will maintain UL, IEC, CSA, ANSI, ASTM, PGMA, PWMA, and any other voluntary and required certifications.

c. **Conflict Minerals:** Seller will maintain a supply chain policy and records sufficient for Buyer to audit and determine if conflict minerals defined by the US SEC are part of any Products.

d. **Quality Warranty:** Seller warrants that the Products will be: (i) new and fit for the purposes for which purchased by Buyer, (ii) manufactured in compliance with the specification and the most recently approved quality system, (iii) free from third party claims, and (iv) free from defects until the later of 24 months after delivery to Buyer, or 24 months after delivery to Buyer's retail customer. Seller will reimburse Buyer for the costs of repairing or replacing defective goods. Seller will not change vendors or any manufacturing processes which adversely affects Product design, specification, quality, availability, part numbers, or prices without Buyer's prior written consent.

e. **Intellectual Property:** Seller represents and warrants that the Products are free of infringement and violation of any third-party intellectual property rights.

f. **Anti-Dumping, Foreign Purchases:** If Buyer is the importer of record, Seller warrants that all sales made under the purchase order are at not less than fair value under US Anti-Dumping Laws. If Seller is the importer of record, Buyer will not be a party to the importing, Buyer's name will not appear as importer of record on any customs declaration, the purchase will be done after importation occurs, and Seller will give Buyer a properly executed Customs Form 7552 "Delivery Certificate" and Form FD 701 "Importers Entry Notice," if applicable.



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g. **Country of Origin:** Seller warrants that its invoices for Products imported by Seller will correctly, conspicuously, and permanently state the “country of origin” (where the Product were actually manufactured) and provide Buyer any related Certificate of Origin or NAFTA Certificate of Origin.

h. **Code of Conduct & Social Responsibility:** To ensure Seller conducts business in a socially responsible manner, Seller must adhere to Buyer’s Supplier Code of Conduct www.thepowerportal.com and is subject to a periodic on-site audit by Buyer or a designated third party to confirm Seller’s compliance.

25. **Survival:** All provisions regarding indemnification, warranty, liability, and limits thereon, and confidentiality and/or protections of proprietary rights and trade secrets shall survive the termination of this Agreement.

26. **Construction:** This Agreement has been negotiated and prepared by the parties and their respective counsel, and should any provision of this Agreement require judicial interpretation, the court interpreting or construing the provision shall not apply the rule of construction that a document is to be construed more strictly against one party.

SCHEDULING AGREEMENT TERMS

27. **Scheduling Agreements:** “Scheduling Agreements” are blanket purchase orders with ongoing Product quantity supply requirements communicated to Seller through Buyer’s twelve (12) month rolling forecast (the “Forecast”). In addition to the terms and conditions defined elsewhere in this Agreement, the terms in this “Scheduling Agreement Terms” Section are applicable to all Scheduling Agreements.

28. **Inventory:** Seller shall purchase and maintain components as necessary to supply Buyer with quantities of Products set forth in the Forecast.

29. **Cancellation or Reduction of Scheduling Agreements:** Buyer retains the right to cancel any Scheduling Agreement or reduce demand in the Forecast. In the event Buyer cancels a Scheduling Agreement or reduces demand in the Forecast, Buyer agrees to be solely liable for four (4) weeks of finished goods and four (4) weeks of raw material purchases. The liability for finished goods and raw material purchases defined in this section shall be calculated only after standard transit time has elapsed. This remedy shall be Seller’s sole and exclusive remedy in the event Buyer cancels a Scheduling Agreement or reduces demand in the Forecast.

30. **Changes:** Notwithstanding anything to the contrary herein, Buyer may change any Scheduling Agreement quantities or dates, as communicated through Buyer’s Forecast. Any resulting price or delivery changes must be approved in writing by Buyer.