

101 Landy Lane
Cincinnati, OH 45215

ASSUMPTIONS UNDERLYING QUOTATIONS FOR BUILD-TO-PRINT PROJECTS

These Assumptions are an integral part of any quotation ("Quote") issued by General Tool Company ("GTC") and submitted to a prospective customer/buyer ("BUYER") in response to that BUYER's request for quotations ("RFQ") to deliver goods and/or perform services as described therein.

Notwithstanding any language to the contrary contained in BUYER's terms and conditions, issuance by BUYER of any purchase order ("PO") based on a Quote shall be deemed acceptance of these Assumptions as a condition precedent, and these Assumptions shall apply to all POs thereafter issued by BUYER to GTC under the same terms and conditions (including all future revisions that contain the same or similar language), unless exception is acknowledged by express written consent of both parties. Nothing herein is intended to affect any mandatory flow-down clauses to be included in subcontracts made pursuant to U.S. Government contracts.

1. Enforceability and order of precedence. Any Assumption contained herein as to which no exception is acknowledged by express written consent of both parties prior to the issuance of a PO shall be fully enforceable and incorporated as if set forth in writing in BUYER's terms and conditions, and with the same order of precedence prescribed therein. Any dispute that may arise after the issuance of a PO regarding these Assumptions shall be governed in accordance with the provisions of section 10 hereof (Changes and disputes) to allow GTC an opportunity to consider the impact on prices and/or deliveries contained in its original underlying Quote.
2. Pricing, payment, and taxes. All prices shall be in U.S. Dollars payable in cash or equivalent, due Net-30 days from date of invoice. A finance charge of 1½% per month shall be assessed on all past due invoices. The prices set forth in a Quote shall not include any amount for sales, use or transfer taxes. Any such taxes will be separately billed on GTC's invoice and BUYER shall be liable for them unless proper proof of exemption is furnished to GTC.
3. Credit approval. Acceptance of a PO from BUYER shall be contingent upon approval by GTC of BUYER's credit worthiness, based on payment history, credit references, or otherwise at GTC's sole discretion.
4. Delivery. All deliveries shall be FOB-shipping point from GTC's facilities in Cincinnati, Ohio. Delivery dates quoted are approximate only and assume timely receipt by GTC of all details necessary for performance. On-time delivery shall be a material condition to performance and GTC's failure to substantially perform to the agreed delivery schedule, if unexcused, may be considered a breach. BUYER's acceptance of late deliveries will not constitute an ongoing waiver of this provision.
5. Scrap and rework. Each individual line-item price shall include an allowance for scrap and rework as considered necessary based on specific engineering estimates, course of dealings between BUYER and GTC, or in accordance with industry practice. However, whenever raw materials, commercial components, or other goods are to be furnished by the BUYER for use by GTC in the performance of a PO, the individual line-item price cannot and therefore will not include any allowance for the related cost of scrap and the BUYER shall assume all risk of loss for scrap and replacement of its own raw materials, commercial components, or other goods.
6. Returned goods. Goods or services that are non-conforming may be repaired, replaced, or re-performed by mutual agreement of the parties. BUYER must notify GTC of any non-conformance that may result in rejection of goods immediately upon inspection thereof, but in any event not later than 90 days after shipment by GTC. A Return Material Authorization (RMA) number must be obtained from GTC prior to return of any goods. In the event the parties agree that the purchase price of non-conforming goods previously paid by BUYER are to be reimbursed by GTC, BUYER must immediately return all related tangible and intangible work products to GTC.
7. No setoff rights. BUYER shall not be permitted to unilaterally offset amounts owed (or alleged) regarding any claims from the past against amounts otherwise due to GTC for unrelated services performed or goods delivered thereafter.
8. BUYER warranties. In addition to any warranties that may be implied by law, BUYER expressly warrants and agrees that: (a) its drawings and specifications may be relied upon for design-compliant manufacturing; (b) when its drawings are followed using customary manufacturing processes, results will meet final drawing dimensions; and (c) GTC is under no obligation to verify BUYER's design intent or drawing accuracy before accepting a PO.

In the event GTC determines any one of the following, all affected work shall be halted and the BUYER shall be notified immediately for resolution: (a) that an individual drawing or specification (or revision) is in conflict or inconsistent with any other drawing or specification (or revision), or with the PO; (b) that the overall drawings and specifications are inadequate to perform the scope of work; or (c) that BUYER is in breach of its warranties contained in the preceding paragraph. Such notification shall be treated as if a formal change had been issued by BUYER, effective on the date BUYER receives it from GTC, and the change shall be governed in accordance with the provisions of section 10 hereof (Changes and disputes).

9. GTC warranties. GTC warrants and agrees that all goods supplied to BUYER shall: (a) conform fully to all drawings and specifications contained in the PO unless exception[s] is[are] communicated in writing; (b) be manufactured consistent with customary manufacturing processes and free from defects in materials and workmanship; and (c) be free and clear of all liens, claims, security interests and encumbrances whatsoever. To be enforceable, BUYER must assert a valid warranty claim and such claim must be received by GTC no later than one year from the date of shipment of goods or performance of services. GTC specifically disclaims any other warranties express or implied, including but not limited to merchantability and fitness for a particular use.
10. Changes and disputes. Any changes requested by BUYER must be evaluated and considered by GTC, in its sole discretion, for potential cost and delivery impact and any resulting claims will be submitted by GTC in writing, adequately supported, within the response time prescribed by BUYER's terms and conditions. Likewise, any claims made by GTC shall be deemed unconditionally accepted unless BUYER provides a dispositive answer, in writing and adequately supported, within the same response time (beginning on the date received by BUYER) as that prescribed for GTC in initiating such claims.

GTC shall not be excused from continuing to perform its obligations under an existing PO during the pendency of a claim, subject only to one or both of the following exceptions: (a) as provided under the second paragraph of section 8 hereof (BUYER warranties); or (b) in the event of a material breach by BUYER. Regarding exception (b), BUYER's complete rejection of a claim and/or its failure to negotiate a reasonable settlement of any such claim in good faith shall be deemed a material breach of contract.

If after the issuance of a PO a dispute arises between the parties regarding any provision of these Assumptions, and for which no exception has been acknowledged by express written consent of both parties, such dispute shall be treated as a change requested by BUYER and shall be resolved in accordance with this clause. All other disputes shall be resolved in accordance with BUYER's terms and conditions.

11. Termination for convenience (accounting methodology). BUYER and GTC both hereby acknowledge in advance that, in the event of a termination for convenience, the use of form SF1435 (inventory basis) is not well suited to a fair and accurate accounting for costs in a contract manufacturing environment like GTC's. Therefore, it is mutually agreed that GTC's contract costs shall be submitted and evaluated using form SF1436 (total cost basis) and following its guidelines for that purpose.
12. Confidentiality. All information disclosed by either BUYER or GTC pursuant to or in furtherance of a RFQ, Quote or PO, and the goods or services described therein, shall be treated as trade secret and proprietary and the recipient shall protect and keep confidential such information and shall not disclose nor convert such information for its own use in any way whatsoever without the prior written consent of the disclosing party.
13. Indemnification and product liability insurance. As the designer and/or owner of all intellectual property rights to any goods to be delivered under its PO, BUYER in its sole discretion shall be fully and solely responsible for carrying any product liability insurance and shall indemnify and hold GTC harmless from and against any third-party claims, whether in contract, tort or otherwise. In addition, any provisions contained in BUYER's terms and conditions regarding indemnification (other than for product liability) shall be made mutual in their entirety (including the definition of "Indemnitees") and shall apply equally to both BUYER and GTC.
14. Limited liability for damages. In no event shall either party be responsible or liable to the other party, whether in contract, tort, or otherwise, for special, indirect, incidental, punitive, or consequential damages arising out of or in connection with a PO and the goods and/or services described therein.
15. Partial invalidity. If any provision of these Assumptions is prohibited by law or otherwise determined to be invalid or unenforceable by a court of competent jurisdiction, that prohibition or determination shall not affect the validity of the remaining provisions herein.
16. Jurisdiction, forum, and governing law. Any legal action by either party against the other relating to a PO may be brought in a court of competent jurisdiction in Hamilton County, Ohio. For this purpose, each party consents to personal jurisdiction in such court and waives any right to dismiss or transfer such action or proceeding because of the inconvenience of the forum. Nothing in this section shall prevent enforcement in another forum of any judgment so obtained.

All time bars to actions (i.e., statutes of limitations) by either party shall be consistent with the statutory law of the governing jurisdiction. Any disputes that arise regarding a PO having a clear nexus to the State of Ohio shall be governed and construed in accordance with the laws of Ohio without regard to its conflict of laws principles.