

APOGEE ENTERPRISES, INC. Purchase Order Terms and Conditions

These Terms and Conditions ("Terms") are incorporated into this Purchase Order ("PO") issued by Apogee Enterprises, Inc. or any of its affiliated companies identified in the PO for the purchase of goods or services.

1. **ACCEPTANCE.** "Purchaser" will mean Apogee Enterprises, Inc. or any of its affiliates, including Viracon, Inc., Viracon Georgia, Inc., Apogee Wausau Group, Inc. (by and through Wausau Window and Wall Systems or Linetec businesses), EFCO Corporation, Harmon, Inc., Tru Vue, Inc., or Tubelite, Inc. "Vendor" will mean the provider of goods or services under this PO. This PO is an offer by Purchaser to buy the goods and/or services described herein, and it becomes a binding contract on these Terms when accepted by Vendor on the earlier of Vendor's: (1) written or electronic acknowledgment, (2) shipment or delivery, (3) commencement of work or services, or (3) acceptance of payment. Vendor's acceptance hereof is limited to the Terms and requirements of this PO. No revision of this PO or its Terms will be valid unless in writing and signed by Purchaser's authorized representative. No additional or different terms or conditions stated by Vendor in an acceptance, acknowledgement, or other document will be binding on Purchaser.
 2. **TERMINATION.** Purchaser may terminate this PO, in whole or in part, at any time for its convenience upon Vendor's receipt of written notice (including e-mail notice). Such notice will state Purchaser's instructions to terminate the PO, the extent to which delivery or performance under the PO is terminated, and the termination date. Unless otherwise instructed by the Purchaser, Vendor will stop work immediately on receipt of notice. For delivery or performance that has been performed by the Vendor in accordance with the PO terms, prior to the effective date of termination, the Purchaser shall pay Vendor at the PO prices and in accordance with the PO. Purchaser may also terminate this PO if Vendor: (i) fails to deliver the goods or perform the services within the time period(s) specified herein; (ii) fails to deliver goods or perform services in the manner required by the PO; (iii) fails to deliver the goods or perform the services in conformance with all requirements of this PO; (iv) becomes insolvent or files a petition for relief of debtors; or (v) breaches any obligations or warranties hereunder. In such event, Purchaser will give Vendor written notice of the default or breach and Vendor will have fifteen (15) days from Vendor's receipt of such notice to cure. If the Vendor fails to cure within the fifteen (15) day period, this PO will immediately terminate.
 3. **CHANGES.** Purchaser will have the right at any time to make changes in the requirements, specifications, materials, packaging, time and place of delivery, or method of transportation for this PO upon prior written notice to Vendor. If any such changes cause an increase or decrease in the cost or the time required for the performance, an equitable negotiated adjustment will be made and the agreement created by the acceptance of this PO will be modified in writing accordingly. Vendor agrees to accept any such changes subject to this paragraph.
 4. **SPECIFICATIONS; QUANTITIES.** By acceptance hereof, Vendor will be deemed to have inspected and approved all specifications applicable to the goods and/or services ordered hereunder. Vendor will not deliver, and Purchaser will not have any obligation or liability with respect to, any quantity of goods in excess of the quantity ordered, unless Purchaser agrees otherwise in writing.
 5. **WARRANTIES.** Vendor expressly warrants that (1) it will convey good title to all goods furnished hereunder; (2) all goods and/or services furnished hereunder will conform to all of Vendor's specifications and appropriate industry standards, (3) Vendor will perform any related services in an efficient, safe, courteous and business-like manner, (4) that the goods or services will be free from defects in material and workmanship, and (5) that the goods will be merchantable. If Vendor knows or has reason to know the particular purpose for which Purchaser intends to use the goods, Vendor warrants that such goods will be fit for such particular purpose. The warranties of Vendor will run to Purchaser, its successors and assigns. Vendor hereby assigns to Purchaser any warranties provided by manufacturers of products incorporated into goods or services provided by Vendor. ANY ATTEMPT BY VENDOR TO DISCLAIM, EXCLUDE, LIMIT, OR MODIFY ANY WARRANTIES OR VENDOR'S LIABILITY HEREUNDER WILL BE OF NO FORCE OR EFFECT.
 6. **DEFECTIVE OR NONCONFORMING GOODS OR SERVICES.** Purchaser will have thirty (30) calendar days after receipt of goods or performance of services to accept or reject the goods or services as non-conforming with this PO. Rejected goods will be returned to Vendor, transportation charges collect, or held by Purchaser for disposition at Vendor's risk and expense. Based on an inspection of a valid sample, Purchaser may reject, in whole or in part, any special order goods ("Contract Work"). Such inspection will not relieve Vendor of any obligations hereunder. Purchaser may charge Vendor the cost of inspecting rejected Contract Work. Vendor agrees that Purchaser's payment under this PO will not be deemed acceptance of any goods or services delivered hereunder. Acceptance will not relieve the Vendor of warranty obligations or liability for defects. Vendor will promptly correct defects or replace any goods or services not conforming to Vendor's warranties, without expense to Purchaser. If Vendor fails to correct defects or replace nonconforming goods promptly, Purchaser after reasonable notice to Vendor may (i) make such corrections or replace such goods and charge Vendor for the costs incurred by Purchaser in doing so, or (ii) charge Vendor for a refund. Such remedies will not exclude any other legal remedies of Purchaser as a result of Vendor's delivery of defective or nonconforming goods or services.
 7. **PACKAGING (Goods Only).** Vendor will provide proper and adequate packaging in accordance with accepted industry practices to ensure that material shipped to Purchaser will be free of damage. Vendor will use commercially reasonable efforts to utilize recycled and/or recyclable packaging materials. Expenses incurred by Purchaser due to Vendor's non-compliance with such instructions will be for the Vendor's account. Purchaser reserves the right to reject any and all shipments it deems to have been inadequately packaged.
 8. **PRICE; PAYMENT TERMS.** Vendor will not charge Purchaser prices higher than stated herein unless authorized in writing by Purchaser. Vendor agrees that the prices for the goods sold to Purchaser hereunder are not less favorable than those currently extended to any other customer of Vendor for the same or similar goods in similar quantities. Vendor warrants that prices shown on this PO will be complete and that no additional charges will be added without Purchaser's prior written consent, including but not limited to, shipping, packaging, duties, taxes, insurance or storage. Purchaser will determine whether it is entitled to any prompt payment discount offered by Vendor by computing the applicable time period from the date of Vendor's delivery to the place of acceptance or from the date of receipt of a correct invoice at the location specified herein, whichever is later, to the date on which the Purchaser mails, wires or transmits its payment. Unless otherwise noted on the face of this PO, Purchaser will make payment on receipt of Vendor's invoice within 45 days or take a 2% discount for payment in 10 days.
 9. **DELIVERY. TIME IS OF THE ESSENCE.** Vendor will give Purchaser advance delivery notice via e-mail within 24 hours prior to delivery hereunder, or by a phone call to Purchaser's Receiving/Loading Dock for all deliveries requiring special handling, such as the use of a forklift. Delivery and/or performance must be completed within the period stated on this PO. Otherwise, the Purchaser reserves the right to cancel this PO without liability and to charge Vendor for any resulting loss, cost, damage and expense incurred as a result of Vendor's failure to fulfill its obligation to deliver within the specified period. If, in order to comply with Purchaser's required delivery date, it becomes necessary for Vendor to ship by a more expensive means than specified herein, any resulting increased transportation costs will be paid for by Vendor unless caused by Purchaser. Vendor will notify Purchaser promptly of any delays or threatened delays in delivery performance. No acceptance of goods or services after the scheduled delivery date will waive Purchaser's rights with respect to such late delivery, nor will it be deemed a waiver of future compliance with the terms hereof.
 10. **RISK OF LOSS.** All risk of loss will be upon Vendor from the time the goods first come under Vendor's control until such time as the goods are delivered to the destination specified by Purchaser. Vendor will defend, indemnify and hold Purchaser harmless for any and all loss, cost, damage, and expense which Purchaser will sustain as a result of or in consequence of the loss of or damage to the goods during such period.
 11. **COMPLIANCE.** Vendor will ensure that all Vendor's employees, agents or subcontractors observe and comply with all applicable safety rules and regulations, including Purchaser's fire, safety and security policies and procedures. Vendor will further ensure that, if applicable, any work areas assigned by Purchaser to Vendor are cleaned daily, and remain free of hazards. Vendor, its agents, employees, carriers and subcontractors will (a) comply with all applicable laws, ordinances, codes, rules, regulations and government orders, including but not limited to, those pertaining to labor and working conditions, safety, health and hazardous materials, (b) apply for, obtain, and pay for all necessary permits and licenses, and pay applicable fees in connection therewith, and (c) pay promptly when due any and all applicable sales, excise, or other taxes due on goods or services furnished hereunder, and all taxes and amounts due under applicable unemployment, social security, and worker's compensation laws.
 12. **OWNERSHIP OF DELIVERABLE WORK.** Any deliverables or other creative work provided by Vendor under this PO or Statement of Work attached to or referenced herein, including but not limited to, all written, graphic, audio, visual or other written or electronic materials ("Deliverable Work") is provided to Purchaser as "work made for hire" in accordance with applicable laws. Unless otherwise specified in this PO or Statement of Work, Purchaser will be the sole owner of all Deliverable Work from the time of its creation or invention. Purchaser will own all right, title and interest in such Deliverable Work. If, under applicable laws, Deliverable Work does not qualify as a work made for hire, Vendor hereby irrevocably transfers and assigns to Purchaser all of Vendor's right, title and interest in and to the Deliverable Work, including without limitation all of its right, title and interest in copyright and related rights free of any claim by Vendor or any other person or entity. Vendor retains any rights it may have to pre-existing materials or work used in the creation of the Deliverable Work. Deliverable Work will not be deemed accepted until Purchaser has had a reasonable opportunity to inspect the goods or services.
 13. **CONFLICTS OF INTEREST.** Vendor will at all times while on Purchaser's premises adhere to Purchaser's policies, as well as any applicable standards of business conduct. Vendor will comply with all Purchaser policies, rules, laws and regulations pertaining to entertainment or providing gratuities. Vendor warrants that, at the time of acceptance of this PO, Vendor and its employees, agents, representatives or subcontractors are not engaged, and will not engage, in any assignments that are in conflict with Vendor's obligations under this PO. Vendor further warrants that no employee or agent of Purchaser has received from, or will be offered by, Vendor any direct or indirect benefit arising from this PO. Vendor and its employees, agents, representatives and subcontractors will strictly avoid carrying out any other assignments that may conflict with Vendor's obligations under this PO, or the award thereof. Vendor agrees that breach of this provision is cause for termination of this PO for default.
 14. **CLOSE RELATIVES OR FORMER EMPLOYEES OF PURCHASER.** Vendor will not assign any or all of the sale of goods, services or obligations under this PO to any of Vendor's employees or subcontractor's employees who are former employees of Purchaser or relatives of current Purchaser employees or representatives. For purposes of this clause, the term "relative" is defined as (including those related by adoption and/or step or half relationships): mother, father, sister, brother, son, daughter, aunt, uncle, niece and nephew. If Purchaser or Vendor discovers that any of Vendor's employees, agents or Vendor's subcontractor's employees are former employees of Purchaser or close relatives of a current Purchaser employee or representative, Purchaser may direct Vendor to promptly replace said employee(s) at no additional cost to Purchaser. Any Vendor replacement employee will have equivalent skills at no additional cost to the Purchaser. Vendor will reimburse Purchaser for any actual direct costs incurred by Purchaser resulting from a knowing violation of this Article. Vendor will provide written notice to Purchaser identifying the replacement Vendor employee or subcontractor employee it intends to assign under this Article. Purchaser will have the sole right and discretion to approve such replacement employee.
 15. **INDEPENDENT CONTRACTOR.** This PO is made with Vendor acting as an independent contractor and not as an employee, joint venture partner or other legal representative of Purchaser. Purchaser will not provide Vendor or its employees, directors, subcontractors or agents with worker's compensation benefits, unemployment or disability insurance, liability insurance or any other benefits or insurance that may be available to Purchaser's employees. Vendor will not represent that it is an agent or legal representative of Purchaser or incur any liabilities or obligations on behalf of Purchaser without Purchaser's prior written authorization.
 16. **INDEMNIFICATION.** Vendor will defend, indemnify and hold harmless Purchaser, its directors, officers, employees, agents and representatives from and against any third party liability, loss, claims, demands, damage (including damage to property or bodily injury), and expenses (including reasonable attorney's fees) arising out of, or in any way resulting from, Vendor's performance or non-performance hereunder, including any defect or nonconformity with Vendor's warranties for the goods and services delivered hereunder; any act or omission of Vendor, its agents, employees, or subcontractors; any failure by Vendor, its agents, employees, carriers, or subcontractors to comply with the terms hereof; and any infringement or claim of infringement of any patent, copyright, trademark, trade secret or other intellectual property right.
 17. **INSURANCE.** Vendor will, at its own expense, procure and maintain during the entire period of performance under this PO, any insurance required by law and the following minimum insurance coverage in amounts no less than indicated:
 - a) **Workers' Compensation Insurance** – Covering all employees of Vendor and any other person as required by applicable statute.
 - b) **Employers' Liability Insurance** - In the minimum amount of \$1,000,000 per accident for bodily injury and \$1,000,000 per employee for bodily injury by disease.
 - c) **Automobile Liability Insurance (for use of Vendor vehicles to deliver goods or perform services)** – Covering all of Vendor's owned, hired and non-owned vehicles, in the minimum amount of \$1,000,000 combined single limit per accident for bodily injury and property damage.
 - d) **Commercial General Liability Insurance** – Including products liability, completed operations, contractual liability (applicable to this PO), contingent liability coverage for subcontractors, and broad form property damage endorsement, with minimum limits of \$1,000,000 per occurrence and annual aggregate limits of \$2,000,000.
 - e) **Errors & Omissions or other Professional Liability Insurance (Services only)** - Sufficient to cover services rendered under this PO, with a minimum of \$500,000.
- Upon acceptance of this PO, Vendor will promptly furnish to Purchaser certificates of insurance as evidence of these coverages, and at any other time upon Purchaser's request. Purchaser is to be notified at least thirty (30) days prior to the cancellation or material modification of such insurance. Purchaser will be named as an additional insured on the commercial general liability insurance. All insurance required hereunder shall be deemed primary insurance and shall not be deemed excess to any insurance of Purchaser.
18. **LIMITATIONS.** In no event will Purchaser be liable to Vendor for any special, incidental, indirect or consequential losses arising out of this PO. Any action resulting from any breach by Purchaser hereunder must be commenced within two (2) years after the cause of action has accrued.
 19. **SET-OFF.** All claims for money due or payable to Purchaser hereunder will be subject to deduction or set off by Purchaser.
 20. **FORCE MAJEURE.** Upon written notice to the other party, Purchaser or Vendor may delay delivery or acceptance due to causes beyond their reasonable control, and such delay will not be considered a breach of, or default under, this PO if the delay is caused by a Force Majeure Event which makes the affected party's performance impossible or impracticable, either in whole or in part. "Force Majeure Event" will mean causes beyond the reasonable control of Purchaser or Vendor, including but not limited to, war, riot, terrorism or threat of terrorism, civil disorder, strikes, earthquake, fire, explosion, flood, weather conditions, government action or embargoes so long as such causes are not due to Purchaser's or Vendor's fault or negligence. The party affected by the Force Majeure Event will use best efforts to cure the delay. Vendor will deliver the ordered goods or resume services when the Force Majeure Event has been removed, or if partial performance is possible, Vendor will allocate the goods to Customer based on Purchaser's requirements.
 21. **CONFIDENTIALITY; INFORMATION SECURITY.** The contents of this PO, and all related business or technical information of Purchaser, will be kept strictly confidential by Vendor and will not be disclosed by Vendor to any third party or utilized by Vendor except as required by Purchaser. Vendor will keep confidential all information related to the goods or services provided for hereunder, and will not disclose to third parties any such confidential information without the written permission of Purchaser. Vendor will require that its employees, agents, representatives or subcontractors authorized by Purchaser to provide goods or perform services hereunder will comply with these confidentiality obligations. If Vendor uses any of Purchaser's systems or has access to Purchaser information, electronic or otherwise, Vendor will treat all such information as confidential. Vendor, its employees, agents, representatives or subcontractors will comply with all of Purchaser's Information Security Policies and Procedures. Further, Vendor will not disclose or use Purchaser's name, Purchaser's trademarks or logos in any advertisements, news releases or discussions with third parties without Purchaser's prior written approval.
 22. **AUDIT.** Vendor agrees to maintain, in accordance with sound and generally accepted accounting practices, records supporting all amounts invoiced under this PO. Vendor will make such records available to the Purchaser or the Purchaser's designated representative at all reasonable times until the expiration of three (3) years after the date of final payment, for the purpose of auditing this PO. In the event an audit determines that Purchaser has overpaid Vendor, Vendor will reimburse the Purchaser, within thirty (30) days after receipt of a written request thereof, the amount of any such overpayment.
 23. **ASSIGNMENT.** Vendor will not assign or transfer this PO, or any part hereof, or any monies payable or to become payable hereunder without the prior written consent of Purchaser.
 24. **GENERAL PROVISIONS.** Any waiver by Purchaser of strict compliance with any of these Terms will not be deemed a waiver of any other Terms hereof, and will not be deemed a waiver of any of Purchaser's rights, privileges, claims, or remedies. This PO, and any documents referenced herein, constitutes the entire agreement between the parties. All prior agreements, written or oral, relating to the subject matter hereof are superseded by the terms hereof. Such terms may be modified only by a writing signed by both parties. The provisions of this PO are severable, and in the event that any provision is held to be unenforceable, the remaining provisions will continue in full force and effect. This PO, and the contract created by the acceptance thereof, are governed by, and will be construed in accordance with, the laws of the state in which the goods are to be delivered or the services are to be performed, without regarding the conflicts of laws principles thereof.
 25. **EQUAL OPPORTUNITY/AFFIRMATIVE ACTION.** The seller will comply with all applicable provisions of Executive Order 11246 as amended, the provisions found in Sec. 503 of the Rehabilitation Act of 1973 as amended, 38 U.S.C. 4212 of the Vietnam Era Veterans Readjustment Assistance Act as amended, and Executive Order 13496 as amended, and all relevant rules, regulations, and orders of the Secretary of Labor.
 26. **EEO AND NOTICE OF LABOR RIGHTS.** Seller shall, to the extent they apply, abide by (1) the requirements of 41 CFR §§ 60-1.4 (a), 60-300.5(a) and 60-741.5(a) which prohibit discrimination against qualified protected veterans and qualified individuals with disabilities, prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin and require affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability; and (2) 29 CFR § 471, Appendix A to Subpart A as well as any E-Verify obligations described in FAR 52.222-54.
 27. **CONFLICT MINERALS.** By accepting these terms and conditions, you agree to timely respond, to the best of your knowledge and belief following an appropriate due diligence inquiry, to any request by, or on behalf of, Purchaser for information on the source and chain of custody of tantalum, tin, gold or tungsten necessary to the functionality or production of a product manufactured by you or supplied by you to Purchaser. In addition, you understand and acknowledge that any information you provide in this regard may be used by Purchaser for information on the source and chain of custody of tantalum, tin, gold or tungsten to comply with its reporting obligations under the Conflict Minerals Rules of the Dodd-Frank Wall Street Reform and Consumer Protection Act, including filing a Form SD and Conflict Minerals Report with the U.S. Securities and Exchange Commission.