



Purchase Order Terms and Conditions Exxelia USA

1. **WARRANTY:** Exxelia U.S.A. warrants for a period of one (1) year from the date of shipment to Purchases that all products, upon delivery to Purchaser, are free from defects in workmanship and material and shall conform to the specifications. If any product is defective in material or workmanship or fails to meet the requirements of this purchase order. Purchaser shall inform Exxelia U.S.A. and return such products for correction or replacement. Exxelia U.S.A.'s liability for such rejected products being limited solely to the cost of transportation expenses plus the responsibility of repairing such returned products.
This warranty does not exceed to any of our products which fail to operate by reason of improper installation, application, or have been subject to misuse, neglect, or accident or have been repaired or substantially altered outside our factory.
The warranties set forth in this section are exclusive and in lieu of all other warranties whether statutory, express or implied, and the warranties of merchantability and fitness for a particular purpose and all other warranties arising from course of dealing or usage of trade are hereby excluded. The remedies provided herein are Purchaser's sole and exclusive remedies for any failure of Exxelia U.S.A. to comply with its warranty obligations. Correction of the nonconformities in the manner and for the period of time provided herein shall constitute complete fulfillment of Exxelia U.S.A.'s obligation regarding defective articles. Whether the claims by the Purchaser are based in contract, in tort (including negligence) or otherwise.
2. **PATENT, TRADEMARK AND COPYRIGHT INDEMNIFICATION:**
 - a. Exxelia U.S.A. agrees to and shall, at its option, either negotiate and/or defend all claims, suits or proceeding brought against Purchaser if the manufacturing of any product supplied hereunder constitutes and infringement of any patent, copyright or trademark provided Exxelia U.S.A. is notified promptly in writing and is given complete authority and information required for the defense or settlement of same. Exxelia U.S.A. shall pay all judgments, decrees, compromises, costs and expenses arising from any charge or infringement against Purchaser, but Exxelia U.S.A. shall not be liable for compromises incurred or made by Purchaser without Exxelia U.S.A.'s prior written consent.
 - b. Notwithstanding the foregoing, Exxelia U.S.A. shall have no obligation with respect to claims of infringement based upon use of the Products in combination with products supplied by others or Exxelia U.S.A.
 - c. The foregoing states the entire liability of Exxelia U.S.A. for all loss or damage whatsoever to Purchaser, and its subsidiaries, arising from infringement of patents, trademarks, and copyrights.
3. **CHANGES:** Any change in Purchaser's drawings or specifications required by the Purchaser may be made only after an equitable adjustment, mutually negotiated by both parties.
4. **TERMINATION:**
 - a. FOR CONVENIENCE. Purchaser may terminate this order, for convenience with forty-five(45) day written notice. Purchaser's liability shall include the cost of completed items, work in process, and raw materials purchased for this purchase order.

b. FOR DEFAULT. Either party may terminate this purchase order if the other party: fails to correct any breach within thirty (30) days of a written cure notice, or becomes insolvent, or files a petition in Bankruptcy Court, and such proceeding has not been dissolved.

The sole and exclusive remedy available to either party shall be the termination of this purchase order.

5. **FORCE MAJEURE:** Exxelia U.S.A. shall not be held responsible for any delay or failure hereunder caused by fires, strikes, embargoes, Government requirements, Civil or military authorities, acts of God or by the public enemy, acts of omissions of carriers or other causes beyond Exxelia U.S.A.'s control.
6. **LIMITATION OF LIABILITY:** Exxelia U.S.A. shall not be liable to Purchaser under this purchase order. Whether in contract, in tort(including negligence), under any warranty or otherwise for any special, indirect, incidental or consequential loss or damage or loss of profits or revenues resulting from, arising out of or in connection with this sale or from the performance or breach thereof, or from the manufacture, sale, delivery, resale, repair or use of any product covered by or furnished under this purchase order.
7. **INDEMNIFICATION:** Purchaser agrees to defend, indemnify and hold harmless Exxelia U.S.A. from and against any and all claims, including third party claims, which constitute a claim or claims beyond the remedies provided herein. Purchaser's obligation to defend, indemnify and hold harmless Exxelia U.S.A. shall apply even if Exxelia U.S.A. is negligent, legally at fault or liable under the laws of any country.
8. **GENERAL:**
 - a. If any of the provisions of this acknowledgment are invalid under any applicable statute or rule of law, such provisions are to that extent, deemed omitted, but this agreement and the remainder of its provisions otherwise remain in effect.
 - b. No provisions of this acknowledgment shall be deemed waived, amended or modified by either party, unless such waiver, amendment or modification is in writing and signed by the parties.
 - c. If the products covered by this agreement are to be used in making parts or equipment under a contract with a department or agency of the United States. We will comply with any provisions of such contract which are constructed as mandatory flow downs, but reserve the right to limit inspection or proprietary processes and areas as we may deem necessary.
 - d. All matters regarding this order shall be interpreted in accordance with the laws of the State of Florida and any controversy that cannot be settled directly shall be settled by arbitration subject to the liability limitations set forth above, in accordance with the rules then prevailing of the American Arbitration Association, and judgment upon the award rendered may be entered in any court having jurisdiction thereof.