

PURCHASE ORDER TERMS AND CONDITIONS

1. **ACCEPTANCE:** This order becomes the exclusive agreement between the parties for the Supplies and/or services, subject to the terms and conditions herein. Any of the following shall constitute an unqualified acceptance by Seller of this order.
 - (i) Acknowledgment of this order,
 - (ii) furnishing of any products or services under this order,
 - (iii) acceptance of any payment, or
 - (iv) commencement of performance under this order.

Additional or different terms or conditions proposed by Seller shall be void and of no effect unless accepted in writing by Buyer. No change in modification or revision of this order shall be valid unless in writing and signed by Buyer.

2. **CHANGES:**

- (a) Buyer may, at any time by written notice and without notice to sureties or assignees, make changes within the general scope of this order in any one or more of the following:

- (i) drawings, designs or specifications,
 - (ii) method of shipping or packing,
 - (iii) place of inspection acceptance or point of delivery, and
 - (iv) delivery schedule.

Should any such change increase or decrease the cost or the time required for performance of this order, an equitable adjustment may be requested by Seller or Buyer in the price, delivery schedule or both. No request by Seller for such adjustment will be valid unless submitted to Buyer within thirty (30) days from date of such change. The request for adjustment should include charges for redundant material, work in process and any other costs involved. Any claim for cost associated with a change in the scope of the work shall be documented in the detail prescribed by Part 43.203b of the Federal Acquisition Regulations and will not be considered valid unless submitted within six (6) months of the change.

- (b) Buyer's engineering and technical personnel may from time to time render assistance to the Seller concerning the items or services to be furnished pursuant to this order. No change order will be binding unless issued in writing by Buyer's authorized procurement representative. Any request of action by Buyer's Technical Staff that Seller considers to constitute a change to the scope of this order shall be identified in writing to the Buyer's authorized procurement representative within thirty (30) days of the alleged change. Nothing contained in this clause shall relieve Seller from proceeding without delay in the performance of this order as changed.

3. **INDEMNIFICATION.** Seller shall comply with all the requirements placed upon the Seller and its subcontractors by 10 USC 2306a. Cost or Pricing Data: Truth in Negotiations, as such requirements are or become applicable hereto; and further, Seller shall indemnify Buyer against and hold Buyer harmless from any loss or damage, including Buyer's lost profit and overhead, under Buyer's contracts with its customer as a result of Seller's noncompliance with such requirements.
4. **DISPUTES.** Pending resolution of any dispute arising under this purchase order, Seller shall proceed diligently with the performance of this purchase order and, with reference to the matter in dispute, in such manner as may be directed by Buyer.
5. **GOVERNING LAW.** This Purchase Order Contract shall be construed, interpreted and the rights of the parties determined in accordance with the laws of the State of New York.
6. **INSPECTION.** Seller expressly warrants that all items covered by this Purchase Order shall conform to specifications, drawings, samples, or other description set forth in the contract or furnished by Buyer, that they shall be merchantable, of good material and workmanship and free from defects. Said warranties, however, shall not be deemed to limit any warranties of additional scope given to Buyer by Seller. All property and workmanship pertaining to this Purchase Order shall be subject, upon request of the Buyer, to inspection and test by representatives of the Buyer. Final inspection

PURCHASE ORDER TERMS AND CONDITIONS

shall be made by the Buyer after delivery is made unless otherwise provided for in the Purchase Order. If inspection or test, preliminary or final, by Buyer or the Federal Government, is required to be made on the Seller's premises, the Seller shall furnish all reasonable facilities and assistance for safe and convenient inspections and tests required by inspectors of the Buyer or the Federal Government in performance of their duties. Final inspection and acceptance by Buyer shall not terminate Seller's liability for any defects not revealed by reasonable inspection, or resulting from fraud or such gross mistakes as amount to fraud.

The provisions of the foregoing paragraph shall not relieve the Seller of the obligations to make full and adequate tests and inspection.

Notwithstanding any prior payments or acceptance, Buyer may reject and return any items not of quality ordered or not in conformance with specifications or warranties. At Buyer's option, Seller either:

- (a) shall promptly reimburse the Buyer for the invoiced price of any rejected or returned items plus all transportation charges paid by the Buyer plus any and all damages sustained by Buyer as a result of Seller's breach of warranty, or
- (b) shall replace without additional cost to the Buyer such rejected and returned items if the Buyer requests such replacement.

7. **INVOICING.** Seller shall mail for each shipment: (1) an original invoice (so marked) and two copies thereof to Buyer's Accounts Payable Department and, (2) if appropriate (i.e., F.O.B. origin) the original bill of lading or express receipt signed by Carrier to Buyer's Receiving Department. No price increase claimed on the basis of prices in effect at shipping date shall be honored by the Buyer unless it is specifically provided for in the body of the Purchase Order.
8. **TAXES.** Unless otherwise indicated in this Purchase Order, the prices herein shall not include any Federal, state, or local sales, use or other taxes from which the Seller or this transaction or procurement is exempt or for which the Buyer supplies a tax exemption certificate acceptable to the taxing authorities.
9. **EXAMINATION OF RECORDS.** Seller's books and records pertaining to the work under this Purchase Order shall at all reasonable times be subject to inspection and audit by the Buyer.
10. **TERMINATION.** Buyer may, by written or electronic notice, terminate this Purchase Order and the performance of work hereunder, in whole or from time to time in part, for reason of default of the Seller or whenever, for any reason, Buyer deems such termination to be in his best interest. Upon receipt of such notice, Seller shall terminate work when and to the extent specified in the notice, terminate all orders and subcontracts to the extent they relate to the work terminated, continue work not terminated and take necessary actions for the protection of property in the Seller's possession in which the Buyer or the Government has or may acquire an interest. The amount of fair compensation to be paid the Seller in event of a termination shall be negotiated by the Seller and the Buyer.
11. **CONFIDENTIALITY/PUBLICATION.** The Seller shall not publish, permit to be published, or distribute for public consumption, any information oral or written, concerning the work being performed or the results or conclusions made pursuant to the performance of this order, without the prior written consent of the Buyer. (Two copies of any material proposed to be published or distributed shall be submitted to the Buyer for such approval.)

The Seller also agrees to preserve as confidential all information obtained by him pertaining to the business of the Buyer and shall not, without first obtaining Buyer's written consent, advertise, publish or disseminate in any manner the fact that Seller has furnished or has contracted to furnish Buyer the items covered hereby, nor advertise, publish or disseminate in any manner the name of any person or organization affiliated with the Buyer.

The Seller further agrees to require similar agreements of all his suppliers and agents to whom any work or duty relating to this Purchase Order may be allotted.

12. **COMPLIANCE WITH LAW.** Seller shall, in performing on this Purchase Order, comply with all laws, orders, regulations, ordinances, local laws, proclamations, demands, requisitions and directives of

PURCHASE ORDER TERMS AND CONDITIONS

the Federal Government or of any state, political subdivision, or any authority or representative thereof which may now or hereafter relate to manufacture, sale or delivery of the items covered by this Purchase Order or dissemination of information in connection therewith.

13. **PATENT INDEMNIFICATION.** The Seller agrees to indemnify the Buyer and his successors, assignees, and customers against liability, including costs and expenses for infringement upon any Letters Patent of the United States or Copyright Rights arising out of the purchase, use, or disposal of the items covered by this Purchase Order, insofar as such items represent a device or composition of design submitted by Seller or are of Seller's standard manufacture.
14. **SUBCONTRACTING.** Seller shall not subcontract for completed or substantially completed articles called for hereunder without prior written consent of Buyer. This limitation does not apply to the purchase of standard commercial supplies or raw materials.
15. **ASSIGNMENT.** Buyer shall have the right to set-off amounts now or hereafter owing (whether or not due and payable) by Seller to Buyer, under this contract or otherwise, against amounts which are then, or may thereafter, become due and payable to Seller under this contract. Neither this contract nor monies due or to become due hereunder shall be assigned by Seller in whole or in part without Buyer's prior written consent. Should Seller make assignment or purported assignment of this contract or monies due or to become due hereunder without Buyer's prior written consent, Buyer, at its option, may cancel this contract without obligation to make any further payments hereunder.
16. **MODIFICATIONS.** This Purchase Order cannot be modified except by written consent of the Buyer, and the provisions of this Purchase Order shall be deemed to control irrespective of any conditions specified by the Seller in conflict therewith.
17. **GOVERNMENT CONTRACTS.** If this order is placed pursuant to a government prime or subcontract indicated on face of order, the following shall apply: Seller will comply with all pertinent Acquisition Regulations of any government agency funding this order or otherwise, and agrees to accept as its obligation the following provisions of the Federal Acquisition Regulations (FAR) or equivalent Federal Procurement Regulation (FPR) and Department of Defense supplement to the Federal Acquisition Regulations as are included in the Buyer's government prime contract or subcontract, which regulations are incorporated herein by reference:

52.203-3	Gratuities
52.203-5	Covenant Against Contingent Fees
52.203-6	Restrictions on Subcontractor Sales to the Government
52.203-7	Anti-Kickback Procedures
52.203-11	Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions
52.203-12	Limitation on Payments to Influence Certain Federal Transactions
52.204-2	Security Requirements
52.209-5	Certification Regarding Debarment Suspension, Proposed Debarment and Other Responsibility Matters
52.209-6	Protecting the Government's Interest When Subcontracting with Contracts Debarred, Suspended, or Proposed for Debarment.
52.211-5	Material Requirements
52.211-15	Defense Priority & Allocation Requirements
52.212-3	Offeror Representations and Certifications - Commercial Items
52.214-26	Audit and Records - Sealed Bidding
52.214-27	Price Reduction for Defective Cost or Pricing Data - Modifications - Sealed Bidding
52.214-28	Subcontractor Cost or Pricing Data - Modifications - Sealed Bidding
52.215-2	Audit and Records - Negotiations
52.215-10	Price Reduction for Defective Cost or Pricing Data
52.215-11	Price Reduction for Defective Cost or Pricing Data - Modifications
52.215-12	Subcontractor Cost or Pricing Data
52.215-13	Subcontractor Cost or Pricing Data - Modifications

PURCHASE ORDER TERMS AND CONDITIONS

52.215-14	Integrity of Unit Prices
52.215-15	Pension Adjustments and Asset Revisions
52.215-18	Reversion of Adjustment of Plans for Postretirement Benefits (PRB) Other than Pensions
52.215-19	Notification of Ownership Changes
52.216-5	Price Redetermination - Prospective
52.216-6	Price Redetermination - Retroactive
52.216-7	Allowable Cost and Payment
52.219-8	Utilization of Small Business Concerns
52.219-9	Small Business Subcontracting Plan
52.222-1	Notice to the Government of Labor Disputes
52.222-3	Convict Labor
52.222-4	Contract Work Hours and Safety Standards Act Overtime Compensation
52.222-6	Davis-Bacon Act
52.222-11	Subcontracts (Labor Standards)
52.222-12	Contract Termination - Debarment
52.222-13	Compliance with Davis-Bacon and Related Act Regulations
52.222-20	Walsh-Healy Public Contracts Act
52.222-21	Prohibition of Segregated Facilities
52.222-22	Previous Contracts and Compliance Reports

THIS ORDER IS SUBJECT TO THE FOLLOWING CONDITIONS

52.222-26	Equal Opportunity
52.222-35	Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans
52.222-36	Affirmative Action for Workers with Disabilities
52.222-37	Employment Reports on Disabled Veterans, Veterans of the Vietnam Era, and other Eligible Veterans
52.222-41	Service Contract Act of 1965, as amended
52.223-3	Hazardous Material Identification and Material. Safety Data
52.223-6	Drug Free Workplace
52.223-7	Notice of Radioactive Materials
52.223-11	Ozone-Depleting Substances
52.223-13	Certification of Toxic Chemical Release Reporting
52.223-14	Toxic Chemical Release Reporting
52.224-2	Privacy Act
52.225-1	Buy American Act – Supplies
52.225-8	Duty-Free Entry
52.225-13	Restrictions on Certain Foreign Purchases
52.227-1	Authorization and Consent
52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement
52.227-3	Patent Indemnity
52.227-6	Royalty Information
52.227-9	Refund of Royalties
52.227-10	Filing of Patent Applications - Classified Subject Matter
52.227-11	Patent Rights - Retention by the Contractor - (Short Form)
52.227-12	Patent Rights - Retention by the Contractor (Long Form)
52.227-13	Patent Rights - Acquisition by the Government
52.227-14	Rights and Data - General
52.227-16	Additional Data Requirements
52.227-17	Rights in Data - Special Works
52.227-18	Rights in Data - Existing Works
52.227-19	Commercial Computer Software - Restricted Rights
52.227-23	Rights to Proposal Data (Technical)

PURCHASE ORDER TERMS AND CONDITIONS

52.228-3	Worker's Compensation Insurance (Defense Base Act)
52.228-4	Worker's Compensation and War Hazard Insurance Overseas
52.228-5	Insurance-Work on a Government Installation
52.229-3	Federal, State and Local Taxes
52.229-10	State of New Mexico Gross Receipts and Compensating Tax
52.230-2	Cost Accounting Standards
52.230-3	Disclosure and Consistency of Cost Accounting Practices
52.230-4	Consistency in Cost Accounting Practices
52.230-6	Administration of Cost Accounting Standards
52.232-11	Extras
52.232-16	Progress Payments
52.233-3	Protest After Award
52.234-1	Industrial Resources Developed Under Defense Production Act Title III
52.236-13	Accident Prevention
52.242-15	Stop Work Order
52.243-1	Changes - Fixed Price
52.243-2	Changes - Cost Reimbursement
52.243-3	Changes -Time and Materials or Labor Hours
52.243-4	Changes
52.243-5	Changes and Changed Conditions
52.244-2	Subcontracts
52.244-6	Subcontracts for Commercial Items
52.245-2	Government Property (Fixed-Price)
52.245-17	Special Tooling
52.245-18	Special Test Equipment
52.246-2	Inspection of Supplies - Fixed Price
52.246-3	Inspection of Supplies - Cost Reimbursement
52.246-4	Inspection of Services - Fixed Price
52.246-5	Inspection of Services - Cost Reimbursement
52.246-6	Inspection - Time-and-Material and Labor-Hours
52.246-7	Inspection of Research and Development – Fixed Price
52.246-8	Inspection of Research and Development - Cost Reimbursement
52.246-9	Inspection of Research and Development (Short Form)
52.246-10	Inspection of Facilities
52.246-23	Limitation of Liability
52.246-24	Limitation of Liability - High Value Items
52.246-25	Limitation of Liability – Services
52.247-63	Preference for U.S. – Flag Air Carriers
52.247-64	Preference for Privately Owned U.S. – Flag Commercial Vessels
52.248-1	Value Engineering
52.248-3	Value Engineering – Construction
52.249-1	Termination for Convenience of the Government (Fixed Price) (Short Form)
52.249-2	Termination for Convenience of the Government (Fixed Price)
52.249-4	Termination for Convenience of the Government (Services) (Short Form)
52.249-5	Termination for Convenience of the Government (Educational and Other Non-Profit Institutions)
52.249-6	Termination (Cost-Reimbursement)
52.249-8	Default (Fixed Price Supply and Service)
52.249-9	Default (Fixed Price Research and Development)
52.249-10	Default (Fixed Price Construction)
52.249-12	Termination (Personnel Services)

PURCHASE ORDER TERMS AND CONDITIONS

The following clauses from the Department of Defense Supplement to the Federal Acquisition Regulations are also hereby incorporated by reference as if fully set forth herein.

252.203-7001	Prohibition on Persons Convicted of Fraud or Other Defense – Contract - Related Felonies
252.204-7000	Disclosure of Information
252.208-7000	Intent to Furnish Precious Metals as Government-Furnished Material
252.209-7000	Reserved
252.211-7000	Acquisition Streamlining
252.212-7001	Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to Defense Acquisitions of Commercial Items
252.215-7000	Pricing Adjustment
252.219-7003	Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (DoD Contracts)
252.222-7000	Restrictions on Employment of Personnel
252.223-7002	Safety Precautions for Ammunition and Explosives
252.223-7005	Reserved
252.223-7006	Prohibition on Storage and Disposal of Toxic and Hazardous Materials
252.223-7007	Safeguarding Sensitive Conventional Arms, Ammunition and Explosives
252.225-7008	Reserved
252.225-7009	Reserved
252.225-7010	Reserved
252.225-7014	Preference for Domestic Specialty Metals
252.225-7016	Restriction on Acquisition of Ball and Roller Bearings
252.225-7025	Restriction an Acquisition of Forgings
252.225-7026	Reserved
252.225-7032	Waiver of United Kingdom Levies – Evaluation of Offers
252.225-7037	Evaluation of Offers for Aircircuit Breakers
252.227-7013	Rights in Technical Data - Noncommercial Items
252.227-7014	Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation
252.227-7016	Rights in Bid or Proposal Information
252.227-7018	Rights in Noncommercial Technical Data and Computer Software - Small Business Innovative Research (SBIR) Program
252.227-7019	Validation of Asserted Restrictions - Computer Software
252.227-7033	Rights in Shop Drawings
252.227-7034	Patents - Subcontracts
252.227-7037	Validation of Restrictive Markings on Technical Data
252.228-7005	Accident Reporting and Investigation Involving Aircraft, Missiles and Space Launch Vehicles
252.235-7003	Frequency Authorization
252.236-7000	Modification Proposals - Price Breakdown
252.239-7016	Telecommunications Security Equipment, Devices, Techniques, and Services
252.246-7001	Warranty of Data
252.247-7023	Transportation of Supplies by Sea
252.247-7024	Notification of Transportation of Supplies by Sea
252.249-7002	Notification of Anticipated Program Termination or Reduction

In all referenced Government Contract provisions where necessary to make the context of these clauses applicable to this order, the term "Contractor" shall mean "Seller", the term "Contract" shall mean "this purchase order" and the terms, when appropriate, "Government". "Contracting Officer" and equivalent phrases shall include "Buyer". All referenced FAR/DFAR/FPR paragraph numbers refer to current paragraphs and revisions in effect as of the date of the prime contract.