

TERMS AND CONDITIONS

I. Packaging, Marking and Shipping

- A. All shipments shall be properly packed, marked and shipped in accordance with the requirements of the common carrier transporting the same and in a manner which will permit securing of the lowest transportation rates.
- B. Seller shall properly mark each package with Buyer's order number, the number of packages in the shipment, the quantity and part number, if any, of its contents showing gross, tare and net weights.
- C. Seller shall mail to Buyer duplicate invoices, original bill of lading and/or original copy of express receipt as the case may be, so that such instruments are received by the Buyer before the arrival of shipment. All invoices, memos of shipment, bills of lading, express receipts; packing slips and/or similar documents shall bear this Purchase Order number. Separate packing slips shall be included in each package of each shipment and shall also state the quantity, the serial number of packages in the shipment.
- D. Seller shall route shipments in accordance with instructions issued by Buyer's purchasing department, and in the absence of specific shipping and/or routing instructions, Seller shall ship all goods by most economical means of transportation.
- E. No charges shall be allowed for transportation, storage, boxing, crating, or other packaging unless otherwise stated herein.
- F. If Buyer finds it necessary to require shipment of any of the items covered by the Purchase Order by air or railway express rather than by freight because of the failure of Seller to meet the delivery requirements of this Purchase Order, Seller shall reimburse Buyer in the amount equal to the difference between freight rate and the air or railway express rate, unless such failure to meet delivery requirements is due to cause beyond the control and without the fault or neglect of Seller.

II. General Terms and Conditions

- A. ACKNOWLEDGEMENT OF ACCEPTANCE – Seller shall promptly acknowledge this order in writing by completing the acknowledgement copy of the Purchase Order. Unless otherwise provided herein, the written acknowledgement of this Purchase Order or the delivery by Seller of any supplies or the furnishing by Seller of any services in accordance with this Purchase Order, subject to all of its terms and conditions. This order, including the above terms and conditions, contains the complete and final agreement between Buyer and Seller, and no other agreement in any way modifying any of said terms and conditions will be binding upon Buyer unless in writing and signed by Buyer's authorized representative.
- B. DELIVERY SCHEDULES – Deliveries shall be made in the manner and at the time specified in this order, time being of the essence. Shipments in excess of quantity ordered may be returned by Buyer at Seller's expense. Buyer shall have no liability whatsoever to Seller in respect of any over shipment. If supplies of material or services covered by this Purchase Order are not delivered within the time stated Buyer reserves the right to cancel this Purchase Order.
- C. PRICE – If price is omitted on order, except where order is given in acceptance of quoted prices, it is agreed that Seller's price will be their lowest prevailing market price in Buyer's area to like buyers, and in no event, is the order to be filled at higher prices than last previously quoted or charged to Buyer, without Buyer's written consent.
- D. QUALITY – All materials and said services will be subject to inspection and rejection at Buyer's plant. Defective services may be rejected by Buyer without cost to it and defective material, including material not in accordance with specifications, drawings or samples or other description furnished by Buyer may be returned to the Seller for full credit or replacement at the Seller's risk and expense including all transportation and handling expenses incurred in connection with the rejected supplies. Payment for material and/or services on this order prior to inspection and acceptance shall not constitute an acceptance.
- E. SPECIAL TOOLING – Seller agrees that all special tooling, the price of which is itemized separately herein, shall become the property of the Buyer upon payment therefor. Buyer shall not be obligated to pay therefor until Buyer has accepted under paragraph D, as conforming to the contract requirements, the first production run of parts fabricated by the means thereof and Seller has furnished to Buyer, an itemized list of such tooling, the cost of which shall be subject to audit by Buyer. The term "special tooling" as herein used includes all special tools, jigs, fixtures, drawings, and patterns acquired or manufactured by Seller for use in the performance of this contract and does not include any standard or perishable tooling, gauges or measuring instruments. Seller shall (1) be responsible for all loss or damage to such tooling while in its possession; (2) mark and number same in order to permit accurate identification of same at all times; (3) keep same in good working condition and (4) use same exclusively for the production of material for Buyer and for no other use except with Buyer's written permission.
- F. REPRODUCTIONS AND DATE RESTRICTIONS – Seller agrees not to make any use of any of the tooling data design drawings, patterns, specifications, and other information or materials furnished to it by Buyer except for the performance of this contract. Seller further agrees not to disclose such data, drawings, designs, patterns, specifications or other information to others except for the performance of this contract under similar restrictions against use and disclosure. Upon completion, cancellation, or termination of this contract, Seller shall return to Buyer on demand all such tooling data, drawings, designs, patterns, specifications and other information including copies made by Seller.
- G. NO IMPLIED WAIVER – Failure to require performance of any provision of this purchase order shall in no way affect Buyer's right to require such performance at any time thereafter, nor shall waiver by either party of a breach of any provisions of this order constitute a waiver of any succeeding breach of the same or any provision.
- H. PATENTS – By accepting this order, Seller guarantees and warrants that the goods, wares and/or products described herein and the sale or use of the same will not infringe any United States or Foreign Letters Patent, and Seller agrees to defend, protect and save harmless Buyer, Buyer's assigns and Buyer's customers and the users of Buyer's products against all suits at law or in equity and from all actions, claims, costs, damages, and expenses arising by reason of any actual or alleged infringement of any U.S. or foreign patent by reason of the sale, processing, production and/or use of any of the goods, wares and/or products ordered hereby. Buyer shall promptly advise Seller of any such infringement claim being made against it.
- I. INSURANCE – If this order covers the performance of labor for Buyer, Sellers agrees to indemnify and protect Buyer against all liabilities, claims or demands for injuries or damages to any person or property arising from the performance of this contract. Seller further agrees to furnish upon Buyer's request insurance carrier's certification showing that Seller has adequate Workers' Compensation, Public Liability and Property Damage Insurance coverage. Said certificate must show the amount of coverage, number of policy and date of expiration. If Seller is self-insured, the Certificate of the Department of

Labor and Industry of the state in which such labor is to be performed must be furnished by such Department directly to the Buyer.

- J. **FAIR LABOR STANDARDS ACT** – Seller represents and warrants that all goods herein specified will be manufactured and furnished by Seller in accordance with the provisions of the Fair Labor Standards Act of 1938, Sec.6, 7, & 12, as amended, and all other applicable federal, state and/or local laws, rules and regulations.
- K. **TERMINATION** – Buyer reserves the right to cancel this order in whole or at any time by written notice (a) if goods are defective, or not shipped as specified herein or in change notice issued in connection herewith, or not in accordance with specifications or sampler; (b) if Seller fails to comply with other terms and conditions of this order or fails to perform any of its promises or warranties in connection with this order, or shall become insolvent, or shall commit an act of bankruptcy or has a voluntary or involuntary petition of bankruptcy filed against it, or has legal proceedings instituted for the appointment of a receiver, trustee, or assignee for it or its property; (c) in the sole judgement of Buyer, Seller's condition shall be such as to endanger or impair Seller's ability to perform this order; or (d) at Buyer's convenience, provided that in the event of cancellation at Buyer's convenience Buyer will pay the order price for all goods completed and ready for delivery and not previously paid for. All cancelled items not completed shall be paid for on the basis of the actual cost of labor, material and supplies applied to the production of such items and reasonable overhead expense applicable thereto determined in accordance with sound and generally accepted accounting practice; provided, however that the total amount to be paid therefor shall not exceed the contract price for such items as specified herein. Where cancellation results from the fault of Seller, Buyer, at its option, may accept the completed portion and pay for the same on the foregoing basis or may place the order (or such portion thereof as has been cancelled) elsewhere and change Seller with any difference in cost. Upon making such payments, all liability of Buyer to Seller shall cease and all inventories, work in process and undelivered items so paid for by Buyer shall become the property of Buyer.
- L. **NONASSIGNMENT** – Seller shall not assign this Purchase Order or any money due or to become due hereunder without prior written consent of Buyer's authorized representatives.
- M. **WARRANTY** – Seller warrants that the supplies or items covered by this Purchase Order will conform to the specifications, drawings, samples and other descriptions furnished or specified by Buyer, and will be fit and sufficient for the purpose intended, merchantable and of good material and workmanship and free from defect. Approval of Buyer's inspectors, or failure to inspect, shall not affect Seller's warranty obligation.
- N. **CHANGES** – Buyer may at any time, by written change order, make changes in (1) quantities ordered, (2) the drawings, designs and/or specifications applicable to the goods or services covered by this order, (3) the method of shipping and packing, and/or (4) the place of delivery. If any such changes affect the time for performance, the cost of manufacturing such goods, or the cost of furnishing such services. Buyer shall make an equitable adjustment in the purchase price or the delivery schedule or both.
- O. **COMPLIANCE** – Seller agrees that this order shall be subject to all applicable federal, state, and local statutes, laws, rules, regulations and ordinances. Delivery or any goods or performance of any service covered by this order shall constitute Seller's representation to Buyer that there has been full compliance therewith and that goods delivered conform thereto. Seller also acknowledges and agrees that it has in no way violated the Vendors Code Ethics for Buyer.
- P. **HEADINGS** – Headings contained in the section are for convenience only and are not part of the terms and conditions of this Purchase Order.
- Q. **CHEMICALS** – Material Safety Data Sheet and container labeling must be in compliance with OSHA Law 29 CFR 1910.1200.
- R. **FORCE MAJEURE**- Except as to payment obligations, neither party shall be liable or considered in default under this Agreement when the delay of performance is caused by circumstances beyond its reasonable control and occurring without its fault or negligence, including failure of suppliers, subcontractors, and carriers, acts of civil or military authorities, national emergencies, fire, flood, acts of God, insurrection, and war, provided the party involving this Section immediately provides notice thereof to the other and does everything reasonably possible to resume its performance thereunder.

Additional Terms and Conditions

In the event this Purchase Order relates to products, supplies, material and/or services for use in connection with a government defense contract or a sub-contractor, the following additional terms and conditions shall be applicable.

- (1) a. This contract is subject to the Renegotiation Act of 1951 (P.L. 9, 92nd Congress) and shall be deemed to contain all the provisions required by Section 104 of Said Act.
b. The contractor (which term as used in this clause means the party contracting to furnish the material or perform the work required by this contract) agrees to insert the provisions of this clause, including this paragraph b. in all sub-contracts as required by Section 104 of the Renegotiation Act of 1951 provided, that the contractor shall not be required to insert the provisions of this clause in any sub-contract of a class or type described in Section 106 (a) of the Renegotiation Act of 1951.
- (2) Without limiting the rights of Buyer pursuant to paragraph K or the general rules and conditions hereof, this Purchase Order is also subject to termination by Buyer in accordance with provisions of Army Procurement Procedure and particularly paragraph 8-1004 of Section VII hereof, as the same may from time to time be amended; or any comparable provision in any other applicable government procedure which may then be in effect, including without limitation the terms and provisions in the government prime contract to which this Purchase Order relates all of which are incorporated herein by this reference.
- (3) The Equal Opportunity Clause of Section 1.4 of the Rules and Regulations of the Office of Federal Contract Compliance Programs related to Executive Order 11240, the affirmative Action Clause of Section 741.4 of the Rules and Regulations of the Office of Federal Compliance Programs related by Affirmative Action Clause of Section 250.1 of the Rules and Regulations of the Office of Federal Contract Compliance Programs related to Affirmative Action Regulations for Veterans of the Vietnam Era are hereby incorporated by reference.