

General Purchase Order Terms and Conditions

DEFINITION: As used in the order the term “DAR” means Defense Acquisition Regulations and the term “FAR” means Federal Acquisitions Regulations. The effective dates of the below-referred DAR/FAR clauses shall be the date of corresponding clauses in the prime contract that is referenced in the purchase order. Any reference to a “Disputes” clause in the prime contract under which this purchase order is issued shall be inapplicable to the purchase order.”

1. **ACCEPTANCE OF THE PURCHASE ORDER** – This order is Buyer’s offer to Seller for the materials specified or the work to be performed hereunder, and, together with any attachments specifically incorporated herein by reference, contains the entire agreement between Buyer and Seller with respect to such materials or work; and supersedes any other agreements or understanding made to the date hereof. This offer shall become a Contract on the terms and conditions stated herein when it is accepted by Seller either by acknowledgement or performance. No change, modification or revision of this order shall be valid unless in writing by the Buyer.
2. **PACKING AND SHIPPING** – All items must be suitably packed and prepared for shipment to secure lowest transportation rates and comply with carrier regulations, otherwise the difference in packing, crating and cartage, as the case may be, will be charged to Seller. No charges will be paid by Buyer for packing, crating or cartage unless stated in the order. All shipments to be forwarded in one day via one route must be consolidated.
3. **DELIVERY** – Deliveries shall be strictly in accordance with the schedule set out or referred to in the order and in exact quantities. If Seller’s deliveries will not meet such schedule, Buyer may request Seller to ship via routing necessary to meet schedule or recover time lost by non-delivery on schedule, and the difference between revised routing and order routing costs shall be paid by the Seller. Time is of the essence and failure by Seller to complete delivery within the time specified shall, at Buyer’s option without liability, in addition to Buyer’s other rights and remedies, relieve Buyer of any obligation to accept and pay for any such material or work. If at any time it appears Seller may not meet required schedule, Seller shall immediately notify Buyer of the reasons for and estimated duration of the delay and, if requested by Buyer, make every effort to avoid or minimize the delay to the extent possible include the expenditure of premium time. Any additional costs caused by these requirements shall be borne by the Seller.
4. **INVOICES AND PAYMENT** – Unless otherwise provided in this order, no invoices shall be issued nor payments made prior to delivery. Individual invoices must be issued for each shipment under this order. Unless freight and other charges are itemized, any discount will be taken on full amount of invoice. All payments are subject to adjustment for shortage or rejection.
5. **WARRANTIES** – Seller warrants: (a) all items delivered under this order will be free from defects in material and workmanship, will conform to applicable specifications and drawing and, to the extent such items are not manufactured pursuant to detailed designs furnished by Buyer, will be free from defects in design and suitable for intended purposes; (b) unless otherwise stated on the face of this order, all items delivered under this order are new, have not been previously used and are not former Government surplus property; (c) all materials herein described and the sale thereof do not, and the use of the same for their intended purpose will not, constitute infringement or contributory infringement of any patent, copyright or trademark, or violation of any trade secret; (d) in the performance of this order, Seller has complied or will comply with all applicable Federal, State and local laws and ordinances and all lawful orders, rules and regulations thereunder. These warranties are in addition to and shall not be construed as restricting or limiting any warranties of Seller, expressed or implied which are provided or exist by operation of law. The warranties of Seller, together with its service warranties and guarantees, if any, shall transfer to Buyer and its customers.
6. **INSPECTION** – All items are subject to final inspection and acceptance by Buyer at destination, notwithstanding any prior payment or inspection at source, and such inspection shall be made within a reasonable time after delivery. Acceptance of any items by Buyer shall not be deemed to alter or affect the obligations of Seller or the rights of Buyer and its customers under the Warranties clause.
7. **REJECTION** – Buyer shall notify Seller if any items, delivered hereunder are rejected and at Buyer’s election and Seller’s risk and expense, such items shall be held by Buyer or returned to Seller. No replacement of defective items shall be made by Seller unless agreed to in writing by Buyer.
8. **CHANGES** – Buyer may at any time by written notice make changes within the general scope of this order to drawings and specifications, shipping instructions, quantities and delivery schedule. Should any such change increase or decrease the cost of, or the time required for, performance of the order, an equitable adjustment in the price and/or delivery schedule will be made. Any claims for adjustment by Seller must be made within thirty (3) days from the date the change is ordered or within such additional period of time as may be agreed upon.
9. **TITLE AND RISK OF LOSS** – (a) Unless otherwise provided in this order, Seller shall have title and bear the risk of any loss of or damage to the items purchased hereunder until they are delivered in conformity with this order at the f.o.b. point specified on the face hereof, and upon such delivery, title shall pass from Seller to Buyer and Seller’s responsibility for loss or damage shall cease except for loss or damage resulting from Seller’s negligence or failure to comply with this order. Passing of title upon such delivery shall not constitute acceptance of the items by Buyer.
(b) Unless otherwise provided in this order, Seller upon delivery to it or manufacture or acquisition by it, of any materials, parts, special tooling or other property assumes the risk of and shall be responsible for any loss thereof or damage thereto. Seller, in accordance with the provisions of this order, but in any event upon completion thereof, shall return such property to Buyer in the condition in which it was received except for reasonable wear and tear and except to the extent that such property has been incorporated in items delivered under this order, or with this order, Seller shall comply with the provision of the “Manual for Control of Government Property in Possession of Contractors”, (Appendix to B to DAR) which Manual is hereby incorporated by reference. “Special tooling” as herein used includes all special tools, jigs, fixtures, drawings, dies, molds, and patterns acquired or manufactured by Seller for use in the performance of this order, and does not include any standard or perishable tooling, gauges, or measuring instruments.

10. STOP WORK ORDER – The rights and obligations specified in the “Stop Work Order” clause contained in FAR Section 52.212-13 are hereby made applicable to this order by reference except “Contracting Officer” shall mean “Buyer’s Purchasing Representatives” the title “Termination for Convenience of the Government” in paragraph (a) (2) means “Termination” and the words “for the convenience of the Government” in paragraph (c) are replaced by “in accordance with the Termination Clause.”
11. TERMINATION AND DEFAULTS – The rights and/or obligations specified in DAR/FAR Section 8-706/52.249-2 and 7-103.11/52.249-8 are hereby made applicable to this order and any resulting contract and said sections are hereby incorporated in this by reference except that the terms “Contracting Officer” and “Government” used therein shall mean “Buyer”, “Contractor” shall mean “Seller”, “Contract” shall mean “this order”, the “Termination for Convenience” clause shall mean the Termination clause referred to in this Article; and the reference therein to a “Disputes” clause shall be inapplicable Waiver by Buyer of any default by Seller shall not be deemed a waiver of any other default. In the “Termination for Convenience” clause, paragraph (c), the term “45 days” is changed to “90 days” and in paragraph (d), the term “1 year” is changed to “6 months”.
12. USE DESIGNS, DATA, ETC. – Seller agrees that it will keep confidential the features of any equipment, tools, gauges, patterns, designs, drawings, engineering data or other technical data or other technical or proprietary information furnished by Buyer and use such items only in the production of items under this order or other order from Buyer, and not otherwise, unless Buyer’s written consent is first obtained; provided, however, that Seller shall have the right to use such items upon written notice to Buyer in the manufacture of end items for direct sales to the Government to the extent the Government has the right under its prime contracts with Buyer to authorize such use by Seller. Upon completion or termination of this order, Seller shall return all such items to Buyer or make other disposition thereof as may be directed or approved by Buyer.
13. INDEMNIFICATION AGAINST INFRINGEMENT – Seller agrees to indemnify Buyer, its successors, assigns customers and agents from any and all costs, expenses and damages on account of any claim that any of the material covered by this Contract (except material made to Buyer’s detailed designs) infringes any United States Letters Patent, copyright or trademark, or that the same is a violation of any trade secret. Seller shall be notified promptly of each such claim and, to the extent of Buyer’s right to do so, shall be offered control of the defense and settlement of any such claim.
14. NOTICE OF LABOR DISPUTE – Whenever Seller has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this order. Seller shall immediately give notice thereof, including all relevant information with respect thereof, to Buyer. Seller shall require any subcontractor of any material or work hereunder the same or substantially the same obligation as that contained herein.
15. CLEARANCE OF MATERIAL INTENDED FOR PUBLIC RELEASE – No news release, advertisement, public announcement, denial or confirmation of same relating to any parts of the subject matter of this order or any phase of any program hereunder shall be made directly or indirectly without prior written approval of Buyer. If this purchase order is issued under a Government contract, the Government is excluded from the restrictions set out in this provision.
16. SUBCONTRACTING OR ASSIGNING – Neither this order nor the obligations of Seller hereunder shall be subcontracted, assigned or delegated by operation of law or otherwise without Buyer’s prior written consent.
17. GOVERNING LAW – The Purchase Order incorporating these terms and conditions and the performance of the parties hereunder shall be construed in accordance with and governed by the law of the State of California.
18. ADDITIONAL TERMS AND CONDITIONS – If this purchase order is issued under a Government contract, as shown by a number in the P.O. line item entitled “Government Contract Number” on the face of this purchase order, and to the extent they are required by the contract under which this order is issued, or by the Defense Acquisition Requirements (DAR), Federal Acquisition Regulations (FAR) or other comparable government procurement requirements, and subject to the exemptions, conditions and limitations therein specified, the following terms and conditions and the DAR/FAR clauses listed in Article 18 (f) are incorporated herein and made a part hereof.
 - (a) EQUAL EMPLOYMENT OPPORTUNITY – Unless exempt by the provisions of Executive Order 11246, as amended, and DAR/FAR Section 12-805/22810 the Seller shall comply with paragraphs (1) through (7) of Section 202 of Executive Order 11246 and the clause set forth in DAR Section 7-103.18/FAR Section 52.222.26, which are incorporated by reference herein. The term “Contractor” and “Government Prime Contractor” shall mean Seller and “Contractor” shall mean Purchase Order.
 - (b) AFFIRMATIVE ACTION FOR SPECIAL DISABLED AND VIETNAM ERA VETERANS – Seller agrees to comply with the rules, regulations, and relevant order of the Secretary of Labor issued under the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended and the clause set forth in DAR Section 7-103.27/FAR52.222-35 which are incorporated by reference herein.
 - (c) AFFIRMATIVE ACTION FOR HANDICAPPED WORKERS – Seller agrees to comply with the rules, regulations, and relevant order of the Secretary of Labor issued under the Rehabilitation Act of 1973, as amended, and the clause set forth in DAR Section 7-103.27/FAR 52.222-36 which is incorporated by reference herein.
 - (d) DEFINITIONS – Wherever appropriate, when used in any DAR/FAR (regulation referenced in the terms and conditions applicable to this purchase order, “Contracting Officer” and “Government” shall mean Buyer; “Contractor” and “Government Prime Contractor” shall mean Seller; and “Contract” shall mean Purchase Order.
 - (e) INSPECTION AND AUDIT – Seller’s books and records at its plant, or such part thereof as may be engaged in the performance of this purchase order, shall at all reasonable time be subject to inspection and audit by any authorized representatives of the United States Government.
 - (f) EXAMINATION OF RECORDS BY COMPTROLLER GENERAL – Seller agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of 3 years after final payment under this

purchase order, have access to and the right to examine only directly pertinent books, documents, papers, and records of Seller involving transactions related to this purchase order.

- (g) **QUALITY CONTROL** – If this purchase order required compliance with MIL-I-45208, the terms and conditions of DAR 7703.44(52.246-11) Inspection Systems (1967 Aug) are incorporated herein by reference and made a part hereof. If this purchase order requires compliance with MIL-Q-9858, the terms and conditions of DAR 7-104.29 (46.202-3) Quality Program are incorporated herein by reference and made a part thereof.
- (h) **DAR(FAR) Clauses**
 - 7-103.5 Inspection (the term “Government” in this clause shall be deemed to include both the “Government” and the “Buyer”) (52.246.2).
 - 7-103.15 Certain Communist Areas (52-225-11)
 - 7-103.16 Control Work Hours and Safety Standards Act-Overtime Compensation (52.222-4)
 - 7-103.17 Walsh-Healy Public Contracts Act (purchase orders over \$10,000) (52.222-20)
 - 7-103.19 Officials Not to Benefit (52.203-1)
 - 7-103.20 Covenant Against Contingent Fees (52.203-5)
 - 7-103.23 Notice and Assistance Regarding Patent and Copyright Infringement (52.227)
 - 7-103.29 Clean Air and Water (purchase orders over \$100,000) (52.223-2)
 - 7-104.2 Workman’s Compensation and War Hazard Insurance Overseas (52.228-4)
 - 7-104.3 Buy American Act and Balance of Payments Program (52.225-7001)
 - 7-104.4 Notice to the Government of Labor Disputes (52.222-11)
 - 7-104.6 Filing of Patent Applications (52.227)
 - 7-104.8 Report and Refund of Royalties
 - 7-104.9 Rights in Technical Data and Computer Software (52.227)
 - 7-104.12 Military Security Requirements (except for the last sentence of Clause © (52.204-2)
 - 7-104.14 Utilization of Small Business and Small Disadvantaged Business Concerns (52.219-8)
 - 7-104.18 Priorities, Allocations, and Allotments (52.212-8)
 - 7-104.20 Utilization of Labor Surplus Area Concerns (purchase order over \$10,000) (52.220-3)
 - 7-104.26 Special Test Equipment (52.245-18)
 - 7-104.29 Price Reduction for Defective Cost or Pricing Data (purchase order over \$100,000) (52.215-22)
 - 7-104.31 Duty-free Entry for Certain Specified Items and Notice of Imports – Possible Duty-free Entry (52.225-10)
 - 7-104.32 Duty-free Entry – Qualifying Country End Products and Supplies (purchase orders over \$2,500)
 - 7-104.37 Required Sources for Jewel Bearings and Related Items (52.208-1)
 - 7-104.38 Required Sources for Miniature and Instrument Ball Bearings (52.208-7000)
 - 7-104.41 Audit by Department of Defense (purchase orders over \$10,000) (52.215-2)
 - 7-104.42 Subcontractor Cost or Pricing Data (purchase orders over \$100,000) (52.215-24)
 - 7-104.45 Limitation of Liability (52.246-23)
 - 7-104.46 Required Source for Precision Components for Mechanical Time Devices (52.208-7001)
 - 7-104.61 Frequency Authorization
 - 7-104.65 Insurance (52.228-5)
 - 7-104.78 Overseas Distribution of Defense Subcontract Dollars (purchase orders over \$100,000) (52.204-7005)
 - 7-104.79 Safety Precautions for Ammunition and Explosives (52.228-7007)
 - 7-104.93 Preference for Domestic Specialty Metals
 - 7-104.95 Preference for U.S. Flag Air Carriers (52.247-63)
 - 7-104.96 Privacy Act (52.224-2)
 - 7-104.97 Hazardous Material Identification and Material Safety Data (52.223-3)
 - Required source for High-Purity Silicon (52.208-7002)