

CONDITIONS OF PURCHASE

1. **DEFINITIONS OF ARTICLES-** The equipment, articles or supplies by seller under this order are herein called "Articles".
2. **ACCEPTANCE-** This order becomes a binding contract subject to the terms and conditions hereof when accepted by acknowledgement or commencement of performance thereon. No change, modification or revision of this order shall be valid unless in writing signed by the buyer.
3. **PACKING AND SHIPPING-** All transportation, boxing or packing shall be at the Seller's expense unless otherwise stated in this order. All articles shall be packed in suitable containers for protection in shipment and storage. Damage to any Articles resulting from improper packing shall be charged to the Seller. All goods must be shipped per instructions on the face of this order; otherwise all extra handling charges shall be borne by Seller.
4. **WARRANTIES-** Seller expressly warrants that the Articles delivered hereunder will be merchantable, free from defects in material and workmanship, suitable for the use intended and will conform to applicable specifications, drawings, samples and, if of Seller's design, will be free from design defects. All warranties not to be deemed exclude other rights or warranties that Buyer may have or obtain.
5. **CHANGES-** Buyer may, at any time, by written change order and without notice to sureties, make changes in (1) drawing designs or specifications, (2) method of packing or shipment, (3) quantity of Articles ordered, (4) time of delivery, (5) place of delivery, in such event, an equitable adjustment will be made in price and time for the performance of this order. Any claim by Seller for such adjustment must be made within thirty (30) days from the date of the receipt of the change order.
6. **VARIATIONS-** No variations in the delivery schedule, price, quantity, specifications or other provisions of this order will be effective unless agreed to in writing and signed by Buyer's purchasing agent or other authorized representative.
7. **TERMINATION-** Work under this order may be terminated in whole or from time to time by Buyer in accordance with the Subcontract Termination Clause set forth in Paragraph 8-706 of the U.S. Armed Services Procurement Regulation as in effect on the date of this order, which clause incorporated herein by reference.
8. **TERMINATION FOR SELLER'S DEFAULT-** Buyer may be written notice to Seller, terminate the whole or any part of this order if (a) Seller fails to make any delivery within the time specifies (or, if no time is specifies, within a reasonable amount of time; (b) Seller fails to perform any other provision of this order, or so fails to make progress as to endanger performance of this order in accordance with its terms, and in either of these circumstances does not cause such failure within 10 days (or other period designated) after date of notice from Buyer specifying failure. Notice shall be in writing and mailed by the U.S. Mail addressed to the Seller and date of notice shall be the date of mailing, or (c) Seller becomes insolvent or the subject of proceedings under any law relating to bankruptcy or the relief of debtors. Buyer may procure, upon such terms and in such manner as Buyer deem appropriate.

Articles similar to the Articles so terminated: and Seller subject to the exception set forth below, shall be liable to Buyer for any excess costs of such similar Articles. Seller shall continue performance of this order to the extent not terminated. Buyer shall have no obligation to Seller in respect of the terminated part of his order except as hereinafter provided. Seller shall transfer title and delivery to Buyer, in the manner and to the extent requested in writing by Buyer, at or after termination, such completed Articles, partially completed Articles and materials, parts, tools, dies, patterns, jigs, fixtures, plans, drawings, information and contact rights as Seller has produced or acquired for performance or the terminated part of this order, and Buyer will pay Seller the contract price for completed Articles, delivered to and accepted by Buyer and the fair value of the other property so requested and delivered. Buyer's right, as set forth in this Section, shall be in addition to Buyer's other rights in case of Seller's default, whether set forth in this order or not, except that Seller shall not be liable to Buyer for any damages if Seller's default is due to cause beyond its control and without negligence, including but not limited to flood, fire, explosion, strike, act of Government, quarantine, restriction, epidemic or catastrophe.

- 9. EXCESS SHIPMENTS-** Shipments of Articles in excess of the quantity specified in the order, regardless of cause will not be accepted except as provided on the face of this order, and such excess Articles may be returned at Seller's expense.
- 10. TAXES-** The provisions of aspr-15-205.4 (a) (iii) are incorporated herein by reference. All taxes billed Buyer shall be separately stated in Seller's invoices. Buyer shall not pay taxes levied on Seller except as specifically provided in this Purchase Order.
- 11. ACCELERATED DELIVERIES-** Buyer may, at its option either retain Articles received more than thirty (30) days in advance of the delivery schedule or return them to Seller at Seller's risk and expense; if retained, time for payment and discounts shall be based upon delivery schedule dates.
- 12. REPRODUCTION RIGHTS-** Buyer does not grant to Seller (a) any reproduction rights to the Articles ordered, or (b) any rights to use designs, drawings, or other information belonging to or supplied by Buyer in the manufacture or design of Articles or materials for anyone other than Buyer or the Government where the Government has received such rights from Buyer.
- 13. DESIGNS, DATA, TOOLS, ETC.-**Title to all material and information, including without limitation, tools, patterns, equipment, designs, drawings or any other technical or proprietary information, furnished by Seller or for Buyer, or, if furnished by Seller especially for this order and included in the price of and included in the price and relating to the performance of the order, shall remain in Buyer or its customer, as the case may be. All such items shall be confidential. All such items shall be maintained in good condition and shall be subject at all times to disposition as Buyer may direct.

Any knowledge or information which Seller shall have disclosed or may hereafter disclose to Buyer in connection with the purchase of goods or services covered by this order shall not, unless otherwise specifically agreed upon in writing by the Buyer be deemed to be confidential or proprietary

information, and shall be acquired, free from any restrictions (other than a claim for patent infringement) as part of the consideration for this order.

14. PATENT RIGHTS- If any experimental development or research work is called for a required under this order, Seller agrees to assign to Buyer each invention (whether patent-able or not) conceived or first reduced to practice in the performance of this order. (Not Applicable if this order is placed under a Government contract.)

15. PATENTS-

(a) To the extent that the Articles ordered are manufactured to designs not originated by Buyer, Seller guarantees that the sale and/or use of such

Articles delivered hereunder will not infringe any United States patents, and agrees to indemnify and save Buyer and/or its customers harmless from any expense, loss, cost, damage or liability which may be incurred on account of infringement or alleged infringement of patent right with the respect to such supplies and to defend, at its own expense, any action or claim in which such infringement is alleged, provided Seller is notified as to such actions or claims against Buyer. Indemnification as to use shall not apply to infringements arising from use in combination with other items where infringement would not have occurred from the normal use for which the Articles was designed.

(b) If payment is made under this order for experimental, developmental or research work, the provisions of the Patent Rights clause appearing in Paragraph 9-107.2 (b) of Armed Service Procurement Regulations shall apply.

16. INSPECTION- All articles will be subject to final inspection and acceptance at destination, notwithstanding prior payment therefor. Any rejected Articles returned to the Seller shall be at the Seller's expense and no replacements of such defective Articles shall be made unless specified by Buyer. Buyer reserves the right to reject all defective Articles and return to Seller for full reimbursement, including transportation and handling charges. If Seller fails to promptly replace and correct rejected Articles to Buyer's satisfaction, Buyer by subcontract or otherwise replaces or correct such Articles and Seller shall be liable to Buyer for any excess costs incurred thereby. This paragraph shall not limit Buyer's rights or Seller's obligation under any other provision of this order or the terms and conditions herein contained or in law or equity.

17. PAYMENT- Unless otherwise stated, cash discount periods will commence from the date of receipt of Articles or of invoice, whichever is later.

18. RISK OF LOSS- Seller assumes the following risks: a) all risks of loss or damage to all Articles ordered, work in process, materials and other things until the delivery thereof as herein provided; b) all risks or damage to 3rd persons and their property until the delivery of all the Articles ordered as herein provided c) all risk of loss or damage to any property in the possession of Seller received from or held for the account of Buyer, including Government-furnished property, until such property has been delivered to Buyer or the Government, as the case may be; and d) all risks of loss or damage to any of the Articles ordered or part thereof rejected by the Buyer, from the time of shipment thereof to Seller until redelivery thereof Buyer. All

material and equipment furnished by Buyer on other than a charge basis shall at all times remain the property of the Buyer. If Seller performs services, or constructs, erects, inspects or deliver hereunder, Seller will indemnify or save harmless Buyer from all the loss or payment of all sums of money by reason of all accidents, injuries or damages to persons or property that may happen or occur in connection therewith.

19. FAIR LABOR STANDARDS ACT- Seller shall comply with provisions of the Fair Labor Standards Act in the manufacture of Articles hereunder, and Seller shall accompany all invoices with appropriate certificate of compliance.

20. GOVERNMENT CONTRACT CLAUSE- When a Government contract number applies, this order is also subject to the following additional terms and conditions:

(a) The following ASPR clauses apply and are incorporated herein by reference:

- Cost and Pricing Data (ASPR 3-807.3)
- Buy American Act (ASPR 6-104.5)
- Inspection (Paragraph [a] (ASPR 7-103.5
- Renegotiations (ASPR 7-103.20
- Officials Not of Benefit (ASPR 7-103.19)
- Covenant against Contingent Fees (ASPR 7-103.20)
- Notice of Labor Disputes (ASPR 7-104.4
- Military Security Requirements (ASPR 7-104.12)
- Utilization of Small Business (ASPR 7-104.14)
- Records (ASPR 7-104.14)
- Priorities (ASPR 7-104.20
- Labor Surplus Areas (ASPR 7-104.20)
- Defective Pricing Data (ASPR 7-104.29)
- Convict Labor (ASPR 12.203)
- Eight-Hour Law of 1912 (ASPR 12.303.1)
- Walsh-Healey Act (ASPR 12-604)
- Government Property (ASPR 13-502) except that the clause shall not be construed to relieve Seller from liability for loss or destruction of or damages to Government property while in the Seller's possession or control.

(b) The following, articles set forth in the Armed Services Procurement Regulation in effect as of the date of this purchase order are incorporated herein by reference.

“Notice and Assistance Regarding Patent Infringement” (9-104)

“Basic Data” (9-203.1_ supplemented with additional data provisions ((-107.2)

“Filing of Patent Applications” (9-106)

“Royalty Information” (9-110A)

and if this purchase order involves experimental, developmental or research work, the additional data provision for such contracts (9-203.4) shall replace (9-203.2 and the Article entitled “Patent-Rights-Domestic” (9-107.2)

(c) When necessary to make the context of the above clauses and Articles set forth in the preceding subparagraphs (a) and (b) applicable to this

order, the term "government" and equivalent phrases shall mean the Buyer. The term "contractor" shall mean the Seller. The term "contract" shall mean this purchase order except that the military limitation determining applicability of any clause shall refer to the Buyer's contract.

(d) In addition, the following special provisions shall apply.

(i) Seller shall be entitled to full benefit of whatever Authorization and Consent Clause is contained in Buyer's contract with its customer in accordance with such clause.

(ii) Seller shall comply with the provisions contained in Section 301 or Presidential Executive Order 10925 dated March 6, 1961, relating to non-discrimination. For the purpose of such section. The word "contractor" shall mean seller.

(iii) Seller agrees that its books and records and its plants or such part thereof as may be engaged in performance under this purchase order, shall at all reasonable times be subject to inspection and audit by any authorized representative of the Government.