

Terms & Conditions of Purchase

TERMS AND CONDITIONS OF PURCHASE

1. **DEFINITIONS.** "Agree" and "Agreement" means to agree in writing. "Goods" includes raw materials, components, intermediate assemblies and end products.
2. **TERMS AND CONDITIONS.** No terms and conditions other than those set forth in this order or in any document attached to or incorporated by reference in it, will bind Buyer unless accepted by it in a writing signed by an authorized officer. Buyer rejects and will not be bound by terms or conditions contained in any acknowledgement of this order which are different from or in addition to the terms and conditions of this order, whether or not they would materially alter this order. Seller will be deemed to have assented to all terms and conditions in this order if any part of the goods covered by this order is shipped or an invoice is presented in connection with the goods.
3. **EXTRA CHARGES AND PACKAGING REQUIREMENTS.** No charges of any kind, including charges for boxing and shipping, will be allowed unless Buyer agrees. Seller will pack and package sufficiently to withstand transportation hazards and will prepare shipments pursuant to Buyer instructions. Packaging requirements for shipments on commercial bills of lading must meet commercial standards and accepted practices of the industry with full protection of the material to ultimate destination and must conform to governing classifications; including but not limited to, Uniform Freight Classification, for rail; National Motor Freight Classification, for truck; U.S. Official Postal Manual, for parcel post; and Official Air Freight Rules Tariffs, for air freight.
4. **TRANSPORTATION.** Unless otherwise stipulated on the face of this order or as modified by routing letter from Buyer, goods covered by this order will be shipped "FOB" Buyer's plant, title to the goods to pass to Buyer on delivery to Buyer's specified end destination, regardless of point at which goods may be picked up by Buyer's private carriage for transportation. Delivery in advance of Buyer's specified shipping date will not, however, cause passage of title or establish FOB point. Transportation charges on goods delivered FOB destination must be prepaid unless otherwise agreed. No charges for unauthorized transportation will be allowed. Any unauthorized shipment which will result in excess transportation charges must be fully prepaid by the Seller. Unauthorized transportation charges not prepaid will be billed to Seller by Buyer. Seller will release rail or truck shipments at the lowest released valuation permitted in the governing tariff or classification. If Seller does not comply with Buyer's delivery schedule, Buyer may, in addition to any other rights which Buyer may have under this order, require delivery by fastest way and charges resulting from the premium transportation must be fully prepaid and absorbed by Seller.
5. **ANTICIPATION OF DELIVERY SCHEDULE.** Unless otherwise agreed, Seller will not make material commitments or production arrangements exceeding the amount or in advance of the time necessary to meet Buyer's delivery schedule. It is Seller's responsibility to comply with this schedule but not to anticipate Buyer's requirements. Goods shipped to Buyer in advance of schedule may be returned to Seller at Seller's expense.
 - a. **On Time Delivery.** Seller is expected to maintain satisfactory on time delivery which has been defined by the buyer to be 85% or greater. Failure to meet this requirement, which is reviewed at a minimum of quarterly, will result in a Corrective Action Request.
6. **DEFAULT AND TERMINATION.**

Seller will default if it fails to: (a) perform within the time specified in this order; (b) perform any of the other terms of this order, or (c) make progress, such that performance of this order pursuant to its terms is endangered. If Seller fails to cure the default within 10 days after receipt of Buyer's notice of default, Buyer may terminate this order. On termination, Buyer may procure, on such terms as it deems appropriate, goods or services similar to those described in this order. Seller will continue performance of this order to the extent not terminated and will be liable to Buyer for any excess costs for the similar goods or services. As an alternate remedy Buyer may, at its sole discretion, elect to (i) extend the delivery schedule, or (ii) waive other deficiencies in Seller's performance, in exchange for an equitable reduction in the purchase price. Buyer's right and remedies described in this Section 9 are not exclusive and are in addition to any other rights and remedies provided by law or under this purchase order.

a. If this order is placed under a U.S. Government contract or subcontract, Buyer may terminate this order under Federal Acquisition Regulation §52.249-1.

7. BUYER'S TANGIBLE AND INTELLECTUAL PROPERTY.

Unless otherwise agreed, all tools, equipment, materials, drawings, or other documented data of every description furnished to Seller by Buyer or specifically paid for by Buyer, any replacement of them, or any materials affixed or attached to them, will be and remain Buyer's personal property. Seller will mark all components of the property as Buyer's property. Seller will safely store the property separate from Seller's property. Seller will not substitute any property for Buyer's property and will not use the property except in filling Buyer's orders. While the property is in Seller's (or its subcontractors') custody or control, it will be held at Seller's risk, will be kept insured by Seller at Seller's expense, in an amount equal to its replacement cost, with loss payable to Buyer. The property will be subject to removal at Buyer's request, in which event Seller will prepare the property for shipment and will deliver it as directed by Buyer in the same condition as originally received by Seller, reasonable wear and tear excepted, all at the Seller's expense. The foregoing will not be deemed to affect the rights, if any, of the United States Government in the property.

a. Seller will keep confidential all drawings, specifications and other data furnished or specifically paid for by Buyer and will not divulge, export from its own country, or use, directly or indirectly, the drawings, specifications or data for the benefit of any other party without Buyer's prior agreement. Except as required for the efficient performance of this order, Seller will not make copies or permit copies to be made without Buyer's prior agreement. If consent is given for any reproduction, this notice will be attached to the reproduction. This provision will not apply to information in the public domain otherwise than as a result of a breach of this provision, nor will it limit any rights the Government may have in the drawings, specifications or other data.

8. **SELLER'S INTELLECTUAL PROPERTY.** Any knowledge or information which Seller discloses to Buyer related to this order will not, unless an officer of Buyer agrees, be deemed to be confidential or proprietary information and accordingly will be acquired free from any restriction on use or disclosure.

9. CHANGES.

Buyer may make changes in this order, but no additional charge will be allowed unless Buyer agrees. If a change affects delivery or the amount to be paid by Buyer, Seller will notify Buyer immediately, and negotiate an adjustment in accordance with this Section 12.

a. In any event, Buyer's maximum liability for obsolescence, scrap, or rework resulting from any change will be limited to those materials and parts in process at the time of the change, which are within Seller's normal manufacturing cycle required to meet the established delivery schedule. Buyer will have no liability for cost of obsolescence, scrap or rework of materials and parts which Seller has released for manufacture in advance of Seller's normal manufacturing process.

b. Seller will notify Buyer of changes in product and/or process, changes of suppliers, changes of manufacturing facility location and, where required, obtain Buyer's approval of same.

10. **NON-ASSIGNMENT.** Assignment of this order without Buyer's consent is prohibited, except that Seller may assign its accounts receivable arising from this order provided that the assignee agrees to be bound by Section 15 below.

11. **SET-OFF.** Buyer will be entitled at all times to set-off any amount owing at any time from Seller to Buyer or any of Buyer's affiliated companies against any amount payable at any time by Buyer in connection with this order.

12. **INSOLVENCY.** If Seller ceases to conduct its operations in the normal course of business (including inability to meet its obligations as they mature) or if any proceeding under the bankruptcy or insolvency laws is brought by or against Seller, or a receiver for Seller is appointed or applied for or an assignment for the benefit of creditors is made by Seller, Buyer may terminate this order without liability except for deliveries previously made or for goods covered by this order then completed and subsequently delivered in accordance with the terms of this order.

13. **WORK ON BUYER'S OR ITS CUSTOMER'S PREMISES.** If Seller's work under this order involves operations by Seller on the premises of Buyer or one of its customers, Seller will take all necessary precautions to prevent the occurrence of any injury to person or property during the progress of the work. Except to the extent that any injury is due solely and directly to Buyer's or its customer's negligence, Seller will indemnify Buyer against all loss which may result in any way

from any act or omission of the Seller, its agents, employees, or subcontractors, and Seller will maintain all liability and workers compensation insurance necessary to protect Buyer from those risks and from any claims under any applicable Workmen's Compensation and Occupational Disease Acts.

14. **PARTS COMPLIANCE AND MATERIALS TEST CERTIFICATION.**

By accepting this order Seller certifies that: (a) the goods supplied will conform to all requirements of this order including any referenced specification (with applicable revision) in effect as of the order date or as modified under Section 12 above; and (b) *objective evidence of conformance* to these requirements is on file and available for Buyer's examination. "Objective evidence of conformance" means statements of fact pertaining to the quality of a product or service based on observations, measurements or tests which can be fully verified. Evidence must be expressed in terms of specific quality requirements or characteristics. These characteristics are identified in drawings, specifications, and other documents which describe the term, process or procedure.

a. Each lot or shipment made to specifications that require reporting of numerical test results will be accompanied by a copy of a report of laboratory tests obtained by Seller and conducted according to the applicable specifications which lists the numerical results of the specific tests. Seller will notify Buyer of nonconforming product and will make arrangements with Buyer for Buyer's inspection of, and approval or rejection of, the nonconforming product. Seller will include this section's requirements (including this sentence) in all contracts with its suppliers and require its suppliers to do the same.

15. **INSPECTION.**

Seller will give to Buyer, Buyer's customers and regulatory authorities access to all facilities involved in the manufacturing and fulfillment of the goods described in this order. Seller will include this section's requirements (including this sentence) in all contracts with its suppliers and require its suppliers to do the same.

a. All goods will be subject to inspection and test by Buyer and its Customer at all times and places, including during manufacturing, and prior to final acceptance by the Buyer and its Customer.

b. If any inspection or test is made on the premises of Seller or its supplier, Seller without additional charge, will provide all reasonable facilities and assistance for the safety and convenience of the inspectors in the performance of their duties.

c. Final acceptance or rejection of the goods will be made as promptly as practical after delivery, except as otherwise provided in this order, but failure to inspect and accept or reject goods will neither relieve Seller from responsibility for such goods as are not in accordance with the other requirements nor impose liabilities on Buyer therefor.

d. Buyer reserves the right of access by Seller, its customer, and regulatory authorities to applicable areas of all facilities at any level of the supply chain involved in this order and to all quality records.

e. Buyer further reserves the right for processing approval where required as well as notification of discrepancies, product changes, etc.

f. Seller will notify Buyer of any non-conforming product.

g. Seller will obtain Buyer's approval before disposing of any non-conforming product.

16. **REJECTIONS.** If any of the goods are found at any time to be defective in material or workmanship, or otherwise not in conformity with the requirements of this order, Buyer, in addition to any other rights which it may have under warranties or otherwise, may, at its option, correct or have corrected the nonconformity at Seller's expense, or reject and return the goods at Seller's expense. Returned goods may not be replaced without Buyer agreement.

17. **PUBLIC RELEASE OF INFORMATION.** Seller may make no public release related to this order or Buyer's relationship with Seller, will be made without Buyer's prior agreement.

18. **COMPLIANCE WITH LAWS.** Seller will comply with all applicable State, Federal and local laws, rules and regulations, including, without limitation, the following:

Fair Labor Standards Act. In accepting this order, Seller represents that the goods to be furnished, were or will be produced in compliance with the Fair Labor Standards Act of 1938, as amended ("FLSA"). Unless otherwise agreed, Seller will insert a certificate on all invoices submitted in connection with this order stating that the goods covered by the invoice were produced in compliance with FLSA.

a. **Nondiscrimination in Employment.** Seller will not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, or national origin. Seller will further

take affirmative action to employ and advance handicapped workers, disabled veterans, and veterans of the Vietnam era.

b. **Toxic Substances Control Act.** Seller further warrants that each and every chemical substance constituting or contained in the product(s) sold or otherwise transferred to Buyer under this order is on the list of chemical substances compiled and published by the Administrator of the Environmental Protection Administration pursuant to the Toxic Substances Control (PL 94-469).

19. **PATENT AND COPYRIGHT INDEMNITY.** Seller, at its expense, will handle all claims and defend any suit or proceeding brought against Buyer, its customers and their assigns, so far as based on any claim that the manufacture or furnishing of goods under this order, or the use or sale of such goods, constitutes infringement of any patent or copyright of any country. Seller will indemnify and save Buyer, its customers and their assigns, from and against any expense or liability, including costs and damages, arising out of any such claim, suit or proceeding. In case the goods are seized or their use or ownership is enjoined, Seller will, at its own expense and option, procure for Buyer and its customers the rights to continue using the goods, or modify them so they become non-infringing, or if Buyer agrees, refund the purchase price and the goods' transportation and installation costs. The foregoing patent and copyright indemnity and warranty obligations will be inapplicable: (a) where the alleged infringement results from detail designs supplied by the Buyer, unless goods embodying such designs are normally sold or advertised for sale to others by Seller; or (b) to the extent that a suit based on said infringement claim may be maintained only against the U.S. Government.

20. **GOVERNMENT FACILITIES.** Unless this order authorizes the use of Government-owned facilities, Seller must negotiate the use of Government-owned facilities used in the manufacture of goods purchased hereunder with the appropriate Government Agency furnishing Government facilities to Seller. All charges to Buyer for such use must be concurrently billed as a separate item aside from all other costs.

21. **ENGINEERING DATA.**

Seller agrees to furnish to Buyer, at Buyer's request and at no additional cost to Buyer, a complete set of engineering data, including drawings, specifications and manufacturing process information, resulting from performance by Seller under this order, or used or to be used by Seller in the manufacture of the goods to be furnished, or in the provision of services under this order and to keep such data current.

a. If this order is for goods designed by Seller, Seller grants to Buyer the right to manufacture or purchase from a third party the goods covered by this order in the event that Seller is unable to meet purchase order delivery schedules.

22. **PATENT RIGHTS.** If this order is a contract having experimental, developmental or research work as one of its purposes, and in consideration of the funds allocated for that purpose under this order, Seller hereby grants to Buyer an irrevocable, fully paid license under any patents covering inventions conceived or reduced to practice in the development of the subject matter covered by this order, to make, have made, use or sell such inventions, with the right to extend such license to Buyer's customers, including the U.S. Government to the extent appropriate under any independent research and development agreement, and to any of Buyer's licensees or co-producers of Buyer's products. If Seller contemplates practicing any process or making any product which results from such work other than for Buyer, Seller agrees to give written notice to Buyer and, prior to initiation of the other practice, to negotiate with Buyer an agreement providing for payment to Buyer of an appropriate fee based on such other practices.

23. **FIELD SUPPORT.** For goods ordered under this order which are of Seller's design, Seller will maintain a service organization reasonably constituted to handle requests from Buyer or its customers for technical assistance on operation, maintenance, service, repair and overhaul of the goods. Seller will maintain a reasonable inventory of finished goods to support Buyer or Buyer's customer's unanticipated requirements arising from emergency conditions, during which goods must be shipped within 24 hours of order. Furthermore, Seller will maintain tooling and manufacturing and overhaul capability as long as the goods ordered are used in commercial service.

24. **BUY BACK.** If surpluses of goods are recognized after one year and not longer than three years, from the date of this order and the quantities of goods provisioned have been recommended by Seller, Seller agrees to buy back the surplus goods without cost to Buyer or its Customer.

25. **U.S. GOVERNMENT CONTRACTS**

If this order is placed under a U.S. Government contract or subcontract, the following clauses of the Federal Acquisition Regulations, as in effect on the date on which performance under them is required by Seller, are incorporated in this order by reference: FAR-52.203-1, 52.203-3, 52.203-5, 52.203-6, 52.203-8, 52.203-9, 52.204-2, 52.208-1, 52.209-1, 52.210-5, 52.210-7, 52.212-8, 52.214-26, 52.215-1, 52.215-2, 52.219-8, 52.219-9, 52.219-13, 52.220-3, 52.220-4, 52.222-1, 52.222-3, 52.222-4, 52.222-20, 52.222-26, 52.222-35, 52.222-36, 52.222-37, 52.223-2, 52.223-3, 52.225-10, 52.225-11, 52.225-13, 52.227-1, 52.227-2, 52.227-3, 52.227-9, 52.227-10, 52.228-5, 52.230-3, 52.230-5, 52.230-4, 52.245-17, 52.245-18, 52.246-23, 52.247-63, 52.247-64, 52.248-11.

a. If this order is placed under a U.S. Government contract or subcontract where the contracting party is any arm of the Department of Defense, including any of the military services, the following clauses of the Department of Defense Federal Acquisition Regulation Supplement, as in effect on the date on which performance under them is required by Seller, are incorporated herein by reference: DFARS 52.208-7000, 52.208-7001, 52.208-7002, 52.208-7003, 52.208-7005, 52.209-7001, 52.215-7001, 52.223-7000, 52.225-7001, 52.225-7008, 52.225-7011, 52.227-7013, 52.227-7018, 52.227-7034, 52.228-7006, 52.243-7000, 52.271-7001.

b. If this order is placed under a U.S. Government contract or subcontract where the contracting party is the National Aeronautics and Space Administration, the following clauses of the NASA Federal Acquisition Regulation Supplement, as in effect on the date on which performance under them is required by Seller, are incorporated herein by reference: NASA FARS 52.204-70, 52.223-70, 52.223-71, 52.223-72, 52.227-14, 52.227-19, 52.227-72, 52.243-70, 52.244-70, 52.245-73, 52.252-70.

c. All references to the "Contractor" in the preceding clauses will mean Seller and all references to the "Contracting Officer" will mean Buyer's authorized representative (at Buyer's option) for purposes of these terms and conditions.

26. **EXPORT COMPLIANCE.**

Seller agrees to comply with the U.S. Export Administration Act, 50 USC §§2401-2420; the Export Administration Regulations, 15 CFR §§730-774; the U.S. Arms Export Control Act, 22 USC §§2751-2780; the International Traffic in Arms Regulations, 22 CFR §§120-130; the Regulations of the Office of Foreign Assets Control of the U.S. Treasury Department, 31 CFR §§500-599; the Regulations of the Bureau of Alcohol, Tobacco, and Firearms, 27 CFR §§447-555; the Homeland Security Act of 2002; the U.S. Customs and Border Protection Regulations, 19 CFR 1-199 ("CBP"); as well as any applicable export or import requirements of other jurisdictions regardless of whether or not of the United States. If Seller is supplying defense articles, Seller agrees to maintain a valid and current Directorate of Defense Trade Controls ("DDTC") registration. Seller shall provide its DDTC registration status (whether registered or not, with expiration date) to Purchaser and promptly advise Purchaser of any updates or changes to such information, in the format requested by Purchaser. With respect to defense articles and services furnished hereunder, Seller certifies that it has not paid, offered or agreed to pay, and agrees that it shall not pay, offer or agree to pay, for the purpose of soliciting, promoting or otherwise to secure the sale of defense articles and services to or for the use of the armed forces of an international organization or non-U.S. Country, any (i) fees or commissions in excess of \$1,000 or (ii) political contribution (including any gift, rebate or payment of expenses) to a non-U.S. person or entity."

a. If Seller will conduct work on this order in a foreign country, including but not limited to the use of Seller's own facility outside of the U.S. Seller must provide advance written notification to Purchaser. Seller is responsible for compliance with applicable export control laws and regulations and for obtaining all export control licenses required by law or requested by Purchase.

b. Seller shall not give any Foreign Person access to Technical Data, software or Defense Articles, or provide an unauthorized Defense Service (as those terms are defined in the applicable Export Laws and Regulations) without Purchaser's prior written consent. Any request for such consent must state the intended recipient's citizenship(s) and status under 8 U.S.C. §1101 and 8 U.S.C. §1324 and such other information as Purchaser may reasonably request. No consent granted by Purchaser in response to Seller's request under this paragraph shall relieve Seller of its obligations to comply with the provisions of this paragraph or the United States' export laws and regulations, nor shall any such consent constitute a

waiver of the requirements of this Section 26, nor constitute consent for Seller to violate any provision of those laws and regulations.

c. Seller shall indemnify and save Purchaser harmless from and against any and all damages, liabilities, penalties, fines, costs, and expenses, including attorneys' fees, arising out of claims, suit, allegations or charges of Seller's failure to comply with United States export laws and regulation clauses, breach of its obligations described in this Section 26, or both. Any failure of Seller to comply with this Section 26's requirements shall be a material breach of this contract.

d. Seller will include this Section 26's requirements in all purchase orders and subcontracts related to this purchase.

27. **COUNTERFEIT PREVENTION.** Seller shall not deliver any products to buyer containing any Counterfeit Parts. "Counterfeit Parts" means a copy or substitute without the legal right or authority to do so or a part whose material, performance, or characteristics are knowingly misrepresented by a supplier in the supply chain. Counterfeit Parts include, but are not limited to: Parts not containing the proper internal construction that is consistent with the desired or ordered parts;

a. Used, refurbished, or reclaimed parts represented as new product;

b. Parts with different packaging style, type, or surface plating/finishing than the required or ordered product

c. Parts not successfully completing the full production and/or test flow of the Original Component Manufacturer (OCM) that are represented as completed product;

d. Parts sold or delivered as up-screened product that have not successfully completed the up-screening process;-Parts sold or delivered with modified labeling or marking intended to misrepresent the form, fit, function, or grade of the intended product.

28. **HUMAN TRAFFICKING.** If Seller has a U.S. presence, it certifies that it complies with FAR § 52.222-50 (regardless of whether this purchase is related to government contract). If Seller has no U.S. presence, it certifies that the materials incorporated into its products complies with all human trafficking and forced labor laws of the countries in which it does business.

29. **GOVERNING LAW.** This order will be governed in all respects by Ohio law.

30. **RECORDS RETENTION.** Seller will retain all records related to this purchase for 11 years and make those records available to Buyer on Buyer's request.

31. **FRAUDULENT STATEMENTS.** Seller acknowledges that the recording of false, fictitious or fraudulent statements or entries on any document provided to Buyer may be punishable as a felony under federal statutes, including 18 U.S.C. Chapter 47.

32. **FLOWDOWN.** Seller will flow these terms and conditions and all Seller's other order requirements down to all levels of its supply chain.