



## PURCHASE ORDER GENERAL TERMS AND CONDITIONS

In the event the articles, supplies, material and/or services covered by this Purchase Order are intended to be used directly or indirectly in the performance of a contract with the United States Government, or with a prime or subcontractor of the said Government, this order shall be deemed to include, in addition to all the terms and conditions set forth herein, all applicable provisions of such contracts, laws, executive orders and regulations of the United States required to be incorporated in this type of contract.

1. **PRICE.** This is a firm price order. Unless otherwise expressly specified, the prices are stated in U.S. dollars. Buyer shall not be bound to any prices or delivery to which it has not specifically agreed to in writing.
2. **TERMS OF PAYMENT.** Invoices shall be dated no earlier than date of shipment or delivery of service. The discount period begins upon receipt of invoice, required delivery date, or date of any applicable discrepancy is resolved, whichever date is later. Buyer's payment of an invoice shall not constitute acceptance of the Goods and/or Services and shall be subject to appropriate adjustment for Seller's failure to meet the requirements of this Purchase Order.
3. **ATTACHMENTS.** Documents designated by Buyer in the body of the Purchase Order, including supplemental terms and conditions, if any, are incorporated by reference the same as if set out in full therein.
4. **CHANGES.** The Buyer reserves the right at any time to issue a written change order or amendment to the Purchase Order concerning any of the following: (a) specifications, drawings, and data incorporated in the Purchase Order where the items to be furnished are to be specially manufactured for the Buyer; (b) quantity; (c) methods of shipment or packaging, (d) place of delivery, (e) time of delivery; or (f) any other matters affecting the Purchase Order.
5. **TERMINATION.** Buyer may terminate the Purchase Order for its convenience, in whole or in part, at any time prior to shipment by (written or electronic) notice to Seller. Upon receipt of such termination notice, Seller shall promptly comply with the directions contained in such notice and shall, as required, (a) take action necessary to terminate the work as provided in the notice, minimizing cost and liabilities for the terminated work, and (b) continue the performance of any part of the work not terminated by Buyer.
6. **ASSIGNMENT.** Seller may not assign, transfer or subcontract this Purchase Order or any right or obligation hereunder without Buyer's written consent.
7. **NOTIFICATION OF NONCONFORMING MATERIAL.** No product shall be shipped under this Purchase Order which contains material that departs from drawings or specifications. The supplier will provide notification of any proposed deviation of material and receive prior consent to manufacture and ship nonconforming material. The Seller shall be responsible for any additional costs incurred due to use of such nonconforming material. Should the Seller detect that nonconforming material has been delivered to Buyer, the Seller is required to notify the Buyer immediately.
8. **EXCUSABLE DELAY.** Fires, floods, strikes, accidents, shortages, or other causes beyond the reasonable control of the parties, which prevent Seller from delivering, or Buyer from receiving, any of the goods and services covered by this Purchase Order, shall suspend deliveries until the cause is removed, subject, however, to Buyer's right of termination for convenience under Paragraph 5.
9. **PACKAGING, PACKING LIST, AND BILL OF LADING.** Seller shall be responsible for proper packaging, loading and tie-down to prevent damage during transportation. Buyer's weight and /or count will be accepted as final and conclusive on all shipments not accompanied by a packing list.
10. **INSPECTION.** All goods and services furnished hereunder, including related records and documentation, will be subject to inspection and test by Buyer, it's customers, higher tier contractors, and (in the case of Goods and/or Services purchased for a U.S. Government contract or subcontract) the U.S. Government at all reasonable times and places, but not limited to the facilities of Seller and the Seller's subcontractors, and will be subject to Buyer's final inspection and approval within a reasonable time after delivery. Records will be



retained as directed by the Purchase Order, the government and/or regulatory agencies, and not less than five years. Buyer may reject goods and services not in accordance with Buyer's instructions, specifications, drawings, data, or Seller's warranty (expressed or implied), or for untimely delivery. Buyer may return rejected goods to Seller at Seller's expense and Buyer shall have no further obligation for such goods. Payment for any goods or services shall not be deemed acceptance and in no event shall Buyer incur any liability for payment for rejected goods for service.

11. **CORRECTIVE ACTION.** Acceptance of this Purchase Order obligates the Seller to perform, upon request, a corrective action investigation when discrepant material is received by Buyer, a written report shall be furnished, within a reasonable time period not exceeding the time stated on the specific request, which is specific and conclusive to prevent a reoccurrence of the discrepancy.
12. **WARRANTIES.** By accepting this Purchase Order, Seller warrants that the goods and services furnished will be free from defects in materials and workmanship, merchantable and in full conformity with Buyer's specifications, drawings, and data and Seller's descriptions, promises, or samples, and that such goods will be fit for the Buyer's intended use, provided Seller has reason to know of such use, and that Seller will convey good title to the goods, free and clear from all liens, claims, and encumbrances. Upon Buyer's request, Seller shall furnish Buyer with a formal waiver or release of all liens by Buyer and/or Buyer's suppliers.

Seller warrants that goods and services covered by this Purchase Order shall not infringe any patent, design, copyright or trademark, of any third party, either directly or contributorily. Seller agrees to indemnify Buyer and hold Buyer harmless from and against all liability, loss, damage and expense, including reasonable counsel fees and cost of litigation, resulting from any claim of infringement and any litigation relating thereto. In the case where goods or a part thereof are held to constitute infringement and the use of the goods or a part thereof is enjoyed, Seller shall, at the expense of Seller, either (a) procure for the Buyer the rights to continue to using the goods, (b) replace the goods so that the goods become non-infringing, or (c) retake the goods and refund the purchase price and transportation and installation cost of the goods to Buyer. Such obligations shall survive acceptance of the goods or services and payment therefore by Buyer.

Where applicable, the Seller warrants that the goods covered by this Purchase Order are in compliance with all laws, regulations, rules, and orders relating to the importation of goods into the United States, the exportation of goods out of the country of origin, the transit of goods through intermediate countries and the sale and use of foreign made goods in the United States. Seller further warrants that it has obtained all permits, licenses, and certifications necessary for the goods to be exported out of the country of origin, imported in the United States, delivered to Buyer and used or sold within the United States.

13. **TITLE; RISK OF LOSS.** Title shall pass to Buyer upon Buyer's receipt of goods at destination. Risk of loss of all goods shall remain in Seller until receipt by Buyer at destination, unless otherwise specified in this Purchase Order, except for loss occasioned by gross negligence or willful neglect of Buyer or its customer. All goods shall be shipped prepaid, insured for the Buyer's full price and F.O.B to the Buyer's main address or other address provided to the Seller.
14. **CONFIDENTIALY; LIMITED USE.** Unless otherwise agreed by Buyer in writing, Seller shall keep confidential and not disclose to any third party, any confidential and/or proprietary materials provided by Buyer to Seller in connection with Seller's performance of this Purchase Order or prepared by Seller specifically for Buyer pursuant to this Purchase Order, including but not limited to any drawings, masters, software, specifications, raw materials, components, data, business information or plans, customer list or other customer information ("Confidential Information"). Seller shall not make any copies of Confidential information except as specifically authorized by Buyer in writing. At the completion of this Purchase Order, or upon Buyer's request, Seller shall promptly return to Buyer all Confidential Information not consumed in the performance of this Purchase Order, together with any copies in Seller's possession. Seller shall use Confidential Information solely for Seller's performance of this Purchase Order for Buyer, and Seller shall not, without Buyer's written consent, directly or indirectly use Confidential Information or information derived there from in performing services or providing goods for any other customer of Seller, or any other person or entity.
15. **RESOLUTION OF CONFLICTS OR INCONSISTENCIES OCCURING IN THE ORDER.** It is Seller's responsibility to comply with this Purchase Order and all referenced documents, and to clarify with Buyer any inconsistencies or conflicts in any parts of the Purchase Order or referenced documents. Should Seller fail to contact Buyer to resolve conflicts or inconsistencies, Seller will be solely



responsible for errors resulting from said conflicts or inconsistencies. Where documents are referenced, the version in effect at the time of order placement shall apply.

16. **BUYER'S TERMS AND CONDITIONS APPLY.** Acknowledgment of the Purchase Order, shipment of any goods, or commencement of work pursuant to the Purchase Order shall be deemed an acceptance of these General Terms and Conditions. No modification of or release from this Purchase Order shall be binding unless agreed to in writing by the parties and specifically labeled as a modification or release. Unless specifically agreed to otherwise by Buyer and Seller, these terms and conditions supersede any submitted by Seller in any proposal or acknowledgment.
17. **EXTRA CHARGES.** No charges for extras or for cartage or boxing or storage will be allowed unless the same has been agreed upon in writing by Buyer. All goods must be forwarded in accordance with Buyer's shipping instructions, otherwise the difference in freight rate will be charged to Seller.
18. **SUBSTITUTIONS.** No substitutions of materials or accessories may be made without written permission from Buyer.
19. **WORK PERFORMED ON BUYER'S OR BUYER'S CUSTOMER'S PREMISES.** If Seller's work under the Purchase Order involves operations buy Seller on the premises of Buyer of one of Buyer's customers, Seller shall take all necessary precautions and such additional precautions as Buyer or Buyer's customer may prescribe to prevent the occurrence of any injury to persons or property during the progress of such work and, except to the extent that any such injury is due solely and directly to Buyer's or Buyer's customer's negligence, shall indemnify Buyer against all claims, liability, damage, or loss (including expenses and attorneys' fees) which may result in any way from any act or omission of the Seller, or Seller's agents, employees, or contractors; and shall maintain such public liability, property damage, and employer's liability and compensation insurance as will protect Buyer and Buyer's customer from said risk and from any claims under any applicable worker compensation and occupational disease acts.
20. **IDEMNIFICATION.** Seller agrees to indemnify, defend, and hold Buyer harmless from and against all losses, damages, liability, actions, judgments, cost, and expenses (including, but not limited to, reasonable attorneys' fees and other expenses of litigation), suffered, incurred, or asserted by or against Buyer (a) by reason of Seller's breach of a warranty, (b) by reason of Seller's breach of any term of the Purchase Order, or (c) by reason of personal injury, including death, or property damage sustained by a third party, resulting from or arising out of an act or omission of Seller, or Seller's agents employees, or contractors in fulfillment of this Purchase Order.
21. **CUMULATIVE REMEDIES; WAIVERS; SURVIVAL OF WARRANTIES.** The remedies herein reserved to Buyer shall be cumulative, and additional to any other or further remedies provided in law or equity. No waiver by Buyer of any term or condition of this Purchase Order shall be construed as permanent waiver of such term or condition or of any other term or condition. Seller's warranties shall survive the completion or cancellation of this Purchase Order.
22. **GOVERNING LAW.** This Purchase Order shall be governed by the laws of the State of Utah, U.S.A., except for its provisions regarding principles of conflicts of laws, and except to the extent that federal communications law shall apply. Any court action arising under this order shall be venued in Salt Lake County, Utah, U.S.A., in either federal or state court, as is appropriate.
23. **"GOODS" AND "SERVICES".** The term "goods" as used herein means any and all materials, parts, products, machines, tooling, test equipment, technical data, computer software, computer software documentation, and other tangible items or documentary information furnished or required to be furnished by Seller under this order. The term "services" means any and all technical assistance, support, maintenance, consultation, construction work, and other effort furnished or required to be furnished by Seller under this order other than labor furnished in connection with the production of goods.
24. **ENTIRE AGREEMENT.** Unless superseded by a specific signed agreement between Buyer and Seller, this agreement shall include the Purchase Order, these General Terms and Conditions, and all attachments referred to in the Purchase Order or in the General Terms and Conditions, and it shall constitute the entire agreement of the parties with regard to the subject matter contained herein. All other prior or contemporaneous representations, warranties, covenants, or agreements between Seller and Buyer, or their representative, with respect to the subject matter are hereby superseded. This agreement may not be modified except by mutual written agreement of the parties.