

COMMERCIAL TERMS AND CONDITIONS OF PURCHASE

1. Acceptance of Purchase Order

Agreement by Seller to furnish the materials, parts, and products (“goods”) or services, including the products resulting from such services, or its commencement of such performance, or acceptance of any payment, shall constitute Seller’s unqualified acceptance of this Purchase Order. Any prices or delivery schedule to which Buyer has not specifically agreed to in writing, or any other terms or conditions proposed by Seller inconsistent with or in addition to the terms and conditions herein, shall be void. Modifications or additions to these Purchase Order terms and conditions must be in writing and signed by Buyer’s Purchasing Representative.

2. Shipping Instructions

Seller shall be responsible for ensuring the proper packaging of goods hereunder. Seller shall not charge for packing, crating, freight, local cartage, and/or any other services unless so specified in this Purchase Order.

3. Delivery; Notice of Delay

Seller shall notify Buyer in writing immediately of any actual or potential delay to the performance of this Purchase Order. Such notice shall include a proposed revised schedule, but such notice and proposal or Buyer’s receipt or acceptance thereof, shall not constitute a waiver of Buyer’s rights and remedies hereunder.

4. Termination

Buyer, by written notice, may terminate this Purchase Order in whole or in part, prior to Seller’s shipping of purchased goods. In the event of partial termination, Seller shall perform the non-terminated balance of work under the Purchase Order.

Buyer may, after providing Seller with ten (10) calendar days written notice of a default, and upon Seller’s failure to cure such default in that ten (10) day period (“Cure Period”), terminate this Purchase Order in whole or in part at any time by notice in writing for (i) breach of any one or more of its terms, (ii) failure to deliver goods or services within the time specified by this Purchase Order or any written extension, (iii) failure to make progress so as to endanger performance of this Purchase Order, or (iv) failure to provide adequate assurance of future performance

5. Force Majeure

Except for a default of Seller’s subcontractor at any tier, neither Buyer nor Seller shall be liable for any failure to perform due to any cause beyond their reasonable control and without their fault or negligence, including acts of God or of the public enemy, acts of the government in its sovereign or contractual capacity (including acts of government related to economic sanctions and embargoes), fires, floods, epidemics, terrorism, quarantine restrictions, strikes, freight embargoes, and unusually severe weather. In the event that causes of the type described above (“Force Majeure”) adversely affect performance of this Purchase Order, the Party whose performance is so affected shall so notify the other Party’s authorized representative in writing. Buyer may reasonably adjust the delivery schedule due to the existence of a Force Majeure.

6. Disputes and Governing Law

Prior to pursuing judicial remedies, the Parties’ senior management representatives must first in good faith to negotiate a resolution for a period of no less than ten (10) business days following written notice from the Party claiming dispute.

7. Remedies

Buyer may exercise all rights and remedies at law and in equity, including those set forth in Article 2 of the Uniform Commercial Code for both goods and services ordered hereunder. Failure of either Party to enforce any of its rights shall not constitute a waiver of such rights or of any other rights and shall not be construed as a waiver or relinquishment of any such provisions, rights or remedies; rather, the same shall remain in full force and effect.

8. Proprietary Rights

- (a) Unless otherwise expressly set forth in this Purchase Order, all specifications, information, data, drawings, software and other items supplied to Buyer by Seller shall be disclosed to Buyer on a non-proprietary basis and may be used and/or disclosed by Buyer without restriction.
- (b) All specifications, information, data, drawings, software and other items which are (i) supplied to Seller by Buyer or (ii) obtained or developed by Seller in the performance of this Purchase Order or paid for by Buyer, shall be used only for purposes of providing goods or services to Buyer pursuant to this Purchase Order, and shall not be disclosed to any third party, with the exception of Buyer's customer, without Buyer's express written consent.

9. Release of Information

Without prior written approval of Buyer, Seller shall not (i) publish, distribute, use, or otherwise disclose this Purchase Order, or the existence of this Purchase Order, to any third party for any purposes not required by the express terms of the Purchase Order, or (ii) use the Buyer's or Buyer's customer's name (or the name of any division, affiliate or subsidiary thereof), logo, trademark, service mark, or trade dress for the purpose of advertising, making a news release, creating a business reference, creating website content, or for goods or service endorsement.

10. Warranty

- (a) Seller warrants that the goods shall be new and free from defects in workmanship, materials, and design and in accordance with all the requirements of this Purchase Order. Seller further warrants that the performance of services shall conform with the requirements of this Purchase Order and to high professional standards.
- (b) These warranty entitlements shall inure to the benefit of both Buyer and Buyer's customers.
- (c) At Buyer's direction, Seller shall promptly repair, replace, correct, or reimburse the purchase price of nonconforming goods or services.

11. Inspection

All goods and services shall be subject to inspection and test at all reasonable times and places by Buyer or Buyer's customer before, during, and after performance and delivery. Buyer may require Seller to repair, replace or reimburse the purchase price of rejected goods.

12. Changes and Equitable Adjustments

Buyer shall have the right by written notice to suspend or stop work or to make changes from time to time in the services or the goods to be furnished by Seller or to the delivery schedule. If such suspension, stoppage, or changes cause an increase or decrease in the cost of performance of this Purchase Order or in the time required for its performance, an equitable adjustment shall be negotiated promptly and the Purchase Order shall be modified in writing accordingly.

13. Infringement

Seller represents and warrants that all goods and services provided by Seller pursuant to this Purchase Order, which are not of Buyer's design, do not infringe or misappropriate any third party intellectual property rights and that any use or sale of such items by Buyer or Buyer's customers shall be free from any claims of infringement. Seller shall indemnify and hold Buyer, and its customers harmless from any and all expenses, liability, and loss of any kind (including all costs, expenses, and attorneys' fees) arising out of claims, suits, or actions alleging such infringement, which claims, suits, or actions.

14. Assignments

Seller may not assign any rights, delegate any of its obligations due or to become due under this Purchase Order or subcontract all or substantially all of its obligations under this Purchase Order, without the prior written consent of Buyer.

15. Compliance with Law

(a) Seller, in the performance of this Purchase Order, warrants that it shall comply with all relevant laws, orders, rules, ordinances, and regulations (whether federal, state, or local), including but not limited to:

1. all U.S. laws and regulations including:
 - i. the Fair Labor Standards Act of 1938, as amended (the "FLSA"), and the regulations and orders of the United States Department of Labor under the FLSA;
 - ii. the Occupational Safety and Health Act of 1970 (OSHA), as amended;
 - iii. the U.S. Department of Transportation regulations on hazardous materials and any other pertinent federal, state, or local statutes, laws, rules, or regulations;
2. the laws and regulations of Seller's place of performance;
3. the applicable domestic and international prohibitions on child labor, human trafficking, and slavery;
4. the United States Foreign Corrupt Practices Act, 15 U.S.C. § 78 et seq. (the "FCPA"), and other Anti-Corruption Requirements; and
5. the Anti-Kickback Act of 1986.

16. Licenses and registrations

Seller warrants that it has and shall maintain all registrations and licenses and shall obtain permits as required to perform the work hereunder.

17. RESERVED

18. Indemnity Against Claims

Seller shall keep all goods supplied by it hereunder free and clear of all liens and encumbrances in any way arising from performance of this Purchase Order by Seller or by any of its vendors or subcontractors. Seller may be required by Buyer to provide a satisfactory release of liens as a condition of final payment.

19. Export/Import Controls

Seller shall ensure that any disclosure, export, re-export, transfer and retransfer of, and access to, any hardware, software, controlled technical data, technology, and/or services under this Purchase Order is undertaken in accordance with U.S. export control laws and regulations. Seller agrees that no items controlled under U.S. export and import laws and regulations in connection with this Purchase Order shall be provided to any person or entity, including non-U.S. person employees, subsidiaries, or affiliates, unless the transfer is expressly permitted by a U.S. Government license or other authorization, or is otherwise in accordance with applicable laws and regulations.

20. Restricted Party List

Seller hereby warrants that neither Seller, nor any immediate or ultimate parent, majority shareholder, subsidiary, affiliate, or lower-tier subcontractor is listed on any Restricted Party List of an agency of the U.S. Government, any applicable non-U.S. Government or international organization, or any applicable state, local government, or municipality, nor are their export privileges denied, suspended or revoked. For purposes of this provision, "Restricted Party List" is defined to include lists administered by the U.S. Departments of State, Commerce, and Treasury (e.g., Specially Designated Nationals List) or other U.S. government agency and other similar lists that relate to export controls, economic sanctions, or anti-corruption

21. Severability

If any provision of this Purchase Order or application thereof is found invalid, illegal or unenforceable by law, the remainder of this Purchase Order will remain valid, enforceable and in full force and effect, and the Parties will negotiate in good faith to substitute a provision of like economic intent and effect.

22. Quality Requirements Flow Down

Seller shall require lower-tier suppliers to comply with quality assurance requirements comparable to those contained in this Purchase Order. Seller shall assume responsibility for the quality of all procured material and workmanship.