

Applicability

The following terms and conditions shall apply to the procurement of services or materials by Buyer from Seller. For orders placed in support of and charged to a U.S. Government Prime Contract or subcontract thereunder, these terms and conditions are in addition to, and not in lieu of, Buyer's "Supplemental Terms and Conditions Applicable to Contracts Issued Under U.S. Government Contracts" and Buyer's "Additional Flowdown Clauses," if any, all of which are incorporated into Buyer's Purchase Order.

1. Acceptance of Purchase Order

Agreement by Seller to furnish the materials or services hereby ordered, or its commencement of such performance or acceptance of any payment, shall constitute acceptance by Seller of this Purchase Order subject to these terms and conditions. In the event that this Purchase Order does not state price or delivery, Buyer will not be bound to any prices or delivery to which it has not specifically agreed in writing. Any terms or conditions proposed by Seller inconsistent with or in addition to the terms and conditions of purchase herein contained shall be void and of no effect unless specifically agreed to by Buyer in writing. Modifications hereof or additions hereto, to be effective, must be made in writing and be signed by Buyer's purchasing representative. These terms and conditions, together with any referenced exhibits, supplements, attachments or other documents, constitute the entire agreement between the parties with respect to the subject matter of this Purchase Order; and supersede any prior or contemporaneous written or oral agreements pertaining thereto.

2. Shipping Instructions

(a) Seller shall be responsible for ensuring the proper packaging of materials hereunder. No charges will be allowed for packing, crating, and/or any other services unless so specified in this Purchase Order.

(b) Seller shall at all times comply with Buyer's written shipping instructions. Unless otherwise directed, all items shipped on the same day from and to a single location must be consolidated on one bill of lading or air bill, as appropriate. Seller shall submit all required shipping papers to Buyer prior to final payment.

(c) Purchase Order number(s) must appear on all correspondence, shipping labels, and shipping documents, including all packing sheets, bills of lading, air bills and invoices.

3. Delivery; Notice of Delay

(a) Time is of the essence and failure to deliver in accordance with the delivery schedule under this Purchase Order, if unexcused, shall be considered a material breach of this Purchase Order. No acts of Buyer, including without limitation modifications of this Purchase Order or acceptance of late deliveries, shall constitute waiver of this provision. Buyer also reserves the right to refuse or return at Seller's risk and expense shipments made in excess of Buyer's orders.

(b) 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 to Buyer's rights and remedies hereunder.

4. Termination of Convenience

(a) Buyer may, by notice in writing, terminate this Purchase Order or work under this Purchase Order for convenience and without cause, in whole or in part, at any time, and such termination shall not constitute default. In the event of partial termination, Seller is not excused from performance of the non-terminated balance of work under the Purchase Order.

(b) In the event of termination for convenience by Buyer, Seller shall be reimbursed for actual, reasonable, substantiated and allowable costs, plus a reasonable profit for work performed to date of termination. Buyer may take immediate possession of all work so performed upon written notice of termination to Seller.

(c) Seller's obligations, including but not limited to obligations under the warranty, proprietary rights, infringement, and indemnity against claims provisions of this Purchase Order, shall survive such termination.

5. Termination for Default

(a) Buyer may, by notice in writing, terminate this Purchase Order in whole or in part at any time for breach of any one or more of its terms, for failure to make progress so as to endanger performance of this Purchase Order, or failure to provide adequate assurance of future performance. In the event of partial termination, Seller is not excused from performance of the non-terminated balance of work under the Purchase Order.

(b) In the event of Seller's default hereunder, the Buyer may exercise any or all rights accruing to it, both at law, including without limitation, those set forth in Article 2 of the Uniform Commercial Code, or in equity.

(c) Seller's obligations, including but not limited to obligations under the warranty, proprietary rights, infringement, and indemnity against claims provisions of this Purchase Order, shall survive such termination.

6. Force Majeure

Except for defaults of Seller's subcontractors 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. Such causes include but are not limited to, acts of God or of the public enemy, acts of Government in either its sovereign or contractual capacity, fires, floods, epidemics, terrorism, quarantine restrictions, strikes, freight embargoes, and unusually severe weather. In the event that performance of this Purchase Order is hindered, delayed or adversely affected by causes of the type described above ("Force Majeure"), then the party whose performance is so affected shall so notify the other party's authorized representative in writing and, at Buyer's option, this Purchase Order shall be completed with such adjustments as are reasonably required by the existence of Force Majeure or this Purchase Order may be terminated for convenience.

7. Disputes

(a) Any controversy or claim that may arise out of or in connection with this Purchase Order that after good faith negotiations cannot be resolved to both Parties mutual satisfaction may be resolved by submitting the claim to a court of competent jurisdiction.

(b) Pending resolution or settlement of any dispute arising under this Purchase Order, Seller will proceed diligently as directed by Buyer with the performance of this Purchase Order. Irrespective of the place of performance, this Purchase Order will be construed and interpreted according to the laws of the State from which the Purchase Order is issued, without resort to said States Conflict of Law Rules.

8. Remedies

Except as otherwise provided herein, the rights and remedies of both parties hereunder shall be in addition to their rights and remedies at law or in equity. 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 of relinquishment of any such provisions, rights or remedies; rather, the same shall remain in full force and effect.

9. Proprietary Rights

(a) Unless otherwise expressly agreed in writing to the contrary, 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, unless (i) otherwise required by the U.S. Government Regulations referred to below, or (ii) the Buyer has executed a separate agreement restricting the use and disclosure of such information, data, software and the like.

(b) Unless otherwise expressly agreed in writing to the contrary and subject to Section 9 (d) below, 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 proprietary to 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 without Buyer's express written consent. All such items supplied by Buyer or obtained by Seller in performance of this Purchase Order or paid for by Buyer shall be promptly provided to Buyer on request or upon completion of this Purchase Order.

(c) Unless otherwise expressly agreed in writing to the contrary and subject to Section 9 (d) below, any invention or intellectual property first made or conceived by Seller in the performance of this Purchase Order or which is derived from or based on the use of information supplied by Buyer shall be considered to be the property of Buyer; and Seller shall execute such documents necessary to perfect Buyer's title thereto. Unless otherwise expressly agreed in writing to the contrary and subject to Section 9 (d) below, any work performed pursuant to this Purchase Order which includes any copyright interest shall be considered a "work made for hire".

(d) Applicable Government Procurement Regulations incorporated into this Purchase Order shall, when applicable, take precedence over any conflicting provision of this Section 9 to the extent that such Regulations so require. The incorporation by reference of such U.S. Government Regulations dealing with subcontractors rights in Technical Data, subject inventions, copyrights, software and similar intellectual property are not intended to, and shall not, unless otherwise required by applicable law, obviate or

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modify any greater rights which Seller may have previously granted to Buyer pursuant to prior agreements between the parties.

10. Buyer's Property

(a) All drawings, tools, jugs, dies, fixtures, materials, and other items supplied or paid for by Buyer shall be and remain the property of Buyer; and Seller shall return to Buyer all such items at the completion of this Purchase Order.

(b) All such items shall be used only in the performance of work under this Purchase Order unless Buyer consents otherwise in writing.

(c) Material made in accordance with Buyer's specifications and drawings shall not be furnished or quoted by Seller to any other person or concern without Buyer's prior written consent.

(d) Seller shall have the obligation to maintain any and all property furnished by Buyer to Seller and shall be responsible for all loss or damage to said property except for normal wear and tear.

11. Release of Information

Seller shall not publish, distribute, or use any information developed under or about the existence of this Purchase Order, or use the OEwaves Company name, logo, trademark, service mark, or trade dress for the purpose of advertising, making a news release, creating a business reference, created a website content or for products or service endorsement without prior written approval of Buyer.

12. Order of Precedence

(a) In the event of any inconsistency or conflict between or among the provisions of this Purchase Order, such inconsistency or conflict shall, subject to Section 9 (d) above, be resolved by the following descending order of preference: 1. Order-specific provisions which are typed or handwritten on the Purchase Order as additions to the pre-printed terms; 2. Documents incorporated by reference on the face page(s) of this Purchase Order; 3. These General Terms and Conditions of Purchase, Supplements thereto, and Additional Flowdown Clauses, if any; 4. Statement of Work; and 5. Specifications attached hereto or incorporated by reference. Buyer's specifications shall prevail over those of the United States Government, and both of the foregoing shall prevail over specifications of Seller.

(b) In the event of conflict between specifications, drawings, samples, designated type, part number, or catalog description, the specifications shall govern over drawings, drawings over samples, whether or not approved by Buyer, and samples over designated type, part number, or catalog description. In cases of ambiguity in the specifications, drawings, or other requirements of this Purchase Order, Seller must, before proceeding, consult Buyer, whose written interpretation shall be final.

13. Warranty

(a) Seller warrants the materials delivered pursuant to this Purchase Order shall be new, free from defects in workmanship, materials, and design; and to be in accordance with performance of work and services pursuant to the requirements of this Purchase Order shall confirm to high professional standards. These warranties shall survive final acceptance and payment.

(b) This warranty entitlement shall inure to the benefit of both Buyer and Buyer's costumers. As used in this Purchase Order, Buyer's customer(s) shall include its direct and indirect customers such as direct sale end-users, higher tier subcontractors, prime contractors and the ultimate user under relevant prime contract(s).

(c) Seller shall be liable for and hold Buyer harmless from any loss, damage, or expense whatsoever that Buyer may suffer from breach of any of these warranties. Remedies shall be at Buyer's election, including repair, replacement or reimbursement of the purchase price of nonconforming materials and, in the case of services either correction of the defective services at no cost or reimbursement of the amounts paid for such services.

14. Inspection

(a) All material and workmanship shall be subject to inspection and test at reasonable times and places by Buyer or Buyer's customer before, during and after performance and delivery. The Buyer may require Seller to repair, replace or reimburse the purchase price of rejected material or Buyer may accept any materials and upon discovery of nonconformance, may reject or keep and have reworked any such materials not so conforming. Cost of repair, rework, replacement, inspection, transportation, repackaging, and/or re-inspection by Buyer shall be at Seller's expense.

(b) If inspection and test are made on the premises of Seller or Seller's lower tier subcontracts, Seller shall furnish without additional charge all reasonable facilities, information and assistance necessary for the safe and convenient inspection and tests required by the inspectors in the performance of their duty. The foregoing provisions of this Article are supplementary to and not in lieu of the provisions of Section 14 (a) above.

(c) Buyer's failure to inspect does not relieve Seller of any responsibility to perform according to the terms of this Purchase Order.

15. Changes

(a) Buyer shall have the right by written order to suspend work or to make changes from time to time in the services to be rendered or the materials to be furnished by Seller hereunder or the delivery date. If such suspension or changes cause an increase or decrease in the cost of performance of this Purchase Order or in the time required for its performance, and equitable adjustment shall be negotiated promptly and the Purchase Order shall be modified in writing accordingly. Any claim by Seller for adjustment under this Section 15 (a) must be asserted in writing within twenty (20) days from the date of receipt by Seller of notification of the change or suspension and shall be followed as soon as practicable with specification of the amount claimed and supporting cost figures. However, nothing herein shall excuse the Seller from proceeding with this Purchase Order as changed pending resolution of the claim.

(b) Information, advice, approvals or instructions given by Buyer's technical personnel or other representatives shall not affect Buyer's and Seller's rights and obligations hereunder unless set forth in a writing which is signed by Buyer's purchasing representative and which states it constitutes an amendment of change to this Purchase Order.

16. Infringement

Seller warrants that all work, materials, services, equipment, parts and other items provided by Seller pursuant to this Purchase Order, which are not of Buyer's design, shall be free from claims of infringement (including misappropriation) of third party intellectual property rights and that any use or sale of such items by Buyer or any of 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 and expenses including attorney's fees) arising out of claims, suits, or actions alleging such infringement, which claims, suits, or actions Seller, hereby, agrees to defend, at Seller's expense, if requested to do so by Buyer. Seller may replace or modify infringing items with comparable goods acceptable to Buyer of substantially the same form, fit, and function so as to remove the source of infringement, and Seller's obligations under this Purchase Order including those contained in Section 13 and in this Section 16 shall apply to the replacement and modified items. If the use or sale of any of the above items is enjoined as a result of such claim, suit or action, Seller, at no expense to Buyer, shall obtain for Buyer and its customers the right to use and sell the said item.

17. Taxes

Unless this Purchase Order specifies otherwise, the price of this Purchase Order includes, and seller is liable for and shall pay, all taxes, impositions, charges and exactions imposed on or measured by this Purchase Order except for applicable sales and use taxes that are separately stated on Seller's invoice. Prices shall not include any taxes, imposition, charges or exactions for which Buyer has furnished a valid exemption certificate or other evidence of exemption. To the extent that Buyer is required to do so under applicable Unites States law or tax regulations, Buyer may deduct from any payments due to Seller pursuant to this Purchase Order such taxes as Buyer is required to withhold from such payments and pay such taxes to the relevant tax authorities; provided, however, that upon request Buyer will provide Seller with relevant tax receipts or other suitable documentation evidencing the payment of such taxes promptly after such taxes are paid.

18. Assignments

(a) Seller may not assign any rights or delegate any of its obligations due or to become due under this Purchase Order without the prior written consent of Buyer. Any purported assignment or delegation by Seller without such consent shall be void. Buyer may assign this Purchase Order to (i) any successor in interest, or (ii) Buyer's customer. Buyer shall have the right at any time to set off any amount owing from Seller to Buyer or Buyer's subsidiaries and/or affiliates against any amount due and owing to Seller or any of its subsidiaries and/ or affiliates pursuant to this Purchase Order or any other contractual agreement between Buyer and Seller or their respective subsidiaries and/or affiliates.

(b) Seller shall promptly notify the Buyer in writing in advance of any organizational changes planned by Seller, including name or ownership changes, mergers or acquisitions.

19. Compliance with Law

(a) Seller warrants that the materials to be furnished and the services to be rendered under this Purchase Order shall be manufactured, sold, used and rendered in compliance with all relevant federal, state, local law, orders, rules, ordinances, and regulations and in compliance with applicable international prohibitions on child labor. Seller certifies that with respect to the production of the articles and/or the performance of the services covered by this Purchase Order, it has fully complied with Sections 6, 7, 12, and 15 of the Fair Labor Standards Act of 1938, as amended, and of regulations and orders of the United States Department of Labor under Section 14 thereof, if applicable.

(b) Seller warrants that all equipment and materials delivered under this Purchase Order are in conformance with the latest OSHA requirements.

(c) The Seller warrants that in the performance of this Purchase Order, it will comply with all applicable U. S. Department of Transportation regulations on hazardous materials and any other pertinent federal, state, or local statutes, laws, rules, or regulations; and Seller further agrees to hold Buyer harmless from any loss, damage, fine, penalty, or expense whatsoever that Buyer may suffer as a result of Seller's failure to comply with this warranty. The foregoing is in addition to and not in mitigation of any other requirements of this Purchase Order.

(d) For orders placed in support of and charged to a U.S. Government Prime Contract or subcontract thereunder procuring an item meeting the Federal Acquisition Regulation (FAR) definition of a commercial item, the following clauses set forth in the FAR or the Defense Federal Acquisition Regulation Supplement (DFARS) in effect as of the date of said prime contract are incorporated herein by reference. In all clauses listed herein the terms "Government" and "Contractor" shall be revised to identify properly the contracting parties under this Purchase Order. The Seller shall include the terms of this Article, including this Section 19 (d) in all purchase orders or subcontracts awarded under this Purchase Order.

1. Utilization of Small Business Concerns [52.219-8]
2. Equal Opportunity [52.222-26]
3. Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans [52.222-35]
4. Affirmative Action for Workers with Disabilities [52.222-36]
5. Notification of Employee Rights Concerning Payment of Union Dues [52.222-39]
6. Service Contract Act of 1965 (when applicable) [52.222-41]
7. Combating Trafficking in Persons [52.222-50]
8. Subcontracts for Commercial Items [52.244-6]
9. Preference for Privately Owned U.S Flag Commercial Vessels [52.247-64]
10. Preference for Domestic Specialty Metals – Alternate 1 (DoD Contracts) [252.225-7014]
11. Subcontracts for Commercial Items and Commercial Components (DoD Contracts) [252.244-7000]
12. Notification of Potential Safety Issues (DoD Contracts) [252.246-7003]
13. Transportation of Supplies by Sea (DoD Contracts) [252.247-7023]
14. Notification of Transportation of Supplies by Sea (DoD Contracts) [252.247-7024]

20. Responsibility and Insurance

Seller shall be responsible for the actions and failure to act of all parties retained by, through, or under Seller in connection with the performance of this Purchase Order. Seller shall also maintain and cause its subcontracts to maintain such General Liability, Property Damage, Employer's Liability, Workers' Compensation Insurance, Professional Errors and Omissions Insurance, and Motor Vehicle Liability (Personal Injury and Property Damage) Insurances as are specified in this Purchase Order or, if none are specified, such amount as will protect Seller (and its subcontracts) and Buyer from said risks and from any claims under any applicable Workers' Compensation, Occupation Disease, and Occupation Safety and Health statutes. Seller shall provide Buyer with certificates evidencing required insurance upon Buyer's request.

21. Indemnity against Claims

(a) Seller shall keep its work and all items supplied by it hereunder and Buyer premises free and clear of all liens and encumbrances, including mechanic's liens, 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.

(b) Seller shall, without limitation, indemnify and hold Buyer and its customer(s) and their respective officers, directors, employees and agents harmless from and against (i) all claims (including claims under Workers' Compensation or Occupation Disease laws) and resulting costs, expenses and liability which arise from personal injury, death, property loss or damage attributed to, or caused by, the goods, services or other items supplied by Seller pursuant to this Purchase Order except to the extent that such injury, death, loss or damage is caused solely and directly by the negligence of Buyer, and (ii) all claims (including resulting costs, expenses and liability) by the employees of Seller or any of its subcontractors.

22. International Transactions

(a) Payment will be in United States dollars unless otherwise agreed to by specific reference in the Purchase Order.

(b) Seller agrees that the Buyer, its subsidiaries, affiliates or its designees may exclusively use the value of the Purchase Order to satisfy any international offset obligations with Seller's country, subject to the offset qualifying laws, rules and regulations of that country.

23. Export/Import Controls

(a) If Seller is a U.S. company, that engages in the business of either manufacturing or exporting defense articles or furnishing defense services, the Seller hereby certifies that it has registered with the U.S. Department of State Directorate of Defense Trade Controls and understands its obligations to comply with International Traffic in Arms Regulations ("ITAR") and the Export Administration Regulations ("EAR").

(b) Seller shall control the disclosure of and access to technical data, information and other items received under this Purchase Order in accordance with U.S. export control laws and regulations, including but not limited to the ITAR. Seller agrees that no technical data, information or other items provided by the Buyer in connection with this Purchase Order shall be provided to any foreign persons or to a foreign entity, including without limitation, a foreign subsidiary of Seller, without the express written authorization of the Buyer and the Seller's obtaining of the appropriate export license, technical assistance agreement or other requisite documentation for ITAR controlled technical data or items. Seller shall indemnify Buyer for all liabilities, penalties, losses, damages, costs or expenses that may be imposed on or incurred by Buyer in connection with any violations of such laws and regulations by Seller.

(c) Seller shall immediately notify Buyer if it is or becomes listed on any Excluded or Denied Party List of any agency of the U.S. Government or its export privileges are denied, suspended or revoked.

24. Relationship

Seller and all individuals assigned by the Seller to assist Buyer, will, at all times during the performance of the Purchase Order and in connection with any services rendered to Buyer, be considered employees of Seller. No relationship or employer-employee is created by this agreement or by the Seller's services.

25. Gratuities/Kickbacks

Buyer may, by written notice to Seller, terminate the right of seller to proceed under this Purchase Order, if Buyer has reasonable cause to believe that gratuities or kickbacks were offered or given by Seller, or any agent or representative of Seller, to any officer, employee or representative of Buyer with the intent of securing the Purchase Order or securing favorable treatment with respect to the award or amendment of the Purchase Order or making of any determination with respect to the performance of the Purchase Order. The rights and remedies of Buyer provided in this clause shall not be exclusive and are in addition to any other rights or remedies provided by law or in equity or under the Purchase Order.

26. Waiver

The failure of Buyer, in any one or more instances, to insist upon performance of any provision of this agreement and Purchase Order shall not be construed to be a waiver of such provision in any subsequent instance.

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27. COUNTERFEIT PARTS

As used herein, "Part" means any material, product, component, device, module, assembly, subassembly, or the like sold or delivered by Supplier to OEwaves either as Goods or as a constituent part of a Goods. "Counterfeit Part" means a Part that is (i) an unauthorized copy or substitute that has been identified, marked, and/or altered by a source other than the Part's legally authorized source and has been misrepresented to be an authorized item of the legally authorized source, and/or (ii) previously used parts provided or represented as "new." A Part is a "Suspect Counterfeit Part" if visual inspection, testing, or other information provide reason to believe that the Part may be a Counterfeit Part. As used herein, "authentic" means (i) genuine, (ii) from the legitimate source claimed or implied by the marking and design of the Part offered, and (c) manufactured by, or at the behest and to the standards of, the manufacturer that has lawfully applied its name and trademark for that model/version of the Part.

Supplier represents and warrants that only new and authentic Parts and materials are used in Goods required to be delivered to OEwaves and that such Goods contain no Counterfeit Parts. No other Part other than a new and authentic Part shall be used unless approved in advance in writing by OEwaves's duly authorized representative. To further mitigate the possibility of the inadvertent use of Counterfeit Parts, Supplier shall only purchase authentic parts/components directly from original equipment manufacturers ("OEMs") and original component manufacturers ("OCMs") or through the OEM's/OCM's authorized distributors.

Supplier shall make available to OEwaves, at OEwaves's request, OEM/OCM documentation that authenticates traceability of the Parts to the applicable OEM/OCM. Purchase of Parts from independent distributors is not authorized unless first approved in writing by OEwaves's duly authorized representative.

Supplier shall maintain a documented system (policy, procedure, or other documented approach) that provides for prior notification to OEwaves and OEwaves's written approval before Parts are procured from sources other than OEMs/OCMs or through the OEM's/OCM's authorized distributors. Supplier shall provide copies of such documentation for its system for OEwaves's inspection upon OEwaves's request.

28. Severability

If any provision of this Purchase Order or application thereof are 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.

29. [Reserved]