



A GenCorp Company

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STANDARD PURCHASE ORDER TERMS AND CONDITIONS

1. ACCEPTANCE

This order is Buyer's offer to Seller for the work to be performed hereunder, and together with any specifically noted overriding and/or supplemental agreements signed by the parties hereto which refers to these terms including all referenced documents and specifications, constitutes the entire agreement between Buyer and Seller with respect to such work and supersedes any other agreement or understandings, oral or written, made prior to the date of this order concerning such work. This offer shall become a binding contract on the terms stated herein when it is accepted either by acknowledgement, performance, or delivery. Any term or condition stated by Seller in any prior proposal or in acknowledging or otherwise accepting this order or any agreement or understanding modifying this order shall not become part of the contract or binding upon Buyer unless specifically accepted in writing by Buyer.

2. PACKING – SHIPPING

All goods shall be prepared for shipment and packed to prevent damage or deterioration, with shipment secured from the lowest transportation rates, in compliance with carrier tariffs. No charges will be paid by Buyer for preparation, packing, crating or cartage unless separately stated in this contract. All shipments to be forwarded on one day via one route shall be consolidated. Each container shall be consecutively numbered and marked with purchase order and part numbers. Container and purchase order numbers shall be indicated on bills of lading. Three copies of packing sheets, showing purchase contract number, shall be attached to the No. 1 container for each shipment. Any goods sold f.o.b. place of shipment shall be forwarded prepaid or collect as directed by Buyer. Seller shall make no declaration concerning value of goods shipped, except on goods where tariff rate(s) are dependent upon a released or declared value, in which event such value shall be released or declared at the maximum value for the lowest rate(s).

3. SHIPMENT – DELIVERY

Time is of the essence in the performance of this order. Shipments or deliveries or performance of services shall be strictly in accordance with the purchase order schedule. If it appears Seller will not meet such schedule, then in addition to Buyer's other remedies, Seller shall promptly accelerate work and notify Buyer in writing of any delay and, if requested by Buyer, ship via air or expedited routing to avoid or minimize delay to the maximum extent possible, the added cost to be borne by Seller.

4. INVOICES – PAYMENT

Invoices shall not be issued nor payments made prior to delivery. Individual invoices must be issued for each shipment under this order. Discount invoices will be payable based on applicable discount period computed from the date of scheduled or actual delivery of the items ordered or the date of receipt of the correct invoice, whichever is later. Unless freight and other charges are itemized, any discount will be taken on full amount of invoice. All payments are subject to adjustment for shortage or rejection.

5. PRICES

Seller warrants that the prices of the items covered by this order are not in excess of the Seller's lowest prices in effect on the date of this order for comparable quantities of similar items.

6. WARRANTIES

In addition to any other express or implied warranties, Seller warrants that all items delivered under this order will be merchantable, free from defects in materials and workmanship, that all items will conform to the requirements of this order including but not limited to, the applicable descriptions, specifications and drawings, that all items will be free from defects in design and suitable for the purposes intended by Buyer. Buyer approval of a design furnished by Seller shall not relieve Seller of its obligations under this warranty. Seller's liability under this warranty clause shall include, at buyer's election; repair, replacement, or return for credit all defective or nonconforming items and the payment of all packing and transportation costs attributable to accomplishment of the above, all at Seller's expense. The Warranty of Seller, together with its service warranty and guarantee, if any, shall run to Buyer and its customers.

7. INSPECTION

All items covered by this order shall be subjected to inspection and test by Buyer and its customers to the extent practicable at all times and places including the place and period of manufacture. The Buyer or his representative may inspect the plant or plants of the Seller or of any of Seller's subcontractors engaged in the performance of this order. Seller shall provide, without additional charge, all reasonable facilities and assistance for such inspections and tests. Any such inspection or test by Buyer or its customer shall be performed in such a manner as not to unduly delay the work. No inspection, test, approval (including design approval), or acceptance of items ordered shall relieve Seller from responsibility for defects or other failures to meet the requirements of this order. All items are subject to final inspection and acceptance by Buyer at destination not withstanding any prior payment or inspection at source and such inspection will be made within a reasonable time after delivery.

8. REJECTION

Buyer shall have the right to reject, require correction or accept with an equitable adjustment in price any goods delivered or services performed hereunder which are defective or otherwise not in strict conformance with the requirements of this order. Buyer shall notify Seller of such rejections or other actions and at Buyer's election and Seller's risk and expense such items shall be held by Buyer or returned to Seller for credit, refund, repair, rework, or replacement as directed by written instructions from Buyer. No replacements or correction of defective items shall be made by Seller unless agreed to in writing by Buyer.

9. RISK OF LOSS

Notwithstanding any term of this order, or any inference therefrom, the risk for any loss of or damage to or destruction of goods described in this order shall be borne by Seller at all times until the goods are received and accepted by Buyer. Title to the goods passes to Buyer upon final acceptance after inspection.

10. CHANGES

Buyer may at any time by written notice make changes within the general scope of this order in any one or more of the following: (1) drawings; (2) designs; (3) specifications; (4) method of shipping or packing; (5) place of inspection, delivery or acceptance; (6) quantities; and (7) schedules. Seller shall proceed immediately to perform this order as changed. If any such change causes an increase or decrease in the cost of, or time required for performance of any part of the work under this order an equitable adjustment in the order price and/or delivery schedule will be made. Any claim for adjustment under this clause will be deemed to be waived unless asserted in writing (including the amount of the claim) and delivered to Buyer within twenty (20) days from the date of receipt of Seller of the change order or written notice or within such further time as may be agreed upon by the parties.

11. PATENT PROTECTION

Seller shall save Buyer, its agents and customers, and users of its products harmless from all loss, damage and liability, which may be incurred on account of infringement or alleged infringement of any United States or foreign patent, copyright or trademark arising out of the manufacture, sale or use of such items by Seller, Buyer, Buyer's agents or customers, or users of its products and Seller shall, at its own expense, defend all claims, suits and actions against Buyer, its agents or customers, or users of its products in which such infringement is alleged, provided Seller is duly notified of such claims, suits and actions.

12. ASSIGNMENT, DELEGATION AND SUBCONTRACTS

No assignment of any rights, including rights to moneys due or to become due hereunder, nor any delegation of duties, obligations or liabilities under this order shall be binding upon Buyer until Buyer's written consent thereto has been obtained. No goods to be delivered under this order shall be procured by Seller from a third party in completed or substantially completed form without Buyer's prior written consent.

13. TERMINATION

By written notice directed to Seller, Buyer may terminate for Buyer's convenience all or any part of this order. In such event, the order price shall be equitably adjusted: provided, such adjustment shall not exceed the order total price, nor allow any amount for anticipated profit for performance not rendered: provided further, Seller's written claim for adjustment is received within thirty (30) days following the effective date of termination set forth in Buyer's written notice, such termination shall not relieve Buyer or Seller of their respective obligations as to any unterminated portions of the order. Upon receipt of a termination notice, Seller shall stop work to the extent specified in the notice and take such other action as may be necessary or as Buyer may direct for the transfer, protection, preservation of property and contract rights which are related to the termination, and to minimize the cost of termination, to and for the benefit of Buyer.

14. CANCELLATION – CAUSE

If Seller fails to make delivery of the goods, or fails to perform the services, in accordance with the delivery dates specified in this order, or 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 does not cure such failure within ten (10) days after notice from the Buyer, Buyer may (in addition to any other right or remedy provided by this order or by law) terminate all or any part of this order by written notice to Seller without liability and purchase substitute goods elsewhere, and Seller shall be liable to Buyer for any excess cost occasioned Buyer thereby. Seller shall continue performance of this order to the extent not terminated pursuant to this Clause 14.

Except with respect to defaults of subcontractors at any tier, Seller shall not be liable to Buyer if the failure to perform this order arises out of causes beyond the control and without the fault or negligence of the Seller. If the failure to perform is caused by the default of a subcontractor at any tier, and if such default arises out of causes beyond the control of both the Seller and subcontractor, and without the fault or negligence of either of them, the Seller shall not be liable to Buyer unless the goods or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Seller to meet the requirements of this order.

If this order is terminated as provided in this Clause 14, the Buyer, in addition to any other rights provided herein, may require the Seller to transfer title and deliver to the Buyer (i) any completed goods, and (ii) such partially completed goods and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights as the Seller has specifically produced or specifically acquired for the performance of this order. If, after notice of the termination of this order "with cause," it is determined that the failure to perform is due to causes totally beyond the control and totally without the fault or negligence of Seller, such notice of default shall be deemed to have been issued pursuant to Clause 13 hereof, and the rights and obligations of the parties hereto shall be governed by such Clause 13.

15. COMPLIANCE WITH LAWS

(a) In the performance of this contract Seller shall comply with all federal, state and local safety laws, the provisions of the Fair Labor Standard Act (FLSA) of 1938, as amended, the Equal Opportunity provisions of the current Presidential Executive Order and all other applicable federal, state and local laws, regulations, rules and ordinances (collectively, "applicable laws"). Seller agrees, upon request, to furnish Buyer a certificate regarding FLSA compliance or compliance with other applicable laws in such form as Buyer may from time to time require. Seller agrees to indemnify and hold Buyer harmless to the full extent of any loss, damage or expense (including attorneys' fees) which Buyer may incur as a result of Seller's violation of any applicable laws.

(b) This contract shall be governed by the laws of the State of Washington without resort to said state's conflicts of law rules

16. DISCLOSURE

No news release, advertisement, or other disclosure relating to this order shall be made without Buyer's prior written approval. Further, Seller shall keep confidential all designs, processes, drawings, specifications, reports, data and other technical or proprietary information and the features of all parts, equipment, tools, gauges, patterns, and other items furnished or disclosed to Seller by Buyer in connection with this contract, unless otherwise provided herein or authorized by Buyer in writing. Seller shall use such information and items, and the features thereof, only in the

performance of this contract. Upon completion or termination of this order, Seller shall return all such information and items to Buyer or make such other disposition thereof as may be directed or approved by Buyer.

17. WAIVER

The failure of Buyer to insist upon the performance of any provision of this order, or to exercise any right or privilege granted to Buyer under this order shall not be construed as waiving any such provision, and the same shall continue in force.

18. HAZARDOUS MATERIAL PACKAGING, LABELING AND SHIPPING

Seller shall package, label, transport and ship hazardous materials or items containing hazardous materials in accordance with all applicable federal, state and local laws and regulations including but not limited to current published issues of tariffs and regulations reflecting 49 Code of Federal Regulation Articles 100-199 and DoD FAR Supp 52.288-7007 and shall furnish appropriate Material Safety Data Sheets. Seller, prior to each hazardous material shipment, shall notify Buyer of its nature and shipment data by such means of communication as will allow for proper preparation for acceptance of delivery by the carrier of the material and shall identify same on all shipping documents.

19. HOLD HARMLESS AND INDEMNIFICATION

Seller shall defend, indemnify, and hold harmless Buyer, its officers, employees and agents from any claim, suit, loss, cost, damage or personal injury (including death) to any person, including Seller's employees, of whatsoever nature or kind arising out of, as a result of, or in connection with performance of this contract occasioned in whole or in part by the actions or omissions of Seller, its officers, employees, agents or subcontractors at any tier, including, without limitation, any such acts or omissions while on premises occupied by or under the control of Buyer, the Government, or third parties. Without in any way limiting the foregoing undertaking, Seller and its subcontractors at any tier shall maintain public liability and property damage insurance in reasonable limits covering the obligations set forth and shall maintain proper Worker's Compensation insurance or approved self-insurance program covering all employees performing this order.

20. DELAYS AND NOTICE OF LABOR DISPUTES

- A. Seller shall not be liable for any delays in delivery caused by circumstances beyond its control including acts of God or of the public enemy, acts of the United States Government, fire, floods, epidemics, quarantine restrictions, strikes, or embargoes. When any delays in delivery will occur or are anticipated, Seller shall immediately give notice thereof to Buyer.
- B. Whenever an actual or potential labor dispute is delaying or threatening to delay the performance of this order, Seller shall immediately give written notice thereof, including all relevant information with respect thereto, to Buyer.

21. TAXES

Unless prohibited by law, Seller shall pay and has included in the price of the order any federal, state or local tax, transportation tax, or other tax which is required to be imposed upon the items ordered hereunder, or by reason of their sale or delivery.

22. DESIGN, TOOLS, DIES, ETC.

- A. Unless otherwise agreed herein, Seller at its cost shall supply all material, equipment, designs, drawings, tools and facilities required to perform this order.
- B. Any materials, equipment, designs, drawings, tools or other property furnished by Buyer or specifically paid for by Buyer shall be Buyer's property, shall be used only in filling orders from Buyer and may on Buyer's demand be removed by Buyer without charge. Seller shall use such property at its own risk and shall be responsible for all loss of or damage to the same or to any person while in Seller's custody. Seller shall, at its sole cost, store and maintain all such property in good condition and repair. Buyer makes no warranties of any nature with respect to any such property, which is furnished "AS IS."
- C. Graphic arts and packaging materials: All film negatives, positives, engravings, electrodes and dies made by Seller for the production of material on this order will become the property of Buyer and be surrendered upon request.
- D. Notwithstanding anything herein to the contrary, the provisions of this clause 22 do not apply to property owned by the United States government. Disposition and use of U.S. government property shall be governed by applicable U.S. government regulations.