

## TERMS AND CONDITIONS

### FORMING PART OF THIS PURCHASE ORDER

The addressee named on the other side of this sheet is herein referred to as the "Supplier", and Valcor Engineering Corporation as the "Purchaser." It is agreed that acceptance of this order by the Supplier shall constitute sufficient notice of his agreement to the terms and conditions set forth herein and Purchaser hereby objects to any additional or different terms in Suppliers acceptance. No modification of this Purchase Order (including any additional or different terms in Supplier's acceptance) shall be binding on Purchaser unless agreed to in writing and signed by Purchaser's authorized representative.

**I. OVERRUNS OR UNDERRUNS.** Unless stated to the contrary, the total deliveries against this order shall not exceed 5% overruns.

**II. INVOICES.** Invoices in Triplicate, showing Purchase Order Number, must be mailed to the Accounts Payable Department of the Purchaser, Attention: Accounts Payable Manager (address as shown on face of order), not later than the day following shipment, irrespective of whether shipment is in part or whole. Separate invoices must be rendered for each Purchase Order.

**III. WARRANTIES.** The Supplier warrants that all material supplied against this Purchase Order shall be in full conformity with the specifications, drawings, samples or other description furnished or specified by Purchaser, and will be fit and sufficient for the purpose intended, merchantable, of good material and workmanship, and free from defects. The Supplier will bear the cost of inspecting merchandise rejected.

The Supplier warrants that all merchandise supplied against this Purchase Order has been manufactured in accordance with the Fair Labor Standards Act of 1938, as amended.

The Supplier warrants that the merchandise supplied against this Purchase Order shall comply with all State and Federal Laws relative thereto, including all State and Federal Laws relative to its manufacture.

The Supplier warrants that the supplies specified herein (and their sale or use, alone or in combination, according to the Supplier's specifications or recommendations, if any) will not infringe any United States or foreign patents and agrees to defend, indemnify and hold harmless Purchaser and anyone selling or using any of Purchaser's products against all loss, damage, liability, costs, expenses and attorney's fees incurred by reason of any infringement or alleged infringement.

The Supplier agrees to accept exclusive liability for the payment of any payroll taxes, or contribution to unemployment insurance or old age pensions or annuities which are measured by the wages, salaries, or other remuneration paid to the employees of the Supplier.

The foregoing are in addition to all other warranties implied by law, and all warranties shall survive acceptance and/or payment for the goods by the Purchaser.

**IIIA. DEFECTIVE OR NON-CONFORMING ITEMS/BREACH OF WARRANTY.** No deviation from the requirements of this Purchase Order is permitted without written Valcor approval. In the event of Seller's delivery of defective or nonconforming articles or Sellers breach of warranty, Purchaser may, at its election and in addition to any other rights or remedies it may have at law or equity or under this order, recover from Seller any costs of removing such articles which have been incorporated and any additional costs of disassembly, fault isolation, failure analysis, reinstallation, reinspection and retesting and (a) return the articles at Sellers risk and expense and recover from Seller the price paid therefor and, (b) accept or retain the articles and equitably reduce their price, or (c) require Seller, at Seller's expense, to promptly replace or correct the articles and, if Seller fails to promptly replace or correct such articles as directed by Purchaser, Purchaser may repair them or have them repaired at Sellers expense or elect any of the other remedies available to it under this order or at law.

**IV. ASSIGNMENT OF PURCHASE ORDER.** This Purchase Order shall not be assigned or transferred without the prior written consent of the Purchaser.

**V. CHANGES IN ORDER.** This order cannot be orally changed or in any manner changed, modified or discharged otherwise than by agreement in writing signed on its behalf by a duly authorized representative of the Purchaser.

**VI. PRODUCT IDENTIFICATION/PRESERVATION.** Products shall be clean, free from contamination, and preserved to prevent shipping damage. Product or product container shall be adequately identified so it is traceable to the purchase order item.

**VII. MOLDS, TOOLS, ETC.** Any and all molds, tools, dies, or fixtures ordered hereon or delivered to the Supplier by the Purchaser shall become or remain the property of the Purchaser and shall be used in the manufacture of articles for the Purchaser exclusively and shall be delivered to the Purchaser forthwith upon its request and without additional cost to the Purchaser. Furnishing of tools, including jigs, fixtures, dies, molds, etc., by Purchaser in no way relieves Supplier of responsibility for producing parts to blueprint specification. Maintenance of such tools shall be the responsibility of the Supplier and the Supplier shall replace any tool that has been lost, damaged or destroyed.

**VIII. PLANS, DRAWINGS, ETC.** All plans, drawings, specifications, data, engineering instructions, computer software, computer software documentation, or any other technical information, written or oral, supplied by the Purchaser to Supplier shall remain the property of the Purchaser as the case may be and Supplier shall not disclose same to any third party or make use thereof except in connection with performance hereunder. All plans, drawings, designs and specifications referred to on face of order shall be deemed an integral part of the order as fully as if set out herein.

**IX. RIGHT OF ACCESS/INSPECTION.** The purchaser, purchaser's customer and regulating authorities shall be allowed access before, during and after manufacture to all applicable records and to all facilities involved in the order for the purpose of compliance verification. Inspections and tests will be made as required by specifications made part of this order and copies of all test reports, test data, etc., in number specified by the order shall accompany shipment by Supplier to the Purchaser, (address as shown on face of order).

**X. REJECTED MATERIAL.** Payment of invoice does not constitute acceptance of parts or material. Parts rejected as a result of defective workmanship or materials up to one year from receipt of shipment may, at Purchaser's option, be returned to Supplier for replacement or credit and at Suppliers expense.

**XI. NOTICE OF LABOR DISPUTE.** Whenever an actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the Supplier shall immediately give notice thereof to the Purchaser. Such notice shall include all relevant information with respect to, such dispute.

### **XII. NATIONAL DEFENSE CLAUSE.**

(a) The Supplier agrees that he will immediately submit a confidential report to the Defense Department whenever, for any cause, he has reason to believe that an active danger of espionage or sabotage exists at the plant, factory, or site of the work and/or materials covered by this contract. This report shall contain complete information relative to the reasons, which cause the contractor to be apprehensive of such danger.

(b) The Supplier agrees that he will, whenever directed by the Secretary of Defense, report to the Defense Department the citizenship, the country of birth, or the alien status of any or all of his employees at the plant, factory, or site of the work and/or materials covered by this contract.

(c) In each subcontract which the Supplier may make under this contract, the Supplier shall include a stipulation which will limit and control the subcontractor in the performance of such subcontract in the same manner and/or to the same extent as the Supplier is limited and controlled by this National Defense Contract clause, Provided, that such stipulation need not be included in any subcontract for standard or commercial products procured under specifications which will not disclose the nature or character of the work and/or materials covered by this contract or any other classified information relative thereto.

**XIII.** Excess transportation charges resulting from failure of Supplier to meet acknowledged delivery schedule or from lack of adherence to Purchaser's shipping instruction, shall be borne by Supplier.

**XIV.** Supplier agrees that any additional costs incurred by Purchaser, as a result of Supplier's under-shipment or failure to conform to blueprint specifications, shall be borne by Supplier.

**XV. DAR, DFAR, FAR OTHER REGULATIONS AND LAWS.**

(a) If the contract block of this order does not contain a Department of Defense contract number or the word "military", paragraph (c) of this clause shall not apply.

(b) In the event that any mandatory Government flow downs are required to be passed down by the Purchaser, Supplier agrees to accept these flow downs pursuant to the Changes Article V. above and an equitable adjustment shall be negotiated, as necessary, and the Purchase Order modified in writing, accordingly.

(c) The clauses contained in the following paragraphs of DAR, DFAR, FAR are incorporated herein by reference:

52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS AND SMALL DISADVANTAGED BUSINESS CONCERNS

52.219-9 SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS SUBCONTRACTING PLAN

52.220-3 UTILIZATION OF LABOR SURPLUS AREA CONCERNS

52.220-4 LABOR SURPLUS AREA SUBCONTRACTING PROGRAM

52.210-5 NEW MATERIAL

52.225-3 BUY AMERICAN ACT-SUPPLIES

52.225-10 DUTY FREE ENTRY

7-103-13 RENEGOTIATION

7-104-11 EXCESS PROFITS

52.204-2 SECURITY REQUIREMENTS

52.211-15 DEFENSE PRIORITY AND ALLOCATION REQUIREMENTS – DPAS (15 CFR 700)

NOTE: WHEN REQUESTING A QUOTE IT WOULD BE (52.211.14)

52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT

52.227-10 FILING OF PATENT APPLICATIONS – CLASSIFIED SUBJECT MATTER

52.222-4 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT – OVERTIME COMPENSATION

52.222-20 WALSH-HEALEY PUBLIC CONTRACTS ACT

As used in the foregoing DAR, DFAR, FAR clauses and unless the context of a clause require otherwise. "Contracting Office" shall mean the Administrative Contracting Officer who has cognizance of Purchaser's prime contracts; "Contract" shall mean this order; "subcontracts" shall mean subcontracts and purchase orders issued under this order by Supplier, "Contractor" shall mean Supplier. Copies of all notices or reports required to be furnished under the above incorporated clauses shall be furnished to Purchaser.

(d) Supplier agrees to comply with all applicable local, state and federal laws and executive orders and regulations issued pursuant thereto and agrees to indemnify Purchaser against any loss, cost, damage or liability by reason of Supplier's violation of this paragraph.

**xvi. TERMINATION/CANCELLATION**

(a) Termination-convenience. The performance of work under this Order may be terminated, in whole or in part, by Purchaser for Purchaser's convenience in accordance with the "Termination" clause in FAR 52. 249-2 incorporated herein by reference.

(b) Cancellation-default. This Order may be cancelled, in whole or in part, by Purchaser for default in accordance with the "Default" clause in FAR 52.249-8, incorporated herein by reference, except that the word "Government" in all paragraphs other than (c) means Purchaser, "Contracting Officer" means Purchaser, "Contractor" means Supplier, and the references to a Disputes clause shall be in addition to any remedies which may be available to Purchaser under law. If the parties fail to agree on the amount to be paid for manufacturing materials referred to in paragraph (f) (FAR) of the "Default" clause, the amount shall be the reasonable value thereof (not to exceed a reasonably allocable portion of the price of this Order).

(c) For insolvency. In the event of the institution of any proceedings by or against Supplier in bankruptcy or insolvency or under any provisions of the Bankruptcy Act or for the appointment of a receiver or trustee or an assignment for the benefit of creditors of Supplier, Purchaser may terminate this order. Any termination under this paragraph shall be covered by the provisions of paragraph (b) of this clause.

(d) Stop Work Orders. The clause in FAR52.242-15 (paragraph c means in accordance with the Termination Clause (a), (b) & (c) above) is by reference incorporated herein

(e) Supplier shall not include in any claim submitted hereunder any cost of design engineering or development of any cost for special tooling, unless specifically ordered by Purchaser as a separate item of work separately priced not withstanding any provision of Section V11 or Section XV of DAR. Failure of Supplier to submit its termination clause within the period prescribed, unless extended by Purchaser in writing prior to the expiration of said period, shall constitute waiver of such claim, and Supplier shall not be required to notify Seller or make any determination thereof.

**XVII. DISPUTES.** Except as otherwise specifically provided in this order, any dispute concerning a question of fact and/or law arising under this order which is not disposed of by agreement of the parties shall be decided by a court of competent jurisdiction. Pending settlement or final decision of any such dispute, Seller shall proceed diligently with the performance of this order in accordance with the directions of the Purchaser.

**XVIII. EEO CLAUSE FROM EXECUTIVE ORDER 11246.** The provisions of section 202 of Executive Order 11246 and Section 66-1-4, 60-1-7 & 60-1-8 of Chapter 68 of 41 Code of Federal Regulations as Amended prohibiting discrimination against any employee or applicant for employment because of Race, Color, Religion, Sex or National Origin: Section 60.741.4 of Chapter 60 of 41 Code of Federal Regulations as Amended prohibiting discrimination against any employee or applicant for employment because of Physical or Mental Handicap: and Section 60-250.4 of Chapter 60 of 41 Code of Federal Regulations as Amended providing for the employment of disabled Veterans and Veterans of the Vietnam Era are hereby incorporated by reference to the same extent and with the same force and effect as if set forth herein in full.

**XIX. FRAUD.** The recording of False, Fictitious or Fraudulent Statements or Entries on Supplied Supplier Documents pertaining to manufacturing, inspection or test records may be punished as a Felony under Federal Statutes including Federal Law, Title 18 Chapter 47.

**XX. CONFIGURATION CONTROL.** The Supplier must notify Purchaser of any changes to Supplier plans, drawings, designs, product definition, processing or specifications referred to on face of Purchase Order.

**XXI RELATED DOCUMENTS.** Unless a specific revision is noted, the most current revision of documents referenced on this purchase order and related procurement documents shall apply.

**XXII FLOW DOWN OF REQUIREMENTS.** The suppliers shall flow down applicable reports of this order to sub tier suppliers.

**XXIII** Supplier shall advise the Purchaser (10) days in advance of time when materials and equipment are ready for inspection. No such inspection and no failure to inspect shall relieve Supplier of any responsibility with respect to articles, materials and workmanship, nor be interpreted or implied acceptance thereof by the Purchaser.

#### **XXIV COMPLIANCE WITH LAWS.**

(a) Supplier shall comply with all applicable national, state, provincial and local laws, ordinances, rules and regulations, including those relating to pollution control, waste disposal, hazardous substances, and protection of the environment; and Supplier shall hold Buyer harmless from and against any and all liability due to the Supplier's failure to so comply.

(b) Supplier hereby certifies that any Goods called for by this Order that are manufactured in the United States have been or will be produced in compliance with Fair Labor Standards Act of 1938 (29 U.S.C §§ 201-219) and, insofar as applicable to the Order, the Walsh-Healy Public Contracts Act (41 U.S.C §§ 35-45) and the Work Hours Act of 1962 (40 U.S.C §§ 327-332), and any amendments thereto, as well as with the provisions of any other federal law with respect to labor relations, minimum wages and hours of employment, now in effect or hereafter enacted, and with any and all rules and regulations issued under each and every such act. Supplier agrees that this certification may be considered as the certificate contemplated by the amendment dated October 26, 1949, to the Fair Labor Standards Act of 1938.

(c) Supplier shall promptly notify Buyer if Supplier is suspended debarred, or proposed for suspension or debarment from doing business with the U.S. Government, or if Supplier is listed or is proposed to be listed by the U.S. Government in any "denial orders," or is listed as a "blocked person," "specially designated national," or "specially designated terrorist" for U.S. export administration purposes. If a Supplier fails to so notify Buyer, then Supplier shall indemnify and hold Buyer harmless against any loss or damage suffered by Buyer as a result of its issuing any subcontracts to Supplier after such notice should have been given.

(d) Export. Supplier understands that any technical data furnished in connection with this Order may be subject to export controls, and Supplier will not export such data, including disclosure of such data to foreign persons, unless Supplier has verified that such export will not violate U.S. export control laws, including restrictions contained in any export licenses. Use of the technical data provided to Supplier in connection with this Order is limited to the manufacture of the defense articles required by this Order only. Disclosure of the data to any other person – except subcontractors within the same country as the Supplier – is prohibited. The acquisition of any rights in the data by any foreign person is prohibited. Any subcontracts between foreign persons in the approved country for manufacture of equipment for delivery pursuant to this Order shall contain all the limitations of this paragraph. The Supplier and its subcontractors shall destroy or return to the person in the United States all of the technical data exported pursuant to the contract or order upon fulfillment of their terms. Delivery of any defense articles manufactured by Supplier shall only be made to the Buyer in the United States or to an agency of the U.S. Government. If Supplier has export questions it may contact Buyer's export control department. Compliance with export laws and regulations will relieve Supplier of its obligations under any other terms and conditions of this Order and shall constitute a *force majeure* and give rise to an excusable delay hereunder.

#### **SUPPLIER INSTRUCTIONS REFERRED FROM FACE FORMING PART OF THIS PURCHASE ORDER**

##### **A. CERTIFICATIONS, REPORTS**

( 1 ) Certification of compliance is required for all applicable specifications, drawings and data required per purchase order. Certification shall be endorsed by an individual responsible for quality.

( 2 ) Material certification required. Material test reports must be maintained by Supplier and subject to examination for period not less than seven years.

( 3 ) Material typical certification required. Name of mill to be noted. Material must be FAR/DFARS compliant

( 4 ) Material mechanical/chemical mill test reports required: Material must be FAR/DFARS compliant

( 5 ) Plating certification required noting specification and thickness. The latest issue in effect on the date of contract award shall apply. Certification shall be endorsed by an individual responsible for quality.

( 6 ) Heat treating certification required noting specification. The latest issue in effect on the date of contract award shall apply. Certification shall be endorsed by an individual responsible for quality.

( 7 ) Passivation certification required noting specification. The latest issue in effect on the date of contract award shall apply. Certification shall be endorsed by an individual responsible for quality.

( 8 ) Stress relief certification required noting specification. The latest issue in effect on the date of contract award shall apply. Certification shall be endorsed by an individual responsible for quality.

( 9 ) Test reports per purchase order required.

(10) Non-destructive examination test report required.

(11) Calibration per ISO/IEC 17025, ANSI/NCSL Z540-1 or ISO 10012 & certification required. The latest issue in effect on the date of contract award shall apply.

(12) All supplier required documents ie; certifications, test reports etc. must accompany goods shipped and be noted on packing slips.

(13) 10CFR21 - Reporting defects and noncompliance applies. Valcor must be informed in writing when defects or noncompliance are discovered.

(14) Ultrasonic test report required.

(15) Liquid penetrant test report required.

(16) Electro polishing certification required noting specification. The latest issue in effect on the date of contract award shall apply. Certification shall be endorsed by an individual responsible for quality.

(17) Priming, plating or coating certification required per drawing or special instructions. Certification shall be endorsed by an individual responsible for quality.

(18) Material safety data sheets (MSDS) as required by the OSHA Hazard Communication Standard 29CFR1910.1200 shall be supplied along with the Certification of Conformance for each item on the order. Following shipment, if additional safety information becomes known, the supplier is responsible to notify Valcor.

(19) Certificate of Calibration traceable to National Institute of Standards and Technology required with shipment. NIST test report numbers or statement of traceability required.

(20) Cleaning certification required noting specification. Certification shall be endorsed by an individual responsible for quality.

## **B. INSPECTION REQUIREMENTS**

(21) Supplier to submit samples for Valcor inspection and approval before proceeding with production.

(22) When provided by reasonable notification by Valcor, the Supplier shall make his facilities and records available for inspection or audit of the items ordered hereunder. This inspection or audit may be conducted by Valcor, Valcor's customer/government inspector or other parties authorized by Valcor.

(23) Government inspection is required prior to shipment from your plant. Upon receipt of this order promptly notify the Gov't Representative who normally services your plant so that appropriate planning for Government inspection can be accomplished. In the event the Inspector does not schedule inspection within seven work days of request, notify Valcor.

(24) All work on this order is subject to inspection and test by the Government at all times at supplier facilities. The Government representative should be notified (48) hours in advance of the time articles or processes are ready for inspection or test. A copy of this subcontract must be furnished to the Government Inspector or the nearest Navy, Army or Air Force inspection office in your locality. In the event the inspector or office cannot be located, Valcor should be notified.

## **C. QUALITY REQUIREMENTS**

(25) The Supplier shall provide and maintain a quality management system which meets the requirements of AS9100. The latest issue in effect on the date of contract award shall apply.

(26) The Supplier shall provide and maintain a quality management system which meets the requirements of ISO9000 or MIL-Q-9858. The latest issue in effect on the date of contract award shall apply.

(27) The Supplier shall provide and maintain a quality control system which meets the requirements of ISO9000 or MIL-I-45208. The latest issue in effect on the date of contract award shall apply.

(28) The Supplier shall provide and maintain a calibration system which meets the requirements of ISO 17025, ISO 10012, ANSI Z1.4 or MIL-STD-45662. The latest issue in effect on the date of contract award shall apply.

(29) The Supplier shall provide and maintain a quality management system which meets the requirements of 10CFR50 APPENDIX B NQA-1 or ANSI N45-2. The latest issue in effect on the date of contract award shall apply.

## **D. TOOLING REQUIREMENTS**

(30) Tooling purchased per this purchase order is Valcor property subject to Valcor sole disposition and is to be retained by Supplier for exclusive Valcor requirements.

(31) Enclosed "Vendor Tool List" must be filled out per instructions and submitted with invoice. Receipt of this form is required for invoice payment.

## **E. FOREIGN OBJECT DEBRIS/ DAMAGE**

(32) As required by the Purchase Order, the Supplier shall maintain a foreign object debris/damage (FOD) prevention program. This program can follow NAS412 or be an otherwise approved control by Valcor. Delivered products must be clean and free from any material/debris, such as machined chips, burrs, and other foreign material on surfaces to prevent FOD entrapment.