

**CONTRACT FABRICATION & DESIGN
TERMS AND CONDITIONS OF PURCHASE**

General Provisions

By accepting this purchase order, and/or performing hereunder Seller agrees to comply fully with the Terms and Conditions of Purchase set forth in this document. Acceptance of this Purchase Order is expressly limited to the Terms and Conditions of this Purchase Order and none of the Seller's Terms and Conditions shall apply in acknowledging this Purchase Order or in the acceptance of this Purchase Order. Acceptance by Contract Fabrication & Design (hereinafter called "CFD"), shall not constitute agreement to Seller's Terms or Conditions. Seller may not ship under reservation.

1. MODIFICATIONS

Changes, modifications, waivers, additions or amendments to the terms and conditions of this Purchase Order shall be binding on **CFD** only if such changes, modifications, waivers, additions or amendments are in writing and signed by a duly authorized representative of **CFD**.

2. APPLICABLE LAW

The validity, interpretation, and performance of these terms and conditions and any purchase made hereunder shall be governed by the laws of the state from which this Purchase Order is issued, in force at the date of this Purchase Order for contracts made and to be performed in such state. The United Nations Convention on the International Sale of Goods (the Vienna Convention) is deemed waived and shall not apply. Where not modified by the terms herein, the provisions of such state's enactment of Article 2 of the Uniform Commercial Code shall apply to this transaction.

3. COMPLIANCE WITH LAW

Seller agrees that at all times it will comply with all applicable federal, state, municipal and local laws, orders and regulations, including but not limited to those affecting or limiting prices, production, purchase, sale and use of material. If requested by **CFD**, **Seller** agrees to timely certify compliance with such laws in such forms as **CFD** may request.

4. RELEASE OF INFORMATION

Neither party hereto shall, without the prior written consent of the other party (which shall not be unreasonably withheld), publicly announce or otherwise disclose, except to the U.S. Government, when the Purchase Order references a U.S. Government contract or subcontract number, the existence or the terms of this Agreement, or release any publicity regarding this Agreement. This provision shall survive the expiration, termination or cancellation of this Agreement.

Any knowledge or information which **Seller** may disclose to **CFD** shall not be deemed to be confidential or proprietary information and shall be acquired by **CFD** free from any restrictions as to use or disclosure thereof.

5. INDEMNITY

Seller shall defend, indemnify, protect and save **CFD**, its officers, employees, servants, agents, successors and assigns, harmless from and against all claims, including without limitation claims, liabilities, losses, judgments, actions, administrative proceedings, costs, expenses, penalties, fines, damages and expenses (including, but not limited to, attorneys' fees, consultants' fees and court costs) ("claims") for bodily injury, harm, sickness, disease and death and for property loss or damage, to the extent arising from: (i) the acts or omissions of **Seller**, its employees, contractors, subcontractors, servants, or agents; (ii) the failure of **Seller**, its employees, contractors, subcontractors, servants, or agents, to comply with applicable laws and regulations on or after the effective date of this Purchase Order, including claims based on strict liability; or (iii) breach by **Seller**, its employees, contractors or subcontractors of the terms and conditions of this purchase order. If any loss or damage is attributable to both **Seller** and **CFD**, **Seller** agrees, without regard to any concurrent or other negligence by **CFD** (if any) to provide **CFD** with comparative indemnification for that portion of the loss or damage which is attributable to **Seller** or **Seller's** officers, directors, employees, contractors or agents. Notwithstanding anything to the contrary, this provision shall survive the termination or expiration of this Purchase Order.

6. WAIVER

Any failure of **CFD** to enforce at any time, or for any period of time, any of the provisions of this Purchase Order shall not constitute a waiver of such provisions nor of **CFD's** right to enforce each and every provision.

7. ACCEPTANCE AND WARRANTY

Final acceptance of material by **CFD** will not be until after arrival at the **CFD** facility from which this Purchase Order originates, unless otherwise specified herein. **Seller** warrants that all articles, material and work supplied by **Seller** under this Purchase Order conform to the requirements, specifications, drawings, samples or other descriptions furnished or adopted by **CFD** and that they are of good material and workmanship and free from all defects in manufacture or design, and are of merchantable quality and fit for their intended purpose. Such warranties by **Seller** shall run to the benefits of **CFD**, its employees and purchaser's from **CFD**. **CFD**'s approval of designs furnished by **Seller** shall not relieve **Seller** of its obligation under this warranty. **Seller's** warranty shall be effective for a period of time as set forth on the face of this Purchase Order. If no such schedule is set forth on the face of this Purchase Order, the warranty shall be effective for a period of one year from the date of acceptance of goods by **CFD**, or for such longer period specified by **Seller**. All articles and material returned to **Seller** for breach of warranty hereunder shall be at **Seller's** expense, including expenses and penalties incurred by **CFD** in recalling such articles and materials which have been delivered to **CFD**'s customers and expense of redelivery. **Seller** agrees that shipment of materials against this P.O. constitutes certification that all articles or goods included in this shipment conform in all respect to the applicable requirements, specifications, and drawings. **Seller** will make process control data, inspection and test reports covering the articles or goods and their parts available for review and subject to examination by **CFD** or its authorized representatives to verify conformance to such applicable specifications and drawings. A certificate of conformance must accompany all shipments. Any articles or materials not accepted by **CFD** may be returned to **Seller** at **Seller's** expense for full credit of the purchase price. Inspection may be performed at **CFD**'s option on a statistical sampling basis. The entire lot may be rejected based on defects revealed by such sampling. At **CFD**'s option, the rejected lot will be either returned to **Seller** for replacement or credit or 100% screened by **CFD** with cost of screening paid by **Seller**. The initial inspection performed at **CFD** on receipt of material is a conditional acceptance, and shall not waive the right of **CFD** to return material to **Seller** which exhibits or develops defects due to latent causes during or after installation or testing of the end product.

Seller shall preserve all special drawings, dies, patterns, tooling or other items supplied or paid for by **CFD** in good condition; and they are the property of **CFD** unless otherwise specified, and the same such items shall be returned in good condition when the work on the Purchase Order has been completed or terminated, or at any other time as requested by **CFD**. No special drawing, die, pattern, tool or other item supplied by **CFD** or made by **Seller** for the use of or delivery to **CFD**, or for use by **Seller** in supplying **CFD**, shall be used by **Seller** for any purpose other than supplying **CFD**, without **Sellers** first obtaining the written consent of **CFD** thereto, provided, however, that if the U.S. Government has rights in such items under a prime contract with **CFD**, non-interfering use of the items for direct sales to the Government is authorized if written notice is provided to **CFD** prior to such use. If material, equipment, special drawings, dies, patterns, or other items are furnished by **CFD** for performance of this Purchase Order, all risk of loss thereof or damage thereto shall be upon **Seller** from the time of shipment to **Seller** until redelivery to and receipt by **CFD**.

All inventions which **Seller** conceives or reduces to practice during the course of its performance under this Purchase Order shall be the exclusive property of **CFD**. All materials, items and other work prepared by **Seller** under this Purchase Order shall be deemed "work-for-hire" as defined under United States copyright law and shall be the exclusive property of **CFD** from the date of inception. If the work product does not qualify as a "work-for-hire", then in any event all rights in the work product, including the copyright, will be deemed automatically transferred to **TI** from its inception. **CFD** shall have the exclusive worldwide right to use, edit, translate, publish, transfer or sell the work product prepared by **Seller** in any manner which **CFD** deems fit.

If **Seller** is prevented from delivering, or **CFD** is prevented from receiving the materials or articles referred to in this Purchase Order as a result of governmental actions or regulations, except as hereinafter provided, or of fires, strikes, accidents, and other unforeseeable causes beyond the control of either party, the obligation to receive or deliver shall be suspended for a reasonable time during which such causes continue to exist.

8. PATENTS AND COPYRIGHTS

Seller agrees to indemnify and to save **CFD** its officers, agents, employees, and vendees (mediate and immediate) harmless from any and all loss, expense, damage, liability, claims or demands either at law or in equity for actual or alleged infringement of any patent invention, design, trademark, or copyright arising from the purchase, use or sale of materials or articles required by this Purchase Order, except where such infringement or alleged infringement arises by reason of designs for such materials or articles originally furnished to **Seller** by **CFD**.

9. CHANGES

CFD may change from time to time any of the drawings, specifications or instructions for work covered by this Purchase Order and **Seller** shall comply with such change notices. If such changes result in a decrease or increase in **Seller's** cost or in the time for performance, and adjustment in the price and time for performance may be made by the parties in writing, provided, however, that **Seller** notifies **CFD** of the request for such adjustments with thirty (30) days after receipt by it of the change notice.

10. ASSIGNMENTS

Performance obligations shall not be assigned or transferred by **Seller** without prior written approval by **CFD**, and any attempted assignment or transfer without such consent shall be void. **Seller** shall not subcontract any substantial portion of the work to be performed by it under this Purchase Order without the prior written consent of **CFD**.

11. TERMINATION

CFD may terminate the work to be performed hereunder in whole or in part at any time without cause by written notice to **Seller**. Such notice shall state the extent and effective date of such termination and, upon the receipt of such notice; **Seller** will comply with the directions pertaining to work stoppage hereunder and the placement of further orders or subcontracts hereunder. The parties shall thereupon employ their best efforts to agree by negotiation, within three (3) months upon the amount of reimbursement, if any, to be paid to **Seller** for each termination. Termination under this provision shall not be deemed a breach of contract. The provisions of this paragraph shall not limit or affect the right of **CFD** to terminate this Purchase Order for cause and shall not apply to a termination with cause. **Seller** shall mitigate its claim to the maximum extent, and in any event no claims shall exceed the lesser of fair market value or actual costs of raw materials and "work-in-progress" material which **Seller** shows cannot be diverted to other uses. No claim shall be asserted or honored for loss of expected profits, or for any consequential or incidental damages, due to cancellation.

12. PRICE ADJUSTMENT

CFD will not accept shipment at any increase in price above that indicted on this Purchase Order. Any general price decrease announced by **Seller** in classification of equipment and/or materials similar to the items described on this Purchase Order shall automatically reduce the price thereof by a comparable percentage.

13. NOTICE OF LABOR DISPUTES

Whenever any actual or potential labor dispute delays or threatens to delay the timely performance of this Purchase Order, **Seller** shall immediately give notice thereof to **CFD** and, if the Purchase Order relates to a military contract, **Seller** will also give notice to the nearest military representative.

14. TERMS

The following terms with respect to payment are applicable to this Purchase Order:

- a. **NET INVOICES**
Net invoices will be paid 30 days from the invoice date unless otherwise stated on the Purchase Order or agreed to in writing by both parties.
- b. **DISCOUNTED INVOICES**
Discounted invoices will be paid 10 days from the invoice date. The acceptance of discount offers will be at the discretion of **CFD**.
- c. All Schedules of payments above stated are based upon receipt by **CFD** or shipment f.o.b. source, whichever is applicable as indicated on the face hereof, of the goods or services prior to scheduled payment date. If **CFD** receives the invoice prior to such shipment or receipt of goods or services, the foregoing terms on this Purchase Order shall be measured from date of such receipt of shipment of goods rather than date of receipt of invoice.
- d. Invoices must be imprinted, where applicable, with the nine digit D-U-N-S number where available, corresponding to the address where payment should be mailed and payment shall be sent to such address.

15. EXTRA CHARGES

No charges of any kind, including charges for boxing or cartage, will be allowed unless specifically agreed to by **CFD** in writing. Pricing by weight, where applicable, covers net weight of material, unless otherwise agreed.

16. TIME OF DELIVERY

The delivery dates indicated by **CFD** for the articles, material or work to be supplied under this Purchase Order are of the essence. Unless otherwise noted on the face of this Purchase Order, all **CFD** purchases are rated orders and subject to the Defense Priorities & Allocation System (DPAS). Failure to meet agreed upon delivery shall be considered a breach of contract; furthermore, **Seller** agrees to pay to **CFD** any penalty and damages imposed upon or incurred by **CFD** for failure of **Seller** to deliver articles, materials, or work on such delivery dates.

Unless otherwise agreed in writing, **Seller** shall not make commitments for material or production in excess of the amount or in advance of the time necessary to meet **CFD**'s delivery schedule. It is **Seller's** responsibility to comply with this schedule, but not to anticipate **CFD**'s requirements. Goods shipped to **CFD** in advance of schedule may be returned to **Seller** at **Seller's** expense. **CFD** may reschedule the delivery of any unshipped product for later delivery within ninety (90) days of the originally scheduled delivery date.

17. SETOFF

CFD shall be entitled at all times to setoff any amount owing, for any reason, at any time, from **Seller** to **CFD** or any of its affiliated companies against any amount payable at any time by **CFD** in connection with this Purchase Order.

18. SALES AND USE TAX EXEMPTION

It is hereby certified that the above described property is exempt from the sales and use tax, unless otherwise noted for the reason that such property is purchased for resale or will become an ingredient or component part of, or be incorporated into, or used or consumed in, a manufactured product produced for ultimate sale to the U.S. Government.

19. RESERVATION OF RIGHTS

CFD expressly reserves all rights and remedies which are available to it at law or equity, including but not limited to rights and remedies set forth in the Uniform Commercial Code.

20. ATTACHMENTS

Any attachments referenced on the front side of this Purchase Order shall be deemed for all purposes to be an integral part of this Purchase Order. In the event of irreconcilable conflict between such referenced attachments and the terms stated therein, the terms of such attachments shall control.

21. OVERSHIPMENTS

Seller is instructed to ship only the quantity(ies) specified in this Purchase Order. However, any deviation caused by conditions of loading, shipping, packing, or allowances in manufacturing processes may be accepted by **CFD** according to the overshipment allowance indicated on the face of this Purchase Order. If no allowance is shown, it shall be 0% (zero percent). **CFD** reserves the right to return any overshipment in excess of the allowance at the **Seller's** expense.

22. PACKING AND SHIPPING INSTRUCTIONS

Seller agrees to insure that shipments are properly packed and described in accordance with **CFD** specifications and /or applicable carrier regulations. Shipments will be made at the lowest freight charges unless otherwise authorized by **CFD** in writing. **CFD** may assist **Seller** by providing freight classifications or classifying material. On all shipments, **Seller** will provide a packing list to accompany each shipment, referencing the appropriate Purchase Order and item number.

All premium freight cost incurred by **CFD** or **Seller** beyond that specified by **CFD** shall be borne by **Seller**. **Seller** is responsible for all shipments which are damaged in transit due to improper packaging, improper judgment or any other act or omission of the **Seller**, shipper or carrier. On all F.O.B origin shipments, except Parcel Post, **Seller** will ship freight collect. (If small parcel carrier collect is unavailable, **Seller** will ship prepaid).

Definition of Terms (Whether F.O.B. origin or destination).

- (a) "Freight collect" **Seller** will ship freight collect - freight carrier will bill **CFD**.
- (b) "Freight prepaid charge back" - **Seller** will ship freight prepaid and bill **CFD**.
- (c) "Freight prepaid" - **Seller** will ship freight prepaid and bear all transportation costs.

23. RETURNS

Defective material shall be returned freight collect to **Seller**. Replacement material shall be sent freight prepaid from **Seller**, who will absorb the burden of premium transportation when defect or replacement material places critical time or delivery schedule constraints on **CFD**.

24. INSPECTION - QUALITY SYSTEM

The **Seller** agrees to permit **CFD** and **CFD's** customer or Government representatives to verify the quality of supplies and services being provided under this Purchase Order at any production stage in the **Seller's** facility. Verification may consist of a physical assessment/surveillance of the **Seller's** facilities and quality programs and/or a source inspection. Deficiencies identified during such verification shall be positively corrected by the supplier in the most expeditious manner possible. The **Seller** shall provide all reasonable facilities and assistance for the safety and convenience of personnel engaged in such verification. **Seller** agrees to include into each subcontract **Seller** might make hereunder appropriate provisions to the same effect.

Unless modified by the Purchase Order through the use of **CFD's** P.O. clauses, **Seller** is required to ensure that the manufacturing processes used meets the technical requirements of the applicable drawings, specifications, engineering changes and added requirements of the Purchase Order. An inspecting system inherent to verifying the technical requirements must be maintained and objective evidence of such will be produced on request. Additionally, proof of compliance must be produced upon request or by assessment from **CFD**.

25. SELLER OWNERSHIP CHANGE

Seller is required to submit immediately in writing to **CFD** notification on the following change conditions, whether subcontract is DOD classified or not.

- (a) Acquisition by or merger with any foreign interest;
- (b) Majority or controlling interest obtained by a foreign interest.

26. GOVERNMENT CONTRACT PROVISIONS

If this Purchase Order references a U.S. Government contract or subcontract number, the dates of the following clauses of the Federal Acquisition Regulation (FAR) are the same as the dates of the corresponding clauses in the prime contract referenced on the front of this P.O. are incorporated by reference and will prevail in the event of any inconsistency with the foregoing terms and conditions. Cost Accounting Standards (CAS) requirements are those in effect on the date of subcontract award or final agreement on price, whichever is earlier. It is understood that the term "contracting officer" or "Government" shall mean **CFD** and "contractor" shall mean **Seller** when applicable. Any reference to a "disputes" clause in any FAR clause incorporated in this Purchase Order is deleted. Any FAR clause which by its terms is required to be included in a subcontract is hereby incorporated in this Purchase Order when applicable. **Seller** shall be entitled to the full benefit of whatever authorization and consent clause is contained in the prime contract referenced on the front of this Purchase Order. Refer to form **CFD04-1000** or applicable FAR clauses.

27. OZONE DEPLETING SUBSTANCES

Except where the CONTRACT FABRICATION & DESIGN (**CFD**) Buyer of Record has given written approval to **Seller** in advance of shipment, **Seller** hereby agrees that it has not used or introduced, after May 15, 1993, a Class I ozone depleting substance (ODS) or introduced a Class II ODS (as such terms are defined in 40 CFR 82.104), into any product being supplied to or imported by **CFD** under this purchasing order. Where the **CFD** Buyer of Record has so agreed to accept product containing or manufactured using an ODS, **Seller** will label the product with a warning or will otherwise effectively warn **CFD** of such use in accordance with 40 CFR 82, Subpart E. Should **Seller** choose to warn **CFD** through a mechanism other than a warning label or other warning accompanying the shipment, a copy of such warning shall be sent to the **CFD** Buyer of Record, or the otherwise appointed representative of the Buyer of Record, in advance of shipment. Breach of this provision will entitle **CFD** to all remedies available for breach of this purchasing order, including without limitation, the right to reject the product and/or terminate this purchase order.

CONTRACT FABRICATION & DESIGN
TERMS AND CONDITIONS OF PURCHASE

The following clause replaces Paragraph 26 of the Terms and Conditions of Purchase of CONTRACT FABRICATION & DESIGN

26. GOVERNMENT CONTRACT PROVISIONS

This Purchase Order is placed under a U.S. Government contract or subcontract and, the following clauses of the Federal Acquisition Regulation (FAR) in effect in the prime contract referenced on the front of this P.O. are incorporated by reference and will prevail in the event of any inconsistency with the foregoing terms and conditions. Cost Accounting Standards (CAS) requirements are those in effect on the date of subcontract award or final agreement on price, whichever is earlier. It is understood that the term "contracting officer" or "Government" shall mean CFD and "contractor" shall mean Seller when applicable. Any reference to a "disputes" clause in any FAR clause incorporated in this purchase order is deleted. Any FAR clause which by its terms is required to be included in a subcontract is hereby incorporated in this purchase order when applicable. Seller shall be entitled to the full benefit of whatever authorization and consent clause is contained in the prime contract referenced on the front of this purchase order.

Gratuities	52.203-3	Special Tooling	52.245-17
Covenant Against Contingent Fees	52.203-5	Special Test Equipment	52.245-18
Restrictions on Subcontractor Sales to the Government	52.203-6	Inspection	52.246-1 or -2
Anti-Kickback Procedures	52.203-7	Inspection of Supplies - Cost Reimbursement	52.246-3
Certification and Disclosure Regarding Payments to Influence Certain Federal Transaction	52.203-11	Limitation of Liability	52.246-23
Limitation on Payments to Influence Certain Federal Transactions	52.203-12		52.246-24
Security Requirements	52.204-2	Preference for U.S. Flag Air Carriers	52.246-25
Required Source for Jewel Bearings and Related Items	52.208-1	Preference for U.S. Flag Vessels	52.247-63
Jewel Bearings and Related Items Certificate	52.208-2	Value Engineering	52.247-64
New Material	52.210-5	Termination	52.248-1
Stop Work Order	52.212-13	Termination (Cost Reimbursement)	52.249-1
Audit Sealed Bidding	52.214-26	Default	52.249-2
Subcontractor Cost or Pricing Data - Modifications - Sealed Bidding	52.214-28	Default (Fixed-Price Research and Development)	52.249-6
Examinations of Records by Comptroller General	52.215-1	DOD SUPPLEMENT	52.240-8
Audit - Negotiation	52.215-2	Special Prohibition on Employment	52.249-9
Price Reduction for Detective Cost or Pricing Data	52.215-22	Overseas Distribution of Defense Subcontracts	252.203-7001
Subcontractor Cost/Pricing Data	52.215-24	Required Sources for Miniature and Instrument Ball Bearings	252.204-7005
Subcontractor Cost or Pricing Data - Modifications	52.215-25	Required Sources for Precision Components for Mechanical Time Devices	252.208-7000
Integrity of Unit Prices	52.215-26	Required Sources for High Purity Silicon	252.208-7001
Termination of Defined Benefit Pension Plans	52.215-27	Required Sources for High Carbon Ferrochrome	252.208-7002
Utilization of Small and/or Disadvantaged Businesses	52.219-8	Notice of Intention to Furnish Precisions	252.208-7003
Labor Surplus Areas	52.220-3	Metals as Government - Furnished Material	252.208-7004
Labor Surplus Subcontracting	52.220-4	Required Sources for Anti-fraction Bearings	252.208-7006
Notice Labor Disputes	52.222-1	Restriction on Employment of Personnel	252-222-7002
Contracts Work Hours and Safety Standards Acts Overtime Compensation	52.2224	Safety Precautions for Ammunition and Explosives	252.223-7001
Walsh-Healy Act	52.222-20	Safeguarding Arms, Ammunitions and Explosives	252.223-7003
Equal Opportunity	52.222-26	Notice of Radioactive Materials	252.223-7005
Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era	52.222-37	Duty Free Entry - Qualifying Country End Products and Supplies	252.225-7008
Affirmative Action Vets	52.222-35	Preference for Domestic Specialty Metals (Major Programs)	252.225-7011
Affirmative Action Handicapped	52.222-36	Preference for Domestic Specialty Metals	252.225-7012
Service Contract Act of 1965, as Amended	52.22241	Duty Free Entry - Additional Provisions	252.225-7014
Clean Air and Water	52.223-1	Offset Arrangement	252.225-7018
	52.223-2	Rights in technical data and computer software	252.227-7013
Hazardous Material Identification	52.223-3	Restrictive Marking of Technical Data	252.227-7018
Buy American Act	52.225-3	Identification of restricted rights computer software	252.227-7019
Duty Free Entry	52.225-10	Deterred delivery of technical data or computer software	252.227-7026
Certain Communist Areas	52.225-11	Deferred ordering of technical data or computer software	252.227-7027
Restrictions on Contracting with Sanctioned Persons	52.225-13	Requirement for technical data representation	252.227-7028
Authorization and Consent	52.227-1	Identification of technical data	252.227-7029
Notice and Assistance Regarding Patent and Copyright Infringement	52.227-2	Technical data withholding of payment	252.227-7030
Reporting of Royalties (Foreign)	52.227-8	Rights in technical data and computer software (foreign)	525.227-7032
Refund of Royalties	52.227-9	Rights in shop drawings	252.227-7033
Patent Application	52.22740	Validation of restrictive markings on technical data	252.227-7037
Patent Rights Retention	52.22741	Transportation of supplies by sea	252.227-7203
	52.227-12	Notification of transportation of supplies by sea	252.227-7204
Patent Rights - Acquisition by the Government	52.227-13	Accident Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles	252.228-7006
Workers Compensation Insurance	52.228-3	Transportation of supplies by sea	252.247-7203
Insurance - Work on a Government Installation	52.228-5	Notification of transportation of supplies by sea	252.247-7204
Administration of CAS	52.2304	Frequency Authorization	252.235-7004
Changes	52.243-1	Modification of Proposals Price Breakdown	252.236-7001
Government Property	52.245-2		
Defense Priorities and Allocation System	DPAS		