

COTSWORKS Purchase Order Terms and Conditions

- 1. GENERAL:** (a) This Purchase Order (Order) is placed subject only to the terms and conditions included in this Order. Reference to any proposal from SELLER is only for the purpose of specifying basic information concerning price, description of the item(s), quantities, terms of payment, and delivery. (b) Any of SELLER's Terms and Conditions which are in addition to or are inconsistent with this Order will be construed as proposals for addition to this order and will not be binding unless agreed to in writing by the BUYER. Commencement of performance by the SELLER in the absence of BUYER's agreement to the proposals will constitute SELLER's acceptance of these "COTSWORKS Purchase Order Terms and Conditions."
- 2. PRICE:** SELLER shall furnish the supplies and services called for by this order at the price stated in this Order. Any increases or decreases in any stated price will only be reflected through an amendment to this Order. If this Order is placed on an open price basis, and in absence of subsequent agreement, then the price to BUYER shall not be higher than SELLER's lowest prevailing price for the same or substantially similar supplies or services of comparable quantity in effect on the date of this Order.
- 3. PAYMENT TERMS:** SELLER shall issue an invoice to BUYER on or any time after the completion of delivery and only in accordance with this Order. BUYER shall pay all properly invoiced amounts due to SELLER within a mutually agreed number of days after BUYER's receipt of such invoice, except for any amounts disputed by BUYER in good faith. Without prejudice to any other right or remedy it may have, BUYER reserves the right to set off at any time any amount owing to it by SELLER against any amount payable by BUYER to SELLER. The parties shall seek to resolve all such disputes expeditiously and in good faith. SELLER shall continue performing its obligations under this Order notwithstanding any such dispute.
- 4. SHIPMENTS:** (a) SELLER should observe the "Ship Via" instruction on face of order. Should the "Ship Via" instruction not be followed, SELLER is liable for extra charges over those which would have been incurred if specified routing had been followed. (b) All shipments are to be made "Not insured". SELLER is liable for charges incurred as consequence of not observing this instruction.
- 5. DELIVERY:** SELLER shall deliver the products in the quantities and on the date(s) specified in the Order or as otherwise agreed in writing by the parties. SELLER shall deliver all Goods to the address specified in the Order during BUYER's normal business hours or as otherwise instructed by BUYER. SELLER shall pack all goods for shipment according to BUYER's instructions or, if there are no instructions, in a manner sufficient to ensure that the Goods are delivered in undamaged condition. SELLER must provide BUYER prior written notice if it requires BUYER to return any packaging material. Any return of such packaging material shall be made at SELLER's risk of loss and expense.
- 6. ASSIGNMENT:** SELLER may not assign its rights or obligations under this order without the prior written consent of BUYER. Notwithstanding this, the SELLER may assign the claims for monies due or to become due under this Order. Should such an assignment of monies be made, SELLER shall immediately notify BUYER and supply BUYER promptly with a copy of any such assignment. Payment to an assignee of any such claim shall be subject to setoff of recoupment against any claim(s) which BUYER may have against SELLER, and a provision setting forth this right of the BUYER shall be included in each such assignment. BUYER reserves the right to make direct settlements and/or adjustments in the price with SELLER under the terms of this Order, notwithstanding any assignment of claims for monies due or to become due hereunder and without notice to the assignee.



7. **SUBCONTRACTS:** Except for supplies proprietary to SELLER, none of the contemplated work to be performed hereunder may be subcontracted without BUYER's prior written consent and approval. However, SELLER's acts in obtaining parts and materials normally purchased by SELLER and required in fulfilling this Order shall not be construed as a subcontract.
8. **FACILITIES SPECIAL TOOL AND EQUIPMENT:** The SELLER represents that it now has all facilities necessary for the timely performance of the Order. Special tools and equipment (e.g. dies, patterns, jig, molds, fixtures, etc.) used in the manufacture of the articles herein ordered shall be furnished by, and at the expense of, SELLER and shall be kept in good condition for follow-on order, and when necessary, shall be replaced by SELLER without expense to BUYER.
9. **BUYER PROPERTY AND INSURANCE:** (a) All materials (e.g. raw stock, components, etc.), including but not limited to special tools and equipment furnished by BUYER to SELLER in connection with this Order shall remain BUYER's property. In addition, all special tools and equipment either: (i) identified as a reimbursable item in the Order, or (ii) specifically acquired for performance of this Order with the cost being fully amortized or otherwise recovered in the price of the supplies to be delivered hereunder, shall, upon such payment, become BUYER's property. All of BUYER's property shall be: (i) used only in filling orders for BUYER; (ii) kept segregated and clearly marked as BUYER's property; (iii) maintained in good condition, normal wear and tear being accepted, and surrendered to BUYER upon demand. SELLER shall not be responsible for replacing bailed materials satisfactorily accounted for in the manufacturing and assembly process. (b) While BUYER-owned property of whatever kind is in SELLER's possession or control. SELLER shall be responsible for all loss or damage and shall, at its own expense, secure, or maintain extended insurance coverage in an amount sufficient to cover replacement cost.
10. **DATA AND PROPRIETARY RIGHTS IN DATA:** The SELLER agrees and undertakes that it shall not produce for or quote prices to any other party those items which are governed by specifications considered proprietary by the BUYER. Such items would be those for which the SELLER provides to the BUYER wholly or in part a design to be made to the BUYER's specifications and are not part of the SELLER's standard product offering.
11. **INSPECTION:** All supplies and services ordered will be subject to final inspection and approval by BUYER after delivery, notwithstanding prior payment, it being expressly agreed that payment shall not constitute final acceptance. BUYER may reject and return any item, which contains defective material or workmanship or otherwise does not conform, to this Order, applicable drawing, specifications, or samples. In the event the products do not comply with the applicable drawings, specifications, or samples, BUYER reserves the right to charge SELLER for any costs incurred to correct the non-conformity, including as a result of obtaining comparable replacement products from a third party. SELLER shall have a reasonable opportunity to correct any such noncompliance; however, BUYER reserves the right to make the final decision. SELLER must notify BUYER of any non-conforming product prior to shipment to BUYER. SELLER must obtain written approval from BUYER prior to shipping any non-conforming product to BUYER. SELLER must notify BUYER of any non-conforming product if determined during or after shipment.
12. **CHANGES:** (a) By written Change Order BUYER may at any time unilaterally: (i) suspend the work in whole or in part for a stated time period; and (ii) make changes in one or more of the following elements: designs, drawings or specifications, method of shipment or packing; place or time of delivery, or quantities to be furnished. Any acceleration in the delivery rate requires SELLER's advance consent. If any suspension or change directed by BUYER causes an increase or decrease in the cost or delivery schedule of the work to be performed, (whether supplies or services), an equitable adjustment shall be made in the Order price, delivery

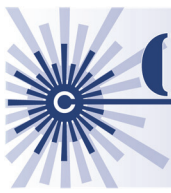
schedule, or both. If the price and/or schedule adjustment is not included in the Issued Change Order, no increase in price or delay in delivery will be allowed unless SELLER asserts such a claim in writing within 30 days from the date of the Change Order to be followed as soon as possible with a specification of the claim along with supporting data. Nothing contained in this section shall relieve or excuse SELLER from proceeding without delay in performing this Order as modified by a Change Order. (b) The BUYER's engineering, technical, and other personnel may, on occasion, render assistance, exchange information, or advice to SELLER's personnel concerning the supplies or services furnished hereunder. Such assistance, exchange, or advice shall not constitute a change under this section or a waiver of the SELLER's existing obligations. In order to be valid and binding upon BUYER any change, waiver, or amendment of this Order must be in writing and signed by an authorized representative of the BUYER's purchasing department.

13. **REVISION LEVELS/TRACEABILITY:** SELLER shall maintain lot traceability for all product supplied on each Order and Contract as specified by BUYER. Any correspondences, including certifications and/or packing slips shall reference Current PO, Work Order, Part Number, Drawing Revision, traceability number, batch number, etc.
14. **NEW MATERIALS:** The Work to be delivered hereunder shall consist of new materials, not used, or reconditioned, remanufactured, or of such age as to impair its usefulness or safety.
15. **LIENS:** SELLER agrees to deliver to BUYER the articles covered by this Order free and clear of all liens, claims, and encumbrances.
16. **C-TPAT:** BUYER supports the U.S. Custom and Border Protection (CBP) Customs-Trade Partnership Against Terrorism (C-TPAT) program. The C-TPAT program is a joint effort between CBP and the trade community to reduce the threat of terrorism by means of protecting the integrity of cargo imported into the United States. As a SELLER to BUYER, your support of C-TPAT is critical to the realization of BUYER's objectives and to the cooperative endeavor between U.S. importers and CBP. BUYER requires foreign suppliers of imported goods to scrutinize and, where necessary, develop sufficient security measures within their own supply chain. To the extent that SELLER is a foreign supplier of imported goods, it agrees to scrutinize, based on risk, appropriate security measures to be implemented and maintained throughout the supply chain, including out-sources or contracted elements of the supply chain, such as transportation, conveyance, warehouse, broker, consolidator, or other elements. The SELLER agrees to work with these business partners to ensure that pertinent security measures are in place and adhered to and, where necessary, develop sufficient security measures with its own supply chain. More information about C-TPAT can be found at www.cbp.gov.
17. **TRADE REQUIREMENTS:** This Order is subject to compliance with U.S. and other national export, import, customs, and trade-related laws and regulations, and SELLER understands that it is responsible for implementing procedures to ensure its material compliance with all such guidelines. The SELLER acknowledges that it is knowledgeable about all such law and agrees to comply with the same as applicable. SELLER is responsible for determining the appropriate country of origin (CO) for the product(s) it manufactures or assembles for BUYER and for marking these products in English in accordance with the requirements of U.S. Customs Regulations, 19 CFR Part 177. Further, SELLER will cooperate fully with BUYER in supplying data to facilitate BUYER's origin reporting requirements and qualification for preferential origin programs such as NAFTA, IFTA, FMF, EXIM, and the like. The following trade data elements must be able to be printed out or be capable of being transferred electronically on each commercial invoice prior to shipment of Product: Country of Origin; Import Country HTS Classification; ECCN; License; Destination Control Statement; BUYER Part Number; and Appropriate INCOTERM. Further, SELLER must maintain, and reproduce upon demand, all documentation relating to the international transport of BUYER goods for a period



of not less than one year from the date of each shipment. All such record keeping system will comport with the legal requirements of the U.S. and other nations including, but not limited to, requirements set out in Parts 762 and 772, U.S. Department of Commerce, Export Administration Regulations, and the U.S. Customs Record-Keeping Regulations, 19 C.F.R. 163. SELLER will provide written notice to BUYER in the event of an action by the U.S. or other national government customs/export authorities that relates specifically to goods or services provided to BUYER by SELLER's sites.

18. **TERMINATION:** (a) **For Cause:** BUYER reserves the right to terminate this Order, or any part hereof, and to cancel all or any part of the undelivered portion of this order if SELLER: (i) fails to deliver the supplies or perform the services by the time specified in this Order; (ii) fails to deliver supplies or perform services that meet the required specifications, or otherwise breaches any of the other terms of this Order or any part thereof; (iii) SELLER becomes insolvent, a filing of a voluntary petition to have SELLER declared bankrupt provided it is not vacated within thirty days from the date of such filing, or the execution by SELLER of any assignment for the benefit of creditors. In the event of an order cancellation, BUYER shall have no obligation to SELLER with respect to the cancelled portion of this Order and BUYER's liability shall be limited to payment for the delivered portion of this Order at the rate specified on the face hereof (reflecting quantity prices as though this Order had gone to full completion). If, as a result of default in performance by the SELLER, this Order is terminated in whole or in part and it is necessary to procure any of the specified supplies of services elsewhere, then SELLER will be liable for any re-procurement charges which exceed the amount which would have been due to the SELLER had SELLER satisfactorily completed this Order. These remedies shall be cumulative and additional to any other remedies available to BUYER in law or equity. (b) **For Convenience:** BUYER may terminate work under this Order in whole or in part at any time by giving notice to SELLER in writing. SELLER shall be entitled to: (i) reimbursement for its actual costs incurred up to and including the date to termination, such cost to be determined in accordance with current industry practices, and (ii) a reasonable profit on the work done up to notice of termination at a rate not exceeding the rate used in establishing the original purchase price, provided however, if it appears SELLER would have sustained a loss on the order, no profit shall be allowed and reimbursement of cost shall be adjusted to reflect the indicated rate of loss. In no event shall BUYER's obligations, as a consequence of the termination, exceed the Order price of the items terminated. (c) After termination for cause or convenience, at its election, BUYER shall have the right to direct the disposition of any or all work-in-process, parts and materials included. The SELLER will comply with and be responsible for reasonable expenses incurred in effecting BUYER's directions. Prior to settlement of SELLER's termination claim, SELLER shall make available for inspection: (i) all inventory included in the claim and (ii) all directly pertinent books, records, and documents relating to claimed cost. (d) If, after this Order has been totally or partially terminated for cause, it is determined that SELLER's failure is excused pursuant to Section 13 below then such termination notice shall be deemed to have been issued "for convenience" and the right of the parties shall be governed by paragraph (b) above.
19. **INTELLECTUAL PROPERTY:** (a) SELLER warrants that the products delivered hereunder will not infringe or misappropriate any third party's intellectual property rights and agrees to save BUYER, its customers and agents harmless from any loss, damage, or liability incurred on account of any alleged infringement of any intellectual property with respect to all supplies furnished under this Order, provided that such supplies are not manufactured pursuant to BUYER's design. SELLER also agrees that it will, at its own expense, defend any action, suit, or claim in which infringement is alleged, provided SELLER is duly notified as to such suit. In case a delivered item or any part thereof, is held to constitute an infringement and the use of the item, or any part thereof, is enjoined, SELLER shall, at its own expense, either procure for BUYER the right to continue using the same or replace same with non-infringing items; in the event of the impossibility of the foregoing options SELLER shall grant BUYER a credit for the purchase price of such item. If any intellectual property infringement or claim thereof is based upon the use of the item in combination with other materials, where such

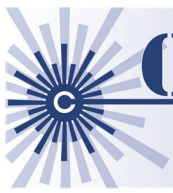


infringement or claim thereof would not have occurred from the normal use for which the item was designed. (b) Where performance under Order includes an experimental, developmental, or research effort and such work is paid for in whole or in part by BUYER, SELLER agrees to disclose to BUYER all confidential process, know-how, or trade secrets resulting therefrom and, on request, to assign to BUYER each invention and property right resulting therefrom.

20. **WARRANTIES:** SELLER warrants that all supplies furnished under this order will: (i) be free from defects in materials and workmanship; (ii) conform to the applicable specifications, drawings, samples or other descriptions; (iii) be free from defects in design except to the extent that such supplies are manufactured to BUYER's design; (iv) be suitable for the intended purpose, if the purpose is made known to SELLER and BUYER relies on SELLER's judgment and selection; and (v) be free from defects in title. SELLER further expressly warrants that all services performed under this Order will be free from defects in workmanship. These warranties shall remain in effect, as to each item furnished, serviced, and/or repaired hereunder for a period of time consistent with the warranty life normally offered by the SELLER. All warranties shall be construed as conditions as well and the warranties shall not be deemed to be exclusive. The benefits of this warranty shall accrue to BUYER's customers and assigns to the same extent they shall accrue to BUYER. Articles ordered to Government specifications shall comply with such specifications as are current at the date of this Order unless otherwise particularly specified by the BUYER. Under circumstances of Breach of Warranty, BUYER shall be entitled to avail itself cumulatively of all remedies provided in law or in equity. SELLER shall make timely responses to BUYER's notifications of Breach of Warranty and shall respond with the understanding (and SELLER agrees) that time will be of the essence in all instances. All warranties survive any delivery, inspection, acceptance, or payment of or for the products by BUYER.
21. **EXCUSABLE DELAYS:** (a) Except with respect to defaults by subcontractors, SELLER shall not be liable for failures or delays that arise out of causes beyond its control and without its fault or negligence. If the failure or delay is caused by the default of subcontractor at any tier and it arises out of causes beyond the control of both SELLER and the Subcontractor, and without the fault or negligence of either, then SELLER shall not be liable to BUYER unless supplies or services to be furnished by the subcontractor are obtainable from other sources in sufficient time to permit SELLER to meet the Order requirements. In either circumstance, as a pre-condition to being excused, SELLER shall give immediate written notice to BUYER, setting forth the cause, when SELLER has reason to believe that deliveries will not meet the schedule. (b) BUYER shall be excused for failures or delays due to causes beyond its control and without its fault or negligence.
22. **INDEMNIFICATION:** SELLER shall indemnify and hold BUYER harmless against all loss, liability, and expense on account of claims of personal injury, death, and property damage resulting from or arising out of SELLER's breach of its obligations arising hereunder or act or omission of SELLER (including its agents, employees, and subcontractor(s) in the course of performing this order, including the supplies delivered or service performed hereunder.
23. **INSURANCE.** SELLER shall maintain such Public Liability, Property damage, Employer's Liability, and Compensation Insurance, which will protect SELLER and BUYER from the aforementioned risk and from claims under applicable Workmen's Compensation statutes. Upon request SELLER shall provide BUYER with certificates of insurance and evidence of registration under any applicable Workman's Compensation statute. Upon BUYER's request, SELLER shall provide BUYER with a certificate of insurance from SELLER's insurer evidencing the insurance coverage specified in this Order, and the certificate of insurance shall name BUYER as an additional insured. SELLER shall provide BUYER with 30 days' advance written notice in the event of a cancellation or material change in SELLER's insurance policy.



24. **ADVERTISING:** Any advertising of this Order (including the supplies or services hereunder and pictures, descriptions, or samples thereof) by SELLER is prohibited except with BUYER's written approval.
25. **SELLER RESPONSIBILITY FOR PRODUCT CONFORMITY, PRODUCT SAFETY, AND ETHICAL CONDUCT:** In the execution of a purchase order, the SELLER must be aware of their contribution to product conformity by meeting the specification and drawing requirements of the component(s) defined in the purchase order and associated documents. Should there be a discrepancy between the purchase order documents and any documents on file with the SELLER, it is the SELLER's responsibility to reconcile these differences with COTSWORKS before proceeding with an order. SELLER shall comply with all applicable laws, rules, and regulations and SELLER is responsible for ensuring that the component(s) furnished on a COTSWORKS purchase order meet all applicable safety laws, codes (local, national, and international) and directives in accordance with ISO9000 and AS9100. SELLER will support product safety by ensuring robust management of special requirements, critical items, and key characteristics. If there are concerns with respect to product safety, SELLER will communicate them to COTSWORKS. If there is a concern at the SELLER's premises with respect to safety during the manufacture of the product, SELLER will notify its own employees of the concern and whenever possible, mitigate the concern. COTSWORKS conducts business to the highest ethical standards and practices. Similarly, COTSWORKS requires that suppliers conduct business to these same high ethical standards and practices. SELLER must be committed to the highest standards of ethics and business conduct. SELLER must comply with the law, honor commitments, act in good faith, and be accountable. SELLER must strive to maintain full compliance with all laws and regulations applicable to the operation of the business and customer relationships. SELLER must not offer, promise, authorize, or provide, directly or indirectly, anything of value (including business gifts or courtesies) with the intent or effect of inducing anyone to engage in unfair business practices. SELLER will avoid involvement in activities that may be perceived as a conflict-of-interest. SELLER will respect the legitimate proprietary rights and intellectual property rights of customers and suppliers and take proper care to protect sensitive information, including confidential, proprietary, and personal information.
26. **GOVERNING LAW AND JURISDICTION:** This Order shall be construed in accordance with and governed by the laws of the State of Ohio, USA, and constitutes the entire agreement between BUYER and SELLER with respect to goods and/or services covered by this Order. Any dispute, claim, or controversy arising out of or relating to this Order or the breach, termination, enforcement, interpretation, or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration in Cleveland, Ohio before one arbitrator. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures. Judgment on the award may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction, and SELLER and BUYER each submit to the exclusive jurisdiction of federal and state courts located in Cuyahoga County, Ohio for such purpose.
27. **DOCUMENT PRECEDENCE:** The order of precedence for this contract shall be (in order): (i) COTSWORKS PURCHASE ORDER TERMS AND CONDITIONS and applicable Quality Clauses; (ii) Purchase Order; (iii) BUYER drawings or specifications; and (iv) SELLER drawings or Specifications.
28. **CONFIGURATION CONTROL:** As agreed upon in SELLER's specification, SELLER shall not make any changes in the manufacture of items to be delivered pursuant to Orders issued hereunder in manufacturing processes, materials, design, form, fit, or function or in any other way without prior written notification to BUYER, and BUYER reserves the right to terminate this Order if any changes by SELLER do not meet BUYER's approval.



29. **FLOWDOWN:** The SELLER shall flow-down the provisions of this Order and its appendices to its suppliers through the SELLER's purchase orders to the extent necessary.
30. **RECORD RETENTION:** SELLER shall maintain Quality records associated with this Order for a minimum period of seven (7) years unless the Order indicates a longer retention period.
31. **RIGHT OF ACCESS TO SELLER'S FACILITIES:** During performance of this order, SELLER's quality control or inspection system and manufacturing processes are subject to review, verification, and analysis by BUYER or applicable regulatory authorities.
32. **CALIBRATION & TESTING SUPPLIERS:** All such suppliers should maintain a calibration system in accordance with the requirements of ISO 17025, ISO 10012, ANSI Z-540-1, ANSI Z540-3, as appropriate. All Inspection Measuring & Test Equipment (M&TE) used by the SELLER during in-process and final inspection to make a compliance evaluation shall be calibrated against measurement Standards traceable to NIST or an equivalent National Measurement Institute (NMI).
33. **EXPORT CONTROLS:** Products and technical data acquired under this Order are subject to U.S. and other government export control laws and regulations, including but not limited to the Arms Export Control Act (22, U.S.C., Sec 2751, et seq.) and the associated International Traffic in Arms Regulation (22 CFR 120-130), the Export Administration Regulations, 15 CFR 730-774, and sanction programs administered by the U.S. Treasury Department's Office of Foreign Assets Control, each as amended from time to time (collectively, the "Export Control Laws and Regulations"). BUYER agrees that it will comply with the Export Control Laws and Regulations in their handling, use, and disposition of the products and related technical data, including in connection with any re-transfer or re-export of the products and information obtained from the SELLER pursuant to this Order. The products and associated information transferred in accordance with this Order are authorized for export only to the country of ultimate destination for use by the ultimate consignee or end-user(s) herein identified. They may not be resold, transferred, or otherwise disposed of, to any other country or to any person, entity, or organization other than the authorized ultimate consignee or end-user(s), either in their original form or after being incorporated into other items, without first obtaining approval as required under the Export Control Laws and Regulations and any other applicable U.S. laws and regulations.
34. **DPAS:** Any purchase made referencing Defense Priorities Allocation System (DPAS) DO or DX Ratings shall be handled per 15 CFR Part 700 in accordance with the Department of Defense (DoD) property management system to assure these orders are scheduled and processed ahead of any commercial jobs so as to assure their timely delivery.
35. **CONFIDENTIAL INFORMATION.** All non-public, confidential, or proprietary information of BUYER, including but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts, or rebates, disclosed by BUYER to SELLER, whether disclosed orally or disclosed or accessed in written, electronic, or other form or media, and whether or not marked, designated, or otherwise identified as "confidential" in connection with this Order is confidential, solely for the purpose of performing this Order and may not be disclosed or copied unless authorized in advance by BUYER in writing. Upon BUYER's request, SELLER shall promptly return all documents and other materials received from BUYER. BUYER shall be entitled to injunctive relief for any violation of this Section. This Section does not apply to information that is: (a) in the public domain; (b) known to SELLER at the time of disclosure; or (c) rightfully obtained by BUYER on a non-confidential basis from a third party.

