

## **Purchase Order Terms and Conditions**

**1. Formation of Contract/Acceptance of Terms.** The following terms and conditions shall apply to the purchase order and integrates, merges and supersedes any prior offers, negotiations, and agreements concerning the purchase from Seller of the goods and/or services referenced in this purchase order exclusively under those terms and conditions. Acceptance of this purchase order is expressly limited to these terms on conditions. Unless specifically agreed to in writing by Buyer's Authorized Procurement Representative, Buyer objects to, and is not bound by, any term or condition that differs from or adds to this offer. Seller's commencement of performance, or acceptance of payment of this offer in any manner shall conclusively evidence unqualified acceptance of this offer as written. If this purchase order has been issued by Buyer in response to an offer, and if any of the terms herein are additional to or different from any terms of such offer, then the issuance of this purchase order by Buyer shall constitute an acceptance of such offer subject to the express conditions that Seller agrees to such additional and different terms and acknowledges that this purchase order constitutes the entire agreement between Buyer and Seller with respect to this purchase order.

**2. Applicable Laws** Seller shall, in the performance of work or services under this purchase order, fully comply with all applicable federal, state, or local laws, rules, regulations and ordinances, including those pertaining to United States Export Controls.

**3. Governing Law.** This purchase order, and acceptance thereof, shall be governed by and construed in accordance with the laws of the State of California. The provisions of the United Nations Convention on Contracts for the International Sale of goods are hereby excluded.

**4. Government Clauses.** Government clauses applicable to this purchase order are incorporated herein either by attachment to this document or by some other means of reference.

**5. Independent Contractor.** Seller is an independent contractor for all purposes. Nothing contained in these terms shall be construed as providing for the sharing of any costs, expenses, risks or liabilities arising out of the other party's activities related to this purchase order. Seller shall have complete control over the performance of, and the details for accomplishing, the goods and/or services contracted herein. In no event shall Seller or its agents, representatives or employees be deemed to be agents, representatives of employees of Buyer. Seller's employees shall be paid exclusively by Seller for all services performed. Seller shall comply with all requirements and obligations relating to such employees under federal, state and local law (or foreign law, if applicable). Such compliance shall include, but not be limited to, laws regarding minimum wages, social security, unemployment insurance, federal and state income taxes and workers' compensation insurance. This Agreement shall not constitute, create, give effect to or otherwise imply a joint venture, pooling arrangement, partnership or formal business organization of any kind. Nothing herein shall be construed as providing for the sharing of profit

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or losses arising out of the efforts of either or both parties. Seller shall comply with all applicable rules and regulations established by the Buyer for access to and activities in and around Buyer's premises. Seller shall assign personnel satisfactory to Buyer. At any time and for any reason, Buyer may require Seller to withdraw the services of any person and require that Seller promptly provide replacements for such persons satisfactory to Buyer. In addition to the other indemnification provisions within this purchase order, Seller specifically agrees to indemnify and hold harmless Buyer from and against any liabilities, claims, charges or suits for alleged losses, costs, damages or expenses arising from Buyer's exercise of its rights hereunder.

**6. Code of Conduct.** Buyer is committed to conducting its business fairly, impartially, and in an ethical and proper manner. Buyer's expectation is that Seller also will conduct its business fairly, impartially and in an ethical and proper manner. Buyer's further expectation is that Seller will have (or will develop) and adhere to a code of ethical standards. If Seller has cause to believe that Buyer or any employee or agent of Buyer has behaved improperly or unethically under this order, Seller shall report such behavior to the Parent Company, Circor International, Inc. at [www.circor.com](http://www.circor.com).

**7. Changes.** Buyer reserves the right at any time prior to the delivery date of this order by written notice to Seller to make changes to the drawings, designs or specifications of the goods ordered, the method of packing and shipping, the time, place or method of delivery, the quantity of goods ordered or the work covered hereby. Any failure on the part of Seller to meet specification requirements, including weight, which results in a request by Seller for a design change, deviation or variation from the specification requirements, shall be accompanied by a price reduction offer as consideration. If any such changes affect Seller's cost and/or delivery schedule, Seller shall notify Buyer immediately, and in the case of an increase in Seller's cost, within twenty (20) days of such notice Seller shall submit a detailed cost breakdown comparing original requirements and costs to the changed requirements and costs. The parties will then discuss an equitable adjustment in the purchase price, delivery schedule or both. However, no adjustment will be binding on Buyer unless evidenced by a purchase order, change notice or revision to this purchase order signed by an authorized representative of Buyer's Purchasing Staff. **NOTE:** *Buyer's engineering and technical personnel may from time to time render assistance or give technical advice or discuss or affect an exchange of information with Seller's personnel concerning the goods or work in this purchase order. Such actions shall not be deemed to be a change under the "Changes" clause of this purchase order and shall not be the basis for equitable adjustment.* Failure to agree to any adjustment shall not relieve or excuse Seller from proceeding with this purchase order as changed. Work shall not be supplied in excess quantities specified in the purchase order. Seller shall be liable for handling charges and return shipment.

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**8. Seller Changes to Goods** – Supplier shall not make any changes to Goods, including without limitation, in form, fit, function, or classification, or to any component or software, (collectively, “Engineering Changes”) without first notifying Buyer.

**9. Counterfeit Part Prevention** – Seller shall not deliver products that contain counterfeit items (such as, but not limited to, software, material and electrical/mechanical parts/assemblies). SAE AS5553 provides guidance for counterfeit prevention.

**10. Packing, Marking, Shipping and Packing Slips.** Seller shall assure that all packing and packaging shall comply with good commercial practice, pack the goods to prevent damage and deterioration and in accordance with any additional packaging requirement listed within the purchase order. Seller shall comply with carrier tariffs. The prices stated in the purchase order include all applicable federal, state and local taxes, duties and the cost of packaging the goods purchased in the manner listed under the packing, marking and shipping requirement of these terms. Unless otherwise specified in this purchase order, Buyer may charge Seller for damage to or deterioration of any goods resulting from improper packing or packaging. Unless this purchase order specifies otherwise, Seller will ship the goods in accordance with the following instructions: (i) Shipments by Seller or its subcontractors must include packing sheets containing Buyer’s purchase order number, line item number, description and quantity of goods shipped, part number or size, if applicable, and appropriate evidence of inspections. A shipment containing hazardous and non-hazardous materials must have separate packing sheets for the hazardous and non-hazardous materials. Seller shall not include any hazardous substance in any packing material included with the goods. Items shipped on the same day will be consolidated on one bill of lading or air bill unless Buyer authorizes otherwise. The shipping documents will describe the material according to the applicable classification and/or tariff. The total number of shipping containers will be referenced on all shipping documents. Originals of all Government bills of lading will be surrendered to the origin carrier at the time of shipment. (ii) Seller will label each shipping container with the purchase order number and the number that each container represents of the total number being shipped (e.g. box 1 of 2, box 2 of 2). (iii) Buyer will select the carrier and mode of transportation for all shipments where freight costs will be charged to Buyer. (iv) Seller will include copies of documentation supporting prepaid freight charges (e.g., carrier invoices or UPS shipping log/manifest), if any, with its invoices. (v) If Seller is unable to comply with the shipping instructions in this purchase order, Seller will contact Buyer. Seller shall ensure the packaging, labeling and shipping of all Hazardous substances or dangerous materials conform with all applicable international, federal, state and local laws and regulations with the proper shipping labels in accordance with Title 8, California Code of Regulations, Article 110, Section 5194. No goods purchased, manufactured or otherwise acquired for use in the performance of or to be delivered under this purchase order shall be transported on vessels, aircraft or other carriers leased to or from, owned, operated, or controlled by any prohibited country identified in the International Traffic in Arms Regulations (ITAR), 22 CFR 126. No vessels, aircraft, or other carrier, while carrying any such goods shall make an en route stop in

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any prohibited country identified in the ITAR, 22 CFR 126. Seller shall insert the provisions of this paragraph in all subcontracts hereunder.

**11. Warranty.** Seller expressly warrants that all goods and services covered by this purchase order will conform to Buyer's instructions, specifications, drawings and data current as of date of this purchase order (unless otherwise specified in writing by Buyer), will be merchantable, free from defective materials or workmanship and will be fit and sufficient for the intended purpose. Seller further warrants that the goods and services furnished under this purchase order shall conform to all representations, affirmations, promises, descriptions, samples or models which are a part of this purchase order. Seller agrees that these warranties shall survive acceptance of the goods and services. Seller further warrants that all services performed for or on behalf of Buyer will be performed in a competent, workmanlike manner, by employees or agents of Seller who are experienced and skilled in their profession and in accordance with industry standards and shall be free from faults and defects. The warranties stated in this section are hereby extended to, and shall insure to the benefit of, Buyer and Buyer's affiliates, subsidiaries, successors, assigns, and direct and indirect customers to whom the goods and services provided hereunder may be sold or transferred. In the event of breach of warranty, Buyer shall be entitled to all rights and remedies available at law, including but not limited to credit, replacement or repair of defective goods at Buyer's option, costs of removal of the goods from any component, assembly or system into which the goods may have been incorporated, and reinstallation of non-defective goods, and cost of return of the goods. Seller shall also reimburse Buyer for any incidental and consequential damages caused by such nonconforming goods including, but not limited to costs, expenses and losses incurred by Buyer: (a) in inspecting, sorting, repairing or replacing such goods; (b) resulting from any production interruptions; (c) conducting any recall campaigns or other corrective actions and (d) claims for personal injury or property damage. If seller fails or refuses to correct or replace, Buyer may correct or replace with similar goods or services and charge Seller for any cost to Buyer or make an equitable adjustment in the price of this purchase order. Seller warrants that any unit prices charged herein do not exceed the unit prices charged by Seller to other customers in substantially similar transactions. Seller warrants that it shall notify Buyer if any work to be delivered pursuant to this purchase order will contain ozone depleting substances as defined in section 602(a) of the Clean Air Act (42 U.S.C. 7671a(a)).

**12. Invoice and Payments.** As compensation for services to be performed by Seller, buyer shall pay Seller as set forth in this purchase order. Buyer shall have no liability for any other expenses or costs incurred by Seller. Payment due date, including discount periods, shall be computed from the date of the later of the scheduled delivery date, the actual delivery date or the date of receipt of a correct invoice. Payment shall be deemed to have been made on the date the buyer's check is mailed or payment is otherwise tendered. Seller shall promptly repay to Buyer any amounts paid in excess of amounts due Seller.

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**13. Quality Control System.** Seller shall establish and maintain a quality control system to an industry recognized standard for the goods and services covered by this purchase order. Seller shall permit Buyer access to review all procedures, practices, processes, and related documents to determine acceptability. Seller shall have a responsibility to notify Buyer of any violation or deviation from Seller's approved quality control system, and identify all goods provided to Seller during the period that the deviation/violation occurred. Records of all quality control inspection work by Seller shall be kept complete and available to Buyer and its customers during the performance of this purchase order and for such longer periods as may be specified.

**14. Inspection and Acceptance.** At no additional cost to Buyer, goods shall be subject to inspection, surveillance and test at reasonable times and places, including Seller's subcontractors' locations. Buyer and/or its customer shall perform inspections, surveillance, and tests so as not to unduly delay the work. If Buyer performs an inspections or test on the premises of Seller or its subcontractors, Seller shall furnish, and require its subcontractors to furnish, without additional charge, reasonable facilities and assistance for the safe and convenient performance of these duties. No such inspection shall relieve Seller of its obligations to furnish all goods and/or services in accordance with the requirements of this purchase order. Buyer shall accept the goods or give Seller notice of rejection, notwithstanding any payment, prior test or inspections, or passage of title. No inspection, test, delay or failure to inspect or failure to discover any defect or other nonconformance shall relieve the Seller of any obligations under this purchase order or impair any rights or remedies of Buyer. If Seller delivers non-conforming goods, Buyer may at its option and at Seller's expense (i) return the goods for credit or refund; (ii) require Seller to promptly correct or replace the goods; (iii) correct the goods; or (iv) obtain replacement goods from another source. Seller shall not redeliver corrected or rejected goods without disclosing the former rejection or requirement for correction. Seller shall disclose any corrective action taken. Repair, replacement and other correction and redelivery shall be completed within the original delivery schedule or such later time as Buyer may reasonably direct. All costs, expenses and loss of value incurred as a result of or in connection with nonconformance and repair, replacement or other correction may be recovered from Seller by equitable price reduction or credit against any amounts that may be owed to Seller under this purchase order or another.

**15. Timely Performance/Notice of Labor Disputes.** Seller's timely performance is a critical element of this purchase order. Unless advance or early shipment has been authorized in writing by the Buyer's Authorized Representative, Buyer may store at Seller's expense, or return, shipping charges collect, all goods and services received in advance of schedule. If Seller becomes aware of difficulty in performing against this purchase order, Seller shall provide immediate notification to the Buyer, in writing, giving pertinent details. This notification shall not be construed as the Buyer's waiver of any delivery schedule or any other rights or remedies of Buyer. In the event of a termination or change, no claim will be allowed for any manufacture or procurement in advance of Seller's normal flow time unless there has been prior written

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consent from the Buyer. 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 Buyer. Seller shall insert the substance of this provision in its subcontracts issued hereunder.

**16. New Materials.** The work to be delivered hereunder shall consist of new materials, no used, or reconditioned, or of such age as to impair its usefulness of safety.

**17. Responsibility for Property.** Buyer may provide to Seller property owned by either Buyer or its customer. Title to all property furnished to Seller by Buyer or paid for by Buyer shall remain with Buyer. Seller shall clearly mark, maintain an inventory of and keep segregated or identifiable all of Buyer's supplied property and all property to which Buyer acquires an interest by virtue of this purchase order. Seller assumes all risk of loss, damage, or destruction of such property while in Seller's possession, custody, or control. Upon request, Seller shall provide Buyer with adequate proof of insurance against such risk of loss. Seller shall not sell, encumber, transfer, assign, dispose of, or modify Buyer's property and shall not use for any purpose other than for the performance of this purchase order, unless by specific written consent from the Buyer. All property supplied for the use of this purchase order shall be packaged and returned to Buyer, in accordance with best commercial practices at Sellers expense.

**18. Use of Information.** Seller shall not reproduce, use, or disclose any data, designs or other information furnished or disclosed during the performance of this purchase order, except as necessary in the performance of this purchase order. Unless specified by the Buyer in writing, all data, designs, or other information supplied shall be returned to Buyer upon completion or termination of this purchase order. No license is granted under any patents owned by Buyer, nor is any unpatented knowledge or information concerning Sellers products, methods or manufacturing processes which Seller may disclose to Buyer with regards to the manufacture of goods or services covered by this purchase order be deemed to have been disclosed as part of the consideration for this purchase order. Whereas Buyer's data, designs, or other information is furnished to Seller's suppliers, Seller shall insert the substance of this provision in each subcontract.

**19. Intellectual Property Indemnification.** Seller shall indemnify Buyer, and/or Buyer's customer against liability, including costs, for infringement of any patent, copyright trademark, or other intellectual property arising out of the manufacture or delivery of supplies or performance of services under this purchase order.

**20. Assignment.** Seller shall not assign any of its rights or interests in this purchase order. This purchase order or any interest therein, including any claims for monies due or to become due with respect thereto, may only be assigned upon the written consent of Buyer. No assignment, delegation or subcontract by Seller, without Buyers written consent shall relieve Seller of any of

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its obligations under this purchase order or prejudice any of the Buyer's rights against Seller whether arising before or after the date of any assignment. This article does not limit the Seller's rights or abilities to purchase standard commercial supplies or materials.

**21. Stop Work, Default, or Termination for Convenience.** Buyer may, by written order, stop or suspend all or part of the work to be performed under this purchase order for a period not to exceed 90 days. Within such period of work stoppage, Buyer shall cancel or terminate this purchase order for either of the following conditions. In the event of default by the Seller of this purchase order, Buyer will issue a written notice to the Seller to cancel all or part of this purchase order if either the Seller fails to deliver the product or services within the time specified or Seller fails to perform any other provisions of the purchase order or fails to make progress so as to endanger performance of this purchase order and in either of these events does not cure the failure within 10 days after receipt of notice from the Buyer stating the failure or in the event of the Seller's suspension of business, insolvency, appointment of a receiver for Seller's property or business or any assignment, reorganization or arrangement by Seller for the benefit of its creditors. Seller shall continue work not cancelled. If Buyer cancels all or part of this purchase order due to the default terms stated above, Seller shall be liable for Buyer's excess costs to re-procure. Buyer may at any time terminate this purchase order in whole or in part for its convenience upon written notice to the Seller, in which event Seller shall be entitled to reasonable termination charges consisting of a percentage of the purchase order price reflecting the percentage of the work performed prior to termination, plus any reasonably incurred settlement expenses.

**22. Indemnification.** To the extent that Seller's agents, employees, or subcontractors enter upon premises occupied by or under the control of Buyer, or any of its customers, or suppliers, in the course of the performance of this purchase order, Seller shall take all necessary precautions to prevent the occurrence of any injury (including causing death) of any persons, or of any damage to any property, arising out of acts or omissions of such agents, employees, or subcontractors; and, except to the extent that any such injury or damage is due directly and solely to Buyer's negligence, Seller shall indemnify, defend, and hold Buyer, its officers, employees, and agents, harmless from any and all costs, losses, expense, damages, claims, suit, or any liability whatsoever, including attorney's fees, arising out of any act or omission of Seller, its agents, employees, or subcontractors. Seller does hereby irrevocably indemnify and agree to defend any claim or litigation, or to pay or reimburse any judgment and all loss and expense costs (including reasonable attorney fees) resulting in any manner from injury to person or property caused in whole or in part by product supplied by Seller that fails to conform to the specifications or that is otherwise defective in manufacture and/or (to the extent not designed by Circle Seal Controls, Inc.) in design

**23. Gratuities/Kickbacks.** Seller agrees not to provide or offer any representative, officer, director or employee of the Buyer, or any member of such persons family, any favors, gifts,

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gratuities or favorable treatment for the purpose of securing this purchase order or any future business opportunities.

**24. Publicity.** Seller or Sellers suppliers shall not, without Buyer's written consent, release any publicity, advertisement, news release, or denial confirmation of same regarding this purchase order or the program or items provided by Seller. Seller shall be liable to Buyer for any breach of such obligation by Seller or its supplier.

**25. Audit Rights and Records Retention.** Buyer reserves the right to perform inspections, surveillance, and tests and to review procedures, practices, processes and related documents related to quality assurance, quality control, flight safety and configuration control and shall extend to the Buyer's customers that are a part of the US Government. Seller shall retain all records and documents pertaining to the items in this purchase order for a period of no less than seven years after final payment. Such records shall date back to the time this purchase order was issued and shall include without limitation, catalogs, price lists, invoices and inventory records for the purposes of verification of compliance to all aspects of this purchase order including test data and procedure verification.

**26. Disputes.** Any dispute that arises under or it related to this purchase order that cannot be settled by mutual agreement of the parties may be decided by a court of competent jurisdiction. Pending final resolution of any dispute, Seller shall proceed with performance of this purchase order according to Buyer's instructions so long as Buyer continues to pay amounts not in dispute.

**27. Export Controls.** Subcontractor is advised that its performance of this purchase order may involve the use of or access to articles, technical data or software that is subject to export controls under 22 United States Code 2751 – 2796 (Arms Export Control Act) and 22 Code of Federal Regulations 120-130 (International Traffic in Arms Regulations) or 50 United States Code 2401 – 2420 (Export Administration Act) and 15 Code of Federal Regulations 768 – 799 (Export Administration Regulations) and their successor and supplemental laws and regulations (hereinafter referred to as the "Export Laws and Regulations"). Seller represents and warrants that it is either 1) a U.S. Person as that term is defined in the Export Laws and Regulations, or 2) that it has disclosed to Buyer in writing the country in which it is incorporated or otherwise organized to do business, or if a natural person, all citizenships and US immigration status. Seller shall comply with any and all Export Laws and Regulations, and any license(s) issued herein. Seller shall not give any Foreign Person access to Technical Data, software or Defense Articles, or provide an unauthorized Defense Service as those terms are defined in the applicable Export Laws and Regulations without the prior written consent of Buyer. Any request for such consent must state the intended recipient's citizenship(s), and status under 8 U.S.C. 1101 and 8 U.S.C. 1324 (the "Immigration and Naturalization Act"), and such other information as Buyer may reasonably request. No consent granted by Buyer in response to Seller's request shall relieve Seller of its obligations to comply with the provisions of the Export Laws and Regulations, nor

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shall any such consent constitute a waiver of the requirements above, nor constitute consent for Seller to violate any provision of the Export Laws and Regulations. Seller shall indemnify and save harmless Buyer from and against any and all damages, liabilities, penalties, fines, costs, and expenses, including attorneys' fees, arising out of claims, suit, allegations or charges of Seller's failure to comply with these provisions or breach of the warranty set forth in above. Any failure of Seller to comply with the requirements or any breach of the warranty contained herein shall be a material breach of this purchase order. The substance of this requirement shall be incorporated into any subcontract entered into by the Seller for the performance of any part of the work under this purchase order.

**28. Seller's Notice of Discrepancies.** Seller shall notify Buyer in writing when discrepancies in Seller's processor goods are discovered or suspected regarding goods delivered or to be delivered under this purchase order.

**29. Force Majeure.** Neither party shall be liable for delays or defaults due to causes beyond its control and without its fault of negligence, provided that Seller delivers written notice within five (5) days of such event, setting for the cause of the anticipated delay whenever Seller has reason to believe that performance will not be made as scheduled. Examples of these causes are acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, instance, the failure to perform must be beyond the control and without the fault or negligence of the Seller. If Seller's delay or default is caused by a delay or default of a subcontractor or supplier, such delay or default shall be excused only if it arose out of causes beyond the control of both Seller and the subcontractor or supplier and without the fault or negligence of either of them, and the goods or services were not obtainable from other sources in sufficient time to meet the required delivery or performance schedule.

**30. Utilization of Small Business Concerns.** Seller agrees to actively seek out and provide the maximum practicable opportunities for small businesses, small disadvantaged businesses, women-owned small businesses, minority business enterprises, historically black colleges and universities and minority institutions, historically underutilized business zone small business concerns and US Veteran and Service-Disabled Veteran Owned small business concerns to participate in the subcontracts Seller awards to the fullest extent consistent with the efficient performance of this contract.

**31. Entire Agreement.** This purchase order and the terms set forth herein represent the entire agreement of the Buyer and Seller and supersede any and all prior agreements, understandings and communications related to the subject matter. No amendment or modification of this purchase order or these terms shall bind either party unless it is in writing and is signed by the Buyer and Seller.

**32. Supplier shall flow down the applicable requirements of this Order to its lower tier suppliers.**

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