



Purchase Order Attachment GL-06

Purchase Order General Provisions and Shipping Instructions

Shipping Instructions

1. TARIFF PROVISIONS: All shipments shall be made in strict conformity with governing tariff rules and regulations and packaging specifications, except where otherwise specifically required by provisions of this Order or military regulations.

2. CLASSIFIED SHIPMENTS: Classified shipments must be handled in conformance with specific instructions made part of this Order as well as the requirements of the "Industrial Security Manual for Safeguarding Classified Information" (DoD 5220.22-M).

3. ROUTING INSTRUCTIONS:

A. Freight shipments are to be routed via Order instructions or as authorized by Buyer. Seller will request prior routing instructions for delicate equipment, emergency shipments, or shipments exceeding 10,000 pounds gross weight.

B. Freight Charges: Shipments are to be made "Freight Collect" on FOB source shipments, unless otherwise specified herein. United Parcel Service shipments are to have freight charges prepaid and added to the goods invoice. Attach copies of paid freight bills to any invoice that includes transportation charges.

C. Insurance: DO NOT DECLARE ANY VALUE FOR CARRIAGE OR INSURANCE. Shipments shall be released to minimum value of governing classification or tariff, or insured for minimum value for traceability. No shipment exceeding \$10,000 shall be sent Parcel Post. No shipment exceeding \$50,000 shall be sent via courier service. Seller will provide advance notice to Buyer of shipments exceeding \$1,000,000.

D. Consolidation: Except where limited by Clause 3(c) above, consolidate all shipments to the delivery point specified herein, for any one day, on one bill of lading.

E. Purchase Order Numbers(s) must appear on all shipping documents and labels.

F. Packing Sheets: Seller is to provide two (2) copies of each packing sheet with the shipment.

4. HAZARDOUS MATERIAL PACKING, LABELING, AND SHIPPING. Seller shall comply with Provision 16 below.

5. PACKING AND PACKAGING: Seller shall use best commercial practice for packing and packaging of items to be delivered under this order, unless otherwise specified herein.

Purchase Order General Provisions

1. WARRANTIES: Seller warrants to Buyer and its customers that all items delivered and all services rendered hereunder will conform to the requirements hereof and will be free from defects. In addition to other remedies, which may be available at law or in equity, Buyer, at its option, may return to Seller any nonconforming or defective item(s), or require correction or replacement of the item(s), all at Seller's risk and expense. If Buyer does not require correction or replacement of nonconforming or defective item(s), Seller shall repay such portion of the contract price or such additional amount as is equitable under the circumstances. These rights of Buyer are in addition to and shall not be limited by Seller's standard warranties. Inspection and acceptance of items by Buyer or its customer, or payment therefore, shall not relieve Seller of its responsibilities hereunder.

2. CHANGES: By written order, Buyer may, from time to time, order work suspension or make changes in drawings, designs, specifications, place of delivery, methods of shipment and packaging, and property and services furnished by Buyer. If any such change causes an increase or decrease in the price of this Order or in the time required for its performance, Seller shall promptly notify Buyer thereof and assert its claim for adjustment, within 30 days after the change is ordered, notify Buyer of its intent to submit a proposal for adjustment and an equitable adjustment shall be made. However, nothing in this provision shall excuse Seller from proceeding immediately with the Order as changed. Whether made pursuant to this provision or by mutual agreement, changes shall not be binding upon Buyer except specifically confirmed in writing by a member of Buyer's Purchasing Department. Information, advice, approvals, or instructions given by Buyer's technical personnel or other representatives shall be deemed expressions of personal opinions only and shall not affect Buyer's and Seller's rights and obligations hereunder unless set forth in a writing which is signed by a member of Buyer's Purchasing Department and which expressly states that it constituted by this Order.

3. INFRINGEMENT INDEMNITY:

A. In lieu of any other warranty by Buyer or Seller against infringement, statutory or otherwise, it is agreed that Seller shall @BCL@1407D531.doc

defend at its expense any suit against Buyer and/or its customers based on a claim that any item furnished under this Order or the normal use or sale thereof infringes a Letters Patent or copyright, or violates a trade secret, other than claims under Letters Patent covering combinations of such items with items not furnished by Seller, and shall pay costs and damages finally awarded in any such suit, provided that Seller is notified in writing of the suit and given authority, information, and assistance at Seller's expense for the defense of same. If the use or sale of said item is enjoined as a result of such suit, Seller, at no expense to Buyer, shall obtain for Buyer and its customers the right to use and sell said item, or shall substitute an equivalent item acceptable to Buyer and extend this patent indemnity thereto.

4. SELLER'S DATA:

A. Seller agrees that all data, including but not limited to tapes, photo prints, and other graphic information, furnished with items or required to be furnished by this Order, together with any information furnished orally, shall be free from proprietary restriction. Data for which a restrictive use marking is authorized herein or by special agreement, may be duplicated and used by Buyer in performance of its present and future contracts including preparation of logistics and instructional information and delivery thereof as required by such customer's contract, provided that Seller's data subject to restrictive use marking as authorized herein, so long as the information is not legally available to Buyer from other sources, shall not be disclosed outside Buyer or its customers without Seller's permission. Seller further agrees to furnish additional data required by Buyer to support Buyer's requirements for logistics, maintenance, and operational data for Buyer's customer if ordered within three (3) years of final delivery for a reasonable price for preparation and delivery, including generation thereof, if required.

B. (1). To the extent that Seller establishes a claim to statutory copyright in any data first produced and furnished in the performance of this Order, Seller grants the Buyer a royalty-free, nonexclusive, irrevocable, world-wide license to publish, distribute,

translate, duplicate, exhibit, or perform any such data copyrighted by the Seller with the right to grant sublicenses.

(2). Exclusive of computer software, related documentation and other proprietary data, the Seller agrees to grant a license for the benefit of the Buyer of the same scope as set forth in Provision 4(b)(1) to any technical data delivered under this Order that are copyrighted by the Seller.

(3). Exclusive of computer software and related documentation, Seller further agrees not to knowingly include any material copyrighted by others in technical data delivered under this Order without first obtaining, at no additional cost and for the benefit of the Buyer, a license therein of the same scope as set forth in Provision 4(b)(1).

5. PROPERTY RIGHTS: All materials, tools, equipment and other property furnished by Buyer, Buyer's customer, or any government, to Seller shall remain the property of the Buyer, Buyer's customer, or government as the case may be, and the Seller assumes the risks of, and shall be responsible for, any loss thereof or damage thereto. Such property shall, at all times, be safely stored and properly maintained by Seller. Seller, in accordance with the provisions of this Purchase Order, but in any event upon completion thereof, shall return such property to Buyer or to any other owner as Buyer may direct, in the condition in which it was received by Seller except for reasonable wear and tear and except to the extent that such property has been incorporated in the items delivered or has been reasonably consumed in performance of work under this Purchase Order.

6. PROPRIETARY INFORMATION, DUPLICATION, AND DISCLOSURE:

A. Seller agrees that any information disclosed by Buyer to Seller for the purpose of this Purchase Order shall be used only in performance of this Purchase Order, provided that when U.S. Government or any other government, has an independent right to use such information, Seller may use such information for the U.S. Government or any other government, as the case may be, to the extent of such right. Nothing in this provision shall restrict Seller's right to use or disclose any information, which is or becomes generally known to the public without breach of this provision by Seller or is rightfully obtained without restriction from other sources. Upon completion or termination of this Purchase Order, Seller shall return all such information to Buyer, or make such other disposition thereof as may be directed or approved by Buyer.

B. No item furnished under this Purchase Order, or tools, plans, designs, or specifications for producing the same, which have been specifically designed for or by Buyer, shall be duplicated or used by Seller or furnished to others without the prior written consent of Buyer; provided that if the U.S. Government or any other government, has the independent right to use such tools, plans, designs and specifications, Seller may use them to produce such articles for direct sale to the U.S. Government or such other government.

C. Seller agrees that it will not, without prior written approval of Buyer, publicize this Order or disclose, confirm or deny any details thereof to third parties, or use Buyer's name in connection with Seller's sales promotion or publicity without prior written approval from Buyer.

7. ASSIGNMENTS AND SUBCONTRACTING:

A. Neither this Order nor any interest herein nor claim hereunder may be assigned or delegated by Seller, nor may Seller further subcontract all or substantially all of this Order without the prior written consent of Buyer. No consent shall not be deemed to relieve Seller of its obligations to comply fully with the Requirements hereof.

B. Notwithstanding the above, Seller may, without Buyer's consent, assign monies due or to become due hereunder provided Buyer shall continue to have the right to exercise any and all of its rights hereunder, settle any and all claims arising out of, and enter into amendments to this Order without notice to or consent of the assignee. Buyer shall be given notice of any assignment and all invoices shall refer to the assignment.

8. TERMINATION FOR CONVENIENCE:

A. This Order may at any time be terminated in whole or in part by written notice from the Buyer. If such termination is for the convenience of the buyer and is not caused by the Seller's failure to fulfill the requirements or make progress so as to endanger performance of this Order, Buyer, deducting any amount(s) previously paid, shall pay a proportional price for all work performed plus a profit on such work buy excluding profit on direct costs incurred due to termination. The total amount to be paid by Buyer in the event of convenience termination shall be determined by negotiation, but it shall in no event exceed the price of this Order.

B. In the event of a convenience termination, Seller shall use its best efforts to reduce costs incurred on terminated work and, to the extent not terminated, shall diligently continue performance of the work not terminated in accordance with the terms of this Order.

9. TERMINATION FOR DEFAULT:

A. Buyer may, without prejudice to any other rights or remedies provided by law or under this order by written Notice of Default by Seller, terminate the Purchase Order in whole or in part in any one of the following circumstances:

1. If Seller has been declared bankrupt, makes an assignment for the benefit of creditors, or is in receivership; or

2. If Seller fails to perform the work or deliver the supplies in accordance with the delivery or performance schedules specified herein or any extension thereof; or

3. If Seller fails to perform any of the other terms of this Purchase Order, or so fails to make progress as to endanger the performance of this Purchase Order in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of ten (10) days (or such longer period as Buyer may authorize in writing) after receipt of notice from Buyer specifying such failure.

B. In the event Buyer terminates this Order in whole or in part as provided in paragraph (a) of his provision. Buyer may procure, upon such terms and in such manner as it may deem appropriate, supplies or services similar to those so terminated, and Seller shall be liable to Buyer for any excess costs reasonably incurred for such similar supplies or services; provided that Seller shall continue the performance of this Purchase Order to the extent not terminated under the provisions of this article.

C. Except with respect to defaults of Seller's subcontractors, Seller shall not be liable for any excess costs if the failure to perform the Order arises out of causes beyond the control and without the fault or negligence of, and despite the exercise of utmost diligence by Seller, provided Seller gives Buyer written notice of such causes within twenty (20) days of the occurrence thereof and within the period of delivery agreed upon. Such causes may include, but are not restricted to, acts of God or of a public enemy, acts of Buyer, acts of a government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes and freight embargoes; but in every case the failure to perform must be beyond the control and without the fault or negligence of, and despite the exercises of the utmost diligence by Seller. If failure to perform is caused by default of Seller's subcontractor, and if such default arises out of causes beyond the control of both Seller and its subcontractor, and if such default arises out of causes beyond the control of both Seller and its subcontractor, and without the fault or negligence of, and despite the exercises of utmost diligence by either of them, Seller shall not be liable for any excess costs for failure to perform, unless the supplies or services to be furnished by Seller's subcontractor were obtained from other sources in sufficient time to permit Seller to meet the required delivery schedule.

D. If this Purchase Order is terminate as provided in this article, Buyer, in addition to other rights afforded in this article, may require Seller to transfer title to and deliver to Buyer, in the manner and to the extent directed by Buyer.

1. any completed supplies, and

2. such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information,

contract rights (hereinafter called "manufacturing materials") as Seller has specifically produced or acquired for the performance of such part of this Order as has been terminated, and Seller shall, upon direction of Buyer, protect and preserve property in possession of Seller in which Buyer has an interest.

E. Payment for supplies completed by Seller prior to such termination and delivered to an accepted by Buyer shall be at the price for such supplies specified in the Purchase Order. Payment for manufacturing materials delivered to and accepted by the Buyer, and for the protection and preservation of property, shall be in an amount agreed upon by Buyer and Seller. Buyer may withhold from amounts otherwise due Seller under this paragraph such sum as Buyer deems necessary to cover the additional cost of completing the Order and to protect Buyer against loss because of outstanding liens or claims of former lien holders.

F. If, after a notice of termination under the provisions of paragraph (a) has been issued, it is determined that the failure to perform this Order is due to causes beyond the control and without the fault or negligence of Seller or any of its suppliers, or subcontractors, such notice of termination shall be deemed to have been issued pursuant to the provisions of the article entitled "Termination For Convenience", and the rights and obligations of the parties shall, in such event, be governed by such article.

G. The rights and remedies of the Buyer provided in this article shall not be exclusive and are in addition to any other rights and remedies provided at law, or in equity, or under this Purchase Order.

10. COMPLIANCE WITH DELIVERY SCHEDULE: Seller agrees to exert every effort, including overtime, to meet the specified delivery schedule. Any notice to Seller by Buyer as to possible delay and/or expediting action by Buyer to accomplish on-time delivery shall not constitute a waiver of Buyer's rights under this Purchase Order nor shall either or both of such foregoing actions in any way affect the responsibility of Seller to make timely deliveries of items or perform specified services in accordance with the delivery schedule prescribed by this Order.

11. QUALITY CONTROL AND INSPECTION:

A. Seller and its suppliers shall establish and maintain a quality control and inspection program as required by the quality control requirements of this Order. Any changes, deviations or waivers from the requirements of the Purchase Order shall have the prior written approval of the Buyer.

B. Subject to applicable national security regulations, Buyer and the government representatives shall have the right of access on a non-interference basis, to any area of Seller's or Seller's supplier's premises where any part of the work is being performed. Seller shall, without additional costs to Buyer, provide all reasonable in-plant accommodations, facilities, and assistance for the safety and convenience of the Buyer and the government representatives in the performance of their duties.

C. In order to ensure that the equipment satisfies the program requirements and to demonstrate compliance with applicable technical specifications, Seller and Seller's suppliers shall perform factory tests as required by the Purchase Order and the Buyer or government representatives may witness such tests and review the test data. Seller shall give Buyer advance notice, as is reasonable necessary to allow Buyer to witness any required test. The work set forth in the Purchase Order is subject to inspections and monitoring in accordance with the requirements of this Order and the quality program set forth at the Seller's or Seller's supplier's facility and may be performed by the Buyer or a government authorized representative at their sole discretion. Inspection by the Buyer or the government representative shall not relieve the Seller from responsibility for any omission, defect, fault, or other failure to meet the requirements of the Purchase Order. If any item if found to be defective in material, workmanship, or otherwise not in conformance with the requirements of this Order, the Buyer shall have the right to reject such defective item(s) or require its prompt correction all at Seller's expense.

D. Seller shall keep and maintain proper and adequate inspection, test, and related records, which shall be available for @BCL@1407D531.doc

inspection by the Buyer or the government representative and shall allow copies to be made and extracts to be taken and shall furnish all information which may be required by the Buyer or the government representatives.

E. All items also may be subject to further inspection and acceptance at Buyer's plant, Seller's plant, or site of installation, notwithstanding any payments or other prior inspection. Final acceptance shall be at Buyer's facility or such other place as may be designated in writing by Buyer's material representative.

12. JIGS AND FIXTURES: In manufacture of items to be supplied hereunder, Seller shall use jigs, fixtures, and/or other devices or appliances, in all processes where such use is conducive to interchangeability for uniformity of the product, of such character as will reduce the need for selective assembly, and whenever Buyer determines that such devices or appliances are incorrect, worn, damaged, or defective to such an extent as to adversely affect basic interchangeability of the item manufactured, Seller shall not thereafter use the same in its incorrect, worn, damaged, or defective form.

13. PRICES: Seller warrants that any unit prices charged herein do not exceed the unit prices charged by Seller to other customers in substantially similar transactions.

14. SELLER'S PAYMENT OF PREMIUM TRANSPORTATION COSTS:

Except as may be specified otherwise in this Order, deliveries shall be strictly in accordance with the delivery schedule set forth in this Order. If Seller's deliveries fail to meet such schedule, with the result that Buyer elects to call upon Seller for premium shipments, Seller will pay for all increased rates for such premium shipments.

15. INVOICES:

A. Invoices in duplicate shall be mailed to Buyer's Accounts Payable Department when items are shipped. The time for payment shall not commence before Buyer's actual or scheduled receipt, whichever is later, of items at their destination or before performance by Seller in accordance with the requirements of this Order. Without limiting Buyer's other remedies, if data are deficient or are not furnished when scheduled, Buyer may withhold remaining payments (or such portion thereof as Buyer may deem equitable) until such deficiency or delinquency is cured. All shipping costs and all Federal manufacturers' and retailers' excise and state or local sales or use taxes, when applicable, must be billed as separate items on Seller's invoices. Any and all tax exemption certificates shall be accepted by Seller. Each invoice presented by a U.S. supplier shall contain the following certification: "Seller hereby certifies that these goods were produced in compliance with all applicable requirements of Sections 6, 7 and 12 of the Fair Labor Standards Act, as amended, and of regulations and orders of the U.S. Department of Labor issued under Section 14 thereof."

B. In addition to any other remedies that may be available at law or in equity, Buyer shall have the right to recover from Seller, by offset or otherwise, the price of any items returned to Seller under the terms of this Order.

16. HAZARDOUS MATERIAL PACKAGING, LABELING AND SHIPPING.

A. Seller shall package, label, transport, and ship hazardous material or items containing hazardous materials in accordance with all applicable Federal, state, and local laws and regulations, including but not limited to current published issues of tariffs and regulations reflecting 40 CFR Articles 100-199, FAR 52.223-3, DFARS 252.223-7001, the Explosive Safety Manual AFM 127-100, and Federal Aviation Regulation 103, as amended (e.g., the current Hazardous Materials Regulations of the Department of Transportation; the Official Air Transport Restricted Articles Tariff; Packaging and Handling of Dangerous Materials for Transportation by Military Aircraft, Joint Manual AFM 71-4; and subsequent reissues thereof) and, if applicable, to furnish appropriate Material Safety Data Sheets in accordance with California Hazardous Substances Information and Training Act. Seller, prior to each hazardous material shipment, shall notify Buyer of its nature and shipment date by such means of communications as will allow for proper preparation for acceptance of delivery by the carrier of the material and shall identify same on all shipping documents.

B. The 1990 Clean Air Act Amendments and implementing regulations established labeling requirements for products manufactured with, containers of, and products containing specific ozone depleting substances. This label must be "clear and conspicuous". There is no requirement that suppliers label directly on the hardware. Because labeling hardware may not conform with requirements contained in the technical data package (if any), pertinent to this Purchase Order, Buyer prefers that the hardware delivered under this purchase order not be labeled, and that alternative labeling be used. The EPA regulation provides for the use of alternative labeling. Supplemental printed material may also be appropriate, i.e. where the statement would be as conspicuous on printed material as it would be on the product. For specific requirements and options on labeling regulations, refer to **40 CFR 82**.

17. LABOR DISPUTES: Seller agrees that whenever an actual or potential labor dispute delays or threatens to delay the timely performance of this Order, Seller shall immediately give written notice to Buyer.

18. SECURITY: Seller shall provide and maintain a system of security controls in accordance with the security requirements of this Order, if any, and any other security requirements, which may be imposed by Buyer's customer.

19. ADDITIONAL PURCHASE ORDER AMENDMENTS: Seller, upon the request of Buyer, shall negotiate amendments to this Order to incorporate additional provisions herein or to change provisions hereof, as Buyer may reasonably deem necessary in order to comply with the provisions of the contract between Buyer and its customer or with the provisions of amendments to such contract. If such amendments to this Order cause an increase or decrease in the cost of, or the time required for, performance of this Order, an equitable adjustment shall be made in the price or delivery schedule, or both, pursuant to the Changes provision herein.

20. DISPUTES: Irrespective of the place of performance, this Order will be construed and interpreted according to the laws of the state from which Buyer's Order is issued without resort to said state's Conflicts of Law rules. Pending final resolution of a dispute hereunder, Seller shall proceed diligently with the performance of this Order and in accordance with Buyer's decision.

21. GENERAL: This Order and the attachments and documents incorporated herein constitute the complete and exclusive statement of the terms of this agreement between Buyer and Seller and supersede all prior representations, understandings, and communications relating hereto. The invalidity in whole or in part of any provision of this Order shall not affect the validity of other provisions. Buyer's failure to insist, in any one or more instances, upon the performance of any term of this Order, shall not be construed as a waiver or relinquishment of Buyer's right to such performance or to future performance of such a term or terms, and Seller's obligation in respect thereto shall continue in full force and effect. Time shall be of the essence hereunder. Seller shall perform work and make deliveries hereunder. Seller shall perform work and make deliveries hereunder no earlier than and only to the minimum extent consistent with delivery schedules and other requirements.

22. PRECEDENCE: Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence: (1) typed provisions set forth in this Order, (2) Buyer's Purchase Order Attachments, (3) the preprinted portion of this Order, including these Purchase Order General Provisions, (4) statement of work, and (5) specifications attached or incorporated by reference. Buyer's specifications shall prevail over those of an agency of the U.S. Government, and both shall prevail over those of Seller.

23. ELECTROSTATIC DISCHARGE (ESD) CONTROL SYSTEM: Seller agrees that all static sensitive electrical and electronic parts, assemblies and equipment (excluding electrically initiated explosive devices) shall be handled and protected to effectively prevent damage from electrostatic discharge using an Electrostatic Discharge (ESD) control system which encompasses protected areas, handling procedures, protective covering, quality precautions, audit and review, training of employees, and packing and packaging for delivery.