

**SBIRTC TERMS AND CONDITIONS GOVERNMENT PURCHASE ORDER PAGE - 1 -**

1. **General Acceptance:** The Purchase Order (which term shall be deemed to include plans, specifications, and other documents to the extent that any of the same are incorporated by reference) becomes the exclusive agreement between the parties for the supplies/services subject to the terms and conditions herein. Any of the following shall constitute Seller's unqualified acceptance of this Purchase Order, (a) received acknowledgment (b) furnishing of any part of the supplies/services under this Purchase Order; (c) acceptance of any payment for the supplies/services or (d) commencement of performance under this Purchase Order. Any additional or different terms proposed by the Seller are objected to and are hereby rejected unless the same shall be accepted in writing by the Buyer. Failure of any party to enforce its rights under this Purchase Order shall not constitute a waiver of such rights or of any other rights under this Purchase Order.
2. **Assignment:** Neither this Purchase Order, nor any payments hereunder are assignable nor transferable without Buyer's written approval which approval will not be unreasonably withheld.
3. **Government or Buyer Furnished Property:** If in connection with the performance of this Purchase Order, any property is furnished to Seller by the Buyer or by the Government, Seller shall assume the risk of, and be responsible for, any loss. Destruction of or damage to the property while in Seller's possession or control except that this Purchase Order, with the prior approval of the Buyer and/or Government, provides for the relief of the Seller from such liability. In the absence of such approval the Seller shall return all such property in as good a condition as when received, except for reasonable wear and tear caused by the utilization of such property in accordance with the provisions of the prime contract. Seller shall establish and maintain a system in accordance with the provisions of FAR subpart 45.5 for the control of Government of Buyer's owned property. Seller shall also notify Buyer if approval of its property system has been withdrawn by the Government.
4. **Changes:** Buyer may at any time, by written order, without notice to any surety, make any/all changes or additions within the general scope of this Purchase Order. If any such change causes an increase or decrease in the cost of, or the time required for, performance of this Purchase Order, whether changed or not changed by any such written order, Seller shall notify Buyer in writing immediately and an appropriate equitable adjustment will be made in the price or time of performance, or both, by written modification of this Purchase Order.
5. **Choice of Law:** Irrespective of the place of performance, this Purchase Order will be construed, and interpreted according to federal common law of Government. If federal common law is not applicable, the laws of California shall apply.
6. **Compliance with Laws & Regulations:** Seller agrees to indemnify Buyer against any loss cost, liability, or damage by reason of Seller's violation of any applicable law, executive order or regulation. Seller agrees that performance of this Purchase Order is subject to the laws and regulations of the applicable Federal Government agency. Any knowing willful act to falsify, conceal, or alter a material fact, or any false, fraudulent, or fictitious statement of representation, in connection with the performance of work under this order may be punishable in accordance with applicable Federal statutes.
7. **Defective Work:** Buyer may reject, or require prompt correction (in place or elsewhere) of any supplies or goods which are defective in material or workmanship or otherwise fail to meet the requirements of this Purchase Order.
8. **Delivery:** Time is of the essence. Seller shall comply with delivery schedule but shall not make material or production commitments in advance of such time as the Seller reasonably believes necessary to meet the schedule without prior written approval by the Buyer. Representatives of Buyer shall during Seller's regular working day have access to Seller's plant for the purpose of assuring delivery in accordance with the schedule.
9. **Disputes:** Any dispute arising under this Purchase Order which is not settled by agreement of the parties will participate in mediation and/or arbitration in the state or federal courts of California. Pending any decision, appeal or judgment in such proceedings or the settlement of any dispute arising under this Purchase Order, Seller shall proceed diligently with the performance of this Purchase Order unless otherwise agreed between the parties.
10. **Federal and Local Taxes:** Except as may be otherwise provided in this Purchase Order, the price includes all applicable federal, state and local, taxes and duties.
11. **Indemnity:** If Seller in connection with the performance of this Purchase Order shall send any of its agents or employees onto premises owned or controlled by Buyer, Seller shall provide safety protection for persons and property in accordance with all applicable laws and regulations and indemnify and save harmless Buyer from and against any and all liabilities and losses whatsoever, whether resulting from or contributed to by negligence of Buyer, including without limitation, costs and expenses in connection therewith, on account, or by reason of, injury to, or death of, any person whatsoever, or loss of or damage to any property whatsoever, suffered or sustained in the course of, or in connection with, the performance of the work. Buyer at its option may require Seller to furnish evidence of insurance reasonably satisfactory to Buyer covering the liabilities and indemnification provided above but no acceptance of such evidence by Buyer shall be deemed a waiver or release of such liabilities or duty to indemnify.
12. **Inspection and Acceptance** will be at destination, unless otherwise provided in this Purchase Order. Buyer and its customer may inspect and test material, work in progress, and supplies at all times and places, during manufacture and otherwise. If Inspection and test are made on Seller's premises, Seller, without additional charge, shall provide reasonable facilities and assistance for the safety and convenience of the inspectors in performing such inspections. Inspections shall be performed in such manner as not to delay the work unduly.
13. **Responsibility for Supplies or Goods:** Except as specifically otherwise provided in this Purchase Order, Seller shall be responsible for supplies meeting the requirements of this Purchase Order until final inspection and acceptance thereof by Buyer, and shall bear all risks as to rejected supplies or supplies requiring correction after notice of rejection notwithstanding any prior acceptance.
14. **Invoicing and Payment:** A separate invoice shall be issued for each shipment. Unless otherwise specified in this Purchase Order, no invoice shall be issued prior to shipment of goods and no payment will be made prior to receipt of goods and a correct invoice. Payment due dates will be computed from the date of receipt of goods or the date of receipt of a correct invoice, whichever is later.
15. **Liens:** Seller warrants that on the date Buyer pays for all the supplies or goods delivered under this agreement, all liens, rights of lien and claims against Buyer or the supplies or goods arising by virtue of work performed by Seller or any subcontractor with respect to the provision of the supplies or goods will have been released or satisfied. Upon request, Seller will provide to Buyer certification, releases or other satisfactory evidence in support thereof, stating that no such liens, right of lien or claims exist.
16. **Intellectual Property Indemnity:** Seller shall indemnify Buyer, and/or Buyer's customer, and their respective officers, agents, and employees 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 goods or performance of services under this Purchase Order or out of the use or disposal by, or for the account of, Buyer and/or Buyer's customer, of such supplies or goods.
17. **Property Rights:** Seller agrees to make prompt and complete disclosure to Buyer of all inventions, and disclosures made or conceived as a result of work performed under this Purchase Order. Seller agrees to keep necessary records supporting such inventions and discoveries and will furnish to Buyer upon request all such records. Any invention, discovery, proprietary information, software, system, data, or report resulting from the work performed under this Purchase Order shall be the sole property of the Buyer. All patents, copyrights, trade secrets, trademarks, or other intellectual property resulting from work under this Purchase Order shall be the sole property of the Buyer. Buyer shall have the full right to use such property in any manner without any claim on the part of the Seller and without any duty to account to the Seller for such use. Seller agrees to assign to Buyer any patent or patent application resulting from work performed under this Purchase Order, and to provide reasonable support for the Buyer's prosecution of such patent or patent application. The parties agree that any original work of authorship created under this Purchase Order is a work made for hire for purposes of copyright ownership. To whatever extent the Seller has any interest in any original work of authorship created under this Purchase Order, Seller agrees to assign and hereby assigns its entire interest in such work to Buyer, including all rights to derivative works. This Purchase Order does not confer or grant, in any manner whatsoever, any license or right under any patent, trademark, trade secret, copyright or other intellectual property right held by Buyer, unless specifically set forth in the body of the Purchase Order.

**SBIRTC TERMS AND CONDITIONS GOVERNMENT PURCHASE ORDER PAGE - 2 -**

18. **Subcontracting:** Seller shall not subcontract all or substantially all work on any article to be supplied under this Purchase Order without prior written approval of Buyer. This provision shall not apply to purchases of standard commercial articles or raw materials on which Seller will perform further work.
19. **Equal Employment Opportunity:** To the extent applicable, Supplier will comply with Executive Order 11246, Section 503 of the Rehabilitation Act of 1973, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, and the implementing regulations for each found at 41 CFR Part 60. The Parties incorporate into this Agreement, as applicable, the Equal Opportunity clauses found at 41 CFR § 60-1.4(a), 60-250.5(a), 60- 741.5(a), and 60-300.5(a), and Supplier will likewise incorporate the clauses into all applicable subcontracts as required by 41 CFR § 60-1.4(d).
20. **Substitutions:** Seller shall not substitute materials or accessories without written consent of Buyer.
21. **Priority Rating.** If so identified, this Contract is a "rated order" certified for national defense use, and the Seller shall follow all the requirements of the Defense Priorities and Allocation System Regulation (15 C.F.R. Part 700).
22. **Stop Work Order:** In accordance with the provisions of the "Stop-Work-Order" clause set forth in FAR 52.242-15 in effect on the date of this order, Buyer may, at any time, by written order to Seller, require Seller to stop all, or any part, of the work called for by any Purchase Order for a period of 90 days after the order is delivered to Seller, and for any further period to which the Parties may agree. Upon receipt of such an order, Seller will immediately take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within the indicated 90-day period, Buyer will take the actions prescribed in FAR 52.242.15.
23. **Termination:** Without limiting Buyer's right to cancel this order for default of Seller as provided below, Buyer may terminate all or any part of the work under this Purchase Order and process Seller's claims therefore in accordance with the provisions of the "Termination for the Convenience of the Government (fixed-Price)" clause set forth in FAR 52.249-2 in effect on the date of this order. Where necessary to make FAR 52.249-2 applicable to this Purchase Order, "Contractor" shall mean "Seller", "Contracting Officer" shall mean "Buyer" and "Government" shall mean "Buyer or the Government". In paragraph (e) of FAR 52.249-2, change "1 year" to "6 months or any extension thereto".
24. **Termination for Default:** The provisions of FAR 52.249-8, "Default (Fixed-price Supply and Service)," in effect on the date of this order are incorporated in this paragraph by reference as follows: Subparagraphs (a), (b), (e), and (f), (g), and (h). Where necessary to make this FAR provision applicable to this Purchase Order, "Contractor" shall mean "Seller" and "Contracting Officer" shall mean "Buyer", and "Government" shall mean "Buyer or Government". In addition, if bankruptcy, insolvency, dissolution, receivership or equivalent proceedings shall be instituted by or against Seller, or upon Seller's making any assignment for the benefit of creditors or entering into any such arrangement or upon Seller's suspension of its business or becoming insolvent, Buyer shall have the right to terminate this Purchase Order in accordance with FAR 52-249-8.
25. **Notice to Buyer of Potential Delays:** Whenever Seller has knowledge that any occurrence is delaying or threatens to delay the timely performance of this Purchase Order; Seller shall immediately give notice thereof, including all relevant information with respect thereto to Buyer.
26. **Special Tooling (ST), Special Test Equipment (STE), and Facilities (FAC):** Seller warrants that the price set forth in this Purchase Order does not include: (a) any amount representing rent for the use of Government-owned ST, STE or FAC as the same are defined in part 45 of the FAR.
27. **Warranty:** Seller warrants for a period of one (1) year that the supplies covered by this Purchase Order will conform to the design, specifications, drawings, samples or other descriptions referred to in this Purchase Order and will be free from defects in material and workmanship, and to the extent that the seller knows or has reason to know of the purpose for which the supplies/services are intended, will be fit and sufficient for such purpose. The warranties contained in this paragraph shall run to Buyer and its Customers. Seller warrants that supplies/services provided under this Purchase Order shall not infringe upon the rights of any third party, and that Seller is subject to no agreement which in any manner would interfere with Buyer's property rights as described in paragraph entitled "Property Rights".
28. **Trade Control:** Buyer will comply with all relevant United States and foreign laws, rules and regulations governing its activities, including but not limited to, the Foreign Corrupt Practices Act, Arms Export Control Act, Export Administration Act, Anti-Boycott Law of the United States, and their implementing regulations.
29. **Federal Acquisition Regulation (FAR, DOD FAR Supplement DFARS):** The following clauses set forth in the FAR and DFARS as in effect on the date of this Purchase Order are incorporated herein by reference. Where necessary to make the clauses applicable to this Purchase Order, "Contractor" shall mean "Seller", "Contracting Officer" shall mean "Buyer", and the "Government" shall mean "Buyer" or the "Government" whenever appearing the clauses. If any of the following FAR or DFARS clauses do not apply to a particular Purchase Order, such clauses are considered to be self-deleting.

**All Orders:**

52.203-3	Gratuities	52.227-9	Refund of Royalties
52.203-10	Price or Fee Adjustment for Illegal Activity	52.227-10	Filing of Patent Applications – Classified Subject
52.203-15	Whistleblower Protections Under the American	52.227-11	Patent Rights – Ownership by the Contractor
52.204-2	Security Requirements	52.227-13	Patent Rights—Ownership by the Government
52.204-9	Verification of Contractor Personnel	52.227-14	Rights in Data - General
52.208-8	Required Sources for Helium	52.229-3	Federal, State, and Local Taxes
52.215-15	Pension Adjustment and Asset Reversions	52.232-40	Providing Accelerated Payments to Small Business Subcontractors
52.215-18	Postretirement Benefits (PRB)		Protest After Award
52.215-19	Notification of Ownership Changes	52.233-3	Defense Production Act Title III
52.222-21	Prohibition of Segregated Facilities	52.234-1	Accident Prevention
52.222-22	Previous Contracts and Compliance Reports	52.236-13	Subcontracts for Commercial Items
52.222-26	Equal Opportunity	52.244-6	Government Property
52.222-41	Service Contract Act of 1965	52.245-1, Alt. 1	Use and Charges
52.222-50	Combating Trafficking in Persons	52.245-9	Inspection of Supplies – Fixed Price
52.223-3	Hazardous Material Identification	52.246-2	Inspection of Services— Fixed-Price
52.223-4	Recovered Material Certification	52.246-4	Responsibility for Supplies
52.223-7	Pollution Prevention and Right-to-Know	52.246-16	Preference for U.S. Flag Air Carriers
52.223-7	Notice of Radioactive	52.247-63	Preference for Privately Owned U.S. Flag
52.223-11	Ozone-Depleting Substances	52.247-64	Whistleblower Rights
52.223-15	Energy Consuming	252.203-7002	Disclosure of infor
52.224-1	Privacy Act Notification	252.204-7000	Items Export Control
52.224-2	Privacy Act	252.204-7008	Unclassified Technical
52.225-1	Buy American Act – Supplies	252.204-7012	Limitations information
52.225-2	Buy American Act Certificate	252.204-7014	Disclosure Litigation Support Contractors
52.225-3	Buy American Act – Free Trade Agreements	252.204-7015	Intent to Furnish Precious Metals as GFEI
52.225-5	Trade Agreements	252.208-7000	Restrictions on Employment of Personnel
52.225-8	Duty-free Entry	252.222-7000	Prohibition on Storage and Disposal of Toxic
52.225-13	Restrictions on Certain Foreign Purchases	252.223-7006	

**SBIRTC TERMS AND CONDITIONS GOVERNMENT PURCHASE ORDER PAGE 3**

252.225-7000	Buy American Act-Balance of Payments		
252.225-7001	Buy American Act and Balance of Payments		
252.225-7007	Prohibition on Acquisition of US Munitions		<u>All Orders of \$500,000 or Greater (\$550,000 or Greater if Prime Contract dated on or after September 28, 2006)</u>
252.225-7013	Duty-Free Entry	52.219-9	Small Business Subcontracting Plan
252.225-7016	Restriction on Acquisition of Ball and Roller	252.219-7003	Small Business Subcontracting Plan
252.225-7025	Restrictions on Acquisition of Forgings		
252.225-7028	Exclusionary Policies and Practices		
252.225-7030	Restriction on Acquisition of Carbon Alloy		
252.225-7036	Buy American Act – Free Trade Agreements		
252.227-7013	Rights in Technical Data - Non-commercial		
252.227-7014	Rights in Noncommercial Computer		
252.227-7016	Rights in Bid or Proposal Information		
252.227-7019	Validation of Asserted Restrictions-Software		
252.227-7025	Information Marked with Restrictive Legends		
252.227-7030	Technical Data - Withholding of Payment		
252.227-7037	Validation of Restrictive Markings of Technical		
252.228-7001	Ground and Flight Risk		
252.228-7005	Accident Reporting and		
252.229-7011	Reporting of Foreign Taxes		
252.235-7003	Frequency Authorization		
252.235-7004	Protection of Human Subjects		
252.243-7001	Pricing of Contract Mods		
252.244-7000	Subcontracts Commercial Items		
252.246-7001, Alt I	Warranty of Data		
252.246-7003	Notification of Potential Safety Issues		
252.246-7007	Contractor Counterfeit Electronic		
252.247-7023	Transportation of Supplies by Sea		
252.247-7024	Transportation of Supplies by Sea		
<b><u>All Orders of \$3,000 or Greater</u></b>			
52.222-54	Employment Eligibility Verification		
52.223-18	Text Messaging While Driving		
<b><u>All Orders Greater than \$10,000</u></b>			
52.222-40	Notification of Employee Rights Under the National Labor Relations Act		
<b><u>All Orders Greater than \$15,000</u></b>			
52.222-20	Walsh-Healey Public Contracts Act		
52.222-36	Affirmative Action for Workers Disabilities		
<b><u>All Orders of \$25,000 or Greater (Greater than \$30,000 if Prime Contract dated on or after September 28, 2006.)</u></b>			
52.209-6	Protecting the Government's Contractors Debarred Suspended, or Proposed for Debarment		
<b><u>All Orders of \$50,000 or Greater</u></b>			
52.211-15	Defense Priority and Allocation Req		
<b><u>All Orders of \$100,000 or Greater</u></b>			
52.203-5	Covenant Against Contingent Fees		
52.203-6	Restrictions on Subcontractor Sales		
52.203-7	Anti-Kickback Procedures		
52.203-8	Cancellation, Recession, and Recovery		
52.203-11	Certification and Disclosure		
52.203-12	Limitation on Payments to Influence		
52.203-16	Preventing Personal Conflicts of Interest		
52.215-2	Audit and Records – Negotiation		
52.215-14	Integrity of Unit Prices		
52.215-22	Limitations on Pass-Through		
52.215-23	Limitations on Pass-Through Charges		
52.219-8	Utilization of Small Business Concerns		
52.222-4	Contract Work Hours and Safety Standards Act		
52.222-35	Equal Opportunity for Veterans		
52.222-37	Employment Reports on Veterans		
52.223-14	Toxic Chemical Release		
52.248-1	Value Engineering		
252.203-7001	Prohibition on Persons Convicted of		
252.225-7012	Preference for Certain Domestic		
252.249-7002	Notification of Anticipated Contract		
252.226-7001	Utilization of Indian Organizations		