

SRI Standard Terms and Conditions of Purchase



1. Acceptance of Purchase Order. Seller's agreement to furnish the materials or services hereby ordered, or Seller's commencement of such performance or acceptance of any payment, shall constitute Seller's acceptance of this Purchase Order. If this Purchase Order does not state price or delivery, then Buyer will not be bound to any prices or delivery to which it has not specifically agreed in writing. Any terms or conditions proposed by Seller that are inconsistent with or in addition to these terms and conditions of purchase shall be void and of no effect. Modifications hereof or additions hereto, to be effective, must be made in writing and be signed by Buyer's purchasing representative. These terms and conditions, together with any referenced exhibits, attachments or other documents, constitute the entire agreement between the parties and supersede any prior or contemporaneous written or oral agreements pertaining to this subject matter. Additional or inconsistent terms or conditions proposed by Seller or included in Seller's acknowledgment hereof are hereby rejected by Buyer and have no effect unless expressly accepted in writing by Buyer

2. Delivery; Notice of Delay. Time is of the essence and failure to deliver in accordance with the delivery schedule under this Purchase Order shall be a material breach of this Purchase Order. No acts of Buyer, including without limitation, modifications of this Purchase Order or acceptance of late deliveries, shall constitute waiver of this provision. Buyer also reserves the right to refuse or return at Seller's risk and expense shipments made in excess of Buyer's orders or in advance of required schedules, or to defer payment on advance deliveries until scheduled delivery dates. Seller shall notify Buyer in writing immediately of any actual or potential delay to the performance of this Purchase Order and such notice shall include a proposed revised schedule and shall not constitute a waiver to Buyer's rights and remedies hereunder.

3. Termination for Convenience. Buyer may, by notice in writing, terminate this Purchase Order or work under this Purchase Order for convenience and without cause, in whole or in part, at any time, and such termination shall not constitute default. In the event of partial termination, Seller is not excused from performance of the non-terminated balance of work under this Purchase Order. In the event of termination for convenience by Buyer, Seller shall immediately cease performance under this Purchase Order. Buyer shall be liable to Seller only for all reasonable and substantiated costs prior to the effective date of the termination, provided that Buyer will not be obligated to pay more than the full price of this Purchase Order. Buyer will have no further payment obligation in connection with such termination. Seller will promptly notify Buyer of all completed or partially completed work and, at no additional expense to the Buyer and in accordance with Buyer's instructions, will promptly transfer possession of such work to Buyer. Seller's obligations, including but not limited to obligations under the warranty, proprietary rights, and infringement provisions of this Purchase Order shall survive such termination.

4. Termination for Default. Buyer may terminate this Purchase Order in whole or in part at any time for (i) breach of any one or more of Seller's obligations, representations and warranties under this Purchase Order and such breach is not cured within five (5) business days after written notice of such breach is delivered to Seller, (ii) failure to make progress so as to endanger performance of this Purchase Order, or (iii) failure to provide adequate assurance of future performance. In the event of partial termination, Seller is not excused from performance of the non-terminated balance of work under this Purchase Order. In the event of Seller's default hereunder, the Buyer may exercise any or all rights accruing to it, both at law, including without limitation, those set forth in Article 2 of the Uniform Commercial Code, or in equity. Seller's obligations, including but not limited to obligations under the warranty, proprietary rights, and infringement provisions of this Purchase Order shall survive such termination.

5. Force Majeure. Except for defaults of Seller's subcontractors at any tier, neither Buyer nor Seller shall be liable for any failure to perform due to any cause beyond their reasonable control and without their fault or negligence. Such causes include acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, terrorism, quarantine restrictions, strikes, freight embargoes, and unusually severe weather.

6. Disputes. Except for claims under Title VII of the Civil Rights Act of 1964 or any tort related to or arising out of sexual assault or harassment (including assault and battery, intentional infliction of emotional distress, false imprisonment, or negligent hiring, supervision, or retention), the parties shall resolve disputes arising out of this agreement, including disputes about the scope of this arbitration provision, by final and binding arbitration seated and held in San Francisco, California before a single arbitrator. JAMS shall administer the arbitration under its comprehensive arbitration rules and procedures. The arbitrator shall award the prevailing party its reasonable attorneys' fees and expenses, and its arbitration fees and associated costs. Any court of competent jurisdiction may enter judgment on the award. Either party may seek preliminary relief from a court of competent jurisdiction to prevent imminent or continuing irreparable harm before filing a demand for arbitration. Pending resolution or settlement of any dispute arising under this Purchase Order, Seller will proceed diligently as directed by Buyer with the performance of this Purchase Order. Irrespective of the place of performance, this Purchase Order will be construed and interpreted according to the laws of the State from which this Purchase Order is issued, without resort to said State's Conflicts of Law Rules.

7. Remedies. Except as otherwise provided herein, the rights of both parties hereunder shall be in addition to their rights and remedies at law or in equity. Failure of either party to enforce any of its rights shall not constitute a waiver of such rights or of any other rights and shall not be construed as a waiver or relinquishment of any such provisions, rights or remedies; rather, the same shall remain in full force and effect.

8. Proprietary Rights. Unless otherwise expressly agreed in writing to the contrary, all specifications, information, data, drawings, software and other items supplied by Seller to Buyer shall be disclosed to Buyer on a non-proprietary basis and may be used and/or disclosed by Buyer without restriction. All specifications, information, data, drawings, software and other items which are (i) supplied by Buyer to Seller, (ii) obtained or developed by Seller in the performance of this Purchase Order, or (iii) paid for by Buyer shall be proprietary to Buyer, shall be used by Seller only for purposes of providing goods or services to Buyer pursuant to this Purchase Order, and shall not be disclosed by Seller to any third party without Buyer's express written consent. All such items supplied by Buyer, obtained by Seller in performance of this Purchase Order, or paid for by Buyer shall be promptly provided by Seller to Buyer on the earlier to occur of Buyer's request or Seller's completion of this Purchase Order. Any invention or intellectual property first made or conceived by Seller in the performance of this Purchase Order or which is derived from or based on the use of information supplied by Buyer shall be the property of Buyer; and Seller shall execute such documents as may be necessary to perfect Buyer's title thereto.

9. Buyer's Property. All drawings, tools, jigs, dies, fixtures, materials, and other items supplied or paid for by Buyer shall be and remain the property of Buyer; and Buyer has the right to enter Seller's premises and remove any such property at any time without being liable for trespass or damages of any sort. All such items shall be used only in the performance of work under this Purchase Order unless Buyer consents otherwise in writing. Material made in accordance with Buyer's specifications and drawings shall not be furnished or quoted by Seller to any other person or concern without Buyer's prior written consent. Seller has the obligation to maintain any and all property furnished by Buyer to Seller and shall be responsible for all loss or damage to said property except for normal wear and tear.

10. Release of Information / Publicity. Seller shall not publish, distribute, or use any information developed under or about the existence of this Purchase Order, or use Buyer's company name (or the name of any Buyer division, affiliate, subsidiary, employee, director, or officer thereof), logo, trademark, service mark, or trade dress for the purpose of advertising, making a news release, creating a business reference, creating website content or for products or service endorsement without Buyer's prior written approval. Seller's obligations under this section shall survive the termination or cancellation of this Purchase Order.

11. Order of Precedence. In the event of any inconsistency or conflict between or among the provisions of this Purchase Order, such inconsistency or conflict shall be resolved by the following descending order of preference:

(1) this Purchase Order (subcontract, agreement, etc.), including order specific provisions which are typed or written on the face page(s) of this Purchase Order as additions to the preprinted terms; (2) general terms and conditions of purchase, including supplements thereto, attached hereto or incorporated by reference; and (3) documents incorporated by reference on the face page(s) of this Purchase Order. Buyer's specifications shall prevail over those of the United States Government, and both of the foregoing shall prevail over Seller's specifications. In the event of conflict between specifications, drawings, samples, designated type, part number, or catalog description, such inconsistency or conflict shall be resolved by the following descending order of preference: (i) specifications, (ii) drawings, (iii) designated type, part number, or catalog description, and (iv) samples. In cases of ambiguity in the specifications, drawings, or other requirements of this Purchase Order, Seller must, before proceeding, consult Buyer, whose written interpretation shall be final.

12. Warranty. Seller represents and warrants that it has the full power to enter into this Purchase Order and to perform its obligations under this Purchase Order. Seller represents and warrants that the materials delivered pursuant to this Purchase Order shall be new, free from defects in workmanship, materials, and design and shall strictly conform to all the requirements of this Purchase Order. Seller further represents and warrants that the performance of work and services pursuant to the requirements of this Purchase Order shall conform to high professional standards. These warranties shall survive final acceptance and payment. This warranty entitlement shall inure to the benefit of both Buyer and Buyer's customers. As used in this Purchase Order, Buyer's customer(s) shall include its direct and indirect customers, including but not limited to, direct sale end-users, higher tier subcontractors, prime contractors and the ultimate user under relevant prime contract(s). Seller shall be liable for and hold Buyer harmless for any loss, damage, cost, expense, or liability that Buyer may suffer from breach of any of these warranties. Remedies shall be at Buyer's election, including repair, replacement, or reimbursement of the purchase price of nonconforming materials and, in the case of services, either correction of the defective services at no cost to Buyer or reimbursement of the amounts paid for such services.

13. Inspection. All material and workmanship shall be subject to inspection and test at all reasonable times and places by Buyer or Buyer's customer before, during and after performance and delivery. The Buyer may require Seller to repair, replace or reimburse the purchase price of rejected material or Buyer may accept any materials and upon discovery of nonconformance, may reject or keep and rework any such materials not so conforming. Cost of repair, rework, replacement, inspection, transportation, repackaging, and/or reinspection by Buyer shall be at Seller's expense. If inspection and test are made on the premises of Seller or Seller's lower tier subcontractors, Seller shall furnish without additional charge all reasonable facilities, information and assistance necessary for the safe and convenient inspection and tests required by the inspectors in the performance of their duty. The foregoing provisions of this Section 14 (Inspection) pertaining to inspection and test on Seller's premises are supplementary to and not in lieu of the other provisions of this Section. Buyer's failure to inspect does not relieve Seller of any responsibility to perform according to the terms of this Purchase Order.

14. Changes. Buyer has the right by written order to suspend work or to make changes from time to time in the services to be rendered or the materials to be furnished by Seller hereunder or the delivery date. If such suspension or changes cause an increase or decrease in the cost of performance of this Purchase Order or in the time required for its performance, an equitable adjustment shall be negotiated promptly and to the extent that Buyer agrees to such adjustments, this Purchase Order shall be modified in writing accordingly. Any claim by Seller for adjustment under this clause must be asserted in writing within twenty (20) days from the date of receipt by Seller of notification of the change or suspension and shall be followed as soon as practicable with specification of the amount claimed and supporting cost figures. However, nothing herein shall excuse Seller from proceeding with this Purchase Order pending resolution of the claim. Failure by Seller to request for an adjustment within twenty (20) days will be deemed waiver of the right to equitable adjustment and will not excuse Seller from performing in accordance with the revised Purchase Order. Information, advice, approvals, or instructions given by Buyer's technical personnel or other representatives shall be deemed expressions of personal opinion only and shall not affect Buyer's and Seller's rights and obligations hereunder unless set forth in a writing which is signed by Buyer's purchasing

representative and which states that it constitutes an amendment or change to this Purchase Order.

15. Infringement. Seller warrants that all work, materials, services, equipment, parts and other items provided by Seller pursuant to this Purchase Order, which are not of Buyer's design, shall be free from claims of infringement (including misappropriation) of third party intellectual property rights and that any use or sale of such items by Buyer or any of Buyer's customers shall be free from any claims of infringement. Seller shall indemnify, defend and hold Buyer and Buyer's customers harmless from and against any claims, losses, damages, liabilities, costs and expenses (including attorneys' fees) arising out of claims, suits, or actions alleging such infringement. In the event that any product or service is alleged to infringe any third party intellectual property right, Seller may replace or modify infringing items with comparable goods acceptable to Buyer of substantially the same form, fit, and function so as to remove the source of infringement. Seller's obligations under this Purchase Order, including those contained in Section 13 (see, Warranty) and in this Section 16 (Infringement), shall apply to all replacement and modified items. If the use or sale of any of the above items is enjoined as a result of such claim, suit or action, Seller, at no expense to Buyer, shall obtain for Buyer and Buyer's customers the right to use and sell said item.

16. Taxes. Unless this Purchase Order specifies otherwise, the price of this contract includes, and Seller is liable for and shall pay, all taxes, impositions, charges and exactions imposed on or measured by this Purchase Order except for applicable sales and use taxes that shall be separately stated on Seller's invoice. Prices shall not include any taxes, impositions, charges, or exactions for which Buyer has furnished a valid exemption certificate or other evidence of exemption.

17. Assignments. Seller may not assign any rights or delegate any of its obligations due or to become due under this Purchase Order without the prior written consent of Buyer. Any purported assignment by Seller without such consent shall be void. Should Buyer grant consent to Seller's assignment of this Purchase Order, such assignee shall be bound by the terms and conditions of this Purchase Order. However, Seller shall continue to be fully responsible and liable for full performance of all obligations under this Purchase Order Buyer retains the right to assign this Purchase Order to (i) any affiliated company, (ii) any successor in interest, or (iii) Buyer's customer. Buyer has the right at any time to set off any amount owing from Seller to Buyer or Buyer's subsidiaries and/or affiliates against any amount due and owing to Seller or any of its subsidiaries and/or affiliates pursuant to this Purchase Order or any other contractual agreement between Buyer and Seller or their respective subsidiaries and/or affiliates. Seller shall promptly notify the Buyer in writing in advance of any organizational changes planned by Seller, including name or ownership changes, mergers or acquisitions.

18. Compliance with Law. Seller warrants that all materials to be furnished and services to be rendered under this Purchase Order shall be manufactured, sold, used, shipped, and rendered in compliance with all applicable federal, state and local laws, regulations, codes, ordinances, standards, rulings, treaties and other requirements. Seller agrees to defend, indemnify and hold Buyer harmless against any loss, cost, damage, penalty, fine, expense (including attorney's fees), or liability by reason of Seller's violation hereof. Nothing in this Purchase Order or in any requirement under this Purchase Order shall be construed to mean that Seller shall perform any work in violation of any law. This Section 19 (Compliance with Law) operates in addition to and not in mitigation of any other requirements in this Purchase Order.

19. Responsibility and Insurance. Seller shall be responsible for the actions and failure to act of all parties retained by, through, or under Seller in connection with the performance of this Purchase Order. Seller shall maintain such General Liability, Property Damage, Employer's Liability, and Workers. Compensation Insurance, Professional Errors and Omissions Insurance, and Motor Vehicle Liability (Personal Injury and Property Damage) Insurance in such amounts as will protect Seller (and its subcontractors) and Buyer from said risks and from any claims under any applicable laws. Seller shall provide Buyer with certificates evidencing required insurance on request.

20. Indemnity Against Claims. Seller shall keep its work and all items supplied by it hereunder free and clear of all liens and encumbrances, including mechanic's liens, in any way arising from performance of this Purchase Order by Seller or by any of its vendors or subcontractors. Seller

may be required by Buyer to provide a satisfactory release of liens as a condition of final payment. Seller shall, without limitation, indemnify, defend, and hold Buyer and its customer(s) and their respective officers, directors, employees and agents harmless from and against (i) all claims (including claims under Workers' Compensation or Occupational Disease laws) and resulting costs (including attorney's fees), expenses, damages, and liability which arise from personal injury, death, or property loss or damage attributed to, or caused by, the goods, services or other items supplied by Seller pursuant to this Purchase Order except to the extent that such injury, death, loss or damage is caused solely and directly by the negligence of Buyer, and (ii) all claims (including resulting costs, expenses, damages, and liability) by Seller's employees or subcontractors.

21. International Transactions. Payment will be in United States dollars unless otherwise agreed to by specific reference in this Purchase Order. Seller agrees that the Buyer, its subsidiaries, affiliates or its designees may exclusively use the value of this Purchase Order to satisfy any international offset obligations with Seller's country, subject to the offset qualifying laws, rules and regulations of that country.

22. Export/Import Controls. Seller shall control the disclosure of and access to technical data, information and other items received under this Purchase Order in accordance with U.S. export control laws and regulations, including but not limited to, the International Traffic in Arms Regulations (ITAR). Seller shall indemnify, defend, and hold Buyer harmless for all liabilities, penalties, losses, damages, costs (including attorney's fees) or expenses that may be imposed on or incurred by Buyer in connection with any violations of such laws and regulations by Seller. Seller shall immediately notify Buyer if it is or becomes listed on any Excluded or Denied Party List of an agency of the U.S. Government or its export privileges are denied, suspended, or revoked. Seller will give immediate written notification to Buyer if the items to be delivered or sold to Buyer under this Purchase Order are restricted by export control laws or regulations prior to the delivery of the items. Seller will provide Buyer with applicable ECCN information.

23. Foreign Corrupt Practices Act. The Foreign Corrupt Practices Act of 1977 ("FCPA") makes it unlawful for U.S. companies, as well as their officers, directors, employees, and agents, to corruptly make or offer to make a payment of money or anything of value to a foreign official for the purpose of obtaining or retaining business. Seller acknowledges and understands that Seller must comply fully with the FCPA. Without limitation, Seller understands and agrees that it shall be unlawful for Seller to give or promise to give money or anything of value directly or indirectly to a foreign official in order to assist Buyer in obtaining or retaining business.

24. Severability. If any provision of this Purchase Order or application thereof is found invalid, illegal or unenforceable by law, the remainder of this Purchase Order will remain valid, enforceable and in full force and effect, and the parties will negotiate in good faith to substitute a provision of like economic intent and effect.