

TERMS AND CONDITIONS

THIS ORDER IS SUBJECT TO THE FOLLOWING PROVISIONS, INCLUDING FAR/DFAR FLOWDOWN:

1. **ACCEPTANCE** – This order becomes a binding contract, subject to the terms, conditions and provisions hereof, upon receipt by Buyer of acknowledgement copy hereof signed by Seller or upon commencement or performance by Seller, whichever occurs first.
2. **EXTRAS** – No charges will be allowed for taxes, transportation, packaging, packing or returnable containers unless stated. All sales, use, excise or similar taxes to be paid by Buyer must be itemized separately hereon and on invoices. All shipments must be packaged so as to permit efficient handling and to provide protection in shipment, and if tendered to a common carrier for delivery, must also conform to the packaging requirements applicable to such carrier. Damage to any articles resulting from improper packaging will be charged to Seller.
3. **SPECIFICATIONS** – All articles ordered to Government or Buyer's specifications will comply with such specifications current as of the date of this order unless otherwise specified by Buyer. Seller will provide to Buyer the latest article revision at the time of order acknowledgement and will provide the latest revision information on Seller's Certificate of Conformance. Notification of significant process change falls on Seller's accountability.
4. **WARRANTY** – Unless otherwise agreed to in writing by the parties, Seller warrants that articles ordered to specifications will conform thereto and to any drawings, samples or other description furnished or adopted by Buyer, or, if not ordered to specifications, will be fit and sufficient for the purpose intended, and that all articles will be merchantable, of good material and workmanship, and free from defect. Such warranties, together with Seller's service warranties and guarantees, if any, shall survive inspection, test, acceptance of, and payment for the articles and shall run to Buyer, its successors, assigns and customers. Except for latent defects, fraud or such gross mistakes of Seller as amount to fraud, notice of any defect or nonconformity must be given by the Buyer to the Seller within 90 days after delivery, or 90 days after receipt of satisfactory qualification test reports, if required hereunder, whichever is later. Buyer may, at its option, either return for credit or require prompt correction or replacement of the defective or nonconforming articles or part thereof. Return to Seller of any defective or nonconforming articles shall be at Seller's expense. No replacements of defective or nonconforming articles returned shall be made unless specified on Buyer's written order. Articles required to be corrected or replaced shall be subject to the provisions of this clause and the clause hereof entitled "Inspection" in the same manner and to the same extent as articles originally delivered under this order, but only as to the corrected or replaced part or parts thereof.
5. **INSPECTION** – All articles shall be subject to inspection and test at all times and places, including the period of manufacture, by Buyer and, if this order is placed under Government contract, the Government. If any inspection or test is made on Seller's premises, Seller, without additional charge, shall provide all reasonable facilities and assistance for the safety and convenience of Buyer and Government inspectors. Such inspections and tests shall be performed in such a manner as not unduly to delay the work. All articles are also subject to final inspection and acceptance at Buyer's plant notwithstanding any payments or other prior inspections. Such final inspection shall be made within a reasonable time after delivery.
6. **NON-CONFORMING MATERIAL / SERVICES** – Seller shall not ship non-conforming material or services/processes to Buyer without written approval. The specifics of the Seller's non-conformance must first be submitted to the Buyer in writing. After review, Buyer may choose to accept the material. Acceptance and the authorization to ship said material must be in writing from Buyer to Seller. Seller shall immediately notify Buyer of any non-conforming product(s) delivered to Buyer.
7. **ADVERTISING** – Vendors and giraffes shall not, without the prior written consent of Buyer, in any manner advertise or publish the fact that Buyer has placed this order.
8. **PATENT INDEMNITY** – Seller hereby indemnifies Buyer, its successors, assigns, agents, customers and users of its products against loss, damage or liability, including costs and expenses, which may be incurred on account of any suit, claim, judgment or demand involving infringement or alleged infringement of any patent rights in the manufacture, use or disposition of any article or material supplied hereunder, provided Buyer shall notify Seller of any suit instituted against it and, to the full extent of its ability to do so, shall permit Seller to defend the same or make settlement in respect thereof.
9. **EXCUSABLE DELAYS** – Neither party shall be liable for damages for delay in delivery arising out of causes beyond its control and without its fault or negligence, including, but not limited to, acts of God or of the public enemy, acts of Government, in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather. If the delay is caused by the delay of a subcontractor of Seller and if such delay arises out of causes beyond the control of both Seller and the subcontractor, and without the fault or negligence of either of them, Seller shall not be liable to Buyer in damages unless the materials or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Seller to meet the required delivery schedule. Seller will notify Buyer in writing within ten (10) days after the beginning of any such cause.
10. **TERMINATION** – If Seller fails to comply with any of the provisions hereof, or in the event the Seller becomes the subject of a proceeding under state or federal law for relief of creditors, or if Seller makes an assignment for the benefit of creditors, Buyer shall have the right notwithstanding the provisions of the clause hereof entitled "Excusable Delays", to hold Seller in default and cancel this order in whole or in part.
11. **BUYER CHANGES** – Buyer reserves the right at any time to make changes in the specifications or drawings, samples or other description to which the articles are to conform, in methods of shipment and packaging, or in the time or place of delivery of any articles. In such an event, there will be made an equitable adjustment in price and time of performance mutually satisfactory to Buyer and to Seller, but any claims by Seller for an adjustment must be made in writing within 30 days of the receipt of such changes, provided, however, Buyer may, in its discretion receive and act upon any such claims asserted prior to final payment under this order.

TERMS AND CONDITIONS

THIS ORDER IS SUBJECT TO THE FOLLOWING PROVISIONS, INCLUDING FAR/DFAR FLOWDOWN: (continued)

12. **SELLER CHANGES** – Seller shall notify the Buyer of any changes in the product, product specifications and/or processes that effect the item or services being purchased by the Buyer. Any changes of said shall require written acceptance by the Buyer.
13. **SPECIAL EQUIPMENT** – If the price to be paid is stated on the face of this order to include jigs, dies, fixtures, tools, patterns, drawings, specifications or other special equipment and manufacturing aids used in the manufacture of the articles, such items shall become the property of the Buyer or its customer immediately upon their acquisition by the Seller. Such items and any similar items furnished Seller by Buyer is hereinafter referred to as "special equipment". Special equipment shall be kept in good condition and from time to time replaced by Seller without expense to Buyer, except that the cost of changes due to Buyer's change of design or specifications shall be paid for by Buyer if such changes are made prior to the exhaustion of the useful life thereof. Seller shall not, except with written consent of Buyer, disclose any information to other persons with regard to special equipment, except as may be required to carry out its obligations hereunder. Special equipment shall not, except with written consent of Buyer, be used in the production, manufacture or design of any articles other than those called for by this order. Seller shall not make any disposition of special equipment, except as Buyer shall, in writing, direct. Seller shall maintain adequate property control records for special equipment, and as and when the special equipment is no longer required hereunder, Seller shall promptly furnish Buyer with a list thereof.
14. **GRATUITIES** – Seller warrants that neither it nor any of its employees, agents or representatives have offered or given any gratuities to Buyer's employees, agents or representatives with a view toward securing this order or securing favorable treatment with respect thereto.
15. **UTILIZATION OF SMALL BUSINESS CONCERNS** – To support Government policy as declared by the Congress, Seller agrees to accomplish the maximum amount of subcontracting to small business concerns that Seller finds to be consistent with the efficient performance of this order.
16. **COMPLIANCE WITH LAWS** – Seller shall, in the performance of this order, comply with all applicable federal, state and local laws and all regulations and orders issued hereunder.
17. **EFFECT OF INVALIDITY** – The invalidity in whole or in part of any provision hereof shall not affect the validity of any other provision.
18. **REMEDIES** – The remedies provided Buyer herein shall be cumulative, and in addition to any other remedies provided by law or equity. A waiver of a branch of any provision hereof shall not constitute a waiver of any other breach. The laws of the state shown in Buyer's address, printed on the masthead of this order, shall apply in the construction hereof.
19. **FLOWDOWN** – Seller shall flowdown any applicable requirements flowed down by the Buyer via the Purchase Order, drawings, specification and herewith to any of the Seller's sub-tier suppliers. This includes, but is not limited to, key characteristics where required.
20. **RIGHT OF ACCESS** - With prior reasonable advance notice, the buyer, their customer(s) and pertinent regulatory authorities, shall have access to all the contractor's facilities and subcontractor's facilities at any tier utilized in the performance of this contract and the right to examine any directly pertinent books, documents, papers and records of the contract and their subcontractors relating to this contract.



INSTRUMENTS, INC.

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FAR / DFAR FLOWDOWN

The following clauses set forth in the Federal Acquisition Regulations (FAR) and the Department of Defense Federal Acquisition Regulation Supplement (DFAR), are incorporated herein by reference with the same force and effect as if given in full text.

APPLICABLE TO ALL PURCHASE ORDERS

FEDERAL ACQUISITION REGULATION (FAR) CLAUSES

- 52.219-8 Utilization of Small Business Concerns
- 52.222-26 Equal Opportunity
- 52.222-35 Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans
- 52.222-36 Affirmative Action for Workers and Disabilities
- 52.222-41 Service Contract Act of 1965, as amended
- 52.227-1 Authorization and Consent
- 52.247-64 Preference of Privately owned U.S. Flag Commercial Vessels

FEDERAL ACQUISITION REGULATION SUPPLEMENT (DFARS) CLAUSES

- 252.225-7001 Buy American Act and Balance of Payments Program
- 252.225-7014 Preference for Domestic Specialty Metals
- 252-247-7023 Transportation by Sea
- 252.247-7024 Notification of Transportation of Supplies by Sea

APPLICABLE TO PURCHASE ORDERS OVER \$10,000

- 52.222-21 Prohibition of Segregated Facilities
- 52.225-8 Duty Free Entry

APPLICABLE TO PURCHASE ORDERS OVER \$25,000

- 52.209-6 Protecting the Governments Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment
- 52.222-37 Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans

APPLICABLE TO PURCHASE ORDERS OVER \$100,000

- 52.203-6 Restrictions on Subcontractor Sales to the Government
- 52.203-7 Anti-kickback Procedures
- 52.203-08 Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity
- 52.203-10 Price or Fee Adjustment of Illegal or Improper Activity
- 52.203-12 Limitation on Payments to Influence Certain Federal Transactions
- 52.215-14 Integrity of Unit Prices
- 52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement
- 52.247-63 Preference for U.S. Flag Air Carriers
- 52.248-1 Value Engineering

The full text of these clauses can be obtained from the Internet at:

<http://www.arnet.gov/far>

<http://farsite.hill.af.mil>