



PURCHASE ORDER TERMS AND CONDITIONS

FM-4000

Rev: A

DCR: 30022

Date: 3/16/16

Page: 1 of 4

1. **DEFINITIONS:** As used in these Terms and Conditions: “Buyer” means International Manufacturing Services, Inc.; “Purchasing Representative” means Buyer’s authorized representative whose name appears on the face of an Order; “Order” means this purchase order or any written order issued by International Manufacturing Services Inc. which incorporates these terms and conditions; “Seller” means the person(s) or company to whom an Order is issued.

2. **ACCEPTANCE AND AGREEMENT:** These terms and conditions apply to, and are agreed to be incorporated in, any Order issued by the Buyer to Seller. An Order becomes a binding contract, including all terms and conditions that appear in the Order, in these Purchase Order Terms and Conditions, and in documents incorporated by reference, either upon acknowledgement in writing or commencement of performance. The Order, including these terms, supersedes all prior written or oral communications and is the sole and exclusive statement of the agreement between the Buyer and Seller. It is not subject to variation, regardless of the working of any purported acceptance by the Seller, unless stated in a written agreement signed by Buyer’s Purchasing Representative. Any additional or different terms appearing in Seller’s acceptance are hereby expressly rejected.

2.1. RIGHT OF ENTRY: Receipt of this purchase order allows Buyers, its customers and/or regulatory agencies the right of entry to verify product quality and documentation.

3. **PACKING AND SHIPPING:** Seller shall pack, mark and ship all goods in accordance with specific requirements of an Order, and in a manner which complies with transportation regulations and good commercial practice for protection and shipment of goods. No separate or additional charge is payable by Buyer for containers for any other aspect of packing and shipping to the F.O.B. point unless specifically stated in an Order. Seller shall mark the number of an Order on each container and include a packing slip with each shipment, listing Order and line item numbers.

4. **DELIVERY:** Unless otherwise stated on the face of an Order, delivery shall be to Buyer’s facility (F.O.B. Destination). Time is of the essence in performance of an Order. Delivery shall be in strict accordance with the schedule and quantity specified in the Order. Seller shall not ship to arrive earlier than 5 days in advance of the specified schedule unless authorized in writing. Buyer may return goods at Seller’s expense or payment may be deferred until the date payment would become due according to the specified schedule.

5. **NOTICE OF LATE DELIVERY:** If it appears the Seller will not meet schedule or if Seller’s deliveries fail to meet the schedule, then in addition to any other right or remedy that the Buyer has under law or this Order, Buyer may require Seller to ship via expedited means at the Seller’s expense. If Seller’s delay is due to causes beyond Seller’s control and without the Seller’s fault or negligence, and if Seller has exercised due diligence by promptly notifying Buyer in writing of the condition which will result in delay, then Seller shall not be liable for delay. If Seller’s delay is caused by the default of a subcontractor or supplier, and such default arises out of causes beyond the control of both Seller and its subcontractor or supplier, and without the fault or negligence of either of them, and if the suppliers or services to be furnished by Seller’s subcontractor or supplier are not obtainable from another source in sufficient time to permit Seller to meet the required schedule, Seller shall have no liability for the delay. Notification of delay pursuant to this clause shall not constitute a waiver of any of Seller’s other obligations nor a waiver by Buyer of any right under an Order.

6. **INVOICES AND PAYMENT:** Upon Buyer’s receipt of a proper invoice, Seller will be paid the price stated in an Order for supplies delivered and accepted, or services rendered and accepted, less deductions if any as provided

PURCHASE ORDER TERMS AND CONDITIONS

FM-4000

Rev: A

DCR: 30022

Date: 3/16/16

Page: 2 of 4

by the Order. Payment is subject to setoff of any claim of Buyer against Seller, arising from this or any other transaction.

- 7. INSPECTION AND ACCEPTANCE:** Seller shall maintain a quality control system consistent with good commercial practice, unless a specific system of quality control or other standard of quality is specified in an Order or document incorporated by reference. All materials, articles, work or services performed by Seller shall be made available for inspection or test at Seller's plant or that of Seller's subcontractor by authorized representatives of Buyer or Buyer's customer, or both. No inspection or test prior to final inspection and acceptance shall relieve Seller from responsibility for defects or other failure to meet the requirements of an Order. All materials, articles, work or services shall be subject to final inspection and acceptance by Buyer after delivery to destination, notwithstanding prior payment. Acceptance shall not be final with respect to latent defects, fraud, or such gross mistakes as amount to fraud, or as to Seller's warranty obligations.
- 8. REPAIR:** Under no circumstances shall a Seller or a Seller's sub-tier perform any repair without specific written authorization from the Buyer.
- 9. WARRANTY:** Seller warrants that all materials, articles, work and services furnished will be free from defects in the material and workmanship will conform to all applicable specifications, drawings, samples and descriptions, that goods of Seller's design or selection will be free from design defects, and that the goods will be fit for their intended use. Seller warrants that all items or components supplied under an Order shall be new, that is not used or reconditioned. All warranties and guarantees shall run to Buyer and Buyer's customer, for a period of 18 months after final acceptance by the Buyer, or 12 months after the item in which Seller's goods are incorporated is accepted by Buyer's customer, whichever is the later. Seller agrees to repair or replace at **tis** cost any item which does not conform to this warranty, as Buyer directs. These warranties are in addition to any standard warranty or guarantee of the Seller, and any warranty and related remedy otherwise created by operation of law.
- 10. INDEMNITY REGARDING INTELLECTUAL PROPERTY:** Seller agrees to indemnify and hold harmless Buyer and its successors, assigns or customers from any expense (including attorney's fees and costs), or loss, damage or liability, on account of any infringement or claim of infringement of any United States or foreign patent, copyright or trademark, arising out of or resulting from the sale or use of the materials, articles or services supplied by Seller. Seller also agrees at its own expense to defend any actions, lawsuits or claims in which such infringement is alleged, provided that the Seller has first been notified as the existence of such action, lawsuit or claim.
- 11. CHANGES:** This Order may not be changed except by written modification signed by Purchasing Representative. Buyer may at anytime by written notice and without notice to sureties, make changes in any one or more of the following: (i) drawings, designs, or specifications; (ii) method of packing or shipment; (iii) place of inspection, acceptance or point of delivery; (iv) delivery schedule. Should any such change cause an increase or decrease in the cost of or time required for performance of an Order, an equitable adjustment shall be negotiated and the Order shall be modified accordingly.
- 12. TERMINATION/CANCELLATION/STOP WORK**

PURCHASE ORDER TERMS AND CONDITIONS

FM-4000

Rev: A

DCR: 30022

Date: 3/16/16

Page: 3 of 4

- a. **Termination for Convenience:** The performance of work under an Order may be terminated whole or in part by Buyer for Buyer's convenience, at any time and without regard to whether Buyer's contract with its customer may have been terminated.
- b. **Termination for Default:** Buyer may, by written notice to Seller, terminate this Order
- c. **Stop Work:** By written notice Buyer may require Seller to stop work for a period of not to exceed 90 days

13. SUB-TIER CONTROL: The seller shall be responsible for flow down of all the requirements and the provisions of the Buyer's purchase order applicable to the Seller's subcontractors.

14. COMPLIANCE WITH LAWS AND REGULATIONS: Seller warrants that Seller's performance of an Order shall comply with all federal, state and local laws and regulations.

15. TAXES: Unless otherwise specified in writing on the face of an Order, the prices stated include all applicable federal, state and local taxes.

16. DRAWINGS, SPECIFICATIONS, INTELLECTUAL PROPERTY AND TECHNICAL DATA: The ideas, information, designs, drawings, specifications and any other data or business and manufacturing information supplied by the Buyer shall remain Buyer's property. Such data shall be retained in confidence by Seller and shall not be disclosed to any other person or entity, and shall not be used or incorporated into any product or item that is manufactured for or supplied to anyone other than Buyer. Seller shall not use any Buyer's part number for any purpose other than performance of this Order.

17. BUYER'S PROPERTY: All tools, dies, jigs, patterns, equipment, material, industrial property or other items purchased, furnished, charged to or paid for by Buyer and any replacement thereof, shall remain the property of the Buyer. Such property shall be plainly marked to evidence that it is Buyer's property and shall be stored safely apart from Seller's other property. Seller shall not substitute other property for Buyer's property and shall not use such property except to fill Buyer's orders. Seller shall hold such property at its own risk and upon Buyer's written request shall return the property to Buyer at its expense in the same condition as originally received, reasonable wear and tear expected.

18. REMEDIES AND NON-WAIVER: The remedies reserved to Buyer by these terms are not exclusive and shall be cumulative and in addition to any other right or remedy provided by law or equity. No waiver of a breach, or a failure to enforce any provision of an Order, shall constitute a waiver of any subsequent breach of any other provision. If any provision of an Order is void or becomes void or unenforceable, by operation of law, all other provisions shall remain in full force and effect.

19. ADDITIONAL GOODS GUARANTEE: As part of the consideration for the Order, Seller agrees that it will accept future orders for additional quantities of the good procured by this Order. If Seller plans to discontinue the sale of the goods purchased by this Order, Seller shall so notify Buyer no less than six (6) months prior to any such discontinuance.

20. EXPORT/IMPORT COMPLIANCE: Supplier's and their sub-tier suppliers as applicable, shall comply with all export-import control laws and regulations including, but not limited to, the U.S. Export Administration Regulations (EAR) and the U.S. International Traffic in Arms Regulations (ITAR).

21. COUNTERFEIT PARTS:

PURCHASE ORDER TERMS AND CONDITIONS

FM-4000

Rev: A

DCR: 30022

Date: 3/16/16

Page: 4 of 4

Disposition and Segregation

Nonconforming parts shall be segregated and dispositioned per this document. Confirmed counterfeit parts shall be prevented from re-entering production.

Reporting

All occurrences of counterfeit parts shall be documented and reported, as appropriate, to external organizations (i.e. IMS, law enforcement agencies).

Liability

Suppliers shall be held liable for any counterfeit parts entering IMS up to and including all costs incurred by IMS resulting from counterfeit part(s).

- 22. REACH REGULATION, SUBSTANCE OF VERY HIGH CONCERN (SVHC):** Supplier shall bear full responsibility for continuous monitoring of the publication and updates of the European Chemicals Agency list of Substances of Very High Concern ("SVHC") (viewable <http://echa.europa.eu/web/guest/candidate-list-table>) and immediately notify Buyer [IMS] if the delivered Goods contain SVHCs > 0.1% by weight or substances restricted under Annex XVII of REACH. The notification that Goods contain SVHCs shall include the name and weight of the substance(s) and the weight percentage present, if > 0.1% by weight of the delivered Good. The presence of SVHCs <0.1% by weight of the delivered Goods does not need to be reported. Unreported SVHCs present above the threshold or substances restricted under Annex XVII of REACH, may result in purchase order cancellation and/or return or Goods.
- 23. CONFLICT MATERIALS (3T&G):** Reporting of Conflict Minerals usage in furnished product: The supplier must comply with the reporting requirements of Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. More information may be found at www.sec.gov/news/press/2012/2012-163.htm. For Conflict Minerals Reporting Template please refer to: <http://www.conflictreesmelter.org/ConflictMineralsReportingTemplateDashboard.htm>.
- 24. FORCE MAJEURE:** The Parties shall not be liable for the failure or delay in performing any obligation under this Agreement if and to the extent such failure or delay is due to (i) acts of God; (ii) weather, fire or explosion; (iii) war, invasion, riot or other civil unrest; (iv) governmental laws, orders, restrictions, actions, embargoes or blockages; (v) action by any regulatory authority which prohibits the manufacture, sale or distribution of the Products, except to the extent due to Suppliers breach of its obligations hereunder; (vi) regional, national or foreign emergency; (vii) injunction, strikes, lockouts, labor trouble or other industrial disturbances; (viii) shortage of adequate fuel, power, materials, or transportation facilities; or (ix) any other event which is beyond the reasonable control of the affected Party; provided, however, that the Party affected shall promptly notify the other Party of the force majeure condition and shall exert its reasonable commercial efforts to eliminate, cure or overcome any such causes and to resume performance of its obligations as soon as possible.