

Purchase Order Terms and Conditions

1.0 Acceptance

This order is Buyer's offer to Seller. Seller accepts this order as a binding agreement, either by signing and returning the acknowledgment copy or other form of acknowledgement, by failing to indicate rejection within 10 days of the order date, or by commencement of performance. No modification of this order (including any additional or conflicting terms in Seller's acceptance) shall be binding on Buyer unless agreed to in writing by Buyer.

2.0 Integration/Merger

This Agreement, along with the attachments incorporated herein by reference, contains all of the agreements, representations and understandings of the parties hereto and supersedes and replaces any and all previous understandings, commitments or agreements, oral or written, related to the award of this Agreement. The section and paragraph headings herein are for convenience only, and shall not limit in any way the scope of any provision of this Agreement.

3.0 Shipments/Delivery

Shipments or delivery should be strictly in accordance with quantities, schedules, and shipping instructions called for on the face of this order. No partial shipments shall be made unless authorized by Buyer. If at any time it appears that Seller will not meet such schedule, Seller shall promptly notify Buyer and if requested by Buyer, will ship the most expeditious method to minimize delay, the premium cost to be borne by Seller.

4.0 Packing/Marking

All goods shall be prepared for shipment and packed to prevent contamination from foreign object debris, damage or deterioration. No charges will be paid by Buyer for preparation, packing, crating, cartage, or storage unless specifically stated in this order. All invoices, packing lists, packages, shipping notices, manuals and other documents relative to this order shall reference the Purchase Order number.

5.0 Invoice/Payment

A separate invoice and bill of lading shall be issued for each shipment. No invoice shall be issued prior to shipment of goods and no payments shall be due prior to receipt and acceptance of goods and a correct invoice.

6.0 Inspection/Acceptance

Buyer may inspect and test materials, supplies, and work in process, at all reasonable times and places, and may inspect records related to such, both during the term of this Agreement and thereafter, without additional charge. Except as otherwise agreed in writing, all shipments and supplies furnished under this Purchase Order shall be subject to final inspection and acceptance by Buyer at Buyer's facility.

Acceptance of any item shall not be deemed to alter or affect the obligations of Seller or the rights of Buyer under the Warranties Clause.

Purchase Order Terms and Conditions

7.0 Risk of Loss

All risk of loss shall be borne by Seller for purchase orders identifying the FOB point to be "DESTINATION". Seller shall select the appropriate carrier and prepay all delivery charges. In addition Seller assumes all risks for (A) loss or damage critical delivery to and acceptance by Buyer, (B) loss or damage to property of or death or bodily injury to third parties, (C) loss or damage on returns of excess quantities, premature deliveries or rejects, and (D) loss or damage to material or other property furnished Seller by Buyer.

8.0 Defective Work

Buyer reserves the right to inspect lots of parts delivered under this order on a sample inspection plan basis. Rejection of the sample shall be cause for rejection of the entire lot delivered (at Buyer's discretion) and any lots so rejected may be returned to the Seller for replacement as directed by Buyer, at Seller's expense. Buyer may at its option, at Seller's expense, rework, resort, retest, or otherwise make the parts acceptable for use by Buyer.

9.0 Life Limited Items

Material or articles having characteristics susceptible to degradation with age shall be identified and marked with the date critical life was initiated and the expiration date of useful life, both opened and unopened (minimum 67% of useful life remaining after receipt by Buyer). In addition to normal marking requirements, the containers of life limited items shall identify any special storage and/or handling requirements.

10.0 Warranties

Seller warrants that all material and work covered by this order will conform to applicable specifications, drawings, samples or other descriptions given, free from defect in workmanship and material, for 12 months after receipt and acceptance by Buyer's customer, unless a different warranty term is agreed to. In addition to other remedies available by law, Buyer may, at its option, return any non-conforming or defective items for replacement or to correct the nonconformance for which Supplier shall be financially responsible at an equitable amount. These rights of Buyer are in addition to, and shall not be limited by Seller's warranties. This warranty, together with Seller's service warranties and guarantees, shall run to the Buyer and the Buyer's customers.

11.0 Termination For Default

11.1 Purchaser may, by written notice to Seller, terminate the whole or any part of a Purchase Order in any one of the following circumstances: (a) if Seller fails to make delivery of any of the Products within the time specified in Clause 3 or any authorized extension thereof; or (b) if Seller fails to comply with any other provisions of the Purchase Order, and does not cure such failure within a period of ten (10) working days after receipt of Purchaser's notice specifying such failure, or (c) If Seller is in receivership, becomes insolvent or bankrupt, ceases paying its debts as they fall due, makes an assignment for the benefit of creditors or commences liquidation proceedings, or (d) if Seller experiences a Change in Control that is not acceptable to Purchaser, as described in Clause 24.

11.2 Upon the giving of the notice provided for in Clause 11.1, Seller shall have no claim for further payment other than as provided in this Clause but shall be liable to Purchaser for any advance amounts paid by Purchaser and for all losses and damages which may be suffered by Purchaser by reason of the default or occurrence upon which the notice was based, including any increase in the cost incurred by Purchaser in procuring replacement Products from another party. Seller agrees to repay immediately to Purchaser the portion of any advance payment that is unliquidated at the date of the termination. Upon termination of the Purchase Order(s), Purchaser may require Seller to deliver to Purchaser any completed parts of the Products which have not been

Purchase Order Terms and Conditions

delivered and accepted prior to the date of termination and any materials, parts, tooling, equipment or work-in-process which the Supplier has acquired or produced specifically in the fulfillment of the Purchase Order(s). Payment for finished goods that are accepted by Purchaser will be at the contract price and payment for any materials, parts, tooling, equipment and work-in-process shall be at Seller's cost, reasonably documented. Seller shall continue performance of the Purchase Order to the extent not terminated under provisions of this Clause.

11.3 Automatically upon termination of the Purchase Order pursuant to Clause 11.1, Seller hereby grants Purchaser a world-wide, perpetual, unconditional, royalty free manufacturing license (including the rights to further sublicense and/or to have manufactured by a third party) to Seller's proprietary information, processes, software, drawings and manufacturing data related to the Product for the sole purpose of the manufacture, use and support of the Products. Any tools, molds and dies related to the manufacture of the Products that were supplied by Purchaser, funded by Purchaser or in which Purchaser has title in accordance with provisions of the Supplemental Business Terms or the Purchase Order, but which are in Seller's possession, will be delivered to Purchaser promptly following termination of the relevant Purchase Order. Seller shall assign to Purchaser rights to all existing agreements or contracts it may have with subcontractors and suppliers where the same is related to the manufacture of the Products. Seller shall assist, (including the loan of suitably qualified and experienced employees), cooperate with, and provide Purchaser with all relevant information in respect of which the license has been granted.

11.4 On termination of the Purchase Order pursuant to Clause 11.1, Seller will return or destroy, at Purchaser's discretion, all Confidential Information, prototypes and other materials supplied by Purchaser to Seller in connection with the performance of the Purchase Order. Purchaser shall be entitled to offset any invoice submitted by Seller in respect of totally or partially completed Products against sums due from Seller or against the amount of damages corresponding to all damages caused to Purchaser as a result of the termination. Seller shall reimburse Purchaser for all costs, expenses, losses and damages incurred by Purchaser to remedy Seller's default and all costs incurred by Purchaser in resourcing the manufacturing of or support activities for the Products.

12.0 Termination for Convenience

Buyer reserves the right to terminate this agreement, in whole or in part, at any time for the convenience of Buyer, by so notifying the Seller in writing. To the event of such termination, Buyer will give Seller instructions with respect to delivery of goods (in process, purchased or committed) and Seller shall be compensated based on Seller's actual direct out of pocket costs, less amounts realized by Seller from the later sale of such items not purchased by Buyer. Buyer shall not be responsible for cancellation fees or re-stocking charges.

13.0 Changes in Materials

Seller agrees not to make any changes which affect this order without prior written approval of Buyer. Seller agrees that material or finished parts furnished hereunder shall be controlled and tested in accordance with identified specifications, and will meet all specified requirements, and that applicable records are on file, subject to examination by Buyer.

14.0 Infringement Indemnity

Seller shall defend at its expense any suit against Buyer, and/or its Customers, based on a claim that any item furnished to Buyer under this order, or the normal use of sale thereof (or sub-component including product contained within, process used in performance, documentation, materials, or technology), infringes on a Letters Patent, Copyright, or other such documented ownership, covering combinations of such items, with items not

Purchase Order Terms and Conditions

furnished by Seller, and shall pay costs and damages finally awarded in any such suit, attorney's fees, loss of profit, etc., provided that the 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 Customer the right to use and sell said item or shall substitute an equivalent item acceptable to Buyer and extend this patent indemnity thereto.

15.0 Customer Owned Property/Tooling

All materials, tools, jigs, fixtures, specifications, methods, processes and other property, owned or paid for by Buyer, shall be the property of Buyer, subject to removal at any time without cost or expense to Buyer. All such shall be identified and marked as Buyer's property, used only for Buyer's orders and covered by adequate liability, damage and fire insurance (including extended coverage) for the fair and reasonable value. Seller shall assume full liability for and maintain and repair the same and return the same to Buyer in good condition (with allowance for reasonable wear and tear for the period of use). Seller shall provide Buyer with inventories thereof when requested by Buyer and certify to Buyer that all use thereof is expended on Buyer's order(s).

16.0 Subcontracting

Seller shall obtain written approval from the Buyer for all purchase orders or subcontracts involving all or substantially all of the work required hereunder.

17.0 Defective Pricing

Seller represents and warrants that the prices set forth herein do not and will not violate any federal, state, county or municipal law or regulation relative to price discrimination or price fixing. Therefore, with respect to such prices, Seller hereby indemnifies and agrees to exonerate and hold Buyer harmless from and against any costs, losses, and damages of whatever nature occasioned by, arising out of, or in any way connected with a violation of any such laws or regulation. If any price excess exists, Seller agrees to reduce the price by the amount of such excess.

Seller agrees that it will provide to Buyer the lowest possible price for the items listed on Buyer's Purchase Order, and should a customer other than Buyer receive pricing lower than the prices stated above for similar products/quantities, Seller shall provide to Buyer equivalent pricing.

18.0 Assignment

No assignment of rights or delegation of duties under this order shall be binding upon Buyer without its written consent.

19.0 Confidential Disclosure

Seller shall keep confidential all proprietary information identified by Buyer from Request for Quote (Proposal) through Contract Closure. Identified Documents will be returned at Buyer's request or will be kept confidential for a minimum period of 10 years, unless specifically modified by a Non-Disclosure Agreement signed between the Parties.

20.0 Changes

Buyer may at any time, by written order, make changes within the general scope of this order. If any change causes an increase or decrease in the cost or time required in the performance of this order, an equitable adjustment

Purchase Order Terms and Conditions

shall be made in the price or delivery schedule, or both. Any claim by Seller for adjustments under this paragraph shall be submitted within 30 days of the date of receipt by Seller of Buyer's written order, Buyer shall have the right to examine any of the Seller's pertinent records for the purpose of verifying Seller's claim. Nothing in this paragraph shall excuse Seller from proceeding with this order as changed, including failure of the parties to agree upon any adjustment to be made.

21.0 Non-waiver

Failure of Buyer to enforce any provision of this order shall not constitute a waiver of the provision.

22.0 Applicable Law

This order and acceptance hereof shall be governed by the laws of the state of Washington. Venue and any action in connection with this agreement shall be laid in either King County, Washington Superior Court or the Federal District Court for the Western District of Washington (Seattle) and Seller consents to the jurisdiction of such claims.

Seller warrants that in the performance of this order it will comply with all applicable Federal, State and Local laws. On its invoice, or in other forms satisfactory to Buyer, Seller shall submit certification that the goods covered by this order were produced in accordance with the requirements of the Fair Labor Standards Act (29 U.S. C. 201-219), as amended and any regulations and orders pertaining thereto.

23.0 U.S. Government Subcontracts/Acquisition Regulations

For U.S. Government subcontracts, all Federal Acquisition Regulations (FAR) and Department of Defense, Federal Acquisition Regulation Supplements (DFARS) shall apply. In the event of any conflict between the FAR/DFARS clauses and the resulting purchase order terms and conditions, the federal regulations shall take precedence.

24.0 Changes to Specifications/Processes/Management/Facilities

Seller shall not make any changes to the Products, including the manner of producing the Products without obtaining Purchaser's prior written consent. Requests to make Class I Changes must be provided In writing (including a detailed description of the proposed Class I Change) at least 60 days prior to the requested change date and may be accepted or rejected In Purchaser's sole discretion. Requests for Class II Changes must be provided in writing (Including a description of the proposed Class II Change) at least 30 days prior to the requested change date and Purchaser will not unreasonably withhold its consent.

Class I Change means any changes to the Product or the equipment, processes, facilities or location with or at which the Product is produced which: (i) impact form, fit, function or weight of the Product, (ii) may reasonably be expected to have an impact on contractual requirements such as performance, hardware, interchangeability, reliability, safety, interfaces or quality requirements, (iii) may require re-identification or recertification of a part or assembly or (iv) otherwise result In a deviation from the Specification.

Class II change means other changes to the Product which cannot be reasonably construed to constitute a Class I Change, including those that do not affect contractual requirements, do not involve changes to the Product design or merely *involve* technical correction of clerical errors in documents.

25.0 Export Controls for US Government Orders (Reference DFAR 225.79 Export Control)

The Contractor shall comply with all applicable laws and regulations regarding export-controlled items, including, but not limited to, the requirement for contractors to register with the Department of State in accordance with the

Purchase Order Terms and Conditions

ITAR. The Contractor shall consult with the Department of State regarding any questions relating to compliance with the ITAR and shall consult with the Department of Commerce regarding any questions relating to compliance with the EAR.

The Contractor's responsibility to comply with all applicable laws and regulations regarding export-controlled items exists independent of, and is not established or limited by, the information provided by this clause.

Nothing in the terms of this contract adds, changes, supersedes, or waives any of the requirements of applicable Federal laws, Executive orders, and regulations, including but not limited to—

- (1) The Export Administration Act of 1979, as amended (50 U.S.C. App. 2401, et seq.);
- (2) The Arms Export Control Act (22 U.S.C. 2751, et seq.);
- (3) The International Emergency Economic Powers Act (50 U.S.C. 1701, et seq.);
- (4) The Export Administration Regulations (15 CFR Parts 730-774);
- (5) The International Traffic in Arms Regulations (22 CFR Parts 120-130); and
- (6) Executive Order 13222, as extended.

“Export-controlled items,” as used in this clause, means items subject to the Export Administration Regulations (EAR) (15 CFR Parts 730-774) or the International Traffic in Arms Regulations (ITAR) (22 CFR Parts 120-130). The term includes:

- (1) “Defense items,” defined in the Arms Export Control Act, 22 U.S.C. 2778(j)(4)(A), as defense articles, defense services, and related technical data, and further defined in the ITAR, 22 CFR Part 120.
- (2) “Items,” defined in the EAR as “commodities”, “software”, and “technology,” terms that are also defined in the EAR, 15 CFR 772.1.

26.0 Export Controls

This order is subject to U.S. export and import control laws and regulations. Any item or technical information pertaining to this order shall not be provided to or accessed by a non-U.S. person, entity, foreign country or any Denied Party without the prior written authorization from Korry Electronics Company and, where applicable, the relevant U.S. Government Agency. The parties will comply with the aforementioned regulations and shall reasonably cooperate to support controlled activities pursuant to such regulations.

Please refer to the above regulations using the links below for further information.

http://www.pmdtdc.state.gov/regulations_laws/itar.html

<http://www.bis.doc.gov/index.php/regulations/export-administration-regulations-ear>

26.0 Requirements for Control of Soldering and Plating Materials

Electronic, Electrical, Electro-Mechanical, and Mechanical items and assemblies **SHALL NOT HAVE PURE TIN** finishes. This applies to component leads/terminations, body, cages, brackets, housings, mechanical items, etc. Hardware (nuts, bolts, screws, etc.) shall not have a pure tin finish unless otherwise stated in the drawing or specification.

Any tin-lead plating or solder process/processes shall require no less than 3% lead composition unless specifically authorized in writing by the Procuring Agency (Buyer).

Supplier shall be responsible for communicating this requirement to subcontractor or sub-tier suppliers as required.

Purchase Order Terms and Conditions

27.0 Requirements for use of Specialty Metals

All materials delivered under this order shall be compliant with DFARs 252.225-7009, Restriction on Acquisition of Certain Articles Containing Specialty Metals, unless specifically approved by the buyer prior to beginning work.

28.0 Affirmative Action Requirements

The parties shall comply with all Federal equal employment opportunity obligations under 41CFR 60-1.4(a), 60-300.5 (a), 60-741.5(a) and federal labor law obligations under 29 CFR part471, appendix A to subpart A.

This contractor and subcontractor shall abide by the requirements of 41 CFR 60–300.5(a)and 60–741.5(a). These regulations prohibit discrimination against qualified protected veterans and qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and qualified individuals with disabilities.

29.0 Working Conditions and Human Rights

Seller shall commit to providing a safe and secure working environment and the protection and advancement of basic human rights. Seller shall adopt and enforce these concepts in its operations and in a manner that is fully compliant with all applicable laws and regulations pertaining to fair wages and treatment, freedom of association, personal privacy, collective bargaining, workplace safety and environmental protection. Any material violation of law by Seller relating to basic working conditions and human rights, including laws regarding slavery and human trafficking of the country or countries in which Seller is performing work under this Purchase Order, may be considered a material breach of this contract for which the Buyer may choose to cancel any open orders between Buyer and Seller, for cause. Seller shall include this clause, or the substance of this clause, in all subcontracts awarded by Seller under this Purchase Order.

30.0 Indemnification and Insurance (Applicable to work completed on site at Korry)

Seller shall defend, indemnify and hold harmless Korry , its directors, officers, employees and agents from and against all actions, causes of action, liabilities, claims, suits, judgments, liens, awards and damages of all kind and nature whatsoever from property damage, personal injury or death (including without limitation injury or death of employees of Seller or any subcontractor thereof) and expenses, cost of litigation and counsel fees related thereto or incident to establishing the right to indemnification arising in any way related to this Purchase Contract. Prior to commencement of work on Buyer's premises, Seller shall carry and maintain, and ensure that all subcontractors carry and maintain, throughout the period when work is performed and until final acceptance by Buyer, Commercial General Liability and Workers' Compensation insurance with available limits not less than \$1,000,000 per incident (for bodily injury and property damage combined). Prior to commencement of work, Seller will provide for Buyer's review and approval the certificates of insurance reflecting full compliance. Failure of Seller, or any subcontractor thereof, to furnish certificates of insurance or to procure and maintain the required insurance noted herein, does not waive the Seller's or subcontractors obligations noted herein.

31.0 - Utilization of Small Business Concerns

In support of Government policy and consistent with its obligations issued under Government contracts, Korry supports the utilization of Small Business Concerns whenever possible. Seller agrees to actively seek and provide

Purchase Order Terms and Conditions

opportunities for Small Businesses, Small Disadvantaged Businesses, Women-Owned Small Businesses, Minority Businesses, Small Businesses in Hub Zones and U.S. Veteran and Service Disabled Veteran Owned Small businesses. All subcontractors (except Small Business concerns) who receive purchase contracts in excess of \$650,000 (\$1,500,000 for construction of any public facility) with further subcontracting possibilities, will adopt a plan and goals in accordance with this clause and submit those plans as designated by the Buyer.

Reference: FAR 52.219-9