

# TERMS & CONDITIONS OF PURCHASE

## 1. ACCEPTANCE:

This order shall be deemed accepted by Seller's signature on the acceptance copy attached hereto or by Seller's commencement of performance. No terms or conditions other than those set forth in this order shall bind Buyer unless accepted in writing even though such other terms or conditions do not materially alter this order.

## 2. SELLER'S WARRANTIES:

Seller hereby warrants that all goods and services covered by this contract will conform with Buyer's instructions, specifications, drawings and data, will be merchantable, will be free from defective materials or workmanship, and will be fit for Buyer's purposes. Seller further warrants that the goods and services furnished under this contract shall conform to all representations, affirmations, promises, descriptions, samples or models forming the basis of this contract. Seller agrees that these warranties shall survive acceptance of the goods and services. Seller further warrants that all services performed for or on behalf of Buyer will be performed in a competent workmanlike manner and shall be free from faults and any warranties of additional scope given by Seller to Buyer. None of said warranties and no other implied or express warranties shall be deemed disclaimed or excluded unless evidenced by a purchase order change notice or revision issued and signed by Buyer. The warranties hereunder shall inure to the benefit of Buyer, its successors and assignee, customer and users of its products.

## 3. CHANGES:

Buyer shall have the right to make changes in this order but no additional charge will be allowed unless authorized in writing by Buyer. If such changes affect Seller's cost of performance, Seller shall notify Buyer immediately and within 30 days submit a detailed cost breakdown comparing original drawings or conditions and costs. The parties will then agree upon a reasonable adjustment in price. If any such change affects delivery, Seller will so advise Buyer immediately outlining in detail reasons of increase or decrease in the established schedule. However, nothing in this clause shall excuse Seller from proceeding with this order as changed.

## 4. TERMINATION:

Buyer may terminate this order in accordance with the termination clause in DARF-706 which is incorporated by reference. References to the government do not apply if this order is not placed under a government contract.

## 5. PACKING:

All articles shipped under this order are to be packaged in a manner that will provide for efficient handling and will preclude damage to the articles during shipping and/or storage. Damage to any article resulting from improper packaging will be charged to the Seller. No additional charges will be allowed for boxing, packing, returnable containers, or transportation thereof, unless stated on the face of this order.

## 6. PACKING SLIPS:

Packing slips must accompany all shipments. The Buyer's count will be accepted as final and conclusive on all shipments not accompanied by packing slips. The Buyer's order number and Seller's packing slip number, description and count must appear on all invoices, packages and bill of lading.

## 7. PATENT INDEMNITY:

Seller agrees upon receipt of notification to promptly assume full responsibility for the defense of any suit or proceeding which may be brought against Clide Seal Controls, Inc. or any of its subsidiaries or affiliates, agents or vendees, hereinafter for the purposes of this clause collectively referred to as the "Buyer", for alleged patent infringement, as well as the alleged unfair competition resulting from similarity in design, trademark or appearance of goods, by reason of the use or sale of any goods furnished under this contract, except for goods manufactured entirely to Buyer's specifications, and Seller further agrees to indemnify Buyer against any and all expenses, loss, royalties, profits and damages, including court costs and attorneys fees, resulting from the bringing of such suit or proceedings, including any settlement or decree or judgement entered therein. Buyer may be represented by and actively participate through its own counsel in any such suit or proceedings if it so desires. Seller's obligation hereunder shall survive the acceptance of the goods and services and payment thereof by the Buyer.

## 8. INSPECTION:

All materials or articles ordered may be subject (i) to inspection during the period of manufacture (ii) to inspection prior to shipment and (iii) to final inspection and acceptance at destination, not withstanding any prior payment or inspection and acceptance. Buyer may reject and hold at Seller's expense, subject to Seller's disposal, all materials or articles not conforming to applicable drawings, specifications and/or samples. Seller agrees to replace at its expense or, at Buyer's option, to refund the price of any article which fails to meet the requirements of applicable drawings, specifications and/or samples. Materials or articles rejected and returned to Seller shall not be re-rendered by Seller to Buyer unless notification of that fact is submitted with the retender and Buyer specifically agrees to acceptance thereof. During performance of this order, Seller shall maintain quality control/inspection system acceptable to Buyer. The system is subject to review, verification and analysis by authorized Buyer and/or government representatives. All process work must be performed by sources approved by Buyer, Buyer's customer or by the cognizant military service, as applicable.

## 9. COMPLIANCE WITH LAW:

Seller warrants compliance with all Federal, state or local laws, (including the Walsh-Healey Act, Fair Labor Standards Act, Eight-hour Law of 1912), which may be applicable to the goods furnished hereunder.

## 10. ASSIGNMENTS:

No assignment of this order or of any monies due or to become due hereunder shall be binding upon Buyer until its written consent thereto is obtained.

## 11. SUBCONTRACTING-SITE WORK BY CONTRACTORS:

Seller shall not procure or contract for the procurement of any item covered by this order in completed or substantially completed form without first securing the written approval of the Buyer. *Contractor shall defend, indemnify and hold Clide Seal harmless from liability for any claims, liabilities, losses, costs, damages and expenses, including attorneys' fees and expenses, for bodily injuries or death, property loss or damage as a result of the acts or omissions of Contractor.*

## 12. NON-DISCRIMINATION IN EMPLOYMENT:

The provisions of Executive Order 11246, as amended (Equal Employment Opportunity/Affirmative Action), 38 USC 2012, as amended (Vietnam Era Veterans Readjustment Assistance Act), Section 503 of the Rehabilitation Act of 1973, as amended (Handicapped Regulations), and the implementing regulations found at 41 CFR 60-1.8 & 2, 41 CFR 60-250, AND 41 CFR 60-741, respectively, are hereby incorporated by reference.

## 13. TOOLS, MATERIAL AND DATA:

Seller shall keep confidential all designs, processes, drawings, specifications, reports, data and other technical or proprietary information and features of all parts, equipment, tools, gauges, patterns furnished or disclosed to the Seller by Buyer in connection with this order. No

designs, tools, patterns, jigs, dies, or drawings supplied by the Buyer to the Seller for use in the manufacture of goods contracted for herein shall be used in the production, manufacture or design of any goods for any other party or for the manufacture or production of larger quantities than those specified, except with the express consent in writing of the Buyer. At the termination of this contract any such designs, tools, patterns, jigs, dies, drawings and materials supplied by the Buyer shall be returned to the Buyer unless otherwise directed. All such designs, tools, patterns, jigs, dies, drawings, and material supplied by the Buyer shall be segregated by the Seller in the seller's plant and where possible clearly marked so as to be easily identified as the Buyer's property and shall be kept in good condition. Where materials are furnished by the Buyer, title to such material in all stages of construction shall be and remain in the Buyer. Any property supplied to Seller will be returned in as good condition as when received, except for reasonable wear or tear or for utilization of property in accordance with the provisions hereof.

## 14. ENTRY, AUDIT AND INSPECTION:

Seller agrees that its plant, books and records so far as they relate to the performance of this or a related order, or costs incurred under this or a related order shall at all practical times be subject to review, inspection and audit by any authorized representative of the Buyer, and, in the event that this order is placed under a Government contract, any authorized representative of the United States Government shall also have the same rights of entry, audit and inspection as provided herein.

## 15. LABOR DISPUTES:

Whenever Seller has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this order, Seller shall immediately give notice thereof including all relevant information with respect thereto to Buyer. Seller shall insert the substance of this clause, including this sentence, in any subcontract hereunder wherein a labor dispute may delay the timely performance of this order, except that any subcontractor need give the required notice and information only to its next higher-tier subcontractor.

## 16. DELIVERY:

Time is of the essence on this contract. However, all delivery schedules are subject to change when government control or priority may require it. Seller shall not be liable for damages for delays in delivery due to causes beyond Seller's control and without his fault or negligence provided Seller notified Buyer in writing as soon as Seller has knowledge that any such delay may occur. Correspondingly, the Buyer shall be excused for failure or delay in performance herein due to any cause beyond its control and without its fault or negligence.

## 17. DEFAULT:

The Buyer may terminate this purchase order or any part thereof in accordance with DARF-103.11 for (1) default, (2) if Seller becomes insolvent or (3) any bankruptcy proceedings are instituted by or against Seller.

## 18. PRIORITIES, ALLOCATIONS AND ALLOTMENTS:

Seller shall follow the provisions of DMS Reg. 1 or DPS Reg. 1 and all other applicable regulations and orders of the Bureau of Domestic Commerce in obtaining controlled materials and other products and materials needed to this order.

## 19. OSHA:

Seller warrants that any equipment which may be supplied under this order complies with all provisions of the Occupational Safety and Health Act.

## 20. MERCURY FREE AND DRUG FREE MANUFACTURING:

Seller warrants that the products on this order did not come into contact with mercury or any of its compounds nor with any mercury-containing devices. Further, Seller warrants that the products were manufactured in an environment that was free from illegal drugs and controlled substances.

## 21. CONFLICTS OF LAW:

The contract shall be governed and construed in accordance with the laws of the State of South Carolina.

## 22. ATTORNEY'S FEE:

If any legal action is necessary to enforce the terms of this agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which he may be entitled.

## 23. ANTI-KICKBACK ACT:

Seller warrants that the Seller is in full compliance with the Anti-Kickback Act, as amended (41 USC 51-54) and shall hold Buyer harmless from any liability resulting from failure of such compliance.

## 24. ADDITIONAL CONDITIONS APPLICABLE TO ORDERS PLACED UNDER GOVERNMENT CONTRACTS OR SUBCONTRACTS:

If the order is placed under a Government contract or a subcontract thereunder or if Buyer otherwise notified Seller that this order is placed under a Government contract or a subcontract, hereunder the following clauses of the Defense Acquisition Regulation are herein incorporated by reference insofar as applicable to this order. Where necessary to make the context of the clauses incorporated by this article applicable to this order, the terms "Government" and equivalent phrases shall mean Buyer, the term "Contractor" shall mean Seller, and the term "Contract" shall mean this order. "The Government reserves the right to inspect any or all of the materials included in this order at the supplier's plant."

7-103.16 (a) Work Hours Act, Paragraphs (a) through (d) (applicable to orders over \$2500), 7-103.17 Walsh-Healey Public Contract Act, 7-103.18 (a) Equal Opportunity, 7-103.23 Notice and assistance, 7-103.26 Pricing of Adjustments, 7-103.27 Listing of Employment Openings for Veterans. Except Paragraph (g) (Orders over \$10,000), 7-103.28 Employment of the Handicapped, 7-103.29 Clean Air and Water, 7-104.3 Buy American Act, 7-104.6 Filing of Patent Applications, 7-104.9 Reporting and Refund Royalties, 7-104.9 (a)(b)(d)(h)(i) Rights in Data, 7-104.11, (a) Express Profits, (Orders over \$10,000), 7-104.12 Military Security Requirements, 7-104.14 (a) Small Business, 7-104.14(b) Small Business-Subcontracting Program (Orders over \$500,000), 7-104.15 Audit, 7-104.20 (a) Labor Surplus Areas, 7-104.20 (b) Labor Surplus-Area Subcontracting Program (Orders over \$500,000), 7-104.25 Special Tooling, 7-104.26 Special Test Equipment, 7-104.29 (a)(b) Price Reduction for Defective Costs of Pricing Data (Orders over \$100,000 plus See Note 1), 7-104.31 Duty Free Entry, 7-104.32 Duty Free Entry Canadian Supplies, 7-104.36(a) Minority Business Enterprises, 7-104.36 (b) Minority Business Enterprises Subcontracting (Orders over \$500,000), 7-104.37 Required Source for Jewel Bearings, 7-104.38 Required Sources for Miniature Instrument Ball Bearings, 7-104.41 (a) Audit by DOD (Orders over \$10,000) See Note 1), 7-104.42 (a)(b) Subcontractor Cost or Pricing Data (Orders over \$100,000 and See Note 1), 7-104.45 (a) Limitations of Liability, 7-104.46 Required Sources for Precision Components for Mechanical Time Devices, 7-104.46 New Material, 7-104.49 Government Surplus, 7-104.65 Insurance, 7-104.75 Geographic Distribution (Orders over \$100,000), 7-104.79 (a) Safety Precautions for Ammunitions and Explosives, 7-104.81 Accident Reporting, 7-104.83 (a)(b) Costs Accounting Standards (Orders over \$100,000), 7-104.93 Specialty Metals, 7-105.3 Stop Work Order, 7-302.23 (b) Patent Rights (R&D Orders Only), 7-1993-11 Service Contract Act of 1965.

NOTE 1: The obligations which these DAR Clauses intend to be required of sub-contractors are applicable to Seller. The certificate required by these clauses is that set forth in DAR 3-507.4, substituting "Buyer" for "Contracting Officer".

Year 2000 Compliance and Warranty: Seller represents to Buyer that it has undertaken measures to ensure that its business and the furnishing of its products and/or services will be uninterrupted due to Year 2000 computer and other Year 2000 change in time related issues ("Year 2000 Issues") including, but not limited to, verifying its business systems and technology, and obtaining assurances from its suppliers and vendors that they are addressing Year 2000 Issues. Seller further warrants that its products and/or services sold to Buyer will operate without error or defect caused by Year 2000 Issues. Buyer's remedy for breach of the representation and/or warranty in this section shall be for Seller to immediately repair, replace or refurbish products and/or services, and Buyer shall be entitled