



Purchase Order Terms and Conditions

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1. Acceptance-Agreement

Seller's commencement of work on goods subject to the purchase order or Seller's shipment of such goods, whichever occurs first, shall be deemed Seller's acceptance of all the terms of Muskogee Technology's ("Purchaser") purchase order and these terms and conditions (collectively, "Agreement"). The acceptance of the Purchaser's purchase order is limited to Seller's acceptance of the express terms contained on the face of the purchase order submitted by Purchaser and those additional terms contained in these terms and conditions. Any Seller-proposed additional or different terms, or any attempt by Seller to vary or change (in any degree) any of the terms of the Purchaser's purchase order or the terms of these terms and conditions is hereby expressly objected to and rejected by Purchaser. Any acceptance by Seller with any Seller-proposed additional or different terms shall not operate as a rejection of the Purchaser's proposed Agreement (unless such Seller proposed variances are to the terms of the description, quantity, price or delivery schedule of the relevant goods and a material alteration thereof), but in the alternative such Seller acceptance shall be deemed Seller's acceptance of the Agreement without said Seller-proposed additional or different terms. If the purchase order shall be deemed an acceptance of a prior offer by Seller, Purchaser's acceptance is limited to the express terms contained on the face of the final purchase order submitted by Purchaser and these terms and conditions.

2. Termination for Convenience of Purchaser

Purchaser reserves the right to terminate the purchase order (or any part thereof) and Agreement for its sole convenience. In the event of Purchaser's termination for convenience, Seller shall immediately stop all work subject to the purchase order after notice from Purchaser, and Seller shall also immediately cause its suppliers and contractors to cease work. If terminated by Purchaser merely for Purchaser's convenience, Seller shall be paid a reasonable termination charge consisting of a percentage of the order price reflecting the percentage of the work performed prior to the notice of termination, plus actual direct costs resulting from termination. Notwithstanding any language to the contrary, Seller shall not be paid for: any work done after Seller's receipt of the notice of termination; for any costs incurred by Seller's suppliers or subcontractors which Seller could reasonably have avoided or mitigated; or for unreasonable costs or expenses.

3. Termination for Cause

Purchaser may also terminate any purchase order (or part thereof) and Agreement for cause in the event of: any default by the Seller; or Seller's failure to comply with any term of the Agreement. Without limiting the generality of the foregoing, late deliveries, deliveries of goods which are defective or which do not conform to the Agreement, and any failure to provide Purchaser, upon request, reasonable assurances of future performance shall all be causes allowing Purchaser to terminate the purchase order (or part thereof) and the Agreement for cause. In the event of termination for cause, Purchaser shall not be liable to Seller for any amount, cost, or expense; however, Seller shall be liable to Purchaser for any and all damages sustained by Purchaser due to the default(s) which gave rise to the termination. Every right or remedy of Purchaser set forth in this Agreement shall be cumulative and shall be in addition to every other right and remedy given, or now or hereafter existing at law, in equity, or by statute. The pursuit of any right or remedy shall not be construed as an election by Purchaser.

4. Proprietary Information- Confidentiality-Advertising

Seller shall treat all information furnished by Purchaser as confidential, and Seller shall not disclose any such information to any third party without said party having a bona fide need to know in order for Seller to perform its duties. Seller shall use Purchaser's information only for the purpose of performing the Agreement, unless Seller obtains written permission from Purchaser to do otherwise. This paragraph shall apply to drawings, specifications, and other documents prepared by Seller for Purchaser in connection with the purchase order. Seller shall not advertise or publish the fact that Purchaser has contracted to purchase goods or services from Seller, nor shall any information relating to the Purchaser's purchase order be disclosed without Purchaser's written permission. Unless otherwise agreed in writing by Purchaser, no commercial, financial or technical information disclosed (in any manner or at any time) by Seller to Purchaser be deemed secret or confidential, and Seller shall have no rights against Purchaser with respect thereto except such rights as may exist under relevant applicable patent law.

5. Warranty

Seller expressly warrants that all goods and services furnished under the purchase order shall conform to all specifications and appropriate standards, will be new, and will be free from defects in material, design and workmanship. Seller further warrants that all goods and services will conform to statements made on the containers, labels, and advertisements for such goods and services, and that any goods will be adequately contained, packaged, marked and labeled. Seller warrants that all goods and services furnished pursuant to a purchase order will be merchantable, and will be safe and appropriate for the purpose(s) for which goods and services of that kind are normally used. The Seller-provided goods and services shall not infringe upon (or violate) any patent, copyright, trademark, trade name, trade dress or, without limitation, any other rights belonging to third parties. If Seller knows or has reason to know the particular purpose for which Purchaser intends to use the goods or services, Seller warrants that all such goods and services will be fit for such particular purpose(s). Seller warrants that all goods and services furnished will conform in all respects to samples supplied Purchaser and its agents. Inspection, test, acceptance and use of the goods and services furnished hereunder shall not affect the Seller's obligation under these warranties, and such warranties shall survive inspection, test, acceptance and use. Seller's warranty shall run to Purchaser, its successors, assigns and customers, and users of goods sold by Purchaser. Seller agrees to replace or correct defects of any goods or services not conforming to the foregoing warranties, promptly, without expense to Purchaser, when notified of such nonconformity by Purchaser, provided Purchaser elects to provide Seller with the opportunity to do so. In the event of failure of Seller to correct defects in or replace nonconforming goods or services promptly, Purchaser, after reasonable notice to Seller, may make such corrections or replace such goods and services and charge Seller for the cost incurred by Purchaser in doing so. Goods shall be delivered to Purchaser in good and undamaged condition and shall, when delivered, be merchantable and fit and safe for purposes for which the same are intended to be used. Any attempt by Seller to limit, disclaim or restrict any of the foregoing warranties shall be null, void and ineffective without Purchaser's prior express written consent.

6. Price Warranty

Seller warrants that the prices for the goods sold Purchaser hereunder are not less favorable than those currently extended to any other customer of Seller for the same or similar goods in similar quantities. In the event Seller reduces its price for such goods covered by the relevant purchase order before timely payment thereof by Purchaser, Seller agrees to reduce the prices correspondingly. Seller warrants that prices shown on the purchase order shall be complete, and no additional charges of any type shall be added without Purchaser's prior express written consent. Such additional charges (which require Purchaser's prior written consent) include but are not limited to, shipping, packaging, labeling, custom duties, taxes, storage, insurance, boxing, crating.

7. Force Majeure

Purchaser may require the delay of delivery by Seller, or acceptance by Purchaser, occasioned by causes beyond Purchaser's reasonable control. If Purchaser delays delivery, Seller shall hold such goods at the direction of the Purchaser and shall deliver them when the cause affecting the delay has been removed. Purchaser shall be responsible only for Seller's direct additional actual cost(s) in holding said goods or delaying delivery of goods at Purchaser's request. Causes beyond Purchaser's reasonable control shall include, but are not limited to, governmental action or failure of the government to act where such action is required, strike or other labor trouble, fire, or unusually severe weather.

8. Intellectual Property

A. Any copyrightable works, ideas, discoveries, inventions, patents, goods, or other information (collectively "Intellectual Property") developed in whole or in part by or on behalf of Seller in connection with or relating to goods shall be the exclusive property of Purchaser. Upon request, Seller shall sign all documents and otherwise cooperate with Purchaser as necessary to assign, confirm and perfect the exclusive ownership of all Intellectual Property rights in the goods to Purchaser.

B. Seller agrees to indemnify, hold harmless, and defend Purchaser, and Purchaser's agents and customers against any and all expenses, losses, royalties, profits and damages (including court costs and reasonable attorney's fees) arising from any suit or proceeding brought against Purchaser due to Seller's goods or services violating any intellectual property right of a third party, including any settlement thereof. Purchaser may be represented by and actively participate through its own counsel in any such suit or proceeding if it so desires, and the costs of such representation shall be paid by Seller.

9. Insurance

In the event that Seller's obligations hereunder require or contemplate performance of services by Seller's employees, or Seller's contractors, to be done on Purchaser's property, or property of Purchaser's customers, the Seller agrees that all such work shall be done as an independent contractor and that the persons doing such work shall not be considered employees of the Purchaser. Seller shall maintain all necessary insurance coverages, including, but not limited to, general commercial liability insurance, public liability, and workman's compensation insurance. Seller shall indemnify, defend and hold harmless Purchaser from any and all claims and liabilities arising out of the work covered by this paragraph.

10. Indemnification

Seller shall defend, indemnify, and hold harmless Purchaser against all damages, claims, liabilities, costs and expenses (including reasonable attorney's fees and court costs) arising out of (or resulting from): any defect in any good or service provided pursuant to the purchase order or the Agreement; any breach of these terms and conditions or of the Agreement; and from any act or omission of the Seller, or Seller's agents, employees or contractors. This Indemnification shall be in addition to all the warranty obligations of Seller.

11. Changes

Purchaser shall have the right at any time to make changes in drawings, designs, specifications, materials, packaging, time and place of delivery and method of transportation. If any such changes cause an increase or decrease in the Seller's cost, or the time required for the Seller's performance, an equitable adjustment shall be made and the Agreement shall be modified in writing accordingly. Seller agrees to accept any such changes, subject to this paragraph.

12. Inspection/Testing

Payment for the goods delivered by Seller shall not constitute acceptance by Purchaser thereof. Payment shall also not be deemed Purchaser's waiver of any right contained in the Agreement. Purchaser shall have the right to inspect all goods and to reject any or all of said goods that are, in Purchaser's judgment, defective or nonconforming. Goods rejected and goods supplied in excess of

quantities ordered by Purchaser may be returned to Seller at Seller's expense and, in addition to Purchaser's other rights, Purchaser may charge Seller all expenses and costs of unpacking, examining, repacking, and reshipping such goods. In the event Purchaser receives goods whose defects or nonconformity is not apparent on initial examination, Purchaser reserves the right to require replacement, as well as payment of damages. Nothing contained in the Agreement shall relieve in any way the Seller from the obligation of testing, inspection and quality control. Purchaser shall have the right, at reasonable times, to inspect Seller's premises and traceability documentation related to Purchaser's supply chain.

13. Audit Right

Where appropriate, Purchaser shall have the right to audit the quality of goods at Seller's premises.

14. Entire Agreement

The Agreement (and any documents referred to on the face of the Purchaser's purchase order) constitutes the entire agreement between the parties. These terms and conditions shall be construed in accordance with their plain meaning and not against the party that provided or drafted them.

15. Assignments and Subcontracting

No part of this Agreement may be assigned or subcontracted without the prior written approval of Purchaser.

16. Setoff

All claims for money due or to become due from Purchaser shall be subject to deduction and set-off by the Purchaser by reason of any counterclaim arising out of this or any other transaction with Seller.

17. Shipment

If in order to comply with Purchaser's required delivery date it becomes necessary for Seller to ship by a more expensive way than specified in the purchase order, any increase in transportation costs resulting therefrom shall be paid for and borne by Seller unless the necessity for such rerouting or expedited handling has been caused by Purchaser.

18. Waiver

Purchaser's failure to insist on performance of any of the terms or conditions herein or to exercise any right or privilege or Purchaser's waiver of any breach hereunder shall not thereafter waive any other terms, conditions or privileges whether of the same or similar type. All Purchaser's remedies provided for in the Agreement are cumulative and are in addition to those allowed by law, including, but not limited to, those provided by the Uniform Commercial Code.

19. Delivery

Unless set forth otherwise on the face of the Purchaser's purchase order, all goods shall be free on board (F.O.B.) point of destination. Time is of the essence of the Agreement and if delivery of goods or rendering of services is not completed by the time designated by the purchase order, Purchaser reserves the right, without liability in addition to its other rights and remedies, to terminate the purchase order by notice effective when received by Seller as to goods not yet shipped or services not yet rendered and to purchase substitute goods or services elsewhere and charge Seller with any loss incurred. Acceptance by Purchaser of goods delivered late by Seller shall not be deemed a waiver by Purchaser of remedies for said late delivery. Without limiting the foregoing, if the Seller fails to deliver any good or service when due (or Seller is otherwise late in the delivery of any good or service to Purchaser), then as liquidated damages and not as a penalty, the Purchaser may set-off against any purchase price owed Seller for said late goods/services an amount equal to 0.5% of said purchase price for each business day that said goods/services are delivered late to the Purchaser. Such liquidated damages, however, shall not exceed 10% of the total value of all the goods and services to be delivered pursuant to this Agreement. Seller and Purchaser agree that Purchaser's damages which would result from Seller's

failure to timely deliver goods or services is impossible or extremely difficult to ascertain or estimate, and that under the circumstances existing as of the date of this Agreement the foregoing liquidated damages for late delivery represents a reasonable estimate of such damages. The imposition or payment of such amount as liquidated damages for the breach of Seller's timely delivery obligation under this Agreement is not intended as a penalty.

20. Limit on Purchaser's Liability-Statute of Limitations

In no event shall Purchaser be liable for anticipated profits or for incidental or consequential damages. Purchaser's liability on any claim of any kind for any loss or damage arising out of or in connection with or resulting from the Agreement, the purchase order or from the performance or breach thereof shall in no case exceed the price allocable to the goods and services or unit thereof which gives rise to the claim. Purchaser shall not be liable for any monetary penalties whatsoever. An action for any breach on the part of Purchaser as to the goods or services subject to a purchase order must be commenced within one year after the cause of action has accrued, otherwise, such action is waived.

21. Compliance with Laws

Seller agrees that all goods shipped to the Purchaser will be produced in full compliance with all applicable laws including, but not limited to, the Fair Labor Standards Act. Seller further agrees that it shall not engage in the employment of child, forced, indentured, involuntary, prison or uncompensated labor. Purchaser may, upon notice, inspect Seller's plant and facilities at reasonable times to determine compliance with the provisions set forth herein. In addition to any other remedies contained herein, Purchaser shall have the right to immediately terminate the purchase order and any agreements with Seller if Purchaser determines that Seller is in violation of this paragraph. If any provision or provisions of this Agreement shall be, or shall be found to be, invalid, inoperative, or unenforceable because of the conflict of any provision with any constitution or statute or rule of public policy or for any other reason, such circumstance shall not have the effect of rendering the provision or provisions in question invalid, inoperative, or unenforceable, but instead this Agreement shall be reformed and construed as if such invalid, inoperative, or unenforceable provision had never been contained herein, and such provision reformed so that it would be valid, operative, and enforceable to the maximum extent permitted by law.

22. Choice of Law

This Purchase Order and any contract formed hereunder, shall be governed by, and construed under the Internal laws of the State of Alabama without regard to principles of conflict of law, as the same may be from time to time in effect, including, without limitations the Uniform Commercial Code as in effect in the State of Alabama. The Agreement shall be deemed fully executed and accepted by both Purchaser and Seller physically by the parties within the State of Alabama.

23. Seller Compliance

The Seller agrees to comply with the following: A) Executive Order 11246 as amended and all regulations promulgated pursuant to that Executive Order including but not limited to the provisions of paragraphs (1) through (7) of the "Equal Opportunity Clause" and the "Certification of Non-segregated Facilities, each of which is incorporated herein by reference, B) Section 503 of the Rehabilitation Act of 1973 including the applicable parts of the affirmative action clause entitled "Affirmative Action for Handicapped Workers" (41 CFR 60-741.4) incorporated herein by reference, C) the Vietnam Era Veterans Readjustment Assistance Act (30 USC §2012) including the applicable parts of the affirmative action clause entitled "Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era" (41CFR 60-250.4) incorporated herein by reference, D) Executive Order 13496 "Notification of Employee Rights Under Federal Labor Laws" (29 CFR Part 471, Appendix A to Subpart A also incorporated herein by reference, E) Seller agrees to comply with all applicable commercial and public anti-bribery laws, including, without limitation, the US Foreign Corrupt Practices Act and the UK Bribery Act and F) Seller hereby represents and warrants that neither Seller, nor any persons or entities holding any legal or beneficial interest whatsoever in Seller, are (I) the target of any sanctions program that is established by Executive Order of the President or published by the Office of Foreign Assets Control, U.S. Department

or the Treasury ("OFAC"); (II) designated by the President or OFAC pursuant to the Trading with the Enemy Act, 50 U.S.C. App. § 5, the International Emergency Economic Powers Act, 50 U.S.C. §§ 1701-06, the Patriot Act, Public Law 107-56, Executive Order 13224 (September 23, 2001) or any Executive Order of the President Issued pursuant to such statutes; or (III) named on the following list that is published by OFAC: "List of Specially Designated Nationals and Blocked Persons." if the foregoing representation is untrue at any time, an event of default will be deemed to have occurred without the necessity of notice to Seller.

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