



# Purchase Order Terms and Conditions

MMF-00018  
Revision 2 8-15-2012

The instructions, terms, and conditions appearing as follows or on the face of the purchase order, and any attachments hereto, are made a part hereof, to which the Seller agrees by acceptance of this order.

## 1.0 Acceptance

The written acceptance of this purchase order, the delivery of any articles or materials, including partial deliveries, or the furnishing of any services under this purchase order, shall constitute acceptance by the Seller and be subject to all terms and conditions contained herein. Buyer must agree to any exceptions in writing. This Purchase Order shall be governed by the UCC as enacted in the state of Arizona.

## 2.0 Extra Charges

No extra charges of any kind, including charges for boxing or cartage, will be allowed unless specifically agreed to by Buyer in writing. Price is to cover net weight of material or quantity requested in the order unless otherwise agreed.

## 3.0 Packing, Shipping and Transportation

3.1 Unless otherwise stated on the face of this purchase order, the Seller agrees to ship and deliver all items ordered herein F.O.B. destination (free of expense to the Buyer), by the method of conveyance and at the point specified in the order. No parcel post insurance charges will be allowed unless authorized by Buyer.

3.2 All package exteriors, packing lists, bills of lading, shipping notices, tags, correspondence, etc., must display the Buyer's purchase order number. Material shall be packaged in accordance with any applicable specifications cited in the order. If no such packaging specifications are cited, packaging shall be in accordance with commercial packaging requirements to ensure that no damage shall result from weather and/or transportation. Unless otherwise specified, the costs thereof shall be included in the price of the articles.

## 4.0 Quality Provisions

The following Quality Requirements define the suppliers' responsibilities for ensuring conformance to APSM Systems purchase order requirements. These requirements have been implemented with the objective of receiving defect free products with the correct documentation, on or before scheduled delivery dates. These requirements are applicable to all purchase orders unless otherwise specified within the purchase order. Failure to comply with these requirements may result in the suppliers' product being rejected, and can adversely affect the suppliers' quality rating with APSM Systems.

## 5.0 Quality Management System

The Supplier shall provide and maintain a quality system that meets ISO 9001 or other nationally recognized standard.

## 6.0 Certificate of Compliance

All goods and services sold to Buyer is required to include any and all applicable paperwork regarding product purchased from

Seller, including but not limited to:

- ROHS Certification
- Certification of Compliance
- Material Certification
- Process Certifications such as Plating, Heat Treatments, etc.

- First Article Inspection Report

## **7.0 Material Certifications**

Material Certifications stating chemical/physical analysis and tests shall accompany all orders in which the supplier purchases the raw materials. All applicable data shall be included on the certificate.

## **8.0 Tooling and Test Equipment**

Unless otherwise specified, all tooling and test equipment manufactured in the performance of this purchase order shall become the property of the Buyer. Any exception to this specific provision must be expressed in writing on the face of this order or an appropriate written amendment thereto, including the incorporation of any such terms or conditions imposed by the Seller as a normal course of the Seller's business practices.

## **9.0 Test and Inspection**

Inspection and acceptance will be at destination, unless otherwise provided. Until delivery and acceptance by the Buyer, and after any rejections, risk of loss will be on the Seller, unless loss results from the negligence of the Buyer.

Notwithstanding the requirements for any required inspection and test contained in specifications applicable to this contract, except where specialized inspections or tests are specified for performance solely by the Buyer or its Customer, the Seller shall perform or have performed the inspections and tests required to substantiate that the supplies and services provided under the order conform to the drawings, specifications, and contract requirements listed herein, including, if applicable, the technical requirements for the manufacturer's part numbers specified herein.

Notwithstanding prior inspection, payment for or use of the goods, Buyer shall have the right to reject any of such goods which do not conform to the requirements of this order. Such right shall be exercisable within six (6) months following receipt of the goods or as provided for in Buyer's applicable specifications. All such rejected items shall be returned to Seller, transportation collect, for credit or refund at buyers discretion, unless otherwise specified by the Buyer.

Right of Entry: All articles, raw materials, and work in process are subject to inspection and testing, to the extent practicable, at all times and places, including during the period of performance and manufacture. Buyer shall have the right to schedule and perform any onsite audit in any areas that can affect the quality or deliveries of the product.

When requested the supplier shall provide acceptance test and/or inspection data with shipment of product, as further evidence of conformance to purchase order requirements.

If this purchase order is for calibration services, the supplier must meet and be traceable to NIST standards. Calibration must meet the requirements of NCSL Z540.3 and/or ISO/IEC 17025.

All items submitted for calibration shall be calibrated to the original manufacture's specification, unless otherwise specified by the purchase order.

All calibration certificates shall state that the item has been calibrated to the manufacture's specifications or the specific calibration requirement specified by the purchase order.

## **10.0 Flow Down to Sub-Tier Suppliers**

The supplier shall flow down all relevant purchase order requirements. The supplier is responsible for ensuring that any work performed by a sub-tier supplier is in accordance with APSM Systems purchase order requirements.

## **11.0 Nonconforming Material**

The supplier shall maintain a system of material identification and segregation to ensure that suspect material, or product that does not conform to specified requirements is prevented from unintended use or delivery. Product, which deviates from drawings, specifications, or other procurement requirements, shall not be shipped without the express written approval of APSM Systems purchasing.

## **12.0 Corrective Action Request**

When nonconforming material is determined to be the suppliers' responsibility, the supplier may be required to respond to APSM Systems Corrective Action Request. The supplier shall provide a written response, within 14 days of receipt of request, describing the root cause of the problem and the corrective action taken to prevent reoccurrence.

## **13.0 Right of Entry**

Upon request supplier shall allow APSM Systems right of entry to verify quality of work, materials, and records in compliance with purchase order requirements. These rights shall extend to APSM Systems customers and regulatory agencies.

## **14.0 Source Inspection**

Notwithstanding any other element of this provision or any other provision of this order, the Buyer reserves the right to perform source inspection and acceptance, for all items or any portion thereof, at the Seller's or its subcontractor's facilities, as ordered hereunder, as deemed appropriate by the Buyer, as a result of the Seller providing non-conforming materials or end items. The Seller hereby agrees that the Buyer has the unequivocal right to recover any and all reasonable costs associated with inspection or re-inspection, as may be appropriate, at any point other than the designated F.O.B. or inspection point, as specified on the face of this order or any written amendment thereto. Such costs may include, but is not limited to: labor, material, travel, and lodging (per diem) costs. At the discretion of the Buyer, such cost reimbursement may be effected by direct payment or by an appropriate credit or amendment to this order.

## **15.0 Record Retention**

The supplier shall maintain records pertaining to the manufacture, inspection and/or testing of all APSM Systems products. These records shall be adequate to ascertain the quality level of production processes and shall include any chemical and physical test results of raw materials used in the manufacture of APSM Systems product. These records shall be made available for review upon request. Records shall be retained for a minimum period of three (3) years.

## **16.0 Revision Control**

If an item on a purchase order is revision controlled the supplier shall assure the drawing revision on file at their facility matches the revision noted on purchase order. The supplier must immediately contact APSM Systems purchasing agent with any discrepancies in drawing revisions.

## **17.0 Change Approval**

The supplier shall notify APSM Systems of changes in manufacturing location, and obtain approval of changes of suppliers and any product and/or process changes that may affect form, fit, function, interchangeability or reliability. The supplier is responsible to ensure that any verbal authorization to change purchase order requirements is documented in writing via a revised purchase order or email confirmation from APSM Systems buyer.

## **18.0 Warranty**

In addition to any other specific warranty provisions incorporated into this purchase order, the Seller warrants to the Buyer that at the time of delivery the goods called for by this order will be free from defects in material and workmanship and will be suitable for the purposes intended whether expressed or implied. The warranties of Seller,

together with its service warranties and guarantees, if any, shall run to Buyer and its customers. These rights of Buyer are in addition to, but shall not be limited to, Seller's Standard Warranties.

## **19.0 Rejections**

If any of the goods are found at any time to be defective in materials or workmanship, or otherwise not in conformity with the requirements of the order, including drawings, specifications, and any other rights which it may have under warranties or otherwise,

Buyer shall have the right to reject and return such goods at Seller's expense. Such goods are not to be replaced without suitable written authorization from Buyer. Buyer shall have all other rights and remedies provided by law. Acceptance of items by Buyer shall not relieve Seller of its responsibilities hereunder.

## **20.0 Packaging**

Packaging shall be in accordance with best commercial practices. Packaging must be done in a manner that prevents deterioration, contamination or other damage to the product.

## **21.0 Deliveries**

Unless otherwise agreed in writing, Seller shall not make material commitments or production arrangements in excess of the amount or in advance of the time necessary to meet Buyer's delivery schedule. It is Seller's responsibility to comply with this schedule, but not to anticipate Buyer's requirements. Goods shipped to Buyer in advance of schedule may be returned to Seller at Seller's expense. Time is of the essence for this purchase order. If Seller fails to make delivery as scheduled by Buyer, fails to perform the services at the time agreed upon, or fails to perform services so as to endanger its ability to make timely delivery or timely performance of service, Buyer reserves the right to cancel, purchase elsewhere, and hold Seller accountable for additional costs or damages incurred by Buyer. It is further agreed that Buyer shall not be held liable and may return to Seller at Seller's expense, including freight both ways, materials, merchandise, equipment, articles, service, or work manufactured, processed, or delivered in excess of this order. If Seller, however, for any reason does not substantially comply with Buyer's delivery schedule, Buyer at its option may either approve a revised delivery schedule or may terminate the order without liability to Seller on account thereof.

## **22.0 Quantities**

It is the Seller's responsibility to furnish the proper quantity called for on this order or in any material arrival schedule placed hereunder. No variation in the quantities specified herein will be accepted as compliance with this order, except by prior written agreement or in. The buyer reserves the right to return excess shipments at Seller's expense.

## **23.0 Buyer's Properties**

Unless otherwise agreed in writing, all tools, equipment, or material of every description, furnished to Seller by Buyer or specifically paid for by Buyer, and any replacement thereof, or any materials affixed or attached thereto, shall be and remain the personal property of Buyer. Such property, and whenever practical, each individual item thereof shall be plainly marked or otherwise adequately identified by Seller as "Property of Arizona Precision Sheet Metal" and shall be safely stored separate and apart from Seller's property. Seller shall not substitute any property for Buyer's property and shall not use such property except in filling Buyer's orders. Such property while in Seller's custody or control shall be held at Seller's risk, and be kept insured by Seller at Seller's expense in the amount equal to the replacement cost with loss payable to Buyer and shall be subjected to removal at Buyer's written request in which event Seller shall prepare such property for shipment and shall redeliver to Buyer in the same condition as originally received by Seller with reasonable wear and tear excepted.

## **24.0 Changes**

No modifications of this order shall be binding on Buyer unless made by a formal amendment signed by an authorized agent of the Buyer. The only representatives empowered to direct changes or to agree to modifications of this order are

authorized representatives of the Buyer's purchasing department. Buyer may unilaterally make changes within the general scope of this order in the shipping instructions, the place of delivery, or the quantity, specifications, or drawings. Seller shall comply without delay.

Seller shall, within one (1) day after receipt of notification transmit to Buyer a statement in detail to the effect of such change in Seller's ability to comply with all provisions of the purchase order. If such changes affect delivery or the amount to be paid by Buyer, Seller shall notify Buyer immediately to negotiate an adjustment. No additional charge will be allowed unless agreed to in writing by Buyer.

## **25.0 Termination**

A. Buyer may terminate this purchase order or any part thereof by written notice of default to Seller under any of the following circumstances:

- If Seller fails to make deliveries or perform the services within the time specified or extension thereof.
- If Seller fails to comply with any other provisions of this order, or so fails to make progress as to endanger performance of this purchase order in accordance with its terms, and does not cure any such failure within five (5) days of written notice from Buyer.
- If Seller becomes insolvent or makes a general assignment for the benefit of creditors or pursues any remedy under law relating to relief of debtors.
- In the event of any fraud by seller.

B. Termination for Buyer's Convenience: Buyer may terminate this order in whole or in part at any time, by notice in writing. Upon receipt of said notice, Seller shall take action to minimize Buyer's cost and to protect Buyer's property.

## **26.0 Stop-Work Order**

Seller shall stop work for a period of up to ninety (90) days in accordance with terms of a written notice received from Buyer, and shall take all reasonable steps to minimize the incurrence of costs.

## **27.0 Compliance with Statutes, Laws, and Regulations**

A. Seller warrants and certifies that in the performance of this Order, it will comply with all applicable statutes, rules, regulations, and orders of the United States, and of any State or political subdivision thereof, including laws and regulations pertaining to labor, wages, hours, and other conditions of employment, and applicable price ceilings, if any, and that the articles delivered hereunder shall be produced in compliance with the Fair Labor Standards Act.

B. Seller shall comply with all applicable Federal, State, and local laws, Government orders, and regulations in performing this Purchase Order. Seller covenants to save and hold Buyer harmless of and from, and to reimburse Buyer for, any and all costs, damages, and expenses (including reasonable Attorney's fees) suffered or occasioned to Buyer directly or indirectly through any failure of Seller to comply with any such laws, regulations, or orders. Seller shall insert a certification on all invoices submitted in connection with this order stating that the goods or services were produced or rendered in accordance with the foregoing representation.

## **28.0 Patent Protection**

To the extent items delivered hereunder are not manufactured pursuant to the detailed designs furnished by Buyer, Seller shall hold Buyer, its agents, customers, and users of its products, harmless from all loss, damage, and liability which may be incurred on account of infringement of United States patent rights with respect to such items and shall, at its own expense, defend all claims, suits, and actions against Buyer, its agents, customers, or the users of its products in which such infringement is alleged, provided

Seller is duly notified of such claims, suits, and actions, and Seller's indemnity shall not apply to any infringements arising from the use or sale of an item delivered hereunder where such infringement would not have occurred from the use or sale of the item solely for the purpose for which it was designed.

## **29.0 Intellectual Property Rights**

Buyer retains all intellectual property rights in the goods provided hereunder and expressly reserves same. This purchase order shall not be deemed to grant any intellectual property rights to seller.

## **30.0 Buyer's Use of Data and Information**

Any knowledge or information which the Seller shall have disclosed or may hereafter disclose to the Buyer in connection with the purchase of the goods or services covered by this order, shall not, unless otherwise specifically agreed upon in writing by the buyer, be deemed to be confidential or proprietary information, and shall be acquitted of any restrictions, (other than a claim for patent infringement) as a part of the consideration for this order.

## **31.0 Properties or Materials Furnished to Seller by the Buyer**

A. Unless otherwise specified in this Order, all designs, tools, patterns, drawings, specifications, and any other information, materials, or equipment, etc., shall remain Buyer's property, and Seller shall not use any such property or information as indicated in the production, manufacture, or design of any other articles or materials, or for the production or manufacture of larger quantities than those specified herein, without first obtaining Buyer's written consent thereto.

Seller shall be fully responsible for all property upon delivery to Seller until re-delivery thereof to Buyer, and shall promptly upon completion of the work deliver all such property and productions there from to Buyer, or, if Buyer demands delivery of same prior to completion of the work, Seller shall deliver such property and productions to Buyer in accordance with the terms of said demand.

B. The Buyer shall hold the Seller liable for the cost of any and all materials or property provided by the Buyer to the Seller, for use in producing or manufacturing the goods ordered under this purchase order. If, as a result of negligence or mishandling on the part of the Seller or any of its subcontractors, Buyer-furnished materials or property is misused, wasted, or destroyed in the processing of such materials or property, the Buyer reserves the right to recover all and any reasonable costs or loss incurred by the Buyer in having been subjected to such negligent wasteful acts on the part of the Seller or its subcontractors. Reimbursement of such incurred costs or loss on the part of the Buyer will be accomplished by an appropriate method, as directed by the Buyer, such as direct repayment or as a credit reduction in the amount of this order.

C. Restrictions in this clause do not apply to the U.S. Government.

## **32.0 Specifications**

Seller shall comply with all specifications stated on the face of this order or contained in any documents referred to herein.

## **33.0 Order of Precedence**

A. Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence:

- Typed provisions on the face of this Order
- Purchase Order Attachments
- The printed portion of this Order, including these Terms and Conditions
- Statement of work
- Specifications attached or incorporated by reference.

B. Buyer's specifications shall prevail over those of the Buyer's customer, and shall prevail over those of Seller.

### **34.0 Controversy or Claims**

Any controversies or claims arising hereunder shall be subject of exclusive jurisdiction and venue in Maricopa county Arizona and seller agrees to personal jurisdiction therewith. In the event of any dispute arising hereunder the prevailing party shall be entitled to recover its reasonable attorney's fees, expenses and costs incurred therewith. Purchase Order Terms and Conditions.