

Terms and Conditions

1. **ACCEPTANCE AND TERMS AND CONDITIONS** (a) Seller should accept the order and any amendments thereto by signing the acceptance copy and returning it to Purchaser promptly. (b) By acceptance of this order, Seller agrees to be bound by, and to comply with all the terms and conditions of this order, including any supplements thereto, and all specifications and other documents referred to in this order. However, performance of the work called for by this order in the absence of the Seller's written acknowledgement thereof shall be deemed acceptance of this order. (c) This order does not constitute an acceptance by Purchaser of any offer to sell, any quotation, or any proposal. Reference to this order to any such offer to sell, quotation, or proposal shall in no way constitute a modification of any of the terms and conditions of this order. **AN ATTEMPTED ACKNOWLEDGEMENT OF THIS ORDER CONTAINING TERMS AND CONDITIONS INCONSISTENT WITH OR IN ADDITION TO THE TERMS AND CONDITIONS OF THIS ORDER IS NOT BINDING UPON PURCHASER UNLESS SPECIFICALLY ACCEPTED BY PURCHASER IN WRITING AND PURCHASER HEREBY OBJECTS THERETO.**
2. **DEFAULT:** Time is of the essence of this Purchase Order, except in instances of delay which are due to causes beyond the reasonable control and without the fault or negligence of Seller and all of its suppliers, direct and indirect at every subcontract level. Purchaser may, by written notice of default to seller (a) terminate the whole or any part of this order in any one of the following circumstances (I) If Seller fails to perform within the time specified herein or any extension thereof; or (II) If Seller fails to perform any of the other provisions of this order, or so fails to make progress as to endanger performance of this order in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of ten (10) days or such longer period as Purchaser may authorize in writing after receipt of notice from Purchaser specifying such failure and (b) procure, upon such terms as it shall deem appropriate, supplies or services similar to those so terminated. Seller shall continue performance of this order to the extent not terminated and shall be liable to Purchaser for any excess costs for such similar supplies or services. As an alternate remedy, and in lieu of termination for default, Purchaser, at its sole discretion, may elect (1) to extend the delivery schedule and / or (2) to waive other deficiencies in Seller's performance, in which case an equitable reduction in the purchase order price shall be negotiated. In the event Seller for any reason anticipates difficulty in complying with the required delivery date, or in meeting any of the other requirements of this order, Seller shall promptly notify Purchaser in writing. If Seller does not comply with Purchaser's delivery schedule, Purchaser may require delivery by fastest way and charges resulting from the premium transportation must be fully prepaid and absorbed by the Seller. The rights and remedies of the Purchaser provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this purchase order.
3. **INSPECTION:** (a) All goods (which term throughout this order includes without limitation raw materials, components, intermediate assemblies, tools, end products and processes) shall be subject to inspection and test by the Purchaser and its Customer (which term throughout this clause shall include, without limitation, the Federal Government, including its surveillance and / or regulatory agencies) in the extent practicable at all times and places, including the period of manufacture and in any event prior to final acceptance by the Purchaser and its Customer. (b) If any inspection or test is made on the premises of Seller or its supplier, Seller without additional charge shall provide all reasonable facilities and assistance for the safety and convenience of the inspector in the performance of their duties. All inspections and tests on the premises of Seller or its supplier shall be performed in such a manner as not to unduly delay the work. (c) Final acceptance or rejection of the goods shall be made as promptly as practical after delivery, except as otherwise provided in this order, but failure to inspect and accept or reject goods or failure to detect defects by inspection, shall neither relieve Seller from the responsibility for such goods as are noted in accordance with the order requirements nor impose liabilities on Purchaser therefore. (d) Seller shall provide and maintain an inspection and process control system acceptable to Purchaser and its Customer covering the goods hereunder. Records of all inspection work by Seller shall be kept complete and available to Purchaser and its Customer during the performance of this order and for such longer periods as may be specified in this order. (e) Right of Access – right of access by the organization, their customer, and regulatory authorities to all facilities involved in the order and to all applicable records, and requirements of the supplier to flow down to sub-tier suppliers the applicable requirements in this purchasing documents, including key characteristics where required. Buyer shall be entitled to commence such audit no later than five (5) days after Buyer notifies Supplier. (f) A Certificate of Conformance, when required, must accompany the items from Seller's facility, including a statement of the condition of the item, backup data on file for inspection, and signed by an authorized representative of the Seller. Should such certification not accompany the shipment, items will be held in quarantine and no payment will be processed until the proper certification is received. All Certifications and related documentation must be retained on file by SELLER for a period of at least ten (10) years after completion of this order.
4. **WARRANTIES:** (a) Seller warrants that all goods and services sold hereunder or pursuant thereto will be free of any claim of any nature by any third person and that Seller will convey clear title thereto to Purchaser as provided hereunder. (b) Seller warrants and represents that all goods sold hereunder or pursuant hereto will be of merchantable quality, free from all defects in design, workmanship and materials, and will be fit for the particular purposes for which they are purchased and that the goods are provided in strict accordance with the specifications, samples, drawings, designs or other requirements (including performance specifications) approved or adopted by Purchaser. (c) Any attempt by Seller to limit, disclaim, or restrict any such warranties or any remedies of Purchaser, by acknowledgement or otherwise, in accepting or performing this order, shall be null, void, and ineffective without Purchaser's written consent.
5. **REJECTIONS:** If any of the goods ordered are found at any time to be defective in material or workmanship, or otherwise not in conformity with the requirements of this order, including any applicable drawings and specifications, Purchaser, in addition to such

other rights, remedies and choices as it may have by contract or by law, at its option and sole discretion may, (a) reject and return such goods at Seller's expenses, (b) require Seller to inspect the goods and remove and replace nonconforming goods with goods that conform to this order. If Purchaser elects option (b) above and Seller fails to promptly make the necessary inspection, removal and replacement, Purchaser may at its option inspect and sort the goods, Seller shall pay the cost thereof. If this purchase is a value added process and the hardware/ material is destroyed by Seller an agreed upon back charge for Purchaser's hardware/ material will apply to compensate for the loss of Purchase's property.

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

7. **CHANGES:** The Purchaser may at any time, in writing, make changes within the general scope of this Purchase Order, in any one or more of the following: I. drawings, designs or specification where the goods to be furnished are to be specially manufactured for the Purchaser in accordance therewith. II. If method of shipment or packing. III. Place of delivery. IV. The amount of Government furnished property. If any such change causes an increase or decrease in the cost of or the time required for the performance of any work under this contract, whether changed or not changed an equitable adjustment shall be made in the contract price or delivery schedule, or both, and the Purchase Order shall be modified in writing accordingly. Any claim by the Seller for adjustment under this clause must be asserted within thirty (30) days from the date of receipt by the Seller of the notification of change provided, however, that the Purchaser, if it so chooses, may receive and act upon any such claim asserted at any time prior to final payment under his contract. Any change in this order shall be authorized only by a duly executed Purchase Order Amendment hereto.

8. **NON-ASSIGNMENT:** Assignment of this order or any interest herein or any payment due or to become due hereunder without the written consent of the Purchaser shall be void. No Work Transfer shall be permitted in any context without express written consent of Endicott Precision.

9. **SET-OFF:** Purchaser shall be entitled at all times to set off any amount owing at any time from Seller to Purchaser or any of its affiliated companies against any amount payable at any time by Purchaser in connection with this order.

10. **COMPLIANCE WITH LAWS:** Seller agrees to comply with the applicable provisions of any federal, state, or local law or ordinance and all lawful orders, rules and regulations issued there under. Seller shall also comply with any provisions, representations or agreements, or contractual clauses required thereby to be included or incorporated by reference or operation of law in the contract resulting from acceptance of this order dealing with Equal Opportunity, Employment of Veterans, Employment of the Handicapped, Employment Discrimination Because of age or Utilization of Disadvantaged Business Enterprises. Seller certifies that with respect to orders which exceed \$10,000 it is in compliance with the requirements for nonsegregated facilities set forth in 41 CFR Chapter 60-1.8. Seller warrants that each chemical substance constituting or contained in goods sold or otherwise transferred to Purchaser hereunder is on the list of chemical substances compiled and published by the Administrator of the Environmental Protection Administration pursuant to the Toxic Substances Control Act (PL 94-469) as amended. Further, Seller certifies and guarantees that the goods supplied hereunder are in compliance with applicable sections of the Federal Consumer Product Safety Act (PL 92-573) as amended, and the Federal Hazardous Substances Act (PL 92-516) as amended, and lawful standards and regulations there under. Further, in accepting this order, Seller represents that the goods to be furnished hereunder were or will be produced in compliance with the requirements of the Fair Labor Standards Act of 1938, as amended including Section 12(a) and Seller shall insert a certificate to that effect on all invoices submitted in connection with this order.

11. **CONFIDENTIAL OR PROPRIETARY INFORMATION:** Any knowledge or information which the Seller shall have disclosed or may hereafter disclose to the Purchaser, and which in any way relates to the goods or services covered by this order and Purchaser's Material Schedule, shall not, unless otherwise specifically agreed to in writing by the Purchaser, be deemed to be confidential or proprietary information, and shall be acquired by Purchaser, free from any restrictions (other than a claim for patent infringement), as part of the consideration for this order and Purchaser's Material Schedule.

12. **FOR WORK ON PURCHASER'S OR ITS CUSTOMER'S PREMISES:** If Seller's work under the order involves operations by Seller on the premises of Purchaser or one of its Customers, Seller shall take all necessary precautions to prevent the occurrence of any injury to persons or damage to property during the progress of such work and, except to the extent that any such injury or damage is due solely and directly to Purchaser's or its Customer's negligence, as the case may be, shall defend and indemnify Purchaser against any claim which may result in any way from any act or omission on the Seller, its agents, employees, or subcontractors, Seller shall maintain Comprehensive General Liability (including Contractual Liability coverage insuring the liabilities assumed above) Automotive Liability and Employer's Liability Insurance with limits as reasonably required by Purchaser, as well as appropriate Workers' Compensation Insurance as well as protect Seller from all claims under any

applicable Worker's Compensation and Occupational Disease Act. Seller shall furnish to Purchaser a Certificate of Insurance completed by its insurance carrier(s) certifying that the required insurance coverages are in effect and will not be cancelled or materially changed until ten days after prior written notice has been delivered to the Purchaser, listing on the Certificate of Insurance Endicott Precision Inc., as the Certificate Holder.

13. **INSOLVENCY:** If Seller ceases to conduct its operations in the normal course of business, including inability to meet its obligations as they mature, or if any proceeding under the bankruptcy or insolvency laws is brought by or against Seller or a receiver for Seller is appointed or applied for or an assignment for the benefit of creditors is made by the Seller, Purchaser may terminate this order without liability, except for deliveries previously made or for goods covered by the order then completed and subsequently delivered in accordance with the terms of the order.

14. **TERMINATION:** The Purchaser may terminate all or any part of this order at any time by written notice to Seller. Upon termination, Purchaser and Seller shall negotiate reasonable termination charges which will be identified by Seller within 30 days of termination, in accordance with defense acquisition regulation 8-076.

15. **INFORMATION:** Seller shall keep confidential any technical, process or economic information derived from drawings, specifications and other data furnished by Purchaser in connection with this order and shall not divulge, directly or indirectly, such information for the benefit of any other party without obtaining Purchaser's prior written consent. Except as required for the efficient performance of this order, Seller shall not use such information or make copies or permit copies to be made of such drawings, specifications, or other data without the prior written consent of Purchaser. If any reproduction is made with prior consent, notice referring to the requirements of the foregoing paragraph shall be provided thereon. Upon completion or termination of this order, Seller shall promptly return to Purchaser all materials incorporating any such information and any copies thereof, except for one record copy. All contractors that provide goods and/or services in connection with U.S. Department of Defense (DOD) programs are required by law to comply with Defense Federal Acquisition Regulation Supplement (DFARS) 252.204-7012, which mandates the protection of all Covered Defense Information (CDI) that are "collected, developed, received, transmitted, used, or stored by or on behalf of the contractor in support of the performance" of a DOD contract. This obligation is required to be flowed down to all subcontractors (including commercial items suppliers) at every tier.

16. **ENTIRE AGREEMENT:** This Purchase Order, with such documents as are expressly incorporated herein by reference, is intended by the parties as a final expression of their agreement with respect to such terms as are included herein, and is intended also as a complete and exclusive statement of the terms of their agreement. No course of prior dealings between the parties and not usage of the trade shall be relevant to determine the meaning of this agreement even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity for objection.

17. **WAIVER:** No claim or right arising out of a breach of this contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. The failure of Purchaser to enforce at any time or for any period of time any of the provisions hereof shall not be construed to be a waiver of such provisions or of the right of Purchaser thereafter to enforce each and every such provision.

18. **PATENTS:** Seller shall defend any suit or proceeding brought against Purchaser or its customers that is based on a claim that any article or apparatus, or any part thereof constituting goods furnished under this order for Purchaser's Material Schedule, as well as any device or process necessarily resulting from the use thereof, constitutes an infringement of any patent of the United States. If notified promptly in writing and given authority, information, and assistance (at Seller's expense) for the defense of same and Seller shall pay all damages and costs awarded therein. In case use of said article or apparatus, part, device or processes is enjoined, Seller shall at its own expense and at its option, seek procurement from Purchaser the right to continue using said article or apparatus, part or device, replace same with a non-infringing equivalent, or remove said article or apparatus and refund the purchase price and transportation and installation costs thereof.

19. **INTERNATIONAL PURCHASES:** Appropriate revisions to the Conditions of Purchase and the Purchase Order form may be needed for international purchases. If the domestic form is used, at a minimum, the following clause must be included.

FOREIGN PURCHASES

(a) If the front side indicates Purchaser is Importer of Record, the following applies to all transactions involving imported goods; (b) does not apply.

ANTI-DUMPING: Seller warrants that all sales made hereunder are or will be made at not less than fair value under the United States Anti-dumping Law (19 U.S.C. Sec 160 et. seq.) and Seller will indemnify, defend and hold Purchaser harmless from and against any costs or expenses (including but not limited to any anti-dumping duties which may be imposed) arising out of or in connection with any breach of this warranty.

(b) If front side indicates Seller is Importer of Record, the following apply to all transactions involving imported goods; (a) does not apply.

20. **PUBLICATIONS:** The Seller agrees that no acknowledgement or other information concerning the order and the supplies or services provided hereunder will be made public by the Seller without the prior written agreement of the Purchaser.

21. **EXTRA CHARGES:** No extra charges of any kind will be allowed unless specifically agreed to in writing by the Purchaser.

22. **TRANSPORTATION:** Unless otherwise stipulated on the face of this order, goods covered by this order shall be shipped "COLLECT", by truck as agreed upon by Buyer & Seller. No Charges for unauthorized transportation will be allowed. Any unauthorized shipment which will result in excess transportation charges must be fully prepaid by the Seller. Seller shall not declare any value on such material shipped via United Parcel Service, Rail Express, Air Express, Air Freight or Parcel Post. Seller shall release rail or truck shipments at the lowest released valuation permitted in the governing tariff or classification.
23. **ANTICIPATION OF DELIVERY SCHEDULE:** 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 Purchaser's delivery schedule. It is Seller's responsibility to comply with this schedule, but not to anticipate Purchaser's requirement. Goods shipped to Purchaser in advance of schedule may be returned to Seller at Seller's expense.
24. **MODIFICATION:** This agreement can be modified or rescinded only by a writing signed by both of the parties or their duly authorized agents.
25. Endicott Precision, Inc. reserves the right to refuse acceptance of purchased materials where items are identified as failing in the scope of the Hazard Communications Standard. Current OSHA 20 (or its equivalent) data sheets are not on record with Endicott Precision, Inc.
26. **DFARS SPECIALTY METAL COMPLIANCE:** Unless otherwise specified, any specialty metals provided or incorporated into items delivered under this purchase order including any portion thereof in any subcontract shall be melted or produced in the United States, its outlying areas or a qualifying country per DFARS clause 252.225-7009, paragraphs (a), (b), (c) and (e)(2).
27. **NONCONFORMANCE OF PRODUCT:** If at any time Supplier becomes aware that shipped material is nonconforming product, Supplier must immediately notify buyer to negotiate arrangements for disposition. Endicott Precision, Inc. does not accept nonconforming material, and no oral agreement or action of any kind may alter this provision without specific written agreement by Endicott Precision, Inc.
28. **CHANGE IN PRODUCT AND/ OR PROCESSES:** Any change in the product and/ or process definition and/ or site of manufacture or changes in ownership, changes in quality control procedures and any changes in QPL must be made known in advance of shipment to Endicott Precision, Inc. for authorization/ approval.
29. **FLOW DOWN REQUIREMENTS:** Suppliers shall flow down to their sub-tier suppliers any applicable Endicott Precision, Inc. requirements as defined in the purchasing documents (PO, Terms and Conditions, etc.) and shall be compliant to the requirements of AS9100 as applicable to this order.
30. **DPAS RATING SYSTEM:** A DPAS rating indicates that the order is certified for National Defense use, and that you are required to follow all provisions of the Defense Priorities and Allocations System regulation (15 CFR 700).
31. **DETECTION AND PREVENTION OF COUNTERFEIT MATERIAL:** Seller is responsible to ensure that no counterfeit items or material(s) are present in any articles delivered under this Purchase Order including any portion thereof from any member of the supply chain by maintaining an internal counterfeit item/ material risk mitigation process in accordance with AS5553 as applicable.
32. **FOREIGN OBJECTS DAMAGE OR DEBRIS:** The Seller is to maintain a system to ensure that all articles delivered under this Purchase Order are free of contamination and Foreign Object Debris (FOD) as defined by NAS412 as applicable to the Seller's individual products and services. Seller is responsible to keep all contamination, FOD and potential FOD, large or small, from the any part of the product or packaging.
33. **BUY AMERICAN:** Unless otherwise specified or unless the items delivered under this contract are commercially available off-the-shelf items (COTS) as defined in FAR 2.101, items delivered under this contract and every portion thereof shall comply with FAR clause 52.225-1.
34. **ETHICS:** Endicott Precision, Incorporated requires all members of its supply chain to practice and enforce ethical behavior and business practices at its organization and that of its subcontractors. Any supplier suspected of practicing or supporting unethical behavior, including but not limited to human Trafficking, fraud or environmental pollution, will be subject to immediate suspension as an approved supplier and reported to legal authorities as applicable.
35. **AWARENESS:** The seller is to ensure that all persons who contribute to products or services supplied to Endicott Precision Inc. are aware of their contribution to product or service conformity; their contribution to product safety; the importance of ethical behavior.
36. **CERTIFICATION REQUIREMENTS FOR SPECIAL PROCESSES:** If a governing specification requires consumable conformance to the DLA's (Defense Logistics Agency) QPL (Qualified Products List), a manufacturers Certificate of Conformance (Analysis) and chain of custody (traceability) documents such as a packing slip are required as part of the Certification Package of the process performed.