



MGI/Metalgraphics, Inc.

Standard Terms and Conditions

www.mgius.com

1) ACCEPTANCE

Acceptance of this Order is limited to the terms and conditions stated herein. Any additions, deletions or difference in the terms proposed by Seller are objected to and hereby rejected unless Buyer (MGI) agrees otherwise in writing.

2) DELIVERY AND RISK OF LOSS

Buyer's (MGI's) production schedules and warranties to its customers are dependent upon the agreement that deliveries of the goods covered by this Order will occur on the date(s) shown on the face hereof. TIME IS OF THE ESSENCE. Seller shall be responsible for all damages of any kind incurred by Buyer which were caused by any delay or failure of Seller in making deliveries. Seller agrees to notify Buyer immediately if, at any time, it appears that Seller may not meet the delivery schedule. Such notifications shall include the reasons for the delay, actual or potential, the steps being taken to remedy the delay, and the schedule Seller believes it will be able to meet. Buyer's receipt of notice shall not constitute approval of the delay or the proposed revised delivery schedule of a waiver of the delivery schedule specified in the Order. Any assistance furnished by Buyer to overcome delays shall not be regarded as waiving Buyer's remedies for default, including termination rights, if Seller fails to meet the delivery schedule, unauthorized advance shipments and shipments other than for the quantity ordered or in excess of any allowable overages are returnable at Buyer's option and at Seller's expense. Seller shall not be excused from performing its obligations hereunder if the goods identified are destroyed. Delivery shall not be deemed complete until the goods have been actually received and accepted by Buyer at its facility, including the Specified quality certifications. The cost of all return shipments shall be borne by Seller.

3) WARRANTIES

All warranties of Seller, whether created by law or in fact, are incorporated herein by reference and shall include, and are hereby supplemented by, the following express warranties:

- a. The goods shall comply with any and all specifications, drawings, samples, or other descriptions furnished by Buyer;
- b. The goods shall be merchantable, and of good material and workmanship, free from defect, and suitable for their intended purpose: and
- c. Except in the case of goods for which Buyer furnishes complete and detailed design and manufacturing drawings, the manufacture and sale by Seller of the goods, the use, resale, installation and intended use of the goods by Buyer, and disclosures by Seller to Buyer in any manner hereunder shall not infringe upon or violate the legal or equitable rights of any person, corporation or partnership arising out of any license or franchise, or out of any patent, trademark, or other proprietary right, now or hereafter in effect.

All obligations of Seller in this "Warranties" clause shall survive acceptance of a final payment for the goods. Seller shall indemnify and hold harmless Buyer from and against all liabilities, damages, costs and expenses resulting from any other act or omission by Seller, its agents or employees.

4) INSPECTION

Buyer reserves the right to inspect all goods prior to shipment by Seller, and in furtherance thereof, Seller shall permit right of access to MGI/Metalgraphics employees, customer and regulatory authorities to the applicable areas of all facilities, at any level of the supply chain, involved in the order and to all applicable records, in addition representatives of Buyer or Buyer's customer to have access to Seller's facility at all reasonable working hours. If the face of this Order stipulates that the goods shall be subject to inspection at Seller's facility, Seller shall provide reasonable space and assistance for the safety and convenience of representatives of Buyer and its customer. At the time of the inspection, Seller shall make available to such representatives copies of all drawings, specifications and other technical data applicable to the goods ordered.

Final inspection and acceptance shall take place at Buyer's plant. Notwithstanding prior inspection or payment for the goods and services ordered, all such articles are subject to final inspection and acceptance at destination within a reasonable time after delivery and Buyer shall have the right to reject any goods or services found defective or not in conformance with specifications. At Buyer's option, rejected articles may be returned for full credit or refund, or a reasonable reduction in the contract price shall be made to compensate Buyer for the difference in value between acceptable goods and the goods delivered by Seller.

All records must be maintained for no less than ten (10) years. These documents can be on-site or in an archived location. Access time to these documents must take no more than two (2) working days.

5) CHANGES

- a. No modification of, addition to, or waiver of any provision or requirement of this Order shall be binding on buyer unless made by written order by Buyer's Purchasing Department authorizing such change.
- b. Buyer may, at any time, by written direction, and without notice to any sureties or assignees, make changes in the drawings, specifications, quantities, delivery schedules, and methods of packaging or shipping. Should any such change increase or reduce the cost of, or the time required for performance of an order, an equitable adjustment will be made in the contract price or delivery schedule. Provided, however, any request for an increase in the contract price or any extension in delivery schedule must be made within fifteen (15) working days from the date of such written direction. Failure to agree upon an equitable adjustment shall not relieve the Seller from proceeding without any delay in performance under this Order, as changed.
- c. Where the cost of any property is made obsolete or excess as a result of any change for which Seller makes a claim, Buyer shall have the right to prescribe the manner of disposition of such property.

6) PACKING AND SHIPPING

Seller shall mark, pack, and ship only as specified or as subsequently directed in writing, and in shipment. No separate or additional charge is payable for containers, crating, boxing, bundling, dunnage, drying or storage, unless otherwise stated in this Order. Goods must be shipped prepaid at Seller's expense. Each package shall be marked to show the Purchase Order number and include a packing slip and quality certifications in each package.

7) TAXES AND PRICE

- a. Except as otherwise specified herein, or as prohibited by law, Seller shall pay all sales, use, excise or other taxes, federal, state and local, that may be levied upon any of the goods, or the parties hereto, by reason of the sale, delivery or use of the goods. All taxes of any nature which are billed to Buyer shall be specifically identified and separately stated. If any tax or portion thereof which is included or added to the price paid to Seller is subsequently refunded to Seller, Seller shall promptly pay to Buyer the amount of such refund.
- b. Seller warrants that the price charged for the goods is no higher than that charged other purchasers for commodities of like grade and quality.

8) PAYMENTS

Payment shall be made upon the submission of proper duplicate invoices to Buyer's Accounts Payable Department for goods delivered and accepted. With respect to any discount offered, time shall be computed from the date of delivery, date of acceptance, or from the date a proper invoice is received by Buyer, whichever is later. Payment is deemed to be made for the purpose of earning a discount; on the date Buyer's check is mailed.

9) TECHNICAL DATA

If required as part of its performance hereunder, Seller shall, on or before delivery of any goods, supply any and all printed materials, such as catalogs, drawings, certified prints, parts lists, service and technical manuals, and diagrams relating to such goods. The failure of Seller to deliver the foregoing printed material shall constitute a basis for non-payment of the request of Buyer shall be and remains the property of Buyer and shall be delivered to Buyer on demand. All drawings, data designs and other technical information furnished by buyer shall remain the property of Buyer and shall be held in confidence by Seller. Provided, however, Seller may use such drawings, data designs, and other technical information to produce items for direct sale to the U.S. government where the U.S. government has the right to use the technical information required to produce such items.

10) **BAILMENT**

Unless otherwise provided herein, all supplies, materials, drawings, manuals, facilities, tools, jigs, dies, fixtures, patterns or equipment furnished or paid for by Buyer shall remain the property of Buyer. Seller shall bear the risk of all loss and damage thereto, reasonable wear and tear excepted, while such property is in Seller's actual or constructive possession. Such property shall be properly housed and maintained by Seller, shall not be commingled with the property of Seller or others, shall not be moved from Seller's premises without prior written authority from Buyer, and shall upon request by Buyer, be immediately returned to Buyer. Further, such property shall be identified and marked by Seller as Buyer's property and shall be used only as expressly authorized by Buyer. Such property shall be adequately insured by Seller for any and all losses while in Seller's possession, and shall be returned to Buyer in the same condition as when received, reasonable wear and tear expected.

11) **INDEMNIFICATION**

To the extent that Seller's agents, employees or subcontractors enter upon premises occupied by or under the control of Buyer, Seller shall indemnify and hold Buyer harmless against all liabilities, losses, damages and expenses, including attorney's fees and court costs, for losses, damages or expenses are due solely and directly to Buyer's negligence.

12) **ASSIGNMENT**

- a. Neither this Order nor any interest herein may be assigned, in whole or in part, by Seller without the prior written consent of Buyer, except that without obtaining such consent, Seller may assign this Order to any successor by way of merger or consolidation or the acquisition of substantially all the assets and business of Seller. This right shall be retained provided that such successor shall expressly assume all the obligations and liabilities of Seller under this Order and Seller shall also remain liable to Buyer.
- b. Notwithstanding subparagraph a, any amounts due or to become due may be assigned by Seller, provided that such assignment shall not be binding upon the buyer until the written assignment document is received by Buyer. Any such assignment shall be subject to Buyer's rights of set-off and recoupment without prior notice to the assignee.
- c. Neither all nor substantially all of this Order may be subcontracted by Seller without the prior written consent of Buyer.

13) **REMEDIES AND WAIVER**

The remedies herein reserved or created shall be cumulative and additional to any other or further remedies provided at law or in equity. The failure of either party to insist on performances of any provision of this Order shall not be construed as a waiver of that provision in any later instance.

14) **HEADINGS**

The headings used herein are for reference purposes only and they shall not affect the meaning or interpretation of this order.

15) **SEVERABILITY**

Any provision of this Order prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remaining provision hereof.

16) **COMPLIANCE WITH LAWS**

- a. Seller shall comply with all laws, legal directives and regulations in its performance under this Order. In the event that the goods do not conform to any legal requirement and Buyer is penalized for such nonconformance, Seller shall indemnify Buyer for all penalties, costs and expenses, including interest, levied against buyer.
- b. Sellers who furnish materials listed on California Industrial Relations Director's List of Hazardous Substances must furnish with the delivery of goods a Material Safety Data Sheet which conforms to the California Hazardous Substances and Training Act.

17) TERMINATION

- a. Buyer shall have the right, at any time and for any reason, to terminate this Order in its entirety or in part for its convenience, and not as a breach, in accordance with the provisions of FAR 52.249-2, Federal Acquisition Regulations, entitled "Termination for Convenience". As used in that clause, "Contracting Officer" means "Buyer's Purchasing Representative" and "Government" means "Buyer", except in paragraph (m). In paragraph (c), the term "45" days is changed to "90" days. The term "1 year" in paragraph (d) is changed to "6 months". If the government is unwilling or unable in a timely manner to conduct any audit of Seller's books and records, an audit may be conducted by an independent certified public accounting firm selected by Buyer.
- b. In addition to the rights conferred in subparagraph a, Buyer may terminate this Order for Seller's breach if Seller fails to make any delivery in accordance with the schedule set forth, for failure to comply with any of the other requirements or Terms and Conditions of this Order, or for failure to make progress under this Order so as to endanger performance of this Order, and does not cure such failure within a period of ten (10) days after notice from buyer. In the event of termination for Seller's breach, buyer may procure the supplies or service elsewhere and on such terms as Buyer may deem appropriate and Seller shall be liable for Buyer's excess re-procurement costs. Further, Seller shall be liable to Buyer for any other damages occasioned by Seller's breach.

18) PRICE WARRANTY

Offeror warrants that the prices of the items set forth in the proposal/quotation do not exceed those charged by Offeror to any other customer purchasing the same items in like or smaller quantities, under similar conditions of purchase.

19) DISPUTES

Either party may litigate and dispute arising under or relating to this Order before any court of competent jurisdiction. Pending resolution of any such dispute by settlement or by final judgment, the parties shall proceed diligently with performance. Seller's performance shall be in accordance with Buyer's written instructions.

20) CHOICE OF LAW

Irrespective of the place of performance, this Order will be construed and interpreted according to the federal common law of government contracts as enunciated and applied by federal judicial bodies and boards of contract appeals. To the extent that the federal common law of government contracts is not dispositive, the laws of the state from which buyer's Order is issued shall apply.

21) GRATUITIES

This Order may be terminated for Seller's breach if Seller, or any of its employees or representatives, offered or gave a gratuity to any employee of Buyer and intended, by that gratuity, to obtain an order or favorable treatment from Buyer.

22) CHANGE OF PRODUCT, PROCESS OR FACILITIES

As defined on the purchase order the supplier/manufacturer shall not implement any changes in design, materials, processes, or control without prior written approval from MGI. MGI must be notified in the event of a change in manufacturing facility location, a change in suppliers and where required obtain MGI approval. The intent of this requirement is to ensure that all material supplied under this order will be homogeneous and the performance, reliability, and quality of the material is not degraded. Changed articles shall be clearly identified, and in a manner different from the original articles.

23) ADDITIONAL CLAUSES WHERE FEDERAL GOVERNMENT IS INTERESTED PARTY

Where the face of this Order bears a government contract number, the following clauses from the Federal Acquisition Regulations (FAR) and any successor clauses are specifically incorporated by reference. The text of the following clauses are subject to the following definitions and modifications: "Contractor" means "Seller", "Subcontractor" means "Seller's Subcontractor(s)", "Contract means this "Order", "Government" means "buyer", and "Contracting Officer" means "Buyer's Purchasing Representative".

24) QUALITY SYSTEM

Supplier's quality system must meet or exceed one of the four requirements when manufacturing or processing products for resale by MGI/Metalgraphics below A2, B2, C2 or D2.

A2. MIL-I-45208

The supplier's quality system shall comply with military specification MIL-I-45208, inspection system requirements.

B2. MIL-Q-9858

The supplier's quality system shall comply with military specification MIL-Q-9858, quality program requirements.

C2. ISO 9001:2000

The supplier's quality system shall comply with military specification ISO 9001:2000, inspection system requirements.

D2. AS9100

The supplier's quality system shall comply with military specification AS9100, inspection system requirements.

25) TRACEABILITY OF MATERIALS – GENERAL

As defined on the purchase order the supplier shall provide traceability information to MGI on all materials, parts, and assemblies used in fabricating the product. Traceability shall be maintained to the supplier's procurement documents for materials used on this order.

26) NONCONFORMING MATERIAL

As defined on the purchase order the seller is not authorized to perform material review action of nonconforming material, with the intent of delivering such nonconforming materials without expressed written authorization from MGI. Disposition of any departures from drawings, specifications, or other purchase order requirements must be approved by MGI quality assurance prior to shipment.

Upon identification of nonconforming material, MGI is to be notified immediately. This notification must in written form on the vendors' letterhead. The nonconforming notice shall reference our part number, purchase order number, quantity affected, and the discrepancy found.

27) RESUBMITTAL OF REJECTED MATERIAL

As defined on the purchase order all material rejected by MGI and subsequently resubmitted by the supplier to MGI shall bear adequate identification of such resubmission either with the material or on the supplier's shipping document.

Reference shall be made to MGI's NCR# and evidence given that the causes for rejection have been corrected.

Government source inspected material must have evidence that the resubmission has also been re-inspected by the government representative.

28) Fars/Dfars

FARS/DFARS listed are apply to all orders as applicable.

- 52.203-1 Officials Not to Benefit.
- 52.203-5 Covenant Against Contingent Fees.
- 52.204-2 Security Requirements.
- 52.210-5 New Material.
- 52.212-8 Defense Priority and Allocations Requirements.
- 52.212-13 Stop Work Order.
- 52.215-1 Examination of Records by Comptroller General.
- 52.215-2 Audit – Negotiation.
- 52.215-22 Price Reduction for Defective Cost or
- 52.215-23 Pricing Data.
- 52.215-24 Subcontractor Cost and Pricing Data.
- 52.215-25 Subcontractor Cost and Pricing Data.
- 52.219-8 Utilization of Small Business Concerns.
- 52.219-13 Utilization of Women-Owned Small Businesses.
- 52.220-3 Utilization of Labor Surplus Area Concerns.
- 52.222-1 Notice to Government of Labor Disputes.
- 52.222-4 Contract Work Hours and Safety Standards Act – Overtime Compensation.
- 52.222-26 Equal Opportunity [Subparagraph (c) is not applicable]
- 52.222-35 Affirmative Action for Specially Disabled and Vietnam Vets.
- 52.222-36 Affirmative Action for Handicapped Workers.

52.223-2	Clean Air and Water.
52.223-7002	Safety Precautions for Ammo and Explosives.
52.225-3	Buy American-Supplies.
52.225-8	Duty Free Entry.
252.225-7014	Preference for Domestic Specialty Metals.
52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement.
52.227-3	Patent Indemnity.
52.227-9	Refund of Royalties.
252.227-7013	Data Clauses
252.227-7015	Technical Data Commercial Items
252.227-7018	Technical Data Software Acquisition
252.227-7026	Deferred Delivery of Technical Data
252.227-7030	Technical Data-With holding of payment
252.227-7031	Technical Data and Software Clause
52.229	Federal, State, and Local Taxes.
52.230-3	Cost Accounting Standards.
52.242-7	Notification of Changes.
252.243-7001	Pricing of Adjustments.
52.245-2	Government Property.
52.245-17	Special Tooling.
52.245-18	Special Test Equipment.
52.246-1	Contractor Inspection Requirements.
52.246-16	Responsibility for Supplies.
52.246-23	Limitation of Liability.

29) Counterfeit Goods

(a) Seller warrants the goods delivered pursuant to this Purchase Order, unless specifically stated otherwise in this Purchase Order, shall (i) be new; (ii) be and only contain materials obtained directly from the Original Equipment Manufacturer (OEM) or an authorized OEM reseller or distributor; (iii) not be or contain Counterfeit Items; (iv) contain only authentic, unaltered OEM labels and other markings; and (v) be free from defects in workmanship, materials, and design and be in accordance with all the requirements of this Purchase Order. Seller further warrants that the performance of work and services shall conform with the requirements of this Purchase Order and to high professional standards. These warranties shall survive inspection, test, final acceptance and payment of goods and services.

(b) Definition, a Counterfeit Item is defined to include, but is not limited to, (i) an item that is an illegal or unauthorized copy or substitute of an Original Equipment Manufacturer (OEM) item; (ii) an item that does not contain the proper external or internal materials or components required by the OEM or that is not constructed in accordance with OEM design; (iii) an item or component thereof that is used, refurbished or reclaimed but Seller represents as being a new item; (iv) an item that has not successfully passed all OEM required testing, verification, screening and quality control but that Seller represents as having met or passed such requirements; or (v) an item with a label or other marking intended, or reasonably likely, to mislead a reasonable person into believing a non-OEM item is a genuine OEM item when it is not.

30) Code of Conduct

The seller understands and accepts their contribution to the quality of the product, their contribution to the safety of the product, and the ethical behavior used during the completion of the order.

31) Supplier Code for DRC Conflict Free minerals :

MGI has the following expectations of its suppliers:

Suppliers should not include in any products sold to MGI any Conflict Minerals that are not DRC Conflict Free; Suppliers should develop Conflict Minerals policies, due diligence frameworks, and management systems that are designed to prevent Conflict Minerals that are not DRC Conflict Free from being included in the products sold to MGI: MGI's suppliers are expected to source Conflict Minerals only from sources that are DRC Conflict Free.

NOTES: (APPLICABLE TO ALL PROCUREMENTS)

1. Unless specifically noted, specifications and/or drawings referred to shall be the revision in effect as of the date of this purchase order or firm quotation, whichever is earlier.
2. All requirements MGI has flowed to their vendor must continue to flow to all vendors subbed by MGI vendors.