



Purchase Order Terms and Conditions

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1. **Acceptance:** Any of the following acts by seller shall constitute acceptance of this contract and all of its terms and conditions:
 - a) signing and returning a copy of this contract
 - b) returning seller's own form of acknowledgment
 - c) delivery of any of the items ordered
 - d) informing buyer in any manner of commencement of performance. Any term or condition stated by the seller in any prior proposal or in acknowledging or otherwise accepting this contract shall be a proposal for addition to the contract and shall not become part of the contract unless specifically accepted in writing by the buyer.
2. **Changes:** The seller shall not make any changes in the material or services to be delivered, specification and amendments thereto, or delivery requirements, or any other changes, unless authorized by an amendment to this contract.
3. **Packing and shipment:** shipment shall be in accordance with instructions specified in this order and all material shall be suitably packed to secure lowest transportation costs and in accordance with the requirements of common carriers. No charge shall be made for boxing, crating, packing, storage, or other costs unless authorized by the buyer.

Buyer's purchase order numbers must be plainly marked on all invoices, packages, bills of lading and shipping orders. Packing list shall accompany each box or package shipment showing buyer's purchase order number and description of material.

Buyer's count or weight shall be final and conclusive on shipments.

Shipments comprised in whole or in part of hazardous materials shall comply with the applicable laws and regulations in the code of Federal Regulations, Title 49 PL 93_633.
4. **Delivery:** Delivery shall be made strictly in accordance with the terms of this contract.
5. **Warranty:** Seller warrants that all material and work covered by this contract will conform to all applicable specifications, drawings, samples and / or other description given, to be free from defect in material or workmanship and suitable for the purpose intended by Buyer. The warranties of Seller, together with its service warranties and guarantees shall run to Buyer and / or its customers, and shall survive inspections, acceptance and payment.

In addition to, and without waiving any other rights Buyer may have at law or in equity, Buyer may, for breach of any warranty, at its election and direction, and at Seller's expense, require Seller to promptly repair or replace the defective goods, articles, materials or services, or return the same for credit. If Seller is instructed to repair or replace and fails to promptly accomplish the same, Buyer may, in addition to the foregoing, by contract or otherwise replace or correct the same and charge Seller its cost thereby incurred, or terminate this contract for default.
6. **Prices:** Seller by acknowledging this contract represents that its prices as stated here in are no greater than those charged any other of its customers for the same products or services in like quantities, and shall include all applicable Federal, state, and local taxes. Pricing on purchase order is firm unless authorized by FMS purchasing.
7. **Inspection:** All supplies and services covered by this contract shall be subject to final inspection and test by Buyer. It being expressly agreed that Payment shall not constitute final acceptance. If inspection is required at seller's facility seller shall provide without additional cost all documents necessary to prove compliance including certification and test report.
8. **Changes:** Buyer reserves the right at anytime, by written notice to suspend performance by seller hereunder, whether in whole or in part, to make changes in the drawings, specifications or shipping



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- instructions. Any difference in price or time for performance resulting from such change, whether by way of increase or decrease, will be equitably adjusted and the contract modified in writing accordingly.
9. Non conforming material: Any non conforming material to purchase order terms, specifications and clauses will be subject to return to supplier freight collect.
 10. Early/late shipments: early or late shipments are not acceptable unless authorized by Buyer. Any early or late shipment, at Buyer's discretion, could be returned to seller at seller's expense. A shipment is deemed early if it is 4 days earlier than delivery/due date and late shipment is deemed late if it was delivered over one day later than the delivery/due date.
 11. Invoices: Invoices will be queued in accordance with Buyer's receipt date, and can also be held until all pertinent documents (i.e. Pack-slip, C of C's, Test reports, etc..) have been received and matched.
 12. Subcontracting: Seller shall not subcontract for the procurement of any item covered by this contract in completed or substantially completed form without first securing the written approval of Buyer.
 13. Compliance with applicable laws: Seller agrees to comply with applicable Federal, state and local laws, rules and regulations in its performance of this contract.
 14. Special tools: If the price stated on the contract includes separately jigs, dies, fixtures, tools, patterns, drawing, specifications, special test equipment or other special test equipment or other special equipment and manufacturing aids used in the manufacture of the articles, such items shall become the property of the Buyer immediately upon their acquisition by Seller and Seller will identify such items as the property of the Buyer as Buyer directs. Seller shall maintain such items in good condition and repair and from time to time replaced by Seller, all without expense to Buyer. Upon completion or termination of the contract such items will be delivered by Seller to Buyer or disposed of such items as Buyer may direct.
 15. Part copyright and trademark Protection: Seller agrees to hold harmless and hereby indemnifies Buyer and its customers against any claims of or suit for infringement of any patents, copyrights or trademarks, arising there from as a result of the manufacture, sale or the normal use of the articles and things here in contracted.
 16. Data: Seller agrees not to use, reproduce or disclose any data, designs, patterns, or tools or equipment or any other information supplied to it by Buyer here under, without express written permission by an authorized representative of Buyer, except in the performance of work or services to be performed for Buyer. All data records associated with this contract will be held for a minimum of (3) years or as otherwise noted on the Purchase Order
 17. Termination: Time is of the essence in the performance of this contract. Buyer shall have the right by written notice to terminate this contract for convenience in whole or from time to time in part. Buyer's sole and maximum liability shall be limited to payment for completed and delivered items at the contract price.
 18. Waiver: No waiver by Buyer of any of the terms or conditions of this contract, shall be construed to be a continuing waiver, nor deprive Buyer of the right to reassert or rely upon any such items or conditions thereafter.
 19. Release of information and advertising: Seller shall not, without prior written consent of the Buyer, make any disclosures, news releases or public announcement, denial or confirmation of same, of any part of the subject matter of this contract or in any manner advertise or publish the fact that the Seller has supplied or contracted to supply to Buyer the items mentioned here in.
 20. Execution and interpretation: The above terms and conditions apply to all Purchase orders issued by FMS. And these Purchase orders shall be deemed to have been executed in and subject to interpretation under the laws of the state of California.