



W.W. Williams

W.W. Williams Commercial Terms and Conditions relating to Government Contracts:

1.0 Termination for Convenience

The Buyer reserves the right to terminate or suspend this order at any time for the convenience of the Buyer with a written notice to Seller with the extent and effective date of the termination. In such event, Buyer will only be liable to pay Seller for all accepted goods or services delivered before the date of termination. Buyer will not be liable for any loss of profits as a result of the termination.

2.0 Termination for Default

Buyer may terminate this order if the Seller fails to (i) Deliver the supplies or to perform the services within the time specified in this order or any extension; (ii) Make progress, so as to endanger performance of this order; or (iii) Perform any of the other provisions of this order. Buyer will terminate this order if the Seller does not correct such failures within (7) seven days of written notice. In the event of a termination for default, Buyer may acquire supplies or services similar to those terminated and the seller will be liable for any excess costs for those supplies or services.

3.0 Limitation of Funds

In the event of an incrementally funded order, Seller is not obligated to incur expenses or make commitments in excess of the Order funded amount, and Buyer is not obligated to compensate Seller beyond the funded amount of the Order. If at any time the Seller has reason to believe that the costs that will accrue in performing this Order in the next succeeding 30 days, if added to all other payments and cost previously accrued will exceed seventy-five percent (75%) of the of the total funded amount of this Order, the Seller shall immediately notify the Buyer in writing providing supporting rationale for additional funds. It is mutually agreed and understood that the above 75% notification requirement applies to each increment of funds provided to Seller under this Order.

4.0 Changes

Buyer may, by written notice to Seller at any time before completion of this order, make changes within the general scope of this order in any one of the following: (a) drawings, designs, or specifications; (b) quantity; (c) delivery; (d) method of shipment or routing; and (e) make changes in the amount of Buyer furnished property. If any such change causes a material increase or decrease in the price, or the time required for the performance of any part of the work under this order, the Buyer shall make an equitable adjustment in the price or delivery schedule, or both, and shall modify the order. As a condition precedent to any equitable adjustment, the Seller must notify Buyer in writing of any request for adjustment within twenty (20) days from the date Seller receives notice from Buyer of a change, or from the date of any act of Buyer, which Seller considers to constitute a change. Failure to agree to any adjustment shall be a dispute under the Disputes clause of this order. However, Seller shall proceed with the work as changed without interruption and without awaiting settlement of any such claim.

5.0 Government Flow-down clauses:

For all FAR clauses included, unless the context of the clause requires otherwise, the term "Contractor" shall mean the Seller; the term "Contract" shall mean this Order; the term "Government" shall mean Buyer; the term "Contracting Officer" shall mean Buyer's Purchasing Agent or Contract Specialist; and the term "Prime Contract" shall refer to the Government contract under which this Order has been issued. Full text of these clauses can be found at <http://farsite.hill.af.mil>. The following FAR and DFAR clauses apply:

- 52.203-15 Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009, if the order is funded under the Recovery Act
- 52.204-9 Personal Identity Verification of Contractor Personnel (Sep 2007), if the vendor is required to have routine physical access to a Federally-controlled facility and/or routine access to a Federally-controlled information system
- 52.219-8 Utilization of Small Business Concerns (May 2004)
- 52.222-21 Prohibition of Segregated Facilities (Feb 1999)
- 52.222-26 Equal Opportunity (Mar 2007)
- 52.222-35 Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sep 2006)

- 52.222-36 Affirmative Action for Workers With Disabilities (Jun 1998)
- 52.222-50 Combating Trafficking in Persons (Feb 2009)
- 52.223-18 Contractor Policy to Ban Text Messaging While Driving (Sep 2010), if the order is over \$3,000.
- 52.225-13 Restrictions on Certain Foreign Purchases (Jun 2008)
- 52.244-6 Subcontracts for Commercial Items (Dec 2009)
- 52.247-64 Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006)
- 252.204-7008 Requirements for Contracts Involving Export-Controlled Items (April 2010)
- 252.225-7008 Restriction on Acquisition of Specialty Metals (Jul 2009) (minus paragraph D)
- 252.246-7003 Notification of Potential Safety Issues (Jan 2007)
- 252.247-7023 Transportation of Supplies by Sea (May 2002) (paragraphs (a) – (e) and paragraph (h))
- 252.247-7024 Notification of Transportation of Supplies by Sea (Mar 2000)

For orders of \$100,000 or more:

- 52.203-6 Restrictions on Subcontractor Sales to the Government (Sept 2006)
- 52.203-7 Anti-Kickback Procedures (Jul 1995)
- 52.222-37 Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sep 2006)
- 252.247-7023 Transportation of Supplies by Sea (May 2002) (all paragraphs)

For orders exceeding \$5,000,000 and with a performance of more than 120 days:

- 52.203-13 Contractor Code of Business Ethics and Conduct (Dec 2008)

6.0 Confidentiality

Seller shall not disclose information concerning work under this Order to any third party, unless such disclosure is necessary for the performance of the order effort. No news releases, public announcement, denial or confirmation of any part of the subject matter of this Order or any phase of any program hereunder shall be made without prior written consent of Buyer. The restrictions of this paragraph shall continue in effect upon completion or the parties may mutually agree upon termination of this Order for such period of time as in writing. In the absence of a written established period, no disclosure is authorized. Failure to comply with the provisions of this Clause may be cause for termination of this order. Seller agrees that it will keep confidential and not disclose, disseminate or publish the features of any equipment, tools, gauges, patterns, designs, drawings, engineering data, computer programs and software or other technical or proprietary information furnished by Buyer.

7.0 Indemnity

To the fullest extent permitted by law, the Seller shall indemnify, defend and hold the Buyer and its agents, independent contractors, employees, officers and directors (the "Indemnitees") harmless from and against (i) all claims, losses, costs and expenses of any nature (including attorney fees) directly or indirectly caused by, arising from, or otherwise relating to the performance or completion of the Work by the Seller, its Subcontractors, their agents or employees, their presence on the Premises or the breach of this Agreement; provided, however, that with respect to each such Indemnitee, such indemnity shall not extend to liability for damages substantially arising out of bodily injury to persons or damage to property initiated or proximately caused by or resulting from the sole negligence of such Indemnitee or its independent contractors, agents or employees.

8.0 Patent Indemnity

The Seller shall indemnify the Buyer and its officers, agents, and employees against liability, including costs, for infringement of any United States patent arising out of the manufacture or delivery of supplies, the performance of services, or the construction, alteration, modification, or repair of real property (hereinafter referred to as "construction work") under this contract, or out of the use or disposal by or for the account of the Buyer of such supplies or construction work.

9.0 Non-waiver of rights

The failure of Buyer to insist upon strict performance of any of the terms and conditions in the Subcontract, or to exercise any rights or remedies, shall not be construed as a waiver of its rights to assert any of the same or to rely on any such terms or conditions at any time thereafter. The invalidity in whole or in part of any term or condition of this subcontract shall not affect the validity of other parts hereof.

10.0 Acceptance and passage of title

The Title to the Work passes from the Seller to the Buyer when the goods are completed, marked, shipped and delivered to the buyer. Buyer reserves the right to reject any non-conforming supplies or services within 30 days of receiving the supplies or services.

11.0 Warranty

Seller warrants that the supplies and services furnished under this order are free from defects in material, workmanship and design and will conform to the specifications of the purchase order. Seller warrants that the supplies and services provided

are fit for the particular use for which the order required. Any supplies or services found to contain defects will promptly be replaced or repaired at the cost of the Seller. All warranties, including any additional warranties specified in this order, shall survive delivery, acceptance and payment.

12.0 Assignments

Seller shall not assign or transfer its rights or delegate its performance in whole or in part under this order, or funds due hereunder, without Buyer's prior written consent. Any attempted assignment without prior written consent shall be void and shall constitute a material breach of this order.

13.0 Work on Buyer's Premises

Whenever work is required on the Buyer's premises or Buyer's Customer's premises, Seller shall comply with all of rules and practices regarding safety, security and the use of the premises. Failure to do so will be considered a material breach of this order. Seller will carry and promptly furnish Buyer with proof of coverage of the following insurance against all claims arising out of Seller's activities at the Buyer's premises or Buyer's Customer's premises:

- a) Worker's Compensation: Statutory in compliance with the laws of the state in which the Work will be performed. Employer's Liability: \$1,000,000 Each Accident; \$1,000,000 Disease-Policy Limit; \$1,000,000 Disease-Each Employee
- b) Commercial General Liability insurance (including Premises Operations, Personal Injury with any employee exclusion deleted, Independent Contractors, Products and Completed Operations, Blanket Contractual including the indemnification assumed by the Contractor in this Agreement, Broad Form Property Damage including XCU hazards, as applicable) covering the Work in an amount no less than
 - \$5,000,000 Each Occurrence
 - \$5,000,000 Personal & Advertising Injury
 - \$5,000,000 General Aggregate, applying to this project only
 - \$5,000,000 Products & Completed Operations Aggregate

The limits of liability above can be met using a combination of primary and umbrella/excess liability policies.
- c) Commercial Automobile Liability insurance in a minimum amount of \$1,000,000 each accident covering all owned, hired or non-owned vehicles used in the furtherance of the Work.

The insurance required above shall be written on an Occurrence basis. With the exception of Workers Compensation, the Buyer, its subsidiaries and all related companies, including their employees shall be named as additional insureds on all insurance policies. All such insurance shall be primary and non-contributing with any insurance carried by the Buyer. Before commencing the Work, the Seller shall furnish a certificate from its insurance carrier (ACORD 25), along with a copy of the Additional Insured endorsement, showing that it has complied with the provisions of this Paragraph, and providing that the said insurance policies will not be changed or cancelled during their term until after at least thirty (30) days' prior notice by registered mail to the Buyer.

14.0 Disputes

Pending any decision, appeal or judgment referred to in this provision or the settlement of any dispute arising under this Order, Seller shall proceed with the performance of this Order.

15.0 Governing Law

This agreement shall be governed by the laws of the State of Ohio. Seller consents to the jurisdiction of the courts of Franklin County of the State of Ohio in any legal dispute.

16.0 Severability

If any provision of this Contract is held unenforceable by a Court of Law, then such provision will be modified to reflect the parties' intention or severed. All remaining provisions of this Contract shall remain in full force and effect.

17.0 Payment Terms

Invoices shall be paid within 30 days of receipt of an acceptable invoice. Buyer's purchase order number shall be included on the invoice.

18.0 Product Recalls

Within in 72 hours of the discovery, Seller shall notify Buyer of any product defects that are discovered after acceptance. Should a product recall be required, Seller shall bear the costs and expenses of such Recall to the extent such Recall is the result of the fault or omission of Seller or its agents or subcontractors.

19.0 Production Phase Out

In the event that a manufacturing phase-out or discontinuance of production of the product is contemplated, Seller shall notify the Buyer and provide information on the last date the Buyer can place an order as well as any replacement products that will be offered.