

Terms and Conditions of Purchase

- I. Acceptance:** This purchase order constitutes Buyer's offer to Seller and shall become a binding contract upon the terms and conditions set forth herein upon acceptance by Seller, either by returning the acknowledgement copy hereof or by the commencement of performance. In the event that this order does not state price or delivery, Buyer will not be bound to any price or delivery to which it has not specifically agreed in writing. Any terms or conditions proposed by Seller inconsistent with or in addition to the terms and conditions of this purchase order are hereby objected to, and shall be void and of no effect, unless specifically agreed to in writing by Buyer. Modifications hereof or additions hereto, to be effective, must be made in writing and be signed by Buyer. This purchase order, together with such modifications as are accepted in writing by Buyer, constitute the entire agreement between the parties.
- II. Delivery:** Time is and shall remain of the essence of this order, and no acts of Buyer, including without limitation modifications of this order or acceptance of late deliveries, shall constitute waiver of this provision. Delivery shall be strictly in accordance with the delivery schedule set out or referred to on this purchase order. Buyer may refuse to accept, or return at Seller's risk and expense, any shipments made in excess of Buyer's order or in advance of required delivery dates, or at Buyer's option, to accept early deliveries and defer payment on such deliveries until such dates. Seller shall notify Buyer immediately of any actual or potential labor dispute which is delaying or threatens to delay the timely performance of this order. If deliveries are not made at the specified time, Buyer, in addition to its other remedies, reserves the right to cancel or to purchase elsewhere, and hold Seller accountable therefor.
- III. Termination:** (a) Buyer may terminate this order without liability to Seller, except for work previously performed, 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 is brought against or instituted by Seller under the bankruptcy or insolvency laws, or if a receiver for Seller is appointed or applied for, or if an assignment for the benefit of creditors is made by Seller. (b) Buyer may terminate this order without liability to Seller, except for product previously delivered, if Seller fails to deliver in accordance with the delivery schedule specified on the face of this order, provided that such delivery schedule is specifically stated. (c) Buyer may at any time terminate this order in whole or in part for its convenience upon written notice to Seller in which event Seller shall be entitled to reasonable termination charges consisting of a percentage of the order price reflecting the percentage of the work performed prior to termination plus actual direct costs necessarily resulting from such termination. In no event shall Seller be entitled to anticipatory profits or to special or consequential damages.
- IV. Warranties:** Seller warrants that all materials and work covered by this order will conform to applicable specifications, drawings, samples and/or other descriptions given, be free from defects in materials or workmanship, and suitable for the purposes intended by Buyer. Unless the materials or articles covered by this order are manufactured completely to detailed designs furnished by Buyer, Seller additionally warrants the design to be free from defects. No approval of any design by Buyer shall constitute a waiver by Buyer of Seller, together with its service warranties and guarantees, shall run to Buyer and/or its customers, and shall survive inspection, acceptance and payment.
- V. Inspection:** All articles or work called for hereunder shall be subject to inspection and test by Buyer and by personnel designated by Buyer at all times and places, including the period of manufacture, and in any event, prior to acceptance. Unless otherwise specified herein, final inspection and acceptance shall be made after delivery to Buyer. If any inspection or test is made on the premises of Seller or Seller's Subcontractor, Seller shall provide, without additional charge, reasonable facilities and assistance for the safety and convenience of inspection personnel. Buyer shall have the right to reject articles found upon inspection not to conform to the requirements of this order and to require their correction or replacement at Buyer's option or to terminate this order if paragraph III(c) herein is invoked. Buyer's acceptance of any nonconforming article of work shall not constitute a waiver of requirements for any additional articles of work required to be delivered hereunder. Seller shall provide and maintain complete inspection and test records, which shall be made available to Buyer upon request.
- VI. Changes:** Buyer reserves the right, at any time, by written or telegraphic notice, to suspend performance by Seller hereunder, whether in whole or in part, however Buyer shall not delay payment for work already performed due to such suspension. The statement of work may be modified by mutual agreement of the parties. Any difference in price or time for performance (schedule) resulting from such change, whether by way of increase or decrease, will be equitably adjusted and the purchase order modified in writing accordingly; provided such claim by Seller, and the amount thereof, shall be made in writing within 30 days from receipt by Seller of notice of change or be conclusively deemed waived; provided further that nothing contained herein shall excuse Seller from proceeding with its performance under the purchase order as changed.
- VII. Confidentiality:** All Buyer originated drawings, specifications, designs or other information furnished by Buyer to Seller shall be maintained in confidence by the Seller and shall not be reproduced, disclosed, duplicated or used, except to the extent required for the performance of this order, without the Buyer's prior written consent. Upon completion of this order, Seller shall promptly return to Buyer all drawings, specifications and other data furnished by Buyer in connection with this order together with all copies or reprints made thereof, and Seller shall thereafter make no further use of any such drawings, specifications, data or any information without Buyer's prior written consent. All U.S. Government originated drawings, specifications, designs or other information shall be governed by Article XVI.
- VIII. Reproduction Rights:** Seller agrees to and does hereby grant to Buyer to the full extent of the Seller's rights to do so without the payment of compensation to others, the right to reproduce, use and disclose for U.S. government purposes only all or any part of the parts, blueprints, drawings, data and technical information specified to be delivered by Seller to Buyer under this Purchase Order; provided, however, that nothing contained in this clause shall be deemed, directly or by implication, to grant any license under any patent now or here after issued.

- IX. Patent Indemnity:** Seller shall indemnify Buyer and its customers against any liability whatsoever for or by reason of any actual or alleged patent infringement arising out of the manufacture, use, sale or disposal of articles furnished hereunder, except where such articles are manufactured according to Buyer's detailed designs.
- X. Assignment:** Neither this Order, nor any interest herein, may be assigned by Seller, in whole or in part, without Buyer's prior written consent.
- XI. Subcontracting:** Neither all, nor substantially all, of this Order may be subcontracted by Seller without Buyer's prior written consent.
- XII. Waiver:** The failure of either party to insist on performance of any provision hereof shall not be construed as a waiver of such provision in any subsequent instance.
- XIII. Applicable Law:** Irrespective of the place of performance, this Order will be construed and interpreted according to the laws of The Commonwealth of Massachusetts and to the federal common law of Government contracts as enunciated and applied by federal judicial bodies, boards of contract appeals and quasi-judicial agencies of the federal government.
- XIV. Price and Payment:** Seller shall furnish certified invoices to FMI subsequent to the delivery of materials or performance of services. All taxes, duties, fees, and similar charges are included in the prices shown on the face hereof.
- XV. Miscellaneous:** The rights and remedies of each party hereunder are in addition to any other rights and remedied either party to enforce any provisions hereof shall not be deemed a waiver of such provisions or any other provision hereof.
- XVI. Government Contract Provision:** If the work to be performed hereunder is for use in connection with a Government contract or subcontract, the following addition clauses as set forth in the Federal Acquisition Regulations, Title 48 C.F.R. Chapter 1, ("FAR") and the Department of Defense FAR Supplement ("DFARS") in effect on the date of this Order, are incorporated herein by reference, as set forth in full. In all such clauses, the word "Contractor" shall mean Seller, and except for those clauses marked with an asterisk, the word "Government" shall mean the Buyer. All FAR and DFAR clauses shall be the clauses effective as the date of the Government prime contract under which this purchase order is issued, however, any CAS applicable clause shall be effective as of the date of this Purchase Order.

Clause #	Clause Title	Clause #	Clause Title	Clause #	Clause Title
FARS		52.222-35	Affirmative Action for Special Disable and Vietnam Era Veterans	52.246-23	Limitation of Liability
52.203-6	Restrictions on Subcontractor Sales to the Government (applicable over \$100,000)	52.222-36	Affirmative Action for Handicapped Workers	52.249-2	Termination for Convenience of the Government (Fixed Price) (in paragraph (d) change "1 year" to "6 months")
52.203-7	Anti-Kickback Procedures (excl. para. © (1)) (applicable over \$10,000)	52.223-1	(Reserved) Removed and reserved, FAC 97-15 Final Rule, 64 FR 72414, 12/27/99, effective 2/25/2000	52.249-8	Default (Fixed Price Supply and Service)
52.203-11	Certification and Disclosure Regarding Payments to influence Certain Federal Transactions (applicable over \$100,000)	52.223-2	(Reserved) Removed and reserved, FAC 97-15 Final Rule, 64 FR 72414, 12/27/99, effective 2/25/2000		
52.203-12	Limitation on Payments to Influence Certain Federal Transactions (applicable over \$100,000)	52.225-3	Buy American Act – Supplies	DFARS	
52.204-2	Security Requirements	52.225-8	Duty Free Entry	252.208-7000	Intent to Furnish Precious Metals as Government – Furnished Material
52.208-1	(Reserved) Removed and reserved, FAC 90-45 Final rule, 62 FR 224, 1/2/97, effective 1/1/97	52.225-13	Restrictions on Certain Foreign Purchases	252.227-7013	Rights in Technical Data and Computer Software
52.215-2	Audit – Negotiations (applicable over \$100,000)	52.227-1	Authorizations and Consent		
52.215-10	Price Reduction for Defective Cost or Pricing Data	52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement		
52.215-12	Subcontractor Cost or Pricing Data (applicable over \$500,000)	52.227-3	Patent Indemnity		
52.215-14	Integrity of Prices	52.227-9	Refund and Royalties		
52.219-9	Small Business and Small Disadvantaged Business Subcontracting Plan	52.227-10	Filing of Patent Applications – Classified Subject Matter		
52.220-4	Reserved	52.227-12	Patent Rights – Retention by the Contractor		
52.222-1	Notice to the Government of Labor Disputes	52.242-15	Stop Work Order		
52.222-4	Contract work Hours and Safety Standards Act	52.243-1	Changes (Fixed Price)		
52.222-20	Walsh-Healy Public Contracts Act	52.245-2	Government Property (Fixed Price Contracts)		
52.222-26	Equal Opportunity	52.245-17	Special Tooling		
		52.246-2	Inspection of Supplies (Fixed Price)		

- XVII. Provision Flow-Down:** FAR clauses as well as any Quality Assurance provisions that are enumerated in the face of this order must flow down to second and third tier subcontractors and suppliers as appropriate.