

## **FLEXFAB TERMS AND CONDITIONS**

June 21, 2018

**Seller will comply with all of the provisions of the Supplier Quality Manual (50-6.104), which is incorporated herein in its entirety, unless the buyer otherwise agrees in writing. Seller will also comply with the following:**

1. This purchase order is an offer of purchase which may be accepted only on the terms and conditions stated. Any additional, different or inconsistent term or condition stated by Seller in accepting this offer shall be considered a proposal for addition to the contract AND SHALL NOT BECOME PART OF THE CONTRACT UNLESS SPECIFICALLY ACCEPTED IN WRITING BY BUYER.
2. Buyer will not be responsible for a price higher than that stated in this purchase order without its written approval.
3. Buyer will not be responsible for any charge for boxing, packing, or cartage, or for any other additional charges, unless these amounts have been specified in this purchase order, or unless Buyer agrees to be responsible for these charges in writing. Any excessive freight cost incurred by reason of Seller's failure to follow Buyer's shipping instructions will be charged to Seller.
4. Buyer may cancel this purchase order if deliveries are not made in accordance with the specified delivery date or release schedule. Seller agrees to indemnify and save Buyer from any loss, penalty or damages resulting from Seller's failure to make deliveries as specified. Notwithstanding the foregoing, Seller will not be liable for delays or defaults due to causes beyond its control and without its fault or negligence if Seller promptly notifies Buyer in writing of such delay and its cause. In which case the delivery date or release schedule may be extended at Buyer's option for a reasonable time in proportion to the period of delay. Seller will make every effort to fill this purchase order within the time promised. Partial orders will be accepted only with buyer's prior consent and approval.
5. Buyer may reject or revoke acceptance of any materials not produced in accordance with the appropriate specifications and drawings, or shipped contrary to instructions or in excess of the quantities provided herein, or substituted for merchandise described herein, or allegedly violating any statute, ordinance, administrative order, rule or regulation, or allegedly infringing any trademark, patent or copyright, or not produced in conformity with all applicable warranties or otherwise not produced and shipped in conformity with the terms of this purchase order. Buyer may charge to Seller all expenses of unpacking, examining, repacking, storing and reshipping any rejected material. Buyer, at its option, may require Seller to grant a full refund or credit to Buyer in lieu of replacement for any material Buyer is entitled to reject..
6. Seller warrants that the materials ordered under this purchase order do not infringe on any patent, and agrees to defend any claim, demand or suit alleging infringement, and agrees to hold Buyer harmless from any loss, including attorney's fees incurred as a result of any such claim, demand or suit.
7. Seller must provide a separate invoice for each shipment. Invoices must bear Buyer's purchase order number and code number and show balance due on order to release. Invoices and bills of lading shall be mailed immediately after shipment is made.
8. Any specifications, drawings, reprints, technical information, data or other information of a trade secret or confidential nature furnished Seller hereunder shall remain Buyer's property, shall be kept confidential, and shall be returned at Buyer's request. Such information and documents shall be used in filling this order and may not be used for any other purposes unless agreed to in writing by Buyer.
9. There shall be no exclusion of warranties under this purchase order, and there shall be no exclusion of any remedy available to Buyer under applicable law for breach by Seller. Seller shall be liable for incidental or consequential damages in the event of a breach of this agreement.
10. Buyer may at any time before completion of the order make changes in quantities, in drawings and specifications, in delivery schedules and in method of shipment in packaging. If such changes cause an increase or decrease in price or in the time required for performance, Seller shall promptly notify Buyer thereof and an equitable price adjustment shall be made.
11. The exercise of any right or remedy shall be without prejudice to the right to exercise any other right or remedy.
12. This purchase order and the transaction reflected hereunder shall be governed by and construed according to the laws of the state of Michigan.
13. Buyer may terminate this order for any reason at any time prior to delivery, and Buyer's maximum obligation upon termination will be limited to unavoidable direct expenses incurred by Seller prior to Buyer's termination. In addition to the above limitation, if buyer terminates an order which it intends to use for military prime or subcontract, Buyer's maximum obligation to Seller will not exceed Seller's pro rata share of the amount Buyer received from the government as payment on the contract.
14. By indicating D.O., or D.X. Rating, Buyer certifies its order is for National Defense under DMS Regulation No. 1 in which case Seller is required to follow the provisions of DMS regulation No. 1, and all other government regulations and orders in obtaining controlled materials and other products necessary to fill Buyer's order.
15. Representatives of Buyer and/or Buyer's customer (including U.S. Government) may inspect and evaluate seller's facilities, system, data, equipment, personnel and all in-process and completed articles manufactured for buyer at Seller's facility.
16. The terms and conditions of this purchase order may be modified only by the issuance of a supplementary purchase order to Buyer or other written instrument signed by Buyer.
17. The use of known counterfeit or rebuilt parts in Buyer's product is prohibited. The Quality Department will investigate any part suspected to be counterfeit or rebuilt and take corrective action if necessary, to preclude the use and purchase of such materials.
18. The equal employment opportunity clauses in Section 202 of Executive Order 11246, as amended, 38 U.S.C. § 4212; Vietnam Era Veterans Readjustment Assistance Act of 1974, and Section 503 of the Rehabilitation Act of 1973, as amended, relative to equal employment opportunity and implementing the rules and regulations of the Secretary of Labor at 41 C.F.R. § § 60-1.4, 60-250.4 and 60-741.4 are incorporated herein by specific reference.

**[www.flexfab.com](http://www.flexfab.com)**

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