

TMD Machining, Inc. (TMD)
Purchase Order Terms and Conditions

Terms and Conditions

1. **Acceptance of Terms and Conditions.** Acknowledgment of any order, shipment of any goods, or rendering of any services pursuant to a purchase order shall be deemed an acceptance of these terms and conditions. If Seller accepts an order in any other manner, any additional or differing terms stated in Seller's acceptance shall be of no effect.
2. **Complete Agreement.** All the terms and conditions in this document (TMD-PTC100) and any additional terms, conditions, and specifications on the purchase order constitute the complete contract.
3. **Modification.** No modification of this contract, including any addition, deletion, or other modification proposed in Seller's acceptance shall be binding on Buyer unless agreed to by Buyer in a writing by Buyer's Purchasing Representative.
4. **Packing and Shipping.** Seller shall prepare all goods for shipment, and package to prevent damage or deterioration, secure lowest transportation rates, and comply with carrier tariffs, including export shipping requirements. No packing and shipping charges will be paid by Buyer unless separately stated in the contract. Container and purchase order numbers shall be indicated on bill of lading. One copy of packing slip, showing purchase order and item number, shall be attached to No. 1 container of each shipment.
5. **Shipment-Delivery.** Shipments and deliveries shall be strictly in accordance with the quantities and schedule specified in the contract. If it appears Seller will not meet schedule, Seller shall promptly notify Buyer in writing and, if requested by Buyer, ship via air or expedited routing to avoid or minimize delay to the extent possible, the added cost borne by the Seller. This is in addition to Buyer's other remedies.
6. **Invoice and Payment.** A separate invoice shall be issued for each shipment. Unless otherwise allowed in the contract, no invoice shall be issued prior to shipment of goods and no payment shall be made prior to receipt of goods and correct invoice. Credit, discount and payment periods will be computed from the date of receipt of the correct invoice.
7. **Product acceptance/rejection.** All purchased products and services will be subject to Buyer's final inspection and approval within a reasonable time after delivery, irrespective of payment date. Verification by Buyer shall not absolve the Seller of the responsibility to provide conforming product, nor shall it preclude subsequent rejection by Buyer. Buyer may reject goods not in accordance with the instructions, specifications, drawings, data or Seller's warranty (expressed or implied). Buyer may return rejected goods to Seller at Seller's expense and Buyer shall have no further obligation for such goods. Payment for any article shall not be deemed acceptance and in no event shall Buyer incur liability for payment for rejected goods. Seller shall assume responsibility for and will pay any and all loss, cost, damage, or expense, including attorney fees, and cost of replacement incurred by Buyer attributed to Buyer's rejection of goods due to nonconformance to specifications or untimely late delivery.
8. **Nonconforming product.** Under no circumstance shall Seller knowingly ship any nonconforming product to Buyer without express written permission from Buyer allowing the shipment. After delivery has started, if the Seller detects nonconforming product, the Seller shall notify Buyer in writing within 48 hours. Notification shall include a clear description of the nonconformity, part numbers, quantities, PO#, packing slip# and delivery dates of all possibly affected product.
9. **Contract changes.** By written order at any time, Buyer may make changes within the general scope of a contract. Seller shall proceed to perform the contract as changed. If any such change causes an increase or decrease in the cost of or in the time required for the performance of any part of the work under this contract, whether changed or not changed by any such order, an equitable adjustment shall be modified in purchase price or delivery schedule or both, and the contract shall be modified in writing accordingly. Any claim by Seller for adjustment under this clause must be asserted within 20 days from the date of receipt by the Seller of the notification of change or within such further period as Buyer may allow. Where the cost of property made obsolete or excess as the result of a change is included in Seller's claim for adjustment, Buyer shall have the right to prescribe the manner of disposition of such property. Nothing in this clause shall excuse Seller from proceeding with the contract as changed.

10. **Responsibility for Property.** Unless there is legal transfer of title or other legally binding agreement to the contrary, Seller shall be financially responsible for loss or damage to any materials, parts, tooling, or any other real property provided to Seller by Buyer. Upon completion of a contract Seller agrees to return Buyer's property, except material consumed in production of parts for Buyer's contract, in like condition as received, less reasonable wear and tear.
11. **Patent Indemnity.** Seller shall defend Buyer, Buyer's customers and the users of Buyer's goods against all claims and proceedings alleging infringement of any United States or foreign patent for goods delivered under the contract, and Seller shall hold them harmless from any resulting liabilities and losses including attorney fees, provided Seller is reasonably notified of such claims and proceedings. Seller's obligation shall not apply to goods manufactured pursuant to detailed designs developed and furnished by Buyer nor to any infringement arising from the use or sale of goods in combination with goods not delivered by Seller if such infringement would not have occurred from the use or sale of such goods solely for the purpose for which they were designed or sold to Buyer.
12. **Assignments.** No assignment of any rights, including rights to monies due to become due hereunder, or delegation of any duties under the contract shall be binding upon Buyer until written consent thereto has been obtained.
13. **Subcontracting.** No products or services to be delivered under contract shall be procured by Seller from a sub-tier supplier in completed or substantially completed form without Buyer's prior written consent. Buyer reserves the right to approve sub-tier suppliers contracted by its suppliers for any work associated with the products and services provided to Buyer. Seller shall flow down all relevant requirements and provisions of the contract to the Seller's sub-tier suppliers at every level of the supply chain.
14. **Notification of Changes.** Seller shall notify Buyer in advance of any changes in product, processes, suppliers, subcontractors or manufacturing facilities that may affect the quality of the product and services purchased in the contract.
15. **AS9102 First Article.** Seller shall furnish an AS9102 compliant First Article Inspection Report upon first delivery and when any event listed in AS9102 section 5.3 occurs, traceable to an individually identified part in that lot. Subsequent lots of the same part number must be certified to meet all contract requirements. For non-aerospace suppliers, Buyer may approve, upon Seller request, an FAI format other than AS9102.
16. **Raw Material Control.** All delivered product must include the actual mill certification of the raw material used to manufacture the parts. All material in each shipment must come from one heat lot, unless otherwise allowed in writing by Buyer. When allowed, parts made from different heat lots of material must be kept separate and clearly identified throughout Seller's manufacturing and inspection operations, and must be segregated and clearly identified within packaging and documents shipped to Buyer.
17. **Preference for Domestic Specialty Metals.** Unless otherwise specified in the contract, Seller shall only incorporate into delivered product specialty metals melted in the United States, its possessions, or qualifying countries. Specialty metals are defined in DFARS 252.225-7009. Qualifying countries are listed in DFAR 225.872-1(a).
18. **Mercury Free.** All delivered product must be certified to be free of mercury and mercury compounds.
19. **Hazardous Material.** When applicable, Seller shall include a current MSDS with shipment.
20. **Non-Conventional Machining.** The use of non-conventional machining methods such as electrical discharge machining (EDM), electro-chemical machining (ECM), laser or abrasive water jet cutting, etc. is not allowed unless specified on the Engineering drawing or expressly authorized in writing by TMD.
21. **Age Controlled Materials.** Unless otherwise specified in the contract, age controlled materials (adhesives, sealants, coating materials, Loctite, marking inks, potting compounds, etc.) shall have 80-100% of shelf life remaining upon receipt at TMD. Elastomers and o-ring seals: from cure date to delivery date shall not exceed four (4) quarters.

22. **Certificate of Conformance.** Each shipment must be accompanied by a Certificate of Conformance and by legible and reproducible copies of all raw material and process certifications needed to produce the product in accordance with drawing and PO requirements. Certifications must be signed and dated by an authorized representative and must provide traceability back to the original source.
23. **Calibration System.** Seller's calibration system must comply with ANSI/NCSLI Z540-1, ISO/IEC 17025, or an equivalent calibration system standard. Seller shall provide certification of this compliance to Buyer with shipment.
24. **Right of facility access.** For purposes of quality and conformance monitoring during the performance of the contract, Seller shall allow the Buyer and/or Buyer's customer(s), representative(s) and/or regulatory authorities' access to its facilities and to all relevant records, at every level of the supply chain, associated with the products and services provided to Buyer.
25. **Lot Inspection.** Seller shall perform and document lot inspection as necessary to provide evidence of product conformance, and shall supply the inspection data at Buyer's request. Depending on Buyer's requirements, Buyer may provide the forms for documenting this inspection.
26. **Records Retention.** Seller shall maintain records demonstrating product conformity and ensure that they are legible, retrievable, and identifiable to shipments made to Buyer, and to pertinent suppliers, products, and/or processes, for a period of 30 years, or 10 years for radiographic records. In the event that Seller ceases to do business prior to the end of the record retention period, the records are to be forwarded to Buyer via the best available method, as agreed by both parties.
27. **Quality Management System.** The Seller shall maintain a quality management system including an inspection system satisfactory to Buyer, and if applicable also to Buyer's Customer, during the contract performance period.
Since the impact upon quality varies from product to product, the requirements will also vary from seller to seller. However, the following requirements apply to all sellers:
 - a) **DELIVERY PERFORMANCE:** Buyer expects 100% on-time delivery, and Seller will be rated by this standard.
 - b) **QUALITY PERFORMANCE:** Buyer expects 100% quality. Seller's manufactured parts will be checked by receiving inspection. Paperwork is also checked for completeness, including all required certifications.
 - c) **RESPONSIVENESS** will be judged by how quickly and effectively Seller responds to quality problems including Corrective Action Requests, to Requests for Quotations, and to special requests such as short lead-time orders or other issues.
28. **Code of Conduct.** Seller shall comply with TMD-H102 Supplier Code of Conduct in its entirety.
29. **DPAS Rated Orders.** When a DPAS priority is included on the purchase order, this is a rated order certified for national defense use, and the Seller is required to follow all provisions of the Defense Priorities Allocations System regulation per 15 CFR 700.
30. **Export Compliance.** The technical data herein provided is subject to export control under the International Traffic in Arms Regulations (ITAR) or the Export Administration Regulations (EAR). Such data shall not be disclosed, exported or transferred in any manner to any foreign person or any foreign country without prior written approval of the Office of Defense Trade Controls, U.S. Department of State or the Bureau of Industry and Security, U.S. Department of Commerce. Reference EAR 15 CFR 730-774 and ITAR 22 CFR 120

Seller's Warranties

- A) **Duration.** The Seller warrants that after the acceptance of the end product or parts thereof by Buyer, and if applicable the Buyer's Customer, all product furnished under a contract will be free from defects in material and workmanship that will cause the items to fail to conform with all requirements of the contract.
- B) **Remedies.**
 - (1) **Rights to Corrective or Replacement Action.** When required by Buyer, in the event of a breach of the Seller's warranty in paragraph A above, Seller shall, at no increase in the contract price, either
 - (a) correct to meet contract requirements or replace, at Seller's election, nonconforming delivered product at the location of Buyer's choice, or

(b) furnish to Buyer all components and instructions as may be required to successfully accomplish the correction, and credit Buyer for Buyer's costs incurred in accomplishing the correction. Buyer shall provide Seller an accurate accounting of such costs incurred.

Data and reports applicable to any correction required under this clause, including revision and updating of all affected records called for under the contract, shall be included in this corrective or replacement action.

(2) **Rights to Equitable Adjustment.** If the Buyer does not require correction or replacement of nonconforming product, the Buyer shall be entitled to an equitable reduction in the price of the contract.

C.) **Notification.** The Seller shall be notified in writing of any breach of warranty in paragraph B above within thirty (30) days after discovery of the defect by the Buyer. Within ten (10) days thereafter, the Seller shall submit to the Buyer a written recommendation of the corrective action required to remedy the breach. After the notice of breach, but no later than thirty (30) days after receipt of the Seller's recommendation for corrective action, the Buyer may in writing direct correction or replacement as set forth in paragraph B above, and the Seller shall, notwithstanding any disagreement regarding the existence of a breach of warranty, comply with such direction. In the event it is later determined that the Seller did not breach the warranty in paragraph A above, the contract price will be equitably adjusted.

D.) **Corrected or Replaced Product.**

Any product or parts corrected or furnished in replacement pursuant to this clause shall also be subject to all the provisions of this clause to the same extent as product initially delivered.

E.) **Implied Warranties of Merchantability and "Fitness for a Particular Purpose".** These warranties are not excluded from any obligation contained in a contract. The rights and remedies of the Buyer provided in this clause are in addition to and do not limit any rights afforded to the Buyer by any other clause of a contract.

**Thank You,
 TMD Machining, Inc.**

Revisions			
Section	Description	Reviewed & Approved by	Rev / Date
All	Initial Release	BD	NC 4/6/2012
All	Updated for compliance with customer flowdowns	BD	A 10/25/2014
29	Added DPAS Rated Orders section	BD	B 3/15/2016
30	Added Export Compliance	BD	C 3/16/2017
23	Updated ISO standard, was ISO 10012-1	BD	D 5/5/2017