

# Purchase Order Terms and Conditions

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**REVISION HISTORY**

<b>Rev</b>	<b>Description</b>	<b>Change Author</b>	<b>Change Approval Authority</b>	<b>Approval Date</b>
A	Initial	Bradley Boyett	Chase Wortman	4/18/2023
B	Added Quality Requirements	Bradley Boyett	Chase Wortman	6/20/2024

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**1. Contract Acknowledgment/Acceptance of Order**

This order is subject to the following terms and conditions and, by acknowledgement of this order or supplier's commencement of performance. The supplier shall have agreed to and accepted the said terms and conditions. Upon acceptance, this order is the complete and exclusive statement of the terms of the agreement between seller and Outpost Technologies, Inc. (Outpost), and no change shall be binding on Outpost unless agreed to in writing by Outpost authorized procurement representative. Unless expressly accepted in writing by Outpost, additional or differing terms or conditions proposed by the seller or included in the seller's acknowledgment are objected to by Outpost and have no effect. By acceptance of this order, the seller confirms that it is not debarred, suspended, or proposed for debarment by any U.S. Government Agency.

**2. Changes**

By written revision to the order, Outpost may, from time to time, make changes in drawings, designs, specifications, quantity, services, and method of shipment. If any such change causes an increase or decrease in the price or delivery of this order, the revised price or delivery will be by mutual agreement. Changes shall not be binding upon Outpost except when specifically confirmed by written revision to the order by an authorized member of Outpost purchasing department. Information, advice, approval, or instructions given by Outpost technical personnel or other representatives shall be deemed expressions of personal opinions only and shall not affect Outpost and seller's rights and obligations hereunder.

**A. Procurement Representative**

The procurement representative is the only person with authority to modify the terms of this purchase order.

**B. Technical Personnel**

Occasionally, Outpost engineering and technical personnel may provide assistance or technical advice, or exchange information with supplier's personnel concerning the purchase order. Such actions will not be deemed a change under the "Changes clause" of this purchase order and will not provide a basis for an equitable adjustment. If the supplier is in doubt as to whether it has received direction it is obligated to follow, it must promptly confirm with the procurement representative in writing whether a change was intended. If the supplier proceeds absent express direction from the procurement representative, the supplier waives any right to request an equitable adjustment and is at risk of noncompliance with the requirements of this purchase order.

**3. Price/Payment**

The price of the goods or services includes all applicable federal, state, and local taxes, duties, and fees, unless otherwise provided in this purchase order. Supplier warrants that the prices, terms, warranties, and benefits contained in this purchase order are comparable to those offered to any other of supplier's customers.

#### 4. Invoice

Send all invoices electronically in a PDF format to [APinvoices@OutpostTechnologies.com](mailto:APinvoices@OutpostTechnologies.com)

All invoices, packing lists and correspondence shall reference the following:

- i. Supplier's legal entity name
- ii. Invoice number
- iii. Invoice date
- iv. Date of service and delivery of goods
- v. Invoice payment terms
- vi. Purchase order number
- vii. Description of goods
- viii. Qty of goods
- ix. Supplier's contact name, email address and telephone number

*Shipments not referencing the appropriate purchase order number may be refused.*

#### A. Audits

Outpost may choose to or be made to conduct an audit of their invoices and substantiating information at any time or times prior to final payment under this purchase order. All payments made by Outpost will be subject to reduction to the extent of amounts that were found by Outpost that have been found improperly payable and will be subject to reduction for overpayments or to increase of underpayments on preceding invoices.

#### 5. Timeliness

Supplier will deliver to Outpost at the specified destination no later than the specified delivery date. Supplier will not be liable for delays to the extent caused by Outpost's negligent actions or omissions.

*In the event of a delay due to the supplier, the supplier shall:*

- i. Promptly notify Outpost in writing of the reasons for the delay and the actions being taken to overcome or minimize the delay.
- ii. Provide Outpost with a written recovery schedule.
- iii. If requested by Outpost, ship via air or other expedited routing at no additional cost to Outpost to avoid or minimize the delay.

#### 6. Packing/Shipping

The supplier will ensure proper packaging of products in accordance with industry practices (unless specific packing instructions are provided). Except as included in this purchase order, supplier will not charge Outpost for packing, crating, freight, local cartage, or any other related packaging and shipment services. The supplier will comply with Outpost's written shipping instructions provided in connection with this purchase order. *No partial shipments will be*

*accepted without the written approval from the procurement representative. A complete packing list shall be enclosed with all shipments. Seller shall mark containers or packages with necessary lifting, loading, handling, and shipping information, including Buyer's PO, or contract number. Bills of lading shall include the PO number.*

## **7. Inspection/Acceptance**

Inspection and acceptance of all items purchased and delivered will be at destination, unless otherwise provided within the purchase order, and will take place within a reasonable time (not less than thirty days) of delivery by Outpost or Outpost's customer. Acceptance occurs after Outpost notifies the supplier that it has accepted the goods or services. Acceptance does not itself impair any other legal or equitable remedy for non-conformity. Acceptance may be revoked if it was made with the reasonable assumption that any non-conformity would be cured, the non-conformity was difficult to discover before acceptance, or is otherwise permitted by law or equity.

### **A. Non-conformance**

*If supplier delivers non-conforming products, Outpost may:*

- i. Accept all or part of the product
- ii. Return the product for credit or full refund
- iii. Require supplier to promptly correct or replace the product
- iv. Require supplier to have third part to correct the product
- v. Perform or have a third party perform a replacement product

Supplier will not redeliver corrected or rejected product without disclosing the corrective action taken. In the event non-conforming product is re-delivered subsequent to corrective action, Outpost may require supplier, at supplier's expense, to include an inspection report from a third-party inspector acceptable to Outpost with any subsequent redelivery.

## **8. Export Control Compliance**

Information furnished to supplier under this purchase order may contain privileged and/or proprietary information intended solely for the person or entity to which it is addressed. Also, it may contain technical data subject to U.S. export laws and regulations. Supplier agrees to comply fully with all applicable U.S. laws and regulations as they may apply to the export of any technical data supplied to the supplier. The supplier agrees that it will not permit the export or re-export of technical data to foreign persons or other entities. Employed by or associated with or under contract to supplier or supplier's lower-tier suppliers without the prior consent of Outpost and without obtaining all necessary export license or applicable license exemptions. Supplier shall indemnify and hold Outpost harmless from and against any and all claims, liabilities and expense resulting from supplier's failure to comply with the export laws and regulations of The United States.

**9. Materials/Information**

All designs, sketches, drawings, blueprints, patterns, dies, molds, tools, gauges, equipment, or special appliances made or procured by supplier especially for producing the goods or services covered by this purchase order, unless otherwise provided, immediately upon manufacture or procurement shall become the property of Outpost. Unless otherwise provided on the face of this purchase order or by change order, any such items or materials or engineering data or other technical proprietary information furnished by and paid for by Outpost shall become consignment at supplier's risk, shall be used exclusively in the production of Outpost's products required by this purchase order, shall be subject to disposition by Outpost at all times and, upon demand, shall be delivered to Outpost. It is recognized and agreed that for efforts originating under government contracts, the parties may be required to and shall grant licenses or other rights to the government to inventions, data, and information under such provisions that may be contained in the government prime contract. Nothing herein is intended to, nor shall it limit or remove, any such governmental rights.

**10. Property**

All drawings, tools, jigs, dies, fixtures, materials, and other property supplied or paid for by Outpost shall be and remain the property of Outpost and shall be returned to Outpost upon Outpost request. All such items shall be used only in the performance of work under this purchase order unless Outpost Technologies consents otherwise in writing. Goods made in accordance with Outpost specifications and drawings shall not be furnished or quoted by supplier to any other person or concern without Outpost's prior written consent. Supplier shall have the obligation to maintain any and all property furnished by Outpost to supplier and all property to which Outpost acquires an interest by this purchase order and shall be responsible for all loss or damage to said property except for normal wear and tear.

*Supplier shall:*

- i. Within two working days, report to Outpost the loss, theft, damage, destruction of any such property, or if any such property is found to be malfunctioning or otherwise unsuitable for use.
- ii. Determine and report the root cause and all pertinent facts as soon as they become known, and corrective action taken to prevent recurrence, at no additional cost to Outpost. Upon request, the supplier shall provide Outpost with adequate proof of insurance against such risk of loss or damage. Supplier shall clearly mark, maintain in inventory, and keep segregated or identifiable all of Outpost's property. All government furnished property shall be managed, stored, and utilized in accordance with the applicable government regulations.

**11. Leased Equipment**

The supplier agrees to maintain, in good working order, any leased equipment supplied here. The supplier also agrees to furnish, when ordered by Outpost, any necessary supporting service for the leased equipment supplied. This includes, but is not limited to, spare parts, hardware and software maintenance services, equipment modifications, or update bulletins, for the

normal useful life of such equipment. This clause shall apply when such support services are necessary and applicable to the equipment furnished.

## **12. Insurance**

*Supplier shall obtain and maintain for the duration of this purchase order, the warranties contained herein or for the full period of repose under applicable laws at its sole expense the following types of insurance policies with the minimum limits identified as follows:*

- i. Commercial general liability insurance, including contractual liability, cross liability, products and completed operations, and personal and advertising injury, with limits not less than \$2,000,000 per occurrence combined single limit insuring against claims for bodily injury and property damage supplier assumes under this purchase order.
- ii. Business auto liability insurance with limits not less than \$1,000,000 per accident covering owned, hired, or non-owned vehicles.
- iii. Workers' compensation insurance with statutory limits as required by law under the jurisdiction where the work under this purchase order is performed.
- iv. Employers' liability insurance with limits not less than \$1,000,000 covering injury, illness, or death.

Such insurance will be primary to any insurance that may be carried by Outpost, ensure that supplier's insurers waive their rights of subrogation in favor of Outpost, and name Outpost, its affiliates, officers, directors, employees, and contractors of any tier (other than supplier) as additional insureds. Upon acceptance of this purchase order, supplier will provide Outpost with certificate(s) of insurance, identifying additional insureds as specified above, and other supporting documentation as Outpost reasonably may request to evidence supplier's continuing compliance with the preceding sentence. Outpost acceptance of any of supplier's insurance will not relieve supplier of any obligations in this purchase order including, but not limited to, its defense and indemnity, even for claims over supplier's policy limits.

## **13. Warranty**

Supplier warrants that all goods furnished under this purchase order will conform to all specifications and requirements of this purchase order and will be free from defects in materials and workmanship. To the extent goods are not manufactured pursuant to detailed designs and specifications furnished by Outpost, supplier warrants that the goods will be free from design and specification defects.

*This warranty will begin after final acceptance by Outpost Technologies and will extend for a period of:*

- i. The manufacturer's warranty period or 12 months, whichever is longer, if Supplier is not the manufacturer and has not modified the goods.

OR



- ii. Four years or the manufacturer's warranty period, whichever is longer if supplier is the manufacturer of the goods or has modified them. Outpost will give written notice to supplier of any warranted defect or nonconformance of goods. Outpost Technologies, at its option, may require supplier to promptly correct or replace warranted goods at no expense to Outpost. If correction or replacement by supplier is not timely, Outpost may, at supplier's expense, return the goods to supplier, correct, or replace the goods, or have a third party correct or replace the goods. Supplier will comply with Outpost's direction under this provision. If it is later determined that the supplier did not breach this warranty, the parties will equitably adjust the price.

#### **14. Counterfeit Work**

*Suppliers conducting business with Outpost agree to:*

- i. Supplier shall not deliver counterfeit material under this purchase order.
- ii. Supplier shall only purchase products to be delivered or incorporated as material to Outpost directly from an original component manufacturer (OCM)/original equipment manufacturer (OEM) or through an OCM/OEM authorized distributor chain.
- iii. Material shall not be acquired from an independent distributor or broker unless approved in advance in writing by Outpost.
- iv. Supplier shall immediately notify Outpost with the pertinent facts if seller becomes aware or suspects that it has furnished counterfeit material.
- v. When requested by Outpost, supplier shall provide OCM/OEM documentation that authenticates traceability of material to applicable OCM/OEM.
- vi. This clause applies in addition to any quality provision, specification, statement of work, or other provision provided in this purchase order addressing authenticity of work. To the extent such provisions conflict with this clause prevails.
- vii. If counterfeit material is delivered under this purchase order, seller shall at its own expense, promptly replace such counterfeit material with genuine work conforming to the requirements of this purchase order notwithstanding any other provision in this purchase order. Supplier shall be liable for all costs relating to the removal and replacement of counterfeit material including without limitation Outpost costs of removing counterfeit material or installing replacement material of any testing necessitated by the re-installation of material after replacement of counterfeit material and any fines or penal ties assessed to Outpost as a result of the counterfeit material.
- viii. At no additional cost to Outpost, goods shall be subject to inspection and testing at reasonable times and places. Outpost has the right to visit supplier locations during operating hours to inspect, review and assess progress and performance under this purchase order, including but not limited to production, schedule, and quality. Any Outpost representative shall be allowed access to all areas used for the performance regarding this purchase order.

**15. Compliance**

Supplier represents, warrants, and covenants that it will comply with all laws applicable to the products and/or the activities contemplated or provided under this purchase order including, but not limited to, the specific areas listed below as well as any national, international, federal, state, provincial, or local law, treaty, convention, protocol, common law, regulation, directive, code, standard, ordinance, order (including judicial order), or rule and regulation issued by governmental agencies or authorities including, but not limited to, those dealing with environment, health, safety, employment, tariff and customers, record retention, personal data protection, or the transportation or storage of hazardous materials.

**16. Stop-Work**

Outpost may, at any time, by written notice to supplier, require supplier to stop all or part of the work or delivery of supplies called for by this work order for a period of up to 90 days and for any additional agreed period. Upon receiving such notice, supplier shall immediately comply with its term and take all reasonable steps to avoid incurring any additional costs associated with the stopped work during the time period. Outpost Technologies will, prior to the end of the time period, either cancel the stop work order or terminate this purchase order in whole or in part as permitted by this purchase order. If a stop-work order is issued, Outpost Technologies shall modify the delivery schedule and/or price in this purchase order as Outpost Technologies deems equitable under the circumstances, provided the supplier requests such change within 15 days of the end of the Time Period.

**17. Termination/Cancellation**

For Outpost Technologies' own best interest, Outpost Technologies reserves the right to terminate this purchase order for convenience, in whole or in part, by providing written notice of such termination to supplier. If this purchase order is terminated, supplier shall submit a final termination settlement proposal to Outpost Technologies. The supplier shall submit the proposal promptly, but no later than six months from the effective date of the termination. If the supplier fails to submit the proposal within the time allowed, Outpost Technologies may determine the amount if any, due to the supplier because of the termination. The supplier shall transfer title and deliver to Outpost Technologies, in the manner and to the extent requested in writing by Outpost Technologies at or after termination such completed goods, partially completed goods and materials, parts, tools, dies, patterns, jigs, fixtures, plans, drawings, information and contract rights as supplier has produced or acquired for the performance of the terminated part of this purchase order. Outpost Technologies will pay the supplier the contract price for completed goods and services delivered to and accepted by Outpost Technologies and the fair value of the other property of the supplier so requested and delivered. Supplier shall continue performance of this purchase order to the extent not terminated. Outpost Technologies shall have no obligations to supplier with respect to the terminated part of this purchase order except as herein provided.

**18. Intellectual Property**

Any intellectual property owned by a party prior to the issuance of a purchase order will remain owned by that party. To the extent that Outpost is paying supplier to develop new intellectual property as part of the purchase order, Outpost will own all rights, title, and interest in that intellectual property.

**19. Confidential Information**

*The supplier and its employees, representatives, and subcontractors will:*

- i. Keep all confidential information, confidential and protect the confidential information against unauthorized use or disclosure using at least those measures that it takes to protect its own confidential information of a similar nature, but in no case, less than reasonable care.

AND

- ii. Use such information only for the purposes of fulfilling its obligations under this purchase order. All confidential information is Outpost's exclusive property. Any knowledge or information that the supplier has disclosed or may hereafter disclose to Outpost in connection with this purchase order will not be deemed to be confidential or proprietary and is acquired by Outpost free from any restrictions (other than a claim for infringement) as part of the consideration for this purchase order, and notwithstanding any copyright or other notice thereon, Outpost will have the right to use, copy, modify, and disclose the same as it sees fit.

**20. Performance on Outpost's or Outpost's Customer's Premises**

When the purchase order requires supplier to perform work on Outpost's or its customer's premises, the following shall be adhered to:

- i. The supplier shall take all necessary precautions to prevent any injury to persons or damage to property during the progress of such work. The supplier agrees to indemnify Outpost against all loss or liability resulting from any act or omission by supplier, its employees, agents, or subcontractors.
- ii. The use of a non-U.S. Citizen is prohibited without specific consent from Outpost. In addition, background checks such as those performed by employers during the hiring process [e.g., citizenship, personal identification (Social Security Number), criminal and credit] shall be performed by the supplier. Verification of these checks must be provided upon request.

**21. Contacts with Outpost's Customers and Other Suppliers**

Outpost shall be responsible for all liaison and communications with Outpost's customer and other suppliers for this purchase order. The supplier shall not communicate with Outpost's customers or other suppliers regarding this purchase order, unless otherwise authorized in writing by Outpost. Notwithstanding the foregoing, nothing herein shall restrict the government's rights to contract directly with a party to this agreement.

**22. Indemnification**

Supplier will defend, indemnify, and hold harmless Outpost, its officers, directors, affiliates, subsidiaries, employees, agents, customers, and assigns from and against any allegation, claim, suit action, proceeding, damages, losses, settlement, cost, expense, and any other liability (including, but not limited to, reasonable attorney fees) arising out of, related to, or resulting from:

- i. Actual or alleged infringement of any patent or copyright, or misappropriation of trade secret from the design, manufacture, possession, ownership, use, sale, or transfer of the products.
- ii. An actual or alleged breach of any of supplier's representations, warranties, or other obligations under this purchase order.
- iii. Any act or omission of supplier or its employees, agents, affiliates, contractors, or subcontractors, except to the extent caused by the gross negligence or willful misconduct of Outpost as determined by a final, non-appealable order of a court having jurisdiction. Supplier's duty to defend is independent of its duty to indemnify. Supplier's obligations under this section (Indemnification) are independent of any other obligation of Outpost under this purchase order. Supplier's obligations under this section (Indemnification) will survive Outpost's acceptance of and payment for the products. If an alleged claim of infringement or misappropriation is made, supplier will procure for Outpost, and Outpost's customers, the rights to continue using the products, modify them in a manner acceptable to Outpost, replace the products with a non-infringing one or remove the products and refund the purchase price.

**23. Infringement**

Supplier shall indemnify and defend Outpost or its customers from any claim that the goods or services furnished under this purchase order, or the normal use or sale thereof infringes any U.S. letters, patent, or copyright, provided that supplier is notified in writing of the suit and given authority, information, and assistance at supplier's expense for the defense of same. If the use or sale of said good or service is enjoined as a result of such suit, supplier, at no expense to Outpost, shall obtain for Outpost and its customers the right to use and sell said good or service or shall substitute an equivalent item acceptable to Outpost and extend this patent indemnity thereto. Notwithstanding the foregoing paragraph, when this purchase order is performed under the authorization and consent of the U.S. government to infringe U.S. patents as noted in FAR 52.227-1, supplier's liability for infringement of such patents in such performance shall be limited to the extent of the obligation of Outpost to indemnify the U.S. Government.

**24. Subcontracting**

Supplier is hereby granted the right to subcontract any portion of this purchase order as proposed, provided that all work so subcontracted, when combined, does not exceed 70% of the value of the purchase order in accordance with FAR 52.215-22 and FAR 52.215-23. Nothing in this purchase order shall be seen as prohibiting supplier's purchase of standard commercial

articles, raw material, or other supplies specified in this purchase order if these are typically purchased by supplier in the normal course of business. This right to subcontract shall not be deemed an assignment of obligation and supplier shall remain liable under this purchase order regardless of subcontracts.

## **25. Applicable Law & Jurisdiction**

The validity, construction, and interpretation of this purchase order, and the rights and duties of the parties to this transaction, shall be governed by the laws of the State of Alabama. The courts located in the State of Alabama shall have exclusive jurisdiction of all matters arising under this purchase order, and each party hereby consents to the jurisdiction of such courts. The invalidity of one provision of this purchase order shall not affect the validity of any other provision. To the extent that the laws, rules, and regulations for U.S. government procurement apply, then the laws commonly referred to as U.S. government contract law shall apply.

## **26. Disputes**

*Any disputes shall be determined between two options:*

- i. Outpost and supplier agree to enter into negotiations to resolve any dispute. Both parties agree to negotiate in good faith to reach a mutually agreeable settlement within a reasonable amount of time, not to exceed thirty (30) days.
- ii. All disputes under this purchase order that are not disposed of by mutual agreement may be decided by an action in a court of law or equity.

## **27. Quality Clauses**

When the purchase order requires supplier to perform work to specific quality requirements, the applicable quality clauses will be included in the purchase order. Quality clauses can be found at: <https://outposttechnologies.com>. The following Quality Clauses shall be adhered to on all purchase orders: Q000, Q001, Q203, Q504, Q505, Q507, and Q513.

## **28. Retention of Records**

Unless a longer period is specified in this purchase order or by law or regulation, supplier shall retain all records related to this contract for three (3) years from the date of final payment received by supplier. Records related to this purchase order include, but are not limited to, financial, proposal, procurement, specifications, production, inspection, test, quality, shipping and export, and certification records. At no additional cost, supplier shall timely provide access to such records to the U.S. government and/or Outpost upon request.

## **29. Order of Precedence**

Any inconsistencies in this purchase order will be resolved in accordance with the following descending order of precedence:

- i. Applicable FAR and Agency Specific FAR Supplemental Clauses
- ii. Applicable Government or Customer Flow-Down
- iii. Purchase Order Form
- iv. Quality Terms

- v. Purchase Order Terms and Conditions
- vi. Statement of Work
- vii. Technical Specifications
- viii. Other Documents Appended to the Purchase Order