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SD-BT-001: Buyer Terms and Conditions

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These Terms and Conditions apply to all Contractual documents issued by Supplying Demand LLC (Buyer) which incorporates this form, unless added to, modified, superseded, or otherwise altered by the contractual document itself.

1. Definitions

- 1.1. The following definitions apply unless otherwise specifically stated:
 - 1.1.1. **Buyer:** The legal entity issuing this Order (Supplying Demand LLC).
 - 1.1.2. **Purchasing Representative:** Buyer’s authorized representative.
 - 1.1.3. **Seller:** The legal entity which contracts with the Buyer.
 - 1.1.4. **Order:** This Supplying Demand LLC contractual purchase order and documents which incorporate these terms and conditions.
 - 1.1.5. **Goods:** The articles, materials, or services being purchased from Seller by Buyer via its Order.

2. Applicable Clauses

2.1. Acceptance:

- 2.1.1. The Acceptance Copy annexed hereto must be signed and returned immediately. Acceptance of this Order is expressly conditioned upon Seller’s assent to the terms and conditions stated herein. Any additions, deletions, or differences in the terms proposed by the Seller are objected to and hereby rejected unless Buyer agrees otherwise in writing. Seller’s failure to acknowledge this Order within ten (10) days of the date of receipt, or Seller’s commencement of performance or acceptance of this Order, in any manner, shall conclusively evidence agreement to this Order as written.

2.2. Packaging/Marking:

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2.2.1. Goods shall be packed in suitable containers for protection per MIL-STD 2073-1E and labeled with Buyer’s shipping marks to permit safe transportation per MIL-STD 129 unless otherwise requested. An itemized packing list shall be placed in each package. No charges are allowed for boxing, packing, or crating unless previously agreed to by Buyer. All Hazardous Materials/Dangerous Goods shipped must be packaged, labeled, and shipped in accordance with, and comply with the International Air Transportation Association (IATA) regulations, as well as any and all other applicable laws and regulations. Hazardous materials shipped in cans must have lid locking devices. A UN number is required with hazardous materials per IATA regulations. Bearings must be individually packaged in original manufacturing packaging. All shelf-life limited materials must have 85% of shelf life remaining at the time of delivery. A protective coating is required with sheet metal. If a MATERIAL SAFETY DATA SHEET (MSDS) is required for the Goods, the Seller shall include one copy of the MSDS, and it shall be identifiable and provided with each shipment of the Goods furnished under this Order. In addition, a Shipper’s Declaration For Dangerous Goods shall also be provided with the material.

2.3. Shipment/Inspection:

- 2.3.1. All Goods shall be shipped to final end-user destination, and shall be received at such destination, subject to Buyer’s and the final end-user’s rights of inspection and rejection.
- 2.3.2. Seller acknowledges that Buyer is purchasing the Goods for resale under the contract identified to this Order, that the final end-user has the right to inspect and reject the Goods, and that Buyer will not independently inspect the Goods. Rejection of the Goods by the final end-user shall be considered rejection of the Goods by Buyer. Buyer’s right to inspect and reject the Goods shall not expire prior to the expiration of the period during which the final end-user may inspect and reject the Goods. Defective

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2.3.3. Goods not in accordance with Buyer’s specifications, or Goods in excess of those specified will be held for Seller’s direction at Seller’s risk and cost. If Seller so directs, such defective Goods will be returned to Seller at Seller’s expense. If inspection by Buyer and the final end-user discloses that part of the Goods are not in accordance with Buyer’s specifications, Buyer shall have the right to cancel any unshipped portion of the Order. Payment for Goods in this Order prior to inspection by Buyer and the final end-user shall not constitute acceptance thereof and is without prejudice to any claims that Buyer may have against Seller. Buyer’s or the final end-user’s failure to specify the reasons for rejection in writing or otherwise is not a waiver of those reasons, which may be raised by Buyer at any time before or after rejection. Risk of loss shall not pass to Buyer until Goods are inspected and accepted by Buyer and the final end-user. Inspection and acceptance by Buyer or the US Government or its Customer or the final end-user shall not waive latent defects or express or implied warranties in the Goods, which shall survive delivery.

2.4. Title:

Seller warrants that Seller has legal title to the Goods, and that the Goods are free from all liens and encumbrances.

2.5. Changes:

Buyer shall have the right, upon written notice to Seller, to require changes in the quantity, quality, or terms of delivery and shipment of the Goods sold by Seller and confirmed adjustments shall be made in the amount due or in time of delivery and shipment required.

2.6. Cancellation for Default:

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2.6.1. If Seller fails to make any delivery in accordance with the agreed delivery date or schedule (and time is of the essence to Buyer) or otherwise fails to observe or comply with any of the other instructions, terms, conditions, or warranties applicable to this Order, or fails to make progress so as to endanger performance of this Order, or in the event of any proceeding by or against Seller in bankruptcy or insolvency or appointment of a receiver or trustee or an assignment for the benefit of creditors, Buyer may, in addition to any other right or remedy provided by this Order or by law or equity, terminate all or any part of this Order by telegraphic or other written notice to Seller without any liability to Buyer to Seller on account thereof. In the event of such Cancellation for cause, Buyer may purchase supplies or services elsewhere on such terms or in such manner as Buyer may deem appropriate, and Seller shall be liable for any and all excess costs and expenses incurred by Buyer.

2.7. Termination:

2.7.1. Buyer may terminate work under this Order in whole or in part at any time by notice to Seller in writing. Seller will thereupon immediately stop work on this Order, or the terminated portion thereof, and notify its subcontractors to do likewise. Except where such termination is caused by a default or delay of Seller, Seller shall be entitled to reimbursement of its actual costs incurred up to and including the date of termination which are applicable to the termination in accordance with recognized accounting practices. Seller shall also be entitled to a reasonable profit only on the work done prior to such termination at a rate used in establishing the original purchase price. The total of such claim shall not exceed the canceled commitment value of this Order. Termination shall be subject to the inspection provision of U.S. Government procurement regulations, if applicable hereto.

2.8. Confidentiality:

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2.8.1. Seller agrees that all drawings, specifications, samples, and/or written disclosures forming a part of this Order, either by reference or otherwise, are the property of Buyer, and if marked Proprietary, are submitted in confidence with the understanding and agreement by Seller that such drawings, specifications, samples, and/or written disclosures so marked shall not be utilized, in whole or in part, by Seller, either for itself or by it on behalf of any other person, firm, or corporation, without written permission of Buyer, for copying or replication, program purposes, including procurement and manufacture of Buyer’s products, or portions thereof.

2.9. Delay in delivery:

2.9.1. If Seller becomes aware of any circumstances that are likely to give rise to delay in delivery of the Goods, Seller shall immediately notify Buyer in writing stating the reason for the delay and a new time of delivery, which shall be subject to written acceptance by Buyer. In case of delay in delivery, Buyer reserves the right to cancel the Order for default under Clause B-6, without liability to Seller or any other third party. Buyer reserves the right to cancel the Order should the Seller not respond promptly to Buyer’s expedited notices.

2.10. Quality:

2.10.1. All Goods ordered will be supplied in accordance with ISO 9002:2015 or AS-9120B standards, or higher. Goods supplied shall meet the requirements in the applicable technical specifications and documentation (drawings, specifications, standards, etc.). It shall be the sole responsibility of Seller to monitor that the technical specifications regarding materials, methods, form, fitness, and function are observed, whether or not the Goods have been manufactured by Seller or by any of Seller’s subcontractors. Where no specific requirements are stated, good industry and craftsmanship practices shall be observed. Goods are to be manufactured in accordance with spares configuration guidelines. The following information shall be provided:

2.10.1.1. The identification and revision status of specifications, drawings, and other relevant technical data when applicable.

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2.10.1.2. Notification of non-conforming product prior or post-delivery with request for product disposition.

2.10.1.3. Notification of any change that will affect form, fit, or function.

2.10.1.4. Right of access to the Buyer, their customer, and regulatory authorities to the applicable areas of the Seller’s facility and to all applicable documents.

2.10.1.5. Record retention is 7 years unless otherwise specified.

2.11. Taxes/Duties:

2.11.1. Buyer shall not be liable for any Federal, State, or local taxes, or Export or Import duties at destination for the Goods.

2.12. Price Warranty:

2.12.1. Seller warrants that the prices of the Goods set forth herein do not exceed those charged by the Seller to any other customer purchasing the same or similar Goods in comparable quantities.

2.13. Law/Compliance:

2.13.1. Seller agrees that in the performance of this Order, Seller and any subcontractors shall comply with all applicable laws, regulations, and ordinances. The Order is governed by the laws of the State of New Hampshire, excluding its conflict of laws principles.

2.14. Disputes:

2.14.1. Any dispute arising out of or relating to this Order or the breach thereof, which is not settled by mutual agreement, shall be resolved in the courts located in Rockingham County, New Hampshire. In any litigation or arbitration arising from this Order, the prevailing party shall be entitled to recover its reasonable attorneys’ fees and costs.

2.15. Infringement:

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2.15.1. Seller agrees to indemnify and hold Buyer harmless from and against all claims, damages, liabilities, and expenses, including reasonable attorney’s fees, arising from or related to any actual or alleged infringement of any patent, trademark, copyright, or other intellectual property rights by the Goods.

2.16. Examination of Records:

2.16.1. Buyer, or Buyer’s authorized representative, shall have the right to examine any books, records, and other relevant documents of the Seller related to the Order, up to three (3) years after final payment under this Order, provided that this right to examine records shall not be applicable if the Order amount is less than \$10,000. Seller shall make such records available at its place of business or, if necessary, at another location designated by the Buyer. The right to examine records shall not be restricted by the retention period of record established by Seller’s internal policies.

2.17. Entire Agreement:

2.17.1. This Order represents the entire and complete agreement between the parties and supersedes all prior or contemporaneous agreements, understandings, or representations, written or oral. It is intended that no agreement, oral or written, shall vary or modify any of the provisions of this Order unless in writing and signed by Buyer.

2.18. Modifications:

2.18.1. No modification, alteration, or amendment to this Order shall be valid or binding unless in writing and signed by Buyer’s Purchasing Representative.

2.19. Waiver:

2.19.1. Any waiver of any term or condition of this Order by Buyer must be in writing and signed by Buyer. No waiver of any term or condition shall be deemed a waiver of any other term or condition.

2.20. Export Control:

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2.20.1. Seller shall comply with all applicable U.S. export control laws and regulations and shall not export any Goods or disclose any technical data to any foreign person without obtaining Buyer’s prior written consent. Seller shall immediately notify Buyer of any changes to the export control status of the Goods.

2.21. Order of Precedence:

2.21.1. In case of any conflict between the provisions of this Order and other documents or communications, the order of precedence shall be: this Order, these Terms and Conditions, and then other documents. Technical conflicts shall be resolved with Buyer.

2.22. Indemnification:

2.22.1. Seller agrees to indemnify, defend, and hold Buyer harmless from and against any and all claims, losses, damages, liabilities, and expenses, including reasonable attorney’s fees, arising from or related to any breach of this Order by Seller, defects in the Goods, or any wrongful act or omission of Seller.

2.23. U.S. Government Procurement Requirements:

2.23.1. To the extent that this Order is issued under a U.S. Government contract, additional terms and conditions required by such contract shall be deemed incorporated herein by reference. Seller shall comply with all applicable U.S. These Terms and Conditions apply to all Contractual documents issued by Supplying Demand LLC (Buyer) which incorporates this form, unless added to, modified, superseded, or otherwise altered by the contractual document itself.

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