

Document Title	Midwest Precision Purchasing Terms & Conditions		
Doc #	WI-077		
Revision	01	Approved by: B. Cvetichan	Date: 8/26/19

Requirements

- 1. Acceptance.** Seller's acceptance of a purchase order from Midwest Precision LLC ("Midwest"), by order acknowledgment, delivery, or otherwise, or acceptance by Midwest of any quotation or other offer submitted by seller, is hereby expressly made conditional on Seller's consent to these terms and conditions, and Midwest agrees to purchase the products specified in the accompanying purchase order only upon these terms and conditions. These terms and conditions, plus any accompanying purchase order, shall hereinafter be referred to as the "Agreement."
- 2. Delivery.** Seller shall deliver the Products to Midwest on such date as is agreed to by the parties. Time is of the essence with respect to delivery of the Products. In the event delivery is not timely, Midwest shall have the right to cancel the agreement of the parties with respect to the Products and recover so much of the purchase price as has been paid by Midwest and, whether Midwest elects to terminate the agreement or accept late delivery, Midwest shall have the right to seek any damages caused by Seller's delay in delivery.

Seller shall be responsible for shipment of the Products to Midwest's designated location, subject to reasonable requests on the part of Midwest. The Product shall be preserved, packaged, and handled in accordance with good commercial practice and Midwest's specifications. Midwest's purchase order number shall be plainly visible on any invoices, packages, bills of lading, or shipping orders provided by Seller. Seller shall be solely responsible for any customs, duties, costs (including crating or storage), taxes, insurance premiums, and other expenses relating to delivery of the Products to Midwest, and Seller shall indemnify, defend, and hold Midwest harmless from and against any such expenses or cost. Except as otherwise provided herein, Midwest shall be responsible for charges of a carrier with respect to delivery of the Products, provided, however, that Seller agrees to secure the lowest rate provided by that carrier.

- 3. Cancellation.** Midwest's at its election, may cancel this agreement at any time prior to delivery of the Products. In the event of cancellation by Midwest, Midwest shall not be liable to Seller for its anticipated profits on sale of the Products, and Seller shall use its best efforts to mitigate any damages incurred as a result of cancellation by Midwest.
- 4. Payment.** Midwest's obligation to pay the purchase price is subject to any claims by Midwest for setoff or recoupment, including but not limited to charge backs or defects, damages, errors, and omissions with respect to the condition or function of the Products.
- 5. Risk of Loss.** Risk of loss, theft, destruction, or damage to the Products shall pass to Midwest f.o.b. Midwest factory, or such other location Midwest designates for delivery of the Products.

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6. Inspection/Acceptance. Midwest shall be entitled to inspect, at any time upon prior notice to Seller, Seller's manufacture of the Products, including the facilities and equipment used to manufacture the Products. Seller shall carefully inspect the Products prior to shipment to Midwest. Midwest may reject all or part of any lot of Products delivered to Midwest that do not conform to their applicable specifications, descriptions, warranties, or other promises or representations of Seller, within 90 days after completion of delivery. For additional requirements see WI-078, Aerospace & Defense Supplier Quality Requirements, as appropriate. In the event any Products are rejected by Midwest, Seller shall return to Midwest the purchase price for those Products, plus any reasonable costs incurred by Midwest in shipping the Products back to Seller.
7. Change Orders. Midwest from time to time prior to the date of delivery, may make changes to the designs or specifications of the Products, the method of shipment or packing, or the location of delivery. In the event Midwest makes changes to the design or specifications of the Products, the purchase price for the Products for which such designs or specifications are changed shall be equitably increased or decreased, as the case may be, as mutually agreed upon by the parties. In the event any change order from Midwest requires an extension of the date for delivery of the Products despite due diligence on the part of Seller in completing delivery on the date originally agreed to by the parties, the date of delivery shall be extended but only for such additional time as Seller needs, using due diligence, to complete delivery.
8. Warranty. Seller warrants to Midwest, its customers, and end users for a period from completion of delivery of the Products to Midwest, to one year following first use of the Product as incorporated into the final product intended, that: (a) the Product shall be free from defects in design, material, workmanship, and manufacture; (b) the Products will conform to any specifications, drawings, samples, or other descriptions by Seller or provided by Midwest to Seller, and any representation or promises of Seller; (c) the Products will be suitable for the purposes for which they are intended; and (d) the Products are new, unused, and not subject to any prior damage. Seller also warrants to Midwest, its customers, and end users that Seller delivered to Midwest good unencumbered title to the Products. The foregoing warranties are in addition to all of the warranties, whether expressed or implied, and will survive delivery, inspection, acceptance, or payment by Midwest.

In the event any warranty made by Seller with respect to the Products is breached, Midwest, at its sole option, may; (a) require Seller to correct any such breach by conforming the Products to their warranty at no charge to Midwest; (b) return the Products to Seller at Seller's expense and recover from Seller the purchase price for the Products; (c) conform the Products to their warranties itself and charge back to Seller any costs, including labor, in conforming the Products to their warranty, or (d) use the Product in its non-conforming condition and receive from Seller a return of a portion of the purchase price consistent with the value of the Products in their non-conforming condition. The foregoing remedies are in addition to all other remedies at law or in equity, for damages or otherwise, and shall not be deemed to be exclusive.

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9. Assignment. Seller shall not assign, transfer, pledge, or otherwise dispose of this Agreement or any right or obligation herein without the prior written consent of Midwest in each instance. Any attempted assignment without Midwest' prior written consent shall be voidable at Midwest's election.
10. Indemnity. Seller shall indemnify, defend, and hold harmless Midwest, its officers, directors, shareholders, agents, and employees, from and against all claims, damages, liabilities, and costs (including attorneys' fees) arising from or relating to: (a) Seller's breach or non-performance of any provision of the Agreement; or (b) injury, death, sickness to persons, or damage to property resulting from any act or omission of Seller, or breach by Seller of any warranty set forth in Section 8 of these Terms and Conditions.
11. Statute of Limitations. Any claim of Midwest against Seller arising out of or relating to this Agreement shall be subject to the applicable statutes of limitation provided for at law, which time periods cannot be shortened or otherwise restricted by Seller.
12. Arbitration. Either Midwest or Seller may elect, by written notice to the other party, to settle any claim or controversy arising out of or relating to this Agreement or the breach or non-performance of any provision hereof, by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association in effect at the time such claim or controversy arises. Midwest and Seller agree that any arbitration shall be administered and conducted in Lake County, Ohio
13. Governing Law. This Agreement shall be deemed to have been made in Lake County, Ohio, and shall be governed by, construed, and enforced in accordance with the internal, substantive laws of the State of Ohio, without giving effect to conflicts of law principles. The Convention for the International Sale of Goods shall not apply to any case or controversy arising out of or related to this Agreement. Seller hereby submits to the exclusive jurisdiction of the courts of Lake County, Ohio with respect to any claim or controversy arising out of or related to this Agreement.
14. Severability. In the event any provision of this Agreement is held or determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect.
15. Product Traceability. All products during manufacture must have accountability (e.g., parts quantities, split orders, nonconforming product).
16. Nonconforming Product Notification. Supplier shall notify Midwest when nonconforming product has been produced, and obtain disposition approval / authorization from Midwest, prior to delivery.

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17. Foreign Object Debris. The supplier shall employ appropriate housekeeping practices to assure timely removal of residue/debris generated, if any, during manufacturing operations and/or normal daily tasks. Sellers shall determine if sensitive areas that may have a high probability for introduction of Foreign Objects should have special emphasis controls in place appropriate for the manufacturing environment. The supplier shall determine the need for, and implement, FOD prevention awareness training programs.
18. Midwest Precision Access Clause. Authorized representatives of buyer, and its customer, government or FAA when accompanied by Buyers representative, shall have the right to visit the Supplier's and its subcontractor's facilities and documented information at any time during the performance of this purchase order. These visits are for the purpose of ascertaining progress, making inspections, reviewing documented information, performing surveillance and witnessing tests. The Buyer shall give prior notification of such visits, to minimize interference with the normal operations of Supplier's plant. Such visits by Midwest and/or its customer do not absolve the Supplier of the responsibility to provide acceptable product. Verification by Midwest's customer does not preclude subsequent rejection by Midwest of any nonconforming items.
19. Flow down Clause. Supplier shall flow down applicable requirements in the purchasing documents to sub-tier suppliers, including key characteristics where required.

Seller agrees that the work produced internally and or the work procured from sub-tier suppliers under this contract shall comply with the following requirements unless a documented request for change is approved by Midwest Precision Procurement.

- Work shall not be moved to another production facility.
- No changes shall be made to the design, manufacturing process, materials, or activities that affect fit, form, or function
- A fit, form or function analysis shall be performed, documented, and included with any request for change.
- A documented process shall be in place to review, identify, and submit a request for changes to Midwest Procurement.

A documented request for change shall be submitted to Midwest Precision Procurement 30 days prior to planned implementation. The change will not be implemented unless approved by Midwest Procurement. Military Specifications and Commercial Standards referenced shall be to the latest revision level in effect on the date of this order.

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Additionally, the Supplier shall notify the Buyer in writing within five (5) business days in the event of changes to any of the following:

- Senior company management
- Company ownership
- Quality system status (for example – AS9100 / ISO 9001 registration, or disapproval by DCMA)
- Controlled process certification status
- Comprehensive revision to quality manual and/or procedures

Failure to provide notification may result in termination of the Purchase Order or removal from approved supplier list.

- 20. Unauthorized Facility Changes.** During performance on the Contract, the Supplier shall give Midwest written notice before relocating any production, inspection or processing facilities; or, transferring work between different facilities; or, when applicable, prior to initiating any changes in the source of major components procured by the Supplier and designated for use in or for installation on products scheduled for delivery to Midwest; or, making any other changes which may affect product quality, reliability or integrity. Such changes are subject to approval by Midwest Precision. A change in ownership or a change in the individual designated as the management representative in respect to the Suppliers Quality/Inspection System shall be construed as a facility change and requires the Supplier to notify Midwest.
- 21. Unauthorized Production Repairs & Salvage.** The Supplier may not perform any repairs such as welding, brazing, soldering, plugging, peening, bushings, or, use of paints, adhesives or plating, or use any standard or other repair practice or method, on products damaged or found to be discrepant during fabrication or processing, or, on defects in castings or forgings, unless such repairs are specifically permitted by the applicable drawing or specification, or are specifically authorized by Midwest in writing for each occurrence. Unless specifically authorized by Midwest, this prohibition also applies to reworking product by removing plating (stripping) and re-plating. In those cases, where Midwest authorized product repair, salvage or stripping has been accomplished, the Supplier shall include on the packing list or on a separate attached document a list of the products that have been subjected to Midwest approved repair, salvage or stripping, and the method used.
- 22. Unauthorized Product Changes or Substitutions.** The Supplier may not make any changes or substitutions to any products or services required by the Contract, drawing, specification, standard, or other applicable document without prior written authorization by Midwest. Authorization may be contingent on

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Midwest conducting an on-site review of the proposed product or service changes at the Supplier's facilities, or the facilities of the Supplier's sub-tier sources.

- 23. Use of Non-Conventional Manufacturing Methods.** Unless required by the drawing, specification, or Contract, the Supplier may not use Electrical Discharge machining (EDM), Electro Chemical Machining (ECM), Laser, or abrasive water jet cutting or drilling, flame spray coatings, or any other non-conventional manufacturing method or process on products scheduled for delivery to Midwest without prior written authorization by Midwest. This Prohibition also applies to the use of such processes by the Supplier's sub-tier sources. Authorization by Midwest may be contingent on Midwest conducting a review and approving the method, facilities, equipment, and qualified personnel at the Supplier's facilities or the facilities of the Supplier's sub-tier sources that will perform the operation or process. In addition, when authorized, such operations and processes may only be performed by Midwest approved sources.
- 24. Altering Data on Documents.** The use of any method that causes the original data on documents to be obliterated and unreadable (i.e. the use of correction fluids, correction tape, write-over, or other methods) to correct, modify or otherwise alter the data and/or entities on any certifications, test reports or other documents required by the Contract, is strictly prohibited. Corrections may be made on inspection reports such as 1st Article Inspection Reports (FAIR), providing it is clearly obvious that a correction was made and it is signed (initialed) or stamped by an authorized individual. Upon receipt at Midwest, products or services represented by documents that show evidence that they have been corrected or altered in an unauthorized manner are subject to return to the Supplier at Supplier's expense.
- 25. Counterfeit Part Prevention.** It is imperative that supplier take action to prevent the use of counterfeit parts. Seller shall not deliver products that contain counterfeit items (such as, but not limited to, software, material and electrical/mechanical parts/assemblies). SAE AS5553 provides guidance for counterfeit prevention.
- 26. Statement to Prevent Transactions with Denied Persons/Debarred Parties/SDN.** To ensure compliance of U.S. export laws, Midwest Precision does not conduct any business transaction with the "Denied Persons List" published by the U.S. department of Commerce, the "Denied Parties List" published by the Department of the State, and the "Specially Designated Nationals" list published by the Department of Treasury, Foreign Assets Control. Midwest Precision expects all suppliers and its subcontractors to comply with these laws as well. Suppliers include this requirement in lower-tier Purchase orders and/or subcontracts.

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27. Defense Contracts. The purchase order can be contracted certified for National Defense and given a priority rating. The contractor is required to follow all provisions of the Defense Priorities and allocations system regulation (15CFR 700). The rating on the contract is specified if applicable to the purchase order.

28. DFARS Clause. Midwest Precision takes compliance with DFARS 225.70 very seriously. Unless an exception under DFARS 225.70 applies, you and your suppliers must comply with DFARS 252.225-7014, ALT 1, preference for domestic specialty metals, for contracts exceeding the simplified acquisition that required delivery of an article containing specialty metals under government contract. See document: Federal Acquisition Regulations (FAR).

29. ITAR Clause. Transfer of technical data is limited to U.S. Persons (as defined in 22 CFR 120.15 of the ITAR)

- U.S. Person: A person who is a lawful permanent resident of or who is a protected individual in the United States. It also means any corporation, business association, partnership, society, trust or any other entity, organization or group that is incorporated to do business in the United States. It also includes any governmental (federal, state or local) entity. It does not include any foreign person as defined in §120.16 of this part.
- Foreign Person: A person who is not lawful permanent resident of or who is not a protected individual in the United States. It also means any corporation, business, partnership, society, trust, or any other entity, organization or group that is not incorporated to do business in the United States, as well as international organizations, foreign governments and any agency or subdivision of foreign governments (e.g., diplomatic missions).

Transfer of technical data to any foreign person (as defined in 22 CFR 120.16 of the ITAR) is deemed to be an export to the home country of the foreign person and without prior approval by the U.S. State Department, is considered a violation of the Arms Export Control Act (AECA) and the International Traffic in Arms Regulations (ITAR).

30. Supplier Employee Awareness. Supplier shall ensure that employees are aware of:

- Their contribution to product or service conformity
- Their contribution to product safety
- The importance of ethical behavior

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31. Communication. The primary communication channel between Midwest and supplier shall be through Midwest Supply Chain Management / Purchasing. It is permissible to have Engineering to Engineering or Quality Assurance to Quality Assurance communication, as appropriate, to resolve technical issues. Commercial communication is to be through Supply Chain Management / Purchasing, unless inquiry / communication is initiated from another Midwest Department.
32. Supplier Performance. It is the expectation of Midwest that supplier delivery commitments are met and that all quality requirements are met. Midwest will monitor supplier quality and delivery performance. Late deliveries, or quality issues, causing Midwest to miss our customer delivery requirements will be reviewed and appropriate action taken, with action potentially up to removal as an approved supplier.

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Appendix

Federal Acquisition Regulations (FAR). The following contract clauses are incorporated by reference from Federal Acquisition Regulations (FAR) and supplemental clauses of the Defense Federal Acquisition Regulations Supplement (DFARS) and apply to the extent indicated. In addition, all clauses required by the US Government by statute, regulation or otherwise to be flowed down are hereby incorporated into this Purchase Order by this reference, whether or not they are explicitly referenced in this Article. In all of the following clauses, except 52.22-4 and 52.215-2 "Contractor" and Offeror" mean Seller, "Government" shall mean Midwest and/or Government; and "Contracting Officer" shall mean Midwest's Procurement Representative. All FAR's to Latest revisions.

FAR

Applicable to All Orders

52.204-2	Security Requirements
52.211-15	Defense Priority and Allocation Requirement
52.222-1	Notice to the Government of Labor Disputes
52.222-20	Walsh-Healey Public Contracts Act
52.222-50	Combating Trafficking in Persons
52.222-21	Prohibition of Segregated Facilities
52.222-26	Hazardous Material Identification and Material Safety Data
52.223-3	Notice of Radioactive Materials
52.223-7	Ozone Depleting Substances
52.223-11	Refrigeration Equipment and Air Conditioners
52.223-12	Privacy Act
52.225-13	Restriction on Certain Foreign Purchases
52.227-3	Patent Indemnity
52.227-9	Refund of Royalties
52.227-10	Filing of Patent applications -Classified Subject Matter
52.227-11	Patent Rights-Retention by the Contractor (Short Form)
52.227-13	Patent Rights-Acquisition by the Government
52.227-14	Rights in Data-General
52.227-17	Rights in Data-Special Works
52.227-18	Rights in Data-Existing Works
52.228-5	Insurance-Work on a Government Installation
52.232-7	Payments under Time and Materials and Labor-Hour Contracts
52.233-1	Disputes
52.233-3	Protest After Award
52.239-1	Privacy or Security Safeguards
52.242-15	Stop Work Order
52.243-1	Changes-Fixed Price
52.243-3	Changes-Time and Materials or Labor Hours
52.244-2	Subcontracts
52.245-1ALL 1	Government Property
52.246-2	Inspection Supplies-Fixed Price
52.246-4	Inspection of Services- Fixed Price
52.246-6	Inspection - Time-and-Materials and Labor-Hour
52.246-16	Responsibility of Supplies
52.247-54	Preference for Privately Owned U>S>-Flag Commercial Vessels

Applicable to All Orders Over \$10,000

52.222-36	Affirmative Action for Workers with Disabilities
<u>Department of Defense FAR Supplement (DFARS)</u>	
<u>Applicable to All Orders</u>	
252.204-7000	Disclosure of Information
252.211-7000	Acquisition Streamlining
252.222-7000	Restrictions on Employment of Personnel
252.223-7002	Safety Precautions for Ammunition and Explosives
252.223-7003	Change in Place of Performance-Ammunition & Explosives
252.223-7004	Drug Free Work Force
252.223-7006	Prohibition on Storage & Disposal of Toxic & HAZMAT
252.223-7007	Safeguarding Sensitive Conventional Arms, Ammo & Explosives
252.225-7001	Buy American Act-Balance of Payment Program
252.225-7002	Qualifying Country Sources as Subcontractors
252.225-7009	Restriction on Acquisition of Certain Articles Containing Specialty Metals
252.225-7013	Duty Free Entry
252.225-7016	Restriction on Acquisition of Ball and Roller Bearings
252.225-7019	Restriction on Acquisition of Foreign Anchor and Mooring Chain
252.225-7022	Restriction on Acq of Polyacrylonitrile (PAN) Carbon Fiber
252.227-7013	Rights in Technical data-Noncommercial Items
252.227-7014	Rights in Noncomm Comp Software and Noncomm Comp Software Doc
252.227-7016	Rights in Bid or Proposal Information
252.227-7018	Rights in Non-Comm Tech Data & Comp Software-(SBIR)
252.227-7019	Validation of Asserted Restrictions-Comp Software
252.227-7020	Rights in Special Works
252.227-7021	Rights in Data-Existing Works
252.227-7025	Limitations on the Use or Discontinue of Government-Furnished information Marked with Restrictive Legends
252.227-7030	Technical Data-Withholding of Payment
252.227-7033	Rights in Shop Drawings

Applicable to All Orders Over \$30,000

52.209-6	Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended or Proposed for Debarment.
<u>Applicable to All Orders Over \$100,000</u>	
52.203-3	Gratuities
52.203-5.1	Covenant Against Contingent Fees
52.203-6	Restrictions on Subcontractor Sales to the Government
52.203-7	Anti-Kickback Procedures
52.203-8	Cancellation, Rescission, and Recovery of Funds for illegal or Improper Activity
52.203-10	Price or Fee Adjustment for illegal or Improper Activity
52.203-12	Limitation on Payments to influence Certain Federal Transactions
52.204-4	Printed or Copied Double Sided on Recycled Paper
52.215-2	Audit and Records -Negotiation
52.215-14	Integrity of Unit Prices
52.219-8	Utilization of Small Business Concerns
52.222-4	Contract Work Hours and Safety Standards Act-Overtime Compensation
52.222-35	Equal Opportunity for Special Disabled Veterans, Veterans of Vietnam Era, and Other Eligible Veterans
52.222-37	Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans
52.223-6	Drug Free Workplace
52.223-14	Toxic Chemical Release Reporting
52.225-8	Duty-Free Entry
52.227-1	Authorization and Consent
52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement
52.247-63	Preference for U>S>-Flag Air Carriers
<u>Applicable to All Orders \$550,000 or More</u>	
52.219-9	Small Business Subcontracting Plan
<u>Applicable to All Orders \$650,000 or More</u>	
52.215-10	Price Reduction for Defective Cost or Pricing Data
52.215-11	Price Reduction for Defective Cost or Pricing Data-Modifications
52.215-12	Subcontractor Cost or Pricing Data
52.215-13	Subcontractor Cost or Pricing Data-Modifications
52.215-15	Pension Adjustment and Asset Reversions
52.215-18	Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions
52.215-19	Notification of Ownership Change

252.227-7037	Validation of Restrictive Markings on Technical Data
252.227-7-39	Patents-Reporting of Subject Inventions
252.228-7005	Accident Reporting and Investigation Involving Aircraft , Missiles and Space Launch Vehicles
252.235-7002	Animal Welfare
252.235-7003	Frequency Authorization
252.239-7016	Telecommunication Security Equipment, Devices, Techniques and services
252.249-7002	Notification of Anticipated Contracts Terminations or Reductions

Applicable to All Orders Over \$100,000

252.203-7001	Prohibition on Persons Convicted of Fraud or other defense-contract-related felonies
252.208-7000	Intent to Furnish Precious Metals as GFM
252.209-7001	Disclosure of Ownership/Control by Gov't of a Terrorist country
252.225-7004	Subcontracting w/Firms Owned/Controlled by Gov't of a terrorist country
252.225-7012	Preference for Certain Domestic Commodities
252.225-7025	Restriction on Acquisition of Forgings
252.247-7023	Transportation of Supplies by Sea
252.247-7024	Notification of Transportation of Supplies by Sea
252.249-7002	Notification of anticipated contract terminations or reductions

Applicable to All Orders \$500,000 or More

252.226-7001	Utilization of Indian Orgs, Indian-owed Economic Enterprises, and Native Hawaiian Small Business Concerns
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Applicable to All Orders \$550,000 or More

252.219-7003	Small, Small Disadvantaged and Woman-Owned Small Business Subcontracting Plan (DoD Contracts)
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