



TERMS AND CONDITIONS APPLICABLE TO ALL PURCHASE ORDERS

- A. IMMEDIATE RETURN OF SIGNED ACKNOWLEDGEMENT COPY IS REQUIRED.
 - B. NO DEVIATION IN PRICE, QUANTITY OR DELIVERY SCHEDULE IS PERMITTED WITHOUT THE WRITTEN APPROVAL OF THE PURCHASING DEPARTMENT.
 - C. ALL OUTSIDE PROCESSING SOURCES MUST BE APPROVED BY MARVIN TEST SOLUTIONS, INC.
 - D. IF THIS ORDER LISTS A GOVERNMENT CONTRACT NUMBER, SUCH CONTRACT NUMBER MUST APPEAR ON ALL COPIES OF THE INVOICE.
 - E. ALL CERTIFICATIONS AND TEST REPORTS MUST BE SUBMITTED WITH INVOICE.
 - F. THE GENERAL TERMS AND CONDITIONS LISTED BELOW ARE A PART OF THE ORDER TO WHICH THE VENDOR/SELLER AGREES BY ACCEPTANCE OF THE ORDER, ALL OF WHICH SHALL BE DEEMED FULLY INCORPORATED AND MADE A PART OF THE ORDER.
 - G. CERTIFIED FOR NATIONAL DEFENSE UNDER DMS REG. NO. 1. IF A PRIORITY RATING SYMBOL IS INDICATED, THE VENDOR/SELLER IS REQUIRED TO FOLLOW THE PROVISIONS OF MDS REG. 1 AND OF ALL OTHER APPLICABLE REGULATIONS AND ORDERS OF BDSA IN OBTAINING CONTROLLED MATERIALS AND OTHER PRODUCTS AND MATERIALS NEEDED TO FILL THIS ORDER.
1. **DEFINITIONS.** The term “Buyer” as used herein means Marvin Test Solutions, Inc. The terms “Seller” or “Supplier” or “Vendor” as used herein refers to the company/organization this purchase order is issued to. The term “supplies” as used herein means any and all work, materials, components, assemblies, intermediate assemblies, parts and end products, manuals, instructions, materials, information and technical data or services to be performed and/or provided by the Seller under this order. The term “Purchase Order” or “Order” or “P/O” refers to the document listing which Supplies are being purchased by Buyer from Seller. The term “FAR” as used herein means the Federal Acquisition Regulation in effect on the date of this order.
 2. **ACCEPTANCE.** This order becomes a binding contract subject to the terms and conditions hereof, when accepted by and acknowledgement and/or commencement of performance thereon. Commencement of performance is an acceptance of these terms and conditions regardless of the fact that an acknowledgement form with different terms and conditions is submitted. No change, modification or revision of this order shall be valid unless in writing and signed by Buyer’s Purchasing Agent or Buyer. In case of any conflicts between the terms specified in the Purchase Order and the terms and conditions set forth below, the terms listed in the Purchase Order shall control.
 3. **PACKING.** No charges shall be made for transportation, handling boxing or packing or for the materials used in connection therewith unless stated in this order. Supplies shall be packed to secure lowest transportation costs and to comply with carrier regulations. All shipments must be packed in a manner that will provide for efficient handling and prevent damage to the supplies in shipment and in storage including without limitation protection against atmospheric deterioration and fungus growth. Damages to any supplies resulting from

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improper packing will be charged to Seller.

4. **WARRANTIES.** Seller expressly warrants that the supplies furnished hereunder will be merchantable, free from defects in material and workmanship, suitable and usable without restriction for the use intended and will conform to applicable specifications, drawings, samples and description, and if of design other than Buyer's will be free from design defects.

These warranties shall remain in effect for eighteen (18) months after the date on which the supplies are delivered by Buyer to its customers or two (2) years from the date the supplies are accepted by the Buyer, whichever first occurs. This warranty period is extended for an additional period equal to the time elapsed from the date that Seller has been notified to repair or replace defective supplies until delivery is made to Buyer of corrected supplies or replacements.

Seller agrees at its expense to repair or replace any supplies having any defect or defects in a manner satisfactory to Buyer or its customer.

All warranties herein shall run to Buyer and its customers and shall be construed as conditions as well as warranties and shall not be deemed to exclude other rights or warranties which Buyer may have or obtain.

5. **INSPECTION.** Seller shall maintain an inspection system satisfactory to Buyer covering all manufacturing equipment, materials, methods and supplies, all of which shall be subject to inspection and testing by Buyer (and the Government, if applicable) at all times and places whether during or after manufacture.

All supplies will be subject to final inspection and acceptance at destination notwithstanding prior payment thereof or inspection and/or testing at the source by the Buyer, the Government or both. Any rejected supplies returned to Seller shall be at Seller's expense and no replacement of such defective supplies shall be made unless specified by Buyer. Buyer reserves the right to reject all defective supplies and return same to Seller for full reimbursement or a Buyer's option for replacement or correction, in either of which events the Buyer shall be entitled to reimbursement for all expenses incurred by Buyer. If Seller fails to promptly replace and correct rejected supplies to Buyer's satisfaction, Buyer may purchase or otherwise replace or correct such supplies and Seller shall be liable to Buyer for any excess costs incurred thereby.

6. **CHANGES.** Seller shall make no changes in the supplies ordered, including without limitation, the specifications, drawings, packing or shipment thereof, except as authorized in writing by Buyer's Purchasing Agent or Buyer.

Buyer may at any time, by written order, make changes in the (1) drawings, designs, or specifications, (2) methods of packing or shipment, (3) quantity of items ordered, (4) time of delivery, (5) place of delivery. In such event, an equitable adjustment will be made in price and/or time of performance of this order. Any claim by the Seller for such adjustment must be made within 15 days from the date of receipt of the change order.

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7. **DELIVERIES.** Delivery according to schedule is a major condition of this order. No deviation from delivery schedules (early or late) in this order shall be allowed without the written authorization of Buyer. If Seller is delinquent in deliveries or it is reasonably determined by Buyer that Seller will be so delinquent and/or is delaying correction of previously rejected items so that such delay is affecting or reasonably threatens to affect Buyer's commitments to its customers, Buyer may upon written notice require Seller to submit acceptable supplies within 10 days from the date of such notice. Failure to comply therewith shall constitute a default of order by Seller.

Overshipments regardless of cause may not be accepted except as provided on the face of this order. In all cases of overshipment, the excess may not be accepted and such excess may be returned at Seller's expense. Likewise, when undershipments result in excess handling costs, such costs may be charged to Seller.

8. **SAMPLES.** If samples are required by this order, Seller shall not forward quantity shipments until Buyer has approved in writing Seller's samples processed or fabricated by means of the tooling and process methods to be used in such quantity productions.
9. **EXCUSABLE DELAYS.** Neither party shall be liable in damages for delay in delivery due to any causes beyond its control or without its fault or negligence, including without limitation, acts of God or of the public enemy, acts of the government, fires, floods, epidemics, quarantine, restrictions, strikes, freight embargoes, and unusually severe weather. If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both the Seller and its subcontractor, and without the fault or negligence of either of them, the Seller shall not be liable for any excess cost for failure to perform unless the supplies and services to be furnished by this subcontractor were obtainable from other sources in sufficient time to permit the Seller to meet the required delivery schedule. Seller will notify Buyer in writing of such causes within 10 days after Seller first learns of same.
10. **TERMINATION.** Buyer reserves the right to cancel this order or any part thereof if Seller breaches any of the provisions of this order, if Seller becomes insolvent or the subject of any proceedings under any law relating to bankruptcy or the relief of debtors, or if Seller defaults with respect to any of Seller's obligations hereunder.

In the event of such cancellation, Buyer may procure similar and Seller shall be liable to Buyer for any excess costs on account thereof except where the termination is a result of an excusable delay as defined in the preceding paragraph. Buyer's remedies provided in this paragraph shall be in addition to any other remedies provided in law or equity.

Without affecting its right to cancel this order for default, Buyer may terminate this order or any part thereof in accordance with the provisions of the Termination Clause contained in FAR 52 249-2 which clause is incorporated herein by reference.

11. **COUNTERFEIT WORK.** For purposes of this clause, Work consists of those parts delivered under this Contract that are the lowest level of separately identifiable items (e.g., articles, components, goods, and assemblies). Counterfeit Work is Work that is or contains items misrepresented as having been designed and/or produced under an approved system or other acceptable method. The term also includes approved Work that has reached a design life limit

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or has been damaged beyond possible repair but is altered and misrepresented as acceptable.

- (a) SELLER agrees and shall ensure that no Counterfeit Work is delivered to MARVIN TEST SOLUTIONS.
- (b) When SELLER has to incorporate third-party products into products and services provided to MARVIN TEST SOLUTIONS, SELLER shall only purchase such products directly from the Original Component Manufacturer (OCM)/Original Equipment Manufacturer (OEM) or through an OCM/OEM authorized distributor chain/dealer. Work shall not be acquired from unauthorized sources unless approved in advance in writing by MARVIN TEST SOLUTIONS.
- (c) SELLER shall immediately notify MARVIN TEST SOLUTIONS with the pertinent facts if SELLER becomes aware or suspects that it has furnished Counterfeit Work. When requested by MARVIN TEST SOLUTIONS, SELLER shall provide OCM/OEM documentation that authenticates traceability of the affected items to the applicable OCM/OEM.
- (d) In the event that Work delivered under this Contract constitutes or includes Counterfeit Work, SELLER shall, at its expense, promptly replace such Counterfeit Work with genuine Work conforming to the requirements of this Contract. Notwithstanding any other provision in this Contract, SELLER shall be liable for all costs relating to the removal and replacement of Counterfeit Work, including without limitation MARVIN TEST SOLUTIONS' costs of removing Counterfeit Work, of reinserting replacement Work and of any testing necessitated by the reinstallation of Work after Counterfeit Work has been exchanged. The remedies contained in this paragraph are in addition to any remedies MARVIN TEST SOLUTIONS may have at law, equity or under other provisions of this Contract.
- (e) This clause applies in addition to any quality provision, specification, statement of work or other provision included in this Contract addressing the authenticity of Work. To the extent such provisions conflict with this clause, this clause prevails.
- (f) SELLER shall include paragraphs (a) through (c) of this clause or equivalent provisions in lower tier subcontracts for the delivery of items that will be included in or furnished as Work to MARVIN TEST SOLUTIONS.

12. **DESIGNS, DATA, TOOLS, AND PROPRIETARY INFORMATION.** All Buyer documents, drawings, and other Order-related information provided to Supplier in conjunction with this Purchase Order is acknowledged by Supplier to be confidential and proprietary information owned by Marvin Test Solutions, Inc. Title to all documentation, material and information including without limitation tools, patterns, equipment, designs, drawings, engineering data or other technical or proprietary information furnished by Seller for Buyer or by Buyer for Seller if furnished by Seller especially for this order and included in the price of and relating to the performance of the order, shall remain with Buyer or its customer as the case may be. All such items shall be reported in writing by Buyer upon completion of this order, maintained in good condition, and shall be subject at all times to disposition as Buyer may direct.

All Supplies ordered pursuant to this Purchase Order that are produced based on documents, drawings, or information provided by Buyer are proprietary to Buyer, and Supplier agrees not to manufacture and/or provide in any fashion, either in whole or in part, any of such items for

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any person, company or entity without the express written consent of an authorized representative of Buyer's executive management.

Buyer does not warrant the accuracy of tools and fixtures which may be furnished, and Seller must report any inaccuracies before commencing production. Seller agrees to indemnify Buyer against any loss, cost, damage or liability by reason of Seller's violation of this section.

13. **DATA AND PATENT RIGHTS.** If any experimental, developmental or research work is called for or required under this order, Seller agrees to disclose and on request to assign to Buyer each invention conceived or first reduced to practice in the performance of this order (not applicable if this order is placed under a Government contract).
14. **INFRINGEMENTS.** Buyer disclaims any responsibility for infringement of any patent or copyright by Seller in the production of this order. Seller agrees to indemnify Buyer and/or its customers and users of this product against liability, including costs and expenses on account of any infringement or alleged infringement of any patents or copyrights in the manufacture, use, sale or disposition of any supplies called for hereunder. Buyer shall notify Seller of any suit instituted against it and to the full extent of its ability to do so, shall permit Seller to defend same or make settlement in respect thereof.
15. **RISK OF LOSS.** Seller assumes: (1) all risks of loss or damages to all supplies, work in process, materials and other things until the delivery thereof as herein provided; (2) all risks of loss or damage to any supplies or part thereof rejected by Buyer or as to which Buyer has revoked its acceptance from the time of such rejection or revocation; and (3) all risks of loss or damage to any property received by Seller from or held by Seller or its suppliers for the account of or for Buyer or its customer, as the case may be.
16. **PRICES.** Seller represents that the price or prices specified in this order do not exceed Seller's current selling prices for the same or substantially similar items, whether to the Government or to any other Purchaser, taking into account the quantity under consideration.
17. **FACILITIES.** Except as otherwise provided in this order, Seller represents that it now has or can readily procure, without assistance of Buyer or the Government, all facilities necessary to the performance of this order.
18. **SUBCONTRACTING.** Seller shall not procure Supplies for the fulfillment of this Purchase Order for any items covered by this order in completed or substantially completed form without prior written approval of the Buyer.
19. **ADVERTISING.** Seller shall not, without Buyer's prior written consent, in any manner advertise or publish anything concerning this order or the purchase by Buyer of the supplies therein. (As to supplies of Seller's standard manufacture, this paragraph shall not apply to publicity or advertising concerning the supplies only).
20. **NOTICE OF LABOR DISPUTE.** Whenever any actual or potential labor dispute is delaying or threatens to delay the timely performance of this order, Seller shall immediately give notice thereof, including all relevant information with respect thereto, to Buyer and, if this order is placed under a Government contract, to the nearest representative of the cognizant Department of the Government. Seller shall insert this clause or its substance in any subcontracts hereunder.

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21. ADDITIONAL CONDITIONS APPLICABLE IF THIS ORDER IS PLACED UNDER A GOVERNMENT CONTRACT. Each of the herein below named clauses as set forth in the Federal Acquisition Regulations in Marvin Test Solutions' prime or subcontract, the clauses so incorporated herein apply to Seller as though Seller was prime contractor and in such manner as will enable Marvin Test Solutions to meet its obligations arising out of the Department of Defense, NASA, or other Government agency prime or Subcontract. (If this order is placed under a NASA or other Government agency contract, all references to the Government shall include NASA or such other Government agency, and NASA or the applicable Government agency regulations will apply).

- 15.804-4 Certificate of Current Cost or Pricing Data
- 52.204-2 Security Requirements
- 52.208-1 Required Sources for Jewel Bearings and Related Items
- 52.208-7000 Required Sources for Miniature and Instrument Ball Bearings
- 52.208-7001 Required Sources for Precision Components and Mechanical Time Devices
- 52-210-5 New Material
- 523.212-B Priorities, Allocations, and Allotments
- 52.215-1 Examination of Records by Comptroller General
- 52.215-2 Audit – Negotiations
- 52.215-23 Price Reductions for Defective Cost or Pricing Data – Modifications
- 52.215-25 Subcontractor Cost or Pricing Data – Modifications

- 52.219-8 Utilization of Small Business Concerns and Small Disadvantaged Business Concerns
- 52.219-9 Small Business and Small Disadvantaged Business Subcontracting Plan
- 52.219-13 Utilization of Women-Owned Small Businesses
- 52.220-3 Utilization of Labor Surplus Area Concerns
- 52.222-1 Notice to the Government of Labor Disputes
- 52.222-4 Contract Work Hours and Safety Standards Act – Overtime Compensation – General
- 52.222-20 Walsh–Healey Public Contracts Act
- 52.222-26 Equal Opportunity
- 52.222-35 Affirmative Action For Special Disabled and Vietnam Era Veterans
- 52.222-36 Affirmative Action for Handicapped Workers
- 52.223-2 Clean Air and Water
- 52.225-3 Buy American Act – Supplies
- 52.225-10 Duty–Free Entry
- 52.225-11 Certain Communist Areas
- 52.225-7011 Preference for Domestic Specialty Metals
- 52-227-7031 Data Requirements
- 52.230-3 Cost Accounting Standards
- 52.230-4 Administration of Cost Accounting Standards
- 52.230-5 Disclosure and Consistency of Cost Accounting Practices
- 52.233-1 Disputes

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- 52.246-2 Inspection Supplies – Fixed Price
52.246-23 Limitation of Liability
52.249-2 Termination for Convenience of the Government (Fixed Price)
52.249-8 Default (Fixed Price Supply and Service)
22. **IMPORTANT NOTICE – U.S. GOVERNMENT FUNDS.** Vendor acknowledges that U.S. Government funds are being used by Marvin Test Solutions to finance this purchase and certifies that the invoice(s) submitted with respect thereto are free from any materially false statement or misrepresentation and do not omit any material facts. This clause shall be applicable to all P/Os ending with -3050, -3051, -32xx, -36xx, -37xx, -49xx, and -3999.
23. **GOVERNMENT PROPERTY.** In respect to Government-owned property in possession of Seller, Seller shall comply with the provisions of the appropriate Government manual for control of Government property in possession of contractors (e.g., Section C of FAR which is included herein by reference).
24. **ASSIGNMENT.** No assignment of this order, in whole or in part of any moneys due to become due hereunder may be made by Seller without in each case the prior written consent by Buyer.
25. **COMPLIANCE WITH LAWS.** Seller agrees to comply with all applicable Federal, State and local laws and executive orders and regulations issued pursuant thereto and in the performance of this order.
26. **NON-DISCRIMINATION IN EMPLOYMENT.** In accordance with Executive Order 11246, the Seller agrees not to discriminate against any employee or applicant for employment because of race, creed, color or national origin. The Seller will take affirmative action to ensure that Equal Employment Opportunity is implemented in employment, upgrading, demotion, or transfer or recruitment advertising, layoff or termination rates of pay or other forms of compensation, and selection of training including apprenticeship.
- All other applicable provisions of the Rules and Regulations of the Office of Federal Contract Compliance are herein incorporated by reference.
27. **EFFECT OF INVALIDITY OR WAIVER.** The invalidity, in whole or in part, of any conditions of this purchase order shall not affect the validity of other conditions, nor shall the waiver of a breach of any provision of this order constitute a waiver of any subsequent breach of the provision or the breach of any other provision.
28. **INDEMNITY AND INSURANCE.** The Seller (including contractors and all subcontractors if any) shall protect the Buyer against any and all liabilities, claims or demands arising directly or indirectly from or in connection with work performed or materials delivered hereunder and shall indemnify the Buyer and hold it harmless from all loss and damage including its attorney's fees and shall defend Buyer against any and all claims (including, but not limited to, injuries to persons or damage to property) arising from the failure of the Seller (including contractor and all subcontractors if any). The Buyer or the agents, servants or employees of any of them agree to conform to the statutes, ordinances, regulations or requirements of any governmental authority, concerning or in any way relating to (either directly or indirectly) any work done, materials delivered hereunder, or the operations and techniques employed in connection therewith, arising from anything done by the negligence of the Seller (including

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contractors and all subcontractors, if any), the Buyer, or the officer's agents, servants and employees of any of them while engaged in the performance of any act directly or indirectly related to work done or material delivered or while in and about the premises of the Buyer or arising from liens or claims for services rendered or labor or materials furnished.

The Seller (including contractors and all subcontractors, if any) shall maintain the following insurance with an insurance company or companies authorized to do business under the law of the State in which the work is to be done or materials furnished:

- a) Workmen's Compensation Insurance covering its obligations under the applicable law or laws
- b) Comprehensive General Liability Insurance (including Contractual Liability for the obligations assumed hereunder) with bodily injury limits of \$1,000,000 per person and \$3,000,000 per accident and a property damage limit of \$1,000,000 per accident

Upon request, Certificates of said insurance shall be filed with Buyer and shall provide for 10 days' prior written notice of cancellation or material change to said insurance. The liability insurance limits shall in no way be construed as a limit on the Buyer's right of indemnity hereunder.

29. **DANGEROUS GOODS.** Hazardous, dangerous, explosive, inflammable, or toxic goods will be safely and properly marked and packaged by Seller, and Seller assumes all liability direct or indirect resulting from its failure to safely and properly handle and package dangerous goods.
30. **APPLICABLE LAW.** This purchase order shall be governed by the laws of the State of California and is accepted by Supplier in Irvine, California. Venue for any legal proceedings shall be in Orange County, California.