



COLT DEFENSE LLC TERMS AND CONDITIONS OF PURCHASE

1. **Applicability:** These terms and conditions are deemed to be incorporated into every purchase order issued by Colt Defense LLC ("Buyer") whether or not the purchase order makes specific reference to these terms and conditions. The term "Seller" as used herein means the party to whom Buyer has issued a purchase order. Acceptance of a purchase order issued by Buyer constitutes Seller's agreement to all of these terms and conditions, except to the extent that the face of the purchase order expressly provides to the contrary. The purchase order issued by Buyer, together with these terms and conditions, constitutes the entire and sole agreement between Buyer and Seller with respect to the goods or services referred to in the purchase order. Any terms or conditions proposed by Seller that are inconsistent with, or in addition to, the terms and conditions of purchase herein contained shall be void and of no effect. To be effective against Buyer, any modification of these terms and conditions, other than on the face of the purchase order, must be agreed to by an authorized representative of Buyer in a writing that makes specific reference to these terms and conditions. When used herein, the terms this "order," an "order" and "orders" refer to the purchase order that Buyer has issued to Seller, together with these terms and conditions.

2. **Delivery; Notice of Labor Disputes or Other Excusable or Non-Excusable Delays:** Unless otherwise stated in the purchase order, all goods will be shipped prepaid, F.O.B. destination, by least expensive common carrier or Seller's own vehicle. Time is and shall remain of the essence of this order. No acts of Buyer, including acceptance of late deliveries, shall constitute waiver of this provision. Buyer also reserves the right to refuse or return, at Seller's risk and expense, late shipments, or shipments made in excess of Buyer's orders or in advance of required schedules or (if such shipments are not refused or returned) to defer payment on such deliveries until scheduled delivery dates. Seller shall notify Buyer immediately, in writing, of any actual or potential labor dispute or other cause that delays or threatens to delay the timely performance of this order. In such event, Seller will update Buyer regarding delivery status from time to time, as necessary to fully inform Buyer of the status of all delays and the anticipated date of delivery. No such notice shall relieve or modify Seller's obligation to render timely performance in accordance with the terms of this order.

3. **Termination; Breach of Contract; Damages:** Buyer may, by notice in writing, cancel this order or direct Seller to discontinue work under this order in whole or in part at any time. Cancellation of any undelivered portion of this order by Buyer shall be accomplished by giving written notice to Seller. In the event of Seller's actual or anticipated default in the performance of this order, Seller agrees, in addition to and not in lieu of all other remedies available to Buyer, to deliver to Buyer upon demand all raw materials acquired by Seller in order to perform under this order and all work in process and Buyer may at its option (i) complete the work, deducting the cost of completion, and all damages resulting from Seller's default, from the price, or in the alternative, (ii) pay to Seller the cost of such raw materials and the fair value to Buyer, if any, of such work in process. In addition, Seller's insolvency or cessation of normal business operations, or the filing of a voluntary or involuntary petition in bankruptcy by or against Seller, or the making by Seller of an assignment for the benefit of its creditors, shall be a material breach of this order. In the event of any breach or anticipatory breach of this order, Buyer shall have, in addition to and not in lieu of any of the provisions of this order, any and all other rights and remedies that the law provides to Buyer for failure of the Seller to perform in accordance with the provisions of this order, including the right to recover all damages incurred or sustained by Buyer by reason of Seller's default. In no event shall Seller be entitled to lost or anticipatory profits, or to special or consequential damages. Failure of Buyer to enforce any of its rights under this order shall not constitute a waiver of such rights or of any other rights.

4. **Buyer's Property:** All specifications, drawings, tools, jigs, dies, fixtures, materials and other items supplied by Buyer or paid for by Buyer pursuant to the terms of this order shall be and remain the property of Buyer (or of the United States Government if such is the case) and Buyer shall have the right to enter Seller's premises and to remove them at any time without being guilty of trespass and without liability to Seller for damages of any sort. All such items shall be treated as confidential and proprietary to Buyer and shall be used only in the performance of work under this order, unless prior written consent has been given by an authorized representative of Buyer. Seller shall prominently mark all such items (or, if approved in writing by Buyer, the entire area in which items are located) as being the property of Buyer or the Government. Where applicable, Seller shall also mark such items with the corresponding drawing number and/or Government number. Seller shall be responsible for all such items until they have been delivered to Buyer. Seller shall not dispose of any such items (even though no longer being used), without Buyer's prior written consent. The provisions of this Section 4 hereinabove set forth shall survive delivery and payment for the goods or services referred to in this order, and shall remain in full force until all said items are delivered to Buyer or otherwise disposed of with Buyer's written consent. Such property shall be and remain free of all liens or claims by Seller or any third party, and Seller shall, without limitation as to time, indemnify and save Buyer harmless from and against all liens or claims that may be asserted against said property. Seller acknowledges that exposure to Buyer's proprietary design information will make it easier for Seller to manufacture parts that have the same form, fit and function as parts Seller manufactures for Buyer. As a result, Seller agrees and promises to notify Buyer in writing through Buyer's Purchasing Management and to obtain Buyer's written agreement, not to be unreasonably withheld, prior to manufacturing any parts for another entity that have the same form, fit and function as any parts Seller manufactures for Buyer (including any replacements or substitutes for any parts Seller manufactures for Buyer). The written notification shall describe the parts to be manufactured for the other entity and identify the corresponding parts Seller manufactures for Buyer. The written notification shall also provide Buyer with sufficient information to demonstrate, to Buyer's reasonable satisfaction, that any parts Seller plans to manufacture for another entity that have the same form, fit and function of any parts Seller manufactures for Buyer will be manufactured without reference to or use of Buyer's proprietary design information. Seller agrees that failure to comply with the above requirement shall create a presumption that Seller is misusing Buyer's proprietary design information and will cause Buyer irreparable harm. If, without obtaining Buyer's written agreement, Seller manufactures or sells for or to anyone other than Buyer any parts that have the same form, fit and function as any parts Seller manufactures for Buyer (including any replacements or substitutes for any parts Seller manufactures for Buyer) to which the presumption described in the immediately preceding clause applies, then Seller shall be in violation of this Agreement and Buyer shall be entitled to damages (including, but not limited to, injunctive relief and Buyer's lost profits on the manufacture or sale of such parts). Seller agrees and promises that those persons working for or at the direction of Seller who are exposed to Buyer's proprietary design information for Buyer's parts will have no involvement in the manufacture of parts with the same form, fit and function for any entity other than Buyer without prior written approval from Buyer. At any time following completion or termination of this order, Seller shall, at Seller's expense, make such disposition of all of Buyer's Proprietary Information as Buyer may direct. Seller shall remain and continue to be obligated to perform each and every provision of this Section 4 notwithstanding completion or termination of this order. Absent contrary instructions, Seller shall destroy all proprietary information one year after final delivery under this order unless required to be kept longer by law or contract or government requirement. Buyer shall have the right to audit all pertinent books and records of Seller, and to make reasonable inspection of Seller's premises, in order to verify compliance with this Section.

5. **Subcontracting:** None of the work under this order shall be subcontracted without the prior written consent of Buyer.

6. **Specifications, Warranty, Inspection:** Goods made in accordance with Buyer's specifications or drawings shall not be furnished or quoted to any other person or concern without the prior written consent of Buyer. In case of ambiguity in the specifications, drawings or other requirements of this order, Seller shall,

before proceeding, consult Buyer, whose written interpretation shall be final. Seller warrants that all goods delivered or services rendered pursuant to this order shall be free of defects in workmanship, materials and design, and shall be in accordance in all respects with the design and, where applicable, the performance specifications, drawings and/or samples specified by Buyer. These warranties shall survive acceptance and payment. Seller shall be liable for and save Buyer harmless from any loss, damage or expense whatsoever that Buyer may suffer from breach of any of these written warranties. Buyer shall have the right to inspect all goods before and after delivery but no such inspection shall relieve Seller of any obligation pertaining to this order. In addition to all other rights and remedies available to it, Buyer may require Seller to replace rejected goods or Buyer may accept any goods that conform to Seller's warranties and upon discovery of goods not so conforming may reject or keep and rework any such goods not so conforming. Cost of rework, inspection, transportation, repackaging, and/or reinspection by Buyer shall be at Seller's expense. Seller, at its expense, shall provide and maintain an inspection system that complies with all specifications stated in this order or, in the absence of such specifications, an inspection system that is acceptable to Buyer. Seller shall maintain complete inspection records for all goods including, without limitation, the results of such inspections and the disposition of non-conforming or rejected goods.

7. **Changes:** Buyer shall have the right by written change order from time to time to make changes in the services rendered or the goods to be furnished by Seller hereunder. If such changes cause an increase or decrease in cost of the performance of this order, or in the time required for its performance, an equitable adjustment shall be negotiated and this order shall be modified in writing accordingly. Any claim by Seller for adjustment under this Section 7 must be asserted in writing within 30 days from the date of receipt by Seller of notification of the change and shall be followed as soon as practicable with specification of the amount claimed, together with supporting cost figures.

8. **Assignment:** Seller may not assign monies due or to become due under this order without the prior written consent of Buyer, except in the case of an accounts receivable financing arrangement secured by all or substantially all of Seller's accounts receivable. In any case, assigned accounts shall be subject to set off, recoupment, or other claim of Buyer against Seller, whether or not arising from this order.

9. **Taxes:** The prices stated on the face of the purchase order include all local, state and federal excise, sales and use taxes. All such taxes shall, when applicable, be separately identified on Seller's invoice.

10. **Compliance with Law, Gratuities:** Seller warrants that the goods to be furnished and the services to be rendered under this order shall be manufactured and sold in compliance with all relevant Federal, state, and local laws and regulations. In accepting this order, Seller represents and warrants that the goods and/or services to be furnished hereunder were or will be produced in compliance with the requirements of the Fair Labor Standards Act of 1938, as amended, and the Executive Orders and regulations issued pursuant thereto. Unless otherwise agreed in writing, Seller shall insert a certificate indicating such compliance on all invoices submitted in connection with this order. Seller warrants that it has not offered or given and will not offer or give to any employee, agent or representative of Buyer any money, service or thing of value with a view towards securing any business from Buyer or influencing such person with respect to the terms, conditions, or performance of any contract with, or order from, Buyer. Any breach of this warranty by Seller shall be a material breach by Seller of each and every contract between Buyer and Seller.

11. **Export Control:** Seller acknowledges that any technical data furnished by Buyer in connection with this order may be subject to U.S. export control laws, including but not limited to the Arms Export Control Act, 22 USC § 2778, (AECA) and the International Traffic in Arms Regulations, 22 CFR 120-130, (ITAR) promulgated pursuant thereto. In this regard, Seller agrees that, unless it has obtained prior written consent from an authorized employee or representative of Buyer, and unless prior written authorization is obtained from the U.S. Department of State, Directorate of Defense Trade Control (DDTC), it will not export, reexport, or transship, directly or indirectly, the goods, documentation, technical assistance, or any media in which

any of the foregoing is contained, or other technology provided hereunder or the direct product thereof, to any country or to any non-U.S. citizen. As required by the AECA and the ITAR, all manufacturers, exporters and brokers of defense articles, defense services or related technical data, as defined on the U.S. Munitions List, are required to register with the DDTC, and if Seller is engaged in the United States in such activities, Seller represents that it is registered with the DDTC, as may be required under 22 CFR 122.1 of the ITAR and, that it maintains an effective export/import compliance program in accordance with DDTC guidelines.

12. Suspension and Debarment: Seller shall notify Buyer in writing at the earliest practicable time and, at Buyer's request, shall promptly meet with Buyer, if Seller (a) is suspended, debarred, or proposed for suspension or debarment from doing business with the U.S. Government, or (b) is listed or proposed to be listed by the U.S. Government for U.S. export administration purposes in any "denial orders," as a "blocked person," as a "specially designated national," or as a "specially designated terrorist" by the U.S. Department of Commerce, Bureau of Industry and Security, (collectively, "Debarment"). Seller shall indemnify and hold Buyer harmless against any and all loss or damage suffered by Buyer as a result of Seller's actual or prospective Debarment.

13. Patents: Seller warrants that the sale, use or incorporation into manufactured products of all machines, devices and materials sold to Buyer hereunder which are not of Buyer's design, composition or manufacture shall be free and clear of infringement of any patent, copyright, trademark or other proprietary claim of Seller or any third party. Seller shall defend, indemnify and hold Buyer and its customers harmless from any and all expenses, liabilities and loss of any kind, including attorneys' fees, growing out of any claim, suit or action alleging such infringement, which claim, suit or action Seller agrees to defend at its own expense. Buyer shall be free to obtain its own counsel in any such instance and, if Buyer does so, Seller shall be obligated to reimburse Buyer for all attorneys' reasonably incurred by Buyer to defend itself as a result of any claim against Buyer or a customer of Buyer contemplated by this Section 13.

14. Indemnity Against Claims: Seller shall defend, indemnify and hold Buyer harmless against all losses on account of claims of injury to persons (including death) or damage to property which may result in any way from any act or omission of Seller or of its agents, employees or subcontractors. Seller shall also maintain such Public Liability, Property Damage, Employee's Liability and Compensation insurance and Motor Vehicle Liability insurance (Personal Injury and Property Damage), as will protect Seller (and its permitted subcontractors) and Buyer from said risk and from any claims under any applicable Workers' Compensation or Occupational Health and Safety statute or regulation.

15. Stop-Work Order:

- A. Buyer may, at any time, by written order to Seller, require Seller to temporarily stop all, or any part, of the work called for by this order for a period of up to 90 days after the stop-work order is delivered to Seller, and for any further period beyond 90 days to which the parties may agree. Upon receipt thereof, Seller shall forthwith comply with its terms and take all reasonable steps to minimize the incurrence of cost allocable to the work covered by the stop-work order during the period of work stoppage. Within said period or any extension thereof, Buyer shall either (1) cancel the stop-work order, or (2) terminate the work covered by such order as provided in Section 3 above.
- B. If the stop-work order is cancelled or the period of such order or any extension thereof expires, Seller shall resume work. Buyer shall make an equitable adjustment in the delivery schedule or contract price or both, and this order shall be modified in writing accordingly, if (1) the stop-work order results in an increase in the time required for, or Seller's cost properly allocable to, the performance of any part of this order, and (2) Seller asserts a claim for such adjustment within 25 days after the end of the period of the work stoppage.
- C. If a stop-work order is not canceled and work covered by such order is terminated for convenience, the reasonable costs resulting from the stop-work order shall be allowed in arriving at the termination settlement.

16. **Applicable Law:** This order is to be governed by, construed and enforced in accordance with the laws of the State of Connecticut, without regard to its conflicts of laws rules and principles.

US GOVERNMENT CONTRACT PROVISIONS

When the goods furnished are for use in connection with a United States Government ("Government") contract or subcontract (as indicated on the face of the purchase order), the additional provisions set forth hereinafter shall apply, in addition to the above provisions.

17. **Inspection:** The Seller shall provide and maintain an inspection system acceptable to the Government for goods and services covered by this order and shall be in accordance with FAR 52.246-2. Materials to be used in the performance of Government contracts may be inspected and tested by Buyer or by the Government agency concerned at all reasonable times and places either before, during, or after manufacture at Buyer's direction. If inspection and test are made on the premises of Seller or Seller's subcontractor, Seller shall furnish without additional charge all reasonable facilities and assistance for the safe and convenient inspection and tests required by the inspectors and the performance of their duty. The foregoing provisions of this Section 17 are supplementary to and not in lieu of or in derogation of the provisions of Section 6 above.

18. **Annual Supplier Certification:** Seller shall sign, date and promptly return to Buyer an Annual Supplier Certification furnished by Buyer that certifies Seller's compliance with certain requirements under the **Federal Acquisition Regulations (FAR)** and/or **Defense Federal Acquisition Supplement (DFARS)**, in effect as of the date of this order

19. **Incorporated FAR and DFARS Clauses:** The following clauses set forth in the **FAR** or **DFARS**, as in effect as of the date of this order, are hereby incorporated herein by reference, provided that clauses identified as being applicable to orders in excess of a specified value apply only to such orders:

NUMBER FAR/DFARS CLAUSE / TITLE

ALL ORDERS

52.202-1	Definitions
52-203-2	Certificate of Independent Price Determination
52.204-2	Security Requirements
52.204-5	Women Owned Business (Other than Small Business)
52.209-5	Certification Regarding Debarment, Suspension, Proposed Debarment and other Responsibility Matter
52.211-5	Material Requirement
52.211-14	Notice of Priority Rating for National Defense Use
52.211-15	Defense Priority and Allocation Requirements
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
52.215-14	Integrity of Unit Prices - Alternative I
52.215-15	Pension Adjustments and Asset Reversions
52.215-20	Requirements for Cost or Pricing Data or Information Other than Cost or Pricing Data (Alternate II)

52.217-6	Option for Increased Quantity
52.219-1	Small Business Program Representative (Alternate)
52.222-25	Affirmative Action Compliance
52.223-3	Hazardous Material Identification and Material Safety Data
52.223-6	Drug Free Workplace
52.223-11	Ozone-Depleting Substances
52.224-2	Privacy Act
52-227-1	Authorization and Consent
52.227-4575	Disposition of Drawings and Specifications
52.227-4576	M16 License Agreement Requirement
52.227-9101	Rights Guard
52.227-9103	Disposition of Drawings and Specifications Demilitarization - Small Arms Weapons and Parts and Accessories (Category I - Munitions List Items)
52.227-9104	List Items)
52.227-9105	M16 License Agreement Requirement
52.229-3	Federal, State and Local Taxes
52.229-4	Federal, State and Local Taxes (Non Competitive Contract)
52.229-5	Taxes-Contracts Performed in U.S. Possessions or Puerto Rico
52.242-2	Production Progress Reports
52.242-4	Certification of Final Indirect Costs
52.243-1	Changes-Fixed Price
52.244-6	Subcontracts for Commercial Items
52.245-2	Government Property (Fixed-Price Contracts)
52.246-23	Limitation of Liability
52.246-4528	Rework and Repair of Nonconforming Material
52.247-63	Preference for U.S.-Flag Air Carriers
52.247-64	Preference for Privately Owned U.S.-Flag Commercial Vessels
52.249-1	Termination for Convenience of the Government (Fixed Price)(Short form)
52.249-2	Termination for Convenience of the Government (Fixed Price)
52.249-8	Default (Fixed Price Supply and Service)
252.204-7000	Disclosure of Information
252.204-7003	Control of government Personnel Work Product
252.204-7001	Disclosure of Ownership or Control by the Government of a Terrorist Country Subcontracting with Firms that are owned or controlled by the Government of a Terrorist Country
252.209-7004	Country
252.217-7026	Identification of Sources of Supply
252.223-7001	Hazard Warning Labels
252.223-7002	Safety Precautions for Ammunition and Explosives
252.223-7003	Change in Place of Performance - Ammunition and Explosives
252.223-7007	Safeguarding Sensitive Conventional Arms Ammunition and Explosives
252.225-7001	Buy American Act and Balance of Payments Program
252.225-7002	Qualifying country sources as Subcontractors
252.225-7003	Report of Intended Performance Outside the United States

- 252.225-7007 Buy America Act - Trade Agreements - Balance of Payments Programs
- 252.225-7012 Preference for Certain Domestic Commodities
- 252.225-7013 Duty-Free Entry
- 252.225-7014 Preference for Domestic Specialty Metals (Alternate I)
- 252.225-7025 Restriction on Acquisition of Forgings
- 252.225-7031 Secondary Arab Boycott of Israel
- 252.227-7013 Rights in Technical Data-Noncommercial Items
- 252.242-7004 Material Management and Accounting System
- 252.243-7001 Pricing of Contract Modifications
- 252.244-7000 Subcontracts for Commercial Items and Commercial Components DoD Components
- 252.247-7022 Representative of extent of Transportation by Sea
- 252-203-7002 Display of DOD Hotline Poster
- 252-211-7005 Substitutions for Military or Federal Specifications and Standards
- 252.251-7000 Ordering from Government Supply sources
- 52.215-2 Audit and Records - Negotiation

APPLICABLE WHEN ORDER IS GREATER THAN \$2,500

- 52.203-3 Gratuities
- 52.203-5 Covenant Against Contingent Fees
- 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
- 52.222-3 Convict Labor
- 52.222-19 Child Labor - Cooperation with Authorities and Remedies
- 52.222-39 Notification of Employee rights concerning Payment of Union Dues or Fees
- 52.225-13 Restrictions on Certain Foreign Purchases
- 52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement
- 52.242-13 Bankruptcy
- 52.244-2 Subcontracts
- 52.244-2 Subcontracts (Alt I)
- 52.244-5 Competition in Subcontracting
- 52.246-2 Inspection of Supplies - Fixed Price
- 52.246-4 Inspection of Services - Fixed Price
- 252.203-7001 Prohibition on Persons Convicted of Fraud or other Defense Contract related Felonies
- 252.247-7023 Transportation of Supplies by Sea
- 252.247-7024 Notification of Transportation of Supplies by Sea

APPLICABLE WHEN ORDER IS GREATER THAN \$10,000

- 52.222-20 Walsh- Healy Public Contracts Act
- 52.222-21 Prohibition of Segregated Facilities
- 52.222-22 Previous Contracts & Compliance Report
- 52.222-26 Equal Opportunity
- 52.222-36 Affirmative Action for Workers with Disabilities

APPLICABLE WHEN ORDER IS GREATER THAN \$25,000

- 52.209-6 Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended or Proposed for Debarment
- 52.222-35 Equal Opportunity for Special Disabled Veterans of the Vietnam Era and other Eligible Veterans
- 52.222-37 Employment Reports for Disabled Veterans and Veterans of the Vietnam Era and other Eligible Veterans

APPLICABLE WHEN ORDER IS GREATER THAN \$100,000

- 52.203-6 Restrictions on Subcontractor Sales to the Government
- 52.203-7 Anti-kickback Procedures
- 52.203-11 Certification & Disclosure Regarding Payments to Influence Certain Federal Transactions
- 52.203-12 Limitation on Payments to Influence Certain Federal Transactions
- 52.246-24 Limitation of Liability - High Value Item
- 52.248-1 Value Engineering
- 252.209-7000 Acquisitions from subcontractors Subject to On-site inspection under the Intermediate range nuclear forces treaty

APPLICABLE WHEN ORDER IS GREATER THAN \$100,000 AND SELLER IS A LARGE BUSINESS

- 52.219-8 Utilization of Small Business Concerns

APPLICABLE WHEN ORDER IS GREATER THAN \$10,000,000

- 52.222-24 Preaward On-Site Equal Opportunity Compliance Evaluation

The foregoing **FAR** and **DFARS** clauses are hereby made applicable to this order pursuant to the requirements of the government contract or subcontract underlying this order and are incorporated into this order by reference as if given in full text, subject to the following definitions, which will have the meanings indicated in each of the following **FAR** and **DFARS** clauses, unless the context indicates otherwise:

- A. "Contract" means this order.
- B. "Contractor" means Seller.
- C. "Contracting Officer" means Buyer.
- D. "Government" means Buyer.
- E. "Subcontractor" means Seller.
- F. "Supplies" means Goods.

The full text of **FAR** and **DFARS** clauses may be accessed electronically at the following Internet websites:

FAR: <http://www.arnet.gov/far>, and **DFARS:** <http://www.acq.osd.mil/dpap/dars/dfars/index.htm>