

P9328 SUPPLEMENTAL TERMS

In addition to Buyer's terms and conditions of purchase, the following terms shall apply to purchase orders in support of the programs referenced above. In the event of conflict between Buyer's terms and conditions of purchase and these terms, these terms shall take precedence.

1. EXPORT AND IMPORT COMPLIANCE.

- A. Seller's performance of this Order may involve the use of or access to articles, technical data, or software subject to export controls under 22 United States Code 2751 – 2799aa (Arms Export Control Act) and 22 Code of Federal Regulations 120-130 (International Traffic in Arms Regulations) or 50 United States Code 4801-4852 (Export Control Reform Act of 2018) and 15 Code of Federal Regulations 730-774 (Export Administration Regulations) and their successor and supplemental laws and regulations (collectively hereinafter referred to as the "Export Laws and Regulations"). Seller represents and warrants that it is either:
 - (i) A U.S. Person as that term is defined in the Export Laws and Regulations; or
 - (ii) That it has disclosed to Buyer's Representative in writing the country in which it is incorporated or otherwise organized to do business, or if a natural person, all citizenships and U.S. immigration status.
- B. Seller shall comply with all Export Laws and Regulations and any license(s) issued thereunder.
- C. Seller shall not give any Foreign Person (including Seller's own non-U.S. employees or affiliates) access to Technical Data, software or Defense Articles, or provide an unauthorized Defense Service as those terms are defined in the applicable Export Laws and Regulations, without the prior written consent of Buyer. Any request for such consent must state the intended recipient's citizenship(s), and status under 8 U.S.C. 1101 and 8 U.S.C. 1324 (the "Immigration and Naturalization Act"), and such other information as Buyer may reasonably request. No consent granted by Buyer in response to Seller's request under this paragraph C shall relieve Seller of its obligations to comply with paragraph B of this provision, nor shall any such consent constitute a waiver of the requirements of paragraph B, nor constitute consent for Seller to violate any requirement of the Export Laws and Regulations. All capitalized terms in this paragraph not otherwise defined in this Order shall have the meaning set forth in the Export Laws and Regulations.
- D. Seller shall place the following statement on documents containing technical data controlled by either the Arms Export Control Act or the Export Control Reform Act of 2018: "WARNING – This document contains technical data whose export is restricted by the Arms Export Control Act (Title 22, U.S.C. Sec. 2751, et seq.) or the Export Control Reform Act of 2018, Title 50, U.S.C., Sec. 4801, et seq. Violations of these export laws can result in severe criminal penalties." Additional marking requirements may be included elsewhere in this Order.
- E. The substance of this provision shall be incorporated into any lower-tier subcontract entered into by Seller for the performance of any part of the work under this Order involving export-controlled information.

2. HAZARDOUS MATERIALS.

"*Hazardous material*" means any material defined as hazardous under the latest version of Federal Standard No. 313 as maintained by the General Services Administration (GSA).

A. Safety Data Sheets (SDS):

Seller shall not provide any hazardous materials or products containing hazardous materials unless Buyer has approved the Safety Data Sheet (SDS) for the product. SDS provided by Seller shall meet requirements of the United States Occupational Safety and Health Administration (OSHA) Hazard Communication Standard. **Placement of this Order does not constitute approval. If no SDS was approved prior to Order placement, then no hazardous material may be delivered to the Buyer unless and until the Buyer approves the SDS.**

If at any time during performance of this Order, there is a change in the composition of the products or a revision to Federal Standard No. 313, which renders incomplete or inaccurate the submitted SDS, Seller shall promptly notify the Buyer and resubmit the SDS.

Shipments of hazardous materials or products containing hazardous materials shall have a copy of most recent SDS securely attached to external packaging.

Seller must ensure that the most current SDS for its product has been provided to Buyer's technical authority and that the SDS provided to Buyer's technical authority matches the subsequent hazardous material shipping documents. Seller shall notify Buyer and obtain Buyer's approval prior to shipment if the SDS for a shipment is different than the SDS previously provided for the same product. Delay to Buyer's receipt of shipment and any transportation costs due to return of product for reasons of an unapproved, inconsistent or incomplete SDS/MSDS are at Seller's expense.

B. Prohibited Hazardous Material Constituents:

This section applies to the extent that a Product does not require an SDS because it is considered an "article" by the OSHA Hazard Communication Standard. Except as agreed to in writing by Buyer, or as specified in this Order, the hazardous material constituents in Prohibited Hazardous Material Constituents Table shall not be included in or come in direct contact with any products furnished under this Order. This requirement applies to all ingredients in such Products (e.g., newly formulated coatings) and all materials of construction in such Product, including sub-component materials (e.g., batteries, circuit boards), applied coatings, applied primers, lubricants, adhesives, and any other consumables that remain on the delivered product. A hazardous material constituent that is an impurity, i.e., a trace amount that is not an ingredient and does not contribute to the function or usefulness of the product, is excluded from these requirements.

Prohibited Hazardous Material Constituents Table		
Asbestos	Lead & Lead Compounds	Beryllium and Beryllium Compounds
Barium & Barium Compounds, including Barium Sulfate	Mercury & Mercury Compounds	Methylene Chloride
Brass and Bronze w/ >1% Lead	Ozone Depleting Substances (ODS) Class 1	Arsenic & Arsenic Compounds in Coatings
Boron Trifluoride	Polychlorinated Biphenyls (PCBs)	Benzene in Coatings

Cadmium & Cadmium Compounds	Selenium & Selenium Compounds	Organometallic Compounds in Coatings
Chromium & Chromium Compounds	Silver & Silver Compounds	

Seller may use “readily available information” to determine whether the product furnished under this Order includes or has come in direct contact with the hazardous material constituents identified in Prohibited Hazardous Material Constituents Table. “Readily available information” sources include:

- (i) Actual knowledge or process knowledge
- (ii) SDS
- (iii) Technical data sheets
- (iv) Manufacturing data.

Except as specified in this Order, chemical analysis, testing, monitoring or certification is not required to determine whether the product includes or has come in direct contact with the hazardous material constituents identified in the Prohibited Hazardous Materials Table. At Buyer’s request, Seller’s “readily available information” shall be made available to the Buyer’s technical authority.

C. Notifications and Processes for Hazardous Materials:

Seller shall obtain approval from Buyer in the following circumstances:

- (i) If there is a change to the product involving the hazardous material constituents identified in the Prohibited Hazardous Materials Table, including the addition, deletion, or change in the type, concentration, usage, or location of a hazardous material constituent.
- (ii) If Seller becomes aware that the product to be delivered under this Order includes or has come in direct contact with any of the hazardous material constituents identified in the Prohibited Hazardous Materials Table, based on “readily available information.”
- (iii) If the product specifications allow for an alternative that includes a hazardous material constituent identified in the Prohibited Hazardous Materials Table and the Seller desires to select such alternative.

D. Additional Prohibitions:

- (i) **PROHIBITION OF YELLOW WRAPPINGS OR PROTECTION DEVICES.** Seller shall not use yellow wrapping material or attached yellow protection devices such as caps or plugs.
- (ii) **BRASS AND COPPER BLACK OXIDE COATED THREADED FASTENER PROHIBITION.** Seller shall not use brass or copper black oxide coated threaded fasteners when installing or replacing threaded fasteners in the accomplishment of any work required by this Order.

3. EQUAL EMPLOYMENT OPPORTUNITIES.

The requirements in 41 CFR 60-1.4 (a)(1)-(8) are incorporated into this Order. Seller and Seller’s subcontractors at every tier shall comply with the requirements found therein.

4. ADDITIVE MANUFACTURING (A.K.A., 3D PRINTING).

Seller shall provide advance written notice and obtain Buyer's written approval for additively manufactured parts or supplies that Seller intends to provide under this Order. Seller shall flow down the substance of this clause to its subcontractors under this Order.