



Metal Flow Corporation Purchase Order Terms and Conditions

(Updated November 9, 2015)

**1. Acceptance-Agreement** - Seller's commencement of work on the goods subject to this purchase order or shipment of such goods, whichever occurs first shall be deemed an effective mode of acceptance of this purchase order. Any acceptance of this purchase order is limited to acceptance of the express terms contained on the face of any purchase order submitted by Purchaser and those terms contained herein. Any proposal for additional or different terms or any attempt by Seller to vary in any degree any of the terms of any Purchaser's purchase order or the terms contained herein is hereby objected to and rejected, but such proposals shall not operate as a rejection of this offer unless such variances are in the terms of the description, quantity, price or delivery schedule of the goods, but shall be deemed a material alteration thereof, and this offer shall be deemed accepted by Seller without said additional or different terms. If this purchase order shall be deemed an acceptance of a prior offer by Seller, such acceptance is limited to the express terms contained on the face of any purchase order submitted by Purchaser and those terms contained herein.

**2. Termination for Convenience of Purchaser** - Purchaser reserves the right to terminate this order or any part hereof for its sole convenience. In the event of such termination, Seller shall immediately stop all work hereunder, and shall immediately cause any of its suppliers or subcontractors to cease such work. Seller shall be paid actual direct costs resulting from termination. Seller shall not be paid for any work done after receipt of the notice of termination, or for any costs incurred by Seller's suppliers or subcontractors which Seller could reasonably have avoided.

**3. Termination for Cause** - Purchaser may also terminate this order or any part hereof for cause in the event of any default by the Seller, or if the Seller fails to comply with any of the terms and conditions of this offer at any time by written notice to the Seller stating the extent and effective date of termination. Upon receipt of the notice, Seller shall, unless otherwise directed by Purchaser, stop all work and acquisitions. Late deliveries, deliveries of products which are defective or which do not conform to this order, and failure to provide Purchaser, upon request, reasonable assurances of future performance shall all be causes allowing Purchaser to terminate this order for cause. Not later than 30 days after the effective date of termination, Seller may submit to Purchaser its claim, if any, for reasonable compensation for termination. Purchaser shall have the rights to audit Seller's records and documents relating to the termination claim. In the event of termination for cause, Purchaser and Seller shall agree within reasonable time a fair compensation.

**4. Proprietary Information-Confidentiality-Advertising** - Seller shall consider all information furnished by Purchaser to be confidential and shall not disclose any such information to any other person, or use such information itself for any purpose other than performing this contract, unless Seller obtains written permission from Purchaser to do so. This paragraph shall apply to drawings, specifications, or other documents prepared by Seller for Purchaser in connection with this order. Seller shall not advertise or publish the fact that Purchaser has contracted to purchase goods from Seller, nor shall any information relating to the order be disclosed without Purchaser's written permission. Unless otherwise agreed in writing, no commercial, financial or technical information disclosed in any manner or at any time by Seller to Purchaser shall be deemed secret or confidential and Seller shall have no rights against Purchaser with respect thereto except such rights as may exist under patent laws.

**5. Warranty** - Seller expressly warrants that all goods or services furnished under this agreement shall conform to all specifications and appropriate standards, will be new, and will be free from defects in material or workmanship. Seller warrants that all such goods or services will conform to any statements made on the containers or labels or advertisements for such goods, or services, and that any goods will be adequately contained, packaged, marked and labeled. Seller agrees to replace or correct defects of any goods or services not conforming to the foregoing warranty promptly, without expense to Purchaser, when notified of such nonconformity by Purchaser, provided Purchaser elects to provide Seller with the opportunity to do so. In the event of failure of Seller to correct defects in or replace nonconforming goods or services promptly, Purchaser, after reasonable notice to Seller, may make such corrections or replace such goods and services and charge Seller for the cost incurred by Purchaser in doing so.

**6. Price Warranty and Payment** - Seller warrants that prices shown on this purchase order shall be complete, and no additional charges of any type shall be added without Purchaser's express written consent. Such additional charges include, but are not limited to, shipping, packaging, labeling, custom duties, taxes, storage, insurance, boxing, crating. Payment terms, including discount periods, shall run from the latest of (i) the scheduled date for delivery or performance, (ii) the actual date of delivery of conforming goods or performance of conforming services, (iii) the date of Seller's invoice, (iv) in the case of capital equipment, completion of Purchaser's final inspection and acceptance after installation, and (v) in the case of tooling, approval by Purchaser of production pieces produced by the tooling.

**7. Force Majeure** - Purchaser or Seller may delay delivery or acceptance of goods occasioned by causes beyond its control. Causes beyond Purchaser or Seller's control shall include but are not limited to acts of God, governmental action or failure of the government to act where such action is required, strike or other labor trouble, fire, unusually severe weather or any other force majeure event. If an event of force majeure occurs, the party injured by the other's inability to perform may elect one of the following remedies: (a) to terminate this agreement in whole or in part; or (b) to suspend the Agreement, in whole or part, for the duration of the force majeure circumstances. The party experiencing the force majeure circumstances shall cooperate with and assist the injured party in all reasonable ways to minimize the impact of force majeure on the injured party, which may include locating and arranging substitute services if necessary.

**8. Confidentiality** - The Seller shall treat as confidential the information which it receives, such as specifications, drawings, technical information, company information and other information of a confidential nature, and shall not disclose such information to any person(s) other than its own employees, nor use it for any purpose other than in the performance of an agreement, without authorization of Purchaser.

**9. Insurance** - In the event that Seller's obligations hereunder require or contemplate performance of services by Seller's employees, or persons under contract to Seller, to be done on Purchaser's property, or property of Purchaser's customers, the Seller agrees that all such work shall be done as an independent contractor and that the persons doing such work shall not be considered employees of the Purchaser. Seller shall maintain all necessary insurance coverages, including public liability and Workman's Compensation insurance. Seller shall indemnify and save harmless and defend Purchaser from any and all claims or liabilities arising out of the work covered by this paragraph.

**10. Changes** - Purchaser shall have the right at any time to make changes in drawings, designs, specifications, materials, packaging, time and place of delivery and method of transportation. If any such changes cause an increase or decrease in the cost, or the time required for the performance, an equitable adjustment shall be made and this agreement shall be modified in writing accordingly.

**11. Inspection/Testing** - Payment for the goods delivered hereunder shall not constitute acceptance thereof. Purchaser shall have the right to inspect such goods and to reject any or all of said goods that are in Purchaser's judgment defective or nonconforming. Goods rejected and goods supplied in excess of quantities called for herein may be returned to Seller at its expense and, in addition to Purchaser's other rights, Purchaser may charge Seller all expenses of unpacking, examining, repacking, and reshipping such goods. In the event Purchaser receives goods whose defects or nonconformity is not apparent on examination, Purchaser reserves the right to require replacement, as well as payment of damages per negotiations between Purchaser and Seller. Nothing contained in this purchase order shall relieve in any way the Seller from the obligation of testing, inspection and quality control. Purchaser shall have the right, at reasonable times, to inspect and audit Seller's premises and all Conflict Minerals (as defined below) traceability documentation related to Purchaser's supply chain.

**12. Conflict Minerals** - Seller warrants that, to its knowledge, no tantalum, tin, tungsten and/or gold ("Conflict Minerals"), contained in any good subject to this order, originated from the Democratic Republic of the Congo or an adjoining country, unless the Conflict Minerals were processed by a facility listed as compliant pursuant to the CFSI Conflict-Free Smelter Program. Seller agrees to abide by the terms and conditions in Purchaser's Conflict Minerals Policy, and to communicate to its sub-suppliers its own commitment to responsible sourcing and legal compliance. Seller agrees to cooperate and work with its sub-suppliers in an attempt to ensure traceability of Conflict Minerals at least to smelter or refiner level, to maintain and record all Conflict Minerals traceability documentation for five years, and to provide such documentation to Purchaser upon request.

**13. Audit Right** - Where appropriate, purchaser shall have the right to audit product and process quality at seller's premises at mutually agreed upon time.

**14. Entire Agreement** - This purchase order, and any documents referred to on the face hereof, constitute the entire agreement between the parties.

**15. Assignments and Subcontracting** - No part of this order may be assigned or subcontracted without the prior written approval of Purchaser.

**16. Shipment** - If in order to comply with Purchaser's required delivery date and/or seller agreed upon delivery date, it becomes necessary for Seller to ship by a more expensive way than specified in this purchase order, any increased transportation costs resulting therefrom shall be paid for by Seller unless the necessity for such rerouting or expedited handling has been caused by Purchaser.

**17. Waiver** - Purchaser's failure to insist on performance of any of the terms or conditions herein or to exercise any right or privilege or Purchaser's waiver of any breach hereunder shall not thereafter waive any other terms, conditions or privileges whether of the same or similar type.

**18. Delivery** - Time is of the essence of this contract and if delivery of items or rendering of services is not completed by the time promised, Purchaser reserves the right, without liability in addition to its other rights and remedies, to terminate this contract by notice effective when received by Seller as to items not yet shipped or services not yet rendered and to purchase substitute items or services elsewhere and charge Seller with any loss incurred pending discussion and agreement between Purchaser and Seller.

**19. Limit on Purchaser's Liability-Statute of Limitations** - In no event shall Purchaser be liable for anticipated profits or for incidental or consequential damages. Purchaser's liability on any claim of any kind for any loss or damage arising out of or in connection with or resulting from this agreement or from the performance or breach thereof shall in no case exceed the price allocable to the goods or services or unit thereof which gives rise to the claim. Purchaser shall not be liable for penalties of any description. Any action resulting from any breach on the part of Purchaser as to the goods or services delivered hereunder must be commenced within one year after the cause of action has accrued.

**20. Compliance with Laws** - Seller agrees that all goods shipped to the Purchaser under this agreement will be produced in full compliance with all applicable laws including, but not limited to, the Fair Labor Standards Act. Seller further agrees that it shall not engage in the employment of child, forced, indentured, involuntary, prison or uncompensated labor. Purchaser may, upon notice, inspect Seller's plant and facilities at reasonable times to determine compliance with the provisions set forth herein. In addition to any other remedies contained herein, Purchaser shall have the right to immediately terminate this agreement and any other agreements with Seller if it determines that Purchaser is in violation of this section.

**21. Choice of Law** - This Purchase Order, and any contract formed hereunder, shall be governed by, and construed under the internal laws of the State of Michigan, without regard to principles of conflict of law, as the same may be from time to time in effect, including, without limitations the Uniform Commercial Code as in effect in the State of Michigan.

**22. Seller Compliance** - The Seller agrees to comply with the following: A) Executive Order 11246 as amended and all regulations promulgated pursuant to that Executive Order including but not limited to the provisions of paragraphs (1) through (7) of the "Equal Opportunity Clause" and the "Certification of Nonsegregated Facilities", each of which is incorporated herein by reference, B) Section 503 of the Rehabilitation Act of 1973 including the applicable parts of the affirmative action clause entitled "Affirmative Action for Handicapped Workers" (41 CFR 60-741.4) incorporated herein by reference, C) the Vietnam Era Veterans Readjustment Assistance Act (30 USC §2012) including the applicable parts of the affirmative action clause entitled "Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era" (41 CFR 60-250.4) incorporated herein by reference, and D) Executive Order 13496 "Notification of Employee Rights Under Federal Labor Laws" (29 CFR Part 471, Appendix A to Subpart A) also incorporated herein by reference, E) all applicable commercial and public anti-bribery laws, including, without limitation, the US Foreign Corrupt Practices Act and the UK Bribery Act.