

# Bogue Machine Company, Inc. – Business Instruction



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<b>D</b>		
<b>E</b>		

## BOGUE MACHINE COMPANY, INC. ("BUYER") PURCHASE ORDER TERMS AND CONDITIONS

These terms and conditions are hereby incorporated by reference into and made a part of the Purchase Order to which it is attached or referenced.

1. **ACCEPTANCE/AGREEMENT:** This Purchase Order ("Order") shall be accepted by Seller by shipment of goods (the term "goods" throughout this Order includes, without limitation, raw materials, components, intermediate assemblies, and end products), performance of services, commencement of work on goods, written acknowledgement, or any other conduct of Seller which recognizes the existence of a contract pertaining to the subject matter hereof. NO PURPORTED ACCEPTANCE OF THIS ORDER ON TERMS AND CONDITIONS WHICH MODIFY, SUPERSEDE, OR OTHERWISE ALTER THE TERMS AND CONDITIONS HEREOF SHALL BE BINDING UPON BUYER UNLESS THEY ARE ACCEPTED IN WRITING BY AN AUTHORIZED PURCHASING REPRESENTATIVE OF BUYER. NOTWITHSTANDING BUYER'S ACCEPTANCE OR PAYMENT FOR ANY SHIPMENT OF GOODS OR SIMILAR ACT OF BUYER, ACCEPTANCE OF ANY ORDER IS EXPRESSLY LIMITED TO THE TERMS HEREOF AND ANY ADDITIONAL OR DIFFERENT TERMS ARE OBJECTED TO WITHOUT FURTHER NOTIFICATION BY BUYER. Unless otherwise stated on the face of this Order, this Purchase Order is Buyer's offer to Seller and does not constitute an acceptance by Buyer of any offer to sell or proposal by Seller. Any reference herein to any such offer or proposal by seller is solely for the purpose of incorporating the description and specification of the subject matter thereof into this Purchase Order and then only to the extent that such description and specifications do not conflict with the descriptions and specifications on the face of the Order.
2. **DELIVERY:** Delivery must be in strict compliance with the schedule contained in this Order and shall be made by Seller at such times and places and of such items and quantities as may be specified by Buyer. Parts fabricated in excess or in advance of Buyer's release are at Seller's risk. Buyer reserves the right to return to Seller, at Seller's expense, all goods received more than seven (7) days ahead of the required delivery date. Buyer reserves the right, without loss of discount privileges, to buy invoices covering items shipped in advance of the schedule on the normal maturity after the date specified for delivery. If Seller fails to meet its scheduled delivery dates and Buyer elects to call for expedited shipments, Seller will pay the difference between the method of shipping specified and the actual expedited rate incurred. Seller shall be responsible for any additional charges resulting from the deviation from Buyer's routing instructions. Should Buyer accept goods which are not delivered on or before the required delivery date, which option Buyer reserves, the Seller shall be liable for all additional costs incurred by Buyer because of such delays (s) including, but not limited to, telecommunication costs, additional or premium transportation charges, special handling expenses, and costs to Buyer to install the materials out of normal manufacturing sequence, in addition to other remedies available by law to Buyer. Title and risk of loss remain in Seller until goods are delivered to the F. O. B. point specified herein. Notwithstanding such delivery, Seller shall bear risk of loss or damage to goods purchased hereunder from the time that Buyer gives notice of rejection of goods pursuant to the inspection provisions of this Order. If Seller encounters or anticipates difficulty in meeting the delivery schedule, Seller shall immediately notify Buyer in writing, giving pertinent details; provided, however, that the receipt of such data shall be for information purposes only and shall not be construed as a waiver by Buyer of any delivery schedule or date or of any rights or remedies provided by law or this Order. If Seller fails to make delivery promptly and regularly as required hereunder, Buyer may, in addition to other remedies available by law, terminate this Purchase Order in accordance with the paragraphs of this Order entitled "Termination for Default." Nothing contained in this Paragraph shall prevent termination by Buyer under the provisions of the "Termination for Default" paragraphs of this Order.
3. **SHIPPING INSTRUCTIONS:** Seller agrees to prepare and properly box or crate goods for shipment so as to prevent damage in transit, to comply with Buyer's shipping instructions and/or routings, and to describe the goods on the bill of lading in conformity with appropriate freight classifications. Any additional charges resulting from failure to comply with this provision, including incidental and consequential damages shall be charged to Seller. Each container must be marked to identify contents and quantities without opening. Packing lists and certifications, when applicable, must accompany each shipment and must have only one (1) Purchase Order per supplier packing sheet. The location of the packing list must be clearly marked on the container. When multiple containers are used, the packing list will show the items in each container. Multiple containers will be numbered consecutively, for example, 1 of 4, 2 of 4, etc. Buyer's Purchase Order number and plant location must appear on all invoices, packing sheets, delivery tickets, shipping orders, and bills of lading. Buyer assumes no obligation for materials shipped in excess of quantity as shown on this Order, except for industry standard quantity tolerance. It terms of this Order are F. O. B. shipping point, and transportation charges, other than parcel post and any other parcel delivery service, are to be paid by Buyer, shipment shall be made transportation charges collect.
4. **INVOICING AND PAYMENT:** Individual invoices showing Purchase Order number and Purchase Order item number must be issued for each shipment applying against the Order. One (1) copy of each invoice must be rendered with prices and extensions to appear on all copies. Rejections, delays in delivery or delivery in advance of required delivery date, errors and/or omissions will be considered just cause for withholding payment without loss of cash discount privileges. Unless otherwise specified, the price set forth in this Order shall include all charges for Seller's packing and crating and for cartage to F. O. B. point.
5. **INSPECTION:** Seller agrees to inspect and test all goods furnished in performance of this Order to ensure compliance with warranty provisions, Buyer's specifications, and other requirements of the Order. Test reports and/or certifications shall be retained by Seller for ten (10) years after shipment of goods. Seller agrees to permit inspections and testing by Buyer and/or by Buyer's customer of all goods furnished in performance of this Order during manufacturing, where practical and at all other times and places. All goods shall be received subject to Buyer's inspection and acceptance or rejection. Inspection or testing of, or payment for any goods shall not constitute an acceptance thereof. Acceptance by Buyer does not relieve Seller of liability for latent defects, fraud, or such gross errors or defects as amount to fraud. Buyer shall have the right to inspect any goods found not to be in compliance with the warranty provisions, Buyer's specifications, or other requirements of this Order. Defective or nonconforming goods shall be subject to the provisions of this Paragraph in the same manner and to the same extent as goods originally delivered under this Order. The obligations of this Paragraph shall survive the cancellation, termination, or completion of this Order.
6. **WARRANTY:** Seller expressly warrants that all goods furnished hereunder shall (1) conform to all specifications, drawings, samples, or other descriptions furnished, specified or adopted by Buyer and to all other requirements of the Purchase Order; (2) be of merchantable quality and fit for the purpose intended; (3) be free from defects in material and workmanship and, to the extent such goods are not manufactured pursuant to detailed designs of Buyer, be free from defects in design; (4) be free from defects in title and any claims federal, state, and local laws and regulations and agency standards applicable to the manufacture, labeling, transportation, and licensing thereof. Such warranties together with Seller's service warranties and guarantees, if any, shall survive inspection, test, acceptance of, and payment for the goods and shall run to Buyer, its successors, assigns, customers at all tiers, and ultimate user and joint users. Except for latent defects, notice of any defect of nonconformity shall be given by Buyer to Seller within fifteen (15) months after acceptance by ultimate user. Buyer may, at its option, either (i) return the defective or nonconforming goods for credit or refund (without Seller having any right to furnish conforming goods); (ii) require prompt replacement of the defective or nonconforming goods; or (iii) have the defective or nonconforming item corrected or replaced at Seller's expense and deduct the cost thereof from any monies due Seller. Such goods will be held for Seller's instruction and at Seller's risk, or at Buyer's option, will be returned at Seller's risk. The return to Seller of any defective or nonconforming goods and delivery to Buyer of any corrected or replaced goods shall be at Seller's expense. In most cases, Buyer's packing sheet, which accompanies goods returned, will indicate whether goods are to be corrected, replaced, or credited to Buyer. No goods thus returned will be replaced or corrected by Seller without Buyer's written instructions. Goods, which have been rejected or required to be corrected, shall not thereafter be tendered for acceptance unless the former rejection or correction requirement is disclosed in writing. Goods required to be corrected or replaced shall be subject to the provisions of this Paragraph in the same manner and to the same extent as goods originally delivered under this Order. The obligation of this Paragraph shall survive the cancellation, termination, or completion of this Order.
7. **CHANGES:** Buyer shall have the right at any time to make changes in one or more of the following: (i) drawings, designs, or specifications; (ii) method of shipment or packing and changes in delivery schedule; (iii) place or time of delivery or performance; and (iv) the quantity covered by this Order. Notices of changes hereunder shall be delivered to Seller in writing and Seller shall be bound by such changes upon receipt of such writing. Seller understands and agrees that it shall not be entitled to any financial adjustments as a result of Buyer's changes in time of delivery or performance. Unless Seller presents to Buyer, with respect to any changes in drawings, designs, or specifications or method of shipment or packing by Buyer hereunder, an itemized statement of claim against Buyer within twenty (20) days after receipt of notice of such changes, Seller shall be conclusively deemed to have waived all claims against Buyer therefor. Changes in total quantities covered by this Order shall result in an equitable adjustment in the total price of this Order as agreed to by the parties.
8. **EQUIPMENT AND FURNISHED PROPERTY:** (a) Unless otherwise agreed in writing, Seller shall furnish at its own expense all special dies, tools, jigs, fixtures, equipment, and patterns used in the performance of this Order, all of which are to be kept in good condition and to be replaced by Seller when necessary without expense to Buyer. (b) Unless otherwise agreed in writing, all special dies, tools, jigs, fixtures, equipment, patterns, drawings, or other manufacturing data (including all copies or reprints thereof), furnished by the Buyer, or specifically paid for by Buyer) shall be the property of Buyer and subject to removal at Buyer's request, and shall be used only in filling orders from Buyer and shall be subject to the provisions of the "data" Paragraph of this Order. Such items shall be kept in good condition by Seller and shall be replaced, if damaged, without cost to Buyer. Such items shall be held at Seller's risk and shall be kept free from liens and encumbrance of any nature and insured at all time by Seller in an amount equal to the replacement cost thereof, with loss to be paid to Buyer. Written notice of loss or damage shall be furnished to Buyer within seven (7) days from date thereof. (c) Unless otherwise agreed to in writing, any tool charges not conveying outright title to the tools from Seller to Buyer shall obligate Seller to keep the tools in good condition and repair or replace them as may be required by Buyer, without additional charge to Buyer. Such tools shall be held for the exclusive use of Buyer and shall be released to Buyer upon its request at no charge to Buyer. This clause shall not be construed as a limitation to the right of Seller to use special dies, tools, jigs, fixtures, equipment, patterns, drawings, or other manufacturing data (including all copies or reprints thereof), to which the United States Government has title in contracts directly with the United States Government. (d) Specifications, drawings, designs, manufacturing data, and any other information transmitted to Seller by Buyer in connection with the performance of this Purchase Order are disclosed in confidence, must be returned when the order(s) are completed, and neither they nor the information contained therein shall be disclosed to other or reproduced or copied by Seller without Buyer's prior express written consent. The obligations of this Paragraph shall survive the cancellation, termination, or completion of this Order.
9. **RESPONSIBILITY FOR CONSIGNED GOODS:** Any goods furnished by Buyer in connection with this Order shall be deemed to be held by Seller on consignment and Seller agrees to pay for all such goods damaged by it or not otherwise satisfactorily accounted for.
10. **PATENTS:** Seller agrees that it, with its own expense, include payment of court costs and attorney fees, defend any charges or lawsuits instituted by any party against Buyer or Buyer's customer for alleged infringement of any patent, trademark, or similar right related to goods manufactured by or for Seller and furnished to Buyer in the performance of this Order, or relating to the use of such goods in combination with other articles of its manufacture as is recommended by Seller, except where such goods are furnished by Seller pursuant to Buyer's drawings or designs, provided Buyer gives Seller prompt notice in writing of any such charges, and/or the institution of any such suit of which it has knowledge. Seller further agrees that in case of a final award of damages in any such suit, it will pay such award and will indemnify and hold harmless Buyer and all persons claiming under Buyer in respect to such award, court costs, attorney fees, and expenses incurred by reason thereof. Seller shall promptly notify Buyer in writing of each such notice or claim of which Seller has knowledge. The obligation of this Paragraph shall survive cancellation, termination, or completion of this Order.
11. **NOTICE OF LABOR DISPUTE:** Whenever Seller has knowledge that an actual or potential labor dispute is delaying or threatens to delay the timely performance of this Order, Seller shall immediately give notice thereof to Buyer, including all relevant information with respect thereto. Delivery delays caused by labor disputes shall be governed by the paragraph of this Order entitled "Delivery."
12. **COMPLIANCE WITH LAWS:** Seller agrees in accepting this Order to comply with all applicable local, state, and federal laws, orders, directives, and regulations heretofore or hereafter promulgated. If Seller fails to comply with the provisions of this Paragraph, Buyer may, by written notice to Seller, terminate this Order as upon a default in accordance with the "Termination for Default" Paragraphs of this Order in addition to any other rights or remedies provided by law. All materials used in goods manufacture shall satisfy current governmental and safety constraints on restricted, toxic, and hazardous materials; as well as environmental, electrical, and electromagnetic considerations applicable to the country of manufacture or sale.
13. **STOP WORK ORDER:** Buyer may at any time, by written notice to Seller, require Seller to stop all or any part of the work called for by this Purchase Order for a period of up to ninety (90) days after the notice is delivered to Seller ("Stop Work Order"). Upon receipt of the Stop Work Order, Seller shall forthwith comply with its terms and take all reasonable steps to minimize the costs allocated to the work covered by this Purchase Order during the period of work stoppage. Within a period of ninety (90) days after a Stop Work Order is delivered to Seller, or within any extension of that period to which the parties shall have agreed, Buyer shall either cancel the Stop Work Order or terminate the work covered by this Purchase Order as provided in the "Default" or "Termination by Convenience" Paragraphs of this Purchase Order, whichever may be appropriate. Seller shall resume work upon cancellation or expiration of any Stop Work Order. An equitable adjustment shall be made in the delivery schedule or prices hereunder, or both, and this Purchase Order shall be modified in writing accordingly if the Stop Work Order results in an increase in the time required for the performance of this Order or in Seller's cost properly allocated thereto.
14. **TERMINATION AND SETTLEMENT:**
  - a) **Termination for Default:**
    1. Buyer may, by written notice of default to Seller, terminate the whole or any part of this Order in any of the following circumstances: (i) if Seller fails to make delivery of the goods or to perform the services required by this order within the time specified herein or any extension thereof or (ii) if Seller fails to perform any of the requirements or to perform any of the other provisions of this Order, or so fails to make progress as to endanger performance of this Order in accordance with its terms and conditions, and does not cure such failure within a period of ten (10) days (or such longer period as Buyer may authorize in writing) after receipt of notice from Buyer specifying such failure.
    2. In the event Buyer terminates this Order in whole or in part as provided in subparagraph (1) above, Buyer shall have no further obligation to Seller under the terminated portion of this Order and Buyer may procure, upon such terms and in such manner as Buyer may deem appropriate, goods or services similar to those so terminated, and Seller shall be liable to Buyer for any excess costs for the same; provided that Seller continue the performance of this Order to the extent not terminated hereunder.
    3. Except with respect to defaults of subcontractors, Seller shall not be liable for any excess costs if the failure to perform this Order arises out of causes beyond the control and without the fault or negligence of Seller. Such causes may include, but not limited to, acts of God, or of the public enemy, act of a governmental entity, fires, flood, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather, but in every case the failure to perform must be beyond the control and without the fault or negligence of Seller.
    4. If the failure to perform is caused by default of a subcontractor, and if such default arises out of causes beyond the control of both Seller and the subcontractor, and without the fault or negligence of either of them, Seller shall not be liable for any excess costs for failure to perform, unless the goods or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit Seller to meet the required delivery schedule. The term "subcontractor(s)" shall mean subcontractor(s) at any tier.
    5. If, after notice of termination of this Order under the provisions of this Paragraph 14(a), it is determined for any reason that Seller was not in default under the provisions above, or that the default was excusable under the provisions of applicable paragraphs of this Order, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to a termination for convenience of Buyer pursuant to the "Termination for Convenience" Paragraphs of this Order.
  - b) **Termination for Insolvency:** In the event of the institution of any proceedings by or against Seller in bankruptcy or insolvency or under any provision of the U.S. Bankruptcy Code or the appointment of a receiver or trustee or an assignment of the benefit of creditors of Seller, or the institution of any similar proceedings, Buyer may terminate this Order. Any termination under this Paragraph shall be deemed to be a termination for default in accordance with the Paragraph of this Order entitled "Termination for Default."
  - c) **Termination for Convenience:** Buyer may, at any time by written notice, terminate all or part of this Order for Buyer's convenience, in which event Seller agrees to stop work immediately as to the terminated portion of this Order and to notify subcontractor(s) to stop work, and protect and preserve property in its possession in which Buyer or the Government has an interest. If this Order is terminated, in whole or in part by Buyer's convenience, Seller shall be paid an amount, to be mutually agreed upon, which shall be adequate to cover the reasonable cost of Seller's actual performance of work under this Order to the effective date of termination, plus reasonable profit thereon, provided that no amount shall be paid to Seller for (i) any anticipatory profits related to work under this Order not yet performed or (ii) cost incurred due to Seller's failure to terminate work as ordered on the effective date of termination. Buyer shall have no obligation to make any of the aforementioned payments to Seller, either for completed items or in connection with terminated work in process, unless Seller shall establish to Buyer's satisfaction that such completed items, or the work in process, including materials, are unusable in connection with Seller's other business. In no event shall the total amount paid under this provision exceed the prices set forth in this Order for the work terminated. If a governmental contract number is cited on the face hereof, a termination for Buyer's convenience shall be accomplished in accordance with FAR 49.502, as in effect on the date of this Order, which shall be controlling over any conflicting provision hereof.
  - d) If this Purchase Order is terminated as provided in this Paragraph 14, Buyer, in addition to any other rights provided in this Order, may require Seller to transfer title and deliver to Buyer or its designee, in the manner and to the extent directed by the Buyer, (i) any completed goods and (ii) such partially completed goods and materials, parts, tools, dies, jigs, fixtures, drawings, information, and contract rights (hereinafter call "manufacturing materials") as Seller has specifically produced or specifically acquired for the performance of such part of this Order as has been terminated; and Seller shall, upon direction of Buyer, protect and preserve property in the possession of Seller in which Buyer or its designee has an interest. Payment for completed goods delivered to and accepted by Buyer, and for the protection and preservation of property, shall be in the amount agreed upon by Buyer and Seller; failure to agree to such amount shall be a dispute within the meaning of the paragraph of this Order entitled "Disputes." Buyer may withhold from amounts, otherwise due Seller for such completed goods or manufacturing materials, such sum as Buyer determines to be necessary to protect Buyer or its designee against loss because of outstanding liens or claims of former lien holders.

- e) The rights and remedies of Buyer provided in this Paragraph 14 shall not be exclusive and are in addition to any rights and remedies provided by law or under this Order. Any termination of this Order under this Paragraph 14 shall not relieve Seller of any obligations and liabilities which may have arisen under any of the terms and conditions of this Order prior to such termination, including but not limited to, patent infringement, reproduction rights, latent defects, and warranty obligations.
15. **PRICES:** This Order may not be invoiced at a higher price than shown on this Order and any changes in the price must be authorized in writing by Buyer. If no price is shown, the goods shipped or services provided shall be billed at the last quoted or last paid or the prevailing market price, whichever is lower. Unless otherwise specified, prices are F. O. B. the place shown on the face of this Order and are exclusive of state and use taxes. No charge will be allowed for packing, crating, drayage, or storage. Seller warrants that prices charged for the goods are not higher than those charged to any other customer, including any governmental entity, for goods of like grade and quality in similar or lesser quantities.
16. **INDEMNIFICATION/INSURANCE:** If the accomplishment of this Order requires Seller to sell goods, perform services, or provide labor on the premises of Buyer:
- a) Seller agrees that such services are to be rendered by Seller as an independent contractor and Seller agrees to take all necessary precaution to prevent the occurrence of any accident, injury, death, or loss to any persons or property. Seller further agrees to be solely responsible for any accident, injuries, death, or loss to any persons or property which arise out of its performance under this order and to indemnify and hold Buyer and Buyer's customer harmless from and against any and all claims, losses, damages, liabilities, fines, and expenses arising out of such performance, except to the extent caused by the negligence of Buyer, its employees, agents, or other independent contractors; and
  - b) Seller shall maintain such liability insurance, including product liability, completed operations, contractor's liability, automobile liability, comprehensive general liability, and workers' compensation and employers' liability as will adequately protect Seller and Buyer against such claims, losses, damages, liabilities, fines, and expenses, but not less than \$1,000,000 per occurrence. All such insurance shall be placed with reputable companies acceptable to Buyer, with policy language in form and content acceptable to Buyer, and at Buyer option, Buyer shall be named as an additional insured in all such policies. Upon request by Buyer, Seller shall furnish Certificates of Insurance evidencing such coverage.
17. **GRATUITIES, POLICIES, AND PROCEDURES:** (a) If it is found that gratuities (in the form of entertainment, gifts, or otherwise) are offered by Seller, or any agent or representative of Seller, to any employee of Buyer with a view toward securing favorable treatment with respect to the awarding or performing of any Purchase Order, Buyer may, by written notice to Seller, terminate this Order as upon a default in accordance with Paragraph 14(a) of this Order in addition to any other rights or remedies provided by law. (b) If Seller, its employees, representatives, or agents violate Buyer's rules, regulations, policies, or procedures, Buyer may, by written notice to Seller, terminate this Order as upon a default in accordance with Paragraph 14(a) of this Order in addition to any other rights or remedies provided by law.
18. **APPLICABLE LAW:** This Order shall be deemed to be a contract entered into in the State of New Mexico, U. S. A., and shall be construed and governed in all respects, and the legal relationships between the parties shall be determined in accordance with applicable commercial law of the State of New Mexico, U. S. A., including but not limited to, the Uniform Commercial Code, as the same may be enacted and in force from time to time in that jurisdiction.
19. **AMENDMENT BY LAW:** This Order shall be deemed to contain all provisions required to be included by any applicable local, state, and federal laws, order, regulations, or directives heretofore or hereafter promulgated without the subsequent amendment of this Order specifically incorporating such provisions. This Order may not be subcontracted by the Seller without prior written consent of Buyer.
20. **ASSIGNMENT:** Seller shall not assign the performance of this Order without prior written consent of Buyer, which consent Buyer may withhold in its sole discretion. Proceeds due or to become due under this Order may be assigned by Seller only with the written consent of Buyer and provided that payment to an assignee of any claim related to this Order shall be subject to all applicable defenses, reductions, and setoffs.
21. **NOTICES:** All notices required or permitted to be given hereunder shall be deemed to be properly given if delivered in writing personally, or sent by United States certified or registered mail, or sent by private overnight delivery service and by United States first class mail, addressed to Seller or Buyer, as the case may be, at the addresses set forth on the face of this Order, with postage thereon fully prepaid. Releases, estimates, changes in specifications, and shipment notifications may be sent by confirming telex, facsimile, or e-mail, and shall be confirmed by mail as described above. The effective time notice shall be at the time of such sending, mailing, or personal delivery.
22. **AUTHORIZATIONS:** All authorizations of Buyer required or permitted to be given herein shall be deemed properly given only if given in writing by an authorized purchasing representative of Buyer.
23. **DISPUTES:** Buyer and Seller shall strive to settle amicably and in good faith any disputes arising in connection with this Order. If they are unable to do so, the dispute shall be resolved by binding arbitration conducted under the Commercial Arbitration Rules and Mediation Procedures of the American Arbitration Association, as presently in force, by a single arbitrator appointed in accordance with said rules. The place of arbitration shall be Albuquerque, New Mexico. Pending resolution of any dispute hereunder, Seller shall proceed diligently with the performance of work, including the delivery of goods in accordance with Buyer's direction. Upon resolution of the dispute, this Order shall be equitably adjusted, if necessary, to reflect such resolution.
24. **WAIVER:** No waiver by Buyer of any breach of this Order or the granting of an extension for performance hereunder shall be deemed to be a waiver of any other or subsequent breach.
25. **DATA:** All drawings and specifications furnished or paid for by Buyer shall be the property of Buyer, subject to removal at any time upon demand by Buyer (without additional cost), shall be used only in filling orders from Buyer, shall be kept separate from other drawings and specifications, and shall be identified as the property of Buyer. The information contained in reports, drawings, documents, or other records which are furnished to Seller by Buyer relative to this Order, to the extent that such information is not in the public domain, shall not be disclosed to any other person, except to subcontractors as necessary for completion of this Order, in which event the subcontractor shall have the same obligation of nondisclosure. Upon completion, termination, or cancellation of this Order, Seller shall return all drawings and specifications (including copies) to Buyer, in the event Buyer requests returns of any such items, within thirty (30) days after the effective date of completion, termination, or cancellation. Any such data of Buyer retained by Seller shall remain subject to the restrictions on use, reproduction, and disclosure contained within this Order which shall survive the cancellation, termination, or completion of this Order. Upon termination of this Order, Buyer may, at Buyer's option, use on a nonexclusive basis, all drawings, documents, or other records related to this Order whether created by Buyer or Seller without further compensation to Seller. Seller may not disclose the existence of this Order or the items to be supplied hereunder without Buyer's prior consent except to subcontractors who shall have the same responsibility.
26. **SALE OF PARTS:** Seller is prohibited from using Buyer's data, as identified in Paragraph 25, in the manufacturing, distribution, sale, or otherwise disposing of any part(s), which is the subject of this Order, to any third party without the express written consent of Buyer. The restriction on Seller in the manufacturing, distribution, sale, or otherwise disposing of any part(s) shall survive the cancellation, termination, or completion of this Order.
27. **INCORPORATED DOCUMENTS:** All documents attached to this Purchase Order are incorporated herein by reference and made a part of this Order as if fully set forth herein.
28. **ENTIRE AGREEMENT, AMENDMENTS:** This Purchase Order and the Terms and Conditions state herein or on the face of this Order or in any attachments hereto and incorporated herein, constitute the agreement between Buyer and Seller with respect to the subject matter hereof and are binding on Buyer and Seller and their respective heirs, devisees, administrators, executors, successors, and permitted assigns. No change to this Purchase Order, the Terms and Conditions, or any attachments hereto and incorporated herein shall be valid and binding on either party unless reduced to writing and signed by authorized representatives of both parties.
29. **ORDER OF PRECEDENCE:** In the event of any inconsistency among this Purchase Order and any documents incorporated by reference herein, the inconsistency shall be resolved by giving precedence in the following order: (i) the Purchase Order to which these Terms and Conditions are attached, (ii) the Terms and Conditions, (iii) drawings, (iv) specifications, and (v) any other documents incorporated by reference. Notwithstanding the foregoing, if this Purchase Order is issued in connection with a Government contract, the Government contract shall have precedence over all other documents.
30. **SEVERABILITY:** If any provision hereof is or becomes invalid or unenforceable under any law of mandatory application, such provision shall be deemed severed and the remaining portions hereof shall remain in full force and effect as written.