

AVS, Incorporated Purchasing T&C's

1. ACCEPTANCE. The Purchase Order ("PO") and the Purchasing Terms and Conditions ("Terms") of AVS, Incorporated ("AVS or Buyer") comprise the total agreement to procure goods and/or services ("Products") from the Seller ("Seller"). Neither the Buyer nor the Seller shall be bound by any oral or any other written agreements, not expressly included in the PO and these AVS Terms. Acceptance of the PO and Terms, by Seller occurs upon written confirmation, initial delivery or commencement of activities to perform under the PO. The AVS Terms may be amended and altered only in writing, signed by authorized representatives of both Seller and Buyer, expressly referencing the Terms being modified.

2. PRICING: All prices payable by Buyer for the Products are stated in the PO, and include the cost of packaging and handling. Delivery is DDP (INCOTERMS 2020) unless otherwise specified on the PO.

3. QUALITY: Seller shall meet all quality requirements of Buyer including, but not limited to, all applicable plans, specifications, and other contract descriptions, as set forth or referenced on the face of the PO. The quality of the Products shall be subject to inspection/satisfaction of the Buyer, who shall be entitled to reject non-conforming Products. The Seller shall retain or reacquire title to, and bear all risks of loss, or other costs of any non-conforming Products and shall at its own expense be responsible for the return and replacement.

All materials requiring certification and/or inspection reports will not be accepted without specified documents.

All materials to meet Buyer supplied drawings require Seller inspection and dimensional reports for each part.

4. PACKAGING & SHIPPING: All Products included in this PO shall be suitably marked and shipped DDP in accordance with the requirements of common carriers. If transportation costs are payable by the Buyer, the Seller shall either ship Products as specified on the Buyer PO or contact Buyer to arrange suitable transportation.

5. DELIVERY: a) The Seller shall make delivery to the specified destination by the due date stated on the PO or as otherwise agreed by Buyer and Seller. Time is of the essence and the Seller shall notify Buyer promptly if it reasonably anticipates that delivery dates will not be met. Delivery more than one week before due date must be approved by Buyer and Seller shall incur all costs related to any unauthorized early delivery. b) The Seller warrants that upon acceptance of delivery at the destination the Seller will convey to Buyer good and marketable title to all Products free of any liens or encumbrances of any kind.

6. WARRANTY: The Seller warrants:

a) Products strictly conform to the description contained in the PO, the quality and agreed specifications stated or incorporated as a schedule, by reference or otherwise, and are free of defects in material and workmanship. Replacement or repair will be performed by Seller for twelve months (12) after acceptance by Buyer or such longer period as Buyer offers or extends to any other customer for the same or similar products.

b) Any subcontractor or supplier warranty provided to Seller will transfer to Buyer and copies of the warranties will be provided at delivery.

7. INTELLECTUAL PROPERTY: The Seller shall indemnify and hold Buyer and its customers harmless from all claims, losses, suits, damages, liability, and all expenses, (including but not limited to reasonable attorney's fee) arising out of or related to any such actual patent, copyright, trademark or other property rights infringement or alleged direct or indirect infringement by reason of the manufacture, use or sale of the Product. Buyer retains all intellectual property rights in all Buyer supplied specifications, drawings or any other information conveyed during the quotation process, purchase and delivery of products or services under the Buyer's PO.

8. INDEMNIFICATION: Seller agrees to indemnify and hold Buyer, its employees, officers and directors from and against any and all claims, libels, suits, judgments, fines, penalties, actions, proceedings, and damages. Including costs and expenses including reasonable fees for attorneys, experts and consultants, settlement costs, incurred in connection with any claims (including lawsuits, administrative claims, regulatory actions, and other proceedings to recover for personal injury or death, property damage or economic losses) that are related in anyway to or arise in anyway from the Buyer's or it's customer's purchase and/or use of the Product, Seller's representations, Seller's performance or failure to perform obligations under any PO, including claims based on Seller's breach or alleged breach of warranty.

Seller's obligation to indemnify will apply regardless of whether the claim arises in tort, negligence, contract, warranty, strict liability, or otherwise, except to the extent any such liability arises solely out of the gross negligence or willful misconduct of Buyer, its employees or authorized representative.

9. **TERMINATION BY THE BUYER:** Buyer reserves the right to terminate all or any part of each PO without liability of Buyer to the Seller, in the event: a) Seller repudiates, breaches, or threatens to breach any of the Terms or conditions of a PO including without limitation, Seller's warranties, or other provisions of the agreement and Seller fails to remedy the breach or violation within Thirty (30) days after receipt of written notice from Buyer, or b) Seller makes an assignment for the benefit of its creditors, commits any act of bankruptcy, has a receiver appointed, or otherwise demonstrates Seller inability to pay debts as they mature., Buyer may also terminate for convenience and will pay all reasonable costs incurred by Seller to the date of the termination.

10. **ASSIGNMENT:** The Seller shall not assign, transfer or otherwise dispose of any rights or obligations to any third party without the prior written consent of Buyer. All rights and obligations shall inure to the benefit of and be binding on any permitted assignee or successor of each Party.

11. **PAYMENT:** Payment terms are N45 unless otherwise stated on the PO; based on the later of: actual dock receipt date, receipt of Seller's invoice or requested date as stated on the face of the PO. Buyer may accept discount terms offered, based on actual dock receipt date.

12. **CONFIDENTIALITY:** The Buyer provided Confidentiality Agreement signed by Seller remains in force. In the event that Seller has not signed such an agreement the following applies: Any specifications, samples, designs, formulations, trade secrets, patents, financial data, or other information that Buyer identifies as or otherwise deems confidential ("Buyers Confidential Information") and discloses to the Seller and any Seller information derived from such Buyer Confidential Information in connection with the PO shall remain the exclusive property of the Buyer and shall, along with any information derived from the same, be kept confidential, for a period of 5 years by the Seller and its employees and agents and shall not, without Buyer's prior written consent, be disclosed to any third party or used except for purposes of the PO. Notwithstanding the foregoing, such information shall not be deemed confidential to the extent that the Seller can demonstrate by written record that such information was previously known by the Seller, became generally available to the public through no fault of the Seller, was disclosed to the Seller by a third party without breach of any confidentiality obligation, or is specifically required to be disclosed by law or legal process.

The Buyer and Seller agree that the covenant of confidentiality and nondisclosure set forth above shall survive termination of this Agreement and shall remain in effect for 5 years after termination. The Parties agree that this covenant shall supersede any lesser duration term set forth in any previously executed Confidentiality Agreement.

13. **REMEDIES:** In the event Seller fails to perform in accordance with the PO ("Breach"), without limiting the generality of the foregoing, should any Products fail to conform to the warranties, or should Seller or any Products provided by Seller fail to meet any of the conditions or specifications set forth, and without prejudice to any other rights or remedies it may have under applicable law or in equity, Buyer shall have the right, after any applicable cure period, to recover from the Seller any and all mitigated losses and reasonable additional expenses incurred by Buyer arising from Seller's Breach, and at Buyer's option: a) Require the Seller promptly cure such Breach with conforming delivery at no additional charge or expense to Buyer and/or, b) Reject any non-conforming Products and cancel any and all outstanding POs.

14. **INSURANCE:** The Seller agrees to maintain insurance covering the Product and its performance under the PO including, but not limited to comprehensive commercial general liability (including Products liability completed operations and third party liability coverage) per Exhibit A. Seller will, upon request, provide Buyer with a COI as evidence of Seller's insurance coverage consistent with Exhibit A.

15. **FORCE MAJURE:** Seller's failure to deliver Product as provided in the PO by reason of any of the following shall not constitute an event of default or breach of any Terms: fires, floods, freeze, accidents, war (whether or not declared), revolution, riots, insurrections, acts of God, acts of government (including without limitation any agency or department of the United States of America or any other country), acts of the public enemy, or other causes which are reasonably beyond the control of the defaulting Party. Seller shall promptly notify the Buyer of any such delay and its cause. Provided that if any such cause continues for more than Thirty (30) days the Buyer may at its own option cancel this PO and all its obligations to Seller.

16. **GOVERNING LAW AND JURISDICTION:** The formation and performance of the contract shall be governed by the internal laws of the State of Massachusetts without regard to any applicable conflict of law provisions.

17. CONFLICT MATERIALS. Seller hereby certifies that no material delivered by Seller to Buyer under this Order contains any substance originating from the Democratic Republic of Congo or any adjoining country that would require disclosure by Buyer under the conflict minerals provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act, or any rule promulgated thereunder. Seller represents and warrants that it has adopted all appropriate policies and procedures, and taken all necessary measures, in accordance with the conflict minerals provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act, and all rules promulgated thereunder, to grant the certification in the preceding sentence. Seller shall flow down the substance of this clause to its suppliers which perform work or provide goods or services under this Order. Such flow down is subject to verification by Buyer.

18. COUNTERFEIT MATERIALS. Notwithstanding any other provisions of these Terms unless otherwise specified in writing by the Buyer, the Seller warrants that all items provided to the Buyer shall be genuine, new and unused. Seller further warrants that all items used by the Seller during the performance of work are all genuine, original, and new components, and suitable for the intended purpose. The Seller's warranty also extends to labels and/or trademarks or logos affixed, or designed to be affixed, to items supplied or delivered to the Buyer. The Buyer may reject and retain counterfeit/suspect information or items, at no cost. If suspect/counterfeit parts are furnished under these Terms, such parts shall be impounded by Buyer or removed by Seller as directed by Company. Seller shall promptly replace such parts with those acceptable to Buyer, and Seller shall be liable for all costs relating to impoundment, removal and replacement. The Seller shall indemnify the Buyer, its officers, agents, and employees, and third parties for any financial loss, injury, or property damage resulting directly or indirectly from material, components, or parts that are not genuine, original, and unused, or not otherwise suitable for the intended purpose. This includes, but is not limited to, materials that are defective, suspect, or counterfeit; materials that have been provided under false pretenses; and materials or items that are materially altered, damaged, deteriorated, degraded, or result in product failure. The rights of Buyer in this clause are in addition to any other rights provided by law or contract.

18. MISCELLANEOUS.

- a) Failure of Buyer to insist upon performance of any provisions of these Terms or to exercise any rights hereunder shall not be construed as a waiver or relinquishment of the future performance of any such Terms or the future exercise of such right.
- b) If any enforceable term, provision, undertaking or restriction contained in these Terms are held by a court of competent jurisdiction to be invalid, void or unenforceable (in whole or in part), the remainder of the Terms, provisions, undertakings and restrictions will remain in full force and effect and will in no way be affected, impaired or invalidated.
- c) Seller acknowledges that Buyer's customers may require Buyer compliance with FARs, other government regulations or other regulations and policy and such compliance requirement is passed through to Seller by acceptance of Buyer's PO and these Terms.
- d) Any notice or request required or permitted to be given in connection with these Terms shall be sent by mail, prepaid, return receipt requested, or by express delivery service to the address set forth on the PO. The date of notice shall be deemed to be the date on which such notice has been received by mail or by express delivery service.
- e) Buyer PO number must appear on all packing slips and invoices, including without exception freight companies and any other third party subcontractor authorized to bill Buyer under this PO.
- f) All property produced or obtained by Seller in performance of the PO including NRE charges, tools, jigs and fixtures charged to Buyer are to remain Buyer's property and are to be used exclusively for Buyer requirements and returned promptly to Buyer upon completion of this PO as requested.
- g) Seller shall at any time, and after reasonable notice by Buyer, (i) grant to Buyer access to (or if requested by Buyer, provide to Buyer copies of) Seller's books and records (including, without limitation, agreements and technical inspection and quality records, but excluding financial books and records), and (ii) provide Buyer the right to access, and to perform any type of inspection, test, audit or investigation at Seller's premises to verify compliance with the requirements set forth in this PO. Seller and its subcontractors shall furnish all reasonable facilities and assistance for the safe performance of the inspection, test, audit and/or investigation.
- h) Section headings are for convenience only and are not to be construed as part of this Agreement.