

CORNELL Communications, Inc. Purchase Order Terms & Conditions

1. ACCEPTANCE. Any acceptance of this Purchase Order is limited to acceptance of the express terms contained on the face and the back hereof, but, if for any reason, Seller should fail to accept in writing, the commencement of any work or performance of any services hereunder by Seller shall constitute acceptance by Seller of this Purchase Order and all of its terms and conditions. Acceptance of this Purchase Order is hereby expressly limited to the terms hereof. Any terms proposed by Seller which add to, vary from, or conflict with the terms herein shall be void and the terms hereof shall govern. If this Purchase Order has been issued by Buyer in response to an offer the terms of which are additional to or different from any of the provisions hereof, then the issuance of this Purchase Order by Buyer shall constitute an acceptance of such offer subject to the express condition that the Seller assent that this Purchase Order constitutes the entire agreement between Buyer and Seller with respect to the subject matter hereof and the subject matter of such offer.

2. PRICES. Prices stated in this Purchase Order apply to all shipments made or services rendered hereunder. Buyer shall have no obligation to honor invoices for goods or services at any increased price until such increase shall have been confirmed in writing by Buyer. The acceptance of this order constitutes a warranty that the prices to be charged for goods or services ordered herein are not in excess of prices charged to other customers for similar quantities and delivery requirements. Seller agrees that if, at any time during the life of this Purchase Order, it quotes or sells at lower net prices like articles, materials, supplies, facilities or services under similar conditions, such lower net prices shall from that time be substituted for the prices named herein. Unless otherwise specified, price is to cover net weight of material order hereunder and no charges will be allowed for boxing, crating, carting or storage.

3. DELIVERY. The obligation of Seller to meet the delivery dates, specifications and quantities as set forth herein is of the essence of this order. Deliveries are to be made both in quantities and at times specified herein, or if no such quantities or times are specified, pursuant to Buyer's written instructions. If Seller's deliveries fail to meet schedule, Buyer, without limiting its other rights or remedies, may direct expedited routing and any excess costs incurred thereby shall be debited to Seller's account. Buyer shall not be liable for Seller's commitments or production arrangements in excess of the amount, or in advance of the time, necessary to meet Buyer's delivery schedule. Goods which are delivered in advance of schedule are delivered at the risk of Seller and may, at Buyer's option, (a) be returned at Seller's expense for proper delivery, (b) have payment therefor withheld by Buyer until the date that goods are actually scheduled for delivery, or (c) be placed in storage for Seller's account until delivery date specified herein.

Except as otherwise provided herein, title and risk of loss on all goods supplied to Buyer hereunder shall pass to Buyer upon receipt and acceptance by Buyer at Buyer's dock.

4. BLANKET PURCHASE ORDERS. Where this contract is for purchase and sale of a stated quantity, Buyer shall not be obligated to purchase any additional quantity. In the case of Blanket Orders, (a) Seller agrees to furnish Buyer's requirements for the goods or services covered by this Purchase Order to the extent of and in accordance with the delivery schedule set forth therein, or, if no such schedule is set forth, then pursuant to Buyer's written instructions, (b) Buyer shall have no obligation to honor invoices for goods or services fabricated, rendered or delivered other than according to the delivery schedule or written instructions by Buyer pursuant to (a) above, and (c) Buyer shall be entitled to make other purchases at its discretion in order to assure its production operations and maintain reasonable alternative sources for supply.

5. TAXES. Unless otherwise indicated, the prices set forth in this Purchase Order do not include applicable federal, state and local taxes. All such taxes shall be stated separately on Seller's invoice. The prices stated herein do not, nor will any invoice of Seller, include any tax with respect to which an exemption is available or is indicated by Buyer hereon or otherwise, or any federal excise or other tax with respect to which Buyer has furnished Seller an exemption certificate. The Seller agrees to pay any and all personal property ad valorem, or value added, taxes assessed or otherwise levied against any property placed in the hands of the Seller by the Buyer for the purpose of fulfilling this Purchase Order. In case it shall ever be determined that any tax included in the prices herein was not required to be paid by Seller, Seller agrees to notify Buyer and to make prompt application for the refund thereof, and to take all steps to procure the same and when received to pay the same, including interest, in any, to Buyer.

6. INSPECTION. The goods and all parts, material and workmanship entering into the performance of this Purchase Order shall be subject to inspection, test and count by Buyer at any time or place in the discretion of the Buyer whether during or after manufacture. If any of the goods shall be defective in material or workmanship or otherwise not in conformity with the requirements of this order, Buyer, in addition to its other rights, may reject the same for full credit or may rework same at Seller's expense or require prompt correction or replacement thereof at Seller's expense, including transportation charges. Nothing herein shall relieve Seller of the obligation to make full and adequate testing and inspection of goods sold hereunder. Buyer shall be under no duty to inspect goods prior to Buyer's use or resale and neither retention, use nor resale of such goods shall be construed to constitute an acceptance of goods not in compliance with the requirements of this order.

In the event that this Purchase Order covers the acquisition of capital equipment, or goods and services related thereto, Buyer reserves the right to make final inspection and acceptance of such equipment, or related goods and services, at the point of final installation designated on the face of this order. Final payment for such equipment, or related goods and services, in full or in part, if specifically provided for herein, shall be made only upon Buyer's final inspection and acceptance.

7. WARRANTY. Seller warrants that all goods or services ordered or provided hereunder will conform in all respects with the specifications, drawings, samples or quality control or other procedure or description whether furnished by Seller or provided by Buyer, and will be merchantable and free from any defects in material, design and workmanship; that all goods provided hereunder shall be properly and adequately packaged, marked and labeled in compliance with relevant laws, standards and regulations; and Seller further warrants that all material purchased hereunder that is manufactured in accordance with the Seller's specifications shall be fit and sufficient for the purposes for which it was intended. Seller agrees that the foregoing warranty shall survive acceptance of and payment for the material, and that Seller shall save Buyer harmless from any loss, damage or expense whatsoever, including attorneys' fees, that the Buyer may incur as a result of any breach of such warranties. These warranties shall survive delivery and inspection of all or a part of the goods or services.

8. PAYMENT.

(a) All payments are made conditional upon acceptance by the Buyer of the goods called for under this Purchase Order.

(b) No invoice will be passed for payment unless it bears this Purchase Order Number and contains the following certification: "The Supplier herein represents that the goods and/or services covered hereby were produced in compliance with the requirements of the Fair Labor Standards Act of 1938 as amended."

(c) Invoices for tools, if tooling is expressly covered by this Purchase Order, will not be honored until production pieces are approved by the Buyer's inspection department.

(d) Discount period, if any, begins the date invoice or material received by Buyer, whichever is later.

9. CHANGES. The Buyer may, at any time, by a written order, make changes within the general scope of this order, in any one or more of the following:

(a) applicable drawings, designs or specifications;

(b) method of shipment or packing;

(c) place of delivery;

(d) material, methods or manner of production, or final product.

If any such change causes an increase or decrease in the cost of or the time required for performance of this order, an equitable adjustment shall be made in the order price or delivery schedule or both, and the order shall be modified in writing accordingly. Any claim by the Seller for adjustment hereunder must be asserted within 20 days from the date of receipt by the Seller of the notification of change; provided, however, that such period may be extended upon the written approval of the Buyer. However, nothing in this clause shall excuse the Seller from proceeding with the order as changed or modified.

10. SUBSTITUTIONS; EXTRAS. No substitutions of materials or accessories may be made without Buyer's written consent. No charges for extras will be allowed unless such extras have been ordered in writing by Buyer and the price agreed upon.

11. TERMINATION FOR CAUSE.

(a) The Buyer may terminate all or any part of this order, without liability to the Seller, by written notice of default if Seller fails to perform its obligations under this order as specified, or so fails to make progress as to endanger performance under this order and in accordance with its terms.

(b) In the event of Seller's default or apparent inability to perform this order, Seller agrees upon demand by Buyer to deliver to Buyer, at Buyer's expense, the raw materials and work in process acquired in order to perform under this order, and Buyer may elect, at its sole option, to complete the work deducting the cost of such completion from the price or, in the alternative, pay to Seller the reasonable cost of such raw materials, and work in process.

12. TERMINATION FOR CONVENIENCE OF BUYER. Buyer reserves the right to terminate the 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 a reasonable termination charge consisting of a percentage of the order price reflecting the work performed prior to the notice of termination, plus actual direct costs resulting from termination. Seller shall not be paid for any work done after receipt of the notice of termination, nor for any cost incurred by Seller's suppliers or subcontractors which Seller could reasonably have avoided.

13. ELECTRONIC PROCESSING. Buyer and Seller may process purchase orders and other related documents through electronic data interchange ("EDI"), either directly or through a third-party provider. Buyer and Seller hereby agree that the confidential codes that they will be using to transmit information to each other will serve as any necessary "signature" that may be required by law. The terms of any such EDI transaction shall be the terms set forth in any EDI Agreement between the parties plus the terms contained herein.

- 14. EXCUSABLE DELAYS.** It shall not be deemed a default hereunder and neither Buyer nor Seller shall be liable for a failure to perform hereunder arising from causes or events beyond the reasonable control and without the fault or negligence of Buyer or Seller in failing to perform hereunder, including but not limited to, labor disputes of any kind. Seller agrees that, in the event of a strike or other labor dispute resulting in possible delay in the performance of this Purchase Order, Buyer shall have the option exercisable by written notice to vest title in itself to tools, finished parts, raw materials, or work in process, and Seller will, upon request from Buyer, deliver any and all tooling as defined in paragraph 24 herein, finished parts, raw materials, and work in process associated with this Purchase Order to Buyer at any point outside Seller's plant, and Buyer will make an equitable payment to Seller for such.
- 15. INSOLVENCY, LOSS OF PROFITS, DAMAGES.** The insolvency or adjudication of bankruptcy of, or the filing of a voluntary petition in bankruptcy by, or the making of an assignment for the benefit of creditors by either party shall be a material breach hereof. In no event shall Seller be entitled to anticipatory profits, or to special or consequential damages.
- 16. SUBCONTRACTING.** No subcontracting shall be made by the Seller with any other party for furnishing any of the completed or substantially completed articles, spare parts or work herein contracted for without the prior written approval of the Buyer.
- 17. PATENTS, ROYALTIES AND ENCUMBRANCES.** All goods and services supplied must be free from liability of royalties, patent rights and mechanic's liens or other encumbrances, and Seller hereby waives any right it may have now or in the future to any mechanic's lien or other encumbrance with respect to the goods and services supplied hereunder. Seller warrants that the goods specified in this Purchase Order and their sale or use alone or in combination according to Seller's specifications or recommendations, if any, will not infringe any United States or foreign patents. Seller agrees to indemnify and hold harmless Buyer and anyone selling or using any of Buyer's products against all judgments, decrees, costs and expenses resulting from any alleged infringement as aforesaid, and Seller further agrees that, upon request of Buyer and at Seller's own expense, Seller will defend or assist in the defense of any of Buyer's products by reason of any such alleged infringement.
- 18. PATENT LICENSE.** The Seller, as part consideration for this Purchase Order and without further cost to the Buyer, hereby grants and agrees to grant to the Buyer an irrevocable, nonexclusive, royalty-free right and license to use, sell, manufacture and cause to be manufactured products embodying any and all inventions and discoveries made, conceived or actually reduced to practice in connection with the performance of this Purchase Order, and Seller hereby grants to Buyer a license to repair, rebuild or relocate and to have repaired, rebuilt or relocated the goods purchased by Buyer under this Purchase Order.
- 19. BUYER'S PROTECTION IN CONNECTION WITH WORK DONE AT ITS OR A CUSTOMER'S PLANT.** If this Purchase Order provides for the Seller to render services including, without limitation, delivery services, temporary labor and subcontractor work, whether performed at Buyer's plant or the plant of a customer of Buyer or otherwise, Seller agrees that such services are to be rendered by Seller as an independent contractor; that neither Buyer nor any customer of Buyer at whose plant such work is performed is to have responsibility for the acts of bodily injury to, death of or loss of employment by Seller or Seller's agents or employees; and that Seller will indemnify and save harmless Buyer or such customer as the case may be, its officers, employees and agents, from any and all liability and expense (including attorney's fees and other litigation or settlement expense) with respect to any and all claims for bodily injury or death or property loss or damage arising out of or attributable to the performance of this Purchase Order. In the event Buyer's machinery and/or equipment or machinery and/or equipment of any such Buyer is used by Seller in the performance of the work called for by this Purchase Order, such machinery and/or equipment shall be considered as being under sole custody and control of the Seller during the period of such use by Seller, and should any person or persons in the employ of Buyer or any such customer be used to operate said machinery and/or equipment during the period of such use, such person or persons shall be deemed during such period of operation to be an employee or employees of Seller. Upon the request of Buyer or such customer of Buyer, Seller shall furnish Buyer or such customer such fidelity and performance bonds as Buyer or such customer may reasonably specify, evidence that Seller has adequate public liability and property damage insurance in amounts and with companies acceptable to Buyer or such customer and evidence that Seller has made adequate provisions for satisfying applicable workmen's and unemployment compensation laws or regulations of any state.
- 20. COMPLIANCE WITH LAWS.** The Seller warrants that no law, rule, regulation or ordinance of the United States, a state or local government, or any governmental agency has been violated in the manufacture or sale of the items or in the performance of services covered by this order and will indemnify and hold the Buyer harmless from loss, cost or damage as a result of any such actual or alleged violation.
- 21. SAFETY AND HEALTH REGULATIONS.** Seller represents and certifies to Buyer that any and all services performed and any goods delivered under this Purchase Order shall comply with all requirements of the Occupational Safety and Health Act of 1970, as amended, and all regulations, rules, standards and orders adopted pursuant to that Act, and shall comply with all requirements of any applicable health or safety statute or regulation of any state or local government having jurisdiction in the location from or to which such items are to be shipped or at which such work is to be performed pursuant to this Purchase Order.
- 22. PRODUCT SAFETY REGULATIONS.** Seller hereby agrees and warrants that all goods and services will comply with the Consumer Products Safety Act and similar laws and regulations promulgated thereunder, and agrees to reimburse Buyer for any costs, expenses, or expenditures incurred by Buyer due to the failure to so comply.
- 23. GRATUITIES.** Seller warrants that it has not offered or given and will not offer or give to any employee, agent or representative of Buyer any gratuity with a view toward securing any business from Buyer by influencing such person with respect to the terms, conditions or performance of any contract with or order from Buyer. Any breach of the warranty shall be a material breach of each and every contract between Buyer and Seller.
- 24. NONDISCLOSURE OF CONFIDENTIAL MATTER.** Materials purchased hereunder with the Buyer's specifications or drawings shall not be quoted for sale to others without the Buyer's written authorization. Such specifications, drawings, samples or other data furnished by the Buyer or any other information gained by Seller in connection with this Purchase Order shall be treated as confidential information by the Seller, shall remain Buyer's property, and shall be returned to it on request. This provision shall survive the termination or expiration of this Purchase Order.
- 25. ASSIGNMENT.** No right or obligation under this Purchase Order, including the right to receive monies due and to become due hereunder, shall be assigned by Seller without the prior written consent of Buyer, and any purported assignment without such consent shall be void.
- 26. TOOLING.** Unless otherwise agreed in writing, all materials, drawings, tools, dies, jigs, gauges, fixtures, patterns, molds, testing apparatus, machinery and equipment, together with all other manufacturing aids (hereinafter collectively called tooling) used in the manufacture of the articles, materials, supplies, facilities or services ordered hereunder shall be furnished by and at the expense of the Seller. In the event any tooling (including tooling, in any, purchased hereunder) is furnished by Buyer at its expense or is furnished by Seller and the cost thereof paid by Buyer, such tooling shall be and remain Buyer's sole property and for Buyer's sole use and shall be subject to removal at any time at the option of the Buyer. Seller agrees, at its expense, to maintain in commercially usable condition and in good order and repair, appropriately identify, mark where necessary, inventory, preserve and store all Buyer-owned items of tooling referred to in paragraph 26 for such period of time after performance or termination of this Purchase Order as may be mutually agreed upon by Buyer and Seller. Any and all items of tooling which are Buyer's sole property shall at any reasonable time be subject to inspection and examination by Buyer. Seller shall not substitute any property for Buyer's property and shall not use said property except in filling Buyer's purchase orders. Such property, while in Seller's custody and control, shall be held at Seller's risk, and shall be kept insured by Seller at Seller's expense in an amount equal to the replacement cost with loss payable to the Buyer, and shall be subject to removal at Buyer's written request, in which event Seller shall properly prepare such property for shipment and shall deliver same to Buyer F.O.B. cars or trucks at Seller's plant in the same condition as originally received by Seller, reasonable wear and tear excepted. Seller agrees to promptly execute any U.C.C. statements Buyer may wish to file to reflect the presence of Buyer's property on Seller's premises.
- 27. NOTICE OF LABOR DISPUTES.** Whenever an actual or potential labor dispute is delaying or threatens to delay the timely performance of this order, Seller will immediately notify the Buyer of such dispute and furnish all relevant details. Seller will include a provision identical to the above in each subcontract hereunder and immediately upon receipt of any such notice pass it on to the Buyer.
- 28. GOVERNMENT SUBCONTRACT PROVISIONS.** If this Purchase Order constitutes a subcontract of any tier under a contract with the United States Government, Seller agrees to comply with all pertinent provisions, agreements and clauses of said contract and Presidential directives and executive orders to the extent that they apply to the subject matter of this order, and all such pertinent provisions, agreements clauses, directives and executive orders are incorporated by reference herein.
- 29. SET-OFF.** Buyer shall be entitled to set off any amount owing at the time from Seller to Buyer or any of its affiliated companies against any amount payable at any time by Buyer or any of its affiliated companies to Seller.