



PURCHASE ORDER TERMS AND CONDITIONS

This Purchase Order (“**Order**”) is an offer made by Abt Associates Inc. or its subsidiaries and affiliates (collectively, “**Abt Associates**” or “**Buyer**”) to purchase goods or services on these terms and conditions, as may be modified by varying terms printed on the face of this Order (collectively, “**Terms**”). By acceptance of this Order and/or performance hereunder, Supplier agrees to comply fully with these Terms and any attachments to this Order. Any attachments referred to in this Order are hereby incorporated herein by reference. Acceptance of this Order is expressly limited to these Terms and constitutes agreement on price, delivery schedule, payment schedule, and these terms and conditions. Supplier’s terms and conditions in acknowledging or accepting this Order shall not apply. In no event does acceptance by Abt Associates of the goods and/or services under this Order constitute acceptance of any Supplier terms and conditions. Other than as may be provided by an authorized ABT Procurement representative, no other employee, representative, or agent of Abt Associates has the authority to bind Abt Associates concerning this Order. When specified by Abt Associates, Supplier shall comply with the geographic code requirements as set forth by the Client, if any. In the conduct of its business with Abt Associates, Supplier affirms that it will not engage in any procurement activity from the following countries: Cuba, Iran, Syria, Sudan and North Korea.

1. Definitions

“**Agreement**” means this Purchase Order, these terms, and any other mutually executed agreement between Supplier and Abt Associates under which this Purchase Order is issued.

“**Client**” means the US government or another client of Abt Associates.

“**Abt Associates**” means Abt Associates Inc., with its principal place of business at 55 Wheeler Street, Cambridge, MA 02138 or its subsidiaries and affiliates.

“**Goods**” means items specified by Abt Associates in the Agreement.

“**Order**” means this Purchase Order issued by an authorized Abt Associates Procurement representative.

“**Services**” means the work to be provided as specified by Abt Associates in the Agreement.

“**Taxes**” means any and all applicable taxes, charges, fees, levies or other assessments applicable to the performance of Services or the supply of Goods hereunder.

“**Terms**” means the terms and conditions specified in the Agreement.

“**Supplier**” means the party receiving a Purchase Order from Abt Associates which references the Terms.

2. Acceptance - Final inspection and acceptance of goods and services shall be at the Abt Associates receiving point indicated in this Order. Nonconforming goods shall be returned to Supplier, freight collect, and Supplier shall be debited for the transportation costs to Abt Associates. Such nonconforming goods shall be deemed to be property of Supplier.

3. Price And Delivery - Supplier shall furnish the goods or services in accordance with the price and delivery terms stated herein. TIME IS OF THE ESSENCE of this Order. Subject to acceptance of the Goods/Services provided by Supplier to Abt Associates, payment will be made net thirty (30) days after Abt Associates receipt of a complete and correct invoice. Supplier certifies that each invoice issued by it shall be based solely on Services actually performed by Supplier and/or Goods actually supplied by Supplier pursuant to an Order, and that no part or portion of any invoice represents or is attributable to any payment, gift, gratuity or other thing of value given to any person, organization, entity or governmental body (except for those payments required by law). Unless otherwise stated, the prices stated on the Order include all costs or charges of any kind that will be paid by Abt Associates, and in no event will Abt Associates be liable for any other costs or charges, to include but not be limited to unspecified charges for inspection, packaging and shipping; all federal, state and municipal sales, use and other taxes and duties. Whenever any actual or potential event occurs, including labor disputes, that delays or threatens to delay the timely performance of this Order, Supplier shall give immediate notice thereof to Abt Associates. Neither party will be responsible for delays in delivery due to causes beyond its reasonable control and without its fault or negligence, provided the delay could not have been prevented by reasonable precautions and could not be circumvented through the use of alternate sources. If Supplier however for any reason does not comply with the delivery schedule of this Purchase Order, Abt Associates may, at its option, either approve a revised schedule or may terminate the Purchase Order without liability or additional payment to Supplier.

4. Inspection and Acceptance

Notwithstanding (i) payment, (ii) passage of title, or (iii) prior inspection or test, all items are subject to final inspection and acceptance or rejection by Abt Associates. Abt Associates and its Client reserves the right to inspect 100% or a sample of all items or any lot of items at Abt Associates option, and Abt Associates shall have the right to reject all or any portion of the items or lot of items if any such inspection reveals them to be, in Abt Associates reasonable opinion, defective or nonconforming. Abt Associates and its Client may at any reasonable time inspect Supplier’s facilities that will or may be used in the performance of this Purchase Order. Supplier shall ensure and facilitate ABT ASSOCIATES access to Supplier’s facilities. No such inspection, however, shall in any way relieve Supplier of its obligations to furnish all required materials, equipment and services in strict accordance with the terms and conditions of this Purchase Order.

5. Packaging And Shipping - Supplier shall be responsible for packaging, marking and shipping the goods in accordance with the terms hereof, good commercial practices and all applicable laws. Each package shall be marked with handling instructions, shipping information, Order number and part or item number. An itemized packing list shall accompany each shipment. Abt Associates reserves the right to reject any shipment not meeting these requirements.

6. F.O.B., Risk of Loss - F.O.B. point shall be Abt Associates designated location. Goods purchased F.O.B. Supplier’s plant or shipping point shall not be considered delivered until they have been accepted at the Abt Associates designated receiving point; however, Abt Associates assumes responsibility at the F.O.B. point for carrier routing, transportation charges, and risk of loss or damage to goods in transit, if properly prepared and packed. Supplier shall bear all risk of loss with respect to any goods rejected by Abt Associates.

7. Warranty - Supplier warrants all goods and services delivered or provided hereunder to be non-infringing, free from defect in title, material and workmanship, and fit for the purpose intended for a period of twelve (12) months from acceptance by Abt Associates and to meet or exceed the specifications, drawings, or sample specified or furnished and any supplementary documentation referenced herein. Supplier further warrants that all goods and services delivered or provided hereunder comply with requirements of all applicable laws and regulations. This warranty shall survive any inspection, delivery, or acceptance of the goods and services or payment therefore by Abt Associates. If any of the materials, equipment or services provided pursuant to this Order are found to be defective in material or workmanship or otherwise not in conformity with the requirements of this Purchase Order at any time within the period of warranty, Abt Associates, in addition to any other rights that it may have, shall have the right, (1) with

respect to materials and equipment, to reject and return such materials or equipment at Supplier’s expense (including handling charges) and/or require that such items or materials be corrected or replaced immediately with satisfactory material or workmanship at Supplier’s sole expense and (2) with respect to services, to reject such services and require re-performance thereof in accordance with the requirements of this Purchase Order and in conformance with the warranty set forth in paragraph (a) above, at Supplier’s sole expense. Upon notice that nonconforming items have been furnished, the warranty period shall be suspended until the nonconforming items have been repaired or replaced and redelivered to Buyer, postage or freight prepaid, or in the case of nonconforming services, have been corrected. The un-expired portion of the warranty shall be applicable to the repaired, replaced or corrected conforming products and/or services.

8. Remedies/Waiver - If Supplier fails to timely perform its obligations under this Order, Abt Associates reserves the right to terminate this Order for default and purchase the goods or services elsewhere. If any goods or services covered by this Order are defective or non-conforming or fail to meet applicable warranties (“**Defective Material**”), Abt Associates may, by written notice to the Supplier: (a) terminate this Order for default; (b) accept the Defective Material at an equitable reduction in price; or (c) reject the Defective Material and (i) require the delivery of suitable replacements or re-performance of services or (ii) repair such material, perform such services or purchase the Defective Material elsewhere. Abt Associates may hold Supplier accountable for any additional cost or damages incurred by Abt Associates. All Defective Materials replaced or re-performed by Supplier are subject to these Terms to same extent as items initially furnished or originally ordered. This warranty provision shall survive any inspection, delivery, acceptance, payment, expiration or earlier termination of this Order and such warranties shall extend to Abt Associates, its successors, assigns, employees, and users of the goods or services. Rights and remedies of Abt Associates hereunder are cumulative and in addition to those which Abt Associates has under law and equity. Any waiver by Abt Associates of any particular breach or default hereunder by Supplier shall not constitute a continuing waiver or a waiver of any other breach or default. Approval by Abt Associates of Supplier’s proposed design, test plans, and/or procedures and manufacturing process, methods, tooling, or facilities shall not relieve Supplier from meeting all requirements of this Order.

9. Changes - At any time by written notice to Supplier, Abt Associates may change the Order, including the specifications, design, delivery, testing methods, packing, destination or any instructions. If any such required changes cause an increase or decrease in the cost of or the time required for performance, an equitable adjustment shall be made in the contract price or delivery schedule, or both. Supplier shall give written notice to Abt Associates of any proposed equitable adjustment within ten (10) days of receipt of notice from Abt Associates of such changes. Supplier and Abt Associates will negotiate in good faith any proposed adjustments and upon agreement, Abt Associates will issue a modification to the Order incorporating the changes. Any change to the Order will only be valid and binding upon Abt Associates when it is issued in writing and signed by an authorized representative of Abt Associates Procurement Department.

10. Termination - Abt Associates shall have the right to terminate this Order in whole or in part upon written notice to Supplier. Abt Associates shall make payment to Supplier, after receipt of Supplier’s final invoice, only for expenses reasonably incurred and for services performed satisfactorily in the judgment of Abt Associates up to and including the effective date of the cancellation. Abt Associates may elect to take possession of work in process and finished conforming material.

11. Bankruptcy - If any bankruptcy, reorganization or insolvency proceedings, voluntary or involuntary, are instituted by or against Supplier, or in the event of the appointment of an assignee for the benefit of creditors or of a receiver, Abt Associates reserves the right to cancel this Order and hold Supplier accountable for any costs or damages suffered by, accrued against, or charged to Abt Associates.

12. Assignment - Abt Associates and Supplier each binds itself and its successors and assigns to all warranties, covenants, agreements, and obligations contained in this Order. Supplier shall not assign or delegate all or any part of its rights (except to a lending institution in the normal course of business) or obligations hereunder without the prior written consent of Abt Associates.

13. Abt Associates Property - All materials, tools, drawings, specifications and other items furnished or paid for by Abt Associates shall be identified as Abt Associates property, removable by Abt Associates at any time at no cost, used only in filling Abt Associates Orders, inventoried by Supplier, kept separate from other such materials, treated as Abt Associates confidential information, and disposed of by Supplier when and as Abt Associates shall direct. Excepting for normal wear and tear, Supplier shall be responsible for loss or damage to any such Abt Associates property. Supplier shall be responsible and accountable for all Abt Associates or Client provided property and, where applicable, Supplier shall comply with the requirements of 48 C.F.R. 45.5 with respect to such property. Supplier assumes the risk of, and shall be responsible for, any loss or destruction of, or damage to, Abt Associates or Client property upon its delivery to Supplier. In the event of loss, damage or destruction of Abt Associates or Client property by Supplier, Abt Associates may initiate an equitable adjustment to the price in favor of Abt Associates.

14. Information Disclosed - Information disclosed to Supplier by Abt Associates contains Abt Associates confidential information, which Supplier shall not disclose to any third party (except as required by law) without Abt Associates prior written consent. Unless expressly agreed to in writing by Abt Associates, no information or knowledge disclosed to Abt Associates in the performance of or in connection with this Order shall be deemed to be confidential or proprietary and any such information or knowledge shall be free from restrictions as part of the consideration for this Order. Neither the confidentiality provision contained in the this Agreement, nor confidentiality provisions contained in any existing agreement with Abt Associates Inc. shall be construed to prohibit or otherwise restrict lawful reporting of waste, fraud, or abuse to a designated investigative or law enforcement representative of a federal department or agency authorized to receive such information.

15. Publicity - Supplier shall not issue any public announcement regarding this Order or use the Abt Associates name or trademarks without prior written consent of Abt Associates.

16. Indemnification - Supplier, at its sole expense, agrees to defend, indemnify and hold harmless Abt Associates its employees, its Clients, customers and users from and/or against any and all claims, damages, costs, liability, and expenses, including reasonable attorneys’ fees, that (i) arise out of any breach of representation, agreement, or warranty made by Supplier; (ii) the performance of any service or the delivery, installation, use or service of any item listed on this Order; (iii) are caused in whole or in part by any act or omission of Supplier, Supplier’s subcontractor, or anyone for whose acts Supplier may be liable; or (iv) are attributable to bodily injury, sickness, or death; injury to or destruction of property including the loss of use resulting therefrom; interference with the business or operations of any third party; or violation of any governmental law or regulation. This paragraph shall survive the termination of this Order and shall continue in effect until any hearing, litigation, or claims have been finally concluded and settled.

ABT ASSOCIATES INC.
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17. Insurance - As a minimum, Supplier shall, at its sole cost and expense, provide and maintain the following insurance coverage and insurance coverage limits: (1) Worker's Compensation: Supplier shall provide and maintain worker's compensation insurance as required by the laws of the applicable jurisdiction, as well as employer's liability coverage with minimum limits of \$1,000,000 (or an equivalent value in the local currency), covering all of Supplier's employees who are engaged in any work under the Agreement; and if any work is subcontracted, Supplier shall require the subcontractor to provide the same coverage for any of its employees engaged in any work under the Agreement, (2) Commercial General Liability: Supplier shall maintain general liability coverage on a comprehensive broad form on an occurrence basis in the minimum amount of \$1,000,000 (or an equivalent value in the local currency) combined single limit (where the defense is in excess of the limit of liability); (3) Automobile: Supplier shall maintain automobile liability insurance to include liability coverage, covering all owned, hired and non-owned vehicles used in connection with the Agreement, and the minimum combined single limit shall be \$1,000,000 (or an equivalent value in the local currency) bodily injury and property damage, including: (a) \$500,000 (or an equivalent value in the local currency) uninsured/underinsured motorist; and (b) \$5,000 (or an equivalent value in the local currency) medical payment. Providing and maintaining adequate insurance coverage is a material obligation of the Supplier under the Agreement. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage in accordance with the governing jurisdiction(s). Supplier shall at all times comply with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with applicable laws or the Agreement. The limits of coverage under each insurance policy maintained by Supplier shall not be interpreted as limiting the Supplier's liability and obligations under the Agreement.

18. Intellectual Property - Supplier grants Abt Associates all rights and licenses necessary for Abt Associates to use the Goods or Services. The parties acknowledge and agree that all Services shall be deemed to be "works for hire", with all intellectual property rights therein vesting in Abt Associates, unless otherwise mutually agreed. Supplier agrees to irrevocably transfer and assign all such rights to Abt Associates, and comply with all reasonable requests by Abt Associates to affect such transfer and assignments. Supplier represents and warrants that the materials delivered hereunder and their use by Abt Associates will not infringe upon or misappropriate with any patent, copyright, trademark, trade secret or other property right of Supplier or any third party or require any payment by Abt Associates in respect of such rights to Supplier or any third party. Supplier agrees to indemnify and hold harmless Abt Associates, its employees, its customers and users for any breach of the foregoing representation and warranty in accordance with the paragraph entitled "Indemnification."

19. Compliance - Supplier shall comply with all laws and regulations of Federal, State, and/or local governments, as well as all U.S. statutes, regulations, and administrative requirements regarding relationships with non-U.S. governmental and quasi-governmental entities including, but not limited to, the export control regulations of the Department of State and the International Traffic in Arms Regulations ("ITAR"), the Department of Commerce and the Export Administration Act ("EAA"), the anti-boycott and embargo regulations and guidelines issued under the EAA, and the regulations of the U.S. Department of the Treasury, Office of Foreign Assets Control. Supplier shall give all notices and obtain all permits and licenses required under such laws. The anti-bribery provisions of the Foreign Corrupt Practices Act of 1977 ("FCPA"), 15 U.S.C. 78dd-2, et seq., make it unlawful for U.S. concerns, as well as their officers, directors, employees, and agents, to corruptly offer or make a corrupt payment of money or anything of value to a foreign official for the purpose of obtaining or retaining business. Supplier acknowledges and understands that Supplier must comply fully with the anti-bribery provisions of the FCPA. Specifically, Supplier understands and agrees that it shall be unlawful for Supplier to pay, promise to pay (or authorize to pay or offer) money or anything of value to a foreign official in order to assist Abt Associates in obtaining or retaining business for or with, or directing business to, Abt Associates. A "foreign official" means any officer or employee of a foreign government, a public international organization, or any department or agency thereof, or any person acting in an official capacity. Supplier understands all applicable laws relating to kickbacks. Supplier agrees to periodically verify its compliance with such laws and to inform Abt Associates immediately of any violations thereof. Supplier shall maintain a Code of Business Ethics and Conduct in accordance with the provisions of FAR 52.203.13. The provisions of 22 C.F.R. Part 140, Prohibition of Assistance to Drug Traffickers apply to Supplier and shall have the same effect as if they were stated in their full text. **Supplier shall take affirmative action in compliance with all Federal and State requirements concerning fair employment, employment of the handicapped, employment of veterans, and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin, or physical handicap as described in 48 C.F.R. 52.222-26, Equal Opportunity, 48 C.F.R. 52.222-35, Affirmative Action for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans, and 48 C.F.R. 52.222-36, Affirmative Action for Workers with Disabilities. Supplier shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a), prohibiting discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin.** The provisions of 48 C.F.R. 52.222-50, Combating Trafficking in Persons, apply to Supplier and have the same effect as if they were stated in their full text. Supplier is reminded that U.S. Executive Orders and U.S. law prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of Supplier to ensure compliance with these Executive Orders and laws. The provisions of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of Supplier to ensure compliance with these Executive Orders and laws. DFARS 252.244-7001(c) (19), 252.225-7008, and DFARS 252.225-7009 Restrictions on the Acquisition of Specialty Metals/Articles containing Specialty Metals are incorporated by reference.

20. Exports - Supplier agrees to comply with all U.S. export control laws and regulations, specifically including but not limited to, the requirements of the Arms Export Control Act, 22 U.S.C. 2751-2794, including the International Traffic in Arms Regulation (ITAR), 22 C.F.R. 120 et seq.; and the Export Administration Act, 50 U.S.C. app. 2401-2420, including the Export Administration Regulations, 15 C.F.R. 730-774; including the requirement for obtaining any export license or agreement, if applicable. Supplier agrees to notify Abt Associates if any deliverable under the Agreement is restricted by export control laws or regulations. Supplier shall immediately notify Abt Associates if Supplier is, or becomes listed in any Denied Parties List or if Supplier's export privileges are otherwise denied, suspended, or revoked in whole or in part by any U.S. Government entity or agency. Supplier shall be responsible for all losses, costs, claims, causes of action, damages, liabilities and expense, including attorney's fees, all expense of litigation and/or settlement, and court costs, arising from any act or omission of Supplier, its officers, employees, agents, or subcontractors at any tier, in the performance of any of its obligations under this section. Supplier shall include the Terms of this section in all subcontracts issued when technical data is provided to such subcontractors.

21. Abt Associates Requirements - Supplier will ensure that its employees, agents, or designees, when in or upon Abt Associates premises, shall obey all ethics and business conduct, workplace health, safety and security rules and regulations established by Abt Associates, regarding the conduct of its own employees and any additional rules and regulations established by Abt Associates for non-employees, including without limitation, security rules and regulations.

22. Governing Law - This Order and the acceptance thereof shall constitute a valid, binding, and enforceable contract governed by the laws of the Commonwealth of Massachusetts, without regard to its principles of conflicts of law.

23. General - If any clause of this Order is held as a matter of law to be unenforceable or unconscionable, the remainder of this Order shall be enforceable without such clause. This Order supersedes and replaces any previous documents, correspondence, conversations, or other oral or written understandings between Abt Associates and Supplier related to the subject hereof.

24. Exclusion Of Damages - Abt Associates shall not be liable for any consequential, punitive, exemplary, special or other indirect damages, in contract, tort or otherwise in any action arising out of this Order. Abt Associates will not be liable for any amount in excess of the amounts paid to Supplier hereunder.