



## Terms & Conditions of Purchase Order

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AGREEMENT TO TERMS. These terms and conditions (“Terms and Conditions”) shall apply to any purchase order (“Purchase Order”) between Spirit America Corp, DBA Spirit Electronics, (“Spirit”) and the supplier, manufacturer, or service provider named therein (“Supplier”). By accepting Purchase Order from Spirit, Supplier accepts the Terms and Conditions herein. Purchase Order and Terms and Conditions are considered accepted by Supplier unless Supplier provides rejection in writing. Spirit Terms and Conditions in conjunction with requirements attached or referenced in Purchase Order constitute Supplier’s agreement with Spirit. Any attempt to confirm or acknowledge this Purchase Order with any terms or conditions inconsistent with or in addition to these Terms and Conditions is not binding unless Spirit accepts such terms and conditions in writing prior to issuance of a Purchase Order.

1. **PAYMENT**

Spirit agrees to pay Supplier prices established in the Purchase Order. Supplier shall submit invoice for payment due to Spirit, and payment will be due pursuant to terms in the Purchase Order upon receipt of a valid invoice. Price may not be renegotiated or changed after acceptance of Purchase Order without a valid change order made in writing and accepted by Spirit and Supplier. Spirit may withhold full or partial payment of invoice if Supplier fails to meet conformity of products or services until products and services are confirmed to meet the requirements of Purchase Order and the requirements of Spirit’s Customer. If Supplier fails to meet conformity of products or services, or if Supplier causes delay of product or service delivery, payment may be delayed until payment for product or service is received from Spirit’s Customer.

2. **CHANGE ORDERS**

Spirit may request changes to the terms of the original Purchase Order through a change order (“Change Order”). Change Orders making changes to the original Purchase Order must be made in writing and acknowledged by both Spirit and Supplier. Alterations or additions to the Terms and Conditions or other requirements documented in or attached to Purchase Order shall not be valid or binding unless made through Change Order and acknowledged by both Spirit and Supplier.

3. **CONFIRMATION**

Supplier shall confirm acceptance or acknowledgment of Purchase Order or subsequent Change Orders in writing no later than 3 business days after Purchase Order or Change Order is sent by Spirit to Supplier. Spirit and Supplier may establish an electronic data interchange (EDI) or other electronic system to constitute written acknowledgment of Purchase Order or terms and conditions or other requirements therein. Any electronic exchange of acknowledgment or confirmation shall be determined and established by Spirit and Supplier prior to sending Purchase Order.

4. **CANCELATION**

Supplier shall not cancel Purchase Order after confirmation or up until time of delivery without prior notice to and acceptance of cancelation from Spirit in writing. Spirit Purchase Order represents a time-bound need for product or service by Spirit’s Customer, and Supplier shall make every reasonable effort to remedy product or service provision disruption, delay, or deficit due to any cancelation.

5. **WARRANTY**

Supplier warrants that products or services provided under Purchase Order are free of defects in design, material, manufacture, or workmanship and conform to quality requirements and specifications provided by Spirit in Purchase Order, including manufacturer specifications, product design controls, drawings, samples or other requirements attached by Spirit. Supplier warranties and warranty durations, including manufacturer warranties, shall be assigned to Spirit and Spirit’s customers. Remedy shall be determined by Spirit including, but not limited to, timely repair, replacement, or reimbursement of purchase price of defective or nonconforming product or service at Supplier’s expense.

6. **PRODUCT MANAGEMENT**

- a. **NOTICE OF DELAY.** Supplier shall notify Spirit immediately of any delay in product or service delivery based on the promise dates set in Purchase Order. Supplier must provide notice if expected promise date cannot be met from the time Purchase Order is confirmed and up until product or service is delivered to Spirit. Supplier’s notice must include reason for the delay.
- b. **PRODUCT CHANGE NOTIFICATION.** Supplier shall notify Spirit in advance of any changes to product, process, Supplier’s vendors or providers, or manufacturing facility location when such changes have the potential to affect product or service form, fit and/or function.
- c. **CONFORMITY.** Supplier is responsible for product conformity to manufacturer specifications and Purchase Order requirements, including all requirements for performance, marking, labeling, packaging, and



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associated documentation. Product(s) found to be nonconforming by Spirit or Spirit's customers will be immediately placed on hold and reported to Supplier. If product nonconformity is found to be Supplier's fault through failure analysis, any replacement cost, shipping expenses, or Customer nonconformance fines or fees shall be Supplier's sole responsibility.

- d. NOTICE OF ESCAPEMENT. Supplier shall notify Spirit of product found to be nonconforming to product specifications or Purchase Order requirements within 3 business days. If the product nonconformance affects safety of flight or could critically impact product performance or safety while in use in the field, Supplier shall provide immediate notice of nonconformance.
- e. NONCONFORMANCE DISPOSITION. Supplier shall obtain approval from Spirit for disposition of nonconforming product on Purchase Order. Any product, nonconforming or otherwise, from Spirit's Customers or from Spirit to Supplier shall only be returned with Return Material Authorization (RMA) from Supplier.

### 7. DELIVERY

- a. FOB. Delivery shall be FOB Origin with all transportation, freight, and delivery charges and taxes prepaid.
- b. SHIPMENT INSURANCE. Supplier shall not insure shipments unless specifically authorized by Spirit.
- c. CARRIER AND SHIPPING COSTS. Supplier shall pay all fines, penalties, or shipping costs (including expedited or overnight shipping costs) associated with shipment delays, errors, or product or service nonconformity or product or service returned on return material authorization.
- d. ON-TIME DELIVERY. Spirit defines on-time delivery as 14 days prior to and 0 days after the Supplier's confirmed dock date received in Purchase Order confirmation.
- e. DOCUMENTATION. Supplier shall provide a signed manufacturer's Certificate of Conformance ("C of C") on all product and service shipments. Manufacturer C of C shall have manufacturer's address and must include manufacturer's CAGE code when possible.
- f. DELAY AND PENALTY. Supplier shall make every reasonable effort to communicate any delay or impact to confirmed dock date established on Purchase Order. If product or service will be delivered more than 2 business days after Purchase Order confirmed dock date, Supplier shall ship overnight at Supplier's expense. If product or service is delivered more than 10 calendar days after confirmed Purchase Order dock date, Spirit will fine Supplier 15% of the value of the late line(s) on Purchase Order. Spirit shall not fine Supplier when delay or late delivery is communicated in advance of late delivery and when Supplier's communication allows Spirit to remedy delay with Spirit's Customer.
- g. PACKAGING & FOD. Supplier's Foreign Object Debris/Damage (FOD) prevention program shall include preventative measures for packaging processes. Supplier shall not use materials in packaging, handling, shipping, and storage of product that may introduce FOD to product or to work areas. Supplier's FOD prevention program shall prohibit use of materials that may leave residual particles on product during manufacturing, value add service, packaging, and storage. Supplier shall not use packaging or shipping materials with high FOD risk, including foam peanuts, shredded paper, or any other material composed of small particles. Product nonconformities resulting from FOD are subject to the terms of this agreement governing the disposition of nonconforming product.

### 8. INSPECTION

All products and services shall be subject to inspection and testing by Spirit and its Customers. If products or services fail testing or inspection, product shall be returned to Supplier at Supplier's expense. Returned materials shall require an RMA issued by Supplier to maintain product traceability and appropriate supporting documentation prior to any return. Failure by Spirit to inspect, test, accept, or reject product or service or failure by Spirit to detect any nonconformity or defect in product or service shall not relieve Supplier of responsibility to resolve product or service defect or nonconformity.

### 9. SUPPLIER PERFORMANCE

- a. METRICS. Spirit shall provide Supplier metrics at regular intervals during each calendar year to provide feedback to Supplier about performance to Purchase Orders issued during that time. Spirit measures on-time delivery and lot acceptance rates by Purchase Order lines received to lines affected. Supplier may request other performance feedback, including financial data, from Spirit's Quality Manager. Spirit shall provide performance feedback only for Purchase Orders on which Supplier performed services or delivered product.



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- b. **CORRECTIVE ACTION.** When Supplier is responsible for or causes a product or service nonconformance, Spirit may issue a corrective action. Failure to respond within the specified time may result in the removal of Supplier from Spirit's Approved External Provider List. Supplier responsibility may be determined based on Spirit's root cause analysis and investigation into nonconformance.
10. **RIGHT OF ENTRY**

Supplier shall provide Spirit, Spirit's Customers, and/or regulatory authorities right of entry and access to facilities, records, and quality programs at any level of the supply chain relating to production of products or services completed for Spirit's Purchase Order upon request to determine and verify the quality of material, work, products, services, and records.
11. **TARIFFS**

Supplier shall notify Spirit at time Purchase Order is placed if a product or service on Purchase Order will incur Tariff costs. Supplier notification of Tariff costs for product or service at time of quotation is preferred. Failure to notify Spirit of Tariff charges may result in delay of payment to Supplier.
12. **REQUIREMENT FLOW-DOWN**

Supplier accepts product requirements in Purchase Order with confirmation and shall flow down the supply chain to Supplier's subcontractors and sub-tiers any and all product requirements.
13. **RECORD RETENTION**

Supplier shall retain documents and records pertaining to Spirit's Purchase Order for a minimum of 10 years unless otherwise required by Purchase Order and its attachments. Records must be made available to Spirit upon request.
14. **PRODUCT SAFETY**

Supplier shall ensure all personnel under its employ are aware of their role in product and service conformity and function as it relates to safety of life and property. Supplier shall comply with all federal, state, and local laws and regulations pertaining to health and safety.
15. **ETHICS & BUSINESS CONDUCT**

Supplier shall ensure all personnel under its employ are aware of the importance of ethical behavior in business conduct. Ethical behavior includes but is not limited to antitrust, anticorruption, equal opportunity and treatment, and nondiscrimination practices, especially as defined in federal, state, and local laws and regulations.
16. **QUALITY MANAGEMENT SYSTEM**

Spirit requires its suppliers to maintain a quality management system that meets AS9100, ISO:9001 or equivalent standard requirements. This requirement shall not apply to service providers Spirit engages by Purchase Order for general business functions.
17. **CALIBRATION**

Suppliers performing calibration shall have a certified quality management system equivalent to AS9100. Calibration shall be NIST traceable and compliant with ANSI/NCSL Z540-1. Supplier shall ensure manufacturing, testing, or other equipment resources that affect the form, fit, and/or function of products or services provided to Spirit are properly calibrated, maintained, and verified.
18. **COUNTERFEIT PREVENTION**
  - a. **SPIRIT POLICY.** Spirit enforces a counterfeit part prevention policy and only procures product(s) directly (i) as a franchised or authorized manufacturer or (ii) from an authorized or franchised supplier of the original manufacturer with direct traceability.
  - b. **DEFINITION.** Spirit's definition of a "counterfeit part" includes the AS9100 definition of "an unauthorized copy, imitation, substitute, or modified part (e.g., material, part, component), which is knowingly misrepresented as a specified genuine part of an original or authorized manufacturer." Spirit further defines "counterfeit part" to include any part that is refurbished, repaired, or returned or any part on which manufacturer labels or markings have been altered and that part is falsely represented as new and unused as initially produced by the original or authorized manufacturer.
  - c. **SUPPLIER TRACEABILITY.** Supplier shall provide part traceability to the original manufacturer. Spirit requires Supplier to provide a signed and accurate manufacturer's Certificate of Conformance with every shipment.
  - d. **SUPPLIER COUNTERFEIT PRACTICES.** Supplier shall take measures, implement procedures, and report counterfeit activity to appropriate authorities to prevent the proliferation of counterfeit parts in any level of the supply chain.
19. **CYBERSECURITY**



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Supplier shall maintain cybersecurity compliance to NIST SP 800-171 for the purpose of protecting technical data, drawings, software, and other sensitive information pertaining to Purchase Order. If actual or potential unauthorized access to Supplier data systems or infrastructure is suspected, Supplier shall notify Spirit in writing immediately within 72 hours and make a reasonable effort to investigate an incident, secure data and information, and prevent further unauthorized access. Compliance to NIST SP 800-171 is in conjunction with DFARS 252.204-7012 Safeguarding Covered Defense Information and Cyber Incident Reporting, 252.204-7019 Notice of NIST SP 800-171 DoD Assessment Requirements, 252.204.7020 NIST SP 800-171 DoD Assessment Requirements, and 252.204.7021 Cybersecurity Maturity Model Certification Requirement. Supplier shall meet assessment levels required by the Purchase Order and ensure subcontractors and sub-tiers meet the required assessment level appropriate to the sensitivity of information Supplier flows down to subcontractors.

### 20. EXPORT CONTROL

Spirit may order product or provide drawings, documents, or other data with Purchase Order for product controlled by International Traffic in Arms Regulations (ITAR) and Export Administration Regulations (EAR). It shall be Supplier's sole responsibility to identify controlled products, technical data, documents, or services and implement programs, training, and measures to prevent unauthorized export to a foreign entity, including foreign persons. Supplier shall maintain all registration and licensing required to manufacture and sell defense products or services or commercial products with defense applications as defined by these regulations. Supplier shall control access, storage, and transmission of all technical data and other electronic or physical information received for performance of Purchase Order in accordance with these regulations. Supplier shall immediately notify Spirit of any regulatory hold, delay, or seizure of imported product.

### 21. PRODUCT MATERIALS

- a. **CONFLICT MINERALS.** Supplier shall disclose to Spirit when a product is known to contain conflict minerals, to include tantalum, tin, gold, and tungsten, that originated in the Democratic Republic of the Congo or surrounding countries under the Dodd-Frank Wall Street Reform and Consumer Protection Act. Supplier disclosure shall provide traceability documentation for affected products. Spirit may request conflict mineral documentation from Supplier at any time to fulfill reporting requirements of Spirit's customers. Spirit is a distributor under the Dodd-Frank Act and only flows up the supply chain any disclosures or reports of compliance as provide by Supplier. Spirit does not certify compliance on behalf of Supplier.
- b. **REACH.** Supplier shall ensure that products or services provided to Spirit comply with the European Union's regulations for Registration, Evaluation, Authorization, and Restriction of Chemicals ("REACH") and shall ensure that any products containing a substance regulated under REACH meet registration, reporting, and authorization requirements. Supplier shall provide Spirit with relevant documentation, labeling, and data to demonstrate product or service compliance. Spirit may request REACH documentation from Supplier at any time to fulfill reporting requirements of Spirit's customers. As a distributor, Spirit does not certify compliance with REACH on behalf of Supplier.
- c. **PROHIBITED MATERIALS.** As part of the Defense Industrial Base, Spirit shall meet all customer and government contractual requirements regarding material prohibition, material composition, or reporting of materials used to produce product. However, Spirit does not have design or manufacturing knowledge of product to the extent of Supplier's knowledge and control. Supplier shall provide product and materials reporting, data, and disclosure to Spirit as required by Purchase Order, Spirit's Customer, or federal laws and regulations. Spirit shall disclose with Purchase Order any available government contract information and any customer requirements affecting product manufacture above and beyond manufacturer's specifications and government regulations. Supplier is prohibited from supplying product or service, including commercial off-the-shelf product, that uses covered telecommunications equipment or services as a substantial or essential component as defined in and in accordance with FAR 52.204-25 and DFARS 252.204-7018 in performance of a government contract unless a waiver is obtained as outlined in this FAR/DFARS. Supplier shall flow down all materials prohibitions and materials reporting requirements to subcontractors.

### 22. INDEMNIFICATION

Supplier shall indemnify, defend, and hold harmless Spirit, Spirit's customers, and Spirit's affiliates from and against any and all liabilities, damages, losses, or claims, including legal fees, fines, and costs, which may result from



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Supplier's actions or omissions in performance of Purchase Order, in compliance with applicable laws and regulations, and in preservation of intellectual property rights for products and services.

23. **WAIVER**

Spirit Terms and Conditions shall supersede Supplier terms and conditions unless Spirit has otherwise agreed in writing prior to issuance of a Purchase Order. Any superseding terms of distribution or contracts or agreements between Spirit and Supplier affecting this Purchase Order shall not invalidate the exercise of other rights herein not addressed in such agreements. No failure or delay by Spirit to exercise rights under these terms and conditions shall be considered a waiver of such rights, nor shall any partial exercise of rights prevent later or further exercise of rights herein.

24. **DISPUTE RESOLUTION**

Purchase Order and these terms and conditions shall be governed by and construed according to the laws of the State of Arizona. Any dispute or suit resulting from enforcement of the Purchase Order or relating to the Purchase Order shall be settled by a competent court located in Arizona. The prevailing party shall be entitled to recover attorney, consultant, and court fees and expenses.

25. **FORCE MAJEURE**

Spirit and Supplier shall not be liable for delay or default of obligations under Purchase Order and these terms and conditions resulting from a force majeure, including but not limited to extreme weather or environmental events, military or government actions, hostilities, riots, strikes, terrorism, or other events outside of reasonable control of either party.

26. **FARS AND DFARS**

The Federal Acquisition Regulations (FAR) and Department of Defense Federal Acquisition Regulation Supplements (DFARS) listed shall apply to Spirit and Supplier as part of this Purchase Order as applicable. The referenced FAR and DFARS clauses shall apply to Purchase Order with the same effect as if they were included in full text.

FAR 22.17 Combating Trafficking in Persons

FAR 52.203-13 Contractor Code of Business Ethics and Conduct

FAR 52.204-25 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment

FAR 52.211-5 Material Requirements

FAR 52.222-50 Combating Trafficking in Persons

FAR 52.222-56 Certification Regarding Trafficking in Persons Compliance Plan

FAR 52.223-11 Ozone-Depleting Substances

FAR 52.225-13 Restrictions on Certain Foreign Purchases

DFARS 252.204-7009 Limitations on the Use and Disclosure of Third Party Contractor Reported Cyber Incident information

DFARS 252.204-7012 Safeguarding Covered Defense Information and Cyber Incident Reporting

DFARS 252.204-7018 Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services

DFARS 252.225-7009 Restriction on Acquisition of Certain Articles Containing Specialty Metals

27. **REVISION CONTROL**

All requirements, quality notes, documents, standards, and terms and conditions applying to Purchase Order shall be the version or revision effective at the time Purchase Order is placed.