

## Pacific Star Corporation

Distributor of MRO, Laboratory Equipment and Supplies  
4350 South Wayside Drive Suite # 106  
Houston, Texas 77087

713-527-0889 Telephone  
713-481-8423 Fax  
purchasing@pfstar.com  
www.pfstar.com



### Document Revision History

Date	Changed by:
1/1/2012	Daud Hadi (Created)
10/20/2017	DH – updated for DLA/Gov Clause
12/21/2020	Updated DLA/GOV Clause on Cybersecurity
12/28/2023	Updated DLA/GOV Clause on NIST SP 800-161 and 800-53

### CONTRACT TERMS AND CHOICE OF LAW

This Purchase Order (hereafter referred to as “PO”) from Pacific Star Corporation (hereafter referred to as “Buyer”) is intended as an offer to purchase the materials or services specified on the face hereof and upon the terms and conditions stated herein, and any reference to the Seller's quotation or similar form is solely for the purpose of describing the materials. This offer expressly limits acceptance to the terms and conditions stated herein, and none of the terms and conditions stated herein may be added to, modified, superseded, or otherwise altered except by writing, signed by Buyer. Each shipment received by Buyer from Seller shall be deemed to be subject only to the terms and conditions stated herein, notwithstanding any terms and conditions that may appear in Seller's quotation, acknowledgment, invoice or other form, and notwithstanding Buyer's acceptance and/or payment for the materials. This Purchase Order shall be construed and enforced in accordance with laws of the State of Texas.

### TITLE

Clear title to the materials sold hereunder shall pass to Buyer with payment of all money due under the agreed purchase contract.

### ACCEPTANCE OF TERMS

This PO is expressly conditioned on Seller's acceptance of all the terms and conditions set forth herein. Buyer expressly objects to any additions, deletions or differences in the terms or conditions contained in Seller's quotation, proposal, acknowledgment, or other document, whether or not such additions, deletions or differences materially alter this PO. This PO may be issued in addition to other duly signed Buyer agreements, exhibits and schedules incorporated therein (“Agreement”) made with respect to the subject matter of this PO. In the event of an inconsistency or conflict between the provisions of any Agreement and this PO, the inconsistency or conflict shall be resolved by giving precedence in the following order: (a) the Agreement; (b) the provisions appearing on the front and reverse side of this PO or (c) other provisions when attached and agreed to in writing by Buyer.

### PERFORMANCE

Time is of the essence in the performance of this PO and if the goods are not delivered or the services not provided in the manner and at the times specified, Buyer reserves the right without liability and in addition to its other rights and remedies to take either or both of the following actions: (a) direct expedited delivery of the goods or performance of services, with any difference in cost caused by such change paid by Seller, and/or (b) purchase substitute goods and charge Seller with any loss or additional

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costs Buyer incurs. Seller shall promptly advise Buyer of any delay in performance, including notice with regard to any goods placed under backorder. Seller's performance is not deemed completed until the goods or services have been accepted by Buyer. All goods shipped under this PO shall be shipped CIF (Cost, Insurance, Freight) to the shipping address designated by the Buyer.

### **INSURANCE**

Upon request from Buyer, Seller shall furnish to Buyer an insurance carrier's certificate showing that Seller has adequate Worker's Compensation, Public Liability and Property Damage insurance coverage. Said certificate shall set forth the amount of coverage, policy number and date of expiration. Seller shall maintain 1) Commercial General Liability insurance in an amount not less than one million dollars (\$1,000,000) per occurrence and one million dollars (\$1,000,000) annual aggregate covering any and all damage to property or injury to or death of persons arising from or out of installation and/or operation of any materials sold hereunder and/or performance of any work hereunder; 2) Excess or Umbrella Liability insurance extending over the required Commercial General Liability and Employer's Liability in an amount not less than two million dollars (\$2,000,000) per occurrence and two million dollars (\$2,000,000) annual aggregate; 3) Worker's Compensation insurance as provided by statute and Employer's liability insurance of at least one hundred thousand dollars (\$100,000) per employee. Seller shall furnish a certificate of coverage naming Buyer as an additional insured prior to award of contract and warrant that the same levels of coverage be maintained annually. Seller's insurance coverage's will apply on a primary and non-contributory basis to those of Buyer. Seller's General Liability policy will include a waiver of subrogation in favor of Buyer.

### **WARRANTIES**

Seller expressly warrants that the goods or services provided under this PO shall be performed in accordance with Buyer's specifications and instructions. Seller further warrants that the goods and services will be merchantable, non-infringing, free from defects and fit and sufficient for the purpose intended. Further, the services will be performed with the highest degree of skill and judgment exercised by recognized professionals performing the same or similar services. These warranties shall be in addition to all other warranties, express, implied or statutory. Payment for, inspection of, or receipt of the goods or services shall not constitute a waiver of any breach of foregoing warranties. In the event of any breach of the foregoing warranty, Seller shall at its own expense and at Buyer's option either: (a) provide replacement goods satisfactory to Buyer, (b) re-perform the nonconforming services to the satisfaction of Buyer, or (c) refund to Buyer the total amount paid for such goods or services plus any transportation costs. Seller shall extend all warranties it receives from its suppliers to Buyer and to Buyer's customers. Supplies/services that do not conform to the above warranties may, at any time within twelve (12) months after delivery to Buyer's customer, be rejected and returned to Subcontractor, at Subcontractor's expense, for correction or replacement.

### **PATENT INDEMNITY**

Seller shall indemnify and hold Buyer harmless from any and all liability, losses, damage, claims or courses of action, and expenses connected therewith (including reasonable attorneys' fees and legal expenses) caused or asserted to have been caused, directly or indirectly, by any infringement or alleged infringement of any United States or foreign patent, or other proprietary rights of any third party, based on Buyer's ownership or proper use of the materials delivered hereunder, in accordance with all

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requirements provided by Seller to Buyer. In the event Buyer is enjoined from using any part of the materials delivered hereunder due to the alleged infringement of any patent granted by the United States or foreign government, or other proprietary rights of any third party, Seller shall, at Buyer's election in its sole discretion, either: (1) purchase for Buyer the right to continue Buyer's use of the subject materials; (2) modify the subject materials so to that they are no longer infringing, without loss or functionality; or (3) replace the subject materials with materials of equal or better quality and the same functionality that is not infringing.

### **DELIVERY AND RISK OF LOSS**

Unless otherwise stated on the face hereof, all materials are to be furnished Free on Board (F.O.B.) point of destination, and no charges will be allowed for freight, transportation, crating, handling, demurrage, or for any other matter relating to the delivery of the materials to Buyer unless authorized in writing by Buyer. The entire risk of loss, injury, or destruction of the materials, regardless of the Free on Board (F.O.B.) point and cause therefore, shall be borne by the Seller until the materials are inspected and accepted by Buyer. All deliveries are to be tagged with the purchase order number that appears on the face hereof, and no partial deliveries shall be permitted without prior written authority of Buyer.

### **TIME OF DELIVERY**

Time is of the essence with respect to the delivery date specified on the face hereof. Seller agrees to compensate Buyer for any damages which Buyer may incur as a result of Seller's failure to deliver on time. In addition, Buyer reserves the right to cancel all or any portion of this order which is not delivered on time without any cost or penalty to the buyer.

### **INSPECTION AND ACCEPTANCE**

All goods and services purchased hereunder shall be subject to inspection by Buyer at all reasonable times and places notwithstanding the terms of payment, and in any event, prior to final acceptance. No inspection made prior to final acceptance shall relieve Seller from responsibility for failure to meet the requirements of this PO. In the event the goods or services do not meet the applicable specifications and instructions, Seller will promptly re-perform the nonconforming services or provide replacement goods satisfactory to Buyer at Seller's sole expense of the replacement item and the transportation charges. If Seller is unable to accomplish the foregoing, Buyer may procure such goods or services from another source and charge to Seller's account all costs, expenses and damages associated therewith.

### **FORCE MAJEURE**

Buyer reserves the right to cancel all or any part of this order in the event Buyer's business is interrupted because of strikes, labor disturbances, fires, acts of God, or any other cause beyond the reasonable control of the Buyer without any cost or penalty to the buyer.

### **SUBCONTRACTS AND ASSIGNMENTS**

Seller agrees to obtain Buyer's approval before subcontracting this PO or any portion thereof. This PO shall not be assigned or delegated by Seller without the prior written consent of Buyer's.

### **INVOICES**

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Only Purchase Orders issued and approved by Buyer's Purchasing Personnel are legally binding. Invoices for each Purchase Order must be invoiced separately. All payments must be made by presentation of written invoices to Buyer's Accounts Payable Department and processed through the appropriate Buyer's accounting process.

### **CONFIDENTIALITY**

All information contained in any drawings, blueprints, specifications, samples, purchase commitments, and other material submitted by Buyer to Seller hereunder is exclusively proprietary to Buyer and shall be returned to Buyer upon request or upon completion, termination, or cancellation of this Purchase Order. Seller shall keep all such information strictly confidential and shall not, without Buyer's prior written consent, use such information in whole or in part for its own benefit, or disclose such information in whole or in part to any other party.

### **SEVERABILITY**

If any court of competent jurisdiction determines that any provision of these terms and conditions is invalid or unenforceable, then such invalidity or unenforceability shall have no effect on the other provisions hereof, which shall remain valid, binding and enforceable and in full force and effect, and such invalid or unenforceable provision shall be construed in a manner so as to give the maximum valid and enforceable effect to the intent of the parties expressed herein.

### **CHANGES**

Buyer may, by written notice to Seller make changes to any one or more of the following: (a) specifications for services or goods, (b) quantity, and (c) place and/or time of performance. For any reason, Buyer may also direct Seller to suspend in whole or in part the provision of goods or the performance of services hereunder permanently or for such period of time as may be determined by Buyer to be necessary or desirable. If any such change or suspension causes an increase or decrease in the cost or time required for the performance of services or provision of goods hereunder, an adjustment may be made in the price or delivery schedule, or both, and the PO shall be modified in accordance with the approval of the Buyer. Any claim for adjustment by Seller shall be deemed waived unless asserted in writing within seven (7) calendar days from receipt by Seller of the notice of change.

### **DEFENSE LOGISTICS AGENCY AND GOVERNMENT CONTRACTS**

If the contract in question is for the Defense Logistics Agency or otherwise for a government contract, the Seller shall comply with the following clauses:

52.204-2 Security Requirements

52.204-21 Basic Safeguarding of Covered Contractor Information Systems

52.211-15 DEFENSE PRIORITY AND ALLOCATION REQUIREMENTS (APR 2008) FAR

52.211-16 VARIATION IN QUANTITY (APR 1984) FAR

52.211-17 DELIVERY OF EXCESS QUANTITIES (SEP 1989) FAR

52.211-9002 PRIORITY RATING (NOV 2011) DLAD

52.211-9020 TIME OF DELIVERY - ACCELERATED (JUN 2008) DLAD

52.215-08 ORDER OF PRECEDENCE - UNIFORM CONTRACT FORMAT (OCT 1997) FAR

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52.222-50 COMBATTING TRAFFICKING IN PERSONS (FEB 2009) FAR  
52.223-18 ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING (AUG 2011) FAR  
52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUN 2008) FAR  
52.232-11 EXTRAS (APR 1984) FAR  
52.233-01 DISPUTES (MAY 2014) FAR  
52.233-04 APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM (OCT 2004) FAR  
52.242-17 GOVERNMENT DELAY OF WORK (APR 1984) FAR  
52.244-06 SUBCONTRACTS FOR COMMERCIAL ITEMS (OCT 2014) FAR  
52.246-2 INSPECTION OF SUPPLIES – FIXED PRICE (AUG 1996) FAR  
52.246-4 INSPECTION OF SERVICES – FIXED PRICE (AUG 1996) FAR  
52.246-9054 WARRANTY ACCEPTANCE OF SUPPLIES (NOV 2011) DLAD  
52.246-9066 DOCUMENTATION OF TRACEABILITY (JAN 2009) DLAD  
52.249-01 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (SHORT FORM) (APR 1984) FAR  
52.252-02 CLAUSES INCORPORATED BY REFERENCE (FEB 1998) FAR  
252.203-7000 REQUIREMENTS RELATING TO COMPENSATION OF FORMER DOD OFFICIALS (SEP 2011) DFARS  
252.203-7002 REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (SEP 2013) DFARS  
252.204-7003 CONTROL OF GOVERNMENT PERSONNEL WORK PRODUCT (APR 1992) DFARS  
252.204-7004 ALTERNATE A, SYSTEM FOR AWRD MANAGEMENT (FEB 2014) DFARS  
252.204-7012 SAFEGUARDING OF UNCLASSIFIED CONTROLLED TECHNICAL INFORMATION (NOV 2013) DFARS  
252.204-7019 NOTICE OF NIST ASSESSMENT REQUIREMENT  
252.204-7020 NIST ASSESSMENT REQUIREMENT  
252.204-7021 CONTRACTOR COMPLIANCE WITH CYBERSECURITY MATURITY MODEL CERTIFICATION LEVEL  
252.211-7003 ITEM IDENTIFICATION AND VALUATION (DEC 2013) DFARS  
252.211-7008 USE OF GOVERNMENT-ASSIGNED SERIAL NUMBERS (SEP 2010) DFARS  
252.247-7023 TRANSPORTATION OF SUPPLIES BY SEA (APR 2014) DFARS  
[NIST SP 800-161](#) Cybersecurity Supply Chain Risk Management Practices for Systems and Organizations  
[NIST SP 800-53](#) Security and Privacy Controls for Information Systems and Organizations

### **The following clause only applies to GSA contracts:**

52.225-1 Buy American-Supplies  
52.225-5 Trade Agreements