

TRANSISTOR DEVICES INCORPORATED  
GENERAL PROVISIONS OF PURCHASE ORDER

1. DEFINITIONS

As used throughout the contract (purchase order) the following terms shall have the meanings set forth below:

- (a) The term "Government" means the United States Government or any department or agency thereof
- (b) The term "contracting officer" means any officer or civilian employee of the Government who is properly designated and duly authorized Contracting Officer and the term includes an authorized representative of a Contracting Officer acting within the limits of his authority
- (c) The term T.D.I means TRANSISTOR DEVICES INC. or it's duly authorized representative.
- (d) The term "Contractor" means the individual, partnership, corporation or association contracting to furnish the article(s) described in the Statement of Articles to be Furnished.
- (e) The word Articles refers to the goods, products, supplies, parts, assemblies, technical data, drawings, services or other terms constituting the subject matter of the Contract which are to be furnished by CONTRACTOR TO T.D.I hereunder.

2. INVOICES

Invoices shall be submitted in number of copies noted on reverse hereof and shall contain the following information: Purchase order number, T.D.I. account number, item number, description of articles, sizes, quantities, unit prices and extended totals.

3. SHIPMENT AND STORAGE

- (a) A complete packing list shall be enclosed with all shipments
- (b) CONTRACTOR shall mark containers or packages and necessary lifting, loading and shipping information including in addition the purchase order number, T.D.I. account number, dates of shipment and names and addresses of consignor and consignee, bill of lading number and weight of shipment shall be shown for shipment on Government Bills of Lading
- (c) In storing of shipping CONTRACTOR shall so pack the articles as to exclude the introduction of foreign material into bearing or journal surfaces, electrical equipment or any other mechanism or assembly in which the presence of such foreign matter would require cleaning or disassembly prior to use. Failure to comply with the clause shall be grounds for rejection of the articles involved.
- (d) Material delivered to T.D.I. more than thirty (30) days in advance of the schedule set forth herein may be returned at the CONTRACTOR'S expense

4. CHANGES

- (a) T.D.I. may at anytime by a written change order, increase the quantity of articles to be furnished hereunder, suspend performance in whole or in parts, extend the time of delivery, or make changes within the general scope of this contract in anyone or more of the following: (1) drawings, designs or specifications (2) method of shipment or packing. If a Change order issued hereunder causes an increase or decrease in the cost of performance, or in the time required for performance, an equitable adjustment shall be made in the contract price and/or delivery schedule and the Contract shall be modified in writing accordingly. Any claim for adjustments under this clause shall be deemed waived unless asserted within 45 days from the date of receipt by the CONTRACTOR of the change order provided, however that T.D.I. if it decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under the contract. Any such claim must be set forth the amount of any increase or decrease in the cost of performance resulting from the change. All articles covered hereunder shall be manufactured in accordance with the contract unless a change thereto is subsequently authorized by a written change order issued by an authorized Procurement representative of T.D.I. Nothing in the clause shall excuse the CONTRACTOR from proceeding with the contract as changed.
- (b) T.D.I. engineering and technical personnel may from time to time render assistance or give technical advice to or effect an exchange of information with contractor's personnel in a liaison effort concerning the articles to be furnished hereunder. However such exchange of information or advice shall not vest CONTRACTOR with the authority to change the articles or provisions of the contract be binding upon T.D.I. unless incorporated as a change in accordance with paragraph (a) hereof.
- (c) Where the cost of property made obsolete or excess as a result of a change order is included in the CONTRACTOR'S claim for adjustment pursuant to this clause, T.D.I. shall have the right to prescribe the manner of disposition of such property.

5. WARRANTY

- (a) The CONTRACTOR warrants that all articles furnished hereunder shall be free from defects in workmanship and material shall comply with the requirement of the contract and any drawing or specifications incorporated herein and shall where design is CONTRACTOR'S responsibility be free from defects in design. The foregoing warranties are in addition to all other warranties whether express or implied. If any article delivered hereunder does not meet the warranties specified herein or otherwise applicable the CONTRACTOR shall promptly thereupon at no cost to T.D.I. correct any defects by repair or replacement. All warranties shall run to T.D.I. and it's customers
- (b) T.D.I. approval of the CONTRACTOR'S design or material shall not be construed to relieve the CONTRACTOR of the warranties set forth in the clause, nor shall waiver by T.D.I. of any drawings or specifications requirements for one or more articles constitute a waiver of any such requirements for the remaining articles to be delivered hereunder unless so stated by T.D.I. The provisions of this clause shall not limit or affect the rights of T.D.I. under the clause hereof entitled "INSPECTION"

6. INSPECTION

- (a) Final inspection and acceptance of article shall be made by T.D.I. after delivery or as otherwise indicated in the contract and shall be conclusive except as regards latent defects, fraud, such gross mistakes as amount to fraud, and the CONTRACTOR'S warranty obligations.
- (b) If any article purchased hereunder is other than a standard commercial article of the CONTRACTOR, said article shall be subjected to inspection and test by T.D.I. to the extent practicable at all times and places including the period of manufacture and in any event prior to final acceptance. If any inspection or test is made by T.D.I. on the premises of the CONTRACTOR, the CONTRACTOR, without additional charge shall provide all responsible facilities and assistance for the safety and convenience of T.D.I. inspectors in the performance of their duties. All inspectors and tests shall be performed in such manner as not to unduly delay the work. No inspection or tests made prior to final inspection and acceptance shall relieve the CONTRACTOR from responsibility for defects or other failure to meet the requirements of the contract.
- (c) In case any article is defective in material or workmanship or otherwise not in conformity with the requirements of this contract, T.D.I. shall have the right either to reject it, require correction or accept it with an equitable adjustment in price. Any article which has been rejected or required to be corrected shall be removed and/or corrected by and at the expense of the CONTRACTOR promptly after notice, if, after being requested by T.D.I. the CONTRACTOR fails promptly to replace or correct any defective article, T.D.I. (1) may be contract or otherwise, replace or correct such article and change to the CONTRACTOR the cost occasioned T.D.I. thereby or (2) may, without limit, rescind and terminate the Contract for default, in accordance with the clause hereof entitled "DEFAULT."
- (d) The CONTRACTOR shall provide and maintain an inspection system in accordance with sound business and as otherwise provided otherwise provided in this contract. Records of all inspection work by the CONTRACTOR shall be kept complete and available to T.D.I. during the performance of the contract and for such longer period and in such manner as may be specified elsewhere in the contract.

7. DEFAULT

- (a) Time of the essence of this contract.
- (b) T.D.I. may by written notice of default to the CONTRACTOR, terminate the contract or any part thereof at no charge if the CONTRACTOR fails (1) to deliver the article in accordance with the delivery schedule specified herein or any extension thereof be Change Order Or Amendments or (2) to replace or correct defective articles in accordance with the provisions of Paragraph (c) of the clause hereof entitled "INSPECTION" or (2) to perform any of the other provisions of this Contract or fails to make progress as to endanger performance of this contract in accordance with its terms and in either of the circumstances specified in (2) does not correct such failure within a period of (10) ten days for such longer as T.D.I. may authorize in writing after receipt of notice from T.D.I. specifying such failure
- (c) In the event of termination pursuant to this clause, T.D.I. may purchase similar articles elsewhere on such terms and in such manner as T.D.I. may deem appropriate and the CONTRACTOR shall be liable to T.D.I. for any excess cost occasioned T.D.I. thereby.
- (d) If, after notice of defaults under the provisions of (b) above, it is determined that the failure to perform this contract is due to unforeseeable cause beyond the control and without the fault or negligence of the CONTRACTOR said notice shall be deemed to have been issued pursuant to the clause hereof entitled "TERMINATION" or "CANCELLATION" (as applicable) and the rights and obligations of the parties hereof shall be governed by that clause. No such clause shall excuse the "CONTRACTOR" unless the "CONTRACTOR" has notified T.D.I. in writing of the existence of the cause within (10) days from the beginning thereof.
- (e) Failure of T.D.I. to enforce any right under the Clause shall not be deemed a waiver of any right hereunder. The rights and remedies of T.D.I. under this clause shall not be exclusive and are in addition in any other rights and remedies provided by the law or under this contract.

8. CANCELLATION

Except as provided by the clause hereof entitled "CONTRACTS UNDER A GOVERNMENT PRIME CONTRACT" T.D.I. at anytime and by written notice may cancel this contract or any part thereof at its convenience and for other than Defaults as contemplated under the clause entitled "DEFAULT" in which event, T.D.I. shall be liable for the payment of reasonable cancellation charges which shall take into account among other things, expenses already incurred and the CONTRACTOR'S actual liabilities against commitments incident to this Contract. In no event, however shall T.D.I. be liable for cancellation charges in excess of the contract price.

9. PATENT IDENTITY

The CONTRACTOR shall at it's expense hold harmless and defend T.D.I.'s customers and all persons claiming under T.D.I. against any suits for the infringement of any patent, copyrights or trademarks and shall indemnify the aforesaid parties against all damages costs, and expenses arising therefrom by reason of the manufacture, sale or the normal and intended use of the articles covered by the Contract. T.D.I. agrees to give the CONTRACTOR prompt notice in writing of any suit for infringement and such opportunity as is afforded by applicable laws, rules or regulations to participate in the defense thereof

10. REPRODUCTION

- (a) The CONTRACTOR agrees to and does hereby grant to T.D.I. the right to reproduce use and dispose of all or any part of the reports, drawings, blueprints, data and technical information delivered to T.D.I. pursuant to this contract and the CONTRACTOR agrees to hold harmless T.D.I. and it's assigns from any liability arising out of said reproduction, use or disposition, T.D.I. shall give CONTRACTOR prompt notice in writing of any suit or action alleging such liability.

(B) IF THE ARTICLES THEREOF CONTRACTED FOR HEREUNDER ARE DESIGNED BY T.D.I.

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CONTRACTOR shall not reproduce any of such articles of parts without T.D.I. written consent nor, without such written consent, supply or disclose any information regarding such articles or any equipment or material used therein nor incorporate in other products or articles any special features of design or manufacture peculiar to the article contracted or hereunder.

11. T.D.I. SPECIAL TOOLS

- (a) As used in this clause the term "special tools" shall include tools specially developed hereunder as well as designs, special test equipment, jigs, dies, fixtures templates, patterns and drawings.
- (b) Title to all tools described in the Statement of Articles to be furnished hereunder by the CONTRACTOR shall vest in T.D.I. Upon payment therefor by T.D.I. Acceptance of a reasonable number of articles produced from such special tools shall be a condition precedent to such payment. Each such special tool shall bear the name and the number of the tool and the number of the part or parts it was made to produce. T.D.I. shall furnish tool numbers for all such special tools.
- (c) T.D.I. shall upon completion or termination of this Contract be entitled to storage of each special tools by the CONTRACTOR at no additional cost, for a period not to exceed one (1) year and have the right to direct disposition of such tools at no additional cost exact for freight and shipping charges. Notwithstanding the risk or loss provisions contained in the clause hereof entitled "GENERAL" any risk of loss or damage to such special tools during such storage period, except that caused by the negligence of the CONTRACTOR or it's employees shall be T.D.I. special tools so stored shall not be destroyed or disposed of without T.D.I. written permission. Tools paid for or furnished by T.D.I. shall be T.D.I. property and CONTRACTOR shall not encumber or dispose of them in anyway. Such tools shall be maintained in first class condition and used exclusively for production under T.D.I. contract.

12. GENERAL

- (a) This contract shall be governed by subject to and construed according to the laws of the state of N.J. the CONTRACTOR will comply with all applicable Federal, State and Local laws.
- (b) No Subcontract shall be made by CONTRACTOR with any other party for furnishing any of the articles hereunder in completed or substantially completed form or the work herein contracted for, and CONTRACTOR shall not assign the contract. Any monies due or to become due hereunder may be assigned provided that such assignment shall not be binding upon T.D.I. until receipt of a copy of the assignment agreement is acknowledged in writing.
- (c) In the event of the appointment of a trustee receiver or liquidator for all or a portion of CONTRACTOR'S property or for any act of bankruptcy by the CONTRACTOR as defined in SECTION 3 of the Bankruptcy by the Bankruptcy Act, as amended or for any voluntary petition in bankruptcy by the CONTRACTOR, T.D.I. may terminate the right of the CONTRACTOR to proceed with the further performance of this contract without further obligation except that T.D.I. shall be obligated to pay for any article delivered and accepted prior to any of the foregoing occurrences.
- (d) All risk of loss on articles furnished under the contract shall follow the custody thereof. Nothing contained in this paragraph however shall relieve the CONTRACTOR from it's obligation to comply with the warranty provisions hereof.
- (e) Whenever the CONTRACTOR has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of the contract the CONTRACTOR shall immediately give notice thereof including all relevant information with respect thereto, to T.D.I.
- (f) No waiver, alteration or modification of any of the provisions of this contract shall be binding on T.D.I. unless evidenced in writing by a Change Order or written Amendment is signed by a duly authorized representative of T.D.I.

13. UTILIZATION OF SMALL BUSINESS CONCERNS

- (a) It is the policy of the Government as declared by the Congress to bring about the greatest utilization of small business concerns which is consistent with efficient production.
- (b) The CONTRACTOR agrees to accomplish the maximum amount of subcontracting to small business concerns that the CONTRACTOR finds to be consistent with the efficient performance of the Contract.

14. CONTRACTS UNDER A GOVERNMENT PRIME CONTRACT

If this Contract is placed pursuant to a Government Prime Contract referenced by number on page one hereof then this Clause 14 shall be applicable in addition to the other Clauses of the Contract

- (a) Examination of Records with respect to any Contract exceeding \$1,000 the CONTRACTOR agrees that the duly authorized representative of the Controller General of the United States and the Department of Defence shall until the expiration of three (3) years after final payment under the Contract have access to and the rights to examine any directly pertinent books, documents, papers and records of the CONTRACTOR involving transactions related to this contract.
  - (b) Termination, ASPR 8-706 is hereby incorporated by reference and in such contracts shall apply in lieu of the Clause hereof entitled "CANCELLATION"
  - (c) Government inspection. The Government through it's authorized representatives, may exercise any rights of T.D.I. under the Clause hereof entitled "INSPECTION" to inspect articles to be delivered except that the Government shall not have the right to default the CONTRACTOR as provided in paragraph (c) thereof.
  - (d) Government Special Tools. Title to all special tools described in the Statement of Articles to be furnished hereunder by the CONTRACTOR shall vest in the Government in lieu of T.D.I. upon payment therefor. Maintenance and Records of Government Special Tools shall be in accordance with the provisions of Appendix B of the Armed Services Procurement Regulation (ASPR) entitled "Manual To Control Of Government Property in Possession of Contractors."
  - (e) Federal Laws and Regulations. The following Clauses of the Armed Services Procurement Regulations (ASPR) in effect on the date of the contract are hereby incorporated by reference: RENEGOTIATION-ASPR 7-103.13; 6-104.5; PRIORITIES - ALLOCATIONS AND ALLOTMENTS-ASPR 7-104.18; AUTHORIZATION AND CONSENT - ASPR 9-102.1. NOTICE AND ASSISTANCE REGARDING PATENT INFRINGEMENT - ASPR 9-104, PATENT RIGHTS - ASPR 9-107 (under any contract or modification thereof having experimental development or research work as one of its provisions); DATA - ASPR 9-203.1 and 9-203-2, EIGHT HOUR LAW OF 1912 - ASPR 12-303.1; WALSH - HEALY PUBLIC CONTRACTS ACT ASPR 12-404; NONDISCRIMINATION IN EMPLOYMENT - ASPR 12-802 and where applicable according to the nature and amount of the contract, MILITARY SECURITY REQUIREMENTS-ASPR 7-104.12 and FILING OF PATENT APPLICATIONS - ASPR 9-106
- The Armed Services Procurement Regulations is obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C.