

## GENERAL TERMS AND CONDITIONS FOR PURCHASE ORDERS AND SUBCONTRACTS



### GENERAL REQUIREMENTS

1. **DEFINITIONS:** "VERMILLION" means Vermillion, Incorporated, a business with its main headquarters in Wichita, Kansas. "Seller" and/or "Supplier" means the entity from which VERMILLION is purchasing goods and/or services. "Goods" means the products, materials, and/or equipment purchased by VERMILLION under VERMILLION's order. "Services" means services performed by Seller.
2. **QUALITY ASSURANCE:** Supplier shall maintain a documented quality system compliant with applicable portions of AS9100, ISO-9001:2000 or equivalent; VERMILLION maintains the right to conduct periodic reviews of Supplier's quality assurance program, processes and procedures.
3. **DELIVERY:** Deliveries shall be made both in quantities and at the times stated in the VERMILLION purchase order. Seller understands and agrees that **TIME IS EXPRESSLY OF THE ESSENCE** with respect to delivery of items contained in the purchase order. If any delivery required of the Supplier is behind the schedule specified in the purchase order, VERMILLION may elect to have such delivery made via expedited means at Supplier's expense.
4. **EARLY AND/OR LATE DELIVERY:** Suppliers are expected to deliver product/services on the due date noted in the purchase order; early delivery may be accepted up to 7 calendar days prior to the due date. Any shipments received more than 7 calendar days in advance may be returned at the Supplier's expense. Shipments received after the due date will be considered a late delivery; under our Supplier management system, Suppliers are rated for on-time deliveries.
5. **LIQUIDATED DAMAGES:** In the event Supplier fails to make delivery of an item in accordance with a Purchase Order delivery schedule(s), VERMILLION shall be entitled to receive compensation from seller in the form of liquidated damages and not as a penalty, and the Supplier may be assessed such damages. The amount of such liquidated damages shall be equivalent to 0.5% of the value of the VERMILLION END ITEM for which this purchase order is made for each calendar day of the delayed item. Such liquidated damages shall begin on the first day after the delivery date specified on the Purchase Order has passed. Supplier shall be entitled to a grace period of seven (7) calendar days for delivery of the item past the delivery date specified herein, during which period no liquidated damages will be assessed. If the item is not delivered before the grace period ends, then liquidated damages will be assessed on a retroactive basis as though there was no grace period. Liquidated damages will be limited to a maximum of 10% of the unit price of the VERMILLION END ITEM for which the Supplier's item is purchased.
6. **INVOICE AND PAYMENT:** Unless otherwise provided in this contract/order, no invoices shall be issued nor payments made prior to delivery as specified in the purchase order issued by VERMILLION. All payments are subject to adjustment for shortages and/or rejections of delivered items.
7. **WITHHOLDING:** VERMILLION may withhold payment in the amounts payable to the Seller hereunder on any claim or change VERMILLION may have against Seller.

8. **GOVERNMENT/CUSTOMER CONTACTS:** In general, VERMILLION, acting as Prime, has the singular right to engage the customer on matters related to business – includes both Government and Commercial customers benefitting under this order. VERMILLION shall be solely responsible for all liaison, coordination, and communication with the VERMILLION customer, including the US Government, as it affects the applicable prime contract, this contract, and any related contract.
9. **RELEASE OF INFORMATION:** Except as required by law, no public release of any information, or confirmation or denial of same, with respect to this contract or the subject matter hereof, will be made by the Seller without the prior written consent and approval of VERMILLION.
10. **ACCEPTANCE OF ORDER:** Seller and VERMILLION agree that the terms and conditions of this purchase order shall supersede any inconsistent or conflicting terms between the parties, whether oral or written. Seller represents that the goods are in new, good, and saleable condition. This purchase order is accepted under the terms and conditions set forth. Seller, by accepting this purchase order agrees to and accepts all of the terms and conditions of this purchase order.

Seller accepts the terms and conditions of the purchase order by doing any of the following:

- a. By acknowledging receipt and acceptance of this purchase order.
  - b. Signing this purchase order.
  - c. Shipping any portion of the goods referenced in this purchase order, or otherwise fulfilling any portion of its obligations under this purchase order.
  - d. Accepting any payment, in whole or in part, for the goods, transportation of the goods, or otherwise in connection with this purchase order or the goods.
  - e. By any other means of acceptance recognized at law or in equity.
11. **ORDER OF PRECEDENCE:** Any inconsistency in the subcontract/purchase order shall be resolved by giving precedence in the following order:
    - a. Typed Provisions on the face of the purchase order.
    - b. Purchase Order and/or attachments.
    - c. VERMILLION Supplier Quality Assurance Provisions (VSQAP).
    - d. General Purchase Order Quality Clauses and Terms and Conditions.
    - e. Long Term Agreement (if applicable).
  12. **MATERIALS:** All materials supplied shall be configured to the latest applicable revision unless explicitly noted otherwise. If the purchase order line references a revision that has been superseded, the Supplier shall notify the VERMILLION buyer prior to accepting the purchase order to ensure the correct revision is supplied. The work delivered hereunder shall consist of new materials, as defined by FAR 52.211-5 (not used, reconditioned, remanufactured, or of such age as to impair usefulness or safety).
  13. **PACKING AND SHIPMENT:** Unless otherwise specified, all work is to be packed in accordance with good commercial practice to prevent damage and deterioration during shipping, handling, and storage. A complete packing list shall be enclosed with all shipments. Seller shall mark containers or packages with necessary lifting, loading, and shipping information, including the VERMILLION contract number, item number, dates of shipment, and the names and addresses of consignor and consignee. Bills of lading shall

include the purchase order contract number. For work shipped within the United States, unless otherwise specified, delivery shall be FOB Destination.

14. **SHIPMENT METHODS AND ACCOUNTS:** All purchase contracts shall indicate a shipment method including the required carrier. Written authorization from VERMILLION is required to utilize a different carrier or shipment method than indicated on the purchase order. If the Seller uses a shipment method other than that described in the purchase order VERMILLION may, at its discretion, charge back any amount up to the total shipment cost to the Seller. When the below carriers are identified on the purchase contract, please use the associated VERMILLION account number unless otherwise specified on the purchase contract.

- a. FEDERAL EXPRESS (FEDEX) – VERMILLION ACCOUNT# REFERENCE PO OR CONTACT BUYER
- b. UNITED PARCEL SERVICE (UPS) – VERMILLION ACCOUNT# REFERENCE PO OR CONTACT BUYER

For Shipments weighing greater than 149lbs, Vermillion's preferred carrier is FedEx LTL, Economy service. REFERENCE PO OR CONTACT BUYER.

15. **REJECTION:** VERMILLION shall notify Seller if any items/services delivered hereunder are rejected and at VERMILLION's election and Seller expense, replacement items shall be provided. No replacement of defective items shall be made by Seller unless agreed to in writing by VERMILLION.
16. **DURATION OF WARRANTY:** The duration of the seller's warranty must be no less than twelve (12) months from the date the items/services are received at VERMILLION.
17. **CHANGES:** VERMILLION may at any time by written notice make changes within the general scope of this contract action to drawings, specifications, shipping instructions, quantities, and delivery schedule. Should any such change increase or decrease the cost, or the time required for performance of the order, a purchase order adjustment is required to be agreed upon by both VERMILLION and the Supplier prior to the Supplier being entitled to additional compensation/payment or delivery time.
18. **QUALITY CONTROL OF SUB-TIER SUPPLIERS:** Supplier shall assure control of quality at all points necessary to conform to this PO's requirements, whether performed by Supplier or Supplier's sub-tiers. Supplier shall flow down to its sub-tiers any and all applicable sections or subsections of these Terms and Conditions, and shall ensure such portions are inserted in all subcontracts or Purchase Orders at every tier.
19. **TERMINATIONS / CANCELLATIONS:**
- a. VERMILLION may by written notice of default to Seller, terminate the whole or any part of this order in any one of the following circumstances: (i) Seller fails to make delivery of the items within the time specified herein or any extension thereof, or if (ii) Seller fails to perform any of the provisions of this order or fails to make progress as to endanger performance of this order in accordance with its terms and in any of these circumstances above does not cure such failure within a period of 10 calendar days (or longer period as authorized by the VERMILLION) after receipt of notice from the VERMILLION specifying such failure; or (iii) Seller becomes insolvent or

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the subject of proceedings under any law relating to bankruptcy or the relief of debtors or admits in writing its inability to pay its debts as they become due; or (iv) Seller fails to provide VERMILLION, within a reasonable time after demand by VERMILLION, written assurance of due performance by Seller.

- b. If this order is so terminated, VERMILLION may procure or otherwise obtain, upon such exceptions set forth below, supplier shall be liable to VERMILLION for any excess costs or similar supplies or services along with additional administrative costs tied to the re-procurement actions.
  - c. Seller shall continue performance of this order to the extent not terminated. VERMILLION shall have no obligations to Seller in respect to the terminated part of the order except as herein provided. VERMILLION's rights as set forth herein shall be in addition to the VERMILLION's other rights in case of Seller's default, whether set forth in the order or not. VERMILLION may terminate the Seller "for convenience" at any time; however, the Seller is entitled to submit a claim for equitable adjustment on all work/costs to date. All claims must be submitted within 60 calendar days from the notice of termination or cancellation.
20. **GOVERNING LAW:** The contract/order incorporating these terms and conditions and the performance of the parties hereunder shall be construed in accordance with and governed by the laws of the state of Kansas.
21. **SUBCONTRACTING OR ASSIGNMENT:** Neither this contract nor the obligation of the Seller hereunder shall be subcontracted, assigned or delegated by operation of law, or otherwise without VERMILLION's written consent.
22. **TAXES:** Seller's prices/quotes shall separately note all applicable taxes.
23. **PRICE WARRANTY:** The Seller warrants that the prices of the items set forth herein do not exceed those charged by the Seller to any other customer purchasing the same items in like quantities under substantially similar terms and conditions.
24. **VARIATIONS IN QUANTITY:** For wire and cable products supplied by the foot, there is a +10% / -0% shipping tolerance. For all other products, unless written pre-approval is received from VERMILLION, no variations in quantities are authorized.
25. **INTELLECTUAL PROPERTY INFRINGEMENT:** Seller warrants that the work performed and delivered under this contract will not infringe or otherwise violate the intellectual property rights of any third party in the United States or any foreign country. Seller agrees to defend, indemnify, and hold harmless VERMILLION and its customers from and against any claims, damages, losses, costs, and expense, including reasonable attorney's fees, arising out of any action by a third party that is based on a claim that the work performed or delivered under this contract infringes or otherwise violates the intellectual property rights of any person or entity.

26. **INDEMNIFICATION:** The Seller shall indemnify VERMILLION against all liability that may result from any claim, action, or suit by any person, based on (i) any alleged injury to or death of any person or damage to or loss of any property, (ii) any violation of law or regulation, or (iii) any allegations of patent infringement that may occur or that may be alleged to have been caused by the Seller in the course of performance of this contract by the Seller. The Seller shall pay all charges of attorneys in connection therewith and, if any judgment shall be rendered against VERMILLION in any such action or actions; the Seller shall satisfy and discharge the same without cost or expense to VERMILLION. However, this indemnity shall not apply to claims, actions, or suits resulting from VERMILLION negligence. VERMILLION shall indemnify the Seller against all liability that may result from any claim, action, or suit by any person, based on (i) any alleged injury to or death of any person or damage to or loss of any property, (ii) any violation of law or regulation, or (iii) any allegations of patent infringement that may occur or that may be alleged to have been caused by VERMILLION in the course of performance of this contract. VERMILLION shall pay all charges of attorneys in connection therewith and, if any judgment shall be rendered against the Seller in any such action or actions, VERMILLION shall satisfy and discharge the same without cost or expense to the Seller.
27. **NOTIFICATION OF DEBARMENT/SUSPENSION STATUS:** Seller shall provide immediate notice to VERMILLION in the event of being debarred, suspended, or proposed for debarment by any Federal Agency during performance of this contract/order.
28. **CONTRACT DIRECTION:** Only the VERMILLION procurement/purchasing representative has the authority to amend this contract; such amendments must be in writing. VERMILLION engineering and technical personnel may render assistance or give technical “advice” or discuss or affect an exchange of information with Seller’s personnel concerning the work hereunder. Such actions shall not be deemed to be a “change” order under the changes clause of this contract (FAR 52.243-1), and shall not be the basis for any equitable adjustment. Except as otherwise provided herein, all notices to be furnished by the Seller shall be sent to the VERMILLION procurement representative.
29. **FAR AND DFARS CLAUSES AND PROVISIONS:** For all orders referencing a US Government Contract number and/or DPAS code, and for all other orders known to specifically support US Government programs, VERMILLION FAR AND DFARS CLAUSES AND PROVISIONS ADDENDUM is in affect and can be found at [www.vermillioninc.com](http://www.vermillioninc.com).
30. **EXPORT/IMPORT/ITAR COMPLIANCE:** Information furnished to Seller under this purchase contract may contain data subject to U.S. Export Laws and Regulations. Seller is advised that such data may not be exported or re-exported to foreign persons, employed by or associated with, or under contract to Seller or Seller’s lower-tier suppliers, without the prior written consent of VERMILLION, and under the authority of an export license or applicable license exemption. If such data is marked as export controlled, Seller shall indemnify and hold VERMILLION harmless from and against any and all claims, liabilities and expenses resulting from Sellers’ failure to comply with the Export Laws and Regulation of the United States.
31. **PRODUCT COMPLIANCE:** Per EU direction, Vermillion requires notification as to whether products supplied against this purchase order are in compliance with RoHS (Restriction of Hazardous Substances, Directive 2002/98/EC), and REACH (Registration, Evaluation, Authorization and Restriction of Chemical Substances, EC 1907/2006). Please note on the packing slip(s) whether the product is in compliance or non-compliance (or “not applicable”).

32. **REMEDIES:** Except as otherwise provide, the remedies herein reserved shall be cumulative and in addition to any other or further remedies provided by law or equity. The failure of VERMILLION to insist upon, in any one or more instances, the performance of any of the terms, covenants, or conditions of VERMILLION's order, or to exercise any right hereunder, shall not be construed as a waiver or relinquishment of the future performance of any such item, covenant, or condition or the future exercise of such right, and the obligation of Seller, with respect to such future performance, shall continue in full force and effect. None of the Sections, terms, conditions, or provisions herein shall be waived by any act or knowledge on the part of VERMILLION, except by written instrument signed by a duly authorized representative of VERMILLION. The waiver by VERMILLION of any term, condition, provision, or right hereunder, or the failure to enforce at any time any of the terms and conditions herein, or any rights with respect thereto, is not a continuing waiver or a waiver of any other rights, or of any material breach or failure of performance of Seller. The remedies herein reserved or created for VERMILLION shall be cumulative, and additional to any other or further remedies provided at law or in equity. VERMILLION may remedy any breach of the terms or conditions hereof without waiving the breach remedied, or without waiving any other prior or subsequent breach.
33. **SEVERABILITY:** If any term, condition, or provision herein is invalid, ineffective, or unenforceable under present or future laws, then the remainder of the terms, conditions, and provisions shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated.
34. **PARTIES:** The parties to any offer, order, or associated transaction, are VERMILLION and Seller as identified above and unless expressly stated otherwise, no other persons, parties, or entities have any rights, or receive any benefits hereunder.
35. **AWARENESS:** The seller shall ensure that persons doing work under the seller's control are aware of the seller's quality policy, relevant quality objectives, their contribution to the effectiveness of the seller's QMS, including the benefits of improved performance, the implications of not conforming with the QMS requirements, relevant QMS documented information and changes thereto, their contribution to product or service conformity, their contribution to product safety, and the importance of ethical behavior.
36. **HEADINGS:** The headings used herein are for reference purposes only, and shall not affect the meaning or interpretation of any term, condition, or provision herein.
37. **ENTIRE AGREEMENT:** These terms and conditions (including VERMILLION Addendum's or other Special Terms and Conditions, as applicable) and VERMILLION's order, including any applicable specifications, statement of work, or other applicable documents, constitute the entire agreement between the Parties, and supersede any prior oral or written agreements, commitments, understandings, or communications with respect to the subject matter of VERMILLION's order.
38. **SURVIVAL:** Any section or provision herein which contemplates performance or observance subsequent to any termination or expiration of this agreement, or which by its nature should survive, shall survive any termination or expiration of VERMILLION's order and continue in full force and effect.

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