



**ATTACHMENT A**  
**TO JAXON PURCHASE ORDER**  
**STANDARD PURCHASE ORDER PROVISIONS - MATERIALS**

**1.0 Shipments**

- 1.1 SUPPLIER (meaning the party identified in the Purchase Order to which these provisions are attached) shall deliver the goods described in this Purchase Order in good condition and properly packaged for shipment.
- 1.2 If no additional instructions are provided, SUPPLIER must use correct packing and shipping classification descriptions to obtain lowest applicable shipping rates.
- 1.3 Unless otherwise specified, no charge for packing, cartage, or insurance will be allowed.
- 1.4 No shipment is deemed completed until Jaxon has received the bill of lading or transportation receipt, unless otherwise specified.
- 1.5 Jaxon encourages the SUPPLIER to use biodegradable, reusable or recyclable packaging materials for shipments under this Purchase Order, in addition to minimizing unnecessary packaging material.
- 1.6 Unless otherwise indicated on this Purchase Order, shipping terms shall be FOB Destination Freight Prepaid. If shipping terms are stated on this Purchase Order, those terms shall take precedence over this Article.
- 1.7 The Purchase Order and project numbers, which appear on the face page of this Purchase Order, must appear on all invoices, packing/delivery tickets, cartons, correspondence etc.

**2.0 Invoices and Payment**

- 2.1 Each invoice must show applicable discounts, be strictly consistent with this Purchase Order, and be accompanied by the bills of lading or transportation receipts, unless otherwise specified.
- 2.2 Any invoice deviating from the requirements of the Purchase Order and this Article will be returned to SUPPLIER for correction and/or acceptable support. Cash discounts will apply from the date a correct, properly supported invoice is received by Jaxon, or the date goods are received, whichever is later.
- 2.3 The terms of payment as shown on this Purchase Order shall take precedence over terms of payment shown on SUPPLIER's invoices or elsewhere.
- 2.4 SUPPLIER shall submit with each invoice waivers of liens, or proof of payment for all expenses (including labor and materials), if requested by Jaxon.
- 2.5 All payments to SUPPLIER shall be made in United States Dollars unless otherwise indicated within this Purchase Order.

**3.0 Deliveries and Delays**

- 3.1 All delivery dates must be met by SUPPLIER.
- 3.2 SUPPLIER shall not be responsible for delays resulting from occurrences beyond its control which it could not have reasonably anticipated and provided for. In such event, SUPPLIER shall give Jaxon written notice within five (5) days of such occurrence. Jaxon shall determine an equitable extension of time for delivery. SUPPLIER's failure to so notify Jaxon of such delay shall constitute a waiver of SUPPLIER's right to a time extension. There shall be no price adjustment by virtue of any such time extension.

#### **4.0 Inspections and Acceptance**

- 4.1 All goods shall be subject to inspection and testing by Jaxon or its designee at SUPPLIER's premises and at the delivery location or other location designated by Jaxon. Notwithstanding any inspection at SUPPLIER's plant, final inspection and acceptance of the goods shall be at Jaxon's project site or other location designated by Jaxon.
- 4.2 If inspection and tests, whether preliminary or final, are made on SUPPLIER's premises, SUPPLIER shall furnish without additional charge, all reasonable facilities and assistance for safe and convenient inspection and tests required by Jaxon and/or its customer, as the case may be. Inspection by Jaxon and/or its customer, or failure to inspect by Jaxon and/or its customer shall not relieve SUPPLIER of any responsibility or liability with respect to this Purchase Order and shall not be interpreted in any way to imply acceptance by Jaxon.
- 4.3 Jaxon reserves the right to reject nonconforming goods and require SUPPLIER to promptly remove the rejected goods at its expense. Jaxon shall have the option either to require SUPPLIER to replace rejected goods at SUPPLIER's expense or to cancel this Purchase Order.
- 4.4 Jaxon reserves the right to revoke acceptance of goods if Jaxon accepted the goods on the reasonable assumption that nonconformity would be cured by SUPPLIER and has not been reasonably cured, or without discovery of nonconformity if Jaxon's acceptance was reasonably induced either by the difficulty of discovery before acceptance or by SUPPLIER's assurances. In the event of such revocation, the provisions of Article 5.0 shall apply.
- 4.5 Jaxon may, at its option, inspect goods provided by or expedite the performance of SUPPLIER's lower-tier suppliers.

#### **5.0 Termination**

Jaxon shall have the right to terminate all or any part of this Purchase Order for its convenience. In the event of termination, SUPPLIER shall not be entitled to any compensation, except for the reasonable value of conforming goods delivered by SUPPLIER and accepted by Jaxon prior to termination. This compensation shall not exceed the Purchase Order total.

#### **6.0 Warranties**

##### **6.1 SUPPLIER warrants that:**

6.1.1 All goods furnished shall be free from defects in material and workmanship and shall conform to specifications and/or drawings.

6.1.2 SUPPLIER shall replace, without cost to Jaxon, to include removal, shipping and re-installation costs for any nonconforming goods, if the nonconformity is observed within one (1) year from the date such goods are placed in use or one (1) year from the delivery date, whichever first occurs.

6.1.3 If the SUPPLIER provides engineering, design, or specifications, all express, implied and statutory warranties apply (including, without limitation, warranties of merchantability and fitness for purpose).

6.1.4 If SUPPLIER fabricates and/or delivers only, SUPPLIER makes no other warranties, either express or implied (including without limitation, warranties of merchantability and fitness for purpose).

6.1.5 SUPPLIER has acquired all required rights, permits, and licenses to fulfill its obligations under the Purchase Order, and the goods supplied to Jaxon hereunder do not infringe any patent, trade secret, or other proprietary right of any person.

6.1.5 As to catalog items, all expressed and implied warranties shall apply.

6.2 SUPPLIER's warranties (including service warranties, if any), shall accrue to the benefit of and be actionable by Jaxon, its successors, assigns and customers.

6.3 Goods replaced pursuant to this Article shall be subject to the warranties outlined in this Article.

## **7.0 Changes**

- 7.1 Jaxon shall have the right (by revision to this Purchase Order or through revised drawings, specifications, or other transmittals), to make changes in the specifications of goods ordered.
- 7.2 If any change affects the price or delivery date of such goods, SUPPLIER shall immediately notify Jaxon in writing; and shall, within fifteen (15) days of the date such revision is mailed or otherwise delivered to SUPPLIER, submit a written claim for adjustment of price and/or delivery date. If SUPPLIER fails to do so, SUPPLIER waives any claim for an adjustment.
- 7.3 SUPPLIER shall not suspend performance while Jaxon and SUPPLIER are in the process of making revisions and any related adjustments.

## **8.0 Codes, Laws and Regulations**

All goods and services provided under this Purchase Order shall comply with all applicable codes, laws, regulations, standards, and ordinances.

## **9.0 Indemnification for Infringing Goods**

- 9.1 SUPPLIER will, at its sole expense, defend and pay all damages and costs awarded in any proceeding brought against Jaxon, its employees, agents, or customers, in which it is claimed that the manufacture, sale, or use of any goods or their parts, furnished in response to this Purchase Order constitutes an infringement of any patent or other proprietary information right, provided SUPPLIER is promptly notified of the commencement of any such proceeding. SUPPLIER's indemnity, as to use, applies only when infringement occurs from the normal use for which the goods were sold. Jaxon and/or Jaxon's customer may, at their option, be represented at any such proceeding.
- 9.2 If such manufacture, sale, or use is held in any proceeding to constitute an infringement and is enjoined, SUPPLIER, at its expense, shall either procure for Jaxon and its customer the right to manufacture, sell, and use such goods; or replace the goods with substantially equal but non-infringing goods; or modify the goods to make them substantially equal but non-infringing; or remove the goods and refund the purchase price and transportation and installation costs of them.

## **10.0 Assignment**

Any assignment by SUPPLIER of this Purchase Order, or any rights and duties associated with it, without the written consent of Jaxon, shall be void.

## **11.0 Review and Comment on SUPPLIER's Drawings, Specifications and Calculations**

Drawings, specifications, and calculations submitted by SUPPLIER to Jaxon with a request for review may be reviewed and commented upon by Jaxon. Jaxon's review and comment shall relate only to the general arrangement. In no event will Jaxon's review and comment relieve SUPPLIER of the responsibility to comply with all of the provisions of this Purchase Order.

## **12.0 Confidential Information**

- 12.1 All drawings, specifications, technical data, and other information furnished to SUPPLIER by or through either Jaxon or its customer in connection with this Purchase Order are and shall remain the property of Jaxon or its customer, and shall not be copied or otherwise reproduced or used in any way except in connection with performance of this Purchase Order, or disclosed to third parties or used in any manner detrimental to the interests of Jaxon or its customer. Upon completion, termination, or cancellation of this Purchase Order, SUPPLIER shall promptly return to Jaxon or its customer all drawings, specifications, technical data, and other information furnished by Jaxon or its customer in connection with the performance of this Purchase Order.

12.2 All drawings, specifications, and technical data furnished by SUPPLIER, which are marked by SUPPLIER as "proprietary" or "confidential" shall remain the property of SUPPLIER and shall not be copied or otherwise reproduced or used in any way by Jaxon except in connection with the project for which they are furnished, and will not be disclosed to third parties except Jaxon's customer or used by Jaxon in any manner detrimental to SUPPLIER.

### **13.0 Equal Employment Opportunity**

U.S. SUPPLIERS shall comply with applicable laws, executive orders, and regulations concerning nondiscrimination in employment including but not limited to the Equal Opportunity Clause of Section 202, Executive Order 11246, as amended.

### **14.0 Responsibility**

SUPPLIER shall defend, hold harmless, release and indemnify Jaxon and its customer as well as their agents and employees against any claim, loss, injury (including death), or damage including attorneys' fees and costs arising out of the performance of this Purchase Order, or the goods provided, excluding losses, injuries, or death caused by the sole negligence of Jaxon or its customer.

### **15.0 Survival and Severability**

If any of the Provisions contained in this SUBCONTRACT are held invalid, illegal, or unenforceable, the enforceability of the other remaining provisions shall not be impaired. Limitations of liability, indemnities, and other express representations shall survive termination of this SUBCONTRACT for any cause.

### **16.0 Remedies**

Jaxon's remedies shall be cumulative and in addition to any further remedies provided in law or equity. No waiver of a breach of any of the provisions of this Purchase Order shall constitute a waiver of any other breaches.

### **17.0 Related Services**

Whenever SUPPLIER furnishes personnel for supervision, startup, testing, inspection, related services, or maintenance (the Work), the following provisions shall apply, in addition to other applicable provisions of this Purchase Order including compensation:

17.1 SUPPLIER represents that SUPPLIER, its agents, and employees, are qualified and competent to perform the Work and that all tools and equipment furnished by SUPPLIER in its performance of the Work are, and shall be, kept in good working order.

17.2 SUPPLIER asserts that the Work shall be performed in accordance with accepted standards and shall conform to the requirements of this Purchase Order. Any Work not so performed or not in conformity with this Purchase Order shall be corrected by SUPPLIER at no cost to Jaxon. If such deficiencies are not immediately corrected, Jaxon may cause the same to be corrected at SUPPLIER's cost. This remedy is in addition to any other remedies, in law or equity, available to Jaxon.

17.3 Completion and Acceptance: When SUPPLIER deems the Work completed, SUPPLIER shall give Jaxon notice in writing. Within a reasonable time after receipt of the notice, Jaxon will determine if the Work has been completed to its satisfaction; if so, Jaxon will advise SUPPLIER, in writing, of its final acceptance; if not, Jaxon will notify SUPPLIER of its lack or failure of performance and SUPPLIER will take remedial action as described in Article 17.2 and will repeat the procedure stated until the Work has been satisfactorily completed and accepted.

## **18.0 Insurance**

In the event that performance of this Purchase Order requires SUPPLIER to enter onto the premises of Jaxon or its CLIENT, SUPPLIER and any approved subcontractors agree to procure and maintain for the duration of performance of this Purchase Order, workers compensation, comprehensive general liability, bodily injury, and property insurance in reasonable amounts, and such other insurance as Jaxon may reasonably require.

## **19.0 Taxes and Duties**

SUPPLIER has included in its price and agrees to pay all Federal, State, or local taxes as well as any import/export duties and fees imposed by law (regardless of point of origin) upon or on account of, the manufacture, sale, transport/shipment, or delivery of the goods or services furnished for this Purchase Order, unless otherwise indicated by Jaxon in this Purchase Order.

## **20.0 Legal Costs**

If it becomes necessary for Jaxon to take legal action to enforce any term of this Purchase Order, SUPPLIER shall be liable to Jaxon for all costs included in such legal action, including reasonable attorney's fees and litigation costs.

## **21.0 Administrative Correspondence**

All certificates of insurance, request for change orders, signed Purchase Orders and general correspondence are to be sent to the attention of the Buyer.

## **22.0 Employee Safety**

SUPPLIER is solely responsible for the safety of its employees and the employees of its approved subcontractors.

## **23.0 Purchase Orders for Commercial Items (The SUPPLIER shall include the terms of this Article in subcontracts awarded under this Purchase Order.)**

If this Purchase Order is for a commercial item as defined at FAR 2.101 and Jaxon's customer is the U.S. Federal Government, the following shall apply:

- (i) FAR 52.203-13, Contractor Code of Business Ethics and Conduct (Oct 2015);
- (ii) FAR 52.219-8, Utilization of Small Business Concerns (Nov 2016), including all lower-tier subcontracts that offer further subcontracting opportunities. If the lower-tier subcontracts (except subcontracts to small business concerns) exceed \$550,000 (\$1,000,000 for construction of any public facility), the SUPPLIER must include 52.219-8 in lower-tier subcontracts that offer subcontracting opportunities;
- (iii) FAR 52.222-26, Equal Opportunity (Sep 2016) (E.O. 11246);
- (iv) FAR 52.222-35, Equal Opportunity for Veterans (Oct 2015);
- (v) FAR 52.222-36, Equal Opportunity for Workers with Disabilities (July 2014);
- (vi) FAR 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010). Flow down as required in accordance with paragraph (f) of FAR clause 52.222-40);
- (vii) FAR 52.222-50, Combating Trafficking in Persons (Mar 2015);
- (viii) FAR 52.222-54, Employment Eligibility Verification (Oct 2015);
- (ix) FAR 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (flow down required in accordance with paragraph (d) of FAR clause 52.247-64).

## 24.0 Human Trafficking

- 24.1 This Article 24.1 shall apply if the SUPPLIER is organized under the laws of the United States of America. The parties agree to comply with all applicable provisions of U.S. law regarding the U.S. Government's "zero tolerance" policy against human trafficking, including without limitation the Trafficking Victims Protection Act, 22 U.S.C. § 7104, as amended; the National Security Presidential Directive/NSPD-22; FAR 52.222-50; and all other applicable laws, statutes, regulations, executive orders, and presidential directives.
- 24.2 This Article 24.2 shall apply if the SUPPLIER is not organized under the laws of the United States of America. SUPPLIER agrees to strictly comply with all applicable laws, rules and regulations to which compliance is required by any lawful jurisdiction governing the trafficking of persons, including the recruitment, harboring, transportation, provision or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage or slavery.
- 24.3 SUPPLIER further agrees that this Article shall be flowed down to all of its Lower Tier Subcontractors at any tier. Any violation of this Article shall be considered cause for termination for default.

## 25.0 Governing Law

When issued under or in support of a contract with the United States Government, to the extent applicable, this Purchase Order will be construed and interpreted according to the federal common law of government contracts as enunciated and applied by federal judicial bodies, Boards of Contract Appeals, and quasi-judicial agencies of the federal government. To the extent that the federal common law of government contracts is not applicable or dispositive, or if the Purchase Order is not issued under or in support of a contract with the United States Government, the laws of the State of Colorado, without regard to conflict of laws principles, shall apply.

## 26. Conflict Minerals Disclosure

Pursuant to Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 and its implementing regulations, Buyer is required to identify the presence and source of Conflict Minerals (gold, tantalum, tin, or tungsten) contained in Buyer's manufactured products. Buyer has implemented a comprehensive Conflict Minerals compliance program. It is a requirement of this Purchase Order that Seller shall be familiar with this information and make all reasonable efforts to assist Buyer in identifying the presence and source of Conflict Minerals contained in the products sold by Seller to Buyer, as described further below:

- 26.1 As of the time of award of this Purchase Order, Seller represents that: (i) The Product(s) Seller will be supplying under this Purchase Order do not contain (a) gold or (b) tantalum, tin, or tungsten (derivatives of columbite-tantalite (coltan), cassiterite, and wolframite); or (ii) Alternatively, if the Product(s) contain gold, tantalum, tin, or tungsten, Seller agrees to provide Buyer one of the following completed forms prior to delivery of the Product(s):
- i. The Global E-Sustainability Initiative Conflict Minerals Reporting Template ("GeSI CMRT") available at <http://www.conflictreesourcing.org/conflict-minerals-reporting-template>, with "Product" selected under the "Declaration Scope or Class" field;
  - ii. Written documentation about the source of Conflict Minerals in the Product(s) that provides substantively similar information to that requested by the GeSI CMRT.
- 26.2 Any GeSI CMRT provided pursuant to paragraph a(ii) above shall also be submitted to Buyer in writing.
- 26.3 If the status of any Product(s) changes during performance of this Purchase Order so that the representation or information provided pursuant to paragraph A of this provision is no longer accurate, then Seller must within 30 days complete and submit updated, accurate and current information as provided in paragraph B above.
- 26.4 If Buyer determines that any representation made by Seller pursuant to this provision is inaccurate or incomplete in any respect, or Seller fails to timely submit the information required by this provision, then Buyer may terminate this Purchase Order for default.

## **27.0 New Materials – Counterfeit Products Avoidance**

- 27.1 Definitions: The term “Material” or “Product”, as used in this clause, includes, but is not limited to raw material, parts, components, assemblies, and end items. The term “New”, as used in this clause, means Original Equipment Manufacturer (OEM) or Original Component Manufacturer (OCM), Material previously unused or composed exclusively of previously unused Material, allowing for conventional use including, but not limited to integration, installation, assembly, test, burn-in, training, troubleshooting, and rework as required. The term “Counterfeit Material” or “Counterfeit Product” means Materials or products salvaged, produced or altered to resemble a product without authority or right to do so, with the intent to mislead or defraud by presenting the imitation as New Material or Product.
- 27.2 Unless Buyer specifies otherwise in writing, Seller shall deliver New Material and Products under this subcontract that are fully warranted.
- 27.3 Seller shall not deliver Counterfeit Material or Products to Buyer under this subcontract. Seller represents and warrants that it has policies and procedures in place to ensure that none of the Products furnished to Buyer under this Subcontract are or contain Counterfeit Material or Products.
- 27.4 Seller represents and warrants that all electronic parts delivered under this subcontract are obtained from OEMs, OCMs, or their authorized dealers. If electronic parts cannot be obtained from OEMs, OCMs, or their authorized dealers and must be procured from alternative source(s), Seller shall obtain Buyer’s written approval before making such procurements. Seller shall employ, or cause to be employed, inspection, testing and authentication processes reasonably designed to detect and avoid Counterfeit Material and Products and shall provide written description of Seller’s detection and avoidance processes and a certification of Seller’s use of such processes to Buyer on or before delivery.
- 27.5 Seller shall immediately notify Buyer when Material or Products are found or suspected to be Counterfeit. Notice must be in writing and must be provided to Buyer within 10 days of discovery.
- 27.6 Upon request, Seller shall provide OEM/OCM documentation that enables traceability of the affected Material to the applicable OEM/OCM.
- 27.7 Should any Material or Products delivered under this Contract constitute or include Counterfeit Material or Products, Seller shall, at its expense, promptly remove and replace such Counterfeit Material or Products with genuine parts conforming to the requirements of this Subcontract. Notwithstanding any other provision in this subcontract, Seller shall be liable for all costs relating to the removal and replacement of Counterfeit Material or products, including, without limitation, Buyer’s costs of removing Counterfeit Material or products, of installing replacement New Material or products and of any testing/corrective action necessitated by the replacement of Counterfeit Material or products. The remedies contained in this paragraph are in addition to any remedies Buyer may have at law, equity or under other provisions of this subcontract.
- 27.8 Seller shall include this clause or equivalent provisions in any subcontracts that Seller issues for the delivery of New Material or Products that will be included in or furnished to Buyer.

## **28.0 Complete Agreement**

- 28.1 Either SUPPLIER’s return of an acknowledgment copy of this Purchase Order or SUPPLIER’s commencement of performance of this Purchase Order shall constitute SUPPLIER’s acceptance of this Purchase Order including these terms and conditions, attachments, flowdown terms, and special instructions/other terms outlined within the Purchase Order.
- 28.2 The Purchase Order along with the terms and conditions, attachments, flowdown terms. and any special instructions or other terms shall constitute the entire agreement between the parties. No terms or conditions stated by the SUPPLIER in its bid or proposal, acknowledgment or other correspondence shall be binding upon Jaxon if different from or in addition to the express provisions of this Purchase Order. Any additions to or variations from the same offered by SUPPLIER will be deemed proposals for revision to this Purchase Order and shall be binding only if made in writing and signed by an authorized representative of Jaxon.