

NISHATI, INC.
PURCHASE ORDER
TERMS AND CONDITIONS

1. Acceptance. As used herein, "Seller" means the legal entity that will sell the products; "Buyer" means Nishati, Inc.; "Order" or "Purchase Order" means the Buyer's order for Seller's products. The purchase of products by Nishati, Inc. is governed by and subject to these Terms and Conditions. This Purchase Order constitutes Buyer's offer to Seller and is not an acceptance or confirmation. This Purchase Order becomes a binding contract only when it is accepted by Seller either by returning a copy signed on the acknowledgment line, or by commencement of performance. Buyer hereby objects to any additional or different terms contained in Seller's acceptance. Any such terms will not be binding on Buyer unless expressly accepted, in writing, by Buyer.

2. Delivery; Shipping. Time is of the essence in the performance of this Purchase Order by Seller. All shipments are F.O.B Origin Freight Collect at the point identified in the Purchase Order. If Seller fails to meet scheduled shipment dates, then Buyer may direct expedited routing and charge any excess costs incurred thereby to Seller. If Seller fails to produce the goods or perform the services as scheduled herein, then Buyer may cancel all or any part of this Purchase Order. Seller is not authorized to require shipments of goods (a) in advance of the scheduled shipment dates, and (b) in excess of the quantity(ies) authorized herein. Buyer reserves the right to return all early or excess shipments to Seller and Seller shall pay for all packing, handling, sorting, and transportation expenses incurred in connection with such shipments.

3. Packing. Unless otherwise specified herein (a) all packing and crating of goods by Seller must be in compliance with carrier's tariffs and in suitable containers for protection in shipment and storage, and (b) the price(s) include all charges for Seller's packing, crating and transportation to the F.O.B. point. A packing list, which references this Purchase Order, shall accompany each shipment of goods. All packaging and insurance costs, if any, are included in the price of the goods.

4. Title; Risk of Loss. Title to goods shall pass to Buyer upon acceptance of the goods and notification to the Seller, once inspected at the delivery location. Buyer shall bear all risk of loss or damage to goods during transit. Seller will promptly notify Buyer of any anticipated production delays, the reasons therefore, the length of the delay, and the means to avoid or minimize the delay. Any additional costs incurred to prevent or reduce delays are borne by Seller.

5. Inspection; Test. All goods and services delivered shall be subject to inspection and test by Buyer at destination, within five (5) business days of receipt of the goods unless otherwise provided on the face of this order. Buyer will accept goods, in writing including email, if they comply with the specifications set forth herein. If any goods or services are defective in material or workmanship, or otherwise not in conformity with the requirements of this Purchase Order, then Buyer shall have the right to (a) reject such goods or services within five (5) business days; or (b) retain and correct such defects at the expense of Seller, or (c) return the goods or services to Seller and require correction by Seller at the expense of Seller. Rejected goods will be returned to Seller at Seller's risk for credit, and Seller shall pay to Buyer all costs incurred for packing, handling, sorting, and transportation expenses incurred in connection with the rejected goods. No inspection, test, or acceptance of any goods or services will relieve Seller from responsibility for, and correction of, defects or other failures to meet the requirements of this Purchase Order.

6. Changes. Buyer shall have the right, at any time, to make changes, in writing, to and within the general scope of this Purchase Order in the services to be rendered or the goods to be furnished, or the time or place of performance by Seller. If such changes affect the time for performance or the cost of furnishing the goods or services, then Buyer will make an equitable adjustment in the price or schedule of this Purchase Order. Any claim by Seller for an adjustment under this clause must be asserted no later than 20 days from the date of receipt of the notice of change. Seller agrees to proceed with this Purchase Order, as changed, notwithstanding a mutually agreed price and/or delivery schedule has not been negotiated.

7. Warranty. Seller warrants that the goods furnished or the services performed will conform (a) to applicable specifications, drawings, designs, samples and/or other descriptions furnished or specified by Buyer; or (b) Seller's sales literature, and will be fit and sufficient for their intended use, merchantable, of good material workmanship, and free from defect (including, without limitation, defects of design unless the design was furnished by Buyer). Buyer may return any goods that are warranted, at Seller's expense, for correction, replacement, or credit, as Buyer may direct, within thirty (30) months of receipt of goods or reject services not in compliance with the statement of work and demand re-performance. In the event of any conflict between the Seller's sales literature and the terms of this Purchase Order, then the terms of this Purchase Order shall prevail. Any warranties offered by Seller shall not be deemed to limit any other warranties given to Buyer, or to limit Buyer's rights or Seller's obligations under any other provisions of this Order, at law or equity. No warranties are waived by Buyer by reason of Buyer furnishing specifications to Seller.

8. Indemnification. (a) To the extent that Seller's agents, employees, invitees, or subcontractors enter upon premises occupied by or under the control of Buyer, or any of its customers, or suppliers, in the course of the performance of this Order, Seller must take all necessary precautions to prevent the occurrence of any injury to or death of any persons, or of any damage to any property arising out of acts or omissions of such agents, employees, invitees or subcontractors; and except to the extent that any such injury or damage is due directly and solely to Buyer's negligence, Seller will indemnify, defend, and hold Buyer, its officers, directors, consultants, employees and agents harmless from any and all costs, losses, expenses, damages, claims, suit or any liability whatsoever, including attorney, accountant, and consulting fees, arising out of any act or omission of Seller, its agents, invitees, employees, and subcontractors; (b) Seller agrees to indemnify Buyer, and its employees and customers from all liability, loss, costs, damages or expenses, including costs of suit, and attorney, accountant, and consulting fees, which any one or more of them may suffer or incur as a result of Seller's breach of any warranty or any other term or condition of this warranty; (c) Seller further warrants that the sale, use, or incorporation into any goods or products of any rights furnished or licensed hereunder will be free and clear of any infringement of any valid patent, copyright, trademark, or other proprietary data, and agrees it will save and hold harmless Buyer and its agents, employees, customers from any liability, loss, damage, cost or expense which may be incurred by reason of infringement of any patent, copyright, trade mark, or other proprietary rights, and that it will at its own expense defend any action, suit, or claim in which such infringement is alleged with respect to the goods or services delivered hereunder. Buyer will promptly notify Seller of any action brought against Buyer by a third party; (d) Seller agrees to indemnify Buyer against any liability, loss, cost, damage or expense by reason of Seller's noncompliance with Article 10, *infra*; (e) Seller will indemnify and save harmless Buyer from and against any and all damages, liabilities, penalties, fines, costs, and expenses, including accountant, attorney and consultant fees, arising out of claims, suits, allegations, or charges of Seller's failure to comply with the provisions of the export laws and regulations.

9. Assignment; Delegation. Seller may not assign its rights or delegate any of its performance under this Purchase Order, including subcontracting for all or any portion of the goods or services provided for herein, without the prior written consent of the Buyer, which shall not be unreasonably withheld. Payments, however arising whether to Seller or to an assignee, will be subject to setoff or recoupment for claims which Buyer may have against Seller.

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10. Compliance with Laws. Seller, at its sole expense, agrees to comply with all applicable local, state and federal laws, and regulations, executive orders, and ordinances issued pursuant thereto, which may be applicable to the production of goods or the performance of services.

11. Publicity. Seller shall not authorize any news release, advertisement, or other disclosure that denies or affirms the existence of this Purchase Order nor identify the Buyer as part of any order placed with Seller, without the prior written consent of Buyer.

12. Invoicing. Seller may remit invoices to Buyer only after the goods or services have been accepted by Buyer, or at such times as specified in this Purchase Order. Seller must include Buyer's Purchase Order Number on all invoices, as well as packing lists, bills of lading, containers, and correspondence.

13. Payment. Buyer will remit to Seller payment of approved amounts within thirty (30) days or as defined in this purchase order.

14. Taxes. The price stated on the face of this Purchase Order includes all federal, state, and local taxes, however designated, applicable to the goods and services purchased herein.

15. Governing Law. This Purchase Order is governed by the laws of the State of Colorado, venue in Denver County Judicial District, without regard to those laws regarding conflicts of law.

16. Remedies. The remedies herein reserved to Buyer are cumulative and in addition to any other remedies provided at law or equity or other terms of this Purchase Order.

17. Disputes. Any disagreement or conflict between the parties arising under or related to this Purchase Order shall be submitted in writing. The parties will use their best efforts to resolve any disagreements or conflicts between themselves escalating the negotiation to the most senior level of each party if necessary. If such disagreement or conflict cannot be resolved to the mutual satisfaction of both parties within 90 days after receipt of the written claim, or such additional time as the parties agree in writing, then either party may bring suit in a judicial district court, Denver County, Denver, Colorado. Pending any final decision, Seller will proceed diligently, as directed by Buyer, with performance of this Order.

18. Limitation of Liability. IN NO EVENT, REGARDLESS OF THE NATURE OF THE CLAIM OR CAUSE OF ACTION, INCLUDING BUT NOT LIMITED TO CONTRACT CLAIMS OR NEGLIGENCE, STRICT LIABILITY OR OTHER TORT CLAIMS, SHALL BUYER'S LIABILITY TO SELLER EXCEED THE PRICE PAID BY BUYER FOR THE PRODUCTS OR SERVICES GIVING RISE TO THE CLAIM OR CAUSE OF ACTION. UNDER NO CIRCUMSTANCES WILL BUYER BE LIABLE FOR ANY CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL OR OTHER INDIRECT DAMAGES INCLUDING, WITHOUT LIMITATION, LOSS OF BUSINESS, LOSS OF PROFIT, LOSS OF BUSINESS, EVEN IF BUYER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR LOSS.

19. Ownership. Seller retains all patents, copyrights, trade secrets rights and other similar intellectual property rights of its creation in the goods and services and product documentation and all trademarks used on or with the goods and services. Buyer agrees to honor such rights within applicable law.

20. Severability. If any provision of this Purchase order, or part thereof, becomes invalid or unenforceable by operation of law, such provision or part thereof, will be deemed severed, and the remainder hereof will continue in full force and effect.

21. Headings. The headings contained in this Purchase Order are for convenience of reference only, and in no way define, limit, or describe the scope of this Order.

22. Waiver. No waiver by the Buyer of any breach by the Seller of any obligations herein will constitute a waiver of a subsequent breach or of a breach of other obligations of the Seller.

23. Complete Agreement. This Purchase Order is the final, complete, and exclusive agreement between Buyer and Seller with respect hereof and supersedes and cancels all prior understandings, proposals, communications, whether oral or written, and agreements between Buyer and Seller. No usage of trade, and no course of dealing between Buyer and Seller, are relevant to, supplement, or explain any term or condition used herein.

24. Cross Guarantee. If any affiliate of the Seller takes any action which, if done by Seller would constitute a breach of this Purchase Order, then the same will be deemed a breach by the Seller with like legal effect.

25. Independent Contractor. Seller affirms that it is an independent entity and is not, for any purpose whatsoever, an employee or affiliate of Buyer.

26. Discontinuation. If the goods or services that are the subject of this Purchase Order are or will be de-standardized or discontinued within one (1) year after final delivery hereunder, then Seller shall give Buyer no less than 180 days advance written notice of such de-standardization or discontinuance during which time Seller shall accept orders from Buyer for a reasonable quantity of such items.

27. Lien Waivers. Seller shall furnish to Buyer, upon Buyer's request, waivers by Seller and all other persons entitled to assert any lien rights in connection with the performance of this Purchase Order.

28. Insurance. During the entire term of this Purchase Order, Seller will, at its sole cost and expense, procure and maintain insurance coverage as required by law; Comprehensive General Liability insurance to cover the value of the Purchase Order provided by the Buyer. Such insurance must be effective prior to the commencement of delivery of the goods or performance of services that are subject to this Order.

29. Reliance. Seller represents and warrants that Seller is an expert fully competent in all phases of the work involved in producing and supporting all goods and performing all services purchased under this Purchase Order.

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30. Buyer's Data. Seller shall not use or disclose any data, designs, or other information belonging to or furnished by or on behalf of Buyer, except in the performance of work by Seller.

31. Termination. Buyer reserves the right to terminate this Purchase Order without penalty to Buyer or recourse by Seller in the event of (a) any change in Seller ownership which in Buyer's sole judgment is of sufficient significance to jeopardize or potentially jeopardize performance hereunder; (b) the filing of a voluntary or involuntary petition for bankruptcy, liquidation, insolvency, or suspension of operations; or (c) Seller (i) fails to deliver the goods or perform the services by the due date specified in the Purchase Order or any extension thereof, or (ii) if the Seller fails to make progress in the work so as to endanger performance or (iii) if Seller fails to perform any of the other provisions of this Purchase Order in accordance with its terms, and in either of these circumstances does not cure such failure within a period of 10 business days (or such longer period as Buyer may authorize in writing) after receipt of notice from the Buyer specifying such failure. Furthermore, Buyer may, for its convenience, terminate work for goods or services under this Purchase Order in whole or in part, at any time by giving notice to Seller in writing. Seller will thereupon immediately stop work on this Purchase Order or the terminated portion thereof and notify any subcontractors to do likewise. Seller shall be entitled to (1) reimbursement of its actual costs incurred up to and including the date of termination, such costs to be determined in accordance with recognized accounting principles; and (2) a reasonable profit on the work done prior to termination at a rate not exceeding the rate used in establishing the original purchase price provided, however, that if it appears the Seller would have taken a loss on the Purchase Order, then no profit shall be allowed and reimbursement of costs shall be adjusted to reflect the indicated loss. In no event shall Buyer's obligations, as a consequence of termination, exceed the Purchase Order price of the portion terminated. At its election, Buyer shall have the right to direct the disposition of any or all work in process and parts and materials included in the Seller's reimbursed costs. Seller will comply with and be reimbursed for reasonable expenses incurred in effecting Buyer's directions. Prior to settlement of any termination claim, Seller grants to Buyer (i) the right to physically inspect any and all inventory included in the claim, and (ii) the right to audit the directly pertinent books, records and documents relating to the costs claimed for reimbursement.

32. Stop Work Order. Buyer may, at any time, by written order, require Seller to stop all or any part of the work called for by this Purchase Order for a period of up to ninety (90) days and for any further period to which the Parties agree. Upon receipt of such an order, Seller shall comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the Purchase Order during the period of the work stoppage. After the stop work order is cancelled, Seller shall resume work. An adjustment in the delivery schedule and or price shall be made if the stop work order reasonably and directly results in an increase in the time required for performance of the costs to perform

33. Foreign Disclosure. Performance of this Purchase Order may involve the use of or access to articles, technical data, or software that are subject to export controls under the International Traffic in Arms Regulations or the Export Administration Regulations. Seller represents and warrants that it is in full compliance with U.S. Immigration laws and regulations and, further, that it will comply with any and all Export laws and regulations and any license(s) issued thereunder. Seller further agrees that it will not give any foreign person access to technical data, software, or defense articles, or provide unauthorized defense services, without the prior written consent of the Buyer.

34. Force Majeure. Neither party shall be responsible for delays or failure in performance resulting acts beyond the reasonable control of such party. Such acts include, but are not limited to, acts of God, strikes, acts of war, epidemics, Government regulations superimposed after the fact, fires, communication line failures, power failures, earthquakes, acts of terrorism, or other disasters.

35. U. S. Government Clauses. If this Purchase Order is issued pursuant to, and in support of, a U. S. Government contract then certain acquisition regulations from the Federal Acquisition Regulation ("FAR") and the Department of Defense Federal Acquisition Regulation Supplement ("DFARS") is required by statute to be included by reference in the Purchase Order. Without limiting the Purchase Order provisions, the FAR and DFARS are incorporated by reference into this Purchase Order with the same force and effect as though set forth in full text. Whenever appropriate, references in the incorporated clauses to the "Government" shall mean "Buyer"; and references to "Contractor" shall mean "Seller"; and references to "Contract" shall mean this "Purchase Order" except (A) when a right, act, authorization, or obligation can be granted or performed only by the Government or the Buyer Subcontract Administrator or a duly authorized representative; (B) when access to proprietary financial information or other proprietary data is required; and (C) when specifically modified. Seller further agrees that, to the extent required by this Purchase Order, it will incorporate all of the FAR clauses that are incorporated herein by reference, in any lower-tier Subcontract. Seller further covenants that it will impose the terms of this Purchase Order, by reference or otherwise, as an obligation on all of its subcontractors to the extent required by this Purchase Order. A copy of the U. S. Government clauses will be sent to Seller upon request.