

Revision History			
Rev	Date:	Change	Approved By:
F	06-25-2020	Release of new numbering & add #35-Replaces DOC-843	D. Arnold

**1.0 Purpose:**

The purpose of Terms and Conditions is to communicate requirements associated with placement of a Purchase Order with an External Provider.

**2.0 Scope:**

The Terms and Conditions are applicable to all Purchase Orders issued and reference to this document is referenced.

**3.0 Application:**

Department Managers and Supervision have the general responsibility to ensure this process is followed and to resolve any unsolved issues. It is the responsibility of the applicable employee(s) to understand and follow these instructions.

**4.0 Validation:**

Periodic validation of this Procedure will occur through Internal or third party audits.

**5.0 Definitions:****6.0 References:****7.0 Procedure:**

**7.1 On the following page begins Athena Terms and Conditions to have public access:**

## Terms and Conditions

1. **CONTRACT:** This order constitutes the entire contract between the parties. Shipment of materials or performances of services pursuant to this order shall be deemed to be an acceptance by Seller or of the terms and conditions of this order regardless of whether or not Seller has acknowledged this order. Any additional or inconsistent terms or conditions in Seller's acknowledgement of this order are not binding on Buyer unless agreed to in writing by Buyer. No modification, termination or attempted waiver or release claimed by either party shall be valid unless in writing signed by the other party. Athena reserves right-of entry to seller's plant. Additionally, access must be extended to regulatory agencies and Buyer's customer.
2. **INSPECTION:** Buyer or the Buyer's Customer and Regulatory Authorities (if applicable) shall have the right, at its option, to inspect at Seller's plant or upon receipt any and all materials and to reject those which do not conform to Buyer's specifications or, if not so specified, which do not conform to standard specifications. All costs incurred and damages sustained by Buyer as a result of rejections made under these provisions shall be for Seller's account and Buyer may return such materials at Seller's expense. Materials are subject to Buyer's inspection notwithstanding prior payment by Buyer.
3. **WARRANTY:** All materials sold shall conform with the description set forth herein and shall be merchantable and fit for the particular purpose or use for which the materials are required by Buyer or its customer. Seller warrants furnished and/or installed by it to be new and not used or reconditioned and free from defects in materials or workmanship for a period of one year from the date of delivery or completion of installation whichever is later. Repairs or replacements of any defective materials shall be made by Seller without cost to Buyer at any time within the warranty period and upon Seller's failure to do so. Buyer may do so at Seller's expense provided five- (5) days prior written notices is given to Seller.
4. **INDEMNIFICATION:** Seller shall indemnify Buyer against any and all losses, liabilities, damages, fines, penalties and expenses, including reasonable attorneys' fees, arising in any way out of the purchase of the materials by Buyer or the use thereof by Buyer or its customer, including, without limitation, a claim, action or proceeding for (i) injury to or death of any person or damage to any property, (ii) a breach of any warranty or other provision of this order and (iii) a violation or alleged violation of any federal, state, or local laws or regulations resulting from the existence of any pollutant contaminant chemical or toxic or hazardous substance or waste in the materials. Seller shall maintain primary product liability insurance with such limits as shall be reasonably satisfactory to Buyer.
5. **EXCUSABLE DELAYS:** Neither party shall be liable for any delay or failure of performance due solely to strikes, fires or other causes beyond its control (including a failure or delay of any purchaser of material from Buyer due to any of the above contingencies) provided that the party subject to such delay shall have given notice to the other of any such cause for delay or anticipated delay promptly following the commencement thereof. If Seller should be unable, due to such a cause, to meet all of its delivery commitments for the materials ordered as they become due. Seller shall not discriminate against Buyer or in favor of any other customer in making deliveries of such materials. Seller shall use its best efforts to make deliveries as expeditiously as possible taking such cause for delay into account. However, if Buyer believes that the delay or anticipated delay in Seller's deliveries may impair its ability to meet its production schedules or Buyer's delivery schedule to its customers, Buyer may at its option, and without liability to Seller, cancel outstanding deliveries wholly or in part.
6. **TITLE:** Title to, and risk of loss of, materials purchased under this order shall rest upon Seller until such materials are delivered at the F.O.B. point specified in the order, or, if no point is given, then when they are delivered to Buyer or its customers, as the case may be. Even though title may pass at point of origin, the material is subject to subsequent inspection, and acceptance by Buyer and/or its customer at destination.
7. **INFRINGEMENT:** If a claim is made or an action is brought or threatened for infringement on any patent, trademark, trade name or copyright or for the unauthorized use of any trade secret or any litigation based thereon, arising out of the sale or use of the materials furnished pursuant to this order in accordance, in whole or in part, with the designs or specifications of Seller. Seller shall indemnify Buyer and its customers against any and all losses, damages, liabilities and expenses, including reasonable attorneys' fees in connection with such claim or action and shall defend such action at Seller's expense if requested by Buyer.
8. **LABOR INDEMNIFICATION AND INSURANCE:** If this order covers the performance of labor on Buyer's premises, Seller agrees to indemnify Buyer against any and all losses, liabilities, damages, fines, penalties and expenses, including reasonable attorneys' fees in any way out of the performance of this order, including, without limitation, a claim, action or proceeding for (i) damage to any property or injury to or death of any person, and (ii) violation or alleged violation of any federal, state or local law or regulation. Seller also agrees to furnish Buyer with a certificate from Seller's insurance carrier evidencing worker's compensation and primary comprehensive public liability, property damage and contractual liability insurance with such limits as shall be reasonable satisfactory to Buyer and including

Buyer as an additional insured.

9. **FABRICATION:** Fabricating and processing of parts and/or assemblies is to be governed by the shipping schedule as noted on the order. Seller is authorized to fabricate and assemble ONLY such part of this order as is necessary to meet the shipping schedules as indicated. Buyer assumes no liability for fabrication in excess of authorized releases unless prior approval has been obtained in writing.
10. **TAXES:** Unless otherwise provided herein, prices shown on this order are deemed to include all taxes, or other charges not expressly imposed by law on the Buyer of the materials ordered hereunder.
11. **COMPLIANCE WITH LAW:** In the performance of this order Seller shall comply with all applicable federal, state and local laws, rules and regulations. Seller certifies to Buyer that the materials purchased by Buyer were produced in compliance with all applicable requirements of the Fair Labor Standards Act of 1938, as amended, and the regulations. The Equal employment Opportunity clause prescribed by executive Order No. 11246 of September 24, 1965, as amended, is incorporated herein, unless this transaction is exempt under applicable regulations.
12. **BUYER'S PROPERTY:** All equipment or materials furnished to Seller by Buyer, and all designs, drawings, blueprints, jigs, fixtures, printing plates, dies, tools, patterns or other special equipment, charged by Seller to Buyer shall (i) be the property of the Buyer, (ii) be used by Seller at its own risk, (iii) not be used by Seller in production of materials for any third party without the written consent of Buyer, and (iv) be delivered by Buyer at its written request upon completion or termination of this order. Seller shall be responsible for all loss of damage to such property shall in Seller's custody. Buyer makes no warranties of any nature with respect to any such property it may furnish to Seller.
13. **SET-OFF:** Any monies due for materials furnished or work performed by Seller may be applied by Buyer to the payment of any sums which Seller or any affiliated company may owe to Buyer or any affiliated company of Buyer.
14. **ASSIGNMENT:** No assignment of this order or of any monies due or to become due hereunder shall be made without prior written consent of Buyer.
15. **TERMINATION FOR CAUSE:** Buyer may cancel this order upon written notice to Seller by mail directed to the address set forth on the face of this order, if the materials are not shipped within the time specified on the face, or if the materials do not conform with the description and warranties set forth herein, or if Seller files a voluntary petition under any federal or state bankruptcy or insolvency act, or if Seller becomes insolvent or is adjudicated a bankrupt.
16. **TERMINATION FOR CONVENIENCE:** Buyer may terminate this order for its own convenience, in whole or in part, at any time during the term of this order by giving written notice of termination to the Seller by regular mail directed to the address set forth on the face of this order. In the event of such termination, Seller immediately shall stop all worked and cause all of its suppliers and subcontractors to cease work. Buyer will pay Seller for finished work accepted by Buyer and, for orders released by Buyer under this blanket purchase orders, for the documented labor and material cost to Seller of work in process and raw materials allocable to the terminated work, less salvage value. In no event shall the Buyer be liable for loss of profit.
17. **APPLICABLE LAWS:** This contract and the respective rights and obligations of the parties shall be governed by and construed according to the laws of the state in which the materials are delivered or the services preformed.
18. **HAZARDOUS MATERIAL:** Seller shall provide Buyer with a "Material Safety Data Sheet" on all materials of a hazardous nature with each initial order or as required by law.
19. **QUALITY MANAGEMENT SYSTEM:** Vendor is required to maintain a Quality Management System that conforms to the QA Class definitions as listed below. The QA Class applicable is shown on the Athena Purchase Order:
  - **Class 1** – All Class 1 Vendors require a completed *Supplier Quality Evaluation Form* prior to adding to the Athena AVL. Class 1 vendors may require an onsite audit. **Potential High Risk Vendor** – Provides a service that directly affects Product Realization, (Special Processing, Outsourced Manufacturing, Assembly, BTP, etc.).
  - **Class 2** – All Class 2 Vendors require a completed *Supplier Quality Evaluation Form* prior to adding to the Athena AVL. **Potential Medium Risk Vendor** – Supplies finished product that adds value as supplied, to the Product Realization Process. (Paint, Hardware, Raw Material, Adhesives, etc.).
  - **Class 3** – All Class 3 Vendors require a completed *Supplier Quality Evaluation Form* prior to adding to the Athena AVL. **Potential Medium Risk Vendor** – Supplies product which will be used to add value to the product realization process. (Specifically raw material – both modified and unmodified). The term "raw material" has been used and is considered any material used as the base or foundation of manufactured product. Excluding any material (paint, hardware, adhesives, gaskets, etc) added during or after the manufacturing process.

- **Class 4** – All Class 4 Vendors (Customer Mandated) require a completed *Supplier Quality Evaluation Form* prior to adding to the Athena AVL. However, Initial evaluation shall be achieved by verifying the Vendor's approval status with The Customer, utilizing the most current method available (Customer's Supplier Portal, Approved Vendor List, etc.). If a locally stored AVL or equivalent is used, the revision must be verified as current if this method is used. Record of this will be maintained. **Potential Medium Risk Vendor** – Customer Mandated Vendors.
- **Class 5** – Class 5 vendors do not require a *Supplier Quality Evaluation Form*. These suppliers are typically Website/Catalog suppliers that require purchase made with credit card. Verification is accomplished through monitoring supplier performance and receiving inspection. Class 5 vendors do not affect product realization. **Low Risk** – Supplies product that does not affect the product realization process (Office Supplies, Maintenance Equipment, Tools, etc.).

We reserve the right to review the processes and records associated with this order at all suppliers' facilities with appropriate notification. This right extends to our customers, applicable regulatory agencies, and any sub-tier suppliers used in the fulfillment of this order. This right of access extends to all applicable areas of the supplier, and sub-tier suppliers facilities throughout the supply chain, as necessary to ensure Athena requirements are being fulfilled according to contract requirements.

20. Conformance records showing that the items listed above meet specifications are required for each different line item. Supplier shall provide Athena Manufacturing with an approved Certificate of Conformance, Certificate of Test, or Certificate of Analysis as appropriate to the product or service provided.
21. When Product or Service involves the supplier providing or utilizing raw materials within the deliverable product, raw material certificates that identify the lot, batch number, melt, or similar traceability shall be provided with each delivered lot. Where multiple lots or batches are shipped for any order, these shall be clearly identified and segregated to the best of the suppliers' ability.
22. Suppliers must maintain conformance and traceability records regarding the product or service provided in regards to this order. Such records shall be maintained for a period of no less than ten (10) years. Upon end of retention period, the Supplier shall notify Athena prior to disposal of any quality records.
23. All special processes required by this PO must be performed by qualified personnel. All special processes required by the PO must be performed following documented, approved procedures, work instructions, or methods.
24. Any differences between what is listed above and what is provided by the supplier must be clearly identified, communicated and approved prior to shipping.
25. Suppliers are not, under any circumstance, granted MRB authority to alter the product characteristics.
26. Unless specifically approved by Athena Quality Assurance Manager, Suppliers do not have Verification Authority. Suppliers delegated with Verification Authority shall be approved prior to implementing such activity. Athena Quality Assurance maintains a list of Suppliers with delegated Verification Authority.
27. Detection of a nonconforming product regarding any order (currently in work or previously shipped) must be promptly communicated to our quality department for risk assessment.
28. It is the responsibility of the supplier or vendor to ensure that any and all material or special processes purchased by Athena Manufacturing are in accordance with all necessary specifications of the most current revision. The current revision shall be clearly identified upon all documentation provided with each shipment.
29. All suppliers must acknowledge the ability, willingness to create, or affirm to the existence of, a method, program, or procedures to ensure the risk of counterfeit parts cannot be introduced into their system, processed, or delivered to Athena Manufacturing. If product delivered or in transit is found to be, or is suspect to be counterfeit, Athena Manufacturing shall be notified immediately.
30. Providers of products and services shall have a process in place that ensures their personnel are aware of their contribution to product or service conformity, their contribution to product safety, and the importance of ethical behavior, and communicate to any sub-tier providers, to address product safety
31. If any of this order is outsourced to your suppliers, all applicable requirements and specifications must be communicated (including all applicable key characteristics) to each sub-tier supplier used. Athena shall be notified prior to outsource of any work related to an Athena Manufacturing Purchase Order. Approval to use sub-tier suppliers shall be retained by the supplier. The supplier is responsible for ensuring the control of work transfer internally and externally to their sub-tier suppliers and to Athena Manufacturing.

32. To ensure that externally provided processes remain within the control of Athena's QMS, Supplier's On Time Delivery Performance (OTD) and Quality are monitored periodically. When performance levels do not achieve intended results and a negative trend is identified, Corrective Action from the supplier will be required.
33. If providing calibration services, all certificates must identify standards used and must be traceable to NIST (National Institute of Standards Technology).
34. Suppliers are to notify Athena of Changes or Obsolescence of products and/or processes definition. In addition, Athena shall be notified if any Location Change, Management Change, significant changes to approved Quality Systems including procedures, work instructions, or other processes that affected approval provided to suppliers. The aforementioned changes or obsolescence to product and/or processes will require 180 to 365 days documented advance notice to Athena. When required by contract, suppliers are to obtain Athena's approval prior to such changes occurring.
35. Athena has a compliance policy FAR 52.222-50, Human Trafficking. This policy is applicable to employees, contractors, subcontractors, sub-contractors employees and agents of Athena Manufacturing, LP. Athena requires contractors and sub-contractors to certify:
  - Its policies and practices prohibit engaging in the trafficking of persons, the use of forced labor, or the procuring of commercial sex acts in the county or countries in which it conducts business; and if applicable, it has implemented a compliance plan to prevent any prohibited activities identified at FAR 52.222-50 and to monitor, detect, and terminate any agent, subcontract or subcontractor employee engaging in prohibited activities and after conducting due diligence:
    - To the best of the sub-contractor's knowledge and belief, neither it nor any of its agents subcontractors, or their agents is engaged in any such activities.
    - To the best of the sub-contractor's knowledge and belief, abuses relating to any of the prohibited activities identified in FAR 52.222-50 have been found, the subcontractor has taken the appropriate remedial and referral actions
  - Failure to comply with the requirements of FAR 52.222-50 is grounds for Athena Manufacturing, LP to take any and all appropriate actions, up to and including immediate termination of that subcontractor's or agent's contract with Athena Manufacturing, LP
36. The following customer specific requirements must be complied with and any deviations communicated to Athena Mfg. LP., immediately in order to prevent supply chain disruption. Contact Athena for any assistance in processing per noted requirements.