



# Check Technology Solutions

Form 41

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Title: Terms and Conditions – Net 60

Rev. D

Revision Date: 6/24/19

Issued By: Purchasing

- Parties; Items.** Check Technology Solutions LLC, A division of CHECK CORPORATION, will be referred to as “Purchaser,” the person or company indicated on the front hereof with which this order is placed will be referred to as “Seller,” and Check Technology Solutions LLC’s Customer will be referred to as “end user.” All products or work covered by this order regardless of type will be referred to as “items.”
- Payment Terms.** Purchaser shall pay for items on purchase order 60 calendar days (Net 60) from date of seller’s invoice.
- Price.** Seller’s price shall not be higher than the quote accepted by purchaser. No additional charges of any kind will be allowed unless specifically agreed in writing. Except as may be otherwise provided in this order, the price includes all applicable federal, state and local taxes.
- Price Increase.** Unless purchaser consents in writing, this purchase order may not be billed at a price higher than set out on the face of the order. A requested price increase will be initiated in writing by seller, including specific data backup supporting requested increase. Requested price increase will be presented to purchaser and will only be accepted when upon written approval of purchaser. Seller will not stop shipment of items on order while waiting for purchaser’s acceptance to a price increase.
- Cost Downs.** Seller will make every attempt to participate in cost downs as mandated by purchaser.
- Late Delivery.** If for any reason seller fails to make delivery within the time specified, purchaser may at its option, approve a revised shipping schedule. Purchaser may request shipment via air or expedited routing at seller’s expense, or terminate this order without any liability. Purchaser will accept items five days prior to specified delivery date. Seller is not liable for failure to perform seller’s obligations if such failure is a result of Acts of God (including flood, earthquake, storm, hurricane or other natural disaster), war, invasion, act of foreign enemies, civil war, terrorist activities, and/or government sanction or blockage.
- Title and Risk; Shipment; Packing.** Unless otherwise specified, items which are to be shipped shall be shipped F.O.B. destination. Title and risk of loss with respect to items shall remain the responsibility of Seller until the Items have been delivered to destination. Seller shall be liable for damage to the items caused by improper packing. No charges will be allowed for boxing, crating, or packaging of any kind unless previously agreed to by Purchaser in writing. A packing slip must accompany each shipment. If a shipment is to a consignee or agent of Purchaser, a copy of the packing slip shall be forwarded concurrently to Purchaser. If no packing slip is sent, the count or weight reported by Purchaser or its agent or consignee is agreed to be final and binding on Seller with respect to such shipment.
- Compliance with Laws.** Seller warrants that the Items identified herein and their production and completion, together with the performance of work or services under this order, whether on or off Purchaser’s property, shall not violate nor cause Purchaser to be in violation of any applicable federal, state or local laws, rules, regulation or ordinances, and Seller shall hold Purchaser harmless from any liability resulting from failure of such compliance. Without limiting the foregoing, Seller certifies that the Items will be produced in compliance with applicable requirements of Section 12 of the Fair Labor Standards Act, as amended, of regulations and orders of the United States Department of Labor issued under such Act, and of the Occupational Safety and Health Act of 1970.
- Changes.** Purchaser shall have the right to make changes (including additions and omissions) from time to time in the Items, their specifications, drawings, designs, packing instructions or destination, or to postpone or accelerate to delivery schedule. Immediately upon such changes being ordered, the parties shall undertake to agree on an appropriate adjustment in price and/or other affected terms of this Purchase Order. Such adjustment in price of other terms of this Purchase Order must be in writing and signed by Purchaser to be binding upon Purchaser.



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10. **Inspection.** All items shall be received by purchaser subject to purchaser's inspection and right of rejection. If any of the items are found at any time to be defective in material or workmanship, or otherwise not in conformity with the requirements of this order, purchaser in addition to any other rights which it may have under warranties or otherwise, shall have the right to reject and return such items at supplier's expense, such items not to be replaced without suitable authorization from purchaser. All costs incurred by purchaser due to non-conforming material will be charged back to seller.
11. **Warranty by Seller.** Seller warrants all Items delivered hereunder to be free from defects in material or workmanship, to be of good and merchantable quality, and to conform strictly to any specifications, drawings, or samples which may have been provided to or furnished by Purchaser, and will be fit and sufficient for the purposed intended by Purchaser. Seller further warrants that it will have good title to the Items free and clear of all liens and encumbrances and will transfer such title to Purchaser. This warranty shall survive and inspection, delivery, acceptance of payment by Purchaser.
12. **Indemnification.** Seller shall indemnify and hold harmless Purchaser, it agents, confines, employees and representative of and against all expenses, losses, claims, demands, or causes of action of whatever kind, including negligence, breach of express or implied warranty, failure to warn, or strict liability, and from and against all special, indirect, incidental, or consequential damages, including lost profits, of every kind whatsoever arising out of, by reason of, or in any way connected with, accidents, occurrences, injuries or losses to or of any person or property, including Purchaser or Purchaser's property, which may occur before or after acceptance of the completed Items by Purchaser, in any way due or resulting from in whole or in part, the design, preparation, manufacture, construction, completion, warning or failure to warn, or of delivery or non-delivery of Items, including such as are caused by any subcontractor of Seller.  
Immediately upon receipt from Purchaser of written notice of any suit or claim relating to any risk described in the first paragraph of this section and upon written request by Purchaser, Seller shall assume the defense for the litigation. In any event, Seller shall pay for or reimburse Purchaser for all costs and expenses, including attorney's fees, arising out of any suit or claim relating to any risk described in the first paragraph of this Section 9.  
If requested by Purchaser, Seller shall maintain policies of liability insurance, declaring Purchaser as named insured, in such amounts as Purchaser shall designate, to protect Purchaser from all the risks, described in the first paragraph of this Section 9. Such policies of insurance shall not be cancelable except upon ten days' written notice to Purchaser. Upon request, Seller shall furnish proof of such insurance to Purchaser.
13. **Contingencies.** In the event of causes beyond the control of Purchaser, including but not limited to acts of God, fire, the elements, strikes, or labor disputes, and accidents or transportation difficulties, which would make it unreasonable in Purchaser's judgment to accept delivery hereunder, purchaser shall have the option to terminate this Purchase Order (in which event, Purchaser shall compensate Seller for those unavoidable costs which Seller cannot recover), or to delay the delivery or completion of all or part of the Items (such delay being without additional cost to Purchaser).
14. **Patent, Copyright or Trademark Infringement.** Seller shall indemnify Purchaser against and hold Purchaser harmless from any and all claims for infringement of any patent, copyright, trademark or trade name by reason of the manufacture, use, or sales of the Items. Seller shall indemnify Purchaser for any costs, expenses, liability and damages, including attorneys' fees, which Purchaser may incur by reason of any suit or claim of any alleged infringement. Immediately upon receipt from Purchaser of written notice of any suit or claim, Seller shall appear in and assume the defense of the litigation is Purchaser shall so request.
15. **Proprietary Information and Confidentiality.** All specifications, documents (including but not limited to drawings, designs, or technical manufacturing data and instructions), and prototype articles delivered by



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Purchaser to Seller are deemed to be incorporated herein by reference as if fully set forth herein. They are delivered solely for the purpose of Seller's performance of this order and on the express condition that neither they nor the information contained therein shall be disclosed to others nor used for any purpose other than in connection with this order without the prior express written consent of the Purchaser. Such specifications, documents, and articles shall remain the property of the Purchaser, and are to be returned to Purchaser promptly upon its written request. Such request may be made at any time during or after completion of Seller's performance. The obligations under this clause will survive the cancellation, termination or completion of this order.

16. **Dies, Tools, Etc. Used in Production.** No dies, tools, gauges, fixture, patterns or other such materials used by Seller in the production of this order will be supplied or paid for by Purchaser unless Purchaser has previously so agreed in writing, nor shall Purchaser be responsible for the cost of revisions or changes in any such materials which are incurred in connection with the production of this order without its prior written consent. All dies, tools, gauges, fixtures, patterns, etc supplied or paid for by Purchaser shall be or remain the property of Purchaser, and Seller shall promptly deliver materials to Purchaser, upon Purchasers, request, without any additional cost to Purchaser other than transportation charges.
17. **Termination for Convenience.** Purchaser reserves the right to terminate this order or any part hereof for its sole convenience. Seller shall be paid a reasonable termination charge consisting of Seller's direct costs properly incurred prior to the termination, together with a reasonable profit on that part of the work performed prior to receipt of the notice of termination.
18. **Termination for Cause.** Purchaser may also terminate this order or any part hereof for cause in the event of any default by the Seller, or if the Seller fails to comply with any of the terms and conditions of this offer. Without limiting any other rights of termination that Purchaser may have, late deliveries, deliveries of products which are defective or which do not conform to this order, and failure to provide Purchaser, upon request, of adequate assurances of future performance shall all be causes allowing Purchaser to terminate this order for cause.
19. **Limitation on Assignment.** Seller may not assign its obligations hereunder without the prior written consent of Purchaser.
20. **Licenses.** Seller shall be required to obtain and pay for any licenses, permits and inspections by public bodies required in connection with the Items.
21. **Equal Employment Opportunity and Other Non-Discrimination Clauses.** In the event that the Items identified herein are to be used in whole or in part for the performance of government contracts, Seller agrees that it will not discriminate against any employee or applicant for employment because of his/her race, color, religion, sex, age, handicap, or national origin, and that it will comply with all pertinent provisions of Title VII of the Civil Rights Act and any amendments thereto, Executive Order 11246, and 41 C.F.R. §60-250.4 (Viet Nam Veterans 20 C.F.R. § 741.3 (the handicapped), and 41 C.F.R. § 1-1310-2 (minority businesses), to the extent that they apply to the subject matter of this order, and all such pertinent provisions, agreements, clauses, directives, and executive orders are hereby incorporated by this reference.
22. **Waiver of Mechanic's Liens.** Seller hereby waives it rights to any mechanic's lien or other lien under any applicable statutes or otherwise for work done or materials furnished in connection with the Items. Seller shall obtain from any subcontractor or material man prior to the performance of any work on the Items, or to the furnishing of any materials for the Items, a written waiver satisfactory to Purchaser of such subcontractor or material man's right to any such lien and shall deliver such waiver to Purchaser promptly upon receipt thereof. Upon Purchaser's request, Seller shall obtain, without additional cost to Purchaser, a bond satisfactory to Purchaser to indemnify Purchaser against such liens and charges. Seller shall reimburse



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Purchaser for all costs and damages including attorney's fees and any special, indirect, incidental, or consequential damages incurred by Purchaser in connection with or as a result of the existence or discharge of any such lien or charge, which are not satisfied by such a bond. Amounts due to Seller under this order may be credited by Purchaser against amounts owed to Purchaser in respect of such costs or damages.

**Purchaser's Rights or Remedies.** Any rights or remedies granted to Purchaser in any part of this order shall not be exclusive of, but shall be in addition to, any other rights or remedies granted in any other part of this order and any other rights or remedies (including, without limitation, recovery of damages) that Purchaser may have at law or in equity. A waiver of a breach of any provision hereof will not constitute a waiver of any subsequent breach hereof, or a breach of any subsequent agreement containing these terms and conditions.

**Entire Agreement.** This document shall be deemed to contain the entire agreement between Purchaser and Seller and to constitute the complete and exclusive expression of the terms of the agreement, all prior or contemporaneous written or oral agreements or negotiations with respect to such terms as are included herein or are the subject matter hereof being merged herein. Seller's acceptance shall be deemed to incorporate, without exception, all the terms and conditions hereof notwithstanding any acknowledgment or other form of Seller containing additional or contrary terms or conditions, unless Seller shall have expressly advised Purchaser to the contrary in writing apart from the printed provisions of such form. In the event of a written request by Seller for additional or contrary terms or conditions, such modification may only be made in these terms and conditions by a written instrument signed by one of the Seller officers.

23. **Severability.** In the event that any words, phrase, clause, sentence, or other provision hereof shall violate any applicable statute, ordinance, or rule of law in any jurisdiction in which it is used, such provision shall be ineffective to the extent of such violation without invalidating any other provision hereof.