1. Definitions. The following definitions apply unless otherwise specified: (a) ‘PO’ or ‘Purchase Order’ – the Purchase Order along with these Terms and Conditions of Purchase, and any referenced special or supplemental provisions, drawings, technical data, specifications, statement of work, quality provisions (in all cases including any deliverables and documentation) and other attached or incorporated hereunto; (b) Buyer – any legal entity issuing this PO, as listed on the face of the PO; (c) ‘Procurement Representative’ – the individual authorized to issue this PO as the Buyer’s authorized representative of the Buyer's contiguous, or contract, or temporary employees; or Seller’s agent or Subcontractor, who is authorized to accept or decline the work, directly or indirectly, to Buyer under this PO; (d) “U.S.” – the United States of America. Further, the term “including” shall not be limited by any list of examples provided thereafter.

2. Entirety of Agreement. (a) Seller agrees to provide and sell to Buyer the Work, per the requirements and the Due Date(s) described in the PO. (b) This PO constitutes the complete and entire agreement between the parties hereto and unless agreed in writing otherwise, supersedes all previous negotiations, discussions, communications, representations, course of dealing, usage of trade, or agreements, whether oral or written, between the parties hereto with respect to the subject matter hereof. No agreement or understanding varying, contradicting or extending the terms or conditions of this PO, including Seller provided terms and conditions included within a quote, proposal, order acknowledgement, or like document, will be binding unless evidenced by a written change or modification to this PO signed by the Seller; or (c) ‘Change’ – any change made to the Work, directly or indirectly, to Buyer under this PO; (d) ‘U.S.’ – the United States of America. Further, the term “including” shall not be limited by any list of examples provided thereafter.

3. Seller’s Obligations. (a) Seller shall provide written notification to Buyer upon appropriate notice of any change to the Work, directly or indirectly, to Buyer under this PO. Seller shall notify Buyer of any pending or contemplated future action to discontinue Work purchased pursuant to this PO and shall immediately notify Buyer of any finalizing decision to discontinue the Work. Seller shall provide Buyer with a “Last Time Buy Notice” at least twelve (12) months prior to the actual discontinuance. Seller shall extend opportunities to Buyer to purchase Work for the balance of the Work included in the Work to be discontinued or Work to be combined with the Work to be discontinued, for a period of eight (8) days after the last time buy date. Seller shall flow down to Subcontractor(s) the requirements of this Clause and all other applicable flow down provisions.

4. Delivery and notifications. (a) Time is of the essence and Seller shall furnish the Work covered by this PO in accordance with the Due Date(s) stated on the face of this PO. Unless otherwise agreed to in writing by Buyer, Seller shall not make material commitments or undertakings that would preclude timely performance after the due dates indicated hereunto; (b) Seller shall use its best efforts to meet the Due Date(s). Seller shall strictly adhere to this PO’s Due Date(s) and completion schedule(s). Seller shall not make deliveries in advance of the Due Date(s) unless authorized in writing by Buyer. Work delivered to Buyer in advance of the Due Date(s) without Buyer’s authorization may be returned or stored by Buyer at Seller’s expense and without any obligation to Buyer. Deliveries will be made even in the event of a strike at Seller’s location, unless otherwise directed by Buyer. If Seller fails to deliver the Work within the schedule(s) as set forth herein at no change in Order price, (c) In the event of any anticipated or actual delay in the performance of this PO, Seller will immediately notify the Buyer in writing of the reasons for the delay and the actions being taken to overcome or minimize the delay along with a proposed written recovery schedule. If Buyer does not receive such notification within forty-five (45) days of the occurrence of the delay, Seller will be deemed not to have timely notified Buyer of the delay and no delay will be attributable to Buyer. If Buyer believes Seller’s representations to be incorrect, it may send a written request for verification within five (5) days of receipt of Buyer’s notice. (d) In the event that the Seller omits to contact Buyer in a timely manner or proceeds with the PO as changed.

5. Product Changes/Part Obsolescence. Seller shall provide written notification to Buyer of, or direct the implementation of, any changes in the Work that are the subject of this PO or amendments thereto, at least thirty (30) days prior to the occurrence of such changes, including any changes to the part or parts that are the subject of such changes, and, if applicable, the reasons for such changes. Seller shall provide written notification to Buyer upon becoming aware of any such changes by Seller’s Subcontractors at any tier, that could affect the Work in this PO. This notification includes changes to fabrication, assembly, handling, inspection, acceptance, testing, manufacturing location, parts, materials, or suppliers. Seller shall notify Buyer of any pending or contemplated future action to discontinue Work purchased pursuant to this PO and shall immediately notify Buyer of any finalizing decision to discontinue the Work. Seller shall provide Buyer with a “Last Time Buy Notice” at least twelve (12) months prior to the actual discontinuance. Seller shall extend opportunities to Buyer to purchase Work for the balance of the Work included in the Work to be discontinued or Work to be combined with the Work to be discontinued, for a period of eight (8) days after the last time buy date. Seller shall flow down to Subcontractor(s) the requirements of this Clause and all other applicable flow down provisions.

6. Disputes. In the event of any dispute or disagreement concerning the PO, the parties agree to proceed in accordance with the following: (a) Any dispute between Seller and Buyer shall be submitted to the Procurement Representative. Buyer’s approval of Seller’s design or Work shall not relieve Seller of its obligations to Buyer; (b) Seller shall extend opportunities to Buyer to purchase Work for the balance of the Work included in the Work to be discontinued or Work to be combined with the Work to be discontinued, for a period of eight (8) days after the last time buy date. Seller shall flow down to Subcontractor(s) the requirements of this Clause and all other applicable flow down provisions.

7. Waivers/Approvals. (a) Failure of Buyer to enforce at any time any provision of this PO, or any agreement or undertaking with respect to the Work furnished hereunder, shall not be considered to be a waiver or relinquishment of the right of Buyer to enforce such provisions or rights or exercise any subsequent elections. Any and all of the rights and remedies conferred upon Buyer under this PO shall be cumulative and in addition to, and not in lieu of, the rights and remedies granted by law. Any provision of this PO which becomes void or unenforceable by law, the remaining shall be valid and enforceable.

8. Technical Direction and Seller Responsibilities. (a) All communication between Seller and Buyer affecting the Work to be furnished shall be through the Procurement Representative. Buyer technical personnel may provide written technical direction. However, technical direction shall not be deemed a waiver of Buyer’s right to hold Seller liable for any loss or damage resulting therefrom, nor shall it act as a modification of the Seller’s obligation to make future deliveries in accordance with the Due Date(s) or other requirements of this PO. (b) Seller may reverse any drawings or specifications requirements for one or more Work items shall not constitute a waiver or modification to this PO signed by the Procurement Representative. Buyer’s approval of Seller’s design or Work shall not relieve Seller of the warranties or any other requirements of this PO. Acceptance of deliveries shall not be deemed a waiver of Seller’s obligation to perform the remaining obligations. Buyer’s approval of Seller’s design or Work shall not be considered to be a waiver or relinquishment of the right of Buyer to enforce such provisions or rights or exercise any subsequent elections. Any and all of the rights and remedies conferred upon Buyer under this PO shall be cumulative and in addition to, and not in lieu of, the rights and remedies granted by law. Any provision of this PO which becomes void or unenforceable by law, the remaining shall be valid and enforceable.

9. Technical Direction and Seller Responsibilities. (a) All communication between Seller and Buyer affecting the Work to be furnished shall be through the Procurement Representative. Buyer technical personnel may provide written technical direction. However, technical direction shall not be deemed a waiver of Buyer’s right to hold Seller liable for any loss or damage resulting therefrom, nor shall it act as a modification of the Seller’s obligation to make future deliveries in accordance with the Due Date(s) or other requirements of this PO. (b) Buyer’s technical personnel may provide written technical direction. However, technical direction shall not be deemed a waiver of Buyer’s right to hold Seller liable for any loss or damage resulting therefrom, nor shall it act as a modification of the Seller’s obligation to make future deliveries in accordance with the Due Date(s) or other requirements of this PO. (c) In the event litigation is pursued, the prevailing party shall be entitled to recover its reasonable costs and expenses including its reasonable attorneys’ fees and costs.

10. Good Faith Settlement. (a) Seller shall extend to Buyer all credits, adjustments, and rebates to which Buyer may be entitled as of the Due Date(s) or other requirements of this PO. (b) Seller shall extend opportunities to Buyer to purchase Work for the balance of the Work included in the Work to be discontinued or Work to be combined with the Work to be discontinued, for a period of eight (8) days after the last time buy date. Seller shall flow down to Subcontractor(s) the requirements of this Clause and all other applicable flow down provisions.

11. Taxes. The Buyer will pay all taxes and shall allow Buyer to submit a forecast of expected annual usage prior to Seller finalizing its schedule(s). Seller shall not make deliveries in advance of the Due Date(s) without Buyer’s authorization may be returned or stored by Buyer at Seller’s expense and without any obligation to Buyer. Deliveries will be made even in the event of a strike at Seller’s location, unless otherwise directed by Buyer. If Seller fails to deliver the Work within the schedule(s) as set forth herein at no change in Order price, (c) Waivers by Buyer of any drawings or specification requirements for one or more Work items shall not constitute a waiver or modification to this PO signed by the Procurement Representative. Buyer’s approval of Seller’s design or Work shall not relieve Seller of the warranties or any other requirements of this PO. Acceptance of deliveries shall not be deemed a waiver of Seller’s obligation to perform the remaining obligations. Buyer’s approval of Seller’s design or Work shall not be considered to be a waiver or relinquishment of the right of Buyer to enforce such provisions or rights or exercise any subsequent elections. Any and all of the rights and remedies conferred upon Buyer under this PO shall be cumulative and in addition to, and not in lieu of, the rights and remedies granted by law. Any provision of this PO which becomes void or unenforceable by law, the remaining shall be valid and enforceable.
10. Counterfeit Parts. (a) For purposes of this Clause, the term “Parts” consists of those parts delivered under this PO that are the lowest level of separately identifiable components (e.g., articles, components, groups, and assemblies). The term “Counterfeit Part” means a Part that fulfills any or all of the following: 1) is or contains items misrepresented as having been designed, produced and/or tested under an approved system or other acceptable reliable methodology; 2) is an item intended to supply a product without authority of the Buyer; do so, or is an imitation of another product, with the intent to mislead or defraud by presenting the imitation as original or genuine; 3) is an approved Part that has reached a design life limit or has been damaged beyond possible repair, but is altered and misrepresented as acceptable; or 4) is a used, refurbished, sample, or reclaimed part passed off as a new one.

(b) Seller agrees and shall ensure that Seller and Seller Engaged Personnel shall deliver no Counterfeit Parts to Buyer. Seller shall only purchase items to be delivered or incorporated as Parts directly from the original component manufacturer/original equipment manufacturer, or through an authorized distributor. Parts shall not be acquired from independent distributors or brokers unless approved in advance in writing by Buyer. Seller shall, at its expense, promptly replace any delivered Counterfeit Part with a genuine Part conforming to the requirements of this PO. Notwithstanding any other provision herein, Seller shall be liable for all costs relating to the removal and replacement of Counterfeit Parts from Buyer’s facilities, Seller shall be responsible for any costs associated with removing Counterfeit Parts, of reinserting replacement Parts and of any testing necessitated by the need to identify the Counterfeit Parts and the reinstallation of Buyer’s equipment. Buyer shall be entitled to recover from Seller the cost of removing Counterfeit Parts, presenting the imitation as original or genuine; 3) is an approved Part that has reached a design life limit or has been damaged beyond possible repair, but is altered and misrepresented as acceptable; or 4) is a used, refurbished, sample, or reclaimed part passed off as a new one.

11. Intellectual Property. (a) This entire Clause 11 is subject to any U.S. Government rights. All technical work product, including ideas, information, data, documents, drawings, software, software documentation, designs, specifications, and processes produced by or for Seller, and all modifications, adaptations, and improvements thereto, and all rights in said documents and work product, if any, developed, generated, or delivered in performance of or in connection with this PO.

(b) Buyer shall have an unlimited, worldwide, irrevocable, perpetual royalty-free right and license to make, have made, sell, offer for sale, import, use, reproduce, display, perform, distribute (internally or externally) copies of, and prepare derivatives of, and authorize others to do any, some or all of the foregoing, any and all Software conceived, developed, generated, or delivered in performance of or in connection with this PO.

12. Title to Drawings, Specifications and Work Product. (a) This entire Clause 12 is subject to any U.S. Government rights. Buyer and/or its customers shall at all times have title to: (1) all drawings and specifications furnished by Buyer to, and (2) all documents (including all drawings and specifications) and work product, in any form, generated, by or for on behalf of Seller in connection with this PO. The Seller shall, upon Buyer’s request or upon completion of this PO, promptly return or deliver all documents and work product, including all copies, to Buyer.

(b) The Seller hereby assigns and agrees to assign to Buyer the Seller’s entire right, title and interest in and to all intellectual property (collectively, “IP”) and all the proprietary rights (including all patent applications and patents) embodied in or resulting from the performance of this PO (hereinafter collectively “Software”), developed in the performance of this PO, including the right to apply for and register copyrights and patents in the U.S. and any other country, the right to all extensions and renewals thereof, including all rights to prosecute any and all applications for patents, copyrights, and trademark registrations, and to sue for and recover damages from any and all infringers of any and all such rights, and to sue for and recover damages for any and all infringements of such IP and products therefrom, and any and all Licenses therefor, and to exercise all of the other rights accruing or arising under any and all such IP and products therefrom.

13. Rights in Computer Software. This Clause is subject to any U.S. Government rights. Seller hereby assigns to Buyer all rights, title and interest in computer software, including all copies, all translations of, derivatives of, and authorize others to do any, some or all of the foregoing, any and all Software conceived, developed, generated, or delivered in performance of or in connection with this PO.

14. Confidential or Proprietary Information/Property. Seller shall keep confidential and protect from disclosure all information and property obtained from Buyer in connection with this PO and identified orally or in writing as confidential or proprietary, or which reasonably would be considered to be confidential or proprietary, as well as all documents and work product generated in connection therewith, and shall not disclose such information and property or the features thereof, only in the performance of and for the purpose of this PO. Seller shall, at any time during or after performance of this PO, disclose such information and property to Buyer upon Buyer’s request. In the event of any inconsistency between this Clause and any other U.S. Government clause incorporated by reference into this PO, the incorporated U.S. Government clause shall govern.

15. Release of Information and Use of Name. The Seller shall not, without the prior written consent of Buyer, publicly release any information regarding the subject matter or existence of this PO. This includes advertisements, brochures, news releases (including photographs, films, public announcements, or denial/confirmation of the same, or interviews with news media) and the like. Seller shall not use or allow to be used, Buyer’s name, logo or trademarks without the Buyer’s prior written approval. The Seller shall include the substance of this Clause, including this sentence, in all of its subcontracts.

16. Seller’s Compliance with Applicable Laws. (a) Seller warrants and certifies it has complied and will comply with all applicable international, national, federal, state and local laws, statutes, ordinances, rules, regulations, programs, plans, and orders (collectively referred to as “Laws”) in the performance of this PO and that all Work delivered hereunder complies with all applicable Laws.

(b) Without limitation to the foregoing, Seller warrants that it is in compliance with all Laws governing the export of items (including “software”) and data (including technical, commercial, financial, or information of a proprietary or trade secret nature) that: (a) receives from Buyer; or (b) conceives, develops, generates, or delivers in performance of this PO. Nothing in the foregoing shall affect compliance with U.S. Government requirements. Upon Buyer’s request, and in any event upon the completion, termination or cancellation of this PO, Seller shall return all such information and property to Buyer or make such other disposition thereof as reflected by Seller in its books and records. Buyer shall have a royalty-free, worldwide, irrevocable, none exclusive license to the Services with respect to all work product generated by Seller in connection with this PO prior to delivery to Buyer.

17. Hazardous Material Identification And Material Safety Data. Prior to shipment of any hazardous material or chemical (as determined by OSHA regulation at 29 CFR §1910.1200), Part 82 of the Hazardous Materials Table under 49 CFR 172.101) onto Buyer property or work sites, Seller shall provide to Buyer one copy of OSHA Form 20 or 174, Safety Data Sheet or equivalent, for each such material or chemical. The form shall include the Buyer’s name, address and point of contact with its customer(s) if (1) at any time during the performance of this Order, Seller suspends business operations or becomes insolvent, or (2) at any time within five (5) years from the end date of this Order, Seller, for any reason, discontinues acceptance of follow-on orders for Work ordered hereunder. Buyer shall have the right to inspect any and all hazardous materials and the manner in which they are handled and shipped, as Seller shall determine, at any time and place at Buyer’s sole expense.

18. Indemnification. (a) Seller agrees to defend, indemnify and hold harmless Buyer, its officers, directors, employees, agents, representatives, dealers, distributors, customers, and their subcontractors from any and all lawsuits, claims, fines, penalties, offsets, liabilities, judgments, (Rev 02/2016)
losses, damages, costs and profit disallowed, or expenses (including reasonable litigation fees) for any property damage or personal injury including death, of whatever kind or nature arising out of, as a result of, or in connection with Seller or Seller Engaged Personnel’s performance or failure to perform pursuant to this PO; (2) any liability or cost of defending, or incurring, or any liability or expense (including reasonable attorneys’ fees) sustained by reason of such injunction.

and expenses (including reasonable attorneys’ fees) sustained by reason of such injunction.

19. Inspection. (a) Upon request of the Buyer, Seller agrees to allow Buyer, its customer representatives (at any tier), a cognizant regulatory authority, and, in the case of Work purchased for a U.S. Government contract or subcontract, the U.S. Government to visit at all reasonable times the Seller’s and Seller’s Subcontractors’ production facilities(ies) where this PO is to be performed, in whole or in part, to inspect and test the Work pertaining to the requirements of this PO. Buyer may, at its option, assign representatives from, or one of its subcontractors to, Seller’s place of business to inspect Seller’s and Seller’s Subcontractors’ performance of this PO, to make test samples and to require the completion of test samples for buyer inspection. (b) Buyer may, at its option, assign representatives from, or one of its subcontractors to, Seller’s place of business to inspect Seller’s manufacturing and test facilities for, among other things, adherence to this PO, adherence to quality system standards such as AS9100, or adherence to any other quality system standards or regulatory authorities. For all inspections and tests other than tests, evaluations, and inspections conducted by Buyer or its representatives, Seller shall compensate Buyer for the reasonable costs thereof. 20. Acceptance. Buyer shall accept Work or give Buyer notice of rejection within a reasonable time, notwithstanding any payment or prior test or inspection. No inspection, test, delay or failure to inspect or test, or failure to discover any defect or other nonconformance of the Work shall relieve Seller from any responsibility for the performance of the Work. Buyer’s acceptance of the Work and performance of this PO shall not be deemed to relieve Seller from responsibility for any other defects in the Work or other failure to meet the requirements of this PO. Buyer may, at its option, assign representatives from, or one of its subcontractors to, Seller’s place of business to inspect Seller’s manufacturing and test facilities for, among other things, adherence to this PO, adherence to quality system standards such as AS9100, or adherence to any other quality system standards or regulatory authorities. For all inspections and tests other than tests, evaluations, and inspections conducted by Buyer or its representatives, Seller shall compensate Buyer for the reasonable costs thereof.

21. Delivery, Title and Risk of Loss. (a) Unless this PO specifically provides otherwise, the delivery point shall be FOB Buyer’s location designated on the face of this PO.

(b) Title to Work delivered under this PO shall pass to Buyer upon formal acceptance, regardless of when or where Buyer takes physical possession, unless the PO specifically provides for earlier passage of title.

(c) Risk of loss or damage to the Work shall remain with the Seller until, and shall pass to Buyer upon Buyer’s acceptance of the Work. (d) The risk of loss or damage to the Work remains with the Seller until cure and acceptance of conforming Work.

22. Invoices and Payment. (a) Buyer has no obligation to pay for items not included in the PO. Payment due date, including prompt payment discounts, shall be based on the date a correct invoice is received by Buyer.

(b) Seller shall limit the number of submitted invoices on this PO to one (1) per month, with multiple items on a given invoice. Each Seller invoice shall contain, as a minimum, the PO number and total invoice amount, and for each Work item include: PO line item, Work item description, quantity, unit price, extended price, and total amount paid by Buyer for the item shipped. (c) If the Work is not delivered as specified in the PO, unless the PO specifies otherwise, the Work is delivered at an equitable reduction in price. Unless the PO specifies otherwise, invoices shall not include any sales or use taxes for which Buyer provided an exemption. Buyer shall be entitled at all times to off-set any amounts paid to Seller under this PO against any amounts owed by Seller to Buyer. Buyer may deduct from or withhold from payments otherwise due to Seller any amounts owed by Seller to Buyer.

23. Packing, Marking, and Shipping Documents. All Work shall be packed, marked, and shipped strictly in accordance with the requirements specified in the PO. If no specific instructions are provided, the Seller shall utilize good commercial practices to ensure protection in shipment and meet the requirements of the PO.

24. Representations, Warranties and Guarantees. By acceptance of this PO, Seller warrants for at least twenty-four (24) months from the date of acceptance or re-sale by Buyer, that the Work conforms to all the requirements of this PO; (a) no defect of title to the Work will arise or become apparent; (b) the Work is free from all defects in title, including that it is not subject to any security interest, lien, title claim, or other claim, including that it is free and clear of any apparent or latent defects, except such as are described herein or as a result of improper preservation, packaging, packing, marking, or method of shipment shall be reimbursed by Seller. No separate or additional charge is payable by Buyer for containers, crating, boxing, packaging, or inclusion of any requirement stated in the PO. Seller will adhere to Buyer’s routing instructions on the PO. Seller shall forward to Buyer, with invoice, the express receipt of bill of lading; signed by the carrier evidencing the fact that shipment was made. On containers, Seller shall mark handling and loading instructions, shipping information, PO number, item and account number, shipment date, and names and addresses of Buyer and Seller. Each shipment of Work shall also include a separate packing list in a waterproof envelope or wrapper.

25. Seller Compliance with Labor and Employment Laws. Seller and Seller Engaged Personnel are not employees of Buyer and are not entitled to any Buyer employee benefits or privileges. Seller shall comply with all applicable federal, state, and local labor and employment laws, regulations, and executive orders, including those specific to U.S. Government contractors, Form I-9 requirements, and requirements for the use of E-Verify. Buyer shall pay all wages due to its employees and shall pay all related employment taxes and contributions, including unemployment insurance amounts. Seller shall indemnify and hold harmless Buyer against all Damages arising out of any alleged failure to comply with labor and employment laws applicable to any Seller Engaged Personnel.

26. EEO and Affirmative Action Obligations. Buyer is an equal opportunity and affirmative action employer. Seller represents and warrants that it will assign Seller Engaged Personnel without regard to race, color, creed, religion, national origin, sex, marital status, age, status as a covered veteran, or any other legally protected characteristic. Buyer and Seller’s Subcontractors may be subject to the provisions of 41 CFR §§ 60-1.40, 60-250.4, and 637-1.5 with respect to affirmative action program requirements.

27. Assignment and Subcontracting. Seller shall not assign this PO or any rights or obligations under this PO without the prior written consent of the Procurement Representative. Any prohibited assignment under this PO shall be null and void. This PO shall be binding upon and shall inure to the benefit of the parties and their permitted successors and assigns. None of the Work to be delivered under this PO shall be acquired by Seller from a Subcontractor or third party in completed or substantially completed form without the prior written consent of Buyer.

28. Financial Responsibility. (a) Seller shall be required to comply with this PO, furnish such financial data and related information as may be required by Buyer to permit a determination of financial capability/responsibility under this PO. Seller, at no later in PO price, promptly submit interim financial data as may be requested by Buyer to determine continuance of financial capability/responsibility during the progress of work under this PO. If Buyer determines that Seller is not in default, Buyer may continue to accept and use the Work delivered under this PO. Should Buyer determine that Seller is in default, Buyer may terminate this PO and liquidate any Work delivered under this PO. In the event of default, Buyer may terminate the Work and retain title to the Work for Buyer’s benefit. Seller shall be responsible for all costs and expenses, including reasonable attorneys’ fees, incurred by Buyer in connection with Seller’s default or alleged default.

(b) If Seller’s financial capability/responsibility are determined by Buyer to be such as may jeopardize performance hereunder, Buyer shall have the right to request, and Seller shall be required to submit, additional financial data that is adequate and appropriate for Buyer to determine whether Seller continues to have acceptable financial capability/responsibility. Buyer may discontinue or suspend work hereunder if Buyer determines that Seller is unable to complete the Work. Buyer shall have the right to terminate this PO upon written notice to Seller. In the event of termination, Buyer shall have the right to retain all Work completed and supplies purchased for the Work and shall have the right to sell or otherwise dispose of all Work and supplies purchased for this PO.

29. Liens. Seller agrees that no liens, security interests, encumbrances or property rights of any kind (“Liens”) shall lie or attach upon or against the Work or any Property, or any part thereof, for or on account of Work furnished by Seller pursuant to this PO. If any Lien is asserted against the Work or Buyer Property, any part thereof, for or on account of Work furnished by Seller pursuant to this PO. If any Lien is asserted against the Work or Buyer Property, any part thereof, for or on account of Work furnished by Seller pursuant to this PO. If any Lien is asserted against the Work or Buyer Property, any part thereof, for or on account of Work furnished by Seller pursuant to this PO. If any Lien is asserted against the Work or Buyer Property, any part thereof, for or on account of Work furnished by Seller pursuant to this PO. If any Lien is asserted against the Work or Buyer Property, any part thereof, for or on account of Work furnished by Seller pursuant to this PO. If any Lien is asserted against the Work or Buyer Property, any part thereof, for or on account of Work furnished by Seller pursuant to this PO. If any Lien is asserted against the Work or Buyer Property, any part thereof, for or on account of Work furnished by Seller pursuant to this PO. If any Lien is asserted against the Work or Buyer Property, any part thereof, for or on account of Work furnished by Seller pursuant to this PO. If any Lien is asserted against the Work or Buyer Property, any part thereof, for or on account of Work furnished by Seller pursuant to this PO.
thereof, Buyer shall have the right to discharge the same by filing a bond or security, or in its discretion, to discharge the same in whole or in part by tendering such goods and in the event of such tender the Seller shall have the right to deduct from the PO price the amount thus paid. If the PO price has been paid, Seller shall repay to Buyer, upon demand, the amount thus paid by Buyer for the purpose of replacing such claim, plus all administrative and legal expenses incurred by Buyer.

30. Choice of Law. Irrespective of the place of performance, this PO shall be governed by, and construed in accordance with, the laws of the State of [State], without regard to its conflict of laws or choice of law provisions, except that when Federal law of U.S. Government contracts exists on substantive matters requiring construction under the PO, such Federal law shall apply in lieu of State law. The parties expressly reject the application of the United Nations Convention for Contracts for the International Sale of Goods to this PO.

31. Records. Unless a different period is set forth elsewhere in this PO, Seller shall retain all pertinent books, documents, papers, and records involving transactions related to this PO for a period of six (6) years after final payment on this PO. At the conclusion of this period, Seller shall make written request to the Procurement Representative to obtain permission to (1) destroy such records; (2) package and ship same to Buyer; or (3) maintain said records at Seller’s facilities; or (4) any combination of the above.

32. Termination for Convenience. (a) Buyer may terminate performance of Work under this PO in whole or, from time to time, in part when Buyer determines that it is in its best interest. Buyer shall terminate by issuing to the Seller a “Notice of Termination” specifying the extent of termination and effective date.

(b) After receipt of a Notice of Termination, and except as directed by Buyer, the Seller shall immediately proceed with the following obligations in addition to any specific obligations in the Notice of Termination: (1) Stop work as specified in the Notice of Termination; (2) Place no further subcontracts or orders except as necessary to complete the continued portion of this PO; (3) Terminate all subcontracts to the extent that the Work relates to the Work terminated; (4) Complete performance of the Work not terminated; (5) As directed by the Seller, build, ship, deliver, or furnish laborer or unfranchised parts, Work in process, Work, supplies, and other material in its possession in which Buyer has an interest. Failure to agree shall not excuse Seller’s obligation to continue performance on any non-terminated portion of this PO.

(c) Seller may terminate this PO in whole or in part for any reason acceptable to the Buyer in the form and with the certifications prescribed by Buyer. Seller shall submit the proposal promptly, but no later than ninety (90) calendar days from the Notice of Termination. If the Seller fails to submit the proposal within the time allowed, Buyer may determine, on the basis of Seller’s experience, qualifications and reputation, if Seller is qualified to complete the remaining work under this PO, and in the event Seller is not so determined, Buyer may, at its option, terminate the Work for convenience. If the PO is terminated for convenience in accordance with FAR Part 45. If Seller acquires Government Property from a source other than the Buyer, Buyer promptly shall furnish to Buyer copies of purchase orders, work orders, and any other documents evidencing title and possession of Property in Buyer’s possession that corresponds to or is located at the property in Seller’s possession.

(d) Unless otherwise provided on the face of this PO, all Buyer Property shall be provided to any non-US Persons, including any non-US Person employees, students, or interns without any restrictions or limitations from the United States Government that prohibit the transfer of Property. Seller represents and warrants that it shall not be a person or entity designated on any U.S. Government parties prohibited from doing business with any non-U.S. Person or on the consolidated list of asset freeze targets designated by the United Nations, European Union, and United Kingdom; or (5) if it has had its export privileges denied, suspended, or revoked.

35. Export Compliance. (a) The following terms are defined in the referenced regulations: “Export Control (ITAR §22 CFR §120.6), “Commodity” (EAR 15 CFR Part 772), “Technology” (EAR Part 772), “Software” (ITAR §121.8(f) and EAR Part 772), “Defense Services” (ITAR §124.10)”.

(b) Buyer may provide or make available to Seller certain real or personal property, identified by a subcontracted Work, address, or other identifier that is or becomes listed on the commercial or。“Export Control (ITAR §22 CFR §120.6), “Commodity” (EAR 15 CFR Part 772), “Technology” (EAR Part 772), “Software” (ITAR §121.8(f) and EAR Part 772), “Defense Services” (ITAR §124.10)” received under this PO in accordance with FAR Part 45. If Seller acquires Government Property from a source other than the Buyer, Buyer promptly shall furnish to Buyer copies of purchase orders, work orders, and any other documents evidencing title and possession of Property in Buyer’s possession that corresponds to or is located at the property in Seller’s possession.

(c) Seller may terminate this PO in whole or in part for any reason acceptable to the Buyer in the form and with the certifications prescribed by Buyer. Seller shall submit the proposal promptly, but no later than ninety (90) calendar days from the Notice of Termination. If the Seller fails to submit the proposal within the time allowed, Buyer may determine, on the basis of Seller’s experience, qualifications and reputation, if Seller is qualified to complete the remaining work under this PO, and in the event Seller is not so determined, Buyer may, at its option, terminate the Work for convenience. If the PO is terminated for convenience in accordance with FAR Part 45. If Seller acquires Government Property from a source other than the Buyer, Buyer promptly shall furnish to Buyer copies of purchase orders, work orders, and any other documents evidencing title and possession of Property in Buyer’s possession that corresponds to or is located at the property in Seller’s possession.

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or revoked in whole or in part by any U.S. Government agency.

(q) The requirements contained herein concerning nationality or export status of Seller Engaged Personnel. Seller agrees to provide such information as necessary and certifies the information to be true and correct. Seller shall defend, indemnify and hold harmless Buyer for any Damages that may be imposed on or threatened against Buyer in connection with Seller's violations of export and import laws and regulations.

(h) Should the Seller’s Work originate from a foreign location, such Work may also be subject to the export control laws/regulations of the country in which the Work originates. Seller agrees to comply with all applicable export control laws/regulations of that originating country.

In the event Seller is shipping any Work to a Buyer from a location outside the US, Seller or Seller Engaged Personnel must be listed as the U.S. importer of record and fulfill all applicable U.S. customs entry requirements. Seller must notify, and provide the country of origin of all items furnished in accordance with the Procurement Representative in writing no less than five (5) days prior to such shipment.

(i) In carrying out its responsibilities under this PO, Seller will not directly or indirectly authorize, promote, or make to political contributions of any kind. Seller acknowledges that Buyer as a Federal Contractor, is subject to the U.S. Code, Title 44, Chapter 23, Subchapter C, and any implementing regulations of the Securities and Exchange Commission, which set forth certain reporting requirements for conflict minerals that originate in the Democratic Republic of the Congo and its adjoining countries. To that end, Seller will cooperate with Buyer’s efforts to comply with the Act and upon request will timely provide information to Buyer related to the Act. Further, Seller shall no later than thirty (30) days following Buyer’s request for a reasonable country of origin (RCO) for delivered Work under this PO, complete and return to Buyer a single and comprehensive Conflict Minerals Reporting Template, using the form provided by Buyer, to perform an appropriate review of its supply chain in order to fulfill the obligations of this clause.

39. Non-Representation. It is understood and agreed that the Seller is an independent contractor in the performance of its obligations hereunder and that its employees shall not be deemed to be Buyer’s employees under any circumstance. Seller shall have no power or right, express or implied, to commit, obligate or make any representations on behalf of Buyer.

40. Code of Ethics. Seller represents and agrees that it has not participated in and shall not participate in any conduct in connection with this Purchase Order that violates Buyer's Code of Ethics and Business Conduct, and the term “Buyer’s” in the preceding sentence shall be deemed to include, but not be limited to, any organization in which Buyer has 5% or more equity ownership. In addition, Buyer may cancel this Purchase Order upon written notice to Seller, and Seller shall have no further obligation to Seller.

41. Conflict Minerals. Seller acknowledges that Buyer must comply with the Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“the Act”), codified at 15 U.S.C. § 77ff–1 and any implementing regulations of the Securities and Exchange Commission, which set forth certain reporting requirements for conflict minerals that originate in the Democratic Republic of the Congo and its adjoining countries. To that end, Seller will cooperate with Buyer’s efforts to comply with the Act and upon request will timely provide information to Buyer related to the Act. Further, Seller shall no later than thirty (30) days following Buyer’s request for a reasonable country of origin (RCO) for delivered Work under this PO, complete and return to Buyer a single and comprehensive Conflict Minerals Reporting Template, using the form provided by Buyer, to perform an appropriate review of its supply chain in order to fulfill the obligations of this clause.

42. Miscellaneous. (a) If any part, term, or provision of this PO shall be held void, illegal, unenforceable, or in conflict with any laws having jurisdiction over this PO, the validity of the remaining portions of provisions shall not be affected thereby. The parties agree, to the extent possible, to include a replacement provision, construed to accomplish its originally intended effect, that does not violate such laws.

(b) Upon termination of this PO for any reason, Clauses 5, 7, 11 through 16, 18, 24, 31 and 35 shall survive.

(c) The rights and remedies provided to Buyer under this PO shall be cumulative and in addition to any other rights and remedies provided by law or equity. The failure of Buyer in any one or more instances to insist upon exact performance of any of the provisions of this PO or to exercise any of the rights or privileges which shall continue and remain in full force and effect.

(d) The headings of Clauses herein are used for convenience and ease of reference only and do not limit the scope or intent of the Clause, nor shall any priority be implied by the order in which they appear in this PO.

43. Incorporation of Other Terms and Conditions. If the face of the PO references any of the following document(s), such document(s) shall be deemed to be incorporated herein to Terms and Condition of Purchase, TC-01 (Fixed Price Procurement); (a) TC-02 (Work on Buyer’s Premises); (b) TC-03 (Government Flow Down Provisions – Fixed Price Procurement); (c) TC-04 (Government Flow Down Provisions – Cost Reimbursement Procurement); (d) TC-05 (International Terms).

44. Additional Flowdown Clauses. In the event that any clause which is not already incorporated herein is required to be included in this PO by applicable Law, a prime contract, or higher-tier subcontract, or in the event that Buyer’s prime contract or higher-tier subcontract is modified subsequent to the date Buyer issues this PO so as to modify or add any additional such clause or requirement, Seller agrees to enter into a modification of this PO to insert such clause or requirements. If any such additional clause or requirement causes an increase or decrease in the cost of, or the time required, for the performance of any part of the Work under this PO, then the time or performance shall be extended or modified so as to accommodate the same, as determined by Buyer in its reasonable discretion.

SECTION II – GOVERNMENT FLOWDOWN PROVISIONS

The following clauses from the Federal Acquisition Regulations ("FAR"), the Department of Defense ("DOD") FAR Supplement ("DFARS"), NASA FAR Supplement ("NFS"), and other focus areas required by law and regulation are incorporated herein. These provisions are in addition to Section I – General Provisions.

(a) The Federal Acquisition Regulation (FAR), Department of Defense FAR Supplement (DFARS), NASA FAR Supplement (NFS), and other focus areas referred to in this clause are incorporated herein. These provisions are in addition to Section I – General Provisions.

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52.203-5  COVENANT AGAINST CONTINGENT FEES

"(This Contract) includes the Prime Contract and this Subcontract.")

52.209-6  PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (Paragraph (b) is deleted and replaced with the following: "Neither Subcontractor nor any of its principals are debarred, suspended or proposed for debarment by the federal government.")

52.211-5  MATERIAL REQUIREMENTS

52.211-15  DEFENSE PRIORITY AND ALLOCATION REQUIREMENTS (Applicable only if Defense Priority and Allocation System (DPAS) Requirements are invoked on Order)

52.215-20  REQUIREMENTS FOR COST OR PRICING DATA AND DATA OTHER THAN COST OR PRICING DATA

52.215-21  REQUIREMENTS FOR COST OR PRICING DATA AND DATA OTHER THAN COST OR PRICING DATA—MODIFICATIONS

52.215-22  LIMITATION ON PASS-THROUGH CHARGES — IDENTIFICATION OF SUBCONTRACTOR EFFORT

52.216-5  PRICE REDETERMINATION - PROSPECTIVE

52.216-6  PRICE REDETERMINATION - REACTIVE

52.222-1  NOTICE TO THE GOVERNMENT OF LABOR DISPUTES

52.222-3  CONVICT LABOR

52.222-19  CHILD LABOR—COOPERATION WITH AUTHORITIES AND REMEDIES (Note 2 applies to paragraph (c)).

52.222-21  PROHIBITION OF SEGREGATED FACILITIES

52.222-26  EQUAL OPPORTUNITY

52.222-50  COMBATTING TRAFFICKING IN PERSONS (In paragraph (e) Note 1 applies.)

52.223-3  DRUG-FREE WORKPLACE

52.223-18  ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING (Applicable if this subcontract exceeds $3,000)

52.225-5  TRADE AGREEMENTS

52.225-8  DUTY-FREE ENTRY

52.225-13  RESTRICTIONS ON CERTAIN FOREIGN PURCHASES

52.227-14  RIGHTS IN DATA - GENERAL. Including Alternate I, II, III, IV in accordance with the Prime Contract (Note 1 applies.)

52.227-16  ADDITIONAL DATA REQUIREMENTS

52.229-8  TAXES — FOREIGN COST-REIMBURSEMENT CONTRACTS (In paragraph (b), insert "Contractor or" before "subcontractor").

52.232-17  INTEREST (In paragraph (c), delete "as required by 33.211 and subparagraph (c)(3). Delete paragraph (g)).

52.234-1  INDUSTRIAL RESOURCES DEVELOPED UNDER DEFENSE PRODUCTION ACT TITLE III

52.237-3  CONTINUITY OF SERVICES

52.242-1  NOTICE OF INTENT TO DISALLOW COSTS (This clause applies when a Cost-Reimbursable Subcontract, a Fixed-Price incentive Subcontract, or a Subcontract providing for price re-determination is contemplated.)

52.242-13  BANKRUPTCY

52.242-15  STOP-WORK ORDER (ALT 1 applies to cost reimbursement contracts.)

52.242-3  CHANGES-COST REIMBURSEMENT (ALTS I-V apply as indicated in the clause) (Applicable only to cost reimbursable Subcontracts.)

52.244-5  COMPETITION IN SUBCONTRACTING

52.246-3  USE AND SERVICES

52.246-9  INSPECTION OF SUPPLIES-COST REIMBURSEMENT (Applicable only to cost reimbursable Subcontracts. In paragraphs (b),(c) and (d). Note 1 applies and in paragraph (k) "Government" is unchanged.)

52.246-5  INSPECTION OF SERVICES — COST REIMBURSEMENT (Applicable only to cost reimbursable Subcontracts. Note 1 applies in paragraphs (b) and (c)).

52.246-16  RESPONSIBILITY FOR SUPPLIES

52.247-63  PREFERENCE FOR U.S. — FLAG AIR CARRIERS (Applicable if this Subcontract involves international air transportation.)

52.249-6  TERMINATION (Cost-Reimbursement)(Applicable to cost-reimbursement, time and material (T&M) and labor hour Subcontracts. Alternate IV is included if this is a T&M or labor hour Subcontract. Substitute “90 days” for “120 days” and “90 day” for “120 day” in paragraph (d). Substitute “180 days” for “1 year” in paragraph (f)). In paragraph (j) “right of appeal,” “timely appeal” and “on an appeal” shall mean the right to proceed under the “Disputes” clause of this Subcontract. Settlements and payments under this clause may be subject to the approval of the Contracting Officer.)

52.249-14  EXCUSABLE DELAYS (Applicable to cost-reimbursement, time and material (T&M) and labor hour Subcontracts.)

Section 1.1 - FAR Clauses that Apply if this Order Exceeds $10,000:

52.222-40  NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT

Section 1.2 - FAR Clauses that Apply if this Order Exceeds $15,000:

52.222-20  WALSH-HEALEY PUBLIC CONTRACT ACT

52.222-36  AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES

Section 1.3 - FAR Clauses that Apply if this Order Exceeds $30,000:

52.204-10  REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS (Applicable only if included in Prime Contract. Only paragraph (a) and subparagraph (c)(3) apply. The first phrase of subparagraph (c)(3) is revised to read as follows: "Unless otherwise directed by the Buyer Subcontract Administrator, by the 10th business day of the month following the month of award of this subcontract, and annually thereafter, the Subcontractor shall report the names and total compensation of each of the five most highly compensated executives of Subcontractor for the Subcontractor preceding completed fiscal year at [http://www.fers.gov]. If . . .") This information will be made available to the public.

Section 1.4 - FAR Clauses that Apply if this Order Exceeds $100,000:

52.223-14  TOXIC CHEMICAL RELEASE REPORTING (Delete paragraph e.)
Section 1.5 - FAR Clauses that Apply if this Order Exceeds $150,000:

52.203-6 Restrictions on subcontractor sales to the government

52.203-7 Anti-kickback procedures

52.203-8 Cancellation, rescission, and recovery of funds for illegal or improper activity (Note 1 applies)

52.203-10 Price or fee adjustment for illegal or improper activity (In paragraph (c), “Prime Contractor” means “Contractor”)

52.203-12 Limitation on payments to influence certain federal transactions

52.203-17 Contractor employee whistleblowing rights and requirement to inform employees of whistleblowing rights

52.215-2 Audit and records – negotiation 52.215-14 Integrity of unit prices

52.215-23 Limitation on pass-through charges (If the Prime Contract to which this Subcontract relates is with an agency other than DoD, this clause applies to cost reimbursable contracts exceeding the simplified acquisition threshold as defined in FAR 2.101. If the Prime Contract to which this Subcontract relates is with DoD, this clause applies to all subcontracts in excess of $700,000.

52.219-8 Utilization of small business concerns

52.222-4 Contract work hours and safety standards act/over-time compensation (This clause applies only if this Subcontract may require or involve the employment of laborers and mechanics.)

52.222-35 Equal opportunity for veterans

52.222-37 Employment reports on veterans (This clause is applicable only if FAR 52.222-35 applies.)

52.222-38 Compliance with veterans’ employment reports requirements

52.227-1 Authorization and consent (This clause applies if the Prime Contract contains this clause; Alternate I applies as indicated in the clause.)

52.227-2 Notice and assistance regarding patent and copyright infringement (Note 2 applies)

52.248-1 Value engineering (Note 1 applies to paragraphs (c)(5) and (m) and Note 2 applies to paragraphs (b)(3) where note 4 applies and where “Government” precedes “cost” throughout.)

Section 1.6 - FAR Clauses that Apply if this Order Exceeds $700,000:

52.219-9 Small business subcontracting plan (This clause does not apply to small business concerns. It applies if this Subcontract offers further subcontracting opportunities and is expected to equal or exceed $700,000; $1,500,000 for construction of any public facility. The Subcontractor’s subcontracting plan is incorporated herein by reference.)

52.219-16 Liquidated damages — subcontracting plan (This clause is applicable if FAR 52.219-9 applies.)

52.219-25 Small disadvantaged business participation program – disadvantaged status and reporting

52.242-3 Penalties for unallowable costs (This clause applies if this Subcontract exceeds $650,000 and is not a Fixed-Price Contract without incentives. Delete paragraphs (f) and (g)).

Section 1.7 - FAR Clauses that Apply if this Order Exceeds $750,000:

52.214-27 Price reduction for defective cost or pricing data – modifications – sealed bidding (Applies only to sealed bidding)

52.214-28 Subcontractor cost or pricing data modifications – sealed bidding (Applies only to sealed bidding)

52.215-10 Price reduction for defective certified cost or pricing data (This clause applies if cost or pricing data is required from the Subcontractor or any sub-tier supplier. Note 2 applies except the first time “Contracting Officer” appears in paragraph (d)(1). Rights and obligations under this clause shall survive completion of the Work and final payment under this Subcontract. As required by applicable law or regulation, the Subcontractor shall provide cost or pricing data and execute a Certificate of Current Cost or Pricing Data in substantially the form prescribed by FAR 15.406-2. In addition to any remedies provided by law, if Buyer is subjected to any liability as a result of the Subcontractor’s failure to comply with this requirement, then the Subcontractor agrees to indemnify and hold Buyer harmless to the full extent of any loss, damage or expense (excluding Buyer’s overhead and profit) resulting from such failure.)

52.215-12 Subcontractor cost or pricing data (Applicable if not otherwise exempt under FAR 15.403.)

52.215-13 Subcontractor cost or pricing data – modifications (Applicable for modifications if not otherwise exempt under FAR 15.403.)

Section 1.8 - FAR Clauses that Apply if this Order Exceeds $5,500,000:

52.203-13 Contractor code of business ethics and conduct (Applicable if the Subcontractor’s period of performance is more than 120 days. Note 1 applies. Disclosures made under this clause shall be made directly to the government entities listed in the clause.)

52.203-14 Display of hotline posters

Section 1.9 - FAR Clauses that Apply under Described Circumstances:

52.204-2 Security requirements (This clause is included if this Subcontract requires access to classified information.)

52.204-9 Personal identity verification of contractor personnel (Where applicable, subcontractor shall have physical access to federally controlled facility or federal information system.)

52.215-15 Pension adjustments and asset reversions (This clause is applicable if the Subcontract satisfies the applicability requirements of FAR 15.408(g)).

52.215-16 Facilities capital cost of money (Applicable only if this Subcontract is subject to the Cost Principles at FAR Subpart 31.2 and the Subcontractor proposed facilities capital cost of money in its offer.)

52.215-17 Waiver of facilities capital cost of money (Applicable only if this Subcontract is subject to the Cost Principles at FAR Subpart 31.2 and the Subcontractor did not propose facilities capital cost of money in its offer.)

52.215-18 Reversion or adjustment of plans for postretirement benefits other than pension (This clause is applicable if the Subcontract satisfies the applicability requirements of FAR 15.408(j)).

52.215-19 Notification of ownership changes (This clause is applicable if the Subcontract satisfies the applicability requirements of FAR 15.408(k)).

52.216-7 Allowable cost and payment (This clause applies to cost reimbursable Subcontracts and to the cost reimbursable portion of time and materials Subcontracts. In subparagraph (b)(2)(i)(f) the term “Government” remains unchanged. Note 1 applies, in the first sentence of subparagraph (h)(2)(i) and subparagraph (h)(2)(ii)(D). In the first sentence of subparagraph (g) the term “Contracting Officer” is unchanged and the words “or ORBITAL” are inserted after “Contracting Officer”. Paragraphs (a)(3) and (a)(3) are deleted. Paragraphs (d), (e) and (f) are deleted and replaced by the following:

(d) Final Indirect Cost Rates. ORBITAL shall reimburse Subcontractor on the basis of final annual indirect cost rates and the appropriate bases established by Subcontractor and the Government in effect for the period covered by the indirect cost rate proposal. Such rates and bases shall not change any monetary ceiling, contract obligation, or specific cost allowance or disallowance provided for in this Subcontract. The rates and bases shall be deemed incorporated into this Subcontract upon execution.

(e) Billing Rates. There shall be included as allowable indirect costs such overhead rates as may be established by Subcontractor and the cognizant Government agency in accordance with the principles of the FAR and applicable FAR supplement(s). Pending establishment of final indirect overhead rates for any period, Subcontractor shall be reimbursed at billing rates approved by the cognizant Government agency, which billing rates may be revised from time to time subject to such approval and subject to appropriate adjustment when the final rates for that period are established.

(f) Quick-closeout procedures. When Subcontractor and ORBITAL agree, quick-closeout procedures of Subpart 42.7 of the FAR may be used.

The following subparagraph (i) is added to the clause:

(i) Subcontracts. No subcontract placed under this Subcontract shall provide for payment on a cost-plus-a-percentage-of-cost basis and any fee payable under cost-reimbursement type subcontracts shall not exceed the fee limitations in paragraph 15.404-4(c) of the FAR.)
### Terms and Conditions of Purchase

**Time and Material Purchase Order**

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### Section 1.12 - Other Related Provisions that Apply to this Order:

(a) 29 CFR Part 471, Appendix A, Subpart A – Notification of Employee Rights Under Federal Labor Laws

(b) Indemnification for Defective Pricing, Noncompliance With Cost Accounting Standards, and Violation of the Anti-Kickback Statute or the Procurement Integrity Act. The Seller, its Subcontractors, agents, and/or employees agree to indemnify and save harmless and defend Buyer from and against any and all fines, penalties, offsets, claims, demands, actions, debts, liabilities, judgments, costs and attorney’s fees, costs and profit disallowed or reduced by Buyer’s customer arising out of claims on account of, or in any manner predicated upon (1) submission by Seller, its Subcontractors, agents and/or employees of alleged or confirmed defective pricing data, or (2) costs submitted by Seller, which are deemed unallowable costs under FAR, DFAR, or NFS, either by Buyer or applicable government agency, or (3) violation, noncompliance, or cost adjustment associated with any clause in FAR entitled “Cost Accounting Standards,” or the rules or regulations pursuant thereto, or (4) violation of the Anti-Kickback Act of 1986 (41 U.S.C. Section 51-58) by Seller or any of its suppliers or Subcontractors, including indirect suppliers (such as a supplier to one of Seller’s direct suppliers) or (5) any other government or contractual requirement for cost or pricing data submitted by the Seller, its Subcontractors, agents and/or employees to Buyer or any other party.


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<td>WHISTLEBLOWER PROTECTIONS UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (SEC.1553, PUB.L.111-5) (&quot;RECOVERY ACT&quot;) (Applicable to all subcontracts funded under Recovery Act.)</td>
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<td>52.225-21</td>
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### SECTION 2.0

**DOD FAR SUPPLEMENT (DFARS) CLAUSES APPLICABLE TO ALL ORDERS**

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<td>UTILIZATION OF SMALL BUSINESS CONCERNS-DEVIAATION (The version of the clause in DoD Class Deviation 2009-00009 applies to efforts under DoD Prime Subcontracts in lieu of the standard FAR version of the clause.)</td>
</tr>
<tr>
<td>52.245-1</td>
<td>GOVERNMENT PROPERTY-DEVIAATION(The version of the clause in DoD Class Deviation 2007-00012 applies to efforts under DoD Prime Contracts in lieu of the standard FAR version of the clause.)</td>
</tr>
<tr>
<td>252.203-7002</td>
<td>REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS</td>
</tr>
<tr>
<td>252.204-7000</td>
<td>DISCLOSURE OF INFORMATION</td>
</tr>
<tr>
<td>252.204-7008</td>
<td>COMPLIANCE WITH SAFEGUARDING COVERED DEFENSE INFORMATION CONTROLS (The notification requirement in paragraph (c) requires notification prior to award of this PO if possible, and in no event later than 14 days after award of this PO.)</td>
</tr>
<tr>
<td>252.204-7012</td>
<td>SAFEGUARDING COVERED DEFENSE INFORMATION AND CYBER INCIDENT REPORTING (Reports required under paragraph (c) shall be made in compliance with paragraph (m)(2) of this Clause. In paragraph (b)(1)(i)(B), notification shall be made prior to award of this PO if possible, and in no event later than 14 days after award of this PO.)</td>
</tr>
<tr>
<td>252.208-7000</td>
<td>INTENT TO FURNISH PRECIOUS METALS AS GOVERNMENT FURNISHED MATERIAL</td>
</tr>
<tr>
<td>252.223-7004</td>
<td>DRUG-FREE WORKPLACE</td>
</tr>
<tr>
<td>252.223-7006</td>
<td>PROHIBITION ON STORAGE AND DISPOSAL OF TOXIC AND HAZARDOUS MATERIALS</td>
</tr>
<tr>
<td>252.223-7008</td>
<td>PROHIBITION OF HEXAVALENT CHROMIUM</td>
</tr>
<tr>
<td>252.225-7002</td>
<td>QUALIFYING COUNTRY SOURCES AS SUBCONTRACTORS</td>
</tr>
<tr>
<td>252.225-7008</td>
<td>RESTRICTION ON ACQUISITION OF SPECIALTY METALS</td>
</tr>
<tr>
<td>252.225-7009</td>
<td>RESTRICTION ON ACQUISITION OF CERTAIN ARTICLES CONTAINING SPECIALTY METALS (Paragraph (d) is deleted.)</td>
</tr>
<tr>
<td>252.225-7012</td>
<td>PREFERENCE FOR CERTAIN DOMESTIC COMMODITIES</td>
</tr>
</tbody>
</table>

**DUTY-FREE ENTRY** (Applies in lieu of FAR 52.225-6. The prime contract number and identity of the Contracting Officer are contained elsewhere in this Subcontract. If this information is not available, contact the BUYER Subcontract Administrator.)

**EXCLUSIONARY POLICIES AND PRACTICES OF FOREIGN GOVERNMENTS**

**CONTROL-RELATED ITEMS**

**RIGHTS IN TECHNICAL DATA – NONCOMMERCIAL ITEMS** (Applicable in lieu of FAR 52.227-14.) (Note 1 applies.)

**RIGHTS IN NONCOMMERCIAL COMPUTER SOFTWARE AND NONCOMMERCIAL COMPUTER SOFTWARE DOCUMENTATION** (Applicable in lieu of FAR 52.227-14.)

**RIGHTS IN BID OR PROPOSAL INFORMATION**

**RIGHTS IN NONCOMMERCIAL TECHNICAL DATA AND COMPUTER SOFTWARE — SMALL BUSINESS INNOVATIVE RESEARCH (SBIR) PROGRAM**

**VALIDATION OF ASSERTED RESTRICTIONS – COMPUTER SOFTWARE**

**LIMITATIONS ON THE USE OR DISCLOSURE OF GOVERNMENT FURNISHED INFORMATION MARKED WITH RESTRICTIVE LEGENDS** (For paragraph (c)(1), note 1 applies.)

**DEFERRED DELIVERY OF TECHNICAL DATA OR COMPUTER SOFTWARE**

**DEFERRED ORDERING OF TECHNICAL DATA OR COMPUTER SOFTWARE**

**DEFERRED DELIVERY OF TECHNICAL DATA OR COMPUTER SOFTWARE**

**TECHNICAL DATA OR COMPUTER SOFTWARE PREVIOUSLY DELIVERED TO THE GOVERNMENT** (The definitions for “contract” and “subcontract” shall not apply herein, except for the first reference to contract. Note 4 applies.)

**TECHNICAL DATA – WITHHOLDING OF PAYMENT** (Note 2 applies to paragraph (b).)

**VALIDATION OF RESTRICTIVE MARKINGS ON TECHNICAL DATA**

**ACCIDENT REPORTING AND INVESTIGATION INVOLVING AIRCRAFT, MISSILES, AND SPACE LAUNCH VEHICLES** (In paragraph (b) note 1 applies.)

**SUPPLEMENTAL COST PRINCIPLES**

**MODIFICATION PROPOSALS- PRICE BREAKDOWN**

**PRICING OF CONTRACT MODIFICATIONS**

**REQUEST FOR EQUITABLE ADJUSTMENT**

**CONTRACTOR PURCHASING SYSTEM ADMINISTRATION** (Note 1 shall apply in lieu of (c)(5) and (16).)

**WARRANTY OF DATA (AND ALTERNATE II)**

**NOTIFICATION OF POTENTIAL SAFETY ISSUES** (Applicable if this Subcontract is for (i) parts identified as critical safety items, (ii) systems and subsystems, assemblies and subassemblies integral to a system; or (iii) repair, maintenance, logistics support, or overhaul services for systems and subsystems assemblies and subassemblies integral to a system. Subcontractor shall provide notifications to BUYER and the Subcontract Administrator identified to Subcontractor.)

**CONTRACTOR COUNTERFEIT ELECTRONIC PART DETECTION AND AVOIDANCE SYSTEM**

**TRANSPORTATION OF SUPPLIES BY SEA** (Applicable in lieu of FAR 52.247-64 in all Subcontracts for ocean transportation of supplies. In the first sentence of paragraph (g), insert a period after “Contractor” and delete the balance of the sentence. Paragraph (f) and (g) shall not apply if this Subcontract is at or below $100,000.)

**NOTIFICATION OF TRANSPORTATION OF SUPPLIES BY SEA** (Applicable if this Subcontract meets the criteria set forth in paragraph (b)(2)(i)(D) of the clause.)

**REPRESENTATION OF EXTENT OF TRANSPORTATION BY SEA**

**PROHIBITION ON PERSONS CONVICTED OF FRAUD OR OTHER DEFENSE-CONTRACT-RELATED FELONIES** (In this clause, the terms “contract”, “contractor” and “subcontract” shall not change in meaning in paragraphs (a) and (d). Delete paragraph (g).)

**DISCLOSURE OF OWNERSHIP OR CONTROL BY THE GOVERNMENT OF A TERRORIST COUNTRY**
Section 2.2 - DFARS Clauses that Apply if this Order Exceeds $550,000:

252.226-7001 UTILIZATION OF INDIAN ORGANIZATIONS AND INDIAN-OWNED ECONOMIC ENTERPRISES — DOD CONTRACTS (In subparagraph (f)(1) “Contractor” shall mean BUYER. BUYER shall have no liability to SUBCONTRACTOR for any incentive payment under this clause unless and until the Government provides said incentive payment to BUYER.)

252.227-7003 SMALL, SMALL DISADVANTAGED AND WOMEN-OWNED SMALL BUSINESS SUBCONTRACTING PLAN (DoD Contracts) (Applicable if FAR 52.219-9 applies to this Subcontract.)

252.227-7004 REPORT OF INTENDED PERFORMANCE OUTSIDE THE UNITED STATES AND CANADA-SUBMISSION AFTER AWARD (Applicable to Subcontracts that could be performed in the United States or Canada.)

252.229-7006 QUARTERLY REPORTING OF ACTUAL CONTRACT PERFORMANCE OUTSIDE THE UNITED STATES (Paragraph (f) is deleted.)

Section 2.3 - DFARS Clauses that Apply if this Order Exceeds $700,000:

252.223-7003 SMALL, SMALL DISADVANTAGED AND WOMEN-OWNED SMALL BUSINESS SUBCONTRACTING PLAN (Test Program) (Applicable if SUBCONTRACTOR is participant in test program.)

252.225-7006 QUARTERLY REPORTING OF ACTUAL CONTRACT PERFORMANCE OUTSIDE THE UNITED STATES (Paragraph (f) is deleted.)

252.225-7007 NOTIFICATION OF ANTICIPATED CONTRACT TERMINATION OR REDUCTION (Applicable if Subcontract equals or exceeds $650,000. Delete paragraph (d)(1) and the first five words of paragraph (d)(2).)

252.225-7011 REPORTING OF FOREIGN TAXES – US ASSISTANCE PROGRAMS (Applicable if this Subcontract requires Government property in SUBCONTRACTOR’s possession to contain unique item identification.)

252.225-7012 PRICING ADJUSTMENTS (Applicable if FAR 52.215-12 or 52.215-13 applies to this Subcontract.)

252.225-7021 TRADE AGREEMENTS (Applicable if the Work contains other than domestic components.)

252.225-7024 RESTRICTION ON ACQUISITION OF FORGINGS (Applicable if the Work contains other than domestic components.)

252.225-7031 WAIVER OF UNITED KINGDOM LEVIES (This clause applies if SUBCONTRACTOR is supplying items on the U.S. Munitions List.)

252.225-7037 PETITIONS – REQUESTS TO BUDGET TO EARLY PAYMENT (When applicable, Seller must complete and return the certificate to the Buyer’s Procurement Agent)

252.225-7038 PATENTS – REPORTING OF SUBJECT INVENTIONS (Applicable if DFARS 252.223-7002 applies to this Subcontract.)

252.226-7004 RESTRICTIONS ON EMPLOYMENT OF PERSONNEL (Applicable if the Work includes other than domestic components.)

252.227-7006 RESTRICTIONS ON THE USE OF MANDATORY ARBITRATION AGREEMENTS

Section 2.4 - DFARS Clauses that Apply if this Order Exceeds $1,000,000:

252.227-7006 RESTRICTIONS ON THE USE OF MANDATORY ARBITRATION AGREEMENTS

Section 2.5 - DFARS Clauses that Apply if this Order Exceeds $1,500,000:

252.211-7000 ACQUISITION STREAMLINING

Section 2.6 - DFARS Clauses that Apply if this Order Exceeds $5,500,000:

252.225-7004 REPORT OF INTENDED PERFORMANCE OUTSIDE THE UNITED STATES (Applicable where SUBCONTRACTOR will be performing or traveling outside the U.S. under this Subcontract. Note 2 applies.)

252.226-7003 DISPLAY OF FRAUD HOTLINE POSTERS (Applicable in lieu of FAR 52.203-14)

Section 2.7 - DFARS Clauses that Apply under Described Circumstances:

252.204-7010 REQUIREMENT FOR CONTRACTOR TO NOTIFY DOD IF THE CONTRACTOR’S ACTIVITIES ARE SUBJECT TO REPORTING UNDER THE US INTERNATIONAL ATOMIC ENERGY AGENCY ADDITIONAL PROTOCOL (Applicable if this PO is subject to the provisions of the International Atomic Energy Agency Additional Protocol US-IAEAP)

252.211-7003 ITEM IDENTIFICATION AND VALUATION – (Applicable if this Subcontract requires the Work to contain unique item identification. In paragraphs (c)(3)(i), (c)(4)(i), (d), (e) and (f) “Contractor” shall mean “Subcontractor”, all reports required to be submitted under this clause shall be submitted to Buyer at a location to be provided; delete paragraph (g) and insert the following in lieu thereof: “(g) Lower Tier Subcontracts. SUBCONTRACTOR shall include this clause, including this paragraph (g), in all lower tier subcontracts issued under this Subcontract for the acquisition of components identified herein as requiring UID.”)

252.211-7007 REPORTING OF GOVERNMENT-FURNISHED EQUIPMENT IN THE DOD ITEM UNIQUE IDENTIFICATION REGISTRY (Applicable if this Subcontract requires Government property in SUBCONTRACTOR’s possession to contain unique item identification.)

252.215-7000 PRICING ADJUSTMENTS (Applicable if FAR 52.215-12 or 52.215-13 applies to this Subcontract.)

252.215-7002 COST ESTIMATING SYSTEM REQUIREMENTS (This clause applies if cost or pricing data is required.)

252.215-7008 ONLY ONE OFFER (Applicable if included in Prime Contract)

252.216-7009 ALLOWABILITY OF LEGAL COSTS INCURRED IN CONNECTION WITH A WHISTLEBLOWER PROCEEDING (Does not apply to fixed price Prime Contracts)

252.222-7000 RESTRICTIONS ON EMPLOYMENT OF PERSONNEL (Applicable if included in Prime Contract.)

252.223-7001 HAZARD WARNING LABELS (Applicable if this Subcontract requires the delivery of hazardous materials.)

252.223-7002 SAFETY PRECAUTIONS FOR AMMUNITION AND EXPLOSIVES (Applicable only if the items furnished under this Subcontract contain ammunition or explosives, including liquid and solid propellants. Note 1 applies. Note 2 applies to paragraph (g)(1). In paragraph (g)(1)(e) delete “prime” and “substituting its name for references to the Government.”)

252.223-7003 CHANGE IN PLACE OF PERFORMANCE AMMUNITION AND EXPLOSIVES (Applicable if DFARS 252.223-7002 applies to this Subcontract. Note 2 applies.)

252.225-7007 SAFEGUARDING SENSITIVE CONVENTIONAL ARMS, AMMUNITION AND EXPLOSIVES (Applicable if this Subcontract is for the development, production, manufacture, or purchase of arms, ammunition and explosives or when arms, ammunition and explosives will be provided to Subcontractor as Government Furnished Property.)

252.225-7008 BUY AMERICAN STATE-BALANCE OF PAYMENTS PROGRAM CERTIFICATE (This clause is substituted in lieu of FAR 52.225-2. Applicable if the Work includes other than domestic components.)

252.225-7009 BUY AMERICAN AND BALANCE OF PAYMENTS PROGRAM (This clause is substituted in lieu of FAR 52.225-1. Applicable if the Work includes other than domestic components.)

252.225-7010 PROHIBITION ON ACQUISITION OF UNITED STATES MUNITIONS LIST ITEMS FROM COMMUNIST CHINESE MILITARY COMPANIES (Applicable if SUBCONTRACTOR is supplying items on the U.S. Munitions List.)

252.225-7012 RESTRICTION ON THE ACQUISITION OF HAND OR MEASURING TOOLS

252.225-7013 RESTRICTION ON ACQUISITION OF BALL AND ROLLER BEARINGS (Applicable if the Work supplied under this Subcontract contains ball or roller bearings.)

252.225-7014 RESTRICTION ON ACQUISITION OF ANCHOR AND MOORING CHAIN (Applicable to subcontracts for items containing welded shipboard anchor and mooring chain, four inches or less in diameter.)

252.225-7021 TRADE AGREEMENTS (Applicable if the Work contains other than U.S.-made, qualifying country or designated country end products. Applicable in lieu of FAR 52.225-5.)

252.225-7022 RESTRICTION ON ACQUISITION OF FORGINGS (Applicable if subcontract is for forging items as defined in the clause.)

252.225-7023 WAIVER OF UNITED KINGDOM LEVIES (This clause applies if Subcontract exceeds $1,000,000 with a United Kingdom firm.)

252.225-7024 ANTI-TERRORISM/FORCE PROTECTION POLICY FOR DEFENSE CONTRACTORS OUTSIDE THE UNITED STATES (Applicable where Subcontractor will be performing or traveling outside the U.S. under this Subcontract. For paragraph (c), see applicable information cited in DFARS 225.7401.)

252.225-7025 RIGHTS IN SHOP DRAWINGS (Applicable if this Order or a higher tier contract is for construction services)

252.227-7003 PATENT RIGHTS-OWNERSHIP BY THE CONTRACTOR (LARGE BUSINESS) (Applicable if (1) Subcontractor is not a small business or nonprofit organization subject to FAR 52.227-11 and (2) the Subcontract is for experimental, developmental or research work.)

252.227-7004 PATENTS – REPORTING OF SUBJECT INVENTIONS (Applicable if FAR 52.227-11 applies to this Subcontract.)

252.227-7005 GROUND AND FLIGHT RISK (Applicable if this Order or any higher tier contract is for aircraft related services.)

252.227-7006 STATUS OF CONTRACTOR AS A DIRECT CONTRACTOR (SPAIN) (Applicable if this Order or any higher tier contract involves the importation of supplies into Spain for Spanish-American installations or facilities.)

252.227-7007 REPORTING OF FOREIGN TAXES – US ASSISTANCE PROGRAMS (Applicable if this Buyer’s contract is funded with US assistance from annual foreign operations appropriations.)

252.234-7002 EARNED VALUE MANAGEMENT SYSTEM (Applicable if specified in the Prime Contract.)
SECTION 3.0 NASA FAR SUPPLEMENT (NFS) CLAUSES APPLICABLE TO ALL ORDERS

1852.204-76 SECURITY REQUIREMENTS FOR UNCLASSIFIED INFORMATION TECHNOLOGY RESOURCES (Note 5 applies.)

1852.211-70 PACKAGING, HANDLING AND TRANSPORTATION

1852.219-74 USE OF RURAL AREA SMALL BUSINESSES

1852.219-76 NASA 5 PERCENT GOAL

1852.223-75 MAJOR BREACH OF SAFETY OR SECURITY

1852.225-70 EXPORT LICENSES

1852.227-14 RIGHTS IN DATA-GENERAL (Modifies FAR 52.227-14.)

1852.227-19 COMMERCIAL COMPUTER SOFTWARE - RESTRICTED RIGHTS (Modifies FAR 52.227-19)

1852.237-72 ACCESS TO SENSITIVE INFORMATION

1852.237-73 RELEASE OF SENSITIVE INFORMATION

1852.242-71 TRAVEL OUTSIDE OF THE UNITED STATES (Applicable if this Subcontract requires travel to locations outside of the United States that will be charged directly to the Subcontract. Substitute “45 days” for “30 days” in the clause.)

1852.242-72 OBSERVANCE OF LEGAL HOLIDAYS (Applicable if the Work will be performed at a NASA installation.)

1852.242-73 NASA CONTRACTOR FINANCIAL MANAGEMENT REPORTING

1852.245-70 CONTRACTOR REQUESTS FOR GOVERNMENT-OWNED EQUIPMENT.

1852.245-72 LIABILITY FOR GOVERNMENT PROPERTY FURNISHED FOR REPAIR OR OTHER SERVICES (Note 1 applies only to the first two times “Government” appears in paragraph (e)).

1852.245-74 IDENTIFICATION AND MARKING OF GOVERNMENT EQUIPMENT.

Section 3.1 - NASA FAR Supplement (NFS) Clauses that Apply under Described Circumstances:

1852.219-75 SMALL BUSINESS SUBCONTRACTING REPORTING (Applicable if FAR 52.219-9 applies to this Contract.)

1852.227-11 PATENT RIGHTS-RETENTION BY THE CONTRACTOR (SHORT FORM) (Applicable if this Subcontract includes, at any tier, experimental, developmental or research work and Subcontractor is a small business concern or domestic nonprofit organization. Reports required by this clause shall be filed with the agency identified in this Subcontract. If no agency is identified, contact the BUYER Subcontract Administrator identified in this Subcontract.)

1852.208-81 RESTRICTIONS ON PRINTING AND DUPLICATING (This clause applies only if printing or duplicating exceeds the limits defined in paragraph (c) of the clause.)

1852.223-70 SAFETY AND HEALTH (Applicable when any of the conditions in NASA FAR Supplement 1823.701(a) exist. Add “and BUYER Subcontract Administrator” after Contracting Officer in paragraph (i). Note 2 applies to paragraph (g)(1)).

1852.223-71 FREQUENCY AUTHORIZATION (Applicable if this Subcontract requires the development, production, test or operation of a device for which a radio frequency is required.)

1852.223-72 SAFETY AND HEALTH (SHORT FORM) (Applicable if NFS 1852.223-70 does not apply.)

1852.224-71 USE OF RURAL AREA SMALL BUSINESSES (Note 5 applies.)

1852.225-70 EXPORT LICENSES

1852.227-14 RIGHTS IN DATA-GENERAL (Modifies FAR 52.227-14.)

1852.227-19 COMMERCIAL COMPUTER SOFTWARE - RESTRICTED RIGHTS (Modifies FAR 52.227-19)

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1852.237-73 RELEASE OF SENSITIVE INFORMATION

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1852.223-72 SAFETY AND HEALTH (SHORT FORM) (Applicable if NFS 1852.223-70 does not apply.)