

General Terms & Conditions of Purchase Rev. 2023 August 1

1. **CERTAIN DEFINED TERMS:**

“**Affiliate**” means, with respect to the Buyer or the Seller, any entity that directly, or indirectly through one or more intermediaries, Controls, is Controlled by, or is under common Control with such Party.

“**Business Day**” means the days of Monday through Friday excluding any such day that is a recognized holiday in the United States.

“**Buyer**” means the entity or entities identified in the applicable Order Document issued to purchase Goods or Services from the Seller subject to these T&Cs.

“**Change**” or “**Changes**” means the changes that Buyer may make to the Order Document in accordance with the requirements of Sections 8 and 9 of these T&Cs.

“**Contract**” has the meaning as set forth in Section 2 of these T&Cs.

“**Control**” (with the terms “**Controlled by**” and “**under common Control with**”) means, with respect to any person or entity, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of another person or entity, whether through the ownership of voting securities, being a director, manager, or officer, by contract, or otherwise.

“**Customer**” means an entity that is a customer of the Buyer, which is in the purchasing chain for, or has a beneficial interest in, the Goods and/or Services Buyer is purchasing from Seller.

“**Due Date**” means the date set forth on the Order Document that the purchased Goods or Services are to be delivered to Buyer.

“**Force Majeure Event**” has the meaning as set forth in Section 21 of these T&Cs.

“**Furnished Property**” means property owned by Buyer or its Customers made available to Seller for the sole purpose of furnishing the Good and/or Services to be delivered to Buyer.

“**Goods**” means the products that are identified and/or described on the Order Document by the Buyer to be purchased from the Seller.

“**Material Safety Data Sheet**” means the form in conformance with and containing information required by the Occupational Safety and Health Act of 1970, as amended, and any regulation thereunder or any applicable State safety and health requirements as described in Section 3 of these T&Cs.

“**Party**” means the Buyer and Seller individually and “**Parties**” means the Buyer and Seller collectively.

“**Principal**” means a person as defined in the Federal Acquisition Regulations 52.209-5.

“**Procurement Representative**” means the person identified by the Buyer as having authority to write and execute an Order Document, purchase order, PO, statement of work, or any Change as provided in Sections 8 and 9 of these T&Cs.

“**Order Document**” means a purchase order, PO, statement of work, or any other document issued by Buyer setting forth the Goods to be produced and/or Services to be performed by Seller.

“**Order Number**” means the number assigned to an Order Document, purchase order, PO, or statement of work by Buyer.

“**Seller**” means the person or entity identified as the seller, supplier, vendor, or provider of Goods and/or Services in the applicable Order Document issued by Buyer.

“**Services**” means the services that are identified and/or described on the Order Document by the Buyer to be purchased from the Seller.

“**T&Cs**” means these General Terms & Conditions of Purchase including the Addendums attached hereto.

“**Terms**” means these T&Cs and any additional terms and conditions Buyer sets forth on or as an addendum to the Order Document, any additional Buyer forms, or these T&Cs.

“**Work**” means the work required to produce any portion of the Goods or to perform any portion of the Services.

“**Warranty Period**” has the meaning set forth in Section 20 of these T&Cs.

2. **CONTRACT FORMATION:** These T&Cs and the Order Document together with any additional terms and conditions that may be set out on the face of Buyer’s purchasing forms or statements of work constitute a Contract offered by Buyer to purchase Goods and/or Services from Seller. Any Seller terms and conditions that are in addition to, different from, inconsistent with, or contradict the Terms of the Buyer’s Contract are rejected and are of no force or effect. If Seller performs any part of the Services, produces any of the Goods, and/or has shipped or delivered any item ordered by Buyer, Seller shall be deemed to have accepted the Contract and assented to Terms. The Contract shall apply to any repaired, replaced, or re-performed Goods and/or Services to be provided by Seller.
3. **SELLER’S OBLIGATIONS:** The Seller agrees to perform Services and/or deliver Goods in compliance with the specifications and procedures in the Contract and Seller’s quotation in a workman-like and professional manner, and with promptness. Time is of the essence. Seller shall strive to perform Services in a manner which minimizes the impact on the Buyer’s on-going business operations. Undue delays beyond the promised delivery date set forth in the Contract will result in liquidated damages assessed against Seller at the rate set forth in the Terms. Seller shall not be responsible for errors or omissions due to Buyer’s supplied or approved procedures, specifications, materials, or other Buyer supplied information.

4. QUALITY CONTROL:

- (a) Seller shall provide and maintain a quality control system to an industry recognized Quality Standard and in compliance with any other specific quality requirements identified on the face of the Order Document or incorporated by reference on the Order Document.
- (b) Records of all quality control inspection work by Seller shall be kept complete and available to Buyer and its Customer.
- (c) Should the Services and/or Goods being purchased involve laboratory testing, inspection, or calibration services then Addendum A attached hereto shall apply as if fully set forth herein.

5. COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS:

- (a) Seller agrees to comply with all applicable laws, orders, rules, regulations, and ordinances in force and as amended from time to time.
- (b) Seller represents that each chemical substance constituting or contained in the Work sold or otherwise transferred to Buyer is on the list of chemical substances compiled and published by the Administrator of the Environmental Protection Agency pursuant to the Toxic Substances Control Act (15 U.S.C. Sec 2601, et. seq.), as amended from time to time.
- (c) Seller shall provide to Buyer, with each delivery, any Material Safety Data Sheet applicable to the Work in conformance with and containing such information as required by the Occupational Safety and Health Act of 1970 and regulations promulgated thereunder, or its State approved counterpart.
- (d) The Parties recognize that a portion or all of the Work may be used to satisfy the requirements of Buyer's performance under a United States Federal Government prime or sub-contract. Accordingly, Seller agrees, that under such circumstances, and to the extent permissible by law, Seller shall be bound by all applicable Federal Acquisition Regulations and Department of Labor clauses in Buyer's contract with the Federal Government or higher tier subcontractor. Whenever the Parties are bound by the Regulations and clauses, the term "Contractor" shall be construed to mean the Seller and "Government" shall be construed to mean the Buyer.
- (e) The Seller certifies that to the best of its knowledge and belief, the Seller and any of its Principals are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any U.S. Federal Government Agency. Seller shall provide immediate written notice to Buyer if at any time it learns that its certification was erroneous or has become erroneous by reason of change of circumstances.
- (f) Seller agrees to comply with all applicable export and import control laws and regulations of Seller and Buyer's country as amended from time to time, including, *inter alia*, the International Traffic in Arms Regulations and 22 C.F.R. §§ 120.27, 120.6, 120.0, and the U.S. Export Administration Regulations.
- (g) Seller agrees to comply with all applicable rules and regulations of Section 889 (a)(1)(B), Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment, of the 2019 National Defense Authorization Act prohibiting the Federal Government from obtaining or extending a contract to obtain "any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system."
- (h) Seller agrees to comply with all applicable rules and regulations of NIST Special Publication 800-171 Revision 2, and future revisions, Protecting Controlled Unclassified Information in Nonfederal Systems and Organizations. The recommended security requirements contained in this publication are only applicable to a nonfederal system or organization when mandated by a federal agency in a contract, grant, or other agreement. The security requirements apply to the components of nonfederal systems that process, store, or transmit CUI, or that provide security protection for such components.
- (i) Specific to Equal Employment Opportunity, this Contract is subject, as applicable, to the provisions of (i) Executive Order 11246, (41 CFR Section 60-1.4 (a)); (ii) Section 503 of the Rehabilitation Act of 1973, (41 CFR 60-741.5(a)), and (iii) Section 4212 of the Vietnam Era Veterans Readjustment Act of 1974, (41 CFR 60-300.5 (a)); as contractor and subcontractor, the Parties shall abide by the applicable requirements of 41 CFR §§ 60-1.4(a), 60-741.5(a), and 60-300.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity/expression or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to

race, color, religion, sex, sexual orientation, gender identity/expression or national origin, protected veteran status or disability. This Contract is also subject to Executive Order 13496 (29 CFR Part 471, 29 CFR Part 471 – Appendix A to Subpart A), relating to the notice of employee rights under federal labor laws.

- (j) No gratuities (in the form of entertainment, gifts or otherwise) or kickbacks shall be offered or given by Seller, to any employee of Buyer with a view toward securing favorable treatment as a Seller. Seller shall also comply with the Foreign Corrupt Practices Act.

6. INDEPENDENT CONTRACTORS: Seller is an independent contractor in all its operations and activities hereunder. The employees of Seller performing the Work under the Contract shall be Seller's employees or subcontractors exclusively and shall have no relationship to Buyer. Nothing in the Order Document and no action taken by the Parties pursuant to the Contract shall constitute or be deemed to constitute a partnership between the Parties or shall be deemed to make either Party the agent, employee, or representative of the other.

7. ASSIGNMENT AND SUBCONTRACTING: Any purported assignment or subcontracting of Seller's contractual rights or obligations, or a delegation of Seller's duties shall be void, unless prior written consent is given by Buyer; provided, however, Seller may assign rights to amounts to be paid, amounts due, or amounts to become due, to a financing institution, if Buyer is promptly furnished a signed copy of such assignment reasonably in advance of the due date for payment of any such amounts. Amounts assigned to an assignee shall be subject to offsets or recoupment for any present or future claims of Buyer against Seller. Buyer shall have the right to make settlements and/or adjustments in price without notice to an assignee. Assignees shall be duly informed of these provisions, in writing, by Seller. Seller shall provide notarized proof of payment of all subcontractors and the release of any and all liens against the Work or Buyer.

8. PURCHASE ORDER TECHNICAL OR ADMINISTRATIVE DIRECTION:

- (a) Only personnel identified in writing to be the Buyer's Procurement Representative has the authority to change the Contract and any such change to the Contract must be in writing signed by the Procurement Representative.
- (b) Buyer's engineering and technical personnel may from time-to-time render assistance, give technical advice, or effect an exchange of information with Seller's personnel concerning the Work. Such actions shall not be deemed to be a change under Section 9 CHANGES of these T&Cs and shall not be the basis for an equitable adjustment.
- (c) Except as otherwise provided herein, all notices furnished by Seller shall be in writing and sent to the person designated by Buyer to receive notices in accordance with Section 23 NOTICES of these T&Cs.

9. CHANGES:

- (a) The Buyer's Procurement Representative may at any time, by written notice, and without notice to sureties or assignees, make Changes within the general scope of the Contract in any one or more of the following: (i) drawings, designs or specifications; (ii) method of shipping or packing; (iii) place of inspection, acceptance, performance, or point of delivery; (iv) delivery schedule; (v) description of services to be performed; and (vi) time of performance of the Work (e.g., hours of the day, days of the week, etc.). Changes may only be made in writing by the Buyer's Procurement Representative.
- (b) If any Change causes an increase or decrease in the cost of, or the time required for performance of any part of the Contract, Buyer shall make an equitable adjustment in the price and/or delivery schedule and modify the Contract accordingly.
- (c) Any claim for an equitable adjustment by Seller must be submitted in writing to Buyer within seven (7) Business Days from the date of notice of the Change unless the Parties agree in writing to a longer period. Buyer may request an independent audit (at Seller's sole expense) of any of Seller's books or records related directly or indirectly to the Contract in connection with any equitable adjustment proposal, if Seller fails to provide information adequate to determine that the Change is fair and reasonable. Seller shall provide Buyer's representatives with access to such premises, documents, personnel, and facilities as may reasonably be necessary to allow Buyer, or its representatives (including the Defense Contract Audit Agency or other authorized Government agencies), to carry out such audits.
- (d) Failure to reach agreement to any adjustment shall be resolved in accordance with Section 16 DISPUTES, of these T&Cs. However, nothing contained in this Section 9 shall excuse the Seller from proceeding without delay in the performance of the unchanged portion of the Order Document.

10. STOP WORK ORDER:

- (a) Seller shall stop Work for up to ninety (90) days in accordance with the terms of any written notice from Buyer, or for longer periods of time as the Parties may agree and shall take all reasonable steps to minimize the incurrence of costs allocable to the Work covered by the Order Document during the period of Work stoppage.
- (b) Within such period, Buyer shall either terminate or continue the Work by written notice to Seller. In the event of a continuation, an equitable adjustment in accordance with the principles of Section 9 CHANGES of these T&Cs shall be made to the price, delivery schedule, or other provision affected by the Work stoppage, if applicable, provided that the claim for equitable adjustment is made within thirty (30) days after such continuation.

11. TERMINATION:

- (a) Buyer may terminate part or all of the Contract for its convenience by giving written notice to Seller. Buyer's only obligation shall be to pay Seller a percentage of the Work performed and accepted prior to the notice of termination, plus reasonable charges that Seller can demonstrate to the satisfaction of Buyer, using Generally Accepted Accounting Principles, that have resulted from the termination. Seller shall not be paid for any Work performed or costs incurred which reasonably could have been avoided. Buyer may request an independent audit, of any of Seller's books or records related directly or indirectly to the Contract in connection with any termination. Seller shall provide Buyer with access to such premises, documents, personnel, and facilities as may reasonably be necessary to allow Buyer, or its representatives (including the Defense Contract Audit Agency or other authorized Government agency), to carry out such audits.
- (b) In no event shall Buyer be liable for lost or anticipated profits, unabsorbed indirect costs, overhead, or non-economic losses, or for any amount in excess of the Order Document amount. Seller's termination claim shall be submitted within fifteen (15) days from the effective date of the termination.
- (c) Seller shall continue to perform all Work not terminated.

12. PACKING, PACKAGEING AND TITLE:

- (a) Unless otherwise specified, all Work shall be packed and packaged in accordance with good commercial practice.
- (b) A complete packing list shall be enclosed with all shipments. Seller shall mark all containers or packages with necessary lifting, loading, and shipping information, including the Buyer's Order Document Number, item number (if applicable), dates of shipment, and the names and addresses of the consignor and consignee (if applicable). Bills of lading shall include the Order Document Number.
- (c) Title to the Work shall pass on delivery at Buyer's site (Incoterms DDP) and must be accepted in writing by the Buyer. Seller shall be responsible and liable for the Work until delivery.

13. INSPECTION AND ACCEPTANCE:

- (a) Notwithstanding: (i) payment; (ii) passage of title; (iii) prior inspection or test; or (iv) execution of acceptance documents, Buyer and its Customer may inspect all Work prior to acceptance or rejection at reasonable times and places, including, when practicable, during manufacturing or performance and before shipment. Seller shall provide all information, facilities, and assistance necessary for safe and convenient inspection, or demonstration of fulfillment of the final inspection or acceptance test criteria without additional charge.
- (b) No such inspection shall relieve Seller of its obligations to furnish all Work in accordance with the requirements of the Contract. Buyer's final inspection and/or acceptance test shall be at the delivery location specified by Buyer unless otherwise designated by Buyer. Acceptance is not final or complete until the Work is accepted by the Buyer in writing.
- (c) Seller shall provide and maintain a test and inspection system acceptable to Buyer and its Customers, including independent third-party testing, if required by Buyer, at Seller's expense. Final inspection and/or acceptance testing, when required by Buyer, are the sole responsibility of Seller and at Seller's sole expense. Buyer will be provided reasonable opportunity to witness the final inspection or acceptance test, or to conduct the final inspection or acceptance test with Seller bearing all reasonable costs thereof.

- (d) If Seller delivers non-conforming Work, the Parties shall agree to remedy the non-conforming Work by: (i) accepting all or part of the non-conforming Work pursuant to a written statement prepared by Seller which Buyer has accepted and executed or (ii) rejecting such Work with Seller re-performing the Work (See Section 20 WARRANTY of these T&Cs).
- (e) Seller shall not re-tender rejected Work without disclosing the corrective action taken.

14. DEFAULT:

- (a) Buyer, by written notice, which indicates details of default, may terminate the Contract for default, in whole or in part, if Seller fails to comply with any of the Terms of the Contract, fails to make progress as to endanger performance of the Contract, or fails to provide adequate assurance of future performance. Seller shall have ten (10) days (or such longer period as Buyer may authorize in writing) after receipt of notice from Buyer to cure any such failure. Default involving delivery schedule delays shall not be subject to this cure provision but shall be subject to charges for liquidated damages as set forth on the Contract or cancellation for default. Only *Force Majeure* and Buyer induced events shall constitute excusable delays. In the event of an uncured default, Buyer shall have the right to re-procure the Work, and Seller shall pay any costs so incurred which exceed the value of the original Contract, if the cure requirements are not completed within the cure period. Buyer shall also be entitled to re-procurement costs and expenses, if so incurred.
- (b) Buyer shall not be liable for any Work not accepted. However, Buyer may require Seller to deliver to Buyer any supplies and materials, manufacturing and specification materials, and manufacturing and specification drawings that Seller has specifically produced or acquired for the terminated portion of the Contract. Buyer and Seller shall agree on the amount of payments for these other deliverables as provided in Section 9 CHANGES of these T&Cs.
- (c) Seller shall continue all Work not terminated.
- (d) If a termination in accordance with Clause (a) of this Section 14 is later determined not be caused by a default of Seller, the termination shall be deemed to be a Termination for Convenience.

15. PAYMENTS AND TAXES:

- (a) Buyer shall have no obligation for payment until Buyer's receipt of the Goods and/or Services and any required documentation (including shipping documentation and an accurate and complete invoice in English). Buyer's payment is based upon the receipt of Seller's verified invoice.
- (b) Terms of payment are net seventy-five (75) calendar days following Buyer's receipt of Seller's proper invoice in accordance with any payment milestones, line items or schedule in Buyer's Order Document, or any milestone or line item designated for payment in an alternate manner within the Order Document. Buyer shall have the right of offset against payments due or at issue under the Order Document or any other agreement or purchase document between the Parties.
- (c) Payment shall have been deemed to be made as of the date of mailing or electronic funds transfer of the payment by Buyer.
- (d) Unless otherwise specified in the Order Document, prices shall include all applicable federal, state, and local taxes, duties, tariffs, and similar fees imposed by any governmental authority, all of which shall be separately listed on the invoice.
- (e) Invoices must clearly show Seller's shipper or packing list number and Buyer's Order Document Number. Packing lists must state clearly the (i) Order Number, (ii) line-item number (if applicable), (iii) applicable serial, part, drawing, release, or advice numbers, (iv) descriptions, (v) quantities and (vi) weights. All invoices must be sent to the email address set forth on the Order Document. The subject line of the email must begin with the Seller's initial invoice number followed by the Seller's name to enable immediate processing of an invoice. The format of the invoice must be PDF and only one invoice per PDF is permitted.

16. DISPUTES:

- (a) Buyer's Order Document shall have the highest precedence in all matters, including disputes, followed by, in descending order of precedence: (i) Buyer's Changes (ii) these T&Cs, (iii) Buyer purchasing forms, (iv) Buyer specifications and (v) Seller's terms and conditions provided to Buyer (where applicable). All disputes under this Contract (including any question regarding its existence, validity, and termination) which are not disposed of by mutual agreement following good faith negotiations within a period of thirty (30) days from the notification of a dispute shall be finally resolved at Buyer's sole discretion either by submitting the claim

to (y) a court of competent jurisdiction in the State of Ohio or (z) binding arbitration, before a mutually acceptable arbitrator in the State of Ohio, in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The Seller agrees to submit to the exclusive jurisdiction of the court or arbitrator (as the case may be), and nothing herein shall affect the Buyer's right to apply to an appropriate court for interim relief or to prevent irreparable harm to Buyer. Until final resolution of any dispute, Seller shall diligently proceed with the performance of the undisputed portion of the Contract as directed by Buyer.

- (b) In any dispute under the jurisdiction of a court, a Party prevailing on all counts shall be entitled to all reasonable attorney's fees and costs.
- (c) Seller acknowledges that it has read the Order Document, these T&Cs and other mutually agreed documents forming the Contract and has had the opportunity to clarify all of these with the Buyer and is satisfied that it reflects the intent of the Parties. Accordingly, the rule of *contra preferendum* shall not apply to the Contract and Buyer agrees and acknowledges that any ambiguity, inconsistency, or conflict that remains in the Contract after its execution by both Parties shall not be construed for or against either Party.

17. PROPERTY:

- (a) Buyer may provide to Seller Furnished Property for Seller to manufacture the Goods and/or perform the Services in accordance with the Order Document. Furnished Property shall be used only for the performance of the Order Document.
- (b) Title to Furnished Property shall remain in Buyer or its Customer. Seller shall clearly mark (if not so marked) all Furnished Property to show its ownership.
- (c) Except for reasonable wear and tear, Seller shall be responsible for, and shall promptly notify Buyer of, any loss, damage, destruction, or theft of Furnished Property. Without additional charge, Seller shall manage, maintain, and preserve Furnished Property in accordance with good commercial practice.
- (d) Where Work is manufactured from material supplied by Buyer, unless agreed otherwise, replacements for any spoiled or lost material shall be ordered from Buyer at Seller's liability and expense and any value added by Buyer to material shall also be at Seller's liability and expense.
- (e) If the Work is performed pursuant to a prime or sub-tier contract issued by any Department or Agency of the US Government, Seller's liability for damage, loss, or injury to Furnished Property shall be governed by the provisions of FAR 52.245-1. For purposes of this Section 17(e) the term "Contractor" shall be construed to mean Seller and "Government" shall be construed to mean Buyer.

18. PROPRIETARY DATA, RIGHTS IN DATA, LICENSES AND RELEASE OF INFORMATION:

- (a) The respective proprietary know-how of Seller and Buyer, as well as all other confidential commercial and operational information of Seller and Buyer, including the contents of contracts with third parties, (hereinafter called "Information") shall be treated as confidential information by both Parties. Both Parties shall take all necessary measures to protect the Information from unauthorized access, unauthorized release, copying, transmission or unauthorized use of the Information of the other Party using the same care as they would for their own confidential information, but not less than a reasonable degree of care. Information that is already publicly available prior to or following its transmission to either Party shall not be subject to these provisions.
- (b) Both Parties shall use reasonable care to ensure that employees and third parties receiving access to the Information are subject to the same requirements of confidentiality as identified above. Both Parties shall, at the request of the other Party, ensure that employees and third parties sign a separate confidentiality agreement before being permitted access to the Information.
- (c) Buyer and Seller shall, without delay, notify the other Party in the event that either Party receives any court, government or other official and binding demand for the release of Information.
- (d) Clauses (a), (b) and (c) of this Section 18 shall continue in effect for a period of three (3) years after the termination or expiration of the Contract.
- (e) Seller assigns, conveys and transfers to Buyer without any further consideration each and every invention, discovery, improvement, mask works, and patent relating to the Work, conceived, developed, or generated in performance of the Contract, and upon request shall execute any required papers and furnish all reasonable assistance to Buyer to vest all right, title and interest in such inventions, discoveries, improvements, mask works, and patents in Buyer.

- (f) All data, copyrights, reports, and works of authorship developed in performance of the Contract shall be the sole property of Buyer and shall be used by Seller solely in the Work for Buyer under the Contract. To the extent that any of the Work may not, by operation of law, be works made for hire, Seller hereby assigns to Buyer the ownership of copyright in the Work and Buyer shall have the right to obtain and hold in its own name copyrights, registrations, and similar protection which may be available in the Work. Seller shall give Buyer or its designees all assistance reasonably required to perfect such rights.
- (g) To the extent that any pre-existing inventions, technology, designs, works of authorship, mask works, technical information, computer software, and other information or materials are used, included, or contained in the Work or deliverable items and not owned by Buyer pursuant to this or a previous agreement with Seller, Seller grants to Buyer an irrevocable, nonexclusive, world-wide, royalty-free license to: (i) make, have made, sell, offer for sale, use, execute, reproduce, display, perform, distribute (internally or externally) copies of, and prepare derivative works based upon such pre-existing inventions, technology, designs, works of authorship, mask works, technical information, computer software, and other information or materials and derivative works thereof; and (ii) authorize others to do any, some or all of the foregoing.
- (h) Items delivered under the Contract such as operation and maintenance manuals shall be delivered with the right to copy for internal use and/or copy and deliver with the right to use to Buyer's Customers.
- (i) The tangible medium storing all reports, memoranda or other materials in written form including machine readable form, prepared by Seller, and furnished to Buyer pursuant to the Contract shall become the sole property of Buyer.
- (j) Where Seller provides computer software or firmware programming under this Contract, Seller shall deliver to Buyer an unrestricted and unlocked copy, on electronic media, of all source code, documentation and installation instructions provided under the Contract, unless such computer software or firmware instructions are licensed from a third party which prohibits such transfer. For licensed software or firmware instructions which are obtained from a third party, Seller shall provide appropriate licenses.

19. INSURANCE / INDEMNIFICATION AND LIMITATION OF LIABILITY:

- (a) Except as specifically set forth herein, Seller agrees to indemnify, hold harmless and defend Buyer and its directors, officers, employees, agents, guests, Customers, successors and assigns from and against any and all liabilities, claims, losses, damages, fines, penalties, forfeitures, and the costs and expenses incidental thereto (including costs of defense, settlement and reasonable attorney's fees) which it or they may hereafter incur, become responsible for, or pay as a result of, or arising out of Seller, its officers, employees, agents, sellers, or subcontractors at any tier, breaching of any of their duties or obligations, under the Contract. Seller shall include this Section 19(a) in all subcontracts at any tier, involving performance of the Contract.
- (b) The Seller shall not be liable for any damages arising from delay in the performance of the Work if such delay is due to a cause beyond the reasonable control of the Seller. In the event such a delay arises, Seller shall immediately notify Buyer and provide a reasonable date of completion of the Work. Any event beyond Seller's reasonable control shall not constitute a cause for cancellation of the Order Document but shall extend the Seller's time to perform the Work on a business day-for-business day basis for a period not to exceed the duration of the delay, but in no event longer than thirty (30) days. In the event the delay exceeds thirty (30) days, Buyer may, at its sole discretion: (i) negotiate a new date for completion of the Work, or (ii) terminate the Contract pursuant to Section 11, TERMINATION of these T&Cs.
- (c) Seller and its subcontractors shall comply with all Buyer site safety and security requirements. Seller shall indemnify and hold harmless Buyer, its officers, employees and agents from any losses, costs, claims, causes of action, damages, liabilities, and expenses, including attorneys' fees, all expenses of litigation and/or settlement and court costs by reason of property damage or loss or personal injury or death to any person caused in whole or in part by the actions, errors or omissions of Seller, its officers, employees, agents, suppliers, or subcontractors.
- (d) In the event that Seller, its employees, agents or subcontractors enter the site of Buyer or its Customers for any reason in connection with the Contract, then Seller and its subcontractors shall procure and maintain worker's compensation, comprehensive general liability, bodily injury and property damage insurance in amounts as specified herein, or in amounts as Buyer may require and separately specify in the Order Document. Seller shall provide Buyer with Certificates of Insurance evidencing Seller's insurance coverage and naming Buyer as an additional insured, in a form acceptable to Buyer, prior to commencing performance of the Work in accordance with the Contract. Seller shall provide Buyer thirty (30) days written notice of the cancellation or change in the term or coverage of any of Seller's required insurance.

- i. Commercial General Liability and Commercial Catastrophe or "Umbrella" Excess Liability Insurance: If Seller or any subcontractor thereof will be performing Work on Buyer's premises, Seller shall carry and maintain, and ensure that all subcontractors thereof carry and maintain, throughout the period when work is performed and until final acceptance by Buyer, Commercial General Liability and Excess Liability Insurance with available limits of not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) in aggregate for bodily injury and property damage combined. Such insurance shall contain coverage for all premises and operations, broad form property damage, broad form contractual liability and goods and completed-operations insurance with limits of not less than one million dollars (\$1,000,000) per occurrence for a minimum of 24 months after final acceptance of the Work by Buyer. For construction efforts, there shall be no provision limiting coverage for explosion, collapse, or underground property damage.
 - ii. Automobile Liability: If Seller or any subcontractor thereof will be performing Work on Buyer's premises, and if licensed vehicles will be used in connection with the performance of the Work, Seller shall carry and maintain, and ensure that any subcontractor thereof who uses a licensed vehicle in connection with the performance of the Work carries and maintains, throughout the period when Work is performed and until final acceptance by Buyer, Business Automobile Liability insurance covering all vehicles, whether owned, hired, rented, borrowed, leased or otherwise, with available limits of not less than one million dollars (\$1,000,000) per occurrence for bodily injury and property damage. "Scheduled autos" insurance is not acceptable.
 - iii. Employer's Liability: Seller shall carry and maintain employer liability insurance with available limits of not less than one million dollars (\$1,000,000) per occurrence.
 - iv. Workers' Compensation: If Seller or any subcontractor thereof will be performing Work on Buyer's premises, throughout the period when Work is performed and until final acceptance by Buyer, Seller shall, and ensure that any subcontractor thereof shall, cover or maintain insurance in accordance with the applicable laws relating to Workers' Compensation with respect to all of their respective employees working on or about Buyer's premises. Coverage shall be a minimum of one million dollars (\$1,000,000) for each accident, and one million dollars (\$1,000,000) for disease. If Buyer is required by any applicable law to pay any Workers' Compensation premiums with respect to an employee of Seller or any subcontractor thereof, Seller shall reimburse Buyer for such payment.
 - v. The Parties agrees to a mutual waiver of subrogation for all insurances identified herein. Buyer shall not be exempt from and in no way liable for any amount of money which may represent a deductible of any insurance policy carried by Seller. Payment of any deductible shall be the sole responsibility of the Seller.
 - vi. In cases where the Order Document includes any of the following situations, additional coverages will be required.
 - a. Computer services and/or software – Cyber Security
 - b. Construction - Builder's Risk, Pollution, Hazardous Waste
 - c. Professional Liability
 - d. Marine Coverage
 - e. Warehouse Coverage
 - f. Environmental Impairment
 - g. Cargo Coverage
- (e) Seller shall without limitation as to time, indemnify and hold Buyer harmless from all claims which may be asserted against property covered hereunder, including without limitation mechanic's liens or claims arising under Workers' Compensation or Occupational Disease laws and from all claims from injury to persons or property arising out of or related to such property unless same are caused solely and directly by Buyer's negligence.
- (f) Evidence of Citizenship or Immigrant Status:
- (i) Buyer may be required to obtain information concerning citizenship or immigrant status of Seller's personnel or Seller's subcontractor personnel entering the premises of Buyer. Seller agrees to furnish this information before commencement of the Work and at any time thereafter before substituting or adding new personnel to work on Buyer's premises. Information submitted by Seller shall be certified by an authorized representative of Seller as being true and correct.
 - (ii) With respect to Seller personnel or Seller's subcontractor personnel entering the premises of Buyer to perform Work under the Contract, Seller specifically agrees that it is, and will remain, in compliance with all applicable immigration and guest worker laws and regulations, and will permit Buyer, upon reasonable notice, to inspect and audit Seller's records documenting such compliance with respect to said personnel. Seller's subcontracts for Work under the Contract shall suitably modify the parties identified in this clause (f) and include the substance of this clause (f) in subcontracts such that the subcontractor has the same obligations as Seller.

20. WARRANTY:

(a) **Design, Manufacture and Fitness for Purpose Warranties:** Seller warrants that all Work furnished pursuant to the Contract shall:

- (i) strictly conform to the applicable specifications, drawings, samples, descriptions and other requirements of the Order Document and these T&Cs;
- (ii) be free from defects in design, material, and workmanship; and
- (iii) be fit for Buyer's intended purpose as stated in the Contract.

Seller warrants that the Work delivered pursuant to the Contract is not unnecessarily dangerous, and does not exhibit excessive leakage (fluids, radiation, etc.), instability of any form, insufficient safety interlocks, excessive flammability or inadequate electrical grounding and bonding, where any of these are reasonably required in conformance with industry and Government safety standards and practices. Without limitation of any kind, Seller shall promptly correct any such deficiencies in the Work prior to delivery to Buyer, and at Seller's sole and complete expense, including all labor, materials, and freight charges. Seller also warrants that the Work to be delivered hereunder shall consist of new materials (as defined in FAR 52.211-5) unless a specific exemption to this requirement appears in the Order Document. Seller warrants that it shall provide Buyer a minimum of twelve (12) months' notice of any intent to discontinue the manufacture or performance of any Work purchased under the Contract and provide the Buyer the opportunity to purchase spare parts and/or will identify sources of spare parts, in advance of the date Seller plans to discontinue manufacturing.

(b) **Continuing Warranties:** The warranties set forth in clause (a) of this Section 20 shall commence upon the date the Goods and/or Services are delivered to Buyer's designated site and shall extend through the Warranty Period of twelve (12) months unless a longer period of time is set forth on the Order Document. Without limitation of any kind, if any non-conformity of the Work shall appear within the Warranty Period, Seller shall, at Buyer's option, promptly repair, replace, or re-perform the Work at Seller's complete and sole expense providing all parts, materials, and labor. Warranty Work by Seller shall occur promptly within a commercially reasonable time period; and in a manner which minimizes the impact on the Buyer's on-going business operations. Time is of the essence. Buyer shall pay freight to Seller's facility and Seller shall pay return freight for items to be repaired during the Warranty Period at Seller's facility. Following delivery to Buyer of the repaired, replaced or re-performed work in accordance with the Terms, the warranty on all repaired, replaced or re-performed Work shall be for the same period as the initial Work, but shall commence on the date the repaired, replaced or re-performed Goods and/or Services are delivered. Without limitation of any kind, in the case of latent defects, the Buyer's rights to corrective action by Seller shall commence upon Buyer's discovery of the latent defect and notification of Seller thereof. All warranties shall be for the benefit of Buyer and its Customers.

(c) Seller warrants that the Work performed or delivered under this Contract will not infringe or otherwise violate the intellectual property rights of any third party in the United States or any foreign country. Seller shall defend, indemnify, and hold harmless Buyer and its Customers from and against any claims, damages, losses, costs, and expenses, including reasonable attorneys' fees, arising out of any action by a third party that is based upon a claim that the Work performed or delivered under the Contract infringes or otherwise violates the intellectual property rights of any person or entity.

(d) Seller warrants that any software or firmware programming delivered under this Contract contains no viruses, Trojan horses, malware or other detrimental software, and no mechanisms causing the source code to be inaccessible or unusable at any date in the future.

21. **FORCE MAJEURE:** Neither Party shall be liable for failure or delay in performance under this Contract due to causes beyond the reasonable control of the Party affected which is a Force Majeure Event such as acts of nature, civil unrest and violence, acts of government, labor disputes, or any other such causes. The affected Party shall provide prompt notice if a Force Majeure Event causes it to be unable to perform any obligation. Performance shall be promptly resumed after the Force Majeure Event has been remedied; otherwise, this Contract may be terminated as provided in Section 11 TERMINATIONS.

22. **RECORDS:** Seller will maintain its documents, books, and records in connection with this Contract in accordance with generally accepted accounting principles during the term of this Contract and for seven (7) years after expiration or earlier termination of this Contract. Seller also agrees to make such documents, books, and records available pursuant to and as specified in 42 U.S.C. 420.302 et seq. Within five (5) business days after receipt of notice by Seller, Buyer (or its designated representative) shall be allowed access in which to examine, audit and copy, any records or manufacturing processes to determine compliance with applicable laws, the Contract or to respond to any government inquiry.

23. NOTICES:

- (a) Except as required by law, no public release of any information, or confirmation or denial of same, with respect to the Contract or the subject matter hereof, will be made by Seller without prior written approval of Buyer.
- (b) Notice shall be deemed effective when received or refused, if sent prepaid to the other Party. For Seller, notices shall be sent to the address in the seller or supplier block on the face of Buyer's Order Document. For Buyer, notices shall be sent to the address in the "Invoice To:" block on the face of the Order Document.

- 24. ENTIRE AGREEMENT:** The Order Document and these T&Cs together with all other documents and Terms of the Contract contain all the terms and conditions of the sale and purchase of the Work and supersede any and all previous instruments or agreements which are hereby made null and void. No modification or waiver of these T&Cs or any Terms of the Contract shall bind Seller or Buyer unless written, signed, and accepted by Authorized Representatives of both Seller and Buyer. Any associated quotation and any attachments, exhibits or addenda hereto are valid only if in writing and bilaterally executed by Authorized Representatives of Seller and Buyer. For Seller, an Authorized Representative shall be any employee, consultant, or representative of the Seller identified as an Authorized Representative by Seller. For Buyer, an Authorized Representative shall be the Buyer's Procurement Representative, or a designee who is identified in writing by the Buyer's Procurement Representative.
- 25. APPLICABLE LAW:** The Contract shall be governed under the laws of the State of Delaware without regard to conflict of law's provisions. This is a private contract between Buyer and Seller. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to orders issued under this Contract.
- 26. SEVERABILITY:** If any provision of these T&Cs or the Terms of the Contract is held invalid by any law and/or regulation, all other provisions of this Contract shall continue in full force and effect. Any provision of these T&Cs or the Terms which shall be ruled by a court of competent jurisdiction to be overly broad shall be limited to be consistent with such court's findings.
- 27. WAIVER:** A waiver of any provision of the Contract by Buyer shall not constitute a waiver of any other provision of the Contract. Failure by Buyer to enforce any of the provisions of the Contract shall not be construed as a waiver of that provision, or as a waiver of the right of Buyer to enforce each and every provision of the Contract.
- 28. HEADINGS:** The headings contained herein are for the convenience of the reader and they are not intended to be all inclusive nor shall they be considered for any other purpose in construing these T&Cs or the Terms of this Contract.
- 29. ELECTRONIC SIGNATURE VALID:** The Parties agree that the Contract, Order Document, or any other document requiring the signature of the authorized representative of both Parties may be executed (i) pursuant to the process set forth in the Electronic Signatures in Global and National Commerce Act (15 U.S.C. § 7001, et. seq.), or (ii) in as many counterparts as may be required to reflect all Parties' assent to the document which shall collectively constitute a single page of the document. A legible facsimile signature or certified digital signature that can be authenticated will constitute an original and binding signature of a Party.

ADDENDUM A - QUALITY MANAGEMENT

- A. If Seller is providing laboratory testing services or calibration services, subcontracting of services is prohibited unless Buyer grants Seller prior written approval to subcontract the services.
- B. If Seller is providing laboratory testing services, the following documentation must be included in the test report:
- Description of type of report (e.g., Test Report)
 - Laboratory name and address
 - Location of performance of the laboratory activities, if other than the laboratory's permanent facilities
 - Name and contact information of Buyer
 - Unique report/certificate number
 - Each page numbered with the specific page number and total number of pages (e.g., 1 of 3)
 - Description, unambiguous identification, and, when necessary, the condition of the item
 - Date of receipt of the test item, and the date of sampling, where this is critical to the validity and application of the results
 - Date of performance of the laboratory activity
 - Date of issue of the certificate or report
 - Reference to the sampling plan and sampling method used by the laboratory or other bodies where these are relevant to the validity or application of the test results
 - A statement to the effect that the results relate only to the items tested or sampled
 - The results with, where appropriate, the units of measurement, and appropriate supporting data such as photographs, tables, graphs, or drawings/sketches
 - Identification of the method used
 - Additions to, deviations, or exclusions from the method
 - Identification of the person(s) authorizing the report
 - Clear identification when results are from external providers
 - When specified by purchase order or relevant or necessary for the interpretation of the test results: information on specific test conditions such as environmental conditions, a statement of conformity with requirements or specifications, measurement uncertainty presented in the same unit as that of the measurand or in a term relative to the measurand, opinions or interpretations, additional information that may be required by specific methods or authorities
 - Where Seller is responsible for the sampling activity, information meeting the requirements of ISO/IEC 17025:2017 Section 7.8.5
 - When a statement of conformity to a specification or standard is provided: identification to which results the statement of conformity applies, identification to which specifications and/or standards or parts thereof are met or not met, and the decision rule applied (unless it is inherent in the requested specification or standard)
 - When an issued report needs to be changed, amended, or re-issued: clear identification that the report is changed or amended, identification which information was changed, the reason for the change, the date of issuance of the changed report, and reference to the original report that it replaces
- C. If Seller is providing calibration services:
1. Seller shall provide a calibration label on the equipment indicating the following:
 - calibration/verification source
 - the identification of the individual doing the work
 - the control number of the instrument
 - the date of calibration/verification, and the next date that the calibration/verification is due
 2. Seller shall include the following information in the calibration report:
 - Description of type of report (e.g., Calibration Report)
 - Legal name and address of laboratory
 - Location of performance of the laboratory activities, if other than the laboratory's permanent facilities
 - Unique report/certificate number
 - Each page numbered with the specific page number and total number of pages (e.g., 1 of 3)
 - Name and contact information of Buyer
 - Statement that calibrations were performed in compliance with an approved nationally recognized procedure(s) or method(s) such as ASTM, Military, etc. or as specified on the purchase order
 - Identification of the Seller's internal procedure(s) used for the calibration
 - Identification of any special technical competence requirements, if applicable
 - Description, unambiguous identification (serial or identification number), operating range, precision, and condition of the item being calibrated

- Date of receipt of the calibration item and the date of sampling, where this is critical to the validity and application of the results
- Date of performance of the calibration
- Date of issue of the certificate or report
- Reference to the sampling plan and sampling method used by the laboratory or other bodies where these are relevant to the validity or application of the calibration results
- A statement to the effect that the results relate only to the item(s) calibrated
- The results with, where appropriate, the units of measurement, and appropriate supporting data such as photographs, tables, graphs, or drawings/sketches
- Additions to, deviations, or exclusions from the method
- Signature of the person(s) who performed the calibration
- Signature of the person(s) authorizing the report
- Clear identification when results are from external providers
- Estimated measurement uncertainty of the measurand result presented in the same unit as that of the measurand or in a term relative to the measurand (e.g., percent)
- The conditions (e.g., temperature, humidity) under which the calibrations were made that have an influence on the measurement results
- Description and serial number of calibration standards used (accuracy of calibration standards must be available upon request)
- A statement identifying how measurement results are metrologically traceable to the SI through a National Metrological Institute (NIST or equivalent) or an Accredited Laboratory
- A report of the results before (e.g. "as found") and after (e.g. "as released") any adjustment or repair, condition and status of the item being calibrated (e.g. full, limited or Customer specified ranges or accuracies) for the purpose of performing an out of tolerance evaluation
- Where relevant, a statement of conformity with requirements or specifications
- When specified in the purchase order or in relevant specifications or methods, the date the calibration item is next due for calibration
- Where appropriate, opinions or interpretations, and additional information that may be required by specific methods or authorities
- Where Seller is responsible for the sampling activity, information meeting the sampling reporting requirements of ISO/IEC 17025
- When a statement of conformity to a specification or standard is provided: identification to which results the statement of conformity applies, the tolerance factor(s) or acceptance criteria, identification to which specifications and/or standards or parts thereof are met or not met, and the decision rule applied (unless it is inherent in the requested specification or standard)
- Certificate(s) shall include an endorsement by Seller's ISO/IEC 17025 Accreditation Body (e.g. A2LA, NVLAP, IAS, etc.) or an NMI, unless otherwise specified on the purchase order
- When an issued report needs to be changed, amended or re-issued: clear identification that the report is changed or amended, identification which information was changed, the reason for the change, the date of issuance of the changed report, and reference to the original report that it replaces

D. If the purchase order states that 10 CFR 21 is applicable to the order:

1. Subcontracting is prohibited; and
2. At any time an employee of Seller discovers that any reported result is in doubt due to equipment malfunction, improper testing or calibration procedures, or any other cause, Seller shall report such information to Buyer in writing within three (3) business days from the time the information is found to be in doubt for the purpose of evaluating the criticality of the nonconforming item.