

**TERMS AND CONDITIONS**  
**NG International Asia Services, Inc. – NON-U.S. GOVERNMENT**

**CLAUSE TITLE AND NUMBER**

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**1. DEFINITIONS**

- A. BUYER means the Northrop Grumman International Asia Services, Inc. or its subsidiaries, or affiliate identified on the face of this Order.
- B. BUYER'S AUTHORIZED PURCHASING REPRESENTATIVE means the person authorized by Buyer's cognizant procurement organization to administer and/or execute the Order and who has sole authority to make contractual commitments on behalf of Buyer, to provide contractual direction, and to change contractual requirements as defined in the Order.
- C. CLASSIFIED INFORMATION means any information or material, regardless of physical form or characteristics, that is owned by, produced or for, or under the control of the United States Government, and determined pursuant to Executive Order 12356, April 2, 1982 (47 Federal Register 14874, April 6, 1982) or prior orders to require protection against unauthorized disclosure, and is so designated as "Confidential," "Secret," or "Top Secret." See FAR 52.204-2, Security Requirements.

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- D. INCOTERMS means the set of international rules for the interpretation of terms used in foreign trade contracts as prepared and published by the International Chamber of Commerce, Paris, France. When a term covered by such Inco-terms is specified in this Order, such term shall be governed by the Inco-terms 2010. In case of a conflict between the provisions of the Inco-terms and the provisions of this Order, the provisions of this Order shall govern.
- E. ORDER means the instrument of contracting including this Order and all referenced documents, including any subsequent changes or modifications.
- F. PARTY/PARTIES means Buyer and Seller individually/ collectively.
- G. PERSONAL INFORMATION means any information relating to an identified or identifiable natural person (such as name, postal address, email address, telephone number, date of birth, Social Security number (or its equivalent), driver's license number, account number, credit or debit card number, personal identification number, health or medical information, or any other unique identifier or one or more factors specific to the individual's physical, physiological, mental, economic or social identity), whether such data is in individual or aggregate form and regardless of the media in which it is contained, that may be (i) disclosed at any time to Seller or its Personnel by Buyer or its Personnel in anticipation of, in connection with or incidental to the performance of services for or on behalf of Buyer; (ii) Processed at any time by Seller or its Personnel in connection with or incidental to the performance of Services for or on behalf of Buyer; or (iii) derived by Seller or its Personnel from the information described in (i) or (ii) above.
- H. PERSONNEL means employees, agents, consultants or contractors of Seller or Buyer, as applicable.
- I. PRIME CONTRACT means the contracting instrument issued to Buyer or Buyer's higher tier customer by its customer for the acquisition of Products and/or Services.
- J. PROCESS or PROCESSING means any operation or set of operations performed upon Personal Information, whether or not by automatic means, such as creating, collecting, procuring, obtaining, accessing, recording, organizing, storing, adapting, altering, retrieving, consulting, using, disclosing or destroying the data.
- K. PRODUCTS means those deliverable goods, supplies, reports, computer software, data, materials, articles, items, parts, components or assemblies, and any incidental to any related services described required in by the Order.
- L. PROPRIETARY INFORMATION includes information that is not generally known in the industry in which the company is engaged, in the possession, ownership or control of the Company or its employees, or contractors.
- M. SELLER means the party with whom BUYER is contracting under this Order.
- N. SERVICES means Seller's, or its subcontractor's or supplier's, time and effort required to perform tasks or other labor requirements of the Order, including any goods, supplies, material, articles, items, parts components or assemblies incidental to the performance of the Service.
- O. TECHNICAL DATA means all designs, dimensions, specifications, drawings, patterns, know how, or other information concerning, methods, manufacturing processes, equipment, gauges and tools used in the design, manufacture, assembly, operation, repair, testing, maintenance, or modification of Products. This includes information in the form of blueprints, drawings, photographs, plans, instructions and documentation, or used in the performance of Services. Technical Data may be recorded in a written or printed document, computer or electronic file, electro- magnetic tape or disc, software, or any other tangible form of expression. Technical Data also includes unclassified and Classified Information that is required for defense articles, in accordance with International Traffic in Arms Regulations (ITAR) 22 CFR § 120.10.; technical information in support of defense services; any information covered by an invention secrecy order; and software directly related to defense articles as defined in ITAR § 121.8(f).

**2. ACCEPTANCE**

This Order is Buyer's offer to Seller. Acceptance of this offer is strictly limited to the terms and conditions in this offer. Modifications hereto, to be binding, must be in writing and signed by Buyer's Authorized Purchasing Representative. Seller's acknowledgement, acceptance of payment, or commencement of performance, shall conclusively evidence acceptance of this offer as written. Buyer hereby objects to any additional or different terms contained in not specifically negotiated and identified on the Order that add to, vary from, or conflict with the terms of this Order.

**3. ORDER OF PRECEDENCE**

The various documents constituting this Order shall, insofar as is possible, be interpreted so as to be consistent with one another. In the event that a conflict or ambiguity arises in the interpretation of this Order, said conflict or ambiguity shall be resolved in accordance with the following order of precedence, with the first listed item having a higher precedence than later listed items:

- A. Any provisions required by statute or regulation
- B. Any Change Order document(s)
- C. Original Order document
- D. This terms and conditions document
- E. Statement of work
- F. Specifications/drawings
- G. Other referenced documents

**4. ASSIGNMENT**

- A. Neither this Order, nor any payments, rights, obligations, duties or claims hereunder, are assignable or transferable by subcontract or otherwise without Buyer's prior written consent, except as specifically stated in this clause. Seller may assign to a bank, trust company, or other financing institution including any U.S. federal lending agency, claims for money due or to become due to Seller from Buyer under this Order, provided:
  - 1. The assignment is limited to one party, covers all amounts payable under the Order and not already paid, is not subject to further assignment, and is made specifically subject to reduction and set-off or recoupment for any present or future claim or claims or indebtedness which Buyer may have against Seller;
  - 2. Seller furnishes to Buyer written notice of assignment and a true copy of the instrument of assignment.
- B. Buyer may make direct settlements or adjustments in price, or both, with Seller under the terms of this Order notwithstanding any assignment of claims for money due or to become due under this Order and without notice to the assignee.
- C. Seller shall not furnish or disclose to any assignee under this Order or any other person not entitled to receive the same, any classified document or any of Buyer's Proprietary Information (including this Order) until and unless authorized to do so by Buyer's Authorized Purchasing Representative.
- D. Assignment by Seller shall not relieve Seller of any of its obligations under this Order or prejudice any of Buyer's rights against Seller whether arising before or after the date of any assignment.

**5. SUBCONTRACTING**

- A. Any subcontract, assignment, subcontract or other transfer of rights or obligations arising under this Order and made to a foreign person, as defined in the International Traffic in Arms Regulations or the Export Administration Regulations, must comply with the Export and Import Compliance clause herein.
- B. Subcontracting or delegation by Seller, with or without Buyer's consent, shall not relieve Seller of any of its obligations under this Order or prejudice any of Buyer's rights against Seller whether arising before or after the date of any subcontracting or delegation.

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- C. This provision shall not apply to purchases of standard commercial articles, including electronic components or raw materials such as casting, forgings, and rough welded structures on which Seller will perform further work.

6. {RESERVED}  
7. {RESERVED}  
8. {RESERVED}  
9. {RESERVED}  
10. {RESERVED}  
11. {RESERVED}  
12. **WARRANTY**

- A. Seller warrants at the time of delivery to Buyer that all supplies or services covered by this Order will conform to the design, specifications, drawings, samples and other descriptions referred to in this Order, will be free from defects in workmanship, and, to the extent that Seller knows or has reason to know of the purpose for which the supplies or services are intended, will be fit and sufficient for such purpose. All warranties contained in this clause shall run to Buyer and its customers. Seller shall, at no expense to Buyer or its customer, correct any failure to fulfill this warranty.
- B. Seller warrants that the supplies and/or services provided under this Order shall not infringe upon the rights of any third party, and that Seller is subject to no agreement which in any manner would interfere with the Intellectual Property Rights and Protection of Information clauses of this Order.
- C. Buyer's approval of any documentation prepared by Seller or Buyer's participation in design reviews or first article approval process or similar reviews shall not relieve Seller of any obligation under this warranty.
- D. Buyer's rights under this clause shall, at Buyer's option, be assignable to and enforceable by its successors and customers.

**13. CHANGES**

- A. Buyer's Authorized Purchasing Representative may at any time, by written order, and without notice to sureties or assignees, if any, make changes within the general scope of this Order including but not limited to, changes in (1) drawings, designs, specifications, planning, and/or other technical documents; (2) method of shipment, packaging, or packing; (3) place of delivery; (4) reasonable adjustments in quantities or delivery schedules or both; (5) place of inspection; and (6) place of acceptance.
- B. If the authorized change causes an increase or decrease in the cost or time required to perform this Order, Buyer and Seller shall negotiate an equitable adjustment in the price or schedule, or both, to reflect the increase or decrease.
- C. Any claim for adjustment shall be unconditionally waived unless: (1) asserted in writing and delivered to Buyer's Authorized Purchasing Representative within fifteen (15) days of the date of the written change order; and (2) a fully supported proposal is delivered to Buyer's Authorized Purchasing Representative within forty five (45) days after Seller's receipt of such direction.
- D. If Seller claims the cost of any property made obsolete or excess, Buyer shall have the right to prescribe the manner of disposition of the property to include the right to acquire that property for the cost claimed.
- E. Buyer has the right to examine any of Seller's pertinent books and records for the purpose of verifying Seller's claim.
- F. Failure to agree to any adjustment shall be a dispute within the meaning of the "Disputes" clause of these terms and conditions.

**14. GOVERNING LAW**

Irrespective of the place of performance, this Order and any dispute arising under or in connection with it shall be governed by and interpreted in accordance with the substantive laws of the State of New York, United States of America (USA), without regard to its conflict of laws principles. The Parties agree the provisions of the United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Order.

**15. DISPUTES**

- A. Amicable Negotiation. All disputes, differences, controversies, claims or questions arising in connection with, arising out of, occurring under, or related to, this Order and any subsequent amendments thereto, including, without limitation, the formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims (a "Dispute") shall be reduced to writing in a document to be sent to the other Party, requesting amicable negotiation (a "Negotiation Request"). A Negotiation Request may be sent by e-mail. The negotiation process hereunder shall be submitted to mutually compatible levels of management of the respective Parties to try and resolve the Dispute amicably and in good faith and the executives selected shall use their reasonable best efforts to meet and to find a mutually acceptable resolution to the Dispute.
- B. Arbitration. In the event that the Dispute or any part thereof is not satisfactorily settled by negotiation within sixty (60) days (or within such further period of time as the Parties may have agreed in writing), any Party may file a request for arbitration (a "Notice of Arbitration") with the International Centre for Dispute Resolution (ICDR), in which case the Dispute shall be referred to and finally determined by binding arbitration pursuant to ICDR's International Arbitration Rules then in effect ("the Rules"), subject to the following provisions:
1. The Parties shall agree to the selection of one (1) or three (3) arbitrators, depending on the complexity of the case. Where a tribunal of three (3) arbitrators is to be selected (the "Arbitral Tribunal"), each Party shall appoint a person to serve as an arbitrator. The two Parties' appointed arbitrators shall then appoint the Chairperson.
  2. If the Parties cannot jointly agree on the composition of the Arbitral Tribunal within thirty (30) days from the date of the Notice of Arbitration, ICDR shall appoint the Arbitral Tribunal in accordance with the Rules, appointing as many arbitrators and using such mechanisms to appoint them as it deems appropriate in accordance with the Rules, at its sole discretion.
  3. The Parties and ICDR shall ensure that the Arbitral Tribunal shall have been appointed at the very latest forty-five (45) days from the date of the Notice of Arbitration.
  4. All arbitrators shall be fluent in English. The arbitrator (or the chairperson of the Arbitral Tribunal, in the event of a three person tribunal) shall not be of the nationality of anyone of the Parties and shall be a qualified lawyer.
  5. Subject to paragraph J hereof, each Party shall bear its own expenses, including lawyers' fees, in connection with the proceedings hereunder. If the Arbitration should involve multiple claimants and/or multiple respondents who cannot agree to a joint nomination of a single arbitrator for claimants and/or respondents within the time limit set out in paragraph B 2 above, the ICDR shall appoint all members of the Tribunal without regard to any Party's nomination, but considering the criteria set out in this paragraph B.
  6. Where the Dispute is settled at any time after commencement of the Arbitration, but before final award, any settlement agreement reached may be submitted to the Arbitral Tribunal by any Party and issued as a consent award by the Tribunal.
- C. Location. The seat or legal place of the arbitration proceedings shall be New York, New York, USA.
- D. English Language. The arbitration proceedings shall be in English. All documents in any other language shall be translated into English at the expense of the Party(ies) producing them.
- E. Governing Law. This Order and all matters related to or arising therefrom including without limitation, the arbitration clause and arbitrability of the Dispute, shall be governed and construed according to the laws of the state of New York, USA, without regard to its conflict of laws rule and specifically excluding the United Nations Convention on the International Sale of Goods. The Tribunal shall not decide the Dispute based on amiable compositeur (composition) or ex aequo et bono (from equity and conscience).

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- F. Confidentiality. Any settlement discussions or Arbitration hereunder shall be conducted in strict confidence. Except as necessary to enforce an award or required by law, no information or documents produced, generated or exchanged in connection with settlement discussions, Arbitration (including the award) shall be disclosed to any person without the prior written consent of all Parties to the settlement, Arbitration. This restriction shall not apply to public records or other documents obtained by the Parties in the normal course of business independent of any settlement discussions, Arbitration.
- G. Scope of Tribunal's Jurisdiction. The scope of the Tribunal's jurisdiction shall not be limited because the subject matter of the Dispute implicates public policy questions or national statutory rights.
- H. Discovery. Document production shall be guided by the International Bar Association's 2010 Rules on the "Taking of Evidence in International Commercial Arbitration." The Tribunal shall ensure that document production is conducted on a timely basis and the Tribunal may impose sanctions through the allocation of the costs of the Arbitration for abuse or undue delay of the document production procedure.
- I. Written Reasoning, Finality and Enforcement of Award. The Award rendered by the Tribunal shall be reasoned and in writing. The Tribunal shall have the discretion to award reasonable costs to the prevailing Party but shall have no authority to award any double or treble damages, punitive damages or any other damages in the nature of a penalty. Such costs may include the costs of the arbitrators, the Tribunal administrator, and assistance required by the Tribunal, as well as reasonable costs for legal representation. The Award rendered by the Tribunal shall be binding on the Parties and may be entered in any court having jurisdiction over the Party or Parties to the Dispute against which enforcement is sought, or a court in any other competent jurisdiction where the assets of said disputing Party or Parties are located. The Parties hereby exclude and expressly waive any right of review or appeal to any court.

**16. {RESERVED}**

**17. TERMINATION FOR CONVENIENCE**

- A. This Order and any and all rights granted and obligations assumed may be terminated in whole or in part by Buyer, if Buyer determines that a termination is in its interest. Buyer shall deliver to Seller a written notice of termination specifying the extent of termination and the effective date.
- B. After receipt of notice of termination, and except as otherwise mutually agreed, Seller shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:
  - 1. Promptly stop all work as specified in the notice.
  - 2. Place no further subcontracts for materials, services, or facilities except as necessary to complete the continued portion of this Order.
  - 3. Terminate all subcontracts to the extent they relate to the work terminated.
  - 4. As directed by Buyer, transfer title and deliver to Buyer:
    - i. The fabricated or unfabricated products, work in process, completed work, supplies, and other material produced or acquired for the work terminated; and
    - ii. The completed or partially completed plans, drawings, information, and other property that, if the Order had been completed, would be required to be furnished to Buyer.
  - 5. Submit a termination claim within sixty (60) days after the effective date of the termination notice incorporating all claims of Seller. The amount to which Seller shall be entitled upon complete termination of this Order shall be determined as follows:
    - i. Any payments then due and owing to Seller from Buyer for work performed and accepted by Buyer prior to the effective date of termination;
    - ii. An allowance for any reasonable cancellation charges due to material commitments made by Seller with Seller's suppliers or subcontractors;
    - iii. At Buyer's option, an allowance for any inventory held by Seller which is for Buyer's Order, in which case Seller shall transfer title and possession of said inventory to Buyer in accordance with Buyer's instructions;
    - iv. Any other amounts that are mutually acceptable to Buyer and Seller as being fair and reasonable.
  - 6. Protect property in Seller's possession in which Buyer has or may acquire an interest.
  - 7. Complete performance of the work not terminated.
- C. In the event payment has been made by Buyer in excess of the amount determined as being the entitlement of Seller under the provisions of this article, Seller shall repay such excess costs immediately. Buyer may deduct as a set off, any excess amounts from other open subcontracts or Orders with Seller, if any.
- D. In the event payments made by Buyer are less than the amount determined as being the entitlement of Seller under the provisions of this article, Buyer shall pay to Seller such difference between the amount so paid and the total amount determined to be due to Seller in accordance with this article within thirty (30) days of Buyer's receipt of Seller's invoice for said amount.
- E. Notwithstanding the foregoing, the Parties hereto may mutually agree to a partial termination of the Order provided such agreement: (1) equitably revises the price for work remaining to be performed and/or delivery of supplies by Seller thereafter; (2) equitably revises all such other rights requirements, risks, obligations and/or responsibilities as may be affected by such partial termination; and, (3) is evidenced by a formal modification to this Order signed by both Parties.
- F. In no event shall Buyer's total liability to Seller exceed the total Order price of the supplies or services to which such termination applies and as reduced by the amount of payments previously made and the Order price of work not terminated, nor shall Buyer be liable for incidental or consequential liabilities. Further, Seller shall have no claim against Buyer for loss of anticipated profits or consequential damages suffered by reason of such termination. If the Parties are unable to reach agreement on an equitable settlement pursuant to this clause, any such dispute shall be handled in accordance with the Disputes clause of this Order.
- G. Unless otherwise provided in this Order, Seller shall maintain all records and documents relating to the terminated portion of this Order for three (3) years after final settlement. This includes all books and other evidence bearing on Seller's costs and expenses under this Order. Seller shall make these records and documents available to Buyer, at Seller's office, at all reasonable times, at no charge.

**18. TERMINATION FOR DEFAULT**

- A. Buyer may terminate this Order in whole or in part, by written notice of default to Seller if Seller:
  - 1. Fails to deliver Products or to perform the Services within the time specified in this Order or any respective extension; or
  - 2. Fails in any material way to perform any of Seller's obligations under this Order, or so fails to make progress as to endanger such performance and does not cure such failure within ten (10) days of receipt of Buyer's notice of such failure; or
  - 3. In the event that Seller becomes insolvent or makes a general assignment for the benefit of creditors, or files or has filed against it a petition of bankruptcy (whether voluntary or involuntary) or pursues any other remedy under any other law relating to the relief for debtors, or in the event a trustee or receiver is appointed for Seller's property or business.
- B. If Buyer terminates this Order in whole or in part, it may acquire, under the terms and in the manner Buyer considers appropriate, products or services similar to those terminated, and Seller will be liable to Buyer for any and all excess costs associated with the re-procurement of those products or services from another source. Seller shall also continue the work not terminated. In addition, Buyer may rework or repair to bring any product back to conforming state in accordance with the Warranties clause herein, at Seller's cost.



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- C. If this Order is terminated for default, Buyer may require Seller to transfer title and deliver to Buyer, any (1) completed products, (2) partially completed products, (3) materials that Seller has specifically produced or acquired for the terminated portion of this Order. Upon direction of Buyer, Seller shall also protect and preserve property in its possession in which Buyer has or may have an interest.
- D. Buyer shall pay the Order price for completed products delivered or services performed and accepted. Seller and Buyer shall agree on the amount of payment for the protection and preservation of any property.
- E. Buyer shall, at its option, have the right to set off against, or appropriate and apply to the payment or performance of any obligation, the sum or amount owing at any time to Buyer under this Order, all deposits, amounts, or balances held by Buyer for the account of Seller, any amounts owed by Buyer to Seller, and any sum Buyer determines to be necessary to protect Buyer against loss because of outstanding liens or claims of former lien holders.
- F. The rights and remedies of Buyer in this clause are in addition to any other rights and remedies provided by law, equity, or under this Order.

**19. {RESERVED}**

**20. BUYER PROPERTY**

All supplies, materials, equipment, tools, jigs, dies, gauges, fixtures, molds, patterns, equipment and other items purchased, either directly or indirectly, by Buyer and/or furnished or delivered to Seller to perform the Order, or for which Seller has been reimbursed by Buyer (collectively referred to as "Buyer's Property"), shall be and remain the property of Buyer. Seller shall bear the risk of loss of and damage to Buyer's Property in Seller's possession, custody or control. Buyer's Property shall at all times be properly housed and maintained by Seller; shall not be used by Seller for any purpose other than the performance of this Order; shall be deemed to be property; shall be conspicuously marked PROPERTY OF NORTHROP GRUMMAN INTERNATIONAL ASIA SERVICES, INC. by Seller; shall not be commingled with the property of Seller or with that of any third person; and shall not be moved from Seller's premises without Buyer's prior written approval. Upon the request of Buyer, Buyer's Property shall be immediately released to Buyer or delivered to Buyer by Seller, at Buyer's direction and expense. With reasonable prior notice, Buyer shall have the right to enter onto Seller's premises to inspect Buyer's Property and Seller's records with respect thereto. Seller agrees that it will comply with the obligation hereunder to release Buyer's Property notwithstanding any offsetting claim it might have against Buyer and that Seller shall be liable for any loss or damage to Buyer resulting from Seller's failure to release Buyer's Property when requested.

**21. TAXES AND DUTIES**

- A. All taxes, including but not limited to, levies, surcharges, import taxes, export taxes, duties, tariffs, surcharges and social benefit fees imposed on Buyer and/or its employees by any authority of any country arising out of or related to the work or services performed by Seller hereunder, including transportation associated therewith shall be solely for the account of and shall be paid by Seller. Seller shall indemnify and hold Buyer harmless from the payment of such taxes, and Buyer may deduct the amount of any such taxes paid by Buyer from any amounts due Seller.
- B. The Order price shall include all applicable taxes and duties. Such taxes and duties, if any, shall be separately itemized on the invoice. Use or sales taxes for which Buyer has furnished a valid exemption certificate or other evidence of exemption shall not be included.

**22. {RESERVED}**

**23. {RESERVED}**

**24. INTELLECTUAL PROPERTY RIGHTS**

- A. Intellectual Property developed or otherwise acquired by Buyer or Seller prior to or outside the scope of this Order ("Background Intellectual Property"), and any Intellectual Property Rights therein, shall be owned by the party that developed or otherwise acquired the Background Intellectual Property and associated rights.
- B. Seller agrees to make prompt and complete written disclosure to Buyer of all inventions, data, designs, computer software and information conceived, made or developed as a result of work performed under this Order and all intellectual property rights therein ("Inventions"). Seller agrees to keep necessary records supporting such Inventions and discoveries and will furnish to Buyer upon request all such records.
- C. All Inventions resulting from the work performed under this Order shall be the sole property of Buyer. Buyer shall have the full right to use such Inventions in any manner without any claim on the part of the Seller and without any duty to account to the Seller for such use. Seller agrees to assign to Buyer any patent or patent application resulting from work performed under this Order, and to provide reasonable support for the Buyer's prosecution of such patent application. With respect to copyrightable works developed under this Order, Buyer and Seller agree that any such works which qualify as commissioned works under the Copyright Act are considered "works made for hire" with copyright ownership in Buyer; otherwise, Seller agrees to assign, and does hereby assign copyright ownership of the works to Buyer. Seller shall not, unless otherwise authorized in writing by Buyer, disclose to anyone other than Buyer any Inventions or other data developed under this Order or any data disclosed to Seller by Buyer and shall not use such Inventions or data for any purpose other than the performance of this Order. Such Inventions or other data developed under this Order shall be considered Buyer Proprietary Information and marked as such by Seller.
- D. Seller shall not include any Background Intellectual Property or any third party Intellectual Property in the PRODUCTS provided hereunder without the express written consent of Buyer. Seller hereby grants Buyer an unlimited, irrevocable, paid-up, royalty-free right and license to make, have made, sell, offer for sale, use, execute, reproduce, display, perform, distribute (internally or externally) copies of, and prepare derivative works of any PRODUCTS hereunder and to use any intellectual property rights owned by Seller therein.
- E. This Order does not confer or grant, in any manner whatsoever, any license or right under any patent, trademark, trade secret, maskwork, copyright or other intellectual property right held by Buyer, unless specifically set forth in the body of the Order.

**25. INTELLECTUAL PROPERTY INFRINGEMENT WARRANTY AND INDEMNITY**

- A. In addition to any other warranties by Seller to Buyer Seller shall indemnify, and hold harmless Buyer, Buyer's officers, agents, employees, and customers from and against any and all liability and losses, including costs and expenses, based on an allegation or claim that (i) the manufacture, offer for sale, sale, or delivery of Products or performance of Services under this Order or (ii) the use or disposal by, or for the account of, Buyer and/or Buyer's customer of such Products or Services infringe any patent, trade secret, copyright, or other intellectual property right of a third party.
- B. Buyer shall notify Seller as soon as practicable and in writing of the allegation, claim, suit, action or other proceeding alleging such infringement and Buyer shall have been given such opportunity as is afforded by applicable laws, rules, or regulations to participate in the defense thereof.
- C. Such indemnity shall not apply to the extent that (1) the infringement results from compliance with specific written instructions of Buyer directing a change in the Products or Services to be delivered or in the materials or equipment to be used, or directing a manner of performance of this Order not normally used by Seller; (2) the infringement results from addition to, or change in, the Products or Services made subsequent to delivery or performance by Seller; or (3) the claimed infringement is settled without the written consent of Seller, unless required by final decree of a court of competent jurisdiction.

**26. INDEMNIFICATION**

Seller shall indemnify, defend, and hold harmless the Indemnitees, as defined in clause 25 above, from and against all costs, losses, expenses, damages, claims, suits, or any liability whatsoever (including attorneys' fees), arising out of or in connection with the work to be performed hereunder, or the Products to be sold hereunder, or any act or omission of Seller, its agents, employees, or subcontractors, except to any extent otherwise expressly provided for elsewhere within this Order. Seller also agrees to indemnify, defend, and hold harmless the Indemnitees from and against all costs, losses, expenses, damages, claims, suits, or any liability whatsoever (including attorneys' fees), arising out of or in connection with Seller's violation of any applicable laws, executive order or regulation. Buyer

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will inform Seller of any claim, demand or suit asserted or instituted against it and, with Buyer's consent, permit Seller to defend the same or make settlement in respect thereof. Buyer shall have the right to participate in the defense of any such claim, demand or suit with counsel of its choosing at Buyer's expense and Seller may not settle, compromise or consent to the entry of any judgment in respect thereof, without Buyer's prior written consent, unless such settlement, compromise or consent: (i) includes an unconditional release of Buyer from all liability arising out of such claim, demand or suit; (ii) is solely monetary in nature and (iii) does not include an admission of fault by Buyer or otherwise adversely affect Buyer. If Seller fails to indemnify, defend and hold harmless Buyer as provided in this clause, then Seller shall pay for any damages, attorney's fees, and any other fees, costs, and expenses that may be incurred by Buyer in the defense of any action related to this Order and/or in the prosecution of any action to enforce the provisions of this clause.

**27. {RESERVED}**

**28. INSURANCE**

- A. During the entire Order period Seller shall, at its sole cost and expense, procure and maintain all insurance coverage required by the laws of the jurisdiction in which they are located or where services are performed. Buyer, at its option, may require Seller to furnish evidence of insurance reasonably satisfactory to Buyer covering the liabilities and indemnification contained in these terms and conditions but no acceptance of such evidence by Buyer shall be deemed a waiver or release of such liabilities or duty to indemnify. Seller shall specify Buyer as a named insured on any such policies and provide certificates of insurance evidencing such coverage and provide Buyer ten (10) days prior written notice of cancellation or material change of any such coverage.
- B. Seller shall maintain, at its sole cost and expense, insurance coverage in at least the minimum amounts and types as follows:
  1. Worker's Compensation insurance coverage as required by the laws of the jurisdiction in which the work is performed sufficient to cover all of its general and special employees and such insurance shall provide waiver of subrogation against Buyer.
  2. Employer Liability insurance in a minimum amount of U.S. \$1,000,000.
3. Commercial General Liability (CGL) – Combined Single Limit U.S. \$2,000,000 bodily injury and/or property damage. Coverage shall include but not necessarily be limited to, premises and operations, products and completed operations and contracts.
4. Commercial Automobile Liability (CAL) – Combined Single Limit U.S. \$2,000,000 bodily injury and/or property damage covering all owned, hired and non-owned vehicles.
- C. All insurance required as a part of this Order shall be placed with insurance companies that are authorized to do business under the laws of the jurisdiction in which the work is being performed and shall be in a form reasonably acceptable to Buyer.
- D. Insurance coverage described herein must be in place and effective prior to commencement of any activity that is the subject of this Order. Renewal insurance certificates, if applicable, shall be provided to Buyer at least fifteen (15) days prior to the expiration date of the insurance under each required coverage.
- E. Additional insurance types and/or limits will be necessary if the work involves extra hazardous or sensitive operations. The extra hazardous or sensitive operations include but are not limited to aviation operations or products, nuclear hazard operations, professional engineering advice, construction projects, hazardous waste, medical care, food service, crane operation, work above ground, work below ground, and demolition, explosives operations or management or storage of sensitive data.
- F. Buyer and Seller agree to defend, indemnify, and hold harmless the other from all damages and liabilities arising out of or in connection with presence on the other's premises pursuant to this Order; provided, however, that such damage and liability shall not have been caused by the negligence of the agents, subcontractors or employees of the indemnified parties.

**29. EXCUSABLE DELAY – FORCE MAJEURE**

- A. Except for a default of Seller's subcontractor at any tier, neither Buyer nor Seller shall be liable for any failure to perform due to any cause beyond its reasonable control and without its fault or negligence. Such causes include, but are not limited to: (1) acts of God or of the public enemy, (2) acts of the government in either its sovereign or contractual capacity, (3) fires, floods, epidemics, terrorism, quarantine restrictions, strikes, freight embargoes, and (4) unusually severe weather or other acts of Nature. In the event that performance of this Order is hindered, delayed, threatened to be delayed, or adversely affected by causes of the type described above ("Force Majeure"), then the Party whose performance is so affected shall so immediately notify the other party's authorized representative in writing, including all relevant information with respect thereof and, at Buyer's sole option, this Order shall be completed with such adjustments to delivery schedule as are reasonably required by the existence of Force Majeure or this Order may be terminated for convenience.
- B. Neither receipt of such notice by Buyer, nor any provision of these terms and conditions will be deemed to be a waiver by Buyer of any of its rights under any Order, these terms, at law or otherwise.
- C. Seller shall include the substance of this clause, including this subparagraph (c), in all of its subcontracts or purchase orders issued at all tiers under this Order.

**30. LABOR DISPUTES**

Whenever Seller has knowledge that any actual or potential labor dispute is delaying or threatens to delay timely performance of this Order, Seller shall immediately give notice to Buyer's Authorized Purchasing Representative and provide all relevant information including, but not limited to, nature of dispute, labor organizations involved, estimated impact on Seller's performance of Buyer's Order and estimated duration. Seller shall also provide updated reports throughout the dispute duration. Seller agrees to insert the substance of this clause, including this sentence, in any lower-tier subcontract.

**31. COMPLIANCE WITH LAWS**

Seller warrants that it shall abide by and comply with all applicable laws, regulations and rules of any country, including any governmental subdivision thereof, where Seller has an office or facility or is otherwise doing business or properly subject to jurisdiction, as well as all applicable laws of the United States of America, including, but not limited to, the U.S. Foreign Corrupt Practices Act, Trading With The Enemy Act, Arms Export Control Act and regulations of the Office of Foreign Assets Control. Seller shall, at its own expense, defend, indemnify and hold harmless Buyer and its affiliates, and all of their officers, agents, employees, successors and assigns and subcontractors at any tier, against any claims, loss, damage or expense, regardless of how arising and even if unforeseeable, including, without limitation, payment of direct, special, incidental and consequential damages and attorney's fees, arising out of, or relating, Seller's failure to comply with the requirements of this provision.

**TERMS AND CONDITIONS****NG International Asia Services, Inc. – NON-U.S. GOVERNMENT****32. EXPORT AND IMPORT COMPLIANCE****A. Export Compliance**

General: Performance of this Order may involve the use of or access to articles, technical data or software that is subject to export controls under 22 United States Code 2751 – 2799 (Arms Export Control Act) and 22 Code of Federal Regulations 120-130 (International Traffic in Arms Regulations or “ITAR”) or 50 United States Code 2401-2420 (Export Administration Act of 1979, as amended), 50 United States Code 1701-1706, (International Emergency Economic Powers Act, as amended), and 15 Code of Federal Regulations 768 – 799 (Export Administration Regulations) and their successor and supplemental laws and regulations (collectively hereinafter referred to as the “Export Laws and Regulations”). Seller represents and warrants that it is either 1) a Person as that term is defined in the Export Laws and Regulations, or 2) a Foreign Person as that term is defined in the Export Laws and Regulations and has disclosed to Buyer’s Representative in writing the country in which it is incorporated/authorized/ organized to do business, and all nationalities of any dual or third-country national employees who will require access to the data, articles or services provided hereunder. Seller shall comply with any and all Export Laws and Regulations, and any license(s) issued there under.

1. Registration. If Seller is a U.S. entity and is engaged in the business of either exporting or manufacturing (whether exporting or not) defense articles or furnishing defense services, Seller represents that it is registered with the U.S. Department of State’s Directorate of Defense Trade Controls, as required by the ITAR, and it maintains an effective export and import compliance program in accordance with the ITAR.
2. Foreign Persons. Seller shall not re-transfer any export- controlled information (e.g. technical data or software) to any other non-U.S. person or entity (including the Seller’s dual and/or third-country national employees) without first complying with all the requirements of the applicable Export Laws and Regulations. Prior to any proposed re-transfer, Seller shall first obtain the written consent of the Buyer. No consent granted by Buyer in response to Seller’s request shall relieve Seller of its obligations to comply with the provisions of paragraph A. of this clause or the Export Laws and Regulations, nor shall any such consent constitute a waiver of the requirements of paragraph A. hereinabove, nor constitute consent for Seller to violate any provision of the Export Laws and Regulations

**B. Political Contributions, Fees and Commissions.**

If this Order is valued in an amount of U.S. \$500,000 or more, then in performance of this Order, Seller shall not directly or indirectly pay, offer or agree to pay any political contributions or any fees or commissions.

For purposes of this section and pursuant to 22 CFR 130.6, political contribution means any loan, gift, donation or other payment of U.S. \$1,000 or more made, or offered or agreed to be made, directly or indirectly, whether in cash or in kind, which is:

1. To or for the benefit of, or at the direction of, any non-U.S. candidate, committee, political party, political faction, or government or governmental subdivision, or any individual elected, appointed or otherwise designated as an employee or officer thereof; and
2. For the solicitation or promotion or otherwise to secure the conclusion of a sale of defense articles or defense services to or for the use of the armed forces of a non-U.S. country or international organization. Taxes, customs duties, license fees, and other charges required to be paid by applicable law or regulation are not regarded as political contributions.

For purposes of this section and pursuant to 22 CFR 130.5, fee or commission means any loan, gift, donation or other payment of U.S. \$1,000 or more made, or offered or agreed to be made directly or indirectly, whether in cash or in kind, and whether or not pursuant to a written contract, which is:

1. To or at the direction of any person, irrespective of nationality, whether or not employed by or affiliated with the Seller; and
2. For the solicitation or promotion or otherwise to secure the conclusion of a sale of defense articles or defense services to or for the use of the armed forces of a non-U.S. country or international organization.

**C. Import Compliance.**

Both parties shall comply with all U.S. Customs laws and regulations (e.g., 19 CFR) and all other applicable U.S. government regulations pertaining to importations of goods and materials into the United States.

1. For International Orders (Orders issued to entities addressed in foreign countries): Specifically, without excluding other regulations, Seller shall comply with and adhere to the commercial invoice requirements detailed in 19 CFR 141 subpart F of the regulations, and provide additional information as requested by the Buyer. Seller shall immediately upon discovery, notify Buyer of any change to the shipment data related to product valuation, quantities shipped, country of origin, port of export and any additional information directed by the Buyer. Seller will timely provide pre-alert shipping information and documentation prior to shipment arrival to the U.S. Buyer will direct Seller where to send pre-alert shipping information and documentation. Pre-alert shipping documentation includes, but is not limited to, a commercial invoice, airway bill, bill of lading, and other required documentation as directed by U.S. regulations and Buyer.
2. For Domestic Orders (Orders issued to entities addressed in the United States): Seller shall assume all U.S. import responsibilities, to include designation as U.S. Importer of Record, Customs clearance, duty, taxes, and fees for goods entering into the United States. Unless otherwise agreed in writing, Buyer will not assume any import liabilities for goods procured through a domestic Order.

**D. Indemnification.** Seller shall indemnify and save harmless Buyer from and against any and all damages, liabilities, penalties, fines, costs, and expenses, including attorney’s fees, arising out of claims, suit, allegations or charges of Seller’s failure to comply with the provisions of this clause and breach of the warranty set forth in paragraph A or C. Any failure of Seller to comply with the requirements or any breach of the warranty contained in this clause shall be a material breach of this Order.**E. Subcontracts.** The substance of this clause shall be incorporated into any lower-tier subcontract or purchase order entered into by the Seller for the performance of any part of the work under this Order.**F. Notifications.** Seller agrees to provide prompt notification to Buyer in the event of changes in circumstances such as ineligibility to contract with U.S. Government, debarment, assignment of consent agreement, and initiation or existence of a U.S. Government investigation, that could affect Seller’s performance under this Order. Seller further agrees to provide prompt notification to Buyer’s Authorized Purchasing Representative should any offer, agreement or payment of political contributions, fees or commissions (as defined herein and pursuant to this Order) be made in contravention of the prohibition in Section B.**33. NOTIFICATION OF STATUS CHANGES****A.** By accepting this Order, Seller certifies that most recent representations and certifications provided by Seller continue to remain valid and unchanged. If Seller’s status under any of the applicable representations and certifications has changed, Seller must complete and submit to Buyer’s Authorized Purchasing Representative revised representations and certifications prior to taking any action indicating acceptance as stated on the face of the Order.**B.** Sellers that provided anti-corruption compliance due diligence information (e.g., related to its ownership and personnel, subsidiaries and third parties, the due diligence questionnaire, and related certifications) to a Buyer representative or through the Global Trust website shall provide Buyer with prompt notification and details of any changes to its owners, officers, directors or other information contained in such due diligence materials, and agrees to promptly cooperate with Buyer and provide additional information reasonably requested related to such changed information. In the event of a material change to the owners, offices, directors or other information contained in the due diligence material supplied to Buyer, Buyer reserves the right to suspend performance under this agreement by providing written notice to Seller in order for Buyer to conduct anti-corruption due diligence upon such changed circumstances.

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**34. PROHIBITED ACTIVITIES AND CONTACTS**

- A. Activity Prohibitions. For Sellers delivering goods or performing services outside of the United States, unless specifically authorized in writing by Buyer, Seller shall not engage in any of the following activities on behalf of the Buyer under this agreement: acting as an agent of the Buyer; marketing or sales promotion; lobbying; freight forwarding; consulting services; performing offset (industrial participation) consulting or brokering services; acting as a distributor or reseller; or activity as a joint venture party.
- B. Contact Prohibitions. For Sellers delivering goods or performing services outside of the United States, unless specifically authorized in writing by Buyer, Seller shall not contact, either directly or indirectly, public officials of any country other than the U.S., United Kingdom, Canada, Australia, Germany, France, or Italy in furtherance of its performance on behalf of Buyer under this agreement.

**35. RELEASE OF INFORMATION OR ADVERTISING**

Except as required by law, no news release in any way relating to Buyer or Seller concerning this Order shall be made by either Party to any news media or the general public without the prior written approval of the other Party. Seller will not, and will require its suppliers and subcontractors to not advertise or publish the fact that Buyer has ordered supplies or services from Seller, or the terms or nature of such order. Seller will not and will cause its employees and other representatives to not disclose such information in company periodicals, press releases, public lectures, sales or other promotional literature, websites or otherwise. The Parties agree that in the event a news release is so approved and made, such news release will recognize both Buyer and Seller. Additionally, Seller shall not use Buyer's name or identify Buyer in any advertisement, display, news release, or other public disclosure without Buyer's prior written consent.

**36. PARTIAL INVALIDITY, NONWAIVER, REMEDIES**

If any provision in this Order is or becomes void or unenforceable by force or operation of law, all other provisions shall remain valid and enforceable. A Party's failure at any time to enforce any provision of this Order shall not constitute a waiver of the provision or prejudice a Party's right to enforce that provision at any subsequent time.

**37. RELATIONSHIP OF THE PARTIES**

The relationship of Seller to Buyer shall be that of an independent contractor and nothing contained herein shall be construed as creating any employer/employee, agency, or other relationship of any kind. Seller's employees, agents or representatives (hereinafter "Employees") performing under this Order shall at all times be under Seller's direction and control. Seller shall pay all wages, salaries, and other amounts due its Employees in connection with this Order and shall be responsible for all reports and obligations for its Employees. Under no circumstance shall Seller be deemed an agent or representative of Buyer or authorized to commit Buyer in any way.

**38. ANTI-TRAFFICKING IN PERSONS**

- A. Buyer prohibits its employees, agents, subcontractors, and contract labor from engaging in activities that support or promote trafficking in persons, including, but not limited to, any of the following:
1. Trafficking in persons, including, but not limited to the following:
    - i. sex trafficking; or
    - ii. the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, debt bondage, or slavery.
  2. The procurement of a commercial sex act;
  3. The use of forced labor in the performance of company business;
  4. The use of misleading or fraudulent recruitment activities;
  5. Charging employees recruitment fees;
  6. Failing to pay for the return transportation at the end of employment for an employee who is not a national of the country in which the work is taking place and who was brought into that country for the purpose of working;
  7. Providing or arranging housing that fails to meet the host country housing and safety standards; or
  8. If required, failing to provide an employment contract, recruitment agreement, or similar work document in writing, in the individual's native language and prior to the individual departing from his or her country of origin.
- B. Seller represents and warrants that it shall abide by and comply with the requirements of this clause. Further, Seller shall require its employees, agents, contract labor and subcontractors to abide by and comply with the requirements of this clause.
- C. Buyer or its authorized representatives may, at any time, audit all pertinent books, records, work sites, offices, and documentation of Seller in order to verify compliance with this clause. Seller will, in all of its lower-tier subcontracts and contracts relating to any Buyer Order, include provisions which secure for Buyer all of the rights and protections provided for within this clause.
- D. Seller acknowledges that if Seller or any of its employees, agents, or contract labor engages in any of the prohibited activities in this clause, this Order is subject to termination.
- E. Whenever Seller has knowledge, whether substantiated or not, that any actual or suspected violation of this clause has occurred, Seller shall immediately give written notice to Buyer and provide all relevant information including, but not limited to, the nature of the actual or suspected violation. Written notice shall be provided to the Buyer's Authorized Representative, as described in the Order.
- F. Seller shall provide its full cooperation during any subsequent investigation of the actual or suspected violation by Buyer, Buyer's representative, or cognizant government agency. Seller's cooperation shall include, but not be limited to, permitting inspection of its work sites, offices, and documentation, as necessary to support any investigation.
- G. Seller shall, at its own expense, defend, indemnify and hold harmless Buyer and its affiliates, and all of their officers, agents, employees, successors and assigns, against any claims, loss, damage or expense, regardless of how arising and even if unforeseeable, including, without limitation, payment of direct, special, incidental and consequential damages and attorney's fees, arising out of, or relating to, Seller's or Seller's employees, agents, subcontractors or contract labor's failure to comply with the requirements of this clause.
- H. Seller agrees to insert the substance of this clause, including this sentence, in any lower-tier subcontract or labor contract.

**39. {RESERVED}****40. STOP WORK ORDER**

- A. Buyer may, at any time, by written order to Seller, require Seller to stop all, or any part, of the work called for by this Order for a period of up to one hundred and twenty (120) calendar days after the stop work order is delivered to Seller, and for any further period to which the Parties may agree. Any such order shall be specifically identified as a Stop Work Order (SWO) issued pursuant to this clause. Upon receipt of a SWO, Seller shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the SWO during the period of work stoppage. Within the period of the work stoppage specified by the SWO, and any amendments to it, Buyer shall either (1) cancel the SWO or (2) terminate the work covered by the SWO as provided for in the applicable Termination for Convenience clause contained herein.
- B. If a SWO issued under this clause is canceled, or the period of the Order or any extension thereof expires, Seller shall resume work. An equitable adjustment shall be made in the delivery schedule or Order price, or both, and the Order shall be modified in writing accordingly, if (1) the SWO results in an increase in the time required for, or in Seller's cost properly allocable to, the performance of any part of this Order, and (2) Seller submits its proposal



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for such adjustment within twenty (20) calendar days after the end of the period of work stoppage. Failure of the Parties to agree to any adjustment to be made under this clause shall not excuse Seller from proceeding with the performance of the Order.

- C. If a SWO is not canceled and the work covered by such SWO is terminated for the convenience of Buyer, the reasonable costs resulting from the SWO shall be allowed in arriving at the termination settlement.

**41. SUSPECT/COUNTERFEIT PARTS**

If suspect/counterfeit parts are furnished under this Order and are found in any of the goods delivered hereunder, such items will be impounded by Buyer. Seller shall promptly replace such suspect/counterfeit parts with parts acceptable to the Buyer and the Seller shall be liable for all costs relating to the removal and replacement of said parts, including without limitation Buyer's external and internal costs of removing such counterfeit parts, of reinserting replacement parts and of any testing necessitated by the reinstallation of Seller's goods after counterfeit parts have been exchanged. Buyer's remedies described herein shall not be limited by any other clause which is agreed upon between Buyer and Seller in this Order. At Buyer's request, Seller shall return any removed counterfeit parts to Buyer in order that Buyer may turn such parts over to its customer for further investigation. Seller agrees that any Government or quasi-Government directive, such as a GIDEP alert indicating that such parts are counterfeit, shall be deemed definitive evidence that Seller's parts contain counterfeit parts.

**42. [RESERVED]**

**43. COMPLETE AGREEMENT**

This Order is the Parties' final expression of their agreement and is the complete and exclusive statement of all terms and conditions of agreement. This Order supersedes and cancels all prior understandings, proposals, communications, whether oral or written, and agreements between the Parties, whether such understandings, proposals, communications, and agreements were written or oral, concerning the matters addressed in this Order. No course of prior dealings between the Parties, and no usage of trade, shall be relevant to supplement or explain any term used in this Order.

**44. SUPPLIER STANDARDS OF BUSINESS CONDUCT**

Seller shall comply with the Northrop Grumman Supplier Standards of Business Conduct (available at <http://www.northropgrumman.com/suppliers/OASISDocuments/NGSupplierStandardsOfBusinessConduct.pdf>) (the "Northrop Grumman Supplier Code"). Seller shall ensure that its employees are aware of their contribution to product or service conformity, their contribution to product safety, and the importance of ethical behavior. Seller represents and warrants that it has not participated, and will not participate, in any conduct that violates the Northrop Grumman Supplier Code. Seller shall notify Buyer if at any time Seller becomes aware of any actual or suspected violation of the Northrop Grumman Supplier Code. If Buyer determines that Seller is in violation of the Northrop Grumman Supplier Code, Buyer may cancel this Order upon written notice to Seller and Buyer shall have no further obligation to Seller.

**45. RESPONSE TO AUDIT**

Buyer shall not be prohibited from providing copies of this Order, including any other document incorporated into this Order, to federal, state or other regulatory agencies as requested by either Buyer's or government auditors to comply with auditing procedures.

**46. DELIVERY, TITLE, SOURCING**

- A. The Parties expressly agree that time is of the essence and shall remain a material element of this Order and no acts of Buyer, including without limitation, modifications to this Order or acceptance of late deliveries, shall constitute a waiver of this provision.
- B. Delivery is to be made both in quantities and at times specified herein. Partial shipments are not authorized unless expressly authorized in writing by Buyer. All deliveries shall be strictly in accordance with the applicable quantities and schedules set forth in this Order. Buyer reserves the right to return partial shipments, over shipments and early shipments at Seller's expense. Seller shall be liable for all storage/handling charges incurred as a result of partial shipments, over shipments and early shipments.
- C. Whenever it appears Seller will not meet the delivery schedule, Seller shall immediately notify Buyer of the reason and estimated length of the delay. Seller shall make every effort to avoid or minimize the delay to the maximum extent possible including the expenditure of premium time and most expeditious transportation at Seller's expense.
- D. If Seller is unable to meet the required delivery schedules for any reason, other than a change directed by Buyer, Buyer shall have the option to (1) terminate this Order, and/or (2) fill such Order, or any portion thereof, from sources other than Seller; charge Seller any excess costs of re-procurement; and reduce Seller's Order quantities accordingly at no increase in unit price, without any penalty to Buyer. Alternatively, Buyer may require Seller to provide consideration for the late delivery. This condition shall not limit Buyer's rights and remedies under the Termination for Default clause contained herein.
- E. If Seller is permitted to use terms other than FCA Sellers Premises, Seller shall provide the name and contact information for all freight forwarders, carriers or cartage agents expected to handle Buyer's cargo. Seller shall provide this information to the Buyer not later than ten (10) days after Order acceptance. Seller proposed freight forwarders, carriers or cartage agents must have a reputation for honesty and a company policy prohibiting bribes and facilitating payments intended to expedite or secure performance of a routine governmental action, such as, customs clearance. Buyer retains the right to deny Seller's use of Seller proposed freight forwarders, carriers or cartage agents within thirty (30) days of Seller notification. Seller shall ensure that Buyer's purchase does not transit through one of the proscribed countries listed in the U.S. ITAR, 22 CFR 126.1.

**47. PACKAGING, PACKING, MARKING**

- A. Unless otherwise specified in this Order, all shipments are to be made in accordance with Incoterms 2010, Free Carrier (FCA) Seller's Premises.
- B. Prior to exportation, one copy of the required commercial invoice and packing list shall be enclosed in a waterproof envelope or wrapper, clearly marked "Customs Invoice," and securely attached to the outside of the No. 1 shipping container in each shipment. For shipment to the U.S., Seller's invoice will be used as the customs invoice if it meets U.S. Customs Service requirements, but it must be marked "Invoice for Customs Purposes Only". At the time of shipment of the Products ordered herein, Seller shall forward via FAX, or other electronic means, copies of commercial invoices and bills of lading covering each shipment marked to the attention of the Buyer's applicable traffic office.
- C. All goods shall be prepared (cleaned, preserved, etc.) and packed per best commercial practice for export shipment in a manner to comply with carrier regulations and prevent damage or deterioration during handling, shipment and indoor storage for up to ninety (90) days at destination. If requested, Seller shall submit two (2) copies of its proposed packaging procedure and packing design to Buyer for review not less than sixty (60) days prior to first shipment, and shall prepare and package in accordance with said procedure and design.
- D. Each unit container (individual part box or other innermost package), each intermediate container, and each shipping container (shipping box, crate or other outermost package) in each shipment shall be marked with its country of origin clearly in English.
- E. Number and mark each container with a consecutively assigned number and applicable Order number. The No. 1 shipping container in each shipment shall contain one copy in English of the packing list.
- F. The packing list shall include the following information: container number, Order number, item, serial number (as applicable), part number and any applicable test reports.
- G. Unless otherwise specified on the face of this Order, the price stated includes the cost of preparing and packing for shipment, boxing, crating, container marking, furnishing packing lists and test reports.
- H. Shipping documents shall include bar coding or other specialized marking as required by Buyer.
- I. Seller shall provide the applicable Export Control Classification Number (ECCN) or ITAR control statement for all Products furnished by Seller to

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Buyer. If Seller is a distributor, Seller shall obtain the ECCN or ITAR classification information from its source of supply. If Seller is manufacturing to Buyer's design it shall utilize the ECCN or ITAR classification identified in Buyer's furnished engineering data. Seller will include the ECCN or ITAR designation on its packing slips and shipping documentation and also provide to Buyer on Buyer's request.

**48. {RESERVED}**

**49. INSPECTION**

- A. Buyer and its customer may inspect and test material, work in progress, Products and/or Services at all times and places during manufacture and otherwise. Failure to inspect and accept or reject Products or Services shall not relieve Seller from responsibility for compliance with Order requirements nor impose liability on Buyer.
- B. Seller shall not substitute materials or accessories, even if Seller believes they are of superior quality, without written consent of Buyer.
- C. If the Products are specifically manufactured for Buyer in accordance with drawings, designs, or specifications furnished by Buyer:
  - (1) Seller shall provide and maintain an inspection and quality control system acceptable to Buyer and provide access to Seller's facilities and applicable documented information including all lower-tier subcontractors' facilities used in performance of this Order at all reasonable times, and without additional charge, for inspection by Buyer's agents, employees, Buyer's Customer and any applicable regulatory authority, and shall provide all tools, facilities, and assistance reasonably necessary for inspection relating to the performance of this Order; and (2) Seller shall maintain adequate and authenticated inspection and test documents which relate to work performed under this Order for a period of three years after completion of this Order or as otherwise specified in this Order, and shall make such records available to Buyer upon request; (3) Seller shall supply Buyer with inspection and test reports, affidavits, certifications, technical documents generated or related to this Order, or any other documents as may reasonably be requested by Buyer; (4) Seller shall notify Buyer's PCO in writing of any changes in Product and/or process definition and obtain Buyer's written approval prior to proceeding; and (5) Seller agrees to insert the substance of this clause, including this sentence, in any lower-tier subcontract.

**50. OFFSET COMMITMENT**

This clause shall only apply to Orders in excess of fifty thousand U.S. dollars (\$50,000.00).

- A. Definition: "Offset" means the obligations that Buyer undertakes, in order to market or sell its Products, to assist a customer country in reducing any trade imbalance caused by its purchase of Buyer's Products or to meet other customer country national objectives.
- B. Regardless of whether this Order is or is not made in direct support of a foreign sale, Seller agrees that it is obligated to support Buyer's offset commitments as a condition of this Order.
- C. The offset credits arising out of or resulting from, directly or indirectly, this Order are for the exclusive use of Buyer and may be used by Buyer and any of its affiliates and subsidiaries to fulfill all past, present and future offset obligations. In addition, Seller agrees to identify and retain for Buyer's use any rights to offset credits generated by its suppliers and subcontractors arising out of or resulting from this Order.
- D. Promptly after selection of non-U.S. subcontractor for work under this Order, Seller shall notify Buyer of the name, address, point of contact (including telephone number) and dollar value of the subcontract.
- E. Seller shall execute all necessary documents to evidence Buyer's right to use or assign any offset credits.
- F. Buyer reserves the right to assign offset credits generated through Seller's efforts under this Order to third parties.
- G. Seller shall include the substance of this clause, in favor of Buyer, in its subcontracts issued at all tiers pursuant to this Order.

**51. CUSTOMS TRADE PARTNERSHIP AGAINST TERRORISM (C-TPAT) PROGRAM**

Buyer supports the U.S. Customs and Border Protection (CBP) in the Customs-Trade Partnership Against Terrorism (C-TPAT) program. This program is designed to protect the supply chain from the introduction of terrorist contraband (weapons, explosives, biological, nuclear or chemical agents, etc.) in shipments originating from off-shore of the United States to Buyer, drop shipments to its sub-tier suppliers, or drop shipments to its customers originating from off-shore of the United States. Seller shipments through U.S. importers, from manufacturers in foreign countries, and brokers/freight forwarders/carriers must be with transportation companies that are C-TPAT validated by the U.S. Customs Service. In addition, Seller agrees to take such reasonable measures as may be required by Buyer to ensure the physical integrity and security of all shipments under this Order against the unauthorized introduction of harmful or dangerous materials, drugs, contraband, weapons or weapons of mass destruction or introduction of unauthorized personnel in transportation conveyances or containers. Such measures may include, but are not limited to, physical security of manufacturing, packing and shipping areas, restrictions on access of unauthorized personnel to such areas; personnel screening to the maximum limits of law or regulations in Seller's or manufacturer's country; and development, implementation and maintenance of procedures to protect the security and integrity of all shipments. Contact Buyer's Authorized Purchasing Representative for assistance in identifying transportation companies that are validated under the C-TPAT program. Information about C-TPAT can be found at [www.cbp.gov](http://www.cbp.gov).

**52. {RESERVED}**

**53. DISPOSAL OF PRODUCTS**

Seller shall not sell, or otherwise dispose of as scrap or otherwise, any completed or partially completed or defective Products without defacing or rendering such Products unsuitable for use. Upon completion or termination of this Order, Seller shall, at Seller's expense, dispose of all Products, including partially completed Products, as required or directed by Buyer.

**54. {RESERVED}**

**55. {RESERVED}**

**56. PRIVACY, CONFIDENTIALITY AND SECURITY**

A. Definitions

- 1. "Affiliate" means any person or entity that directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with Buyer.
- 2. "Controller" means any Person or organization that, alone or jointly with others, determines the purposes and means of the Processing of Personal Data.
- 3. "Personal Information" means any information relating to an identified or identifiable Person, including, but not limited to name, postal address, email address or other online contact information (such as an online user ID), telephone number, date of birth, social security number (or its equivalent), driver's license number (or other government-issued identification number), account information (including financial account information), payment card data (primary account number, expiration date, service code, full magnetic stripe data or equivalent on a chip), personal identification number, access code, password, security questions and answers, security tokens used for authentication, birth or marriage certificate, health insurance or medical information, or any other unique identifier or one or more factors specific to the individual's physical, physiological, mental, economic or social identity, whether such data is in individual or aggregate form and regardless of the media in which it is contained, that may be (i) disclosed at any time to Seller or its Personnel by Buyer or its Personnel in anticipation of, in connection with or incidental to the performance of Services for or on behalf of Buyer; (ii) Processed at any time by Seller or its Personnel in connection with or incidental to the performance of Services for or on behalf of Buyer; or (iii) derived by Seller or its Personnel from the information described in (i) or (ii) above.
- 4. "Personnel" means employees, agents, consultants or contractors of Seller or Buyer, as applicable.
- 5. "Privacy Shield" means the European Union (EU) -U.S. and Switzerland – U.S. Privacy Shield frameworks.
- 6. "Processor" means any Person or Entity that Processes Personal Data on behalf of a Controller.
- 7. "Process" or "Processing" means any operation or set of operations performed upon Personal Information, whether or not by automatic means, such as

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creating, collecting, procuring, obtaining, accessing, recording, organizing, storing, adapting, altering, retrieving, consulting, using, disclosing or destroying the data.

- B. Seller shall hold in strict confidence any and all Personal Information.
- C. Unless Buyer elsewhere in this agreement recognizes Seller to be a Controller, Buyer shall have the exclusive authority to determine the purposes for and means of Processing Personal Information.
- D. In Processing Personal Information, Seller shall comply with all applicable laws in effect and as they become effective relating in any way to the privacy, confidentiality or security of Personal Information.
- E. Seller shall Process Personal Information only on behalf and for the benefit of Buyer and only for the purposes of Processing Personal Information in connection with this Order, and will carry out its obligations pursuant to this Order and in accordance with Buyer's written instructions.
- F. Seller shall limit access to Personal Information to its Personnel who have a need to know the Personal Information as a condition to Seller's performance of Services for or on behalf of Buyer, and who have explicitly agreed in writing to comply with legally enforceable privacy, confidentiality and security obligations that are substantially similar to those required by this clause. Seller will exercise the necessary and appropriate supervision over its relevant Personnel to maintain appropriate privacy, confidentiality and security of Personal Information. Seller will ensure that Personnel with access to Personal Information are periodically trained regarding privacy and security and the limitations on Processing of Personal Information as provided in this Order.
- G. To the extent Seller Processes Personal Information received by Buyer from a Person or Entity in the EU or Switzerland, Seller shall (i) provide at least the same level of privacy protection for Personal Information by Buyer from the EU or Switzerland as is required by the Privacy Shield principles, (ii) promptly notify Buyer if at any time it determines that it can no longer meet its obligations to provide the same level of protection as is required by the Privacy Shield principles, and (iii) take reasonable and appropriate steps to stop and remediate, as directed by Buyer, the Processing of such Personal Information if at any time Buyer notifies Seller that Buyer has determined that Seller is not Processing the Personal Information in compliance with the Privacy Shield principles.
- H. Seller will not transfer Personal Information outside the U.S. to which it originally was delivered to Seller for Processing (or, if it was originally delivered to a location inside the EU, outside the EU) without the explicit written consent of Buyer. Seller will enter into any further written agreements as are necessary (in Buyer's reasonable determination) to comply with privacy laws, including with respect to any cross-border Data transfer of Personal Information, whether to or from the Seller.
- I. Seller shall not share, transfer, disclose or otherwise provide access to any Personal Information to any third party, or contract any of its rights or obligations concerning Personal Information to a third party, unless Buyer has authorized Seller to do so in writing, except as required by law. Where Seller, with the consent of Buyer, provides a third party access to Personal Information, or contracts such rights or obligations to a third party, Seller shall enter into a written agreement with each third party that imposes obligations on the third party that are substantially similar to those imposed on Seller under this clause. Seller shall retain only third parties that Seller reasonably can expect to be suitable and capable of performing their delegated obligations in accordance with this Order and Buyer's written instructions.
- J. To the extent Seller provides a third-party Processor access to Personal Information received by Buyer from a Person or Entity in the EU or Switzerland, Seller shall (i) transfer the Personal Information to the third-party Processor only for the limited and specified purposes instructed by Buyer, (ii) ascertain that the third-party Processor is obligated to provide at least the same level of privacy protection as is required by the Privacy Shield principles, (iii) take reasonable and appropriate steps to ensure that the third-party Processor effectively Processes the Personal Information transferred in a manner consistent with the Privacy Shield principles, (iv) require the third-party Processor to notify Seller if the third-party Processor determines that it can no longer meet its obligation to provide the same level of protection as is required by the Privacy Shield principles, and (v) upon notice, including under (iv), take reasonable and appropriate steps to stop and remediate unauthorized Processing.
- K. No applicable law, or legal requirement, privacy or information security enforcement action, investigation, litigation or claim, or any other circumstance, prohibits Seller from (i) fulfilling its obligations under this Order or (ii) , complying with instructions it receives from Buyer concerning Personal Information. In the event a privacy requirement, enforcement action, investigation, litigation, or claim, or any other circumstance, is reasonably likely to adversely affect Seller's ability to fulfill its obligations under this Order, Seller shall promptly notify Buyer in writing and Buyer may, in its sole discretion and without penalty of any kind to Buyer, suspend the transfer or disclosure of Personal Information to Seller or access to Personal Information by Seller, terminate any further Processing of Personal Information by Seller, and terminate this Order and any related order(s).
- L. Seller will immediately inform Buyer in writing of any requests with respect to Personal Information received from Buyer's customers, consumers, employees, or others. Seller will respond to such requests in accordance with Buyer's instructions. Seller will fully cooperate with Buyer if an individual requests access to his or her Personal Information for any reason.
- M. Subject to applicable law, in the event Seller is required by law or legal process to disclose Personal Information, Seller will give immediate written notice of the disclosure to Buyer, so that Buyer may, in its discretion, seek a protective order or otherwise block the disclosure. Buyer will have the right to defend such action in lieu of and on behalf of Seller. Seller will reasonably cooperate with Buyer in such defense at Buyer's reasonable cost.
- N. Seller shall develop, implement and maintain a comprehensive, written information security program that complies with all applicable laws. Seller's information security program will include appropriate administrative, technical, physical, organizational and operational measures designed to (i) ensure the security and confidentiality of Personal Information; (ii) protect against any anticipated threats or hazards to the security and integrity of Personal Information; and (iii) protect against accidental or unlawful destruction, loss or alteration, unauthorized disclosure or access, and any other unlawful forms of Processing (hereinafter "Information Security Incident").
- O. If the Processing involves the transmission of Personal Information over a network, Seller will implement appropriate measures to protect Personal Information against the specific risks presented by the Processing. Seller shall ensure a level of security appropriate to the risks associated with such transmission and the nature of the Personal Data Processed.
- P. Seller shall immediately, but in no event later than twenty-four hours after Seller's discovery of the Information Security Incident, notify Buyer in writing of any Information Security Incident. Such notice will summarize in reasonable detail the effect on Buyer, if known, of the Information Security Incident and the corrective action taken or to be taken by Seller. Seller will promptly take all necessary and advisable corrective actions, and will cooperate fully with Buyer in all reasonable and lawful efforts to prevent, mitigate or rectify such Information Security Incident. The content of any filings, communications, notices, press releases or reports related to any Information Security Incident must be approved by Buyer prior to any publication or communication thereof.
- Q. Upon the occurrence of an Information Security Incident involving Personal Information in the possession, custody or control of Seller or for which Seller is otherwise responsible, Seller shall reimburse Buyer on demand for all Notification Related Costs (defined below) incurred by Buyer arising out of or in connection with any such Information Security Incident. "Notification Related Costs" shall include Buyer's internal and external costs associated with investigating, addressing and responding to the Information Security Incident, including but not limited to: (i) preparation and mailing or other transmission of notifications or other communications to consumers, employees or others as Buyer deems reasonably appropriate; (ii) establishment of a call center or other communications procedures in response to such Information Security Incident (e.g., customer service FAQs, talking points and training); (iii) public relations and other similar crisis management services; (iv) legal, consulting and accounting fees and expenses associated with Buyer's investigation of and response to such event; and (v) costs for commercially reasonable credit reporting and monitoring services that are associated with legally required notifications or are advisable under the circumstances.
- R. Buyer reserves the right to, annually or upon a cyber or privacy incident, review and inspect Seller's system and information security policies, practices, and

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procedures. With reasonable prior notice, Buyer or its authorized representatives reserve the right to inspect the system and any Buyer information or materials in Seller's possession, custody or control, relating in any way to Seller's obligations. An inspection shall not unreasonably interfere with the normal conduct of Seller's business and Seller shall cooperate fully with any such inspection initiated by Buyer. If Seller engages an independent third-party to conduct a security evaluation/certification of Seller's systems that host Personal Information during the term of this contract, it shall provide summary copies of any resulting reporting to Buyer.

- S. Seller shall deal promptly and appropriately with any inquiries from Buyer relating to the processing of Personal Information subject to this Order.
  - T. Seller agrees to indemnify and hold harmless the Indemnitees, as defined in clause 25 above, from, and at Buyer's option defend against, any and all Losses (as defined below), that the Indemnitees may incur, to the extent that such Losses arise from, or may be in any way attributable to (i) any violation of this Order; (ii) the negligence, gross negligence, bad faith, or intentional or willful misconduct of Seller or its Personnel in connection with the obligations set forth in this Order; (iii) Seller's use of any third party providing Services in connection with or relating to Seller's performance under this Order; or (iv) any Information Security Incident involving Personal Information in Seller's possession, custody or control, or for which Seller is otherwise responsible. For purposes of this Order, "Losses" means all judgments, settlements, awards, damages, losses, charges, liabilities, penalties, interest claims (including taxes and all related interest and penalties incurred directly with respect thereto), and all related reasonable costs, expenses and other charges (including all reasonable attorneys' fees and reasonable internal and external costs of investigations, litigation, hearings, proceedings, document and data productions and discovery, settlement, judgment, award, interest and penalties).
  - U. Seller's obligations under this clause will survive the termination of this Order and the completion of all Services subject thereto.
- 57. INFORMATION SECURITY**
- A. Reasonable and Appropriate Security Controls
    - 1. Seller shall apply reasonable and appropriate administrative, technical, physical, organizational, and operational safeguards and operations to protect Buyer's Data against accidental and unlawful destruction, alteration, and unauthorized or improper disclosure or access regardless of whether such data is on Buyer's internal systems or a cloud environment.
    - 2. If Seller's performance of the Order involves the transmission, storage, or processing of Proprietary Information over a network, Seller shall at a minimum apply the following controls:
      - i. Controls from FAR 52.204-21 (Basic Safeguarding of Covered Contractor Information Systems):
        - a. Limit information system access to authorized users, processes acting on behalf of authorized users, or devices (including other information systems).
        - b. Limit information system access to the types of transactions and functions that authorized users are permitted to execute.
        - c. Verify and control/limit connections to and use of external information systems.
        - d. Control information posted or processed on publicly accessible information systems.
        - e. Identify information system users, processes acting on behalf of users, or devices.
        - f. Authenticate (or verify) the identities of those users, processes, or devices, as a prerequisite to allowing access to Seller information systems.
        - g. Sanitize or destroy information system media containing Proprietary Information before disposal or release for reuse.
        - h. Limit physical access to Seller information systems, equipment, and the respective operating environments to authorized individuals.
        - i. Escort visitors and monitor visitor activity; maintain audit logs of physical access; and control and manage physical access devices.
        - j. Monitor, control, and protect Seller communications (i.e., information transmitted or received by Seller information systems) at the external boundaries and key internal boundaries of the information systems.
        - k. Implement sub-networks for publicly accessible system components that are physically or logically separated from internal networks.
        - l. Identify, report, and correct information and information system flaws in a timely manner.
        - m. Provide protection from malicious code at appropriate locations within Seller information systems.
        - n. Update malicious code protection mechanisms when new releases are available.
        - o. Perform periodic vulnerability scans of the information system and real-time scans of files from external sources as files are downloaded, opened, or executed.
      - ii. Additional Basic Security Controls
        - a. Establish and enforce security configuration settings for information technology products employed in Seller's systems.
        - b. Establish and maintain data protection processes and systems to adequately protect Proprietary Information, including pertaining to destruction methods employed, how audit and system log information is protected, and having the capability to encrypt information during transmission.
        - c. Ensure that risks identified in scans performed under paragraph A.2(i)(o) of this clause are promptly addressed.
  - B. Cyber Incident Response and Notification
    - 1. Seller must have documented procedures that address actual or potential incidents involving any Seller information system or equipment. These plans should be a set of written instructions that include, but are not limited to: detecting, responding to, and limiting the effects of an information security event.
    - 2. Within 72 hours of discovery, Seller will notify Buyer's PCO and Buyer's Cyber Security Operations Center (CSOC) at (877) 615-3535 of (i) any actual or potential incident involving any information system or equipment owned or controlled by Seller involving Buyer's Data, or (ii) any unauthorized access to, use, or disclosure of Buyer's Data (collectively a "Cyber Incident"). At Seller's expense, Seller will (i) immediately investigate any Cyber Incident, (ii) make all reasonable efforts to secure Buyer's Data and mitigate the impact of the Cyber Incident, (iii) provide timely and relevant information to Buyer about the Cyber Incident on an ongoing basis, and (iv) cooperate as applicable with Buyer to provide notice to affected third parties. The remedies and obligations set forth in this subsection are in addition to any others Buyer may have, including, but not limited to, any requirements in the "Privacy, Confidentiality, and Security" provisions herein and DFARS 252.204-7012 (if applicable).
  - C. Seller shall respond promptly and appropriately to any inquiries from Buyer related to compliance with this clause to include documentation of implemented practices defined above
  - D. This section 57 applies in addition to any other information security or privacy requirements included in this Order.
- 58. {RESERVED}**



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**GENERAL PROVISIONS – INTERNATIONAL:****100. BUYER AUTHORIZATION**

- A. Buyer's Authorized Purchasing Representative has sole authority to make contractual commitments on behalf of Buyer, to provide contractual direction, and to change contractual requirements as defined in the Order.
- B. Buyer's engineering, technical personnel and other representatives may from time to time render assistance or give technical advice or discuss or effect an exchange of information with Seller's personnel concerning the products or services hereunder. Such communications shall not be contractually binding on Buyer and no such action shall be deemed to be a change under the "Changes" clause of this Order and shall not be the basis for an equitable adjustment.

**101. {RESERVED}****102. FREIGHT CHARGES**

Freight charges, unless otherwise specified on this Order shall be reimbursed at actual cost and shall be accompanied by legible copies of prepaid freight bills, express receipts, or bills of lading supporting the invoice amounts. Such invoices shall include: (1) carrier's name, (2) date of shipment, (3) number of pieces, (4) weight, and (5) freight classification.

**103. INVOICE AND PAYMENT**

When invoices are required, a separate invoice shall be issued for each shipment, and should include the relevant Buyer Order number. Unless otherwise specified in this Order, no invoice shall be issued prior to shipment of supplies or completion of services and no payment will be made prior to receipt of supplies or completion of services and receipt of a correct invoice. Payment due dates, including Buyer's entitlement to take a discount, will be computed from the date of receipt of acceptable supplies at Buyer's facility or the date of receipt of a correct invoice (whichever is later). If Seller is directed under this Order to ship supplies to locations other than Buyer's facility, Seller shall notify Buyer's Authorized Purchasing Representative within three (3) business days of completed shipment. Seller understands that Buyer will not issue payment under this Order until Buyer verifies receipt of supplies at the location specified by Buyer and receipt is processed in Buyer's system. Any discount taken will be taken on the full amount of the invoice. Buyer may set off against any amounts due under Seller's invoices, including (1) any damages resulting from Seller's default under or breach of any contract (including any Order and these terms and conditions); (2) any amount owing from Seller to Buyer; or (3) any adjustment for shortage or rejection and any associated costs.

**104. HEADINGS**

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

**105. EUROPEAN UNION REGISTRATION, EVALUATION, AUTHORIZATION AND RESTRICTION OF CHEMICALS (REACH)**

- A. Seller shall comply with any and all European Union (EU) Registration, Evaluation, Authorization and Restriction of Chemicals (REACH) regulation obligations with respect to any of the Products delivered by Seller to Buyer under the terms of this Order.
- B. Seller must provide Buyer with a list of substances contained in any of the Products that were included on the Candidate List published by ECHA on October 28, 2008. Thereafter, if a substance is added to the Candidate List by ECHA, and that substance is also contained in any Products, Seller must notify Buyer within fifteen (15) days.
- C. By accepting this Order, Seller recognizes and agrees that Buyer will thereafter act in reliance on Seller's acceptance of this Order as a contractual commitment that it is in compliance with EU REACH regulations, subject to the further provisions below.
- D. Should any Products contain substances listed on the Candidate List that are above 0.1% on a weight by weight basis within that Product, Seller shall provide Buyer with so-called Safe-Use information, pursuant to the provisions of REACH Article 33 and shall maintain the REACH database for the life of this Order.
- E. As indicated, Buyer will act in reliance on the statements and commitments Seller makes regarding the Candidate List status of each of the substances contained in any of the Products. If Seller fails to comply with the provisions of this clause, Buyer may consider whether such failure constitutes a breach of this Order sufficient to warrant Termination for Default in accordance with the terms of this Order. Moreover, in the event failure to timely comply with these provisions results in a business interruption of Buyer's operations, Buyer will seek to recover the damages, including financial losses, it suffers as a consequence of such failure.

**106. CONFLICTS OF INTEREST**

Seller warrants to the best of its knowledge and belief, that no conflict or potential conflict of interest exists between the Services and Products to be provided under this Order and Seller's other activities. Seller shall immediately advise Buyer of any such conflict of interest or potential conflict of interest which arises during performance of this Order.

**107. PROTECTION OF INFORMATION**

- A. If a separate confidentiality, nondisclosure, or proprietary information agreement exists between Buyer and Seller which relates to the subject matter of this Order, then confidential or proprietary information furnished by one party to the other party shall be protected pursuant to such agreement, and paragraphs (B) through (H) of this clause shall not apply.
- B. If no separate confidentiality, nondisclosure, or proprietary information agreement exists between Buyer and Seller, paragraphs (C) through (H) of this clause apply.
- C. For purposes of this clause, "Information" shall mean information disclosed to Seller by Buyer in connection with this Order which is either identified to Seller as being proprietary to Buyer or which is information that a reasonable person would understand to be such information. Examples of Information include, but are not limited to, customer lists, pricing policies, market analyses, business plans or programs, software, specifications, manuals, print-outs, notes and annotations, performance data, designs, drawings, dimensions, processes, data, reports, photographs, and engineering, manufacturing or technical information related to Buyer's products, services, equipment or processes, as well as duplicates, copies, or derivative works thereof. Information shall not mean any information previously known to Seller without obligation of confidence, or which becomes publicly disclosed, or which is rightfully received by Seller from a third party without obligation of confidence.
- D. Information furnished to Seller shall remain Buyer's proprietary property, shall be duplicated only as authorized in writing by Buyer, and shall be returned to Buyer or destroyed upon request or when no longer required for the performance of this Order. Seller shall not disclose Information to any third party, and shall take all reasonable precautions to prevent the disclosure of Information to third parties, including any foreign national, firm, or country, and foreign nationals employed or associated with Seller's company except as specifically authorized by Buyer. Seller further agrees not to use any Buyer Information to develop any product, service or system, or to support any third party in the development of any product, service or system.
- E. Neither the existence of this Order nor the disclosure of Buyer Information or any other information hereunder shall be construed as granting expressly by implication, by estoppel or otherwise, a license under any invention or patent now or hereafter owned or controlled by the Buyer or Buyer's customer, except as specifically set forth herein.
- F. Data and information provided by Seller shall be considered proprietary only when marked as proprietary. Seller's proprietary data and information will be used by Buyer only upon approval of Seller. Buyer may use unmarked Seller's data and information for any purpose.
- G. Seller's obligations with respect to Buyer Information disclosed hereunder prior to the performance in full, termination or cancellation of this Order shall not, except as expressly set forth herein, be affected by such performance in full, termination, or cancellation.

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H. Buyer or its authorized representatives may at any time audit all pertinent books, records and files of Seller in order to verify compliance with this clause. Seller will, in all of its contracts with its suppliers relating to any Buyer Order, include provisions which secure for Buyer all of the rights and protections provided for by this clause.

**108. PRICES**

The prices stated in this Order are stated in United States Dollars and are not subject to exchange rate adjustments.

**109. APPLICABLE LANGUAGE**

This Order is made in the English language and all correspondence between the Parties of a technical and non-technical nature shall be in the English language and shall employ the units of measure customarily used by Buyer in the United States of America, unless otherwise specified. All notices and other binding communications may, unless otherwise specified, be sent by facsimile, electronic mail, air mail, or other customary means.

**110. DATA BREACH NOTIFICATION**

In the event Seller reasonably believes that unauthorized access to, disclosure of, or breach in the security of Buyer's data may have occurred, Seller, at its own cost and expense must:

- A. In the most expeditious manner possible, without unreasonable delay, and in any event no later than 72 hours, notify Buyer of any potential data security breach involving Buyer's data;
- B. Promptly provide Buyer full details of the potential breach of the data security of Buyer's data;
- C. Assist Buyer and any third parties authorized by Buyer, including law enforcement authorities, in investigating and remediating any potential breach of the data security of Buyer's data
- D. Promptly use best efforts to prevent a recurrence of any potential breach of the data security of Buyer's data; and
- E. Cooperate with Buyer in notifying individuals injured or potentially injured by the potential breach of the data security of Buyer's data.

**111. SUSTAINABILITY**

Buyer is committed to providing a sustainable environment for its employees, customers, investors, suppliers, and communities. Buyer's goal is to promote resource conservation and environmental responsibility through the use of recycled contents and recovered materials to achieve waste reduction and energy efficiency. Buyer is dedicated to obtaining products and services from suppliers that exceed or comply with all applicable laws, regulations, and ordinances relating to preservation and protection of the environment, in addition to employing techniques and materials that support sustainability. To assist Buyer in maintaining its commitment, suppliers of products and services are strongly encouraged to demonstrate the same degree of integrity from a social and environmental perspective and strive for continuous improvement in the following key areas of sustainability: water quality, energy conservation, responsible recycling, waste management and air quality.

**112. PLACE OF PERFORMANCE**

Seller shall notify Buyer's Authorized Purchasing Representative in writing of any change in Seller's name, ownership or the place of performance. Buyer's Authorized Purchasing Representative will instruct the Seller on formal notification actions and specific forms to submit, as necessary.

**113. ANTI-CORRUPTION COMPLIANCE**

Seller represents, warrants and covenants that:

- A. It has not and will not, directly or indirectly, pay, promise, offer, or authorize the payment of any money or anything of value to:
  1. an officer, employee, agent or representative of any government, including any department, agency, or instrumentality thereof or any person acting in an official capacity thereof;
  2. a candidate for political office, any political party or any official of a political party; or
  3. any other person or entity while knowing or having reason to know that all or any portion of such payment or thing of value will be offered, given or promised, directly or indirectly, to any person or entity for the purpose of assisting Buyer in obtaining or retaining business, or an improper business advantage.

Without limiting the generality of the foregoing, Seller shall not directly or indirectly, pay, promise, offer, or authorize the payment of any facilitating payment intended to expedite or secure performance of a routine governmental action, such as, customs clearance on behalf of Buyer.

- B. No gift, travel expenses, business courtesies, hospitalities or entertainment of any nature has been or will be accepted or made in connection with this agreement where the intent of was, or is, to unlawfully influence the recipient of the gift, travel expense, business courtesy, hospitality or entertainment. Seller also represents that any gifts, travel expenses, business courtesies, hospitalities or entertainment offered or provided shall meet the following conditions:

1. be permitted under the U.S. FCPA and the laws and regulations of the country in which this agreement will be performed;
2. be consistent with applicable social and ethical standards and accepted business practices;
3. be of such limited value as not to be deemed a bribe, payoff or any other form of improper inducement or payment; and
4. be of such nature that its disclosure will not cause embarrassment for the Buyer.

- C. Breach of any of the foregoing provisions of parts A and B of this clause by Seller shall be considered an irreparable material breach of this agreement and shall entitle the Buyer to terminate this agreement immediately without compensation to Seller.

**114. SUCCESSORS OF PARTIES**

This Order is binding on the Parties and their respective legal representatives, trustees, successors and assigns.

**115. BADGES & PLANT SECURITY**

If this Order requires Seller's personnel to enter Buyer's or Buyer's customer's premises, Seller agrees to abide by and comply with, and require its employees and subcontractors to abide by and comply with, such rules and regulations pertaining to plant security as may be prescribed by Buyer and/or the Buyer's customer.

**116. ASSIGNMENT OF RIGHTS TO DIVESTED ENTITIES**

- A. Upon Buyer's divestiture of any affiliate, division, business unit, line of business or sector ("divested entity"), Buyer may assign in whole or in part the right to purchase any Products or Services that are the subject of this Order to that divested entity. Upon execution of an assignment, Buyer shall have no further rights or obligations with respect to the assigned Products or Services (with the exception of any unpaid fees for Products and Services previously properly furnished which remain due on the effective date of such assignment) and the divested entity shall become the "customer" of record for the assigned Products and Services.
- B. Divested entities will have the right, for a period of twelve (12) months post-divestiture, to continue to purchase the Products and/or Services covered under this Order, or Buyer may purchase such Products and Services under this Order on behalf of the divested entities. If a divested entity wishes to order from Seller directly, Seller reserves the right to require such divested entity to provide financial information sufficient to determine creditworthiness, which shall not be unreasonably withheld, before accepting any orders.
- C. Buyer may access and use Products and Services available under this Order to provide transitional support to a divested entity during the transition period at no additional charge (i.e., no charge other than fees otherwise due to Seller under the Order as if the divested entity were a part of Buyer) provided that Buyer is and remains current on the payment of all amounts due to Seller under this Order.

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D. If Buyer merges with or acquires an entity or entities that have a need for Seller's Products and Services, Buyer and the acquired entity will be permitted to make purchases using this Order and price discounts in support of the acquired entity. If, under any existing Order with an acquired entity or entities, Seller currently provides or agrees to provide Products or Services, Buyer and Seller will negotiate a combined agreement sufficient to cover the combined companies so as to avoid any disruption.

**117. ANTI-DUMPING/COUNTERVAILING DUTIES**

Seller must affirmatively determine whether Seller's Product is subject to U.S. anti-dumping/countervailing duties (AD/CVD). Seller must notify Buyer in writing if Seller's Product is subject to AD/CVD at the time of contracting or if Seller's Product becomes subject to AD/CVD at any time during the term of this Order.

**118. {RESERVED}**

**119. FREE TRADE AGREEMENT AND TARIFF PREFERENCE PROGRAMS**

Seller must provide to Buyer, upon Buyer's request, Product country of origin information under North American Free Trade Agreement (NAFTA), Caribbean Basin Initiative (CBI), General System of Preferences (GSP) or other relevant, existing or future trade agreements or tariff preference programs. If required by Buyer, based on the origin of the Product under the relevant rules of origin, Seller will complete and deliver to Buyer a certificate of origin appropriate to the relevant trade agreement or tariff preference program, or sufficient information to enable Buyer to satisfy Buyer's obligations in utilizing such trade agreements or tariff preference programs. Seller must continuously monitor Seller's materials sourcing, bills of material, and/or formulations for changes that might affect the validity of any origin determination or certificate of origin provided to Buyer. If any such change affects origin information or a certificate of origin provided to Buyer, Seller must immediately notify Buyer in writing.

Upon request by Customs and Border Protection, Seller will provide all applicable requested information in support of a FTA certificate of origin.

**120. {RESERVED}**

**121. {RESERVED}**

**122. TOXIC SUBSTANCES CONTROL ACT**

Seller warrants that each and every chemical substance delivered under this Order shall, at the time of sale, transfer, or delivery, be on the list of chemical substances compiled and published by the Administrator of the Environmental Protection Agency pursuant to the Toxic Substances Control Act (Title 15 USC § 2601 et seq.), and Seller agrees to certify as such upon request by Buyer. Seller shall not include any chemical substance (including mixtures or articles containing a chemical substance or mixture) in any shipment to the United States pursuant to this Order without prior notice to and written consent of Buyer. Pursuant to the Indemnity Against Claims provisions of this Order, Seller shall indemnify and hold harmless Buyer from any loss, cost, liability, damage, or penalty to Buyer by reason of Seller's nonperformance under this section. The rights of the Parties hereunder shall survive completion or termination of this Order.

**123. ASBESTOS**

Seller shall not provide any Product that contains asbestos and shall submit certification to Buyer on demand that the Products contain no asbestos.

**124. CLAUSE MODIFICATION REQUIRED BY BUYER'S CUSTOMER**

Seller agrees to incorporate into this Order any revised clause or additional clause as Buyer may reasonably deem necessary to enable Buyer to comply with the provisions of the higher-tier contract and any modifications thereto.

**125. {RESERVED}**

**126. {RESERVED}**

**127. {RESERVED}**