

TERMS AND CONDITIONS – Commercial Items Under U.S. Government Contract

1. General/Acceptance

The purchase order (which term shall be deemed to include plans, specifications, and other documents to the extent that any of the same are incorporated by reference) becomes the exclusive agreement between the parties for the supplies/services subject to the terms and conditions herein. Any of the following shall constitute seller's unqualified acceptance of this purchase order: (a) acknowledgment of this purchase order; (b) furnishing of any part of the supplies/services under this purchase order; (c) acceptance of any payment for the supplies/services or (d) commencement of performance under this purchase order. Any additional or different terms proposed by the seller are objected to and are hereby rejected unless the same shall be accepted in writing by the buyer. Failure of any party to enforce its rights under this purchase order shall not constitute a waiver of such rights or of any other rights under this purchase order or otherwise.

2. Buyer's Authorized Representative

(a) The Buyer's Authorized Purchasing Representative is the individual authorized by Buyer's cognizant procurement organization to administer and/or execute the purchase order. The Buyer's Authorized Purchasing Representative has sole authority to make contractual commitments on behalf of the Buyer, to provide contractual direction, and to change contractual requirements as defined in the purchase 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 supplies or services being provided under this purchase order. No such action shall be deemed to be a change under the "Changes" clause of this purchase order and shall not be the basis for an equitable adjustment.

3. Assignment and Place of Performance

Neither this order nor any payments hereunder are assignable or transferable, in whole or in part, without buyer's written approval, which approval will not be unreasonably withheld. Buyer shall be entitled to the right of set-off against any amounts payable under this purchase order.

Seller shall notify Buyer of any change in the place of performance with regard to the requirements of this purchase order. Such notification shall be made to the cognizant Northrop Grumman purchasing representative not less than 30 days prior to the change to the place of performance.

4. Changes

(a) Buyer's purchasing representatives may at any time, by written order, without notice to any surety, make changes or additions within the general scope of this purchase order in any one or more of the following: (1) drawings, designs, statement of work or specifications; (2) method of shipment or packing; (3) place of inspection, delivery, or acceptance; (4) quantities, where reasonable; (5) delivery schedule, where reasonable, and (6) the amount of buyer furnished property.

(b) If any such change causes an increase or decrease in the cost of, or the time required for, performance of this purchase order, whether changed or not changed by any such written order. Seller shall notify buyer in writing immediately and an appropriate equitable adjustment will be made in the price or time of performance, or both, by written modification of this purchase order. Any claim by seller for such adjustment must be asserted within fifteen (15) days, or such other period as may be agreed on in writing by all the parties, after seller's receipt of notice of the change. Nothing contained in this paragraph shall excuse seller from proceeding with the contract as changed.

5. Delivery

(a) The Parties expressly agree that time is and shall remain a material element of this purchase order and no acts of Buyer,

including without limitation, modifications to this purchase order or acceptance of late deliveries, shall constitute a waiver of this clause.

(b) Seller will deliver acceptable supplies and services in strict conformity with any delivery schedule and shipping instructions set forth in the purchase order issued to Seller by Buyer. Unless otherwise provided in this purchase order, delivery in whole or in part shall not be made more than 10 days prior to required delivery dates. Buyer may return earlier deliveries at Seller's risk and expense. Seller shall comply with the delivery schedule but shall not make material or production commitments in advance of such time as the Seller reasonably believes necessary to meet the schedule without prior written approval by Buyer. Representatives of Buyer, the Government or both shall at all reasonable times have access to Seller's plant for the purpose of assuring delivery in accordance with the schedule.

(c) 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 purchase order, or (2) fill such purchase order or any portion thereof, from sources other than Seller and to reduce Seller's purchase 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 or remedies under the Uniform Commercial Code.

6. Disputes

Any dispute arising under this purchase order which is not settled by agreement of the parties will be litigated in the state or federal courts (as applicable) of the state from which the buyer's purchase order is issued. Pending any decision, appeal or judgment in such proceedings, or the settlement of any dispute arising under this purchase order, seller shall proceed diligently with the performance of this purchase order unless otherwise agreed between Buyer and Seller.

7. Definitions

The clause at FAR 52.202-1, definitions, is incorporated herein by Reference.

8. Notice To The Buyer Of Potential Delays

Whenever Seller has knowledge that any occurrence is delaying or threatens to delay the timely performance of this purchase order, Seller shall immediately give notice thereof, including all relevant information with respect thereto, to Buyer. Such occurrences shall include, but not be limited to: (1) actual or potential labor disputes or strikes; (2) fires, floods, or unusually severe weather; (3) acts of nature; (4) acts of the Government in either its sovereign or contractual capacity, and any other cause for delay. 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 purchase order, these terms and conditions, at law or otherwise.

9. Invoice And Payment

When invoices are otherwise required, a separate invoice shall be issued for each shipment and should include the relevant Northrop Grumman purchase order number. Unless otherwise specified in this purchase order, no invoice shall be issued prior to shipment of goods and no payment will be made prior to receipt of goods and a correct invoice. Payment due dates, including discount periods, will be computed from the date of receipt of goods or the date of receipt of a correct invoice (whichever is later) to the date buyer's check is issued. Unless freight and other charges are itemized, any discount taken will be taken on full amount of invoice.

10. Risk Of Loss

Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Seller until delivery FOB destination.

TERMS AND CONDITIONS – Commercial Items Under U.S. Government Contract

11. Taxes

The contract price includes all applicable Federal, State, and local taxes and duties.

12. Termination

Without limiting Buyer's right to cancel this order for default of Seller, Buyer may terminate all or any part of the work under this order and process Seller's claims therefore in accordance with the provisions of the Termination Clause set forth in Part 52.249-2 of the Federal Acquisition Regulation as in effect on the date of this order. Where necessary to make this FAR part applicable to this purchase order, "Contractor" shall mean "Seller", "Contracting Officer" shall mean "Buyer" and "Government" shall mean "Buyer" or the "Government". In paragraph (e) of 52.249-2, change "1 year" to "6 months or any extension thereto."

13. Warranty

Seller warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

14. Compliance With Laws

(a) Seller shall comply with all applicable Federal, State and local laws, Executive Orders, rules and regulations (including Export Administration regulations) applicable to its performance under this contract.

(b) Seller agrees to indemnify Northrop Grumman against any loss, cost, liability or damage by reason of Seller's violation of any applicable laws, Executive Order, or regulation.

(c) If a Government Contract number is indicated, Seller agrees that performance of this Purchase Order is subject to the laws and regulations of the Department of Defense, Department of Energy, or other Federal Government agency, including but not limited to those identified in these terms and conditions. Any knowing willful act to falsify, conceal, or alter a material fact, or any false, fraudulent, or fictitious statement or representation in connection with the performance of work under this order may be punishable in accordance with applicable Federal statutes.

15. Export Related Requirements

(a) Export Compliance. Seller is advised that its performance of this Purchase 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 – 2796 (Arms Export Control Act) and 22 Code of Federal Regulations 120-130 (International Traffic in Arms Regulations) or 50 United States Code 2401 – 2420 (Export Administration Act) 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 a U.S. Person as that term is defined in the Export Laws and Regulations. Seller shall comply with any and all Export Laws and Regulations, and any license(s) issued thereunder.

(b) Foreign Personnel/Persons. Seller shall not give any Foreign Person access to Technical Data, software or Defense Articles, or provide an unauthorized Defense Service as those terms are defined in the applicable Export Laws and Regulations without the prior written consent of Buyer. Any request for such consent must state the intended recipient's citizenship(s), and status under 8 U.S.C. 1101 and 8 U.S.C. 1324 (the "Immigration and Naturalization Act"), and such other information as Buyer may reasonably request. No consent granted by Buyer in response to Seller's request under this paragraph (b) shall relieve Seller of its obligations to comply with the provisions of paragraph (a) or the Export Laws and Regulations, nor shall any such consent constitute a waiver of the requirements of paragraph (a), nor constitute consent for Seller to violate any provision of the Export Laws and Regulations.

(c) Indemnification. Seller shall indemnify and save harmless Buyer from and against any and all damages, liabilities, penalties, fines, costs, and expenses, including attorneys' 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). 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 Purchase Order.

(d) Subcontracts. The substance of this Clause shall be incorporated into any subcontract entered into by the Seller for the performance of any part of the work under this Purchase Order.

16. Order Of Precedence

The various documents constituting this purchase 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 purchase 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) provisions required by statute, regulation or Government contract; (b) typed Purchase Order form; (c) this Terms and Conditions document; (d) Statement of Work; (e) Specifications; and (f) Drawing(s).

17. Responsibility For Supplies

Except as specifically otherwise provided in this purchase order, Seller shall be responsible for supplies meeting the requirements of this purchase order until final inspection and acceptance thereof by Buyer and shall bear all risks as to rejected supplies or supplies requiring correction after notice of rejection notwithstanding any prior acceptance.

18. Compliance With Laws Unique To Government Contracts

Seller agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. 327, et seq., Contract Work Hours and Safety Standards Act; 41 U.S.C. 51-58, Anti-Kickback Act of 1986; 41 U.S.C. 265 and 10 U.S.C. 2409 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. 423 relating to procurement integrity.

19. Federal Acquisition Regulations

The following clauses set forth in the FAR/DFARS as in effect on the date of this purchase order are incorporated herein by reference.

(a) All Orders:

52.222-26	Equal Opportunity
52.222-50	Combating Trafficking in Persons
52.247-64	Preference For Privately Owned U.S.-Flag Commercial Vessels
252.225-7014	Preference for Domestic Specialty Metals, Alternate I
252.236-7013	Requirement for Competition Opportunity for American Steel Producers, Fabricators, and Manufacturers
252.246-7003	Notification of Potential Safety Issues
252.247-7023	Transportation of Supplies by Sea
252.247-7024	Notification of Transportation of Supplies by Sea

(b) Orders of \$3,000 and Greater:

Reserved

(c) Orders of \$10,000 and Greater:

52.222-36	Affirmative Action for Workers with Disabilities
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TERMS AND CONDITIONS – Commercial Items Under U.S. Government Contract

(d) Orders of \$100,000 and Greater:

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| 52.222-35 | Equal Opportunity for Special Disabled
Veterans, Veterans of the Vietnam Era, and
Other Eligible Veterans |
| 52.222-39 | Notification of Employee Rights Concerning
Payment of Union Dues or Fees |

(e) Orders of \$550,000 and Greater:

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| 52.219-8 | Utilization of Small Business Concerns |
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(f) Orders of \$5 Million and Greater

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| 52.203-13 | Contractor Code of Business Ethics and Conduct |
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