



TERMS of PURCHASE



These terms and conditions (these “**Terms**”) apply to and are incorporated as a part of every Purchase Order, Work Order, Supply Agreement, Request for Proposal or Quotation or similar document, including all exhibits and attachments (each, an “**Order**”) issued or accepted by The Phoenix Company of Chicago, Inc. or its affiliates, successors and assigns (“**Buyer**”) for the purchase of goods or services (“**Goods**”).

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1. Definitions.

- a. “**Buyer’s Purchasing Representative**” means Buyer’s designated purchasing representative responsible for issuing an Order and any amendments or changes thereto.
- b. “**Days**” means calendar days .
- c. “**Government**” The governmental bodies of the United States of America, acting in their contractual and legal capacity.
- d. “**Seller**” means the person to whom an Order is issued.

2. **Acceptance of An Order.** Seller’s written acknowledgement of the Order, its commencement of any performance under the Order (including but not limited to providing any Goods hereunder), or acceptance of any payment under the Order shall each constitute Seller’s unqualified and irrevocable acceptance of an Order. In the event that an Order does not state price or delivery terms, Buyer will not be bound to any prices or delivery terms to which it has not specifically agreed in writing. Any terms or conditions proposed by Seller that are inconsistent with or in addition to these Terms shall be void and of no effect unless specifically agreed to in writing by Buyer’s Purchasing Representative, regardless of whether or not such terms and conditions materially alter an Order and irrespective of any payment by Buyer hereunder.

3. Acceptance of Delivery of Goods; Nonconforming Goods.

- a. Payment by Buyer to Seller for the Goods shall not constitute acceptance. Acceptance of the Goods will not occur until after Buyer’s inspection of the Goods and may occur during assembly and after payment of the invoice.
- b. The Goods shall be in accordance with the requirements of an Order and shall be subject to rejection if the Goods are nonconforming.
- c. The Goods shall be in accordance with applicable specifications, and absent contrary direction in such specifications, the Goods shall be delivered new, to the latest revision, and shall have a date of manufacture not to exceed two years prior. Age-sensitive materials must be provided with a minimum of 80% of the shelf



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life remaining. Seller shall not make any changes in the design of the Goods without Buyer's prior written approval, whether or not there is a cost impact associated with the change and regardless of the type of change involved, including product improvements.

- d. If any of the Goods do not conform with the requirements of an Order, then at Buyer's sole option (i) Buyer may require Seller to promptly correct or replace such Goods in conformity with the applicable requirements at no cost to Buyer; or (ii) the Goods may be returned for credit or replacement at Seller's risk and expense, and all handling and transportation expenses, both ways, shall be assumed by Seller. No items returned as defective shall be replaced without written authorization from Buyer.
- e. Buyer's failure to state a particular defect upon rejection of the Goods will not preclude Buyer from relying on unstated defects to justify such rejection.
- f. Supplier shall promptly notify Buyer if nonconforming Goods are inadvertently shipped to Buyer. Supplier shall not allowed ship nonconforming Goods dispositioned as USE AS IS.

4. **Invoices and Payment.** Seller's invoices or vouchers shall contain all certifications required by the Order and shall include the invoice date, the Order number, as well as a complete breakout of the prices by line item for the Goods encompassed by the invoice or voucher.

- a. The price for the Goods shall be all-inclusive and encompasses any and all federal, state, local or foreign taxes and duties that may be applicable, and all installation, testing, debugging, warranty charges, any and all licenses or use fees, and any other cost of every kind and description associated with Seller's work.
- b. Buyer shall pay Seller in U.S. currency after receipt of Seller's proper invoices or vouchers for Goods delivered and accepted, less any deductions provided for in an Order. Payment terms are net forty-five (45) days from (i) delivery of the goods or completion of the services, or (ii) receipt of invoice, whichever is later.

5. Shipping, Packing and Marking.

- a. Transportation charges on goods sold f.o.b. shipping point must be prepaid and invoiced to Seller. Transportation charges on goods sold f.o.b. destination must be prepaid in all cases. No insurance or premium transportation costs will be allowed unless authorized in writing by Buyer's Purchasing Representative. Risk of loss to Goods, regardless of cause, shall be Seller's responsibility until the Goods have been delivered in compliance with terms of transportation required by an Order. If Seller does not comply with the stated delivery schedule, Buyer may, in addition to any other rights which it may have at law or in equity, require delivery by the most expeditious way, and any charges resulting from the premium transportation shall be fully prepaid by Seller. Title to all goods passes at Buyer's dock.
- b. Seller shall pack, mark, and ship all goods in accordance with the requirements of an Order and in compliance with all applicable transportation regulations and good commercial practice for protection against damage from weather and shipment, including any applicable federal, state, and local laws and regulations for the packaging, labeling, transportation and shipping of hazardous materials. Seller shall secure the most advantageous transportation services and rates consistent therewith. No separate or additional charge shall be payable by Buyer for containers, crating, boxing, handling, storage or any other services. Seller shall mark each container with the number of an Order and shall enclose a packing slip with an Order number in an envelope attached to each container. Damage resulting from improper packing or shipping will be charged to Seller.
- c. Acceleration of delivery must be authorized in writing by Buyer's Purchasing Representative. Buyer reserves the right to refuse or return at Seller's risk and expense any shipments made in excess of the quantities stipulated in the Order or received in advance of the required delivery schedule, or to keep the Goods received in advance of the required delivery schedule and defer payment as if the delivery was made per the required delivery schedule.

6. **Non-US Origin Shipments.** Any shipments of Goods originating outside the customs territory of the United States will import under the DDP Incoterms 2020. Seller shall communicate its customs clearance instructions to its international third-party supplier prior to arrival into the United States to avoid any delays in delivery to Buyer. Under no circumstances shall Buyer be listed as the importer of record (or consignee for shipments delivered via courier)



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on customs documents for any Orders shipped directly to Buyer from a foreign location. Seller accepts all liability associated with customs entries for any Orders.

7. **Schedule.** Seller shall strictly comply with the delivery or performance schedule specified in the Order. No acts of Buyer, including but not limited to acceptance of late deliveries or performance, shall constitute a waiver of this provision. Seller shall immediately notify Buyer in writing of any actual or potential delay in the deliveries or performance of an Order, and such notice shall include the actions being taken to overcome or minimize the delay and a revised schedule using the Seller's best efforts; provided, however, that Buyer's receipt of such notice shall not constitute a waiver of Buyer's rights to timely deliveries and performance and remedies for any late deliveries or performance. Buyer reserves the right to cancel an Order without incurring any liability to Seller and without waiving any other remedies available if delivery is not timely completed.
8. **Inspection.** Buyer, through any authorized representatives, has the right at all reasonable times and places to inspect and test the Goods, including those provided by Seller's suppliers. Buyer assumes no contractual obligation to perform any inspection or test unless otherwise specifically set forth in an Order. Buyer's failure to inspect or test any goods and/or services shall not relieve Seller from responsibility for any defective or nonconforming Goods. If Goods are found damaged, in short supply, non-conforming or otherwise unsuitable or unnecessary, Supplier shall investigate and inform Buyer of the results of such investigation promptly in writing. Supplier shall consult with Buyer as to remedial action.
9. **Warranty.**
 - a. Seller warrants to Buyer, its successors and assigns, that Goods shall be (i) merchantable, (ii) free from defects in material and workmanship, (iii) free from defects in design (unless provided in accordance with Buyer's design specifications), (iv) suitable for the purposes intended, (v) in compliance with all applicable specifications, drawings and performance requirements, and, for any software provided with the Goods, (vi) free from any viruses, malicious codes, worm, time bomb, self-help code, or other software code or routine designed to damage, destroy or alter any software, hardware or data, disable any computer automatically, or permit any unauthorized access to any software or hardware. In addition, any services provided hereunder shall be performed in a professional and workmanlike manner. Software defects (also known as bugs) and security defects, including but not limited to injection flaws, data exposure, use of known vulnerable modules, broken authentication, broken access control and security misconfiguration, shall be corrected in a timely fashion as dictated by industry standards at Seller's expense.
 - b. If any nonconformity under this warranty appears within one year after final acceptance of the Goods, Seller shall, at Buyer's option, either (i) promptly and diligently repair, replace or correct (by re-performance or otherwise) such nonconformity at no cost to Buyer (including any transportation costs associated therewith), or (ii) accept return of the Goods for credit or refund. If any repair, replacement or correction is not made in a timely manner to Buyer's satisfaction, then Buyer may, at its election and in addition to any other remedies available to Buyer at law or in equity, correct or have corrected such nonconformity at Seller's expense.
10. **Counterfeit Parts.**
 - a. The term "**Counterfeit Part**" means an unlawful or unauthorized reproduction, substitution, or alteration that has been knowingly mismarked, misidentified or otherwise misrepresented to be an authentic, unmodified part from the original manufacturer, or a source with the express written authority of the original manufacturer or current design activity, including an authorized aftermarket manufacturer. Unlawful or unauthorized substitution includes used parts represented as new, or the false identification of grade, serial number, lot number, date code, or performance characteristics. The term "Counterfeit Part" includes a part for which credible evidence (including but not limited to visual inspection or testing) provides reasonable doubt that the part is authentic.
 - b. Seller shall only purchase parts to be delivered as Goods or incorporated in the Goods directly from the Original Component Manufacturer (OCM) or Original Equipment Manufacturer (OEM) or through an OCM/OEM authorized distribution chain. Seller shall not acquire any parts from independent distributors or brokers without Buyer's prior written approval. Seller shall promptly notify Buyer in writing with all relevant information if Seller becomes aware or suspects that it has furnished any Counterfeit Parts under an Order. Upon Buyer's request, Seller shall provide all relevant OCM/OEM documentation that authenticates the traceability of Goods to the applicable OCM/OEM.



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- c. Seller shall establish and maintain an industry-standard Counterfeit Part detection and avoidance system. Seller shall implement systems that assure complete traceability (i.e., Supply Chain Traceability as defined in AS5553/AS6081) to the OCM/OEM. Seller shall quarantine any Counterfeit Parts and make them available for investigation by appropriate Government authorities. Any suspected Counterfeit Parts shall not be returned to the supply chain unless and until such parts are determined to be authentic. Traceability methods shall clearly identify the name and location of all of the supply chain intermediaries from the original manufacturer, including build identification such as date codes, lot codes, melt and heat treatment lot, serialization or other batch identification.
- d. If any Counterfeit Parts are delivered or incorporated in the Goods, Seller shall, at its expense, promptly replace such Counterfeit Parts with parts conforming to the requirements of an Order. Notwithstanding any other provisions in an Order, Seller shall be liable for all costs relating to or associated with Counterfeit Parts, including but not limited to Buyer's costs of removing any Counterfeit Parts, installing replacement parts and any testing necessitated by the reinstallation of parts after the Counterfeit Parts have been replaced.

11. Conflict Minerals.

- a. Consistent with the U.S. public policy underlying the enactment of Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "**Act**"), Seller recognizes the significant risks associated with sourcing tin, tantalum, tungsten and gold (hereinafter the "**Conflict Minerals**") from the Democratic Republic of the Congo and adjoining countries (the "**Covered Countries**").
- b. Seller shall not knowingly provide any Goods containing Conflict Minerals from the Covered Countries.
- c. Seller shall establish and maintain policies and processes to (i) conduct a reasonable inquiry into the country of origin of any Conflict Minerals incorporated into the Goods, (ii) conduct due diligence of its supply chain to determine if any Conflict Minerals from the Covered Countries are incorporated into the Goods, and (iii) promptly notify Buyer if any Conflict Minerals from the Covered Countries are incorporated into the Goods. Seller shall fully cooperate (at no cost to Buyer) with any inquiries conducted by Buyer or its customers to ensure compliance with this Article, including but not limited to completing any applicable disclosure forms or surveys.

12. Proprietary Information.

- a. All specifications, information, data, drawings, software, and other items supplied to Buyer by Seller under an Order, either in electronic or printed form, whether or not marked with any restrictive or proprietary designations, shall be disclosed to Buyer on a non-proprietary basis and may be used and/or disclosed by Buyer without restriction in any way in the conduct of its business. Seller's sole rights with respect to use of such information by Buyer shall be determined only by any valid pre-existing patent rights of Seller as related to the manufacture, use or sale of the Goods. Seller shall promptly notify Buyer in writing of any such pre-existing patents or any other similar form of protection which Seller may hold or know of which relates to the Goods.
- b. All specifications, information, data, drawings, software and other items which are (i) supplied to Seller by Buyer or (ii) obtained or developed by Seller and paid for by Buyer under an Order, shall be the exclusive property of Buyer, shall be maintained by Seller as proprietary to Buyer, shall be used only for purposes of providing the Goods, and shall not be disclosed to any third party without Buyer's prior written consent. All such items supplied by Buyer shall be promptly returned to Buyer on request.

13. Buyer's Property.

- a. All information such as specifications and designs, as well as all drawings, tools, jigs, dies, fixtures, materials, samples, software, and other items supplied or paid for by Buyer (hereinafter the "**Buyer's Property**") shall be and remain the sole property of Buyer, and Buyer shall have the right to enter Seller's premises on a non-interference basis and remove any such property and Seller's records with respect thereto at any time without being liable for trespass or for damages of any sort.
- b. Buyer's Property shall be used only in the performance of an Order and Seller may not use Buyer's Property to provide any goods or services to any third party.



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- c. Tooling invoiced to Buyer shall become the property of Buyer upon payment. Invoices shall be submitted for tooling after acceptance by Buyer of sample or production parts for which the tooling was ordered. Such tooling shall be maintained in good condition and marked to permit accurate identification of same.
- d. No design, tools, patents, drawings, or other information supplied by Buyer to Seller for use in the manufacture of the Goods, or which shall become the property of Buyer under the preceding paragraph, shall be used in the production, manufacture or design of any other articles for any other purchaser. At the termination of an Order, such items shall be returned to Buyer or disposed of as Buyer may direct. Seller agrees to maintain the confidentiality of such items acknowledges that such matters constitute trade secrets of Buyer.
- e. Seller shall protect and maintain Buyer's Property in its possession or control including components to be plated and shall be responsible for all loss or damage thereto, except for normal wear and tear. In the case of loss or damage of Buyer's Property, Seller shall be responsible for all costs associated with recouping, repairing or replacing Buyer's Property along with any other fees or costs to Buyer.

14. Intellectual Property.

- a. Definitions
 - i. "**Intellectual Property**" or "**IP**" means inventions, discoveries, ideas, concepts, methods, manufacturing processes, unique compositions, works of authorship including derivatives thereof, designs, and materials.
 - ii. "**Connector IP**" means Intellectual Property pertaining to electrical/electronic connectors, connector assemblies, connector housings, and interconnect components thereof.
 - iii. "**Project IP**" means Intellectual Property created, conceived, developed, or reduced to practice in the performance of an Order, whether or not subject to other forms of protection, including patent, copyright, design registration, mask work, know-how, trade secret, trademark and/or trade dress rights. Project IP shall include any Connector IP and improvements to Connector IP.
 - iv. "**Background IP**" shall mean any and all Intellectual Property owned by either Buyer or Seller, respectively, before the Seller received an Order from Buyer. Project IP does not include any Background IP.
- b. Ownership of IP
 - i. Buyer shall own all right, title and interest in and to the Project IP.
 - ii. Any invention or intellectual property first made, developed or conceived by Seller in the performance of an Order that relates to Project IP and/or Connector IP and/or which is derived from or based on the use of information supplied by Buyer, in whole or in part, alone or with others, shall be the sole property of Buyer, and Seller hereby conveys, transfers and assigns to Buyer all rights, title, and interest in and to any such invention or intellectual property. Any original works of authorship created by Seller hereunder are considered "works made for hire" under U.S. Copyright Law (17 U.S.C. §101). An Order shall operate as an irrevocable assignment from Seller to Buyer of all rights to such inventions or intellectual property, including all rights, title, and interest throughout the world.
 - iii. In the unlikely event that any Seller personnel, employees, contractors, agents and/or consultants who are or become involved in the Project IP are named inventors of the Project IP, or are named inventors of later developed Connector IP, Seller does hereby assign to Buyer all right, title and interest in and to the Project IP and/or Connector IP, including any intellectual property rights or other proprietary rights. Seller shall take all steps that are necessary or desirable to evidence its assignment of all right, title and interest in the Project IP and/or Connector IP to Buyer, and Seller shall ensure that it has secured written obligations to assign inventorship rights in Project IP and/or Connector IP from any and all of its employees, contractors, agents and consultants who are or become involved in the Project IP and/or Connector IP. Buyer shall be responsible in the first instance for securing appropriate protection of the Project IP and/or Connector IP, at its own



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expense, and the parties will cooperate in the preparation of all materials for filing and prosecuting patent applications.

- iv. To the extent the Project IP or the Goods incorporates Seller's Background IP, Seller grants and/or warrants to secure a perpetual, royalty-free, non-expiring worldwide license to make, distribute, offer for sale, and/or sell such Goods incorporating Seller's Background IP. Seller shall maintain any and all patents related to the Seller Background IP.
- c. Seller warrants that the Goods which are not of Buyer's design or manufacture shall be free and clear of infringement or misappropriation of any patent, copyright, trademark or other third-party intellectual property rights. Seller shall indemnify, defend, and hold Buyer and its customers harmless from any and all expenses, liability, and loss of any kind (including all costs and expenses, including reasonable attorneys' fees) arising out of claims, suits or actions alleging such infringement or misappropriation, which claims, suits, or actions Seller shall defend with counsel acceptable to Buyer. Buyer shall give Seller written notice of any such suit or action promptly after notice thereof is received, and Seller agrees to conduct, at its own expense, the entire defense thereof. Seller shall replace or modify any infringing Goods with comparable Goods acceptable to Buyer of substantially the same form, fit and function to remove the source of infringement, and shall extend this provision to such comparable Goods.
- d. To the extent that the Goods are manufactured pursuant to designs originated by Buyer, Seller hereby assigns to Buyer, without reservation, all patent rights, copyrights and trademark rights relating to the Goods, the designs originated by Buyer and all related documents, models, computer drawings and other electronic expression, photographs, drawings, specifications or other materials ("**Protected Materials**"). Buyer, in turn, grants to Seller a non-exclusive, non-transferable license to reproduce the Protected Materials for purposes related solely and directly to the Seller's performance of its obligations to Buyer under an Order. This non-exclusive license shall terminate immediately upon termination of an Order.

15. Changes.

- a. Buyer may by written notice at any time (i) suspend all or any portion of Seller's work for a period up to 100 Days, and/or (ii) make changes within the general scope of an Order that affect any one or more of the following:
 - i. drawings, designs, specifications or quantities of Goods;
 - ii. statement of work or description of services;
 - iii. method of shipment or packing;
 - iv. time or place of performance, inspection, delivery, or acceptance of Goods; and
 - v. amount of any Buyer-furnished or customer-furnished property or facilities.
 - b. If any such suspension or change causes a change in the cost of, and/or the time required for, performance of an Order, an equitable adjustment shall be made in the price or delivery schedule or both, and an Order shall be modified in writing accordingly. Any claim by Seller for such an adjustment must be made in writing within 20 Days from the date of receipt of a change order from Buyer's Purchasing Representative.
 - c. Nothing in this clause, including. Any disagreement between the parties arising out of a change order shall be resolved in accordance with the clause entitled "Disputes Under An Order;" provided, that no disagreement as to any equitable adjustment shall excuse Seller from its duty to proceed with an Order as changed.
16. **Access to Records.** Buyer shall have access to all records of Seller's procedures, practices, processes, associated documents and records related to quality assurance, quality control and configuration control, and technical and quality records of the Goods and Seller's performance under an Order. In the case of hardware, software or cloud services, Buyer shall have access to log records including user records, access records, data manipulation logs and update logs. Supplier shall keep complete and accurate records of its operations with regard to the Goods and shall maintain such data as may be necessary to determine with reasonable accuracy any item relevant to an Order.
17. **Release of Information.** Seller shall not publish any information developed under an Order nor distribute it nor make any news release about the existence or subject matter of an Order without Buyer's prior written consent. In



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cases where Buyer's data has been affected by a breach, hack, malware attack, virus attack, or other data exfiltration, corruption or loss, Seller must immediately notify Buyer as to the type of exfiltration, extent of Buyer's data that has been exposed, corrupted or lost, and what data has been exposed, corrupted or lost. Any data collected pertaining to the breach must be turned over to Buyer, including but not limited to scope, type of breach, data exposed, people involved, logs and records. Seller must then work with Buyer to remediate the breach. Seller will bear all costs, fees, and other associated expenses in remediating the breach to Buyer's satisfaction.

18. Termination for Convenience.

- a. Buyer may by written notice terminate an Order at any time, in whole or in part, without cause and/or for Buyer's convenience, and such termination shall not constitute a default. In such event, Buyer shall have all rights and obligations accruing both at law and in equity, including Buyer's rights to title and immediate possession of any Goods and work-in-process for which payment is or has been made.
- b. In connection with any such termination, Seller may submit to Buyer a termination settlement proposal, seeking actual, reasonable, substantiated and allowable costs, plus a reasonable profit, for work performed prior to the date of termination; provided, the amount of any such reimbursement shall not exceed the then-current value of the Order. A termination settlement proposal shall be submitted to Buyer within 60 Days after the date of the termination. If Seller fails to submit a termination settlement proposal within such time period, then Seller waives any termination claim.

19. Termination for Default.

- a. Buyer may, by written notice to Seller, terminate an Order in whole or in part if Seller fails to (i) deliver the Goods within the time specified in an Order, (ii) perform any of the other provisions or meet any of the requirements of an Order, or (iii) make progress so as to endanger performance of an Order in accordance with its terms and, in either of the second or third circumstances, does not cure such failure within 10 Days after receipt of written notice thereof from Buyer.
- b. In such event, Buyer shall have all rights and obligations accruing both at law and in equity, including Buyer's rights to title and immediate possession of any Goods and work-in-process for which payment is or has been made.
- c. In such event, Buyer may acquire from other sources, upon such terms as it deems appropriate, goods and/or services similar to those terminated with Seller. Seller shall be liable to Buyer for any excess cost paid by Buyer for such similar goods and/or services; provided, however, that Seller shall continue performance of an Order to the extent not terminated, and Buyer shall pay the price set forth in an Order for Goods delivered and accepted.
- d. The rights and remedies of Buyer in this Article are in addition to any other rights and remedies provided by law or in equity, or under an Order.

20. **Independent Contractor.** Seller is an independent contractor of Buyer, and the employees, agents, or representatives of Seller are not employees, agents, or representatives of Buyer for any purpose, including but not limited to federal, state and local tax obligations, unemployment and worker's compensation obligations, social security and any and all other benefits.

21. **Set-Off.** Buyer shall be entitled at all times to set off any amount due or owing at any time from Seller to Buyer against any amount payable at any time by Buyer to Seller.

22. **Governing Law.** An Order shall be governed by, enforced and interpreted in accordance with the laws of the State of Illinois.

23. **Disputes Under An Order.** The parties shall attempt amicably to resolve all disputes arising from or related to an Order. If the parties are unable to resolve amicably such a dispute within a reasonable time, the dispute shall be adjudicated in a court of competent jurisdiction selected by Buyer, applying the laws of the State of Illinois as well as, when applicable, the law of federal contracts as enunciated in decisions of administrative boards of contract appeals and the federal courts. Pending resolution or settlement of any dispute arising under an Order, Seller shall proceed diligently as directed by Buyer with the performance of an Order.

24. **Indemnification.** Seller shall indemnify, defend and hold harmless Buyer, its officers, directors, employees, successors and assigns, from and against any and all claims, liabilities, losses, damages, costs and expenses,



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including reasonable attorneys' fees, arising from or relating to Seller's (a) injury to any person, (b) damage to any property, (c) violation of any applicable law, ordinance, or regulation, (d) performance of work in connection with an Order; (e) negligent, reckless or willful acts or omissions; (f) breach of any warranty or representation; or (g) any civil or criminal penalty or fine incurred by Buyer, which is caused to any extent by Seller.

25. Export Control.

- a. Seller shall comply fully with all applicable laws and regulations pertaining to the export of any hardware, software, defense service, information, technical data or technology provided by, through or with the cooperation of Buyer in the performance of an Order, whether in the United States or abroad. An Order may involve information or items that are subject to the International Traffic in Arms Regulations (ITAR) or Export Administration Regulations (EAR) and that may not be released to Foreign Persons inside or outside the United States without the proper export authority.
- b. U.S. export laws define a "**Foreign Person**" as any person who is not a U.S. citizen, a lawful permanent resident as defined by 8 USC 1101(a)(20), or a protected individual as defined by 8 USC 1324b(a)(3). Foreign Person is also defined as a corporation, a business, an association, a partnership, or any other entity that is not incorporated or organized to do business in the United States and as international organizations, foreign governments, and any agency or subdivision of foreign governments (e.g., diplomatic missions).
- c. Seller shall comply with all applicable U.S. export control laws and regulations, specifically including but not limited to the requirements of the Arms Export Control Act, 22 U.S.C. 2751-2794, including the International Traffic in Arms Regulation (ITAR), 22 C.F.R. 120 et seq., and the Export Administration Act, 50 U.S.C. app. 2401-2420, including the Export Administration Regulations, 15 C.F.R. 730-774, and all requirements for obtaining any export license or agreement, if applicable. Without limiting the foregoing, Seller shall not transfer any export-controlled item, data or services, to include transfer to foreign persons employed by or associated with, or under contract to Sellers or Seller's lower-tier suppliers, without authority of an export license, agreement or applicable exemption or exception.
- d. If Buyer allows Seller access to Buyer's facilities, Seller not permit any Foreign Person employee, agent or representative of Seller access to Buyer's facilities.
- e. If Seller is not previously engaged in the business of either exporting or manufacturing defense articles or furnishing defense services, and Buyer provides Seller with technical data controlled by the ITAR, Seller shall register with the Directorate of Defense Trade Controls, as required by the ITAR, and maintain an effective export/import compliance program in accordance with the ITAR.
- f. Seller represents that neither Seller nor any parent, subsidiary or affiliate of Seller is included on any of the restricted party lists maintained by the Government. Seller shall promptly notify Buyer in writing if Seller becomes listed on any such restricted party lists or if Seller's export privileges are otherwise denied, suspended or revoked in whole or in part by any Governmental authority.
- g. Seller shall notify Buyer of the export classification of Goods that are restricted by export control laws or regulations, and Buyer shall identify to Seller the export classification of technical information provided to the Seller.
- h. Seller shall notify Buyer's Purchasing Representative in the event of any violation or potential violation of the EAR or ITAR, and the initiation or existence of a Government investigation, that could affect Seller's performance under an Order.
- i. Seller shall indemnify Buyer for any costs incurred, including reasonable attorneys' fees, resulting from Seller's violation of this Article.

26. **Compliance with Laws.** Seller shall comply with all applicable laws and regulations, and such compliance shall be a material requirement of an Order. Seller shall indemnify Buyer for any costs incurred, including reasonable



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attorneys' Fees, resulting from Seller's violation of laws, and Buyer may make a corresponding reduction of any amounts due under an Order or demand payment thereof from Seller.

27. Equal Employment Opportunity; Notification of Employee Rights Under Federal Labor Laws.

- a. Buyer is an equal opportunity employer. In accordance with federal affirmative action laws, Seller shall prohibit discrimination and harassment in hiring decisions of any type and afford equal employment opportunities to employees and applicants without regard to race, color, religion, sex, sexual orientation, gender identity or expression, pregnancy, age, national origin, disability status, genetic information, citizenship, protected veteran status, or any other characteristic protected by laws. As applicable, the provisions of the Equal Opportunity Clauses pursuant to Section 202 of Executive Order 11246, as amended, and 41 CFR Section 60-1.40; as well as 29 CFR Part 471, Appendix A to Subpart A, are herein incorporated by reference. Executive Order 13496 amendments require contractors and subcontractors to provide notification to employees of their Equal Opportunity rights under Federal Labor Laws. Further, if Seller (1) is not otherwise exempt as provided by 41 CFR 60-1.5, (2) has 50 or more employees, and (3) has a contract, subcontract or purchase order amounting to \$10,000 that is necessary to the completion of a covered federal contract or subcontract, Seller is hereby notified of its obligations to file the EEO-1 Data Collection Report and take appropriate actions to ensure compliance with all affirmative action laws and equal opportunity practices as required under the regulations set forth above.
- b. Buyer and Seller shall abide by the requirements of The Vietnam Era Veterans Readjustment Assistance Act, as amended at 41 CFR §§ 60-300.5(a) and Section 503 of the Rehabilitation Act, as amended at 60-741.5(a). These regulations take affirmative steps to prohibit discrimination against qualified individuals on the basis of protected veteran status or disability and require covered prime contractors and subcontractors to employ and advance qualified protected veterans and individuals with disabilities.
- c. Seller shall align and comply with U.S. Federal Acquisition Regulations 52.222-50(h) that strictly prohibit engaging in any form of human trafficking related activities involving the use of force, fraud, or coercion, while acquiring a person for labor or services.

28. Order of Precedence.

- a. In the event of any inconsistency or conflict between or among the provisions of an Order and any related document, such inconsistency or conflict shall be resolved by the following descending order of precedence: (i) U.S. Federal Acquisition Regulations and U.S. Department of Defense Federal Acquisition Regulations, if and to the extent applicable; (ii) terms set forth by Buyer on the face of an Order; (iii) documents incorporated by reference on the face of an Order; and (iv) these Terms.
- b. In the event of conflict between specifications, drawings, samples, designated type, part number, or catalog description, the specifications shall govern over drawings, drawings over samples (whether or not approved by Buyer), and samples over designated type, part number, or catalog description. In cases of ambiguity in the specifications, drawings, or other requirements of an Order, Seller shall, before proceeding, consult Buyer, whose written interpretation shall be final and binding on the parties. Buyer's specifications shall prevail over any specifications of Seller.

29. **Assignment/Change of Control.** Seller shall not sell, assign or in any manner transfer an Order or its rights, duties or obligations under an Order without Buyer's prior written consent. Any attempted assignment without such consent shall be void, and in any event, Seller shall remain liable to Buyer for all obligations arising under or resulting from an Order. A change of control of Seller shall constitute an assignment.

30. **Notices.** All notices required or permitted to be sent by either party shall be deemed sufficiently given when delivered by hand delivery or sent by email, recognized overnight courier service or certified mail, return receipt requested, to the other party at the address shown on the first page of an Order for each party and to the attention of the individual who executes an Order on behalf of the party to whom the notice is sent. All notices shall be deemed given (i) on the date of delivery if delivered by hand or sent by email, (ii) on the next business day if sent by recognized overnight courier service and (iii) on the third business day following the date sent by certified mail,



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return receipt requested. Either party may designate, in writing, a different manner of address for notices under an Order.

31. **Survival.** Each party's rights and obligations under the Warranty, Counterfeit Parts, Conflict Minerals, Proprietary Information, Buyer's Property, Intellectual Property, Access to Records, Set-Off, Governing Law, Disputes, Indemnification, Waiver, Severability and Remedies provisions of these Terms, and any other provisions which by their nature should survive termination, shall survive completion or termination of an Order.
32. **Force Majeure.** Neither Buyer nor Seller shall be liable for failure to perform under an Order if such failure is due to events which are beyond the reasonable control and without the fault or negligence of such party, and which intervene after the execution of an Order and impede its performance, provided such failure to perform shall only be excused for the duration of such intervening event and shall be subject to Buyer's right to terminate an Order hereunder. Examples of such Force Majeure events include but are not limited to a strike or labor dispute, war or act of war (whether or not an actual declaration thereof is made), insurrection, riot or civil commotion, act of public enemy, fire, flood, or other act of God or any act of a Government authority (including export restrictions). The party wishing to claim relief by reason of any of the said circumstances shall notify the other party in writing without delay on the intervention and cessation thereof.
33. **No Third-Party Beneficiary.** An Order is solely for the benefit of the parties and is not intended to create any legal, equitable or beneficial interest in any third party, or to vest in any third party any interest with respect to the enforcement or performance of an Order. No third party has any legal interest in an Order, or in any dispute arising hereunder, and no third party is a necessary or indispensable party to any action or proceeding for the resolution of any such dispute. The parties shall not assert in any such action or proceeding that any third party is necessary or indispensable to such action or proceeding or to a determination of the relief to be granted therein.
34. **Waiver, Severability and Remedies.** The delay or failure to insist on performance of any provision of an Order, or to exercise any right or remedy, shall not be construed as a waiver of that provision, right or remedy in any later instance. If any provision of an Order is or becomes void or unenforceable by operation of law, the remaining provisions shall be valid and enforceable. The rights and remedies of both parties hereunder shall be in addition to their rights and remedies available at law or in equity; provided, however, that in no event shall Buyer be liable to Seller for any anticipatory profits or for any special (including multiple or punitive), indirect, incidental, or consequential damages howsoever arising.
35. **Entire Agreement.** An Order, including any attachments and documents incorporated by reference, constitutes the entire agreement between Buyer and Seller, and supersedes all prior representations, agreements, understandings and communications between Buyer and Seller related to the subject matter of an Order, whether oral or written.