

# REMARK I64

REVISION 5/29/2012  
TERMS AND CONDITIONS OF PURCHASE

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### **ARTICLE 1 - DEFINITIONS.** As used throughout this Agreement:

- (a) "Purchaser" means the party contracting with Seller for Goods and/or Services and identified as the purchasing entity on the face of purchase orders issued pursuant to this Agreement.
- (b) "Seller" means the party contracting with Purchaser to perform the work hereunder.
- (c) "Agreement" means these terms and conditions, purchase orders or purchase agreements issued to Seller referencing these terms and conditions, and any supply agreements, specifications, statements of work, or other papers referenced in such purchase orders or purchase agreements.
- (d) "Prime Contract" means a contract defined by a government contract number printed on purchase orders or purchase agreements issued pursuant to this Agreement.
- (e) "Goods" means all products contracted for and supplied by Seller under this Agreement, including all components, raw materials, and intermediate assemblies thereof.
- (f) "Services" means those services contracted for and supplied by Seller under this Agreement and as may further be described in purchase orders, purchase agreements, statements of work, specifications, or other papers included in this Agreement.

## **ARTICLE 1B- CONSTRUCTION RULES.**

- (a) Plural. Plurals shall be deemed to include the singular, and singular shall include plural.
- (b) Gender. Masculine shall be deemed to include feminine, feminine shall include masculine, and gender neutral shall include both the masculine and feminine.
- (c) Including. The term including, when used herein, shall be deemed to mean including without limitation.
- (d) Headings. The heading designations are supplied for convenience only, and may not accurately or fully describe all of the requirements of a section. The headings or sub-headings do not limit or modify the scope and applicability of the sections.

**ARTICLE 2 - TERMS AND CONDITIONS.** Either Seller's written acknowledgement or Seller's full or partial performance under this Agreement, whichever occurs first, will constitute acceptance of this Agreement. Any acceptance of this Agreement by Seller is limited to acceptance of the express terms of the offer set forth in this Agreement. Any proposal for additional or different terms is rejected unless accepted in writing by the Purchaser. **ADDITIONAL OR DIFFERING TERMS OR CONDITIONS PROPOSED BY SELLER OR INCLUDED IN SELLER'S ACKNOWLEDGMENT HEREOF ARE HEREBY OBJECTED TO BY PURCHASER AND HAVE NO EFFECT UNLESS EXPRESSLY ACCEPTED IN WRITING BY PURCHASER.**

Supplier acknowledges and confirms that: (1) it has had an opportunity to carry out a thorough due diligence exercise in relation to the requirements of this Agreement and has asked the Purchaser all the questions it considers to be relevant for the purpose of establishing whether it is able to provide the Goods and Services in accordance with the terms of this Agreement; (2) it has received all information requested by it from the Supplier to enable it to determine whether it is able to provide the Goods and Services in accordance with the terms of this agreement; (3) it has made and shall make its own enquiries to satisfy itself as to the accuracy and adequacy of any information supplied to it by or on behalf of the Purchaser pursuant to this Article 2; (4) it has raised all relevant due diligence questions with the Purchaser before entering into this agreement; (5) the terms of this agreement have been specifically negotiated; and (6) it has entered into this agreement in reliance on its own due diligence.

## **ARTICLE 3 -PAYMENT TERMS.**

- (a) Standard Terms. Unless Purchaser chooses the accelerated payment program described in (b) below, Purchaser will pay the full invoiced amount (not discounted) to Seller (a) within ninety (90) days from the Payment Start Date for Direct Procurements or (b) within one hundred twenty days (120) from the Payment Start Date for Indirect Procurements, unless prohibited by law, in which case payment will be made at the latest permitted date. Direct Procurement shall be defined as the purchase of any Good or Service that is incorporated into or performed on an aircraft or part thereof. Indirect Procurement shall be defined as the purchase of any Good or Service that is not incorporated into or performed on an aircraft or part thereof. The Purchaser shall make the final determination of whether a procurement is a Direct Procurement or Indirect Procurement. Payment Start Date shall be the later of (a) the date performance is requested by Purchaser (e.g., in a part schedules report (Goods) or statements of work (Services)), (b) the material received date as identified in Purchaser's computer system, or (c) the invoice date (which shall not be earlier than the date of complete performance). Settlement and invoicing must be in a paper format acceptable to Purchaser. Seller must provide banking information to establish electronic funds transfer for U.S. suppliers and wire transfer for non-U.S. suppliers.
- (b) Accelerated Payment Program. Purchaser may choose to pay invoices as follows: (a) for Direct Procurements, Seller agrees to accept the invoice amount discounted by two and one-half percent (2.5%), in exchange for Purchaser's payment on the 15th day following the Payment Start Date ("net 15 less 2.5%"); and (b) for Indirect Procurements, Seller agrees to accept the invoice amount discounted by three and one-half percent (3.5%), in exchange for Purchaser's payment on the 15th day following the Payment Start Date ("net 15 less 3.5%"). If payment is initiated earlier than such 15th day, the invoice amount may be further discounted on a pro rata basis. Funding for accelerated payment of invoices will be provided by General Electric Commercial Finance ("GECF") and: (1) title to the Goods and/or Services being delivered shall pass directly to GECF on the date of arrival of the item at the specified delivery place; (2) once title to the Goods and/or Services has passed to GECF, GECF will immediately and directly transfer title to Purchaser; and (3) all of the Seller's obligations under this Agreement, including Seller's representations and warranties, shall extend to and benefit Purchaser as if title passed directly to Purchaser.
- (c) Taxes. All sums payable under this Agreement shall be exclusive of VAT or other sales tax, which shall (if applicable) be payable by the Purchaser.

- (d) Set-off. Purchaser shall be entitled to set off any amount owing from Seller to Purchaser or to any of Purchaser's affiliated companies against any amount payable under this Agreement.
- (e) Functional Currency. All payments shall be made in the functional currency of Purchaser, which is United States Dollars.

**ARTICLE 4 - TRANSPORTATION AND DELIVERY.**

- (a) Goods covered by this Agreement shall be shipped in accordance with ICC Incoterms, 2010 Edition. Unless otherwise specified on the face of the order, the applicable shipping and delivery Incoterms will be FCA (named place). In any event, title to Goods shall pass to Purchaser on the title passage date (earlier of the Manufacturing Required Date (MRD) or the use date, unless Goods are delinquent to the MRD, in which case title passage shall occur upon arrival of such Goods at the specified delivery location). Purchaser insures all Goods for which it accepts risk of loss while such Goods are in transit. Therefore, Seller shall not declare any insurance value on such Goods shipped via any carrier.
- (b) Seller shall release rail or truck shipments at the lowest released valuation permitted in the governing tariff or classification. Purchaser will pay no charges for unauthorized transportation. Any unauthorized shipment, which results in excess transportation charges, must be fully prepaid by the Seller. If Seller does not comply with the stated delivery schedule, Purchaser may, in addition to any other right, which Purchaser may have, require delivery by fastest way. The charges resulting from this mode of transportation must be fully prepaid and the Seller must absorb the full cost of the shipment.
- (c) If Seller ships from outside the country of Purchaser, Seller shall use carriers approved by a supply chain security program such as the Customs-Trade Partnership Against Terrorism ("C-TPAT") program in the United States and the Authorized Economic Operator for Security ("AEO") program in the European Union.
- (d) Bar Code Shipping Label. Upon Purchaser's request, all shipment containers for Goods shall be labeled in accordance with Purchaser's Bar Code Shipping Label Instructions. Seller shall submit example labels for approval within sixty (60) days of said request. Seller shall designate an individual responsible for compliance with said instructions and shall act as the Seller's contact for issues concerning bar code labels.

**ARTICLE 5 - TERMINATION.**

- (a) Delay and Default. In the event Seller for any reason anticipates any difficulty in complying with the required delivery date or any of the other requirements of this Agreement, Seller shall promptly notify Purchaser in writing. In the event of a delivery delay, non-delivery or any other default by Seller in meeting its obligations under this Agreement, Purchaser (without prejudice to other rights its may have in law or in equity) may terminate this Agreement without further compensation to Seller, and Purchaser's rights will be (i) for Goods, in accordance with English law including the Sale of Goods Act 1979, Supply of Goods and Services Act 1982, Sale and Supply of Goods Act 1994, and the Sale and Supply of Goods to Consumers Regulations 2002, where applicable (or if Seller is located in the U.S., in accordance the New York Uniform Commercial Code); (ii) for Services, Purchaser may procure, upon such terms and from any source or service provider as it shall deem appropriate, supplies or services similar to those terminated, in which case Seller shall continue performance of such order to the extent not terminated and shall be liable to Purchaser for any excess costs for Purchaser's procurement of such similar supplies or services. If Purchaser has made any progress payments under this Agreement, Seller shall refund to Purchaser any such payments immediately upon termination.
- (b) Termination for Convenience. Purchaser may terminate all or any part of this Agreement for convenience at any time after notice specifying the extent of termination and the effective date. After receipt of notice of termination, unless otherwise directed by Purchaser, Seller shall immediately: (1) stop work as directed in the notice; (2) place no further subcontracts or orders for materials, services, or facilities, except as necessary to complete the continued portion of the Agreement; and (3) terminate all subcontracts to the extent they relate to work terminated. Seller shall continue any work not terminated. After termination, Seller shall submit a final termination settlement to Purchaser in the form prescribed by Purchaser. In the event that Purchaser wrongfully terminates this Agreement under paragraph (a), in whole or in part, such termination becomes a termination for convenience under this paragraph (b).

In no event shall Purchaser be liable for lost or anticipated profits, or unabsorbed indirect costs or overhead, or for any sum in excess of the total Agreement price. Seller's termination claim shall be submitted within ninety (90) days from the effective date of the termination.

## **ARTICLE 6 - DISPUTE RESOLUTION.**

- (a) **Arbitration.** If any dispute arises relating to this Agreement, the parties will endeavor to resolve the dispute amicably, including by designating senior managers who will meet and use commercially reasonable efforts to resolve any such dispute. If the parties' senior managers do not resolve the dispute within sixty (60) days of first written request, either party may request that the dispute be settled and finally determined by binding arbitration. If the Purchaser is located in the United States, arbitration will be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association. If Purchaser is located in European Union, the arbitration will be conducted in accordance with the rules of the London Court of Arbitration. In either case, arbitration will be at a mutually agreed location, by one or more arbitrators appointed in accordance with the applicable rules. The arbitrator(s) will have no authority to award punitive damages, attorney's fees and related costs or any other damages not measured by the prevailing party's actual damages, and may not, in any event, make any ruling, finding or award that does not conform to the terms and conditions of the Agreement and applicable law. The award of the arbitrator(s) will be final, binding and non-appealable, and judgment may be entered thereon in any court of competent jurisdiction. All statements made or materials produced in connection with this dispute resolution process and arbitration are confidential and will not be disclosed to any third party except as required by law or subpoena. Except as specified in paragraph (c) below, the parties intend that the dispute resolution process set forth in this Article will be their exclusive remedy for any dispute arising under or relating to this Agreement or its subject matter.
- (b) If Seller is located outside of the United States or European Union, the terms set forth in paragraph (a) above apply, except disputes shall be finally settled under the rules of the International Chamber of Commerce, in a mutually agreed location.
- (c) **Exception.** Either party may at any time, without inconsistency with this provision, seek from a court of competent jurisdiction any equitable, interim, or provisional relief to avoid irreparable harm or injury. This provision will not apply to and will not bar litigation regarding claims related to a party's proprietary or intellectual property rights, nor will this provision be construed to modify or displace the ability of the parties to effectuate any termination contemplated by this Agreement.

## **ARTICLE 7 - PURCHASER'S PROPERTY.**

- (a) All tangible and intangible property furnished to Seller by Purchaser, or paid for in whole or in part by Purchaser ("Purchaser's Property") shall be and remain the personal property of Purchaser, and, unless otherwise agreed to in writing by Purchaser shall be used by Seller solely to render Services or provide Goods to Purchaser. Such property shall be plainly marked or otherwise adequately identified by Seller as being the property of Purchaser and shall be safely stored apart from Seller's property. Purchaser's Property while in Seller's custody or control shall be held at Seller's risk and shall be insured by Seller for replacement cost with loss payable to Purchaser. Such property shall be subject to removal at Purchaser's written request, and Seller shall deliver it to Purchaser in the same condition as originally received by Seller, reasonable wear and tear excepted at Seller's cost.
- (b) Purchaser hereby grants Seller a license to use Purchaser's Property for the sole purpose of performing its obligations under this Agreement. Purchaser's Property shall not be used, disclosed to others or reproduced for any purpose, including, but not limited to, (1) the design, manufacture, or repair of parts, or to obtain U.S. Federal Aviation Administration ("FAA"), European Aviation Safety Agent ("EASA"), the Civil Aviation Authority ("CAA") or any other governmental approval to do so; or (2) to provide any part by sale or otherwise, to any person or entity other than Purchaser. Seller may provide Purchaser's Property to Seller's contractors for the sole purpose of assisting Seller in performing its obligations under this Agreement on condition that Seller's contractors agree in writing to the terms of the intellectual property provisions of this Agreement for the Purchaser's benefit. This license is non-assignable and may be terminated with or without cause by Purchaser at any time. All Purchaser's Property shall be deemed proprietary to Purchaser, whether or not marked with any restrictive legend.
- (c) In any adjudication involving an alleged violation of paragraph (b) above, Seller shall be required to establish by clear and convincing evidence that neither Seller nor any of its employees, contractors or agents used, in whole or in part, directly or indirectly any of Purchaser's Property in such design or manufacture or in obtaining FAA, EASA, CAA or other governmental approval.
- (d) Unless otherwise instructed by Purchaser, upon full performance of this Agreement (including applicable record retention requirements), the Seller shall destroy all data provided by Purchaser and/or return all of Purchaser's Property. The Purchaser may require the Seller to certify destruction of such Purchaser's Property.

- (e) If Purchaser notifies Seller that Goods ordered under this Agreement are patented, Seller agrees to mark such Goods with any patent numbers or other markings designated by Purchaser, including updates to such numbers or markings.
- (f) All US Government Property, as that term is defined in FAR 45.101, shall be and remain the property of the US Government. Unless a Cross-Contract utilization request is submitted in advance in writing by the Seller to Purchaser, and approved by Purchaser, US Government Property shall be used by Seller solely and exclusively for work under purchasers orders placed by Purchaser with Seller that are funded under contract between Purchaser and the US Government (or the US Government's higher tier contractor) Seller shall contact the Purchaser for instructions on how to obtain written permission.
- (g) Any Cross-Contract utilization request shall specifically identify the US Government Property for which Cross-Contract utilization is requested, the purchase order to which it is accountable, and a specific description of the utilization requested. The request shall also include a specifically defined proposed rental period.
- (h) In the event Seller submits a Cross-Contract utilization request under paragraphs (f) and (g) above and it is approved in writing, by the Purchaser, Seller shall have the right to use such US Government Property under the terms set forth in Purchaser's written approval and shall pay the rental fee, at the rental rate per FAR 52.245-9, as calculated by the Purchaser in accordance with such FAR clause.
- (i) At any time during the rental period, Purchaser may revoke, in whole or in part, the Cross-Contract utilization approval and require Seller, at the Seller's expense, to return the US Government property to Purchaser or the US Government, as directed by Purchaser, or to restore the property to its pre-rental condition (less normal wear and tear), or both.
- (j) In the event that Seller uses US Government Property for purposes other than those authorized by Purchaser, Seller shall unless otherwise agreed to in writing by Purchaser, be subject to a flat 2% of acquisition cost, per month use rate. Seller is warned and advised that any such unauthorized use can be subject to fines, imprisonment, or both under 18 U.S.C. 641.
- (k) Purchaser shall have the right to audit all pertinent books and records of Seller, and to make reasonable inspections of Seller's facilities to verify compliance with this Article 7 and Article 8 below.

**ARTICLE 8 - INTELLECTUAL PROPERTY OWNERSHIP.**

- (a) Purchaser shall be entitled to full ownership of all data, information, inventions, or discoveries, whether patented or unpatented ("IP"), conceived or first actually reduced to practice in the performance of this Agreement. Purchaser shall also be entitled to full ownership of all IP, related in any way to the maintenance, repair or overhaul of Goods supplied by Seller, or Services performed by Seller, under this Agreement. Seller will assign and to Purchaser all such IP and all intellectual property rights thereto. Seller further agrees to provide reasonable assistance to Purchaser, at Purchaser's expense, for securing all such intellectual property rights. All Purchasers' IP shall be deemed proprietary to Purchaser and shall not be used by others or disclosed to others without Purchaser prior written permission.
- (b) The Seller agrees to promptly disclose any IP to Purchaser and cooperate with Purchaser in obtaining, at Purchaser's expense, any intellectual property rights Purchaser deems necessary. Seller will procure from its employees, at Seller's sole expense, the execution of all patent applications, assignments and other instruments necessary for the procurement of patents and to the vesting of title thereto in Purchaser.
- (c) All copyrightable IP, which is created by Seller pursuant to this Agreement, shall be deemed "Works Made for Hire", as that phrase is defined under the relevant EU legislation and the UK Copyright, Design and Patents Act 1988, c. 48, as amended, on behalf of Buyer, and Buyer shall own all right, title and interest, including the worldwide copyright, in and to such materials. Purchaser shall become the sole owner of any and all notes, reports, memoranda, and any other information (regardless of the media of expression) made or prepared in connection with any order placed by Purchaser. If by operation of law any of the material is not "Work Made for Hire", then Seller agrees to assign, and hereby assigns, to Purchaser the ownership of such material including all copyrights thereto. Seller shall provide any assistance required to perfect Purchaser's rights under this paragraph.
- (d) If Purchaser notifies Seller that Goods or Services ordered under this Agreement are patented, Seller agrees to mark such Goods or Services with any patent numbers or other markings designated by Purchaser, including updates to such numbers or markings.

**ARTICLE 9 - INTELLECTUAL PROPERTY WARRANTY AND INDEMNITY.**

- (a) Except as otherwise agreed in writing with Purchaser, Seller warrants that it is not the proprietor of any intellectual property rights (including copyright, trade secret or confidential information, patent, application for patent, industrial design, invention or license right) which would impair or restrict the freedom of Purchaser, or Purchaser's subsidiaries and affiliates, and their respective vendors and customers, to make use of the Goods or Services. In the event that this situation changes, Seller hereby agrees not to assert any such intellectual property rights against Purchaser, Purchaser's subsidiaries and affiliates, and their respective vendors and customers, on account of any use made of such work product (or derivatives or improvements thereof) by any of them. Seller agrees to obtain the same warranty and commitment contained in this article running in favor of Purchaser, Purchaser's subsidiaries and affiliates and their respective vendors and customers from each of Seller's subcontractors.
- (b) Seller shall indemnify, defend, and hold harmless Purchaser, and Purchaser's subsidiaries and affiliates, and their respective vendors and customers, against any actions at law or in equity, and from any claims (including attorneys' fees) arising out of any claim that the manufacture, use, sale, or furnishing of Goods and/or Services constitutes infringement of any intellectual property right. If an injunction should issue, Seller shall procure for Purchaser, and Purchaser's subsidiaries and affiliates, and their respective vendors and customers, the rights to continue using said Goods and/or Services, or modify them in a manner acceptable to Purchaser so they become non-infringing, or with the written approval of Purchaser, remove said Goods and/or Services and refund the purchase price.
- (c) Any compensation which may be claimed by or due to any Seller employee or any Seller's contractor's employee in connection with any information, invention or patent or other intellectual property or intellectual property right, shall be paid solely by Seller, and Seller shall indemnify, defend, and hold harmless, Purchaser and Purchaser's subsidiaries and affiliates, and their respective vendors and customers, against any actions at law or in equity, and from any claims (including attorneys' fees) arising from such claims. If an injunction should issue, Seller shall procure for Purchaser, and Purchaser's subsidiaries and affiliates, and their respective vendors and customers, the rights to continue using the Goods and/or Services supplied by the Seller.

**ARTICLE 10 - CHANGES.**

- (a) Purchaser reserves the right at any time to make changes within the general scope of this Agreement. Such changes may include: (1) drawings, designs or specifications; (2) technical clarifications; (3) artwork; (4) quantity; (5) method of shipment or packing; (6) quality; (7) place or time of delivery; or (8) amount of Purchaser's furnished property.
- (b) If any change causes a significant impact on the cost of, or the time required for, performance of any work under this Agreement, an equitable adjustment shall be made in the price or delivery schedule, or both as applicable, in writing. Any Seller claim for adjustment under this article shall be deemed waived unless asserted in writing within twenty (20) days after receipt by Seller of the notice to make the change and may only include reasonable, direct costs that will necessarily be incurred as a direct result of the change.
- (c) Seller shall not proceed to implement any change until Purchaser provides for such change in writing.
- (d) Nothing in this section, including any disagreement with Purchaser as to the equitable adjustment to be made, shall excuse Seller from proceeding with the Agreement as changed.

**ARTICLE 11 - ANTICIPATION OF DELIVERY SCHEDULE.** It is Seller's responsibility to comply with its scheduled lead times but not to anticipate Purchaser's requirements. Any material commitments or production arrangements made by Seller in excess of the amount or in advance of the time necessary to meet schedules that are within lead time shall be at Seller's sole risk and expense. Goods shipped to Purchaser in advance of scheduled lead times may be returned to Seller at Seller's expense.

**ARTICLE 12 - ASSIGNMENT AND CHANGE IN OWNERSHIP.**

- (a) Assignment. Any assignment or attempt to assign or subcontract Seller's obligations under this Agreement without the advance written consent of Purchaser shall be null and void and shall give Purchaser the right to terminate this Agreement for default.
- (b) Change in Ownership. If a third party submits a solicited or unsolicited offer to Seller that would result in a Change of Ownership or Control of Seller, as defined below, Seller shall give notice of such offer, including the identity of the offeror, to Purchaser as early as commercially practical following Seller's receipt of the offer. Before Seller accepts the offer, it shall give Purchaser an opportunity, within a reasonable time, to advise

Seller of its impact on performance of this Agreement. If the Change in Ownership and Control occurs, Purchaser has the right at its discretion to terminate this Agreement. In the event of such termination, Seller agrees to render full cooperation to Purchaser in order to minimize disruption to the Purchaser's program. Pending termination or in lieu of termination, Purchaser may require Seller to provide adequate assurance of performance, including, but not limited to the institution of special controls regarding the protection of Purchaser's proprietary information.

For purposes of this sub-paragraph (b), the terms "Change in Ownership or Control" shall mean any of the following: (1) the sale of equity shares controlling 20% or more of the voting rights in Seller or Seller's parent, (2) the sale, lease, transfer or other disposition of substantially all of the assets of Seller or Seller's parent, (3) a merger, reorganization, consolidation, share exchange, recapitalization, business combination, liquidation or dissolution or similar transaction, (4) a tender offer or exchange offer for any of the outstanding shares of capital stock of Seller or Seller's parent, (5) a sale by Seller of the assets relating to the product Seller produces or will produce for Purchaser, or (6) any public disclosure of a proposal or plan or intention to do any of the foregoing.

### **ARTICLE 13 - QUALITY ASSURANCE, INSPECTION AND TEST.**

- (a) Seller shall be responsible for the specific quality, performance, productivity provisions, and documentation requirements, if any, set forth in this Agreement. In addition, Seller shall be responsible for imposing the applicable quality assurance requirements on its subcontractors. Purchaser, or Purchaser's customer, shall have the right to conduct quality audits and to perform or witness inspections or tests of the Goods or Services furnished hereunder at Seller's facility (or elsewhere) at any time during manufacture and prior to shipment, at no charge to Purchaser, or Purchaser's customer. In accordance with 14 CFR 145.223 any Seller that accepts parts which are regulated by the Federal Aviation Administration (FAA) must provide facility access to the FAA for surveillance of these parts
- (b) The Seller agrees to use only experienced, trained and qualified employees in the performance of its obligations under this Agreement and all Services performed must be of first class quality and workmanship.
- (c) Notwithstanding Purchaser's right to audit in paragraph (a) above, all Goods and Services supplied under this Agreement shall be received subject to Purchaser's right of inspection, count, testing, acceptance and/or rejection per the technical specifications. Payment for Goods and/or Services delivered hereunder shall not constitute acceptance thereof, and all payments against documents shall be made with a reservation of rights by Purchaser for defects in Goods and/or Services, including, without limitation, defects apparent on the face thereof. The making of, or failure to make, any inspection or acceptance of the Goods or Services shall in no way impair Purchaser's right to reject nonconforming Goods or Services or to avail Purchaser of any other remedies to which it may be entitled.
- (d) Seller certifies that it shall provide and maintain quality control, inspection, and process control systems in accordance with Purchaser's then current specification for supplier quality product requirements, as applicable (S-1000 , S-1001, S-1002, S-1005, S-1006, S-1007; S-485 *or other quality requirements as specified*). Seller will maintain Objective Evidence of its conformance with this paragraph. Objective Evidence means any statement of fact pertaining to the quality of a product or service based on observations, measurements or tests that can be fully verified. Evidence must be expressed in terms of specific quality requirements or characteristics. These characteristics are identified in drawings, specifications, and other documents that describe the item, process, or procedure.
- (e) Seller agrees to provide a minimum of 180-days advance notice to Purchaser of any changes to significant processes, including, but not limited to physical relocation of any manufacturing or quality operations. Within fourteen (14) days of such notice, Seller will generate a Critical Process Control plan, which is subject to Purchaser's review and approval.
- (f) Counterfeit Goods. For purposes of this Article, Goods consist of those parts deliverable under this Agreement that are the lowest level of separately identifiable items (e.g., articles, components, goods and assemblies). "Counterfeit Goods" means Goods that have been misrepresented as having been designed and/or produced under an approved system or other acceptable method. Counterfeit Goods include, but are not limited to: (i) Goods that are an illegal or unauthorized copy or substitute of an Original Equipment Manufacturer (OEM) item; (ii) Goods that do not contain the proper internal or external materials or components or are not manufactured in accordance with the OEM design; (iii) Goods that are used, refurbished, or reclaimed but that Seller represents as being new; (iv) Goods that have not successfully passed all OEM required testing, verification, screening, and quality control but that Seller represents as having met those requirements; (v) Goods with a label or other marking intended, or reasonably likely, to

mislead a reasonable person into believing a non-OEM Good is a genuine Good when it is not, and (vi) Goods that are an unauthorized copy or substitute that have been identified, marked, and/or altered by a source other than the item's legally authorized source and has been misrepresented to be an authorized item of the legally authorized source..

- i) Seller warrants and certifies that Goods delivered pursuant to this Agreement, unless otherwise specifically stated on the face of the Purchase Order, shall (i) be new, (ii) be and only contain materials obtained from the OEM or an authorized OEM reseller or distributor, (iii) not be or contain any Counterfeit Goods, and (iv) contain only authentic, unaltered OEM labels and other markings. Seller shall provide to Purchaser the OEM's certificate of conformance for any Goods acquired from an authorized OEM reseller or distributor. Goods shall not be acquired from independent distributors or brokers unless specifically authorized in writing by Purchaser.
- ii) Seller shall maintain a method of item traceability that ensures tracking of the supply chain back to the manufacturer of all Electrical, Electronic, and Electromechanical (EEE) parts included in assemblies and subassemblies being delivered per this Agreement. This traceability method shall clearly identify the name and location of all of the supply chain intermediaries from the manufacturer to the direct source of the product for Seller, and shall include the manufacturer's batch identification for the item(s) such as date codes, lot codes, serializations, or other batch identifications. When requested by Purchaser, Seller shall provide OEM documentation that authenticates traceability of the affected items to the applicable OEM.
- iii) Seller shall immediately notify Purchaser and the GIDEP system if it knows or suspects that it has provided Counterfeit Goods.
- iv) In the event Goods delivered under this Agreement constitute Counterfeit Goods, Seller shall at its expense promptly replace such Goods with genuine Goods conforming to the requirements of this Agreement. Notwithstanding any other provision of this Agreement, Seller shall be liable for all costs relating to the removal or replacement of Counterfeit Goods, including without limitation Purchaser's or Purchaser's customer's costs of removing such Counterfeit Goods, reinserting genuine Goods, and any testing necessitated by the reinstallation of any Goods after Counterfeit Goods have been exchanged. Purchaser reserves the right to turn over suspected Counterfeit Goods to US Governmental authorities (Office of Inspector General, Defense Criminal Investigative Service, Federal Bureau of investigation, etc.) for investigation and reserves the right to withhold payment for the suspect items pending the results of the investigation. The remedies available under this Article are in addition to any other remedies Purchaser may have available to it in law or in equity, or in any other provisions in this Agreement.
- v) This paragraph (e) applies in addition to any other quality provision, specification, or statement of work included in this Agreement addressing the authenticity of Goods and Services. To the extent such provisions conflict with this paragraph (e), this paragraph prevails.
- vi) Seller shall flow the requirements of this paragraph 13(e) to its subcontractors and suppliers at any tier for the performance of this contract.

#### **ARTICLE 14 - REMOVALS OR REPLACEMENTS.**

- (a) Seller agrees that, notwithstanding the provisions of any warranties, expressed or otherwise, negotiated with respect to Goods purchased from Seller by Purchaser or Purchaser's customer, Seller shall reimburse Purchaser for labor and material cost, including overhead and general and administrative expense reasonably incurred by Purchaser in connection with:
  - i) The unscheduled removal and/or replacement of such Goods or components thereof from a higher level assembly due to failure of such Goods to conform to requirements of this Agreement or defective material, workmanship or design; or
  - ii) Any such removal of said Goods at Seller's request; or
  - iii) Any such removal of said Goods required due to any previously required changes to said Goods that Seller has failed to incorporate.
- (b) This remedy is not exclusive and shall not be in lieu of any other remedy available at law, in equity or under this Agreement.



## **ARTICLE 15 -- INDEMNIFICATION AND INSURANCE.**

- (a) Indemnification. Seller shall defend, indemnify, and hold harmless the Purchaser, its directors, officers, employees, agents representatives, successors and assigns (each an "Indemnified Party"), whether acting in the course of their employment or otherwise, against any actions at law or in equity, and from any claims (including attorneys' fees) arising from any act or omission of Seller, its agents, employees, or subcontractors, or from any conditions of real or personal property of Seller, except to the extent attributable to the gross negligence of Purchaser. An Indemnified Party shall have the right to participate in the selection of counsel and Seller shall not enter into any settlement agreement that contains any admission of liability on the part of Purchaser and/or any other Indemnified Party.
- (b) Insurance. Seller shall obtain and keep in force for the benefit of the Seller and Purchaser the following insurance to be issued by insurance carriers with a minimum A.M. Best's rating of A-: VII, or S&P A, or better and licensed to provide insurance in the jurisdiction in which work is to be performed, with minimum limits as set forth below:
- i) Comprehensive General Liability – \$5,000,000 combined single limit per occurrence;
  - ii) Aviation Products Liability - \$5,000,000 minimum per occurrence;
  - iii) Comprehensive Automobile Liability –Bodily injury/property damage covering all vehicles used in connection with the Goods in the amount of \$1,000,000 combined single limit each occurrence;
  - iv) Statutory Workers' Compensation and or Employer's Liability as required by state or country law with a minimum limits of \$5,000,000 each accident / \$5,000,000 each disease / \$5,000,000 policy limit.

If insurance coverage is maintained in Seller's local currency, the amounts stated above shall be applicable based upon the exchange rates set forth in a reputable listing of currency exchange rates, such as the Wall Street Journal.

- (c) Seller shall provide Purchaser with a certificate of insurance evidencing that the required minimum coverage is in effect and that Purchaser is named as an additional insured, provide a waiver of subrogation clause in favor of the Purchaser, and provide that all coverage provided by the Seller shall be primary. Such insurance shall not exclude the actions of any subcontractor that Seller may utilize under this Agreement. The insurance provided by Seller hereunder shall have no effect on any obligations imposed upon Seller under this Agreement.

## **ARTICLE 16 -- SELLER'S REPRESENTATIONS.**

- (a) Compliance with Laws. Seller acknowledges that Goods and Services procured pursuant to this Agreement will be incorporated into Purchaser's global supply chain and as such are subject to the laws and regulations of Purchaser's and Seller's country and other countries around the world including the United States of America, even if neither Seller nor Purchaser are physically located in the United States of America. Seller further acknowledges that Purchaser is a subsidiary of General Electric Company, a U.S. corporation and as such is subject to U.S. laws as well as GE's applicable policies and procedures. Seller agrees to comply with all terms and conditions in this Agreement, regardless of whether or not such terms invoke U.S. laws or laws of other countries, to the extent such terms apply to Seller. Nothing in this Agreement, however, shall be interpreted or construed to obligate Seller to violate the laws of Seller's country or other countries where Seller performs work pursuant to this Agreement. Seller represents and warrants that it shall perform all activities required under this Agreement in compliance with all applicable international, EU, national, state and local laws.
- (b) Child or Forced Labor. Seller represents and warrants that no Goods or Services provided under this Agreement will be produced using forced, indentured or convict labor, or the labor of persons in violation of the minimum working age laws of the country of manufacture, or in violation of minimum wage, hour of service or overtime laws of the country of manufacture.
- (c) Conflict Minerals. Seller represents and warrants that it has adopted policies and established systems to procure tantalum, tin, tungsten, or gold from sources that have been verified as conflict free, and agrees to provide supporting data on Seller's supply chain for tantalum, tin, tungsten, or gold to Purchaser when requested.
- (d) Nondiscrimination in Employment. Seller represents and warrants that it will not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, disability, national origin, or any other characteristic protected by law.

- (e) Audit rights. Seller shall permit Purchaser or its representatives to have reasonable access to the site(s) where work under this Agreement is performed to assess Seller's compliance with the terms of this Agreement.

#### **ARTICLE 17 - SELLER'S EMPLOYEES**

- (a) Seller's personnel performing services under this Agreement shall remain employees of Seller subject to its right of direction, control and discipline and shall neither become employees of Purchaser nor be entitled to any rights, benefits or privileges of Purchaser employees. As appropriate, Purchaser shall give direction as to the ultimate objective of the project to the Seller. The Seller shall ensure that its personnel adhere to this the terms and policies in this Agreement and that they have the requisite knowledge, training and ability to perform work under this Agreement competently and in accordance with applicable laws and regulations.
- (b) Seller's employees are not authorized to enter into any agreements or to make any commitments financial or otherwise on behalf of Purchaser. Specifically, no employee of Seller shall make contact with any government official regarding the continuation, renewal, amendment or modification of a Prime Contract.

#### **ARTICLE 18 - RECORD RETENTION REQUIREMENTS.**

- (a) Record Retention. Seller shall maintain complete and accurate records in connection with its performance under this Agreement, including but not limited to, purchase orders or agreements, memoranda of negotiations showing the principal elements of price negotiations. Seller must be able to substantiate charges for labor or services with proper time clock cards, time vouchers, or other similar records. Seller shall retain such records for six (6) years after completion of performance under this Agreement.
- (b) Classified Information. Upon completion of work by Seller under this Agreement, Seller shall return to Purchaser any classified information furnished by Purchaser, including all reproductions thereof, and Seller shall surrender classified information or materials developed by Seller in connection with this Agreement, unless the information has been destroyed, or the retention of the information is authorized in writing, by Purchaser or the government.
- (c) UK Protected Materials.
- i) In this Article 18, subparagraph (c), "UK Protected Materials" means information, software, hardware, and equipment classified as "Restricted" or above by the UK Government or which access is otherwise similarly restricted in the interests of UK national security;
  - ii) Only Seller's personnel with appropriate UK security clearances shall have access to UK Protected Material and Seller acknowledges that Purchaser facilities and systems do contain UK Protected Material; in the event Seller's personnel require access to UK Protected Materials, Seller will provide personnel with appropriate UK security clearances at no additional cost to Buyer;
  - iii) In relation to UK Protected Material, Seller's represents and warrants that it will comply with the provisions of the Official Secrets Act 1911 to 1989 (the "Act"), including Section 2 of the Act. In relation to the Act, Seller shall be defined as a "government contractor" as defined in the Act. Seller shall take all necessary steps to make sure that all individuals engaged on any activities relating to UK Protected Material have notice that the Official Secrets Act applies to said activities;
  - iv) Seller personnel shall not transfer or disclose by whatever means UK Protected Material to any other person or entity or outside the UK without prior authorization from Purchaser and in accordance with local Purchaser procedures;
  - v) Seller personnel shall not remove from a Purchaser site or otherwise dispose of UK Protected Material without prior authorization from Purchaser in accordance with local Purchaser procedures;
  - vi) Seller personnel shall at all times safeguard UK Protected Material in accordance with security procedures meeting UK National Security Regulations, which are set out in the Government Manual of Protective Security as amended or supplemented;
  - vii) Seller shall, at all times maintain UK Protected Material in accordance with applicable UK and UK MoD policies related to the protection and preservation of data, including but not limited to "List X" policies applicable to List X contractors and sub-contractors;

- viii) Seller personnel shall only access, store, process or transmit UK Protected Material on GE Aviation Information Systems that have been duly designated and accredited for that purpose;
- ix) Seller shall indemnify and hold harmless Buyer for any breaches or violations of this Article 18(c).

#### **ARTICLE 19 - EXPORT AND IMPORT CONTROL.**

- (a) Compliance with Export Laws. Seller agrees to comply with all applicable government export control laws and regulations, including but not limited to the International Traffic in Arms Regulations ("ITAR", 22 CFR Part 120-130) and the Export Administration Regulations ("EAR," 15 CFR Parts 730-774), EU Dual-Use Regulation (also known as Council Regulation (EC) No 1334/2000), EU Regulation on Torture (also known as Regulation (EC) No 1236/2005)), and the UK Export Control Act (2002.).
- (b) Intellectual Property and Export Licenses. In connection with the performance of any work under this Agreement, Seller, at its own cost, shall be responsible for: (1) determining whether, and the extent to which, any foreign or U.S. Government-funded intellectual property, including technical data, that was not provided by Purchaser will be used; (2) if any such foreign or U.S. Government-funded intellectual property will be used, obtaining, on behalf of Purchaser, a license under which the foreign or U.S. Government shall grant to Purchaser the unlimited right to use such intellectual property; (3) determining whether, and the extent to which, export licenses are required for export of all deliverables, whether tangible or intangible, under this Agreement; and (4) obtaining the required export licenses, unless otherwise agreed to by Purchaser. All of Purchaser's obligations under this Agreement are conditional upon the issuance of intellectual property and/or export licenses by the foreign or U.S. Government granting Purchaser the right to use such foreign or U.S. Government-funded intellectual property and/or to export from Seller's country all deliverables, whether tangible or intangible under this Agreement.
- (c) Defense Articles. In the event the Goods are defense articles or defense services (as defined in Sections 120.6 and 120.9 of the ITAR), Seller agrees to maintain a valid and current Directorate of Defense Trade Controls ("DDTC") registration and agrees to provide confirmation of registration if requested by Purchaser.
  - i) With respect to such defense articles and/or defense services, Seller represents and warrants that it has not and will not pay or offer to pay 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 an international organization or non-U.S. Country any fees, commissions or political contributions as described under Part 130 of the ITAR without prior notice to Purchaser.
  - ii) In such event, Seller shall provide to the Purchaser, in a timely manner and not later than 20 days after such an event, full disclosure of all information necessary for the Purchaser to comply fully with Sections 130.9 and 130.10 of the ITAR).
  - iii) With respect to any such defense articles that are manufactured or produced for Buyer pursuant to an authorization under the ITAR (e.g. a license or manufacturing license agreement), Seller agrees that all items in a partially completed state (such as scrapped material, forgings, castings, extrusions or any other machined body), which have reached a stage in manufacture where they are clearly identifiable as a defense article, as contemplated by Section 121.10 of the ITAR, shall be subject to the ITAR (including all components, accessories, attachments and parts thereto). All such partially completed items shall either be returned to the Buyer in the U.S. or destroyed. If destroyed, a certificate of destruction shall be maintained by the Seller and provided to the Buyer upon request, and shall certify that such destruction has occurred under a destruction process that reduces the item to a state where it is no longer clearly identifiable as a defense article, including but not be limited to shredding, chopping, incinerating, melting, chemical decomposition or any other destructive process that reduces the item to such a state.
- (d) If Seller intends to conduct work for Purchaser in a non-U.S. country, Seller must provide advance written notification to Purchaser.
- (e) Citizenship Status.
  - i) If Seller is located in U.S.: Seller agrees to limit work on this Agreement to U.S. Persons when required by applicable export control laws and regulations (e.g., ITAR 120.14).
  - ii) If Seller located outside U.S.: For data export purposes, only citizens of the country in which the Seller is located shall be permitted to work on this Agreement without prior written approval from Purchaser.

Seller shall preserve such records as permitted by local laws and regulations regarding the citizenship status of Seller's employees.

- (f) With regard to all technical data exported to Seller under the authority of a valid export license granted pursuant to 22 CFR 124.13 (Procurement by U.S. persons in foreign countries--Offshore Procurement), Seller agrees to the following: (i) The use of the technical data is limited to the manufacture of the Goods; (ii) Disclosure of the technical data is prohibited to any other person except subcontractors within the same country and are identified on the applicable export license; (iii) Acquisition of any rights in the data by any foreign person is prohibited; (iv) Any subcontract(s) between the Seller and other foreign persons in the approved country for manufacture of Goods contain all the limitations of this paragraph; (v) Seller and its subcontractors shall destroy or return to the Purchaser in the U.S. all of the technical data exported pursuant to this Agreement upon fulfillment of their terms; and (vi) Delivery of the Goods manufactured abroad must be made only to the Purchaser in the U. S. or to an agency of the U.S. Government as directed by Purchaser.
- (g) Where Goods are to be delivered outside the United States and its territories:
- i) Seller certifies that the Goods and associated Technical Data supplied to Purchaser are not subject to the International Traffic in Arms Regulations (ITAR) (22 CFR Part 120-130). Seller shall obtain Purchaser's prior written approval prior to incorporating any item, technology or software that is subject to the ITAR or EAR into the Work conducted under this Agreement.
  - ii) Seller shall provide Purchaser export classification information (e.g., U.S. Commerce Control List, United States Munitions List category or UK Control List category, Harmonized Tariff Schedule, Country of Origin) as well as copies of relevant export authorizations permitting export or re-export to Purchaser or Purchaser's designated end user.
- (h) Prohibited Goods and Services. The U.S. prohibits the importation of Goods or the purchase of services from certain countries, entities, or individuals. No Goods or services from prohibited countries, entities, or individuals may be used directly or indirectly in the activities covered by this Agreement. The list of prohibited countries can change from time to time and it is Seller's responsibility to ensure compliance with such list at all times (located inter alia, <http://www.treas.gov/ofac>, <http://www.bis.doc.gov> and <http://pmdtc.state.gov/embargoes-countries/index.html>).
- (i) Importer of Record.
- i) If Seller is importer of record, Seller agrees that Purchaser will not be a party to the importation of the Goods; that the transaction(s) represented by this Agreement will be consummated subsequent to importation; that Seller will neither cause nor permit Purchaser's name to be shown as "importer of record" on any customs declaration; and that, if the Goods must be returned to Seller, Seller agrees to be exporter and to comply with all applicable export regulations.
  - ii) If Purchaser is the importer of record, Seller shall ship the Goods to the port of entry as advised by Purchaser and show proper broker notification on all shipping waybills. Any additional transportation or clearance charges incurred by Purchaser due to non-adherence to this clause will be the responsibility of Seller.
  - iii) Regardless of which party is the importer of record, Seller's shipping cartons and documentation must meet all U.S. customs country of origin marking and invoicing requirements. Seller will be responsible for any fines or liabilities resulting from insufficient, improper or negligent invoicing or marking of shipments.
  - iv) If Purchaser is the U.S. Importer of Record, Seller accepts and shall implement sufficient procedures to enable Purchaser to comply with U.S. Customs and Border Protection's (CBP) Importer Security Filing (ISF) requirements. Seller shall provide the following required data elements: (1) Seller or Seller's ultimate owner's registered name and address, (2) Manufacturer's name and address, (3) Purchaser's name and address, (4) Ship-to name and address of final destination, (5) Container stuffing location name and address, (6) Consolidator or stuffer name and address, (7) Importer of Record's name and U.S. Internal Revenue Service (IRS) or tax identification number, (8) Consignee name(s) and U.S. IRS or tax identification number, (9) Country of origin – the country where goods are manufactured or produced, and (10) Six-digit harmonized tariff code; such information shall be provided to the designated Purchaser ISF agent within 72 hours prior to the shipping vessel sailing. Seller or its agents shall communicate ISF requirements, including the ISF pre-alert form (by electronic mail) to Purchaser's ISF agent at least 72 hours prior to the shipping vessel sailing. Seller or its agents shall not load container onto vessel prior to receipt of ISF acceptance from Purchaser's ISF agent.

- v) In addition to any other rights and remedies Purchaser may have in law or in equity, Purchaser may deduct from the price of Goods any penalties, fines or assessments that U.S. Customs and Border Protection imposes on Purchaser for late or inaccurate or incomplete ISF filings caused by Seller non-compliance. Additional deductions may be taken for late deliveries, demurrage or expenses incurred due to Seller's failure to comply with ISF requirements.
- (j) U.S. Exporter. Unless otherwise agreed by the Purchaser, if Seller is the U.S. exporter for any U.S. origin bailed or purchased material required by Seller to complete this Agreement, in addition to obtaining export licenses as required by Article 19(b) of this Agreement, Seller shall be responsible for authorizing a U.S. freight forwarder.
- (k) Drawback. If Seller is an importer of record, upon request and where applicable, Seller will provide Purchaser customs form 7552 entitled "Certificate of Delivery" properly executed.
- (l) Anti-Dumping. Seller warrants that all sales made hereunder are or will be made at not less than fair value under the U.S. Anti-Dumping law (19 U.S.C. sec 1673 et. seq.), and Seller will indemnify, defend and hold Purchaser harmless from and against any costs or expenses (including but not limited to any anti-dumping duties which may be imposed) arising out of or in connection with any breach of this warranty.

**ARTICLE 20 -WORK ON PURCHASER'S OR ITS CUSTOMER'S PREMISES.** If Seller's work under this Agreement involves operations by Seller on the premises of Purchaser or Purchaser's customer or access to Purchaser's systems or its computers, then:

- (a) Seller shall comply with all of Purchaser's safety and security procedures and shall take all necessary precautions to prevent the occurrence of any injury to person or property during the progress of such work.
- (b) Seller represents and warrants that all of its employees who will perform work under this Agreement on Purchaser's or its customer's premises have been tested and are free from illegal drugs. The term "illegal drugs" does not include the use of a controlled substance pursuant to a valid prescription. The prescription medication must not prevent the employee from performing competent and safe work.

OR to be used in circumstances where Seller does not have the right to conduct routine drug testing:

- (b) Seller represents and warrants that it will use reasonable endeavors to ensure that all of its employees who will perform work under this Agreement on Purchaser's or its customer's premises are free from illegal drugs. In the event that Seller has reason to suspect that any employee performing work under this Agreement on Purchaser's or its customer's premises is using illegal drugs, Seller agrees to take immediate steps to remove such employee from Purchaser's or its customer's premises and procure that the employee does not continue to perform work under this Agreement. The term "illegal drugs" does not include the use of a controlled substance pursuant to a valid prescription. The prescription medication must not prevent the employee from performing competent and safe work.
- (c) Seller represents and warrants that it will conduct a criminal convictions records investigation of any employee before they are assigned to work on any order that requires that employee to enter Purchaser's or its customer's premises. Where Seller is located in the UK, such investigation shall, at a minimum, take the form of a Criminal Record Check (CRC) and be in accordance with the UK Rehabilitation of Offenders Act (1974) and Seller shall provide Purchaser with a copy of the CRC completed prior to assigning any employee to work on any order that requires that employee to enter Purchaser's or its customer's premises requesting unescorted visitor access. Seller further agrees that it shall not assign any person to perform work on Purchaser's or its customer's premises that has been: (i) convicted as an adult of any of the following: domestic violence, theft, assault, drug possession or any sexual offenses; or convicted as an adult of any felony; convicted of more than two misdemeanors in the past 2 years or 5 misdemeanors in the past 7 years. For the avoidance of doubt, in relation to (i) and (ii) above in the UK, only unspent convictions will be taken into account.
- (d) Seller shall include this provision in any subcontract placed pursuant to this Agreement where the subcontractor will perform work on Purchaser's or its customer's premises.
- (e) Purchaser reserves the right to deny any of Seller's employees, agents or subcontractors access to its or its customer's premises and/or systems for any reason in Purchaser's sole discretion, including but not limited to such individual being a former employee of Purchaser who received layoff benefits or Special Early Retirement Option (SERO) benefits from Purchaser within the prior three years or whose last performance rating as an employee of Purchaser was less than satisfactory.

## **ARTICLE 21 - ACCESS TO PURCHASER'S COMPUTER SYSTEMS AND STORAGE OF PURCHASER DATA.**

- (a) Access to Purchaser's computer systems by Seller, its employees, agents, and subcontractors ("Seller's Personnel") shall be provided only to Seller's Personnel who have been granted a user identification code by Purchaser. Purchaser reserves the right to verify the citizenship status of all Seller's Personnel with such access at any time. Access shall be limited to those systems required for the Seller's Personnel to perform its obligations under this Agreement. Purchaser may revoke access at any time.
- (b) Seller agrees to comply with Purchaser's Information Technology ("IT") Security Guidelines (set forth below) if Seller's Personnel access Purchaser's computer systems and/or maintain Purchaser Data on its computer systems. For purposes of this provision, "Purchaser Data" includes the Data referenced in the Purchaser's Property and Personal Data Protection sections of this Agreement.
- (c) Purchaser's IT Security Guidelines:
  - i) If Seller is given access to Purchaser's computer systems Seller's Personnel shall adhere to the requirements contained in the "Guidelines for Acceptable Use of Information Resources" ([http://www.geaviation.com/aboutgeae/doingbusinesswith/geae\\_po\\_requirements.html](http://www.geaviation.com/aboutgeae/doingbusinesswith/geae_po_requirements.html));
  - ii) If Seller will host and/or house any Purchaser Data or if Seller's network will be connected to Purchaser's network, Seller shall adhere to the requirements contained in the "GE Third Party Information Security Policy" ([http://www.geaviation.com/aboutgeae/doingbusinesswith/geae\\_po\\_requirements.html](http://www.geaviation.com/aboutgeae/doingbusinesswith/geae_po_requirements.html));
  - iii) As stated in the GE Third Party Information Security Policy, Purchaser Data must be stored in encrypted form. Any Seller storage device (including, but not limited to, computers, USB Hard Disk Drives, USB Memory Sticks, Personal Data Assistant, or other removable media storage devices (e.g., CD/DVD)) that contains Purchaser Data must have the entire storage facility of the device protected by either hardware or software encryption with a minimum of 128bit Advance Encryption Standard encryption or higher; and
  - iv) If for any reason Seller re-uses or disposes of any Seller equipment containing Purchaser Data, Seller must ensure that all Purchaser Data is physically destroyed or erased (wiped) from Seller's equipment prior to disposal or re-use of the Seller equipment. Seller must render Purchaser Data incapable of being read using standard hardware.
- (d) Purchaser and Seller shall agree in good faith to additional security requirements to render Purchaser/Seller IT environments secure, and Seller shall implement such changes to comply with Purchaser's security guidelines and/or requests.
- (e) Purchaser reserves the right to conduct on-site audits of Seller's facility and practices to determine Seller's compliance with this provision.

## **ARTICLE 22 - SELLER SECURITY AND CRISIS MANAGEMENT POLICY/C-TPAT.**

- (a) Security and Crisis Management Policy. Seller shall have and comply with a company security and crisis management policy, which shall be revised and maintained proactively and as may be requested by Purchaser in anticipation of security and crisis risks relevant to the Seller's business ("Security and Crisis Management Policy"). The Security and Crisis Management policy shall, at a minimum, provide for the physical security of personnel at Seller's facilities, physical security of property and facilities used for performance of this Agreement, procedural security (e.g., documentation processing, manifest procedures, shipping and receiving, cargo discrepancies), information technology security, and security training and threat awareness.
- (b) Purchaser reserves the right to review Seller's Security and Crisis Management Policy and to audit Seller's facility and practices to determine if such policy is reasonably sufficient. Each party shall bear its own costs in relation to such inspection and review. All other costs associated with development and implementation of Seller's Security Plan shall be borne by the Seller. Purchaser will notify Seller if Seller's Security and Crisis Management Policy is insufficient to protect Purchaser's property and interests. Seller shall have forty-five (45) days from date of notice to implement actions reasonably requested by Purchaser. Seller's failure to take such actions shall give Purchaser the right to terminate this Agreement.
- (c) If Seller ships the Goods from outside the country of Purchaser, Seller shall, upon Purchaser's request: (a) certify to Purchaser in writing that it has read the C-TPAT and/or AEO security criteria, maintains a written Security Plan consistent with those criteria and has implemented appropriate procedures pursuant to such plan; (b) identify an individual contact responsible for Seller's facility personnel and shipment security measures and provide such individual's name, title, address, email address and telephone and fax numbers to Purchaser; (c) inform Purchaser of its C-TPAT or AEO membership status and immediately inform

Purchaser of any changes to its certification status; (d) when responsible for carriage, maintain a process to track shipments in transit in order to identify possible breaches and to communicate that process to Purchaser; (e) have a documented and traceable process to inspect all containers and trailers prior to loading and unloading the Goods; and (f) agree to report to Purchaser immediately (via the GE Aviation hotline 513-243-2100) any suspected or actual security breach affecting the Goods, including anytime the cargo seal is broken and any other evidence of contraband smuggling or other threatened/suspicious activities. More information about the GE Aviation C-TPAT program can be found at [http://www.geaviation.com/aboutgeae/doingbusinesswith/docs\\_supplier\\_security/C-TPAT\\_guidelines\\_intl\\_suppliers\\_shippers.pdf](http://www.geaviation.com/aboutgeae/doingbusinesswith/docs_supplier_security/C-TPAT_guidelines_intl_suppliers_shippers.pdf)

## **ARTICLE 23 -PERSONAL DATA PROTECTION.**

- (a) **Definitions.** For purposes of this provision:
- i) “Notice” means all filings, reports, or communication of any kind related to any Security Breach.
  - ii) “Personal Data” means any information concerning Purchaser’s employees, officers, directors, or agents, relating to an identified or identifiable individual, including but not limited to, name, address, telephone number, e-mail address, business contact information, social security number, driver’s license number, financial account number or other financial information, or medical or health-related information.
  - iii) “Process” or “Processing” means any operation(s) performed by Seller, its employees, agents or subcontractors on Personal Data, whether or not by automatic means, including but not limited to, collection, recording, organization, storage, adaptation or alteration, retrieval, accessing, consultation, use, disclosure by transmission, dissemination, alignment or combination, blocking, erasure, or destruction.
  - iv) “Security Breach” means any event, whether accidental, negligent or intentional, involving an actual compromise of the security, confidentiality, or integrity of Personal Data, including but not limited to, any unauthorized access or use by a known or unknown third party or employee of Seller, an act of unlawful Processing or loss, destruction or damage to Personal Data.
- (b) **Data Processing.** Seller shall view and Process Personal Data only to the extent necessary to perform its obligations under this Agreement or as otherwise instructed by Purchaser in writing. Seller shall not view or Process Personal Data for any other purpose. Seller agrees implement and maintain physical, technical and organizational measures, consistent with Purchaser’s Employee Data Protection Standards ([http://www.geaviation.com/aboutgeae/doingbusinesswith/geae\\_po\\_requirements.html](http://www.geaviation.com/aboutgeae/doingbusinesswith/geae_po_requirements.html)), Seller also agrees to implement any measures necessary to ensure compliance by its employees, agents or subcontractors with the obligations in this Agreement relating to Personal Data and will take reasonable steps to ensure the reliability of all its employees, agents or subcontractors who have access to the Personal Data. Seller agrees to keep confidential and not disclose Personal Data to any third party without first receiving written approval from Purchaser. Seller also agrees to secure a written commitment from the third party that it has implemented and maintains physical, technical and organizational measures, consistent with Purchaser’s Employee Data Protection Standards ([http://www.geaviation.com/aboutgeae/doingbusinesswith/geae\\_po\\_requirements.html](http://www.geaviation.com/aboutgeae/doingbusinesswith/geae_po_requirements.html)), and acceptable to Purchaser to ensure the security and confidentiality of Personal Data. Any measures taken by Seller shall be in compliance with the relevant data protection legislation and shall be adapted to the risks presented by Processing the Personal Data supplied to the Seller under this Agreement.
- (c) **Inspection.** Seller agrees to permit Purchaser and/or its external advisers to inspect and audit on site, even after termination of the Agreement, Seller’s management of Personal Data and compliance with obligations relating to Personal Data arising out of this Agreement, subject to written notice being provided in advance of the inspection by Purchaser. Seller agrees to comply with all reasonable requests or directions by Purchaser or its external advisers to enable inspection to take place.
- (d) **Security Breach – Notification.** Seller shall immediately notify Purchaser of any Security Breach involving any Personal Data and provide Purchaser with all requested details concerning the Security Breach. Seller will provide Purchaser with full co-operation and assistance in relation to the investigation of any Security Breach.
- (e) **Security Breach – Costs.** Seller will immediately investigate a Security Breach and take all necessary actions to mitigate the effects of such a Security Breach. Seller shall obtain Purchaser’s written approval prior to publication or communication of any Notice to any third party. Seller shall be responsible for any costs, losses and expenses relating to any Security Breach.

- (f) Termination of Purchase Order. Upon termination of this Agreement, the Seller shall stop Processing Personal Data and shall immediately return to the Purchaser any hard copies or reproduction of the Personal Data in its possession and permanently delete any electronic copies of the Personal Data on any of its electronic systems. After the termination of this Agreement, these undertakings will remain in force.
- (g) Breach of Privacy. Any failure by Seller to comply with the obligations set out in this Agreement relating to Personal Data is considered a material breach of this Agreement.

#### **ARTICLE 24 - ENVIRONMENTAL MATTERS.**

- (a) Seller represents and warrants that it shall perform all obligations under this Agreement in compliance with all applicable national, EU, state/provincial and local environmental, health and safety laws and regulations. From time to time, at Purchaser's request, Seller shall provide certificates to Purchaser in a form and substance acceptable to Purchaser, indicating compliance with the provisions of this article.
- (b) Seller represents and warrants that each chemical substance constituting or contained in Goods is on the list of chemical substances compiled and published by (a) the Administrator of the Environmental Protection Agency pursuant to: the Toxic Substances Control Act (15 USC Section 2601 et seq.) as amended; (b) the European Inventory of Existing Commercial Chemical Substances (EINECS) or the European List of Notified Chemical Substances (ELINCS); or (c) any equivalent lists in any other jurisdictions to which Purchaser informs Seller or Seller knows the Goods likely will be shipped to or through. Seller represents and warrants that each chemical substance constituting or contained in Goods is pre-registered if required, and registered if required, under Regulation (EC) No 1907/2006 ("REACH"), is not restricted under Annex XVII of REACH and if subject to authorization under REACH is authorized for Purchaser's use.
- (c) Seller shall notify Purchaser if it decides not to Preregister or Register substances that will be subject to Preregistration or Registration under REACH and are constituting or contained in Goods at least 12 months before their Registration or Registration deadline. Seller will monitor the publication by the European Chemicals Agency of the list of substances meeting the criteria for Authorization under REACH (the "candidate list") and immediately notify Purchaser if any of the Goods contain a substance officially proposed for listing on the candidate list. Seller shall provide Purchaser with the name of the substance as well as with sufficient information to allow Purchaser to safely use the goods or fulfill its own obligations under REACH.
- (d) Seller represents and warrants that none of the Goods contain any: (1) lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (PBB), polybrominated diphenyl ethers (PBDE) or any other hazardous substances the use of which is restricted under EU Directive 2002/95/EC (27 January 2003)(RoHS Directive), as amended; (2) arsenic, asbestos, benzene, polychlorinated biphenyls (PCBs), carbon tetrachloride, beryllium, or radioactive materials; (3) chemical restricted under the Montreal Protocol on ozone-depleting substances; (4) substance listed on the candidate list of the REACH legislation (Regulation (EC) No 1907/2006) or restricted under Annex XVII of REACH; or (5) other chemical the use of which is restricted in any other jurisdictions to which Purchaser informs Seller the Goods are likely to be shipped or the Seller knows the goods are likely to be shipped to or through; unless Purchaser expressly agrees otherwise in writing and Seller identifies an applicable exemption from any relevant legal restriction on the inclusion of such chemicals or hazardous materials in the Goods. Upon request from Purchaser and subject to reasonable confidentiality provisions which enable Purchaser to meet its compliance obligations, Seller will provide Purchaser with the chemical composition, including proportions, of any substance, preparation, mixture, alloy or goods supplied under this Agreement and any other relevant information or data regarding the properties including without limitation test data and hazard information.
- (e) Unless specifically defined as a requirement by Purchaser's engineering drawings or specifications, the use of cadmium plating or nickel cadmium plating is strictly prohibited in the manufacture of Goods. The use of cadmium plating or nickel cadmium plating is strictly prohibited on all tooling, fixtures, and test equipment that is used for manufacturing, assembly, test, or material handling of the Goods unless Seller has notified Purchaser in advance and has obtained its prior written consent to such use. Approval shall not be granted where there is a potential for Seller's Goods to come into contact with titanium containing items.
- (f) If Seller is located outside of the U.S. and is shipping Goods into the U.S., regardless of which party is the importer of record, Seller agrees to comply with the import restrictions contained in section 13 of the Toxic Substance Control Act (TSCA) 15 U.S.C. 2601 et seq., provide the appropriate TSCA Certification required under 19 CFR 12.121, and be responsible for any fines or liabilities resulting from breaches of this provision.
- (g) Seller represents and warrants that it has established an effective program to ensure that the activities of any suppliers it utilizes to provide any goods or services that will be incorporated into the Goods will be conducted in conformance with this article.



- (h) With respect to the Goods, Seller shall provide all relevant information, including without limitation, safety data sheets in the language and the legally required format of the location to which the Goods will be shipped and mandated labeling information, required pursuant to applicable requirements such as: (1) the Occupational Safety and Health Act (OSHA) regulations codified at 29 CFR 1910.1200; or (2) *REACH* or EU Directive 67/548/EC, as amended, if applicable, and (3) any other applicable law, rule or regulation or any similar requirements in any other jurisdictions to which Purchaser informs Seller the Goods are likely to be shipped. For each such material, identification shall reference the stock or part number of the delivered Goods. Hazardous materials include, but are not limited to, materials embedded in a delivered Good in such a manner as to present a potential for personal injury or harm or property damage in the course of normal use, repair, accidents or disposal. All safety data sheets and labels required under this section and HAZCOM shall be provided to Purchaser at Group Environmental Affairs & Safety, One Neumann Way, M/D T165, Cincinnati, OH 45215.

#### **ARTICLE 25 -MISCELLANEOUS.**

- (a) English Language. Except as the parties may otherwise agree, this Agreement, purchase orders, purchase agreements, data, notices, shipping invoices, correspondence and all other writings shall be in the English language. In the event of any inconsistency between any terms of this Agreement and any translation thereof into another language, the English language meaning shall control.
- (b) Governing Law. This Agreement shall be governed by the laws of the jurisdiction in which Purchaser is organized, notwithstanding such jurisdictions conflict of laws rules. For any Purchaser organized in the U.S., New York law shall govern, notwithstanding its conflict of laws rules. The application of the United Nations Convention on the International Sale of Goods is hereby excluded except as expressly referenced herein.
- (c) Waiver. Any failure or delay in the exercise of rights or remedies under this Agreement will not operate to waive or impair such rights or remedies. Any waiver given will not be construed to require future or further waivers.
- (d) Modifications. No waiver, alteration or modification of any of the provisions of this Agreement shall be binding upon either party unless in a subsequent writing signed by the duly authorized representative of the party intended to be bound thereby.
- (e) Severability. If any portion of this Agreement is determined to be contrary to any controlling law, rule or regulation, such portion will be revised or deleted from this Agreement, but the balance of this Agreement will remain in full force and effect.
- (f) Reports. Upon request, Seller shall provide progress reports pertaining to the status of the work being performed under this Agreement. Such reports shall be in a form acceptable to Purchaser.
- (g) Release of Information. Seller shall not release any information concerning this Agreement or its business relationship with Purchaser, to any third party, except as required by applicable law, rule, injunction or administrative order, without Purchaser's prior written consent. Purchaser's written approval, if granted, will be subject to any "Acknowledgement of Sponsorship" clause in Purchaser's Government Prime Contract, if applicable. Seller shall not use Purchaser's name, photographs, logo, trademark, or other identifying characteristics or that of any of its subsidiaries or affiliates without Purchaser's prior written approval.
- (h) Labor Disputes. The Seller shall notify Purchaser of all impending or existing labor complaints, troubles, disputes or controversies that may affect Seller's ability to perform its obligations under this Agreement. Purchaser shall have no liability or bargaining obligations under any collective bargaining agreement between Seller and its employees. Seller agrees to give Purchaser prompt notice of any union organization with respect to its employees.
- (i) Security Interest. If items are bailed to Seller or progress payments made, Seller grants Purchaser a security interest in equipment, machinery, contract rights, inventory, goods, merchandise and raw materials, whether now existing or hereafter arising, and any replacements, improvements, substitutions, attachments, accessories and accessions thereto or thereon provided by Purchaser or purchased by Seller with progress payments or advances made by Purchaser and to be used by Seller in manufacturing products ordered by Purchaser under this Agreement. Seller agrees to execute and deliver all documents requested by Purchaser to protect and maintain Purchaser's security interest.
- (j) Offset Requirements. All offset or countertrade credit value resulting from this Agreement shall accrue solely to the benefit of Purchaser. Seller agrees to cooperate with Purchaser in the fulfillment of any foreign offset/countertrade obligations.

- (k) Gifts and Gratuities. Officers, employees and agents of Purchaser are prohibited from soliciting or accepting entertainment, gifts, gratuities, compensation or favors from Seller ("Gifts and Gratuities Policy"). Seller shall at all times comply with the Gifts and Gratuities Policy. When Seller believes that a violation of the Gifts and Gratuities Policy may have occurred, Seller shall promptly report the potential violation to Purchaser by using the supplier hot line (1-800-443-3632) or (+1 513-243-6922) or by reporting it in writing. Purchaser may terminate this Agreement if Seller violates the Gifts and Gratuities Policy. Alternatively, Purchaser may require Seller to provide proof that it has implemented internal management controls sufficient to prevent future violations.
- (l) Integrity Guide. Seller shall act in a manner consistent with Purchaser's *Integrity Guide for Suppliers, Contractors and Consultants*, a copy of which can be found at [http://www.geaviation.com/aboutgeae/doingbusinesswith/geae\\_po\\_requirements.html](http://www.geaviation.com/aboutgeae/doingbusinesswith/geae_po_requirements.html).
- (m) Non-Profit Institutions. If Seller is a non-profit institution, the foregoing terms shall be modified as follows:
  - i) Any references to indemnification shall be limited to such indemnification permitted by law.
  - ii) Set-off is not applicable to non-profit institutions.
  - iii) Governing law shall be that of the jurisdiction under which the non-profit institution is chartered.

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 APPENDIX I: FAR AND DOD FAR SUPPLEMENT CLAUSES; UK MOD REQUIREMENTS

This Appendix I applies to all U.S. Government Subcontracts:

- 01. **SUSPENSION/DEBARMENT:** The Seller shall provide immediate notice to Purchaser in the event of being suspended, debarred or declared ineligible by any federal agency, or upon receipt of a notice of proposed debarment during the performance of this Agreement.
- 02. **DUTY FREE IMPORT:** If a domestic Seller intends to procure any materials from offshore (non U.S.) concerns, and to obtain duty free import under Purchaser's Prime Contract, Seller must obtain permission from Purchaser and advise Purchaser, in writing, of Seller's offshore order number and value.
- 03. **ANTI-KICKBACK:** By acceptance of this Agreement, Seller certifies that it has not paid any kickbacks and is in compliance with the Anti-Kickback Act of 1986, 41 U.S.C. 51-58, and further, Seller agrees to indemnify Purchaser for any costs, liabilities or administrative offsets incurred by Purchaser as a result of violations or alleged violations of FAR 52.203-7, "Anti-Kickback Procedures", by Seller, its employees, its subcontractors or their employees.
- 04. **PRICING:** When costs are a factor in any determination of the price to be paid hereunder, including price adjustments pursuant to the Changes Article above, or any other provision of this Agreement, such cost shall be in accordance with part 31 of the FAR and the DFARS in effect under Purchaser's Prime Contract.
- 05. **TECHNICAL DATA:** Seller shall indemnify Purchaser for any withholdings, claims, damages and expenses resulting from any assertion by the Government of its rights under DFARS 252.227-7030, "Technical Data - Withholding of Payment" and DFARS 252.246-7001, "Warranty of Data", and arising in whole or in part out of any failure by Seller to deliver technical data or any deficiency in said technical data as delivered, including, but not limited to, the presence of restrictive markings thereon not specifically authorized by this Agreement.
- 06. **PURCHASER'S PROPERTY:** Paragraph (a) of the Purchaser's Property article shall not be deemed to affect the rights, if any, of the U.S. Government in any such property or to grant any rights to Purchaser in conflict with DFARS 252.227-7013, Rights in Technical Data Noncommercial Items, DFARS 252.227-7014 Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation, or DFARS 252.227-7015 Technical Data-Commercial Items.
- 07. **TERMINATION FOR CONVENIENCE:** Upon termination for convenience under this Agreement, Seller shall submit a final termination settlement to Purchaser in the form prescribed by Purchaser, and in accordance with applicable portions of subparts 49.1, 49.2 and 49.3 of the FAR. If Seller is a non-profit, FAR 52.249-5, Termination for Convenience of the Government (Educational and Other Nonprofit Institutions) also applies, with the following changes: delete paragraph (h), in paragraph (c) change "120 days" to "60 days", and in paragraph (d) change "1 year" to "60 days."
- 08. **PRICE REDUCTION FOR DEFECTIVE COST OR PRICING:** If any price, including profit or fee, negotiated in connection with this Agreement or any modification thereof or any cost reimbursable under this Agreement, including modifications thereof, was increased by any significant sums because:

- a. Seller furnished cost or pricing data, which was not accurate, complete and current as certified in Seller's certificate of current cost or pricing data;
- b. A subcontractor of Seller pursuant to the clauses of this Agreement entitled "Subcontractor Cost or Pricing Data--Modifications", or any Subcontract clause therein required, furnished cost or pricing data, which was not accurate, complete and current as certified in Seller's Certificate of Current Cost or Pricing Data;
- c. A subcontractor or prospective subcontractor of Seller furnished cost or pricing data which was required to be accurate, complete and current and to be submitted to support a Subcontract cost estimate furnished by the subcontractor but which was not accurate, complete and current as of the date certified in the subcontractor's Certificate of Current Cost or Pricing Data; or
- d. If Seller or its subcontractor, or prospective Seller or its subcontractor furnished any data, not within (a), (b), or (c) above, which was not accurate, complete, and current as submitted, then the price or cost shall be reduced accordingly and the applicable purchase order(s) shall be modified in writing as may be necessary to reflect such reduction.

Seller agrees to indemnify Purchaser for any costs, liabilities, and expenses resulting from failure of Seller or any subcontractor or supplier of any tier hereunder, incurred by Purchaser as a result of Seller's or its subcontractor's defective cost or pricing data.

09. **GOVERNMENT PROPERTY/MATERIAL:** All special tooling and special test equipment, the full cost or a substantial portion of which is charged to Purchaser under this Agreement, or is furnished by Purchaser to Seller for performance under this Agreement, shall be controlled and accounted for in accordance with Purchaser's then current tooling supplement, remark E21 (formerly GT75T). Seller shall provide Purchaser with written notice, at least sixty (60) days in advance, of Seller's intention to acquire or fabricate special test equipment in support of the requirements under this Agreement. If U.S. Government property is provided for use on this Agreement (or charged to a cost reimbursement or time and materials order), Seller shall maintain and administer, in accordance with FAR part 45.5, a program for the utilization, maintenance, protection, preservation and accountability of such property, and Seller shall comply with all applicable provisions of FAR part 45 regarding the use, control, and responsibility for such U.S. Government property.
10. **GOVERNMENT FACILITIES:** Unless this Agreement authorizes the use of U.S. Government-owned facilities, Seller must negotiate the use of U.S. Government owned facilities used in the manufacture of Goods purchased hereunder with the appropriate U.S. Government agency furnishing U.S. Government facilities to Seller. All charges to Purchaser for such use must be concurrently billed as a separate item aside from all other costs. If this Agreement authorizes rent-free use of U.S. Government facilities, Seller agrees that it will not directly or indirectly, through overhead charges or otherwise, seek reimbursement under this Agreement for any rental charge paid by the Seller for the use on other contracts of the facilities referred to herein. Any subcontract issued by Seller under this Agreement, which authorizes the subcontractor to use U.S. Government facilities on a no-charge basis shall contain a provision to the same effect.
11. **DIRECT SHIPMENTS TO THE U.S. GOVERNMENT:** If deliveries of Goods including data under this Agreement are to be made directly to the U.S. Government, Seller agrees to prepare and distribute the DOD form 250, "Material Inspection and Receiving Report", as set forth in part 53 of DFARS, and to enter thereon the price of all U.S. Government Furnished Material (GFM) included in items delivered to the U.S. Government. The U.S. Government has agreed that the U.S. Government will make the price of GFM available to Seller. However, no delivery shall be delayed by reason of failure of the U.S. Government to furnish such prices to Seller. Seller shall include a similar provision in any subcontract issued under this Agreement.
12. **SELLER'S EMPLOYEES:** Seller agrees to notify Purchaser of any employee doing work under this Agreement who has performed work, advised, or was previously employed, by the U.S. government and may be subject to conflict of interest and "revolving door" restrictions. As such, Seller agrees to implement appropriate conflict of interest screening mechanisms with respect to persons assigned to Purchaser's account. Seller also represents and certifies that it and its employees assigned to Purchaser's account shall comply with all such conflict of interest regulations and laws, including but not limited to: 5 C.F.R. §§ 2635 et seq., 18 U.S.C. §§ 203, 204, 207, and 208, and FAR Subpart 3.104 et seq.
13. **PROCUREMENT INTEGRITY:** Seller agrees to comply with the requirements of section 27 of the "Office of Federal Procurement Policy Act" (41 U.S.C. 423), as amended by section 814 of Public Law 101-189, and with the implementing regulations contained in FAR 3.104, and agrees to indemnify Purchaser for any costs

and liabilities incurred by Purchaser as a result of violations of the act or regulations by Seller, its employees, its agents, its consultants, or subcontractors, or their employees.

14. **CONDITIONAL GOVERNMENT SOURCE INSPECTION:** During the performance of this Agreement, Seller's quality control system, inspection system and manufacturing processes are subject to review, verification and analysis by authorized Government representatives. Inspection and release of Goods covered by this Agreement by a U.S. Government representative prior to shipment is not required unless Seller is otherwise notified.
15. **COST ACCOUNTING STANDARDS ("CAS"):** (Applicable when CAS is incorporated in this Agreement.) Seller agrees to indemnify Purchaser for any costs, liabilities, and other expenses that result from Seller's failure to comply with an applicable cost accounting standard, or failure to comply with Public Laws 91-379 and 100-679.
16. **SUPPLIER CODE OF ETHICS:** The Seller is put on notice that FAR 52.203-13 requires the Seller to have a code of business ethics and conduct if the contract meets the criteria for applicability. If the Seller is unable to establish such a code or requires assistance in doing so, Seller shall contact Purchaser for assistance. It is the responsibility of the Seller to ensure that this clause is properly flowed down in subcontracts that meet the clause criteria.
17. **REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACTS AWARDS.** Supplier agrees to timely provide Purchaser with any and all information as required by FAR 52.204-10 and acknowledges that such information, if provided, will be made publicly available pursuant to such clause.
18. **COMPLIANCE WITH SERVICE CONTRACT ACT OF 1965 ("SCA") REQUIREMENTS.** Seller agrees to comply with the requirements of the SCA, as amended (41 U.S.C. 351, et seq.), including the implementing regulations set forth in Subpart 22.10 and clause 52.222-41 of the FAR. Prior to commencement of performance of Services under this Agreement, Supplier shall request from the Purchaser the applicable wage determination applicable to this Agreement and shall submit any required wage classifications to the Purchaser for submission to the Contracting Officer, and Seller shall not commence performance until receipt of the final wage determination from the Seller. Seller agrees to indemnify Purchaser for any costs, liabilities and expenses, including but not limited to any withholdings, deductions, reimbursements of profits of fees, fines, penalties, loss of business due to suspension or debarment, or costs and expenses otherwise incurred by Purchaser as a result of any assertion or determination that Seller has failed to comply, in whole or in part, with its obligations set forth in the SCA, or in the implementing regulations (FAR Subpart 22.10) and applicable flowdown clauses (FAR 52.222.41).
19. **FAR AND DOD FAR SUPPLEMENT CLAUSES:** The following clauses and those in subsequent appendices in effect on date of any orders issued pursuant to the Agreement are hereby incorporated by reference, to the extent they apply to Purchaser's Prime Contract or with a higher tier U.S. Government contractor. However, in the event of a conflict between the clauses listed below and the Purchaser's Prime Contract, the Purchaser's Prime Contract shall prevail. Where applicable, the terms "government", "Contracting Officer", and similar terms shall mean Purchaser, and the term "Contractor" and similar terms shall mean Seller. The full text of a clause may be accessed electronically at URL: <http://farsite.hill.af.mil/vffar1.htm>

## **FAR CLAUSES**

52.202-1	DEFINITIONS
52.203-3	GRATUITIES
52.203-5	COVENANT AGAINST CONTINGENT FEES
52.203-6	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT
52.203-7	ANTI-KICKBACK PROCEDURES
52.203-10	PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY
52.203-12	LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS
52.203-13	CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT
52.203-14	DISPLAY OF HOTLINE POSTER(S)
52.203-15	WHISTLEBLOWER PROTECTIONS UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009
52.204-2	SECURITY REQUIREMENTS
52.204-4	PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER
52.204-9	PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL
52.204-10	REPORTING EXECUTIVE COMPENSATION AND FIRST TIER SUBCONTRACT AWARDS

52.204-11 THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 REPORTING REQUIREMENTS  
52.209-6 PROTECTING THE GOVERNMENT’S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS  
DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT

52.211-5 MATERIAL REQUIREMENTS  
52.211-15 DEFENSE PRIORITY AND ALLOCATION REQUIREMENTS  
52.214-26 AUDIT AND RECORDS-SEALED BIDDING  
52.214-28 SUBCONTRACTOR COST OR PRICING DATA-MODIFICATIONS-SEALED BIDDING  
52.215-2 AUDIT AND RECORDS—NEGOTIATION  
52.215-12 SUBCONTRACTOR COST OR PRICING DATA  
52.215-13 SUBCONTRACTOR COST OR PRICING DATA –MODIFICATIONS  
52.215-14 INTEGRITY OF UNIT PRICES  
52.215-15 PENSION ADJUSTMENTS AND ASSET REVERSIONS  
52.215-18 REVERSION OR ADJUSTMENT OF PLANS FOR POSTRETIREMENT BENEFITS (PRB) OTHER THAN  
PENSIONS

52.215-19 NOTIFICATION OF OWNERSHIP CHANGES  
52.215-20 REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING  
DATA  
52.215-21 REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING  
DATA—MODIFICATIONS

52.215-22 LIMITATIONS ON PASS-THROUGH CHARGES –IDENTIFICATION OF SUBCONTRACT EFFORT  
52.215-23 LIMITATIONS ON PASS-THROUGH CHARGES  
52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS  
52.219-9\* SMALL BUSINESS CONTRACTING PLAN  
52.222-3\* CONVICT LABOR  
52.222-4\* CONTRACT WORK HOURS AND SAFETY STANDARDS ACT – OVERTIME COMPENSATION  
52.222-19 CHILD LABOR – COOPERATION WITH AUTHORITIES AND REMEDIES  
52.222-20\* WALSH-HEALEY PUBLIC CONTRACTS ACT  
52.222-21 PROHIBITION OF SEGREGATED FACILITIES  
52.222-26\* EQUAL OPPORTUNITY  
52.222-35\* EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA,  
AND OTHER ELIGIBLE VETERANS

52.222-36\* AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES  
52.222-37\* EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA,  
AND OTHER ELIGIBLE VETERANS

52.222-40 NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT  
52.222-41 SERVICE CONTRACT ACT OF 1965  
52.222-50 COMBATTING TRAFFICKING IN PERSONS  
52.222-54 EMPLOYMENT ELIGIBILITY VERIFICATION  
52.223-3 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA  
52.223-15 ENERGY EFFICIENCY IN ENERGY-CONSUMING PRODUCTS  
52.223-18 CONTRACTOR POLICY TO BAN TEXT MESSAGING WHILE DRIVING  
52.225-1 BUY-AMERICAN ACT-SUPPLIES  
52.225-2 BUY AMERICAN ACT CERTIFICATE  
52.225-5 TRADE AGREEMENTS  
52.225-8 DUTY-FREE ENTRY  
52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES  
52.226-1 UTILIZATION OF INDIAN ORGANIZATIONS AND INDIAN-OWNED ECONOMIC ENTERPRISES  
52.227-1 AUTHORIZATION AND CONSENT  
52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT  
52.227-9 REFUND OF ROYALTIES  
52.227-10 FILING OF PATENT APPLICATIONS--CLASSIFIED SUBJECT MATTER  
52.227-11 PATENT RIGHTS-OWNERSHIP BY THE CONTRACTOR  
52.227-13 PATENT RIGHTS-OWNERSHIP BY THE GOVERNMENT  
52.228-3 WORKER’S COMPENSATION INSURANCE (DEFENSE BASE ACT)  
52.228-4 WORKER’S COMPENSATION AND WAR-HAZARD INSURANCE OVERSEAS  
52.228-5 INSURANCE – WORK ON A GOVERNMENT INSTALLATION  
52.232-16 PROGRESS PAYMENTS  
52.232-32 PERFORMANCE-BASED PAYMENTS  
52.234-1 INDUSTRIAL RESOURCES DEVELOPED UNDER DEFENSE PRODUCTIONS ACT TITLE III

52.242-15 STOP-WORK ORDER  
52.244-5 COMPETITION IN SUBCONTRACTING  
52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS  
52.245-1 GOVERNMENT PROPERTY INSTALLATION OPERATION SERVICES  
52.245-9 USE AND CHARGES  
52.247-1 COMMERCIAL BILL OF LADING NOTATIONS  
52.247-63 PREFERENCE FOR U.S.-FLAG AIR CARRIERS  
52.247-64 PREFERENCE FOR PRIVATELY OWNED U.S.-FLAG COMMERCIAL VESSELS  
52.248-1 VALUE ENGINEERING  
52.249-14 EXCUSABLE DELAYS

**DOD FAR SUPPLEMENT (DFARS) CLAUSES**

252.203-7001 PROHIBITION ON PERSONS CONVICTED OF FRAUD OR OTHER DEFENSE-CONTRACT-RELATED FELONIES  
252.204-7000 DISCLOSURE OF INFORMATION  
252.204-7008 EXPORT-CONTROLLED ITEMS  
252.209-7004 SUBCONTRACTING WITH FIRMS THAT ARE OWNED OR CONTROLLED BY THE GOVERNMENT OF A TERRORIST COUNTRY  
252.211-7000 ACQUISITION STREAMLINING  
252.211-7003 ITEM IDENTIFICATION AND VALUATION  
252.215-7000 PRICING ADJUSTMENTS  
252.219-7003\* SMALL BUSINESS SUBCONTRACTING PLAN (DOD CONTRACTS)  
252.222-7006 ADDITIONAL REQUIREMENTS AND RESPONSIBILITIES RESTRICTING THE USE OF MANDATORY ARBITRATION AGREEMENTS  
525.223-7008 PROHIBITION OF HEXAVALENT CHROMIUM  
252.225-7001 BUY AMERICAN ACT AND BALANCE OF PAYMENTS PROGRAM  
252.225-7002 QUALIFYING COUNTRY SOURCES AS SUBCONTRACTORS  
252.225-7003 REPORT OF INTENDED PERFORMANCE OUTSIDE THE UNITED STATES AND CANADA – SUBMISSION WITH OFFER  
252.225-7004 REPORT OF INTENDED PERFORMANCE OUTSIDE THE UNITED STATES AND CANADA – SUBMISSION AFTER AWARD  
252.225-7006 QUARTERLY REPORTING OF ACTUAL CONTRACT PERFORMANCE OUTSIDE THE UNITED STATES  
252.225-7009\*\* RESTRICTION ON ACQUISITION OF CERTAIN ARTICLES CONTAINING SPECIALTY METALS  
252.225-7007 PROHIBITION ON ACQUISITION OF UNITED STATES MUNITIONS LIST ITEMS FROM COMMUNIST CHINESE MILITARY COMPANIES (SEP 2006)  
252.225-7013 DUTY-FREE ENTRY  
252.225-7015 PREFERENCE FOR DOMESTIC HAND OR MEASURING TOOLS  
252.225-7016 RESTRICTION ON ACQUISITION OF BALL AND ROLLER BEARINGS  
252.225-7019 RESTRICTION ON ACQUISITION OF ANCHOR AND MOORING CHAIN  
252.225-7021 TRADE AGREEMENTS  
252.225-7022 TRADE AGREEMENTS CERTIFICATE-INCLUSION OF IRAQI END PRODUCTS  
252.225-7025 RESTRICTION ON ACQUISITION OF FORGINGS  
252.225-7028 EXCLUSIONARY POLICIES AND PRACTICES OF FOREIGN GOVERNMENTS  
252.225-7030 RESTRICTION ON ACQUISITION OF CARBON, ALLOY, AND ARMOR STEEL PLATE  
252.225-7032 WAIVER OF UNITED KINGDOM LEVIES EVALUATION OF OFFERS  
252.225-7033 WAIVER OF UNITED KINGDOM LEVIES  
252.225-7036 BUY AMERICAN ACT-FREE TRADE AGREEMENT -BALANCE OF PAYMENTS PROGRAM  
252.225-7037 EVALUATION OF OFFERS FOR AIR CIRCUIT BREAKERS  
252.225-7038 RESTRICTION ON ACQUISITION OF AIR CIRCUIT BREAKERS  
252.225-7993 PROHIBITION ON CONTRACTING WITH THE ENEMY IN THE UNITED STATES CENTRAL COMMAND THEATER OF OPERATIONS  
252.225-7994 ADDITIONAL ACCESS TO CONTRACTOR AND SUBCONTRACTOR RECORDS IN THE UNITED STATES CENTRAL COMMAND THEATER OF OPERATIONS  
252.226-7001 UTILIZATION OF INDIAN ORGANIZATIONS, INDIAN-OWNED ECONOMIC ENTERPRISES, AND NATIVE HAWAIIAN SMALL BUSINESS CONCERNS  
252.227-7013 RIGHTS IN TECHNICAL DATA-NONCOMMERCIAL ITEMS  
252.227-7014 RIGHTS IN NONCOMMERCIAL COMPUTER SOFTWARE AND NONCOMMERCIAL COMPUTER SOFTWARE DOCUMENTATION  
252.227-7015 TECHNICAL DATA—COMMERCIAL ITEMS

252.227-7016 RIGHTS IN BID OR PROPOSAL INFORMATION  
252.227-7017 IDENTIFICATION AND ASSERTION OF USE, RELEASE, OR DISCLOSURE RESTRICTIONS  
252.227-7018 RIGHTS IN NONCOMMERCIAL TECHNICAL DATA AND COMPUTER SOFTWARE--SMALL BUSINESS INNOVATIVE RESEARCH (SBIR) PROGRAM  
252.227-7019 VALIDATION OF ASSERTED RESTRICTIONS – COMPUTER SOFTWARE  
252.227-7020 RIGHTS IN SPECIAL WORKS  
252.227-7021 RIGHTS IN DATA--EXISTING WORKS  
252.227-7025 LIMITATIONS ON THE USE OR DISCLOSURE OF GOVERNMENT-FURNISHED INFORMATION MARKED WITH RESTRICTIVE LEGENDS  
252.227-7026 DEFERRED DELIVERY OF TECHNICAL DATA OR COMPUTER SOFTWARE (IF DELIVERY OF TECHNICAL DATA REQUIRED)  
252.227-7027 DEFERRED ORDERING OF TECHNICAL DATA OR COMPUTER SOFTWARE (IF DELIVERY OF TECHNICAL DATA IS REQUIRED)  
252.227-7028 TECHNICAL DATA OR COMPUTER SOFTWARE PREVIOUSLY DELIVERED TO THE GOVERNMENT  
252.227-7030 TECHNICAL DATA—WITHHOLDING OF PAYMENT (1%)  
252.227-7032 RIGHTS IN TECHNICAL DATA AND COMPUTER SOFTWARE (FOREIGN  
252.227-7037 VALIDATION OF RESTRICTIVE MARKINGS ON TECHNICAL DATA  
252.227-7038 PATENT RIGHTS-OWNERSHIP BY THE CONTRACTOR (LARGE BUSINESS)  
252.227-7039 PATENTS--REPORTING OF SUBJECT INVENTIONS  
252.232-7004 DOD PROGRESS PAYMENT RATES (APPLIES ONLY IF SPECIFIED IN ORDER  
252.234-7002 EARNED VALUE MANAGEMENT SYSTEM  
252.235-7003 FREQUENCY AUTHORIZATION  
252.236-7013 REQUIREMENT FOR COMPETITION OPPORTUNITY FOR AMERICAN STEEL PRODUCERS, FABRICATORS, AND MANUFACTURERS (REQUIRED BY DFARS 252.244-7000)  
252.242-7005 CONTRACTOR BUSINESS SYSTEMS  
252.243-7001 PRICING OF CONTRACT MODIFICATIONS  
252.244-7000 SUBCONTRACTS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS (DOD CONTRACTS)  
252.246-7001 WARRANTY OF DATA  
252.246-7003 NOTIFICATION OF POTENTIAL SAFETY ISSUES (REQUIRED BY DFARS 252.244-7000)  
252.247-7023 TRANSPORTATION OF SUPPLIES BY SEA  
252.247-7024 NOTIFICATION OF TRANSPORTATION OF SUPPLIES BY SEA  
252.249-7002 NOTIFICATION OF PROPOSED PROGRAM TERMINATION OR REDUCTION

**IF AN ORDER IS PLACED UNDER A NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) PRIME CONTRACT, THE FOLLOWING NASA FAR SUPPLEMENT CLAUSES APPLY:**

1852.204-76 SECURITY REQUIREMENTS FOR UNCLASSIFIED AUTOMATED INFORMATION RESOURCES  
1852.208-81 RESTRICTIONS ON PRINTING AND DUPLICATING  
1852.217-70 PROPERTY ADMINISTRATION AND REPORTING  
1852.219-74 USE OF RURAL AREA SMALL BUSINESSES  
1852.219-75 SMALL BUSINESS SUBCONTRACTING REPORTING  
1852.219-76 NASA 8% GOAL  
1852.223-70 SAFETY AND HEALTH (APPLIES TO ORDERS IN EXCESS OF \$1,000,000 OR THAT INVOLVE USE OF HAZARDOUS MATERIALS OR OPERATIONS)  
1852.227-11 PATENT RIGHTS-RETENTION BY THE CONTRACTOR (SHORT FORM)  
1852.227-14 RIGHTS IN DATA – GENERAL  
1852.227-70 NEW TECHNOLOGY (DOES NOT APPLY TO SMALL BUSINESS FIRM OR NONPROFIT ORG - 52.227-11)  
1852.227-71 REQUESTS FOR WAIVER OF RIGHTS TO INVENTIONS  
1852.227-72 DESIGNATION OF NEW TECHNOLOGY AND PATENT REPRESENTATIVE  
1852.227-85 INVENTION REPORTING AND RIGHTS – FOREIGN  
1852.242-73 NASA CONTRACTOR FINANCIAL MANAGEMENT REPORTING  
1852.244-70 GEOGRAPHIC PARTICIPATION IN THE AEROSPACE PROGRAM  
1852.245-73 FINANCIAL REPORTING OF NASA PROPERTY IN THE CUSTODY OF CONTRACTORS

\* Indicates the provision is not applicable to international suppliers when work is performed outside the United States and its possessions.

\*\* Use of exceptions not permitted without advance seller notification and prior purchaser approval. Paragraph (d) of this clause is excluded.

20. **UK MOD Requirements and DEFCONs:** The parties recognize that some or all of the Goods and Services that are the subject of this Agreement may be used to satisfy requirements in furtherance of Purchaser's performance under a U.K. Ministry of Defence (MOD) prime or sub-contract. Accordingly, Seller agrees that in that instance it shall be bound by the Defence Conditions ("DEFCONs") and narrative clauses detailed on the face of Purchaser's orders issued under this Agreement. Where applicable specific DEFCONs will be given effect by substituting "Purchaser" for "the Authority", and "Seller" for "the Seller". Quality assurance activity shall be carried out at Seller's premises if specified by the MOD QAR who will advise Seller accordingly. Seller undertakes to observe the terms and conditions of the relevant Government Contracts and accepts, mutatis mutandis, in respect of the Goods and Services, the obligations and liabilities on the part of Purchaser contained in such terms and conditions, including but not limited to HMG Security Policy Framework (SPF), Industrial Security Notices (ISNs) and, in the case of List X companies, List X Notices (LXNs).

HMG SPF can be found at:

<http://www.cabinetoffice.gov.uk/spf>

Copies of DEFCONs can be found at:

<http://www.aof.mod.uk/aofcontent/tactical/toolkit/content/defcons/defcon.htm>

Guidance on ISNs can be found at:

<http://www.mod.uk/DefenceInternet/AboutDefence/WhatWeDo/SecurityandIntelligence/DESPSYA/IndustrialSecurityInformationForDefenceContractors.htm>; and

<http://www.mod.uk/DefenceInternet/AboutDefence/CorporatePublications/SecurityandIntelligencePublications/ISS/IndustrySecurityNoticesisns.htm>.

Guidance for List X companies can be obtained from MOD Defence Equipment & Support Principal Security Advisor at:

<http://www.mod.uk/despsya>

20. Without prejudice to Purchaser's other rights under this Agreement, if the Goods and Services or any part of it is required to fulfill a contract for any other country's government department or authority, Seller undertakes to observe the terms and conditions of the relevant government contracts and accepts, mutatis mutandis, in respect of the Goods and Services, the obligations and liabilities on the part of Purchaser contained in such terms and conditions. Further the Goods and Services (or such part of it as appropriate) shall be deemed to be the subject of a sub-contract made under such terms and conditions as may be in force from time to time under that contract for the said department or authority and any right of termination exercisable by the department or authority in question shall be equally exercisable by Purchaser in relation to the Seller.

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APPENDIX II: SUPPLEMENTARY TERMS AND CONDITIONS FOR COST REIMBURSEMENT ORDERS

This Appendix II supplements Appendix I and applies only to U.S. Government Cost-Reimbursement orders issued under Agreement:

01. **INSPECTION AND NON-CONFORMANCE.** Inspection shall be accomplished in accordance with FAR 52.246-8, Inspection of Research and Development--Cost Reimbursement.
02. **PAYMENT TERMS.** The "Payment Terms" Article in this Agreement is supplemented by the following: "If this is a cost type purchase order, the frequency of invoicing shall be as stated in the body of this purchase order, and unless otherwise stated, shall not be more frequent than once each thirty (30) calendar days. Invoices will be processed for payment in accordance with Purchaser's standard terms of settlement. Payment will require approval of the invoice by the buyer or a designated representative."
03. **MODIFIED ARTICLES.**
- a. The "Changes" Article is deleted and replaced with FAR 52.243-2, alt v., Changes - cost reimbursement.
  - b. The Termination for Convenience paragraph in the "Termination" Article is modified to add a reference to FAR 52.249-6, Termination (Cost Reimbursement) with the following changes: deletes paragraphs (e)



