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GENERAL TERMS AND CONDITIONS FOR ALL PURCHASE ORDERS



GENERAL TERMS AND CONDITIONS FOR ALL PURCHASE ORDERS

1. DEFINITIONS

As used throughout this Order, the following definitions apply unless otherwise specifically stated:

Buyer:	Fairlead Integrated, LLC, its affiliate Fairlead Boatworks, Inc. and all subsidiaries of either entity.
Customer:	The party that issues the Prime Contract to Buyer.
Government:	The United States Government.
Order:	This contractual instrument, including all changes and/or modifications thereto.
Party/Parties:	Either/both of Buyer and Seller.
Prime Contract:	The contract that is awarded to Buyer, and on the basis of which the Order is issued.
Seller:	The recipient of this Order.
Supplies:	The goods and/or services ordered hereunder.

2. COMPLETE AGREEMENT

This Order sets forth the entire agreement between the Parties hereto and supersedes all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. All special terms and conditions or supplemental attachments, schedules, exhibits or appendices which may be annexed hereto or referenced herein by the Buyer, are made part of this Order as though fully set forth herein.

3. ORDER ACCEPTANCE

Seller's written acknowledgement of the Order, its commencement of any performance under the Order, or acceptance of any payment under the Order, shall constitute Seller's unqualified and irrevocable acceptance of this Order subject solely to these terms and conditions. In the event that this Order does not state price or delivery terms, Buyer will not be bound to any prices or delivery terms to which it has not specifically agreed to in writing. Any terms or conditions proposed by Seller in its acceptance of this Order or in any other manner that are inconsistent with or in addition to the terms and conditions contained in this Order shall be void and of no effect unless specifically agreed to in writing by Buyer, regardless of whether or not such proposed Seller terms and conditions materially alter this Order and irrespective of any payment by Buyer hereunder.

4. QUALITY MANAGEMENT SYSTEM REQUIREMENTS

The following additional conditions apply to all orders.

- a) Final Approval – Buyer reserves the right of final approval of product, procedures, processes, and equipment
- b) Qualified Personnel – Seller shall ensure work required by this purchase order be performed by qualified personnel.
- c) Quality Management System – Seller shall notify Buyer of any changes to Quality Certifications.
- d) Technical Data – Seller shall maintain proper identification and revision status of specifications, drawings, process requirements, inspection/verification instructions and other relevant technical data. Buyer reserves the right to approve or specify requirements for design, test, inspection, verification (including process verification), use of statistical techniques for product acceptance, and related instructions for product acceptance and any applicable critical items, including key characteristics.
- e) Test Specimens – Buyer reserves the right to designate requirements for test specimens for design approval, inspection/verification or auditing.
- f) Notifications – Seller is required to notify Buyer of:
 - Nonconforming product and obtain Buyer approval for disposition of nonconforming product;
 - Changes in product and/or process, changes to suppliers, and changes to manufacturing locations, and obtain Buyer approval to proceed;
 - Events requiring repeat of first article as defined by AS9102 shall be performed at the Seller's expense and be performed in a manner that does not disrupt established delivery schedules.
- g) Flow Down – Seller shall flow down all applicable Buyer requirements to all the Seller's suppliers or subcontractors.
- h) Record Retention – Seller shall retain all records related to this Order for three (3) years following completion of this Order and acceptance of the Supplies by Buyer and shall notify Buyer prior to destruction of such records.



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- i) Right of Access – Seller grants Buyer right of access to Buyer, Buyer’s Customer(s), and regulatory authorities to applicable areas of all facilities, at any level of the supply chain, involved in this Order and to all applicable records.

5. DELIVERY

Shipments made pursuant to this Order will be FOB Destination unless otherwise negotiated with Buyer and stated on the Purchase Order. Unless otherwise specified, Seller hereby agrees to the following:

- a) Early Delivery – Buyer will accept deliveries no earlier than 10 business days before Purchase Order due date. Buyer reserves the right to refuse shipments made earlier than the allowed early delivery schedule set forth in this Order. Buyer may return early deliveries at Seller’s expense. Seller bears the risk of loss of all Items delivered in advance of the early delivery date specified in Buyer’s delivery schedules.
- (b) Over-shipment – Buyer is not obligated to pay for any over-shipments unless prior to delivery, Seller obtains Buyer’s written authorization for the Order line items against which an over-shipment is made. At Buyer’s discretion, unauthorized over-shipments will be returned to the Seller at Seller’s sole expense. In such an event, Seller may notify the Buyer in writing, that return of the over-shipped items is uneconomical, and that therefore, Seller is abandoning the over-shipped items. Buyer may either retain or dispose of the abandoned items without additional payment to Seller.
- (c) Late Deliveries –
- (1) Individual Order line-item deliveries made after the specified line item delivery date are considered Late, and may be refused by Buyer.
 - (2) If Buyer agrees to accept Late Deliveries, the parties agree that delays which are not excusable under the terms of this Order, or otherwise mutually agreed to by the Parties, shall be subject to liquidated damages assessed as follows:
 - (i) One percent (1%) per day of the Order line item’s value, up to a maximum amount of ten percent (10%) of the total Order value.
 - (ii) The liquidated penalty amount shall be subtracted from the Order’s total value prior to payment.
 - (3) Buyer’s right hereunder to recover liquidated damages for Seller’s delayed delivery is not an exclusive remedy for delay and shall be in addition to all other rights and remedies that Buyer has under this Order and at law and equity. If the delivery delay was as a result of any action taken on the part of the Buyer, the Seller shall notify the Buyer in writing at the time the delay occurs requesting Buyer waive any liquidated damages assessment. Failure to notify Buyer will result in the liquidated damages being assessed in accordance with Section 5(c)(2). Seller may not refuse shipment of any required Order line item in order to avoid the associated liquidated damages assessment. Failure to deliver any Order line item may result in Buyer’s action under the Delay and Default clause.
 - (4) If Buyer agrees to accept deliveries after the delivery date has passed, Buyer shall have the right to direct Seller to make shipments by the most expeditious means and all costs of such expedited shipment and handling shall be borne by Seller.
 - (5) Acceptance of late deliveries shall not be deemed a waiver of Buyer’s right to hold Seller liable for any loss or damage resulting therefrom, nor shall it act as a modification of Seller’s obligation to make future deliveries in accordance with the delivery schedule set forth in this Order.
 - (6) Seller at the request of the Buyer, shall provide:
 - (i) A written explanation for the delay’s root cause;
 - (ii) A corrective action plan to address the late delivery’s cause and to prevent future delivery delays, and
 - (iii) Stated assurances that future deliveries shall be in accordance with the Order’s requirements and schedule.



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6. ACCEPTANCE OF GOODS AND SERVICES BY SELLER

- (a) All goods and/or services provided by Seller under this Order shall be in accordance with the requirements of this Order, including all applicable exhibits and attachments, and shall be subject to rejection if such goods and/or services are nonconforming. No inspection or evaluation performed by Buyer (and/or Buyer's customer, if applicable) shall in any way relieve Seller or its suppliers of their obligation to furnish all required goods and/or services in strict accordance with the requirements of this Order. If any of the goods and/or services provided hereunder do not conform to the requirements of this Order, Buyer may require Seller to replace the goods or perform the work and/or services again in conformity with the applicable requirements at no cost to Buyer.
- (b) At Buyer's sole option, any rejected items may be returned for credit or for the Seller's repair or replacement at Seller's risk and expense, and all handling and transportation expenses, both ways, shall be assumed by Seller. No items returned as defective shall be replaced without written authorization from Buyer. To the extent that the provision of non-conforming or defective items or Supplies causes Buyer to incur additional costs for the removal or reinstallation of defective items installed as component parts, then the Seller shall also reimburse the Buyer for such additional costs related to the removal and / or replacement of the non-conforming or defective items or Supplies with replacement items or Supplies.
- (c) Acceptance of goods and/or services will be made by Buyer only in writing and through a document entitled "Final Acceptance" issued by Buyer. It is expressly agreed that payment by Buyer to Seller for goods and/or services provided under this Order shall not constitute acceptance. It is further agreed that nothing in this Order shall require Buyer to accept any goods and/or services prior to acceptance thereof by Buyer's customer, if applicable.
- (d) Acceptance shall be conclusive, except for latent defects, fraud, or gross mistakes amounting to fraud.

7. INSPECTION

7.1 *Standard Commercial Items or Supplies*

All standard commercial items or Supplies manufactured by Seller or its supply chain sources shall be subject to inspection and test by Buyer or its representatives at the designated delivery point.

7.2 *Custom Manufactured Items or Supplies*

All Custom Manufactured Items or Supplies shall be subject to Buyer's inspection and test at all times and places, including during the period of manufacture. If any inspection or test is made on Seller's premises, Seller, without additional charge, shall provide all reasonable facilities and assistance for the safety and convenience of Buyer personnel to perform their duties of inspection and test. In the event any Supplies fail the applicable acceptance tests, or are otherwise found not to conform to applicable drawings or specifications, Buyer may:

- (1) Require Seller to repair or replace, at Seller's expense, any Supplies ordered which fail to meet the requirements of applicable specifications, drawings, samples, or descriptions; or
- (2) Repair or replace any such Supplies at Seller's expense, including without limitation, reimbursement or credit to the Buyer for Buyer's cost of removal of nonconforming Supplies, transportation of those Supplies, reinstallation of conforming Supplies if incorporated into other units or equipment or provided to Buyer's Customer(s), and of any testing necessitated by the reinstallation of the replacement Supplies after the non-conforming Supplies have been removed; or
- (3) Reject any such Supplies, hold them at Seller's risk, subject to Seller's disposal, and require Seller to refund the price of such Supplies if already paid by Buyer, and if not paid for, reduce any amounts owing under the Order by the reasonable price attributed to such rejected Supplies.
- (4) Seller shall not return rejected Supplies to Buyer unless notification of such past rejection is submitted with the returns and Buyer has consented to such returns. Seller shall maintain an approved inspection system. A Certificate of Conformance, signed by Seller's Quality Assurance organization, shall accompany each shipment hereunder. Each Certificate of Conformance shall refer specifically to the Supplies being shipped.



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8. PACKING, MARKING AND SHIPPING

Pursuant to any instructions stated in or pursuant to this Order, Seller shall pack, mark and ship all goods and supplies in accordance with the requirements of this Order and so as to be in compliance with all applicable transportation regulations and good commercial practice for protection against damage from weather and shipment, including without limitation, any applicable federal, state and local laws and regulations for the packaging, labeling, transportation and shipping of hazardous materials. Seller shall secure the most advantageous transportation services and rates consistent therewith. No separate or additional charge shall be payable by Buyer for containers, crating, boxing, handling, storage, or any other services unless specifically stated in this Order or otherwise agreed to by Buyer in writing. Any expense incurred by Buyer as a result of improper preservation, packaging, packing, marking or method of shipment shall be reimbursed by Seller. Seller shall mark each container with the number of this Order and shall enclose a packing slip with this Order number in an envelope attached to each container. Any transportation charges paid by Seller for which Seller is entitled to reimbursement shall be shown on Seller's invoice as a separate line item with the receipted freight bill attached to the invoice. If because of Seller's failure to meet the delivery requirements of this Order, it becomes necessary to require shipment of any of the Supplies covered by this Order by a method of transportation other than the method originally specified by Buyer, Seller shall reimburse Buyer any amount by which the cost of the more expeditious method of transportation exceeds the cost of the method of transportation originally specified.

9. NON-US ORIGIN SHIPMENTS

Buyer's Order is being issued to Seller with the expectation that Seller will ship the Order to Buyer from a location within the United States. Any shipments originating outside the customs territory of the United States, will import under the terms of sale Delivered Duty Paid (DDP) Buyer Facility Incoterms 2020. Seller shall communicate its customs clearance instructions to its International Third-Party supplier prior to the product's arrival into the United States to avoid any delays in delivery to Buyer. Under no circumstances is Buyer to be listed as the importer of record (or consignee for shipments delivered via courier) on customs documents for any orders shipped directly to Buyer from a foreign location and Seller expressly agrees to accept all liability associated with said customs entries for any such orders.

10. PAYMENT

Seller shall be paid, upon submission of valid invoices, for materials and Supplies delivered and accepted or for services performed and accepted. Unless otherwise negotiated and stated on the Order, payment terms are 2% 30, 1% 45, and Net 60. Seller may request earlier payment on their invoice, but decision to make earlier payment and accept the discounted price is at the sole discretion of the Buyer. The price or prices applicable shall be those specified in the Order and shall include all applicable U.S. Federal, State and local taxes and will not be changed as a result of the failure by Seller to include any applicable tax or as a result of any change in Seller's tax liabilities. Any taxes imposed by U.S. Federal, State, or local governments, from which Buyer has not claimed exemption, shall be separately stated on the invoice. Buyer shall not be obligated to pay earlier than the scheduled payment date for materials or supplies delivered earlier than required except by prior agreement.

11. TITLE AND RISK OF LOSS

Title to all Supplies to be delivered hereunder shall remain with Seller until such Supplies are delivered and accepted by Buyer at the named delivery point or destination specified elsewhere herein. All risk of loss of, or damage to, Supplies shall remain with Seller until Buyer accepts the Supplies. Seller shall bear all risk of loss of, or damage to, non-conforming Supplies rejected by Buyer, after notice of rejection and until such Supplies are redelivered to Buyer with any non-conformity cured, except for the loss, damage or destruction of such rejected Supplies resulting from the negligence of Buyer, its officers, agents, or employees acting within the scope of their employment.

12. WARRANTY

Seller expressly warrants that all Supplies ordered to any specifications or requirements contained in the Order will conform thereto, and to any drawings, samples or other descriptions furnished or adopted by Buyer, or, if not ordered to specifications, that they will be fit and sufficient for the purpose intended and that all Supplies will be of good quality and workmanship and free from defects. Such warranties, together with Seller's service warranties and guarantees, if any, shall survive inspection, test, acceptance of, and payment for the Supplies, and shall run to Buyer, its successors and assigns, Customers, purchasers (intermediate and immediate) and agents for a period of twelve (12) months after Buyer's or Customer's acceptance of the Supplies, whichever date shall be later. To the extent that the Supplies are also warranted for any longer period or better terms by their manufacturer or by Seller's provider, then said warranties shall also be transferred to an insure to the benefit of Buyer



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in addition to the foregoing Seller provided warranties. Defective or non-conforming Supplies shall be corrected or replaced only upon Buyer's written direction. Supplies required to be corrected or replaced shall be subject to the provisions of this section and the section hereof entitled "INSPECTION" in the same manner and to the same extent any Supplies originally delivered under this Order, but only as to the corrected or replaced part or parts thereof. This express warranty is in lieu of any and all warranties or representations, expressed or implied, to Buyer, Customer(s), or other user of the Supplies except for such further warranties expressly provided in Sections 34 – 36 below.

13. CHANGES

- a) Buyer may by written change order make changes in:
 - (i) U. S. Government security requirements as applicable;
 - (ii) Drawings, designs, specifications; or quantities of goods and/or services to be provided hereunder;
 - (iii) The statement of work or description of required services;
 - (iv) Methods of shipment or packaging delivery schedules, and/or place of delivery;
 - (v) The amount of Buyer-furnished or Customer-furnished property or facilities; and
 - (vi) **The terms of the Warranty provided if Buyer's Customer requires additional warranties beyond those contained in Section 12 above.**
- b) Upon receipt of such change order, Seller shall proceed with performance of this Order as changed by such change order. If any such suspension or change causes a change in the cost of, and/or the time required for performance of this Order, an equitable adjustment shall be made in the price or delivery schedule or both; and this Order shall be modified in writing accordingly. Any claim by Seller for such an adjustment must be made in writing within twenty (20) days from the date of receipt of a written order from Buyer's Purchasing Representative directing such a suspension or change. Failure by the Seller to timely pursue such an adjustment as provided above shall be a full and complete waiver of Buyer's right to later pursue such claim or adjustment. Failure to agree on any such adjustment shall be a dispute within the meaning of the clause of this Order entitled "DISPUTES".
- c) If this Order is placed under a Government Prime Contract, the pricing of any equitable adjustment hereunder, or of any other adjustment under this Order, shall be in accordance with Government contract cost principles including, without limitation, those enunciated in Part 31 of the Federal Acquisition Regulation or similar regulations in effect on the date of this Order.
- d) Constructive changes claimed by the Seller are prohibited under this Order. Information, advice, approvals, or instructions given by Buyer's technical personnel or other representatives shall be deemed expressions of personal opinion only and shall not affect Buyer's and Seller's rights and obligations hereunder unless set forth in a writing which is signed by Buyer's Purchasing Representative and which states that it constitutes an amendment or change to this Order.

14. NOTICE REGARDING LATE DELIVERY

In the event Seller encounters difficulty in meeting performance requirements, or when Seller anticipates difficulty in complying with the Order's delivery schedule or date, Seller shall immediately notify Buyer, in writing, giving all pertinent details; provided, however, that this data shall be informational only in character and this provision shall not be construed as a waiver by Buyer of any delivery schedule or date or of any rights or remedies provided by law or under this Order.

15. DELAY AND DEFAULT

- a) Time is of the essence in the performance of this Order. In the event of material breach by either Party of its obligations hereunder, the aggrieved Party may, but is not required to, terminate this Order for default in whole or in part, and may seek whatever remedies may be available. For the purpose of this Section, a material breach by the Seller is the failure to timely provide fully conforming Supplies or failure to cure non-conforming Supplies as allowed by Section 15(c) below. For the purpose of this provision, a material breach by the Seller is the failure to timely pay for delivered and accepted conforming Supplies within the timeframes provided by the Order and after notice of non-payment and allowance of a thirty (30) day cure period to make such payments then due.
- b) If Buyer intends to terminate this Order for default in whole or in part pursuant to this Section 15, Buyer shall furnish a written notice to Seller. Seller shall, within ten (10) days after receipt of notice from Buyer, have the opportunity to



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cure the default or submit a written plan acceptable to Buyer to cure the default. Upon failure of Seller to cure the default, or to present a plan satisfactory to Buyer for the cure of the default within the above stated period, the termination shall become effective and shall be subject to the provisions of the Section herein entitled DISPUTES.

- c) If Buyer terminates this Contract pursuant to this Section, in addition to, and without prejudice to any other rights Buyer may have, Buyer may require Seller to transfer title, and preserve, protect and deliver to Buyer all supplies and materials, regardless of their state of completion (hereinafter referred to as "Manufacturing Materials"), as Seller shall have manufactured or acquired specifically for the performance of such portion or portions of this Order as shall have been terminated. Seller shall protect and preserve said Manufacturing Materials and deliver the same pursuant to Buyer's direction. Buyer shall pay Seller the reasonable costs incurred for Manufacturing Materials accepted by Buyer, and for the protection and preservation of property (in excess of a reasonable time to be allowed Buyer to take delivery of such) within thirty (30) days after delivery. No profit shall be paid thereon. Buyer's liability to Seller upon such termination shall be limited to such reasonable and equitable compensation.

16. TERMINATION FOR CONVENIENCE

This Order may be terminated by the Buyer at its sole option or as a result of the Buyer's Prime Contract or Order being similarly terminated for convenience by the Buyer's Customer or the Government; in which case then the rights, duties, and obligations of the parties shall be determined in accordance with the applicable termination for convenience clause incorporated into this Order by the Supplemental Terms and Conditions, or if none, in accordance with the principles set forth in FAR Part 49 applicable to Termination for Convenience of the Government.

17. FORCE MAJEURE

Neither Party shall be liable to the other for damages for any delay resulting from causes beyond its control and without its fault or negligence, including but not limited to acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, quarantine restrictions, strikes, freight embargoes and unusually severe weather. Notwithstanding the language of the preceding sentence, Seller is responsible for delays caused by the delay of a lower tier subcontractor of Seller.

18. DISPUTES

- a. Seller agrees to first submit any claim or dispute arising under, related to, or in connection with the Supplies or this Order to Buyer in writing prior to Seller initiating any legal or other dispute procedures. Seller shall submit its claim or dispute, along with supporting documentation, to Buyer within twenty (20) days from the date on which Seller knew or should have known of the existence of the claim. Any claim not presented within this 20-day notice period shall be irrevocably waived.
- b. Buyer may, in its sole discretion, present the claim to the Government or Buyer's Customer under the Dispute clause of the Prime Contract, if in Buyer's opinion, the claim presents issues concerning the Government's or the Customer's liability to Buyer for a price or schedule adjustment or other remedy under the terms of the Prime Contract. Seller shall be obligated to specify and appropriately document both the entitlement and amount of its claim against Buyer or its Customer (including, without limitation, labor hours, material costs, and all other expenses to the extent not waived or released by other provisions of this Order or by operation of law), comprising Seller's claim. Before determining whether to submit Seller's claim to Buyer's Customer or the Government, or during the prosecution of Seller's claim if it is submitted, Buyer shall have the right to review and audit Seller's claim including access to any documents that reasonably would support the same. To the extent that any certifications or representations are required to submit claims under the terms of the Prime Contract, Seller shall timely provide such certifications to Buyer and/or its Customer or the Government.
- b. Should Buyer elect to present the claim to the Government or to Buyer's Customer under the Dispute clause of the Prime Contract, Seller shall be bound by the dispute resolution procedures set forth in the Prime Contract. Seller shall furnish all notices and information within the time required under the Prime Contract to enable Buyer to timely assert a claim, counterclaim, or a defense under the Prime Contract. If Buyer elects to present the Seller's claim to Government or to Buyer's Customer under the Dispute clause of the Prime Contract, Seller shall have the right to participate in the assertion or defense of such claims and shall be bound by the outcome. Receipt of payment from Government or from Buyer's Customer shall be a condition precedent to the obligation of Buyer to pay Seller for any work, claim, or damage so presented to the Government or the Buyer's Customer.
- c. Buyer shall pay Seller only the amount actually recovered from the Government or the Customer to the extent the Seller's claim is successfully presented and resolved under the Prime Contract, provided that if in Buyer's sole discretion it is impossible or inequitable to allocate money between Seller's claims and other claims presented by Buyer, Buyer shall pay Seller a proportionate share of any recovery on the basis of the ratio of Seller's claims to other claims that are asserted, less expenses and attorney's fees, provided Seller's claims and other claims are substantially similar and reasonably justified as to merit and actual cost incurred as



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determined by Buyer. Regardless of whether the parties are successful, Seller shall pay Buyer the Seller's proportionate share of the expenses and attorney's fees incurred by Buyer in asserting or defending Seller's claim.

- d. If the Seller's claim does not arise out of or is not related to the Prime Contract, or if the Prime Contract does not provide a dispute resolution procedure, or if, in its sole judgment, Buyer elects not to proceed with Seller's claim under the dispute resolution procedures in the Prime Contract, then such controversy, dispute, or claim between Buyer and Seller shall be determined as hereinafter provided in sub-section 18(e) below.
- e. All claims, disputes, and other matters in question between Seller and Buyer arising out of or related to the Order or the Supplies provided thereunder, except as specifically governed by the foregoing provisions, and except for claims which have been waived by another provision of this Order or by the making and acceptance of final payment, shall, be resolved as follows:
- (i) Buyer and Seller shall meet and attempt to resolve the matter by mutual at the contractual / administrative level within twenty (20) days of the dispute being raised by either Party.
 - (ii) If the meeting set forth in Section 18(e)(i) is unsuccessful and the amount in dispute exceeds \$25,000.00, then the Parties shall promptly, within fourteen (14) days of when an impasse is reached, meet again to discuss the dispute at the executive level. Such meeting shall be conducted with decision makers from each side present who are at least at the General Manager / Vice President levels of both Buyer and Seller.
 - (iii) If the dispute is not resolved by the above steps of Sections 18(e)(i) and 18(e)(ii), and the amount in dispute exceeds \$200,000.00, then the Parties shall proceed to mediation in Norfolk, Virginia before a mutually agreed neutral mediator. If the Parties cannot agree as to the mediator within fourteen (14) days of either Parties' request for mediation, then the Parties agree that they will submit the dispute to the McCammon Group for a mediation in Norfolk, Virginia before a mediator selected by that organization.
 - (iv) If the mediation is unsuccessful, or if the matter does not exceed the above monetary threshold for mediation and the Parties do not otherwise agree to mediation, the dispute may be resolved as follows:
 - (1) At the sole option of Buyer, and if the matter in dispute exceeds \$500,000.00, it shall be decided by arbitration. In the event the Buyer elects to have the matter resolved through arbitration, then at Buyer's direction, Seller shall submit the matter to the American Arbitration Association for processing under the appropriate Industry Rules of the American Arbitration Association then in effect. If a claim is made, or a demand for arbitration is filed, by Seller, Buyer will advise Seller within thirty 30 days after the receipt of such a demand for arbitration (or otherwise upon 30 days written request after a claim has been made), if Buyer exercises the option to arbitrate or rejects arbitration; such election, once made, shall be binding. The filing of a demand for arbitration by Buyer shall be deemed an election to arbitrate and shall constitute the exercise of the option of Buyer to proceed with arbitration. Seller hereby consents and agrees that Buyer may join or consolidate any arbitration with Seller with any arbitration with Buyer's Customer or the Government, another subcontractor, or any other party having an interest in the proceeding. This agreement to arbitrate shall be specifically enforceable under applicable law in any court having jurisdiction. The award rendered by the arbitrators shall be final and judgment may be entered upon it in accordance with the applicable law in any court having jurisdiction. The location of the arbitration proceedings shall be in Norfolk, Virginia.
 - (2) If the amount in dispute does not exceed \$500,000, or if the Buyer does not elect arbitration as provided above, the dispute shall be resolved by the Circuit Court of the City of Norfolk or the United States District Court for the Eastern District of Virginia, Norfolk, Division, and the Parties hereto agree to the sole jurisdiction and venue of such listed courts to resolve this dispute.
 - (3) In any court proceeding to resolve disputes as provided herein, the Parties agree that they shall not request and shall waive any right that they might otherwise have to trial by jury, and the Parties consent to trial by a sitting judge of the listed courts.
- f. Notwithstanding the existence of any dispute or controversy under this Order or any modification thereunder, Seller agrees to continue performance of its obligations under this Order, including without limitation the delivery of conforming Supplies, and shall proceed in accordance with the directives of Buyer, under protest. Failure to proceed shall constitute a material breach of this Order, regardless of the ultimate decision on the dispute, it being understood and agreed that any controversy between the Parties shall not be deemed a basis to delay or suspend the work or provision of the Supplies under the Order, unless directed otherwise by Buyer. This provision shall survive completion or termination of this Order.
- g. Completion of the dispute resolution procedures set forth above shall be a condition precedent to the right of Seller to commence or continue any legal action against Buyer.
- h. Seller hereby agrees to indemnify Buyer for all Buyer's costs, including attorney's fees, of defending a claim by the Government or the Customer under the Prime Contract or any other party in the dispute resolution procedure if such claim relates to or arises from the Seller's performance under this Order.



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19. INSURANCE

Upon Buyer's request, Seller agrees to provide Certificates of Insurance evidencing that the required insurance coverage is in force. The required insurance coverages below shall be primary and non-contributing with respect to any other insurance that may be maintained by Buyer. The below required coverages and their limits in no way lessen nor affect Seller's other obligations or liabilities set forth in this Order.

Seller agrees to purchase and maintain at its own expense the following insurance coverages with minimum limits as stated:

- (a) Workers' Compensation (if services are provided at Buyer or Customer site): Coverage for statutory obligations imposed by laws of any State in which the work is to be performed. Where applicable, Seller shall provide evidence of coverage for the United States Longshore & Harbor Workers' Act (USL&H) coverage for employees engaged in work on or near navigable waters of the United States, and Defense Base Act (DBA) including all employees working on U.S. Government contracts outside the United States. Such policy(ies) shall be endorsed to provide a waiver of subrogation in favor of Buyer, its owners, officers and employees, and Buyer's Customer where required by Buyer's Prime Contract with its Customer. Employer's Liability coverage of \$1 million per accident shall also be maintained.
- (b) Commercial General Liability: Coverage for third party bodily injury and property damage, including products and completed operations, contractual liability, and independent contractors' liability with a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Such policy(ies) shall be endorsed to name Buyer, its owners, officers and employees, and Buyer's Customer where required by Buyer's Prime Contract with its Customer, as Additional Insureds.
- (c) Commercial Automobile Liability (if services are provided at Buyer or Customer site): Coverage for use of all owned, non-owned, and hired vehicles with limits of not less than \$1,000,000 per accident combined single limit for bodily injury and property damage liability. Such policy(ies) shall be endorsed to name Buyer, its owners, officers and employees, and Buyer's Customer where required by Buyer's Prime Contract with its Customer, as Additional Insureds.
- (d) Technology and Professional Liability (Errors and Omissions): Insurance appropriate to cover the Sellers's profession with limits not less than \$5,000,000 per claim. Coverage terms and conditions shall be sufficiently broad to respond to the duties and obligations as it is undertaken by Seller in this Order and shall include, but be not limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alternation of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.
- (e) If the Seller maintains broader coverage and/or higher limits than the minimums shown above, the Buyer requires and shall be entitled to the broader coverage and/or higher limits maintained by Seller
- (f) If maintenance or warranty work is being performed, All-Risk Property Insurance in an amount adequate to replace property, including supplies covered by this Order, of Buyer and/or Buyer's Customer which may be in the possession or control of Seller. Buyer shall be named as a Loss Payee with respect to loss or damage to said property and/or supplies furnished by Buyer

20. INDEMNIFICATION

In addition to any other indemnification provision of this Order, Seller shall indemnify, defend, and hold harmless Buyer, its officers, directors, and employees, from any and all claims, liabilities, losses, damages, costs, and expenses, including attorneys' fees for:

1. Actual or alleged (a) injury to any person, (b) damage to any property, or (c) violation of any law, ordinance, or regulation, arising from or related to Seller's, or Seller's subcontractors', performance of work in connection with this Order, including, if applicable, Seller's violation of the Truth in Negotiations Act, False Claims Act, or any implementing or comparable regulation, including FAR Part 15; or
2. Any civil or criminal penalty or fine incurred by Buyer which is caused to any degree or any extent by Seller, its employees, agents, representatives, suppliers, or subcontractors.



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3. Failure to deliver conforming Supplies or Goods as required by this Order.

21. DATA SECURITY

“Personal Information” means information (i) related to an individual including that which identifies or could reasonably be used to identify an individual, or (ii) which applicable law treats as personal information. Personal Information includes, without limitation, an individual’s Social Security number, date of birth, financial account information, personal health information, or other sensitive information or identifiers. Any Personal Information or other data provided to or accessed by Seller relating to this Order shall remain the sole property of its owner, and Seller shall only have the right to use it to the extent necessary to perform the work and consistent with applicable law. Any action by Seller related to Personal Information shall be conducted in accordance with standards no less rigorous than the best industry practices, including any standards or requirements specifically set forth for information security elsewhere in the Order. To ensure the protection of Personal Information, Seller shall implement and maintain (i) administrative, physical, and technical safeguards; and (ii) a written information security program including appropriate policies, procedures, and risk assessments reviewed at least annually. Seller agrees not to transfer or receive Personal Information to or from any country outside the United States without the prior written authorization of Buyer and to obtain consents and take other actions as required by the laws of any country or jurisdiction with legal authority. In the event of a data security breach, Seller shall immediately notify Buyer in writing, and shall take action immediately, at its own expense to investigate, identify the cause, and mitigate the effects of such breach as well as to carry out recovery or other actions (e.g. mailing notices) necessary to remedy such breach. The content of any filings, communications, notices, or reports related to any breach must first be approved in writing by Buyer. Seller will immediately notify Buyer in writing of any subpoena, court or administrative order or proceeding, or other request seeking information about or access to Personal Information. Seller shall return, delete, or destroy all Personal Information, including without limitation, all originals and copies of such Personal Information in any medium, and materials derived from or incorporating such Personal Information, upon the earlier of ten (10) days after (i) Buyer’s request for such return, deletion, or destruction, or (ii) the termination or expiration of the Order. Seller shall cause its subcontractors and vendors to comply with these requirements.

22. CYBER SECURITY REQUIREMENTS

In addition to mandatory cyber security flow-downs, the following additional provisions apply.

(a) Audit and Inspection. Seller agrees to make internal practices, books, and records relating to the use and disclosure of Controlled Unclassified Information (CUI) received from, or created or received in support of this Order, available to Buyer within ten (10) business days of the request from Buyer to ensure compliance with applicable cyber security requirements. Seller’s practices, books and records are proprietary to Seller and shall be treated as confidential and shall not be further disclosed without the written permission of the Seller, except as necessary to comply with applicable laws and regulations.

Additionally, Seller shall provide a System Security Plan (SSP) and Plan of Action and Milestones (POA&M), as applicable, immediately upon request of Buyer’s customer.

(b) Reporting: Seller shall provide Buyer a copy of any reports submitted to the Government in support of this Order pursuant to DFARS 252.204-7012, or other cyber security requirements, in advance, to the extent practicable, but no later than immediately following such submission to the Government.

(c) Buyer’s Information Systems: If Buyer allows Seller’s employees to access Buyer’s information systems (e.g. Buyer-owned or Buyer-furnished equipment, such as computers, networks, external drives and applications that enable use, processing, transmission and storing of information assets), Seller shall ensure the proper use and protection of Buyer’s information systems and assets. Seller’s employees will be required to sign Buyer’s Acceptable Use Policy.

23. COUNTERFEIT GOODS

For purposes of this Section, “Goods” are any tangible items delivered under this Order, including without limitation the lowest level of separately identifiable items, such as parts, articles, components, and assemblies. “Counterfeit Goods” are Goods that are or contain items misrepresented as having been designed, produced, and/or sold by an authorized manufacturer and seller, including without limitation unauthorized copies, replicas, or substitutes. The term also includes authorized Goods that have reached a design life limit or have been damaged beyond possible repair but are altered and misrepresented as acceptable.

Seller shall ensure that Counterfeit Goods are not delivered to Buyer. Goods or Supplies delivered to Buyer or incorporated into other Goods and delivered to Buyer shall be new and shall be procured directly from the Original Component Manufacturer



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(OCM)/Original Equipment Manufacturer (OEM), or through an OCM/OEM authorized distributor chain. Goods shall not be acquired from independent distributors or brokers unless approved in advance in writing by Buyer. When requested by Buyer, Seller shall provide OCM/OEM documentation that authenticates traceability of the affected items to the applicable OCM/OEM.

In the event that Supplies or Goods delivered under this Order constitutes or includes Counterfeit Goods, Seller shall, at its expense, promptly replace such Counterfeit Goods with authentic Goods or Supplies conforming to the requirements of this Order. Notwithstanding any other provision in this Order, Seller shall be liable for all costs relating to the removal and replacement of Counterfeit Goods, including without limitation Buyer's costs of removing Counterfeit Goods, of reinserting replacement Goods or Supplies, and of any testing necessitated by the reinstallation of Goods after Counterfeit Goods have been exchanged. Seller shall include equivalent provisions in lower tier subcontracts for the delivery of items that will be included in or furnished as Goods to Buyer.

24. CONFLICT MINERALS

In 2010, the U.S. Dodd-Frank Wall Street Reform and Consumer Protection Act was passed concerning "conflict minerals" originating from the Democratic Republic of the Congo (DRC) or adjoining countries. The SEC published final rules associated with the disclosure of the source of conflict minerals by U.S. publicly traded companies (see the rules at <http://www.sec.gov/rules/final/2012/34-67716.pdf>). The rules reference the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, which guides suppliers to establish policies, due diligence frameworks and management systems. [refer to: <http://www.oecd.org/daf/inv/mne/GuidanceEdition2.pdf>]. Buyer sells its products through supply chains which ultimately pass to publicly traded companies. Therefore, Buyer must comply with the SEC regulations.

Seller shall conduct and require due diligence throughout its supply chain to prevent use of Conflict Minerals, which include gold (Au), tantalum (Ta), tungsten (W) and tin (Sn) sourced from areas identified as conflict regions, including the Democratic Republic of the Congo (DRC) and Central Africa. Seller shall use due diligence protocols, standards, and procedures that meet or exceed the reasonable country of origin inquiry described in Securities and Exchange Commission rules and the relevant best practices developed by industry, and which allow Buyer to submit accurate Conflict Mineral reports to the Government and other entities. If Seller's part or product is included in Buyer's product, Seller shall annually complete a Conflict Minerals Report using the latest version of the "Conflict Minerals Report Template" available at no cost from the Responsible Minerals Initiative at <http://www.responsiblemineralsinitiative.org/>. Failure to submit this form to Buyer when requested may result in the termination of this Order and prevent Buyer from conducting further business with Seller in the future. Buyer's Conflict Mineral Policy is available to Seller upon request.

25. GOVERNING LAW

This Order shall be construed and interpreted accordance with, and governed by, the laws of the Commonwealth of Virginia, U.S.A., without reference to its choice of law rules. If there is no applicable Virginia law, or if any dispute arises out of or relates to the Prime Contract, then Federal Government Contract law shall apply.

26. MODIFICATIONS

No agreement or understanding varying or extending the terms and conditions of this Order will be binding unless in writing signed by a duly authorized officer or representative of Buyer. No conditions stated by the Seller in its acknowledgement of this Order will be binding upon Buyer if such conditions are in conflict with, inconsistent with, or in addition to the terms and conditions contained herein unless expressly accepted in writing by Buyer.

27. ORDER OF PRECEDENCE

In the event of any inconsistency between these General Terms and Conditions of this Order and any other parts of this Order, the order of precedence shall be as follows: (1) the express terms of the Order, (2) any Special Terms and Condition, (3) these General Terms and Conditions, (4) any drawings or specifications, (5) any statement of work, and (6) any Customer or Government Flow-down clauses from the Prime Contract.



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28. NON-WAIVER

Failure of Buyer to insist upon strict performance of any terms and conditions herein shall not be deemed a waiver of any rights or remedies Buyer shall have and shall not be deemed a waiver of any existing or subsequent default by Seller hereunder. Neither the submission by Seller of any written materials required by this Order nor any assistance or advice rendered by Buyer to Seller shall relieve Seller of its obligation under this Order to deliver in a timely manner the purchased Supplies in accordance with the specifications and other provisions of this Order. Shipping or receiving of any Supplies under this Order shall not constitute a waiver of any right of Buyer hereunder or of any obligation of Seller to comply with any of the terms and conditions of this Order.

29. PUBLIC RELEASES

Except as required by law or regulation, no news release, public announcement, or advertising material concerned with this Order shall be issued by Seller without prior written consent of Buyer.

30. ASSIGNMENT AND SUBCONTRACTING

This Order may not be assigned, delegated, or subcontracted in whole or in part to a third Party without the prior written consent of Buyer, except that Seller may, without such consent, contract to a third Party work or Supplies whose value does not exceed twenty-five percent of the price of this Order.

31. RESPONSIBILITY FOR PROPERTY OF BUYER

Any property or materials furnished by or through Buyer to Seller will be deemed to be bailed to Seller, with title to such property or material not passing to Seller unless mutually agreed upon by Buyer and Seller and specifically confirmed by Buyer in writing, regardless of whether such property or material shall be affixed to any structure or promises. Buyer may, in its sole and absolute discretion, replace any defective property or material that may be furnished to Seller, it being understood, however, that any such replacement shall not be deemed to be an admission of liability by Buyer. Seller agrees to provide appropriate and necessary maintenance, safeguards and storage of any material or property furnished in accordance with these terms, and unless specifically waived in writing by Buyer, shall provide appropriate insurance coverage in a form satisfactory to Buyer for fire, theft, mysterious disappearance, malicious mischief or vandalism for such items. The materials or property furnished in accordance with the terms hereof shall be disposed of or returned to Buyer, as Buyer in its sole and absolute discretion may determine, in the condition in which received, subject only to consumption in the performance of work under this Order and normal wear and tear.

32. USE OF BUYER FURNISHED DATA

Seller shall not use or disclose any data, designs, or other information belonging to or supplied by or on behalf of Buyer, which is proprietary to Buyer or Buyer's Customer and is so labeled when delivered to Seller (hereinafter "Buyer Proprietary Data"). Upon Buyer's request, such Buyer Proprietary Data, and any copies thereof, shall be returned to Buyer.

33. TOOLING

All tools, dies, jigs and fixtures specifically manufactured or procured by Seller for the performance of this Order, whether to the design of Seller, Buyer, or a third Party (herein referred to as "Tools"), shall become, upon acquisition, the property of Buyer, and the cost of such Tools is included in the total price appearing or provided for on the face of this Order. However, Tools made or acquired by Seller for the manufacture of any or all Supplies shall remain the property of Seller if such Tools are standard commercial articles generally and normally sold other than to Buyer.

34. INFRINGEMENT

Seller warrants that, except where articles specified herein are made entirely to a design supplied by Buyer, the Supplies specified herein and the sale or use of them will not infringe any U.S. or foreign patent. Seller will indemnify and hold harmless Buyer and Buyer's Customers, against any and all claims, losses, damages, liabilities or costs, of whatsoever kind or nature, brought or asserted by anyone, alleging that the use, manufacture or sale of the Supplies constitutes an infringement of any U.S. or foreign patent. Seller agrees, if requested by Buyer, to pay all costs royalties and license fees required for the continued use and sale of such Supplies. In the event any action or claims shall be brought or asserted against Buyer or Buyer's vendors, mediate or immediate, in respect of which claim indemnity may be sought against Seller hereunder, Seller, if promptly notified of such action or claim by Buyer, and if requested to do so by Buyer, shall assume the defense thereof, including the employment of counsel and payment of all expenses. Where the Supplies specified herein are made entirely from a design



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supplied by Buyer, Buyer agrees that, if requested to do so by Seller, it will defend, at its own cost and expense, every action or claim which may be brought against Seller for alleged infringement of any U.S. or foreign patent by reason of the manufacture of such Supplies and, if not so requested, Buyer agrees to pay all costs and damages recoverable in any such action against Seller.

35. HEALTH, SAFETY AND ENVIRONMENT

Seller shall comply with any and all applicable regulations pertaining to safety, health and the environmental protection. Seller further agrees to abide by all safety, health, environmental, and drug and/or alcohol abuse regulations, policies and procedures in effect at all work sites. Further, Seller represents and warrants that all Goods or Supplies are and will be when delivered free of all hazardous substances and that no claim, demand, or notice has been filed nor any proceeding commenced alleging liability of seller in connection with the use of any hazardous substances relating in any way to the manufacture or sale of the goods or the provision of services. Seller shall provide a material safety data sheet for each item or substance containing toxic substances purchased by Buyer from Seller, and Seller shall affix on each container containing toxic substances the chemical name and the appropriate hazard warning for the use and safe handling of the substance, along with any other required markings and legends. Seller shall provide other material safety data sheets relating to the goods upon request.

36. ANTI-BRIBERY AND CORRUPTION

Seller represents, warrants and covenants that it and its Associated Persons have conducted, and will at all times conduct, its and their respective businesses in accordance with applicable laws, rules, regulations, decrees and/or official governmental orders of the United States, United Kingdom and any country in which goods and/or services are provided hereunder relating to anti-bribery, anti-corruption and anti-money laundering. Seller and its Associated Persons shall maintain adequate procedures in furtherance of the foregoing. Seller and its Associated Persons have not made, offered, promised to make or authorized the making of, and shall not make, offer or promise to make, or authorize the making of: (a) any payment or other transfer of anything of value if and to the extent that to do so is or would be in violation of or inconsistent with the principles or requirements of any anti-bribery, anti-corruption or anti-money laundering laws applicable to Buyer or to Seller, or to their respective parent companies, including without limitation, the US Foreign Corrupt Practices Act and, where applicable, the UK Bribery Act (2010); or (b) any so-called "facilitation" or "grease" payments irrespective of local custom and even though in some countries such payments may be lawful. Any failure to comply with this clause shall be a material breach of the Purchase Order not capable of remedy. "Associated Persons" means any person associated with Seller including, but not limited to, Seller's parents, subsidiaries and its and their respective owners, directors, officers, employees, agents, representatives, sub-contractors, and suppliers.

37. LIMITATION ON DAMAGES

Notwithstanding any other language in this Order except for the language in this Section 37, neither Party shall be liable to the other party under any circumstances for any incidental, special, indirect, or consequential damages of any nature whatsoever including, but not limited to, any claims related to delay or loss of use, lost revenues, lost profits, or business interruption, claimed in relation to its performance under this Order. The limitation of liability set forth in this Section 37 shall not apply with respect to any of the following: (i) intentional torts or gross negligence, (ii) unlawful conduct or violations of law; (iii) fraud or misrepresentation, (iv) any indemnity obligation of the Seller or its subcontractors for third-party claims provided for in this Order, (v) any indemnity obligation of the Seller or its subcontractors for failure to deliver conforming Goods or Supplies as required by this Order, or (vi) and obligations of the Seller to cure or replace the delivery of non-conforming Goods or Supplies.

38. CUSTOMER / GOVERNMENT RIGHTS TO DATA

To the extent that Buyer has an obligation to provide data rights to the Government or its Customer(s) under the terms of the Prime Contract with respect to Goods or Supplies provided pursuant to this Order, Seller agrees that it shall transfer the minimum data rights to the Government or the Buyer's Customer required under the terms of the Prime Contract. Seller also agrees that it will label or mark any data provided with the appropriate protective or restrictive legends as provided by the Prime Contract or as required pursuant to Government contract law, or Seller will waive its rights to any such protections or restrictions.



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39. FAR AND OTHER AGENCY FLOW DOWN CLAUSES

Buyer's supplemental terms and condition attachment identifies the applicable Federal Acquisition Regulation (FAR) and other federal agency acquisition regulation flow down clauses that are fully incorporated into this Order. Except as modified herein the cited terms shall have the following meaning: "Contractor" means Seller; "Contract" means this Order; "Contracting Officer" means Buyer; "Subcontracts" as applied to lower tier subcontracts includes Orders. The FAR and other federal agency clauses incorporated herein shall be those in effect on the date of Buyer's Prime Contract.

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