

WARRANTY FOR GOODS OBTAINED FROM BROKERS

TC-013 (12/11)

- A. The requirements set forth in this Purchase Order Attachment shall not be construed to limit, or relieve Seller of any of, Seller's obligations set forth or incorporated into Buyer's Purchase Order of which this Purchase Order Attachment is a part thereof.
- B. Section 13 of the Raytheon Company General Terms and Conditions of Purchase applicable to Buyer's Purchase Order, either TC-001 General Terms and Conditions of Purchase or TC-004 International General Terms and Conditions of Purchase, as set out in Buyer's Purchase Order, is hereby deleted and replaced by the following:

13. Warranty

- (a) Seller warrants the goods delivered pursuant to this Purchase Order, unless specifically stated otherwise in this Purchase Order, shall (i) be new; (ii) be and only contain materials obtained directly from the Original Component Manufacturer (OCM) or the Original Equipment Manufacturer (OEM), (hereinafter, the Original Manufacturer (OM)) or an authorized OM reseller or distributor; (iii) not be or contain Counterfeit Items; (iv) contain only authentic, unaltered OM labels and other markings; and (v) be free from defects in workmanship, materials, and design and be in accordance with all the requirements of this Purchase Order. Seller further warrants that the performance of work and services shall conform with the requirements of this Purchase Order and to high professional standards. These warranties shall survive inspection, test, final acceptance and payment of goods and services.
- (b) For purposes of this Section 13 Warranty, a Counterfeit Item is defined to include, but is not limited to, (i) an item that is an illegal or unauthorized copy or substitute of an OM item; (ii) an item that does not contain the proper external or internal materials or components required by the OM or that is not constructed in accordance with OM design; (iii) an item or component thereof that is used, refurbished or reclaimed but Seller represents as being a new item; (iv) an item that has not successfully passed all OM required testing, verification, screening and quality control but that Seller represents as having met or passed such requirements; or (v) an item with a label or other marking intended, or reasonably likely, to mislead a reasonable person into believing a non-OM item is a genuine OM item when it is not.
- (c) Seller warrants that it will only act as or engage a Broker to assist it in delivering goods pursuant to this Purchase Order if the Buyer provides prior written approval to do so. For purposes of this Section 13 Warranty, a Broker is defined as a supplier which is not authorized by, or under the oversight of, the OM with respect to such goods, and shall include independent distributors, non-authorized distributors, non-franchised distributors, non-authorized suppliers or non-authorized resellers,
- (d) Seller, and Seller's Broker, if applicable and approved hereunder, shall implement an internal Counterfeit Item control process for goods delivered hereunder in accordance with the standards or instructions set forth in any Buyer's specifications, including but not limited to Raytheon Quality Notes, or other provisions incorporated into this Purchase Order. Buyer shall have the right to audit, inspect, and/or approve the processes at any time before or after delivery of the goods ordered hereunder. Buyer shall have the right to require changes to the processes to conform with Buyer's defined standards, if any. Failure of the Seller or Seller's Broker to conform its processes with Buyer's defined standards may result in the termination of this Purchase Order in accordance with the termination provisions set forth herein.
- (e) If, during Buyer's inspection procedures, a good delivered hereunder is discovered to be a Counterfeit Item or suspected to be a Counterfeit Item, Buyer shall have the right to impound the good for further investigation of its authenticity. Buyer's investigation may include the participation of third parties or governmental investigative agencies as required by law or regulations by Buyer's customer, or by Buyer, in its sole discretion. The Seller and/or the Seller's Broker shall cooperate in good faith with any investigation conducted by Buyer, including, but not limited to, cooperation by Seller's or Seller's Broker's staffs responsible for the maintenance and disclosure of all design, development, manufacturing, and traceability records with respect to the good in possession of Seller or Seller's Broker. Upon Buyer's request, Seller shall provide Buyer certificates of conformance with respect to the good under investigation. Buyer shall not be required to return the good to the Seller or Seller's Broker during the investigation process or thereafter. Buyer shall not be liable for payment to Seller of the price of any suspect Counterfeit Items under investigation.
- (f) If, after investigation, Buyer concludes, in its sole estimation, that a good is a Counterfeit Item, Buyer may file a Government – Industry Data Exchange Program (GIDEP) report announcing its findings. Furthermore, Buyer shall have the right to disclose its findings publicly or to third parties. Buyer's findings shall be the sole property of Buyer.

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- (g) LIMITATION OF LIABILITY. IN NO EVENT SHALL BUYER BE LIABLE TO SELLER OR SELLER'S BROKER FOR ANY DIRECT OR INDIRECT DAMAGES, INCLUDING, WITHOUT LIMITATION TO LOSS OF PROFITS, GOODWILL, DIRECT, INDIRECT, CONSEQUENTIAL, OR SPECIAL DAMAGES), WHETHER OR NOT SELLER OR SELLER'S BROKER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, THAT MAY BE CLAIMED TO BE INCURRED BY SELLER AS A RESULT OF, OR ARISING FROM, BUYER'S INVESTIGATION OF SELLER'S GOODS OR BUYER'S DISCLOSURES TO THIRD PARTIES OR THE PUBLIC OF THE RESULTS OF SUCH INVESTIGATIONS, WHETHER SUCH CLAIM ARISES UNDER CONTRACT, TORT (INCLUDING STRICT LIABILITY) OR OTHER THEORY OF LAW. THIS LIMITATION SHALL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF THIS PURCHASE ORDER.
- (h) Seller acknowledges that examination of a good for authenticity may require destruction of the good. Buyer shall have a right to conduct destructive examinations if necessary to verify the authenticity of a good. Buyer shall not be liable to Seller for the price of any goods destroyed by examination if the good is later found to be a Counterfeit Item.
- (i) Buyer shall have the right to permanently impound goods determined, in its sole estimation and discretion, to be Counterfeit Items. Buyer shall not be liable for payment to Seller of the price of any goods permanently impounded. Buyer's remedies for the delivery of impounded goods shall be those set forth in the warranty and termination provisions set forth herein.
- (j) Seller shall include the substance of this Section 13 in any agreement between Seller and Seller's Broker and shall cause Seller's Broker to include the substance of this Section 13 in all agreements with any lower tier subcontractors.
- (k) Seller warrants that any hardware, software and firmware goods delivered under this Purchase Order: (i) shall not contain any viruses, malicious code, Trojan horse, worm, time bomb, self-help code, back door, or other software code or routine designed to: (a) damage, destroy or alter any software or hardware; (b) reveal, damage, destroy, or alter any data; (c) disable any computer program automatically; or (d) permit unauthorized access to any software or hardware; and (ii) shall not contain any third party software (including software that may be considered free software or open source software) that (a) may require any Buyer software to be published, accessed or otherwise made available to the public without the consent of Buyer, or (b) may require distribution, copying or modification of any Buyer software free of charge.
- (l) This warranty entitlement shall inure to the benefit of both Buyer and Buyer's customers. As used in this Purchase Order, Buyer's customer(s) shall include its direct and indirect customers such as direct sale end-users, higher-tier subcontractors, prime contractors and the ultimate user under relevant prime contract(s).
- (m) Seller shall be liable for and save Buyer harmless from any loss, damage, or expense whatsoever that Buyer may suffer from breach of any of these warranties. Remedies shall be at Buyer's election, including the prompt repair, replacement or reimbursement of the purchase price of nonconforming goods and, in the case of services either the prompt correction of the defective services at no cost or reimbursement of the amounts paid for such services. Return to Seller of defective or nonconforming goods and redelivery to Buyer of repaired or replaced goods shall be at Seller's expense. Goods or services required to be corrected, repaired or replaced shall be subject to the warranties of this Section and the Inspection Section of this Purchase Order in the same manner and to the same extent as goods or services originally delivered under this Purchase Order, but only as to the repaired or replaced goods or parts thereof or the corrected service thereof. Seller shall promptly comply with Buyer's direction to (i) repair, rework or replace the goods, (ii) furnish any material or parts and installation required to successfully correct the defect or nonconformance or (iii) successfully correct the defective or nonconforming service.
- C. Except as set forth herein, all other terms and conditions of the form of Raytheon Company General Terms and Conditions of Purchase applicable to Buyer's Purchase Order, either TC-001 General Terms and Conditions of Purchase or TC-004 International General Terms and Conditions of Purchase as set out in Buyer's Purchase Order, remain in full force and effect, with no changes made thereto.