

TC-004 (07/19)

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## 1. Acceptance of Purchase Order

Agreement by Seller to furnish the materials, parts, and products (“goods”) or services, including the products resulting from such services, or its commencement of such performance, or acceptance of any payment, shall constitute Seller’s unqualified acceptance of this Purchase Order. Any prices or delivery schedule to which Buyer has not specifically agreed to in writing, or any other terms or conditions proposed by Seller inconsistent with or in addition to the terms and conditions herein, shall be void. Modifications or additions to these Purchase Order terms and conditions must be in writing and signed by Buyer’s Purchasing Representative. These terms and conditions, together with all supplements, documents, exhibits, attachments, and any other agreements incorporated by reference into this Purchase Order, constitute the entire agreement between Buyer and Seller (collectively “the Parties” and singularly a “Party”) with respect to the subject matter of this Purchase Order, and supersede any prior or contemporaneous written or oral agreements pertaining thereto.

## 2. Shipping Instructions

- (a) Seller shall be responsible for ensuring the proper packaging of goods hereunder. Seller shall not charge for packing, crating, freight, local cartage, and/or any other services unless so specified in this Purchase Order.
- (b) If Seller uses wood packaging materials such as pallets, crates, boxes, dunnages, cases, skids and pieces of wood used to support or brace cargo being imported into the United States, the wood packaging materials shall be heat treated or fumigated with methyl bromide in accordance with EPA label instructions and include a mark that certifies the wood completed the required treatment under the “Guidelines for Regulating Wood Packaging Material in International Trade,” ISPM 15 of the International Standards of Phytosanitary Measures (ISPM) and any associated amendments, revisions or exemption identified by the U.S. Department of Agriculture, Animal and Plant Health Inspection Service (APHIS).
- (c) Seller shall at all times comply with Buyer’s written shipping instructions and Incoterms (2010 version) reflected on the Purchase Order. Unless otherwise directed by Buyer in writing, or regulations restrict, Seller shall consolidate shipments on one bill of lading or air waybill when shipping goods on the same day from and to a single location. Seller shall submit all required shipping papers to Buyer prior to final payment. Title to goods furnished under this Purchase Order shall pass to Buyer upon formal acceptance, regardless when or where Buyer takes physical possession, unless the Purchase Order specifically provides for earlier passage of title.
- (d) Purchase Order number(s) and the relevant line item number(s) must appear on all correspondence, shipping labels, and shipping documents, including all packing sheets, bills of lading, air waybills, and invoices.
- (e) Invoices shall be entirely in English and shall include the elements set forth in [19 CFR Part 141 subpart F](#).

## 3. Delivery; Notice of Delay; Obsolescence

- (a) On time performance is a material condition of this Purchase Order and failure to perform according to the delivery schedule in this Purchase Order, if unexcused, shall be considered a material breach. Acceptance of late deliveries shall not constitute waiver of this provision. Buyer may refuse or return, at Seller’s risk and expense, shipments made in excess of this Purchase Order or in advance of required schedules. Buyer may defer payment on advance deliveries until scheduled delivery dates.
- (b) Seller shall notify Buyer in writing immediately of any actual or potential delay to the performance of this Purchase Order. Such notice shall include a proposed revised schedule, but such notice

and proposal or Buyer's receipt or acceptance thereof, shall not constitute a waiver of Buyer's rights and remedies hereunder.

- (c) During performance of this Purchase Order, Seller shall notify Buyer of any planned obsolescence of the goods set out in this Purchase Order.

#### **4. Termination for Convenience**

- (a) Buyer, by written notice, may terminate this Purchase Order for convenience and without cause, in whole or in part, at any time, and such termination shall not constitute default. In the event of partial termination, Seller shall perform the non-terminated balance of work under the Purchase Order.
- (b) If Buyer terminates for convenience, Seller shall be reimbursed for actual, reasonable, substantiated, and allocable costs, plus a reasonable profit for work performed to date of termination provided Seller submits its termination settlement proposal to Buyer promptly, but no later than ninety (90) days from the effective date of the termination. In no event shall the amount of any settlement be in excess of the Purchase Order value. Buyer may take immediate possession of all goods, complete or incomplete, and all products resulting from services upon written notice of termination to Seller.

#### **5. Termination for Default**

- (a) Buyer may, after providing Seller with ten (10) calendar days written notice, and upon Seller's failure to cure such default in that ten (10) day period ("Cure Period"), terminate this Purchase Order in whole or in part at any time by notice in writing for (i) breach of any one or more of its terms, (ii) failure to deliver goods or services within the time specified by this Purchase Order or any written extension, (iii) failure to make progress so as to endanger performance of this Purchase Order, or (iv) failure to provide adequate assurance of future performance; provided, however, there shall be no Cure Period for default related to failure to meet the delivery schedule or for defaults incapable of cure.
- (b) To the extent allowed by law, Buyer may also terminate this Purchase Order in whole or in part without a Cure Period in the event of Seller's suspension of business, insolvency, bankruptcy, appointment of a receiver for Seller's property or business, or any assignment, reorganization or arrangement by Seller for the benefit of its creditors (collectively hereinafter "Insolvency"). Seller agrees to provide detailed written notice to Buyer within five (5) days of initiating such Insolvency proceedings. In the event of partial termination, Seller shall perform the non-terminated balance of work under the Purchase Order.
- (c) If this Purchase Order is terminated for default, Buyer may by written notice require Seller to transfer title and deliver to Buyer any (1) completed supplies, and (2) partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights that Seller has specifically produced or acquired for the terminated portion of this Purchase Order. Upon direction of Buyer, Seller shall also protect and preserve property in its possession in which Buyer has an interest. The Parties shall agree on the amount of payment for such deliveries and for the protection and preservation of the property above.

#### **6. Force Majeure**

Except for a default of Seller's subcontractor at any tier, neither Buyer nor Seller shall be liable for any failure to perform due to any cause beyond their reasonable control and without their fault or negligence, including acts of God or of the public enemy, acts of the government in its sovereign or contractual capacity (including acts of government related to economic sanctions and embargoes), fires, floods, epidemics, terrorism, quarantine restrictions, strikes, freight embargoes, and unusually severe weather. In the event that causes of the type described above ("Force Majeure") adversely affect performance of this Purchase Order, the Party whose performance is so affected shall so notify the other Party's authorized representative in writing. Buyer may reasonably adjust the delivery schedule due to the existence of a Force Majeure.

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**7. Disputes and Governing Law**

- (a) In the event any controversy or claim arises out of or relates to this Purchase Order ("Dispute") either Party may send written notice to the other outlining the substance of the Dispute. After receipt of the notice, the Parties shall engage in good faith negotiations through persons with appropriate authority to resolve the Dispute. If any Dispute remains unresolved thirty (30) calendar days from the date the notice is received by the other Party, or such additional time as the Parties mutually agree upon in writing, such Dispute shall be finally settled by binding and confidential arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules. The number of Arbitrators shall be three (3). The claimant shall name one arbitrator in its request for arbitration, the respondent shall name one arbitrator in its response. Unless the nominated arbitrators cannot agree on the appointment of the third arbitrator who shall serve as the Chairman, the President of the American Arbitration Association shall appoint the third arbitrator. Arbitration shall be conducted in New York, New York, in the English language. The Arbitrators shall, to the extent possible, have experience in international defense industry contracting arrangements, governmental procurement, and the governing law of this Purchase Order. To the extent possible, the Arbitrators shall also be chosen so as to minimize any legal restrictions on access by the Arbitrators to relevant technical or legally controlled information. The Arbitrators may award compensatory damages against either Party, but are not authorized to award punitive, exemplary or multiple damages of any kind. The Arbitrators shall have the authority, but not the obligation, to award the costs of arbitration, including reasonable attorney's fees, to the prevailing Party; however, if the Arbitrators do not award such costs and fees, each Party will be responsible for its own costs, but shall equally share the costs and fees imposed by the Arbitrators for their expenses. Judgment upon the award rendered by the Arbitrators may be entered in any court having jurisdiction thereof or application may be made by any such court for a judicial recognition of the award and an order of enforcement, as the case may be, all regardless of conflicts of law issues. The Parties waive any right they may enjoy under the law of any nation to apply to the courts of any such nation for relief from the provisions of this Section 7 or from any decision of the Arbitrators made before the award. Notwithstanding the foregoing, the Parties agree that the rights of the United States Government in any technical data associated with any goods or services procured under this Purchase Order shall not be arbitral in accordance with this Section 7.
- (b) Notwithstanding the foregoing, the Parties acknowledge that money damages may not be an adequate remedy for breach of Section 9 Proprietary Rights and Section 16 Infringement of this Purchase Order, or as a remedy to any Dispute regarding the misuse, misappropriation or unauthorized use or disclosure of proprietary information or intellectual property of a Party, and each Party agrees that the other Party shall be entitled to seek injunctive relief or monetary damages in a court of competent jurisdiction in the United States. Notwithstanding anything herein to the contrary, any such judicial request shall not be deemed incompatible with the terms of paragraph a of this Section 7, nor shall it constitute a waiver of the right to arbitrate.
- (c) Pending resolution or settlement of any Dispute arising under this Purchase Order, Seller will proceed diligently as directed by Buyer with the performance of this Purchase Order. Irrespective of the place of performance, this Purchase Order shall be governed and construed in accordance with the laws of the State within the United States from which Buyer issues this Purchase Order, without regard to its conflicts of laws provisions. However, any provision in this Purchase Order that is: (i) incorporated in full text or by reference from the Federal Acquisition Regulation (FAR) or; (ii) incorporated in full text or by reference from any agency regulation that implements or supplements the FAR or; (iii) that is substantially based on any such agency regulation or FAR provision, shall be construed and interpreted according to the federal common law of government contracts as enunciated and applied by federal judicial bodies, boards of contracts appeals, and quasi-judicial agencies of the United States Government. The provisions of the "United Nations Convention on Contracts for International Sale of Goods" shall not apply to this Purchase Order.
- (d) This Purchase Order constitutes the commercial activities of Seller. Seller hereby waives any sovereign immunity or other immunity from legal proceedings to enforce or collect upon an arbitral

award rendered pursuant to this Section 7.

## **8. Remedies**

- (a) Buyer may exercise all rights and remedies at law and in equity, including those set forth in Article 2 of the Uniform Commercial Code for both goods and services ordered hereunder. Failure of either Party to enforce any of its rights shall not constitute a waiver of such rights or of any other rights and shall not be construed as a waiver or relinquishment of any such provisions, rights or remedies; rather, the same shall remain in full force and effect.
- (b) Buyer shall be entitled at all times to set off any amount owing at any time from Seller to Buyer, against any amount payable at any time by Buyer to Seller.

## **9. Proprietary Rights**

- (a) Unless otherwise expressly set forth in this Purchase Order, all specifications, information, data, drawings, software and other items supplied to Buyer by Seller shall be disclosed to Buyer on a non-proprietary basis and may be used and/or disclosed by Buyer without restriction.
- (b) All specifications, information, data, drawings, software and other items which are (i) supplied to Seller by Buyer or (ii) obtained or developed by Seller in the performance of this Purchase Order or paid for by Buyer shall be proprietary to Buyer, shall be used only for purposes of providing goods or services to Buyer pursuant to this Purchase Order, and shall not be disclosed to any third party without Buyer's express written consent. All such items supplied by Buyer or obtained by Seller in performance of this Purchase Order or paid for by Buyer shall be promptly provided to Buyer on request or upon completion of this Purchase Order.
- (c) Any invention or intellectual property first made or conceived by Seller in the performance of this Purchase Order or which is derived from or based on the use of information supplied by Buyer (collectively, the "Foreground IP") shall be considered to be the property of Buyer. Seller hereby assigns its rights in the Foreground IP to Buyer and shall execute such documents necessary to perfect Buyer's title thereto. Unless otherwise expressly agreed in a contemporaneous or subsequent writing to the contrary or otherwise expressly set forth in this Purchase Order, any work performed pursuant to this Purchase Order which includes any copyright interest shall be considered a "work made for hire". To the extent any of such works do not qualify as a "work made for hire", Seller hereby assigns to Buyer all its intellectual property rights, including its copyright rights, in such works effective immediately upon creation of such works, including when they are first fixed in a tangible medium.
- (d) With respect to any applicable FAR and DFARS clauses incorporated into this Purchase Order relating to license rights in noncommercial technical data and noncommercial computer software and / or noncommercial computer software documentation, Seller grants to Buyer the right to use, disclose, transfer, copy, modify, combine, integrate or make derivative works of any such noncommercial technical data, noncommercial computer software and/or noncommercial computer software documentation delivered under this Purchase Order, to the extent necessary, and for such period as is required, for Buyer to complete its performance under Buyer's U.S. Government programs. If such computer software or computer software documentation is supplied by Seller to Buyer under this Purchase Order, and such computer software and computer software documentation is for future delivery to Buyer's customers, Buyer shall be permitted to do the following: (i) transfer the computer software, the computer software documentation and licenses granted to Buyer's customers for such period of time as Buyer's customers shall use such computer software or software documentation; (ii) modify the computer software or computer software documentation or combine it with other software subject to the proviso that those portions of the modified software which incorporate the original software are subject to the same license rights as the original software; (iii) grant access to the use of the computer software and computer software documentation to Buyer's affiliates, consultants, subcontractors, team members, customers, and similar parties and to their respective employees in connection with Buyer's and Buyer's customer's

authorized uses thereof. Such access is provided on the condition that prior to such access all such parties have suitable obligations in place protecting Seller's rights in the computer software or computer software documentation which are in substance consistent with the provisions of this Purchase Order.

- (e) Notwithstanding anything to the contrary in this Section 9, applicable U.S. Government Procurement Regulations incorporated into this Purchase Order shall, when applicable, take precedence over any conflicting provision of this Section 9 to the extent that such Regulations so require. The incorporation by reference of such U.S. Government Regulations dealing with subcontractors rights in Technical Data, subject inventions, copyrights, software, and similar intellectual property are not intended to, and shall not, unless otherwise required by applicable law, obviate or modify any greater rights which Seller may have previously granted to Buyer pursuant to prior agreements between the Parties.

## **10. Buyer's Property**

- (a) All drawings, tools, jigs, dies, fixtures, materials, and other property supplied or paid for by Buyer shall be and remain the property of Buyer ("Buyer's Property" as used in this Section 10), which shall be returned to Buyer upon Buyer's request.
- (b) Seller shall use Buyer's Property only in the performance of work under this Purchase Order unless Buyer consents otherwise in writing.
- (c) Seller shall not furnish or offer for sale goods made in accordance with Buyer's specifications and / or drawings to another party without Buyer's prior written consent.
- (d) Seller shall maintain Buyer's Property and shall be responsible for all loss or damage to Buyer's Property except for normal wear and tear. Seller shall (i) within two (2) working days, report to Buyer the loss, theft, damage, destruction of Buyer's Property, or if any such property is found to be malfunctioning or otherwise unsuitable for use and (ii) determine and report the root cause and all pertinent facts as soon as they become known, and corrective action taken to prevent recurrence, at no additional cost to Buyer.
- (e) Upon request, Seller shall provide Buyer with adequate proof of insurance against such risk of loss or damage.
- (f) Seller shall clearly mark, maintain in inventory, and keep segregated or identifiable all of Buyer's Property.

## **11. Release of Information**

Without prior written approval of Buyer, Seller shall not (i) publish, distribute, use, or otherwise disclose this Purchase Order, or the existence of this Purchase Order, to any third party for any purposes not required by the express terms of the Purchase Order, or (ii) use the Raytheon Company name (or the name of any division, affiliate or subsidiary thereof), logo, trademark, service mark, or trade dress for the purpose of advertising, making a news release, creating a business reference, creating website content, or for goods or service endorsement.

## **12. Order of Precedence**

Buyer deems the requirements and provisions of this Purchase Order as consistent. Seller shall promptly request Buyer's written determination to resolve any inconsistency, ambiguity, or conflict among the requirements and provisions. Subject to Section 9(e) above, the following order of precedence shall apply: (1) order-specific text on the Purchase Order, which includes specifications incorporated by reference such as drawings and Raytheon Quality Notes (see <http://gnotes.raytheon.com/>); (2) documents incorporated by reference on the Purchase Order and not otherwise referenced in this Section 12 (e.g., prime contract flow-through documents); (3) these International General Terms and Conditions of Purchase (TC-004) and Supplements thereto; (4)

Proprietary Information Agreement or Non-Disclosure Agreement, if applicable; (5) the Statement of Work; (6) United States Government specifications; and (7) Seller specifications, which include Seller drawings, Seller samples, and Seller catalog descriptions. For the avoidance of doubt, all Seller goods delivered hereunder must conform to Buyer's specifications set out in this Purchase Order.

### **13. Warranty**

- (a) Seller warrants that the goods shall be (i) new (ii) free from defects in workmanship, materials, and design and (iii) in accordance with all the requirements of this Purchase Order. Seller further warrants that the performance of services shall conform with the requirements of this Purchase Order and to high professional standards.
- (b) Seller warrants without limitation as to time 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; (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 software to be published, accessed or otherwise made available without the consent of Buyer, or (b) may require distribution, copying or modification of any software free of charge; and (iii) shall not infringe any patent, copyright, trademark, or other proprietary right of any third party or misappropriate any trade secret of any third party.
- (c) These warranty entitlements shall inure to the benefit of both Buyer and Buyer's customers.
- (d) At Buyer's direction, Seller shall promptly repair, replace, correct, or reimburse the purchase price of nonconforming goods or services. Repaired, replaced, or corrected goods or services shall be subject to this Section 13 and the Inspection Section of this Purchase Order to the same extent as goods or services originally delivered under this Purchase Order. Seller shall be liable for and save Buyer harmless from any loss, damage, or expense that Buyer may suffer related to nonconforming goods or services, or from any other breach of the warranties in this Section 13, including, but not limited to, return to Seller of defective or nonconforming goods and redelivery to Buyer of repaired, replaced, or corrected goods.

### **14. Inspection**

- (a) All goods and services shall be subject to inspection and test at all reasonable times and places by Buyer or Buyer's customer before, during, and after performance and delivery. Buyer may require Seller to repair, replace or reimburse the purchase price of rejected goods or Buyer may accept any goods and upon discovery of nonconformance, may reject or keep and rework any such goods not so conforming. Cost of repair, rework, replacement, inspection, transportation, repackaging, and/or reinspection by Buyer shall be at Seller's expense. Buyer's acceptance of goods or services shall not diminish Buyer's rights or be final or binding on Buyer if latent defects, fraud, or misrepresentation on the part of Seller exists.
- (b) Seller will provide reasonable support and access to Buyer in the inspection and test of the goods and services without additional charge.
- (c) Neither Buyer's inspection nor Buyer's failure to inspect shall relieve Seller of any responsibility to perform according to the terms of this Purchase Order. Notwithstanding any other provision of the Purchase Order, the risk of loss of, or damage to, nonconforming goods remains with Seller until cure or acceptance.

### **15. Changes**

Buyer shall have the right by written notice to suspend or stop work or to make changes from time to time in the services or the goods to be furnished by Seller or to the delivery schedule. If such

suspension, stoppage, or changes cause an increase or decrease in the cost of performance of this Purchase Order or in the time required for its performance, an equitable adjustment shall be negotiated promptly and the Purchase Order shall be modified in writing accordingly. Any claim by Seller for adjustment under this Paragraph 15 must be asserted in writing within twenty (20) days from the date of receipt by Seller of notification of the change or suspension and shall be followed as soon as practicable with specification of the amount claimed and supporting cost figures. Failure to agree to any such change shall be resolved in accordance with Section 7 Disputes and Governing law herein. However, nothing herein shall excuse Seller from proceeding with this Purchase Order as changed pending resolution of the claim.

## **16. Infringement**

Seller represents and warrants that all goods and services (for purposes of this Section 16 hereinafter "items"), provided by Seller pursuant to this Purchase Order, which are not of Buyer's design, do not infringe or misappropriate any third party intellectual property rights and that any use or sale of such items by Buyer or any of Buyer's customers shall be free from any claims of infringement. Seller shall indemnify and hold Buyer, and its customers harmless from any and all expenses, liability, and loss of any kind (including all costs, expenses, and attorneys' fees) arising out of claims, suits, or actions alleging such infringement, which claims, suits, or actions Seller, hereby, agrees to defend, at Seller's expense, if requested to do so by Buyer. Moreover, Seller may replace or modify infringing items with comparable items acceptable to Buyer of substantially the same form, fit, and function to remove the source of infringement, and Seller's obligations under this Purchase Order including those contained in Section 13 Warranty and in this Section 16 shall apply to the replacement and modified items. If the use or sale of any of the above items is enjoined because of such claim, suit or action, Seller, at no expense to Buyer, shall obtain for Buyer and its customers the right to use and sell said item.

## **17. Taxes and Drawback**

- (a) If Buyer acts as Importer of Record of goods Seller ships to the United States pursuant to this Purchase Order, the price of this Purchase Order shall not include any duties, taxes, or fees resulting from such importation. If Seller acts as Importer of Record, the price may include duties, taxes, and fees resulting from that importation, unless Buyer has furnished a valid exemption certificate or other evidence of exemption, which the applicable government agency has granted. The price may include applicable sales and use taxes that are separately stated on Seller's invoice, but Seller retains the responsibility to remit taxes collected from Buyer to the relevant tax authority.
- (b) Any refund, credit, or rebate of any import duties, taxes, or fees (including any drawback claim), in Seller's price to Buyer, shall inure solely to Buyer's benefit and shall be assigned to Buyer. Seller shall reasonably assist Buyer in Buyer's effort to realize any such available amounts.

## **18. Assignments, Subcontracting, Organizational Changes, and Place of Performance**

- (a) Seller may not assign any rights or delegate any of its obligations due or to become due under this Purchase Order without the prior written consent of Buyer. Any such purported assignment or delegation by Seller without such consent shall be void. Buyer may assign this Purchase Order to (i) any affiliated company, (ii) any successor in interest, or (iii) Buyer's customer.
- (b) Seller may not subcontract any part of this Purchase Order without the prior written consent of Buyer. Buyer shall not be obligated to any subcontractor for the materials, products, or services of any subcontractor whether or not Buyer has consented to or designated a subcontractor. Approval of a subcontractor is not a release or waiver of any obligation of Seller or right of Buyer. Seller is responsible for all actions or inactions of any subcontractor and shall bind its subcontractors for the benefit of Seller and Buyer to perform its obligations under these terms. If Seller subcontracts any part of the work outside the country of purchase, Seller shall be responsible for customs formalities and clearances to the country of Purchase Order placement, unless the Purchase Order states otherwise, and Buyer may direct the contract of carriage. Seller shall agree with Buyer on a mutually acceptable customs broker, but Seller shall in no way be relieved from its responsibilities for customs formalities and clearances, including the actions of the selected customs broker. Any

subcontract awarded to a foreign person, as defined in the International Traffic in Arms Regulations or the Export Administration Regulations, must comply with the Export and Import Compliance Controls Section herein.

- (c) Seller shall promptly notify Buyer in writing of any Seller name or ownership changes, or mergers or acquisitions.
- (d) Seller shall not change the place of performance under this Purchase Order without Buyer's prior written consent.

## **19. Compliance with Law**

- (a) Seller, in the performance of this Purchase Order, warrants that it shall comply with all relevant laws, orders, rules, ordinances, and regulations.
- (b) Seller acknowledges that its actions may subject it and Buyer to liability under the United States Foreign Corrupt Practices Act, 15 U.S.C. § 78 et seq. (the "FCPA"), the UK Bribery Act 2010, the anti-corruption laws, regulations, and policies of Seller's home country, the United States of America, and/or the anti-corruption laws, regulations, and policies of any other country with jurisdiction over the activities performed pursuant to this Purchase Order (together and individually hereinafter referred to as the "Anti-Corruption Requirements").
- (c) Seller warrants that no compensation payable hereunder has been used, nor will be used, for any activity or purpose where a reasonable belief exists that the Anti-Corruption Requirements would be violated or that Seller or Buyer would be exposed to liability under the Anti-Corruption Requirements.
- (d) Seller represents and warrants to, and covenants and agrees with, Buyer that:
  - 1. Seller is familiar with the prohibitions under the Anti-Corruption Requirements, and, in particular, it is familiar with the requirements described in clause 19(c)(2).
  - 2. In connection with its performance of this Purchase Order, Seller has not, and has not either agreed to or directly or indirectly, offered, paid, given, promised to pay or give, or authorized the payment or giving of any money, gift, loan, fee, reward, advantage or anything of value, and will not either agree to or directly or indirectly, offer, pay, give, promise to pay or give, or authorize the payment or giving of any money, gift, loan, fee, reward, advantage, or anything of value to any of the following persons for the purpose of: (A) influencing or attempting to influence any act or decision of any such person acting in an official capacity, or influencing or attempting to influence any such person to do or omit to do any act in violation of his, her or its lawful duty, obligation or responsibility; (B) inducing or attempting to induce such a person to use his, her, or its influence to affect or influence any act or decision of a customer, a foreign government, a foreign agency, a public international organization or department thereof, or any entity, enterprise or organization controlled by a foreign government, a foreign agency or a public international organization; (C) rewarding such a person for doing or forbearing to do anything in respect of any matter or transaction; or (D) assisting Seller or Buyer in obtaining or retaining business, improving profitability or revenues of Buyer or Seller, or receiving any improper advantage by securing business, or directing business for, with, or to any person:
    - (i) (A) any officer or employee of a foreign government or any department or agency thereof, whether at the national, regional, or local level, (B) any officer or employee of any entity, enterprise or organization that is owned or controlled by a foreign government or any department or agency thereof, (C) any officer or employee of a public international organization, (D) any person acting in an official capacity for or on behalf of any such government or department, agency, entity, enterprise, or organization, or (E) any member of a political party or candidate for public office in a foreign country (together and individually hereinafter referred to as "Government Official");
    - (ii) any customer, or any officer, director, employee of a customer, or any shareholder or beneficial owner of shares in a customer or any affiliate of a customer or any person who



- has or exercises control over the customer or any affiliate of the customer (together and individually hereinafter referred to as "Customer Personnel").
- (iii) any person while knowing or having reason to know that all or a portion of such money, gift, loan, fee, reward, advantage, or thing of value will be offered, paid, given or promised, directly or indirectly, to any Government Official or Customer Personnel ("Restricted Person"); or
  - (iv) any relative, close associate, agent or representative of a Government Official, Customer Personnel, or Restricted Person.
3. None of Seller's principals, consultants, subcontractors, officers, directors, shareholders, employees, or agents is a Government Official, Customer Personnel, or Restricted Person unless approved by Buyer pursuant to Paragraph 9, below. Neither Seller nor any of its principals, consultants, subcontractors, shareholders, directors, officers, employees, or agents has performed or will perform any act which Buyer could reasonably believe would constitute a violation of the Anti-Corruption Requirements or which Buyer could reasonably believe would cause Buyer to be in violation of the Anti-Corruption Requirements, or present a credible risk, as determined by Buyer, of a violation of the Anti-Corruption Requirements.
  4. If at any time Seller becomes aware of information or circumstances that suggest any of the representations, warranties, and covenants referenced in this Section 19 may not be accurate, it shall notify Buyer immediately in writing, but not more than seven (7) days after becoming aware of such circumstances.
  5. No Government Official, Customer Personnel, or Restricted Person has a right to share directly or indirectly in any compensation payable under this Purchase Order. No payment will be made hereunder to any person other than Seller; and no payment will be made to Seller under this Purchase Order other than the payment of the compensation in accordance with the terms hereof.
  6. In connection with this Purchase Order, Seller shall maintain books, records, and accounts which, in reasonable detail, (i) accurately and fairly reflect the transactions and asset dispositions of Seller, and (ii) allow Buyer to maintain accurate books and records and comply with the requirements for internal management controls set forth in the Anti-Corruption Requirements.
  7. Any modification or amendment to this Purchase Order shall be deemed a re-certification of the accuracy and truthfulness of the foregoing representations and warranties of this Section.
  8. Seller's price quotations and invoice prices shall accurately and fairly reflect the commensurate value of the goods and services provided under this Purchase Order.
  9. Seller shall cooperate with, and provide assistance to, Buyer in implementing adequate due diligence procedures in connection with the selection and retention of consultants and subcontractors by Buyer or Seller. In the event that Buyer determines that consultants and subcontractors selected and to be retained by Seller are a Government Official, Customer Personnel, or Restricted Person as defined above, Seller shall confirm that such consultants and subcontractors are competent, experienced and financially solvent and shall cause each such consultant and subcontractor to complete Buyer's Second Tier Questionnaire and Certification form and any other documentation reasonably required by Buyer, and shall deliver such completed form and any required documentation to Buyer for review. If, after review of the completed Questionnaire and Certification form and any required documentation, Buyer agrees to Seller's use of such consultant or subcontractor in connection with satisfying the requirements of this Purchase Order, Seller shall include the substance of this Section 19 in any agreement between Seller and the consultant or subcontractor and shall cause the consultant or subcontractor to include the substance of this Section 19 in all agreements with any lower tier consultants or subcontractors.
- (e) For Purchase Orders placed in support of and charged to a U.S. Government ("Government") prime contract or higher-tier subcontract for an item meeting the Federal Acquisition Regulation (FAR) definition of a commercial item, the following provisions and clauses set forth in the FAR or the

Defense Federal Acquisition Regulation Supplement (DFARS) shall apply. The version of each FAR and DFARS provision or clause shall be the version in effect as of the date of the prime contract. Such FAR and DFARS provisions and clauses are incorporated herein, unless made inapplicable by a corresponding note in this Section 19(e), with the same force and effect as if given in full text. Upon Seller's request, Buyer's Purchasing Representative will make their full text available. Also, the full text of a FAR or DFARS provision or clause may be accessed electronically at these addresses: <http://farsite.hill.af.mil/> or <http://www.acq.osd.mil/dpap/sitemap.html>. In all clauses listed herein, terms shall be revised to suitably identify the party to establish Seller's obligations to Buyer and to the Government; and to enable Buyer to meet its obligations under its prime contract. Without limiting the generality of the foregoing, and except where further clarified or modified below, the term "Government" and equivalent phrases shall mean "Buyer", the term "Contracting Officer" shall mean "Buyer's Purchasing Representative", the term "Contractor" or "Offeror" shall mean "Seller", "Subcontractor" shall mean "Seller's Subcontractor" under this Purchase Order, and the term "Contract" shall mean this "Purchase Order". For the avoidance of doubt, the words "Government" and "Contracting Officer" do not change: (1) when a right, act, authorization or obligation can be granted or performed only by the Government or the prime contract Contracting Officer or duly authorized representative, such as in FAR 52.227-1 and FAR 52.227-2 and (2) when title to property is to be transferred directly to the Government. Nothing in this Purchase Order grants Seller a direct right of action against the Government. If any of the following FAR or DFARS clauses do not apply to this Purchase Order, such clauses are considered to be self-deleting. Seller shall incorporate into each lower tier contract issued in support of this Purchase Order all applicable FAR and DFARS clauses in accordance with the flow down requirements specified in such clauses.

**A. THE FOLLOWING FAR CLAUSES ARE APPLICABLE TO PURCHASE ORDERS FOR COMMERCIAL ITEMS UNDER ALL GOVERNMENT CONTRACTS:**

1. **52.203-7** "Anti-Kickback Procedures" (Excepting paragraph (c)(1))(Applicable to Purchase Orders that exceed \$150,000 or the dollar threshold in effect as of the date of the prime contract.)
2. **52.203-12** "Limitation on Payments to Influence Certain Federal Transactions" (Applicable to Purchase Orders exceeding \$150,000 or the dollar threshold in effect as of the date of the prime contract.)
3. **52.203-13** "Contractor Code of Business Ethics and Conduct" (Applicable to Purchase Orders (i) that have a value more than \$5,500,000 or the dollar threshold in effect as of the date of the prime contract; and (ii) that have a performance period of more than 120 days.) (In Paragraph (b)(3)(i), the meaning of "agency office of the Inspector General" and "Contracting Officer" does not change, in Paragraph (b)(3)(ii) the meaning of "Government" does not change, and in Paragraphs (b)(3)(iii) and (c)(2)(ii)(F), the meaning of "OIG of the ordering agency", "IG of the agency" "agency OIG" and "Contracting Officer" do not change.)
4. **52.203-19** "Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements"
5. **52.204-10** "Reporting Executive Compensation and First-Tier Subcontract Awards" (Applicable to Purchase Orders of \$30,000 or more (or the dollar threshold in effect as of the date of the prime contract) when Buyer is the Prime Contractor.) (The usual substitution of the parties is not applicable to this clause. Seller shall report to Buyer the information required under the clause.)
6. **52.204-21** "Basic Safeguarding of Covered Contractor Information Systems" (Applicable to Purchase Orders, other than those for commercially available off-the-shelf items, in which Seller may have Federal contract information residing in or transiting through its information system.)
7. **52.204-23** "Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities"
8. **52.209-6** "Protecting the Government's Interest When Subcontracting With Contractors"

- Debarred, Suspended, or Proposed for Debarment” (Applicable to Purchase Orders exceeding \$35,000 or the dollar threshold in effect as of the date of the prime contract, except for Purchase Orders for commercially available off-the-shelf items.)
9. **52.219-8** “Utilization of Small Business Concerns” (Applicable to Purchase Orders (i) to the extent that the work under the Purchase Order will be performed in the United States or its outlying areas or Seller is recruiting employees in the United States or its outlying areas to work on the Purchase Order, and (ii) (except to small business concerns) that offer further subcontracting opportunities.)
  10. **52.222-21** “Prohibition of Segregated Facilities” (Applicable to Purchase Orders that are subject to FAR 52.222-26.)
  11. **52.222-26** “Equal Opportunity” “Equal Opportunity” (Applicable to Purchase Orders (i) except to the extent that work under the Purchase Order will be performed outside the United States or by employees that are not recruited within the United States to work on the Purchase Order. “United States”, as used in this parenthetical, means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island, and (ii) that are not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended.)
  12. **52.222-35** “Equal Opportunity for Veterans” (Applicable to Purchase Orders of \$150,000 or more, or the dollar threshold in effect as of the date of the prime contract, when the listing of employment openings for purposes of work to be performed under this Purchase Order occur and are filled within the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.)
  13. **52.222-36** “Affirmative Action for Workers with Disabilities” (Applicable to Purchase Orders exceeding \$15,000 or the dollar threshold in effect as of the date of the prime contract, to the extent that work under the Purchase Order will be performed in the United States, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, or Wake Island or Seller is recruiting employees in the United States, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, or Wake Island to work on the Purchase Order.)
  14. **52.222-37** “Employment Reports on Veterans” (Applicable to Purchase Orders of \$150,000 or more, or the dollar threshold in effect as of the date of the prime contract, when the listing of employment openings for purposes of work to be performed under this Purchase Order occur and are filled within the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.)
  15. **52.222-40** “Notification of Employee Rights Under the National Labor Relations Act” (Applicable to Purchase Orders that exceed \$10,000 or the dollar threshold in effect as of the date of the prime contract when work under the Purchase Order will be performed wholly or partially in the United States.)
  16. **52.222-50** “Combating Trafficking in Persons”
  17. **52.222-54** “Employment Eligibility Verification” (Applicable to Purchase Orders (i) for construction or commercial or noncommercial services (except commercial services that are part of a purchase of a COTS item, or an item that would be a COTS item, but for minor modifications, performed by the COTS provider, and that are normally provided for that COTS item); (ii) has a value more than \$3,500 or the dollar threshold in effect as of the date of the prime contract; and (iii) includes work performed in the United States. “United States”, as used in this parenthetical, means the 50 States, the District of Columbia, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands.)
  18. **52.222-55** “Minimum Wages Under Executive Order 13658” (Applicable to Purchase Orders regardless of dollar value, that are subject to the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, and are to be performed in whole or in part in the United States.)

19. **52.222-62** "Paid Sick Leave Under Executive Order 13706" (Applicable to Purchase Orders, regardless of dollar value, that are subject to the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute and are to be performed in whole or in part in the United States.)
  20. **52.223-7** "Notice of Radioactive Materials" (Seller shall notify Buyer if any goods under this Purchase Order contain any of the material as described in the clause. Insert 45 days in the blank in paragraph (a) of the clause unless otherwise indicated in the Purchase Order.)
  21. **52.224-3** "Privacy Training" (Applicable to Purchase Orders, regardless of dollar value, when Seller's employees will (i) have access to a system of records; (ii) create, collect, use, process, store, maintain, disseminate, disclose, dispose, or otherwise handle personally identifiable information; or (iii) Design, develop, maintain, or operate a system of records.)
  22. **52.225-13** "Restrictions on Certain Foreign Purchases"
  23. **52.225-26** "Contractors Performing Private Security Functions Outside the United States" (Applicable to Purchase Orders that will be performed outside the United States in areas of (i) combat operations, as designated by the Secretary of Defense, or (ii) other significant military operations, upon agreement of the Secretaries of Defense and State that the clause applies in that area.)
  24. **52.244-6** "Subcontracts for Commercial Items"
  25. **52.247-64** "Preference for Privately Owned U.S.-Flag Commercial Vessels" (Applicable to Purchase Orders, except those exempted in paragraph (e) (4) of the clause.)
- B. THE FOLLOWING DFARS CLAUSES ARE APPLICABLE TO PURCHASE ORDERS FOR COMMERCIAL ITEMS UNDER DoD CONTRACTS:**
1. **252.203-7002** "Requirement to Inform Employees of Whistleblower Rights"
  2. **252.204-7012** "Safeguarding of Unclassified Controlled Technical Information" (Applicable to Purchase Orders under DoD contracts awarded after November 17, 2013 and before August 26, 2015.)
  3. **252.204-7012** "Safeguarding Covered Defense Information and Cyber Incident Reporting" (Applicable to Purchase Orders under DoD contracts awarded after August 25, 2015 and before October 8, 2015.)
  4. **252.204-7012** "Safeguarding Covered Defense Information and Cyber Incident Reporting" (DEVIATION 2016-O0001) (Applicable to Purchase Orders under DoD contracts awarded after October 7, 2015 and before December 30, 2015.)
  5. **252.204-7012** "Safeguarding Covered Defense Information and Cyber Incident Reporting" (INTERIM RULE 12/30/2015) (Applicable to Purchase Orders under DoD contracts awarded after December 29, 2015 and before October 21, 2016 for operationally critical support, or for which Purchase Order performance will involve a covered contractor information system.)
  6. **252.204-7012** "Safeguarding Covered Defense Information and Cyber Incident Reporting" (FINAL RULE 10/21/2016) (Applicable to Purchase Orders under DoD contracts awarded after October 20, 2016 for operationally critical support, or for which Purchase Order performance will involve covered defense information.)
  7. **252.204-7015** "Disclosure Of Information To Litigation Support Contractors"
  8. **252.211-7003** "Item Unique Identification and Valuation" (Seller's obligations under this clause are limited to cooperating with Buyer's efforts to comply with this clause, including granting Buyer access to Seller's deliverables at its facilities and to appropriate property records.)
  9. **252.215-7010** "Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data" (Applicable to Purchase Orders exceeding the simplified acquisition threshold defined in FAR part 2.)

10. **252.223-7008** “Prohibition of Hexavalent Chromium” (Applicable to all Purchase Orders for supplies, maintenance and repair services, or construction materials.)
11. **252.225-7008** “Restriction on Acquisition of Specialty Metals” (Applicable to Purchase Orders for the delivery of specialty metals as end items to Buyer or Seller to the extent necessary to ensure compliance of the end products that Buyer will deliver to the Government when DFARS clause 252.225-7009 is in the prime contract.)
12. **252.225-7009** “Restriction on Acquisition of Certain Articles Containing Specialty Metals” (excluding paragraph (d) and paragraph (e)(1) which are deleted from this clause). (Applicable to Purchase Orders for items containing specialty metals to ensure compliance of the end products that Buyer will deliver to the Government.)
13. **252.225-7040** “Contractor Personnel Authorized to Accompany U.S. Armed Forces Deployed Outside the United States” (Applicable to Purchase Orders that will be performed when Seller’s personnel or Seller’s subcontractors are supporting U.S. Armed Forces deployed outside the United States in contingency operations, peace operations consistent with Joint Publication 3-07.3, or other military operations or military exercises, when designated by the Combatant Commander or as directed by the Secretary of Defense.)
14. **252.225-7048** “Export-Controlled Items”
15. **252.225-7052** “Restriction on the Acquisition of Certain Magnets and Tungsten”. (Applicable to Purchase Orders for the delivery of goods that exceed the simplified acquisition threshold, unless an exception at paragraph (c) of the clause applies).
16. **252.227-7013** “Rights in Technical Data Noncommercial Items” (Applicable to solicitations and resulting Purchase Orders when Buyer will be required to deliver to the Government Seller’s technical data for commercial items for which the Government will have paid for any portion of the development costs.)
17. **252.227-7015** “Technical Data – Commercial Items” (Applicable whenever any technical data related to commercial items developed in any part at private expense will be provided under this Purchase Order for delivery to the Government.)
18. **252.227-7037** “Validation of Restrictive Markings on Technical Data” (Applicable to Purchase Orders requiring the delivery of technical data.)
19. **252.239-7010** “Cloud Computing Services” (Applicable to Purchase Orders that involve or may involve cloud services)
20. **252.239-7018** “Supply Chain Risk” (Applicable to Purchase Orders involving the development or delivery of any information technology, as defined in the clause, as a service or a supply.)
21. **252.244-7000** “Subcontracts for Commercial Items and Commercial Components (DoD Contracts)”
22. **252.246-7003** “Notification of Potential Safety Issues” (Applicable to Purchase Orders for (i) parts defined as critical safety items in accordance with this clause; (ii) systems and subsystems, assemblies, and subassemblies integral to a system; and (iii) repair, maintenance, logistics support, or overhaul services for systems and subsystems, assemblies, subassemblies, and parts integral to a system.)
23. **252.246-7007** “Contractor Counterfeit Electronic Part Detection and Avoidance System” (Applicable to Purchase Orders when the goods or services include *electronic parts* or assemblies containing *electronic parts*. This clause applies to all Sellers, at all tiers, without regard to whether the Seller itself is subject to CAS.)
24. **252.246-7008** “Sources of Electronic Parts” (Applicable to Purchase Orders for *electronic parts* or assemblies containing *electronic parts*, unless Seller is the original manufacturer of the electronic part.)
25. **252.247-7023** “Transportation of Supplies by Sea”

- (f) Seller warrants that it and its officers, employees, or representatives have not, for the purpose of improperly obtaining or rewarding favorable treatment in connection with the award of this Purchase Order to Seller from Buyer: (1) provided, attempted to provide, or offered to provide any kickback; (2) solicited, accepted, or attempted to accept any kickback; or (3) included, directly or indirectly, the amount of any kickback prohibited by (1) or (2) of this Section in the price charged by Seller to Buyer under this Purchase Order. Any breach of this warranty shall constitute a material breach of this Purchase Order. For purposes of this Section, the term "kickback" means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to Buyer or Buyer's officers, employees, or representatives, including any of their family members, subcontractors, or subcontractor employees, for the purpose of improperly obtaining or rewarding favorable treatment in connection with this Purchase Order.
- (g) Seller warrants that it has and shall maintain all registrations and licenses and shall obtain permits as required to perform the work hereunder.
- (h) Seller agrees to defend, indemnify, and save Buyer harmless from any loss, damage, fine, penalty, or expense that Buyer may suffer because of Seller's failure to comply with the warranties and certifications in this Section 19.

## **20. Responsibility and Insurance**

- (a) Seller shall maintain, and require its subcontractors to maintain, the insurance coverages that are specified in this Purchase Order or, if none are specified, the following minimum insurance coverage and limits: Statutory Workers' Compensation coverage and Employers' Liability with a limit of \$500,000; Commercial General Liability (including bodily injury and property damage, products / completed operations coverage and contractual liability coverage) with a limit of \$1,000,000 per occurrence. When applicable to Seller's performance on the Purchase Order, Seller shall also maintain, and require its subcontractors to maintain, (i) Automobile Liability coverage with a limit of \$1,000,000 per accident; and (ii) Professional Liability covering the services provided by Seller under this Purchase Order. Upon Buyer's request, Seller shall (1) provide Buyer with certificates of insurance evidencing required insurance, (2) arrange for a waiver of subrogation in favor of Buyer, and / or (3) in the case of the Commercial General Liability and Automobile Liability policies direct that Buyer be added as an additional insured.
- (b) If work is to be performed on premises owned or controlled by Buyer, then Seller shall comply with all the rules and regulations established by Buyer for access to and activities in and around premises owned or controlled by Buyer. Seller shall be responsible for the actions and failure to act of all parties retained by, through, or under Seller in connection with the performance of this Purchase Order.

## **21. Indemnity Against Claims**

- (a) Seller shall keep its work and all goods supplied by it hereunder and Buyer premises free and clear of all liens and encumbrances in any way arising from performance of this Purchase Order by Seller or by any of its vendors or subcontractors. Seller may be required by Buyer to provide a satisfactory release of liens as a condition of final payment.
- (b) Seller shall, without limitation, indemnify and save Buyer and its customer(s) and their respective officers, directors, employees and agents harmless from and against (i) all claims and resulting costs, expenses (including attorney fees and costs) and liability which arise from personal injury, death, or property loss or damage attributed to, or caused by, the goods supplied, or the services performed by Seller pursuant to this Purchase Order, except to the extent that such injury, death, loss or damage is caused solely and directly by the negligence of Buyer, and (ii) all claims (including resulting costs, expenses and liability) by the employees of Seller or any of its subcontractors.

## 22. Currency and Offsets

- (a) Payment will be in United States dollars unless otherwise agreed to by specific reference in this Purchase Order.
- (b) Seller agrees that Buyer, its subsidiaries, affiliates or its designees may exclusively use the value of this Purchase Order to satisfy any international offset or industrial participation obligations that Buyer may have with Seller's country, subject to the offset qualifying laws, rules and regulations of that country and prohibitions on incentive payments for the purpose of satisfying any offset agreement with that country under 22 U.S.C. § 2779a (the "Feingold Amendment"). In addition, Seller grants to Buyer exclusive rights to all offset credits or industrial participation generated or performed by its suppliers and subcontractors in connection with this Purchase Order. Upon Buyer's request, Seller shall provide copies of any relevant purchase orders or subcontracts with foreign suppliers and execute all necessary documents to evidence Buyer's right to use, claim, or assign any offset credits or industrial participation. Seller shall include the substance of this Paragraph 22(b), in favor of Buyer, in its subcontracts issued at all tiers pursuant to this Purchase Order.

## 23. Export/Import Controls

- (a) Seller hereby certifies that, in connection with the performance of this Purchase Order, it will comply with U.S. export and import control laws and regulations, including but not limited to the International Traffic in Arms Regulations ("ITAR") ([22 CFR 120 et seq.](#)), the Export Administration Regulations ("EAR") ([15 CFR Part 730-774](#)), the regulations administered by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") ([31 CFR Part 500-598](#)), the regulations administered by the U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives ("ATF") found in [27 CFR Chapter II](#), and all other applicable U.S. Government regulations relating to the importation of goods into the United States (including, but not limited to, the regulations administered by U.S. Customs and Border Protection ("CBP") at [19 CFR 0 et seq.](#) and other import regulations promulgated by other U.S. agencies which may be enforced by CBP)(collectively "U.S. export and import control laws and regulations"). If Seller engages in the United States in the business of either manufacturing, exporting, or brokering in ITAR-controlled defense articles or furnishing ITAR-controlled defense services, Seller hereby certifies that it is currently registered with the U.S. Department of State Directorate of Defense Trade Controls ("DDTC").
- (b) Seller shall ensure that any disclosure, export, reexport, transfer and retransfer of, and access to, any hardware, software, controlled technical data, technology, and/or services (collectively referred to as "items") received under this Purchase Order is undertaken in accordance with U.S. export control laws and regulations. Seller agrees that no controlled items provided by Buyer in connection with this Purchase Order shall be provided to any person or entity unless the transfer is expressly permitted by a U.S. Government license or other authorization, or is otherwise in accordance with applicable laws and regulations.
- (c) This Paragraph (c) applies only in circumstances in which Seller or its sub-tier supplier is either the design authority or the exporter for a deliverable under this Purchase Order. Seller shall notify Buyer if any deliverable under this Purchase Order is subject to U.S. export and import control laws and regulations described in Paragraph 23(a). Before providing Buyer any deliverable subject to the EAR or the ITAR, Seller shall provide in writing to the Buyer's Procurement Representative the export jurisdiction and classification of any such item or controlled data. After this initial disclosure, Seller shall timely notify the Buyer's Procurement Representative in writing of any changes to the export jurisdiction and classification of the item or controlled data.
- (d) Seller hereby warrants that neither Seller, nor any immediate or ultimate parent, majority shareholder, subsidiary, affiliate, or lower-tier subcontractor is listed on any [Restricted Party](#) List of an agency of the U.S. Government, any applicable non-U.S. Government or international organization, or any applicable state, local government, or municipality, nor are their export privileges denied, suspended, or revoked. For purposes of this provision, "Restricted Party List" is defined to include lists administered by the U.S. Departments of State, Commerce, and Treasury

(e.g., Specially Designated Nationals List) or other U.S. government agency and other similar lists that relate to export controls, economic sanctions, or anti-corruption. Seller shall immediately notify Buyer if Seller, or any immediate or ultimate parent, majority shareholder, subsidiary, affiliate, or lower-tier subcontractor is added to any such Restricted Party List or if any of their export privileges become denied, suspended, or revoked. Seller shall not deal with any Restricted Party in relation to this Purchase Order.

- (e) Seller shall promptly notify Buyer of any known or suspected violation of export or import control laws or regulations, or the initiation or existence of any U.S. Government investigation into same. Additionally, where Buyer transfers items to Seller under a U.S. Government export authorization, Seller shall abide by all provisos, requirements, and restrictions related to the applicable authorization and provide to Buyer accurate and complete records relating to all activities for which such records are required, such as but without limitation (i) Non-disclosure Agreements for sublicensees, (ii) Nontransfer and Use Certificates (DSP-83) for exports of Significant Military Equipment or classified equipment or technical data, and (iii) sales data to support annual sales reports. Seller shall promptly notify Buyer of any changed circumstance that may require Buyer to seek a new authorization, or a revision or amendment to an existing authorization, or that may impact Seller's ability to perform under this contract (including a change in name or ownership, the desired addition of a non-U.S. dual or foreign national employee, or the desired addition of a new subcontractor and/or affiliate). Seller shall comply with requests from Buyer for additional information regarding any such changed circumstance. Buyer shall not be responsible for delays in U.S. import or export of controlled items supplied hereunder resulting from a lack of necessary documentation.
- (f) If this Purchase Order forms the whole or a part of a sale by Buyer of defense articles or defense services being sold in support of a Foreign Military Sale or commercially to or for the use of the armed forces of a foreign country or international organization, Seller shall upon acceptance of this Order, or within ten (10) days of being requested by Buyer to do so, with respect to all Purchase Orders received by the Seller's legal entity to date in relation to the Raytheon Customer Contract or Solicitation Number related to the Purchase Order, complete IN-009 "International Traffic in Arms Regulations Certificate and Reporting of Political Contributions, Fees or Commissions," available at [http://www.raytheon.com/suppliers/supplier\\_resources/](http://www.raytheon.com/suppliers/supplier_resources/) in furtherance of the requirements stipulated in Part 130 of the ITAR, [22 C.F.R. §§130.9 and 130.10](#).
- (g) Seller shall not engage in any subcontracts relating to this Purchase Order except in accordance with the terms and conditions of Section 18, Assignments, Subcontracting, Organizational Changes, and Place of Manufacture, and as compliant with U.S. export and import control laws and regulations, and any authorizations granted thereunder. If Buyer authorizes Seller to engage in subcontracting for procurements related to this Purchase Order, Seller shall incorporate into its subcontracts the provisions of Section 23 requiring compliance with U.S. and other applicable export and import control laws and regulations.
- (h) If this Purchase Order is issued in the United States for goods shipped directly to the United States from the country where Seller is located, Buyer may serve as Importer of Record. Unless this Purchase Order specifies otherwise, Seller agrees in all other cases to serve as Importer of Record and to be responsible for Customs clearance and for payment of any and all duties, taxes, and fees for goods entering into the United States or other relevant country. In all cases, Seller is responsible for complying with all relevant U.S. and non-U.S. import and export laws and regulations to the extent consistent with U.S. law, including ensuring that imported goods were not produced wholly or in part with convict labor, forced labor, and/or indentured labor (including forced or indentured child labor).
- (i) Should any items be imported into the United States or any other country in support of this Purchase Order, Seller shall comply with all Customs requirements, including those found in 19 CFR (including 19 CFR Part 141 subpart F). Seller shall provide Buyer within a reasonable time any information Buyer requests to comply with requirements for import or export of goods covered by this Purchase order or items into which those goods are incorporated. Seller shall promptly notify



Buyer if Seller learns of any change in information relating to product quantity, value, country of origin, port of export, or any other information provided to or requested by Buyer. Seller agrees that it will provide pre-alert shipping information and documentation to Buyer in a timely manner, including, but not limited to, a commercial invoice in accordance with 19 CFR Part 141 subpart F, airway bill or bill of lading, and other documentation as required by the relevant regulations and Buyer.

- (j) Seller shall indemnify Buyer for all liabilities, penalties, losses, damages, costs or expenses that may be imposed on or incurred by Buyer in connection with any violations of non-U.S. or U.S. export or import control laws and regulations, by Seller, its officers, employees, agents, suppliers, or subcontractors at any tier.

#### **24. Severability**

If any provision of this Purchase Order or application thereof is found invalid, illegal or unenforceable by law, the remainder of this Purchase Order will remain valid, enforceable and in full force and effect, and the Parties will negotiate in good faith to substitute a provision of like economic intent and effect.

#### **25. Standards of Business Ethics and Conduct**

By the acceptance of this Purchase Order, Seller represents that it has not participated in any conduct in connection with this Purchase Order that violates the Raytheon Code of Conduct (available at <http://www.raytheon.com/ourcompany/ourculture/code/> ) or, alternatively, the equivalent business ethics and conduct standards of Seller. If, at any time, Buyer determines that Seller is in violation of the applicable Standards of Business Ethics and Conduct, Buyer may cancel this Purchase Order upon written notice to Seller and Buyer shall have no further obligation to Seller.

#### **26. Priority Rating**

If so identified, this Purchase Order is a “rated order” certified for national defense use, and Seller shall follow all the requirements of the Defense Priorities and Allocation System Regulation (15 C.F.R. Part 700).

#### **27. Survivability**

Seller’s obligations that by their very nature must survive expiration, termination, or completion of this Purchase Order shall survive expiration, termination, or completion of this Purchase Order.

#### **28. Electronic Transmissions**

Neither Party shall contest the validity of this Purchase Order due to the use of electronic signatures or use of commercially acceptable standards in the transmission of this Purchase Order.

#### **29. Buyer’s Access to Records and Facilities**

Seller shall maintain general Records relating to this Purchase Order for a minimum of four (4) years after completion of final delivery of goods pursuant to this Purchase Order or for such longer period as agreed to in writing by the Parties or required by law (including U.S. requirements to retain entry records for five years from the date of entry and to retain records related to shipments under U.S. export authorization until five years after the date of expiration of the authorization). In order to assess Seller’s work quality, conformance with Buyer’s specifications and compliance with this Purchase Order, and Seller’s overall financial statements and financial condition, Buyer or its authorized agents and representatives shall have the right during normal business hours of Seller and with reasonable prior notice to Seller to inspect and audit all: (i) records, books, tax returns and other documents in the possession or under the control of Seller relating to any of Seller’s obligations under this Purchase Order (“Records”) or any termination claim of Seller; (ii) materials and services related in any way to the goods, including purchased tooling, at all places, including sites where the materials or goods are created or the services are performed, whether they be at premises of Seller, Seller’s subcontractors or elsewhere; (iii) furnished property; and (iv) required tooling. If any inspection, audit or similar oversight activity is made on Seller’s or its suppliers’ premises, Seller shall, without additional charge,

provide all reasonable access and assistance for the safety and convenience of the inspectors; and take all necessary precautions and implement appropriate safety procedures for the safety of the inspectors while they are present on such premises. In the event that Buyer notifies Seller of any deficiency detected during such inspection, Seller shall correct such deficiency within the time period specified in such notice. Seller shall obtain from its subcontractors such access rights for the benefit of Buyer.

### **30. Counterfeit Risk Avoidance**

- (a) Seller shall only deliver goods that (i) are and only contain materials obtained directly from the original manufacturer (OM), an authorized distributor, or an authorized aftermarket manufacturer, and (ii) are not and do not contain Counterfeit Items or Suspect Counterfeit Items, as defined below; and (iii) contain only authentic, unaltered OM labels and other markings. Seller shall obtain and retain all documentation required to fully trace the distribution and sale of the goods delivered hereunder back to the relevant OM, and, on request of Buyer, shall provide such authenticating documentation. Upon Buyer's request, Seller shall provide Buyer certificates of conformance with respect to the goods delivered. Counterfeit Item means an unlawful or unauthorized reproduction, substitution, alteration, or the false identification of grade, serial number, lot number, date code, or performance characteristic, that has been knowingly mismarked, misidentified, or otherwise misrepresented to be a new, authentic, unmodified item from the OM, an authorized distributor, or an authorized aftermarket manufacturer. A Suspect Counterfeit Item means an item for which credible evidence (including, but not limited to, visual inspection or testing) provides reasonable doubt that the item is authentic. Seller shall not act as or engage an independent distributor, non-authorized distributor, non-franchised distributor, non-authorized supplier, or non-authorized reseller (collectively, Broker), to assist it in delivering goods pursuant to this Purchase Order unless the Buyer provides prior written approval to do so. Any Seller request to procure from a Broker shall include complete and compelling support for such request and shall include all actions completed by Seller to ensure the goods thus procured are not Counterfeit Items. When so authorized by Buyer, Seller shall be responsible for counterfeit risk mitigation testing and providing traceability identifiers (i.e. Date Code / Lot Code, Serial number) for Broker procured parts, and identifying items delivered to Buyer that contain such parts.
- (b) Seller shall have a Counterfeit Item risk mitigation process, internally and with its suppliers, (reference SAE AS5553 and AS6174), for goods delivered hereunder, and in accordance with the standards or instructions set forth in this Purchase Order. Seller shall provide evidence of the Seller's risk mitigation process to Buyer upon request. Buyer shall have the right to audit and / or inspect 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 to Buyer's standards defined in this Purchase Order. Seller and Seller's subcontractors that are allowed access to the US Government Industry Data Exchange Program (GIDEP) shall participate in monitoring GIDEP reports and Seller shall act on GIDEP reports that affect product delivered to Buyer. Seller shall immediately notify Buyer with the pertinent facts if Seller becomes aware of or suspects that items delivered for the Purchase Order are, or contain, suspect or confirmed counterfeit items. Buyer shall have the right to quarantine for further investigation any good Buyer discovers to be a Counterfeit Item or Suspect Counterfeit Item. 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 subcontractors shall cooperate in good faith with any investigation conducted by Buyer. Buyer shall not be required to return the good during the investigation process and thereafter if not found to be authentic. Buyer shall not be liable for payment to Seller of the price of any Suspect Counterfeit Items until determined to be authentic. If Buyer determines in its sole discretion that there is credible evidence that a good delivered under this Purchase Order constitutes a Counterfeit Item or Suspect Counterfeit Item, Seller, or its subcontractor, shall, if directed by Buyer to do so, issue a GIDEP alert. Buyer reserves its right to issue its own GIDEP alert if Buyer concludes, in its sole estimation, that a good is a Counterfeit Item or Suspect Counterfeit Item.

- (c) Seller shall include the substance of this Section 30, including this flow down requirement, in procurements for goods at all tiers. Failure of Seller or any of its subcontractors to conform to the process specifications and provisions of this Section 30, if unexcused, shall be deemed a material breach of this Purchase Order.

### **31. Quality Requirements Flow Down**

Seller shall require lower-tier suppliers to comply with quality assurance requirements comparable to those contained in this Purchase Order. Seller shall assume responsibility for the quality of all procured material and workmanship. Seller shall include this clause in its subcontracts with lower-tier suppliers and require lower-tier suppliers to flow down this clause to their lower-tier suppliers.

### **32. Information Technology Assurance**

Seller shall maintain data protection processes and systems sufficient to adequately protect specifications, information, data, drawings, software, and other items which are (i) supplied to Seller by Buyer, or (ii) obtained or developed by Seller in the performance of this Purchase Order or paid for by Buyer (collectively, "Buyer Data"), and to comply with any law or regulation applicable to such data. If an event occurs whereby Seller knows, or reasonably believes, that Buyer Data has been actually or potentially disclosed to, or accessed or acquired by, an unauthorized individual or individuals ("Security Incident"), Seller shall (i) use commercially reasonable efforts to investigate, contain, and remediate the Security Incident, and (ii) notify Buyer in writing promptly, but not later than seventy-two (72) hours after discovering the Security Incident. Seller's notification to Buyer of a Security Incident shall include sending an email to [supplier\\_cybersecurity@raytheon.com](mailto:supplier_cybersecurity@raytheon.com), and Seller shall encrypt emails to Buyer containing details of a Security Incident using industry standard encryption methods. The obligations contained in this Section are in addition to, and do not alter, Seller's obligations under applicable U.S. Government Procurement Regulations.

### **33. English Language**

This Purchase Order is made in the English language and all correspondence between the Parties of a technical and non-technical nature shall be in the English language and shall employ the units of measure customarily used by Buyer in the United States of America, unless otherwise specified.

### **34. Customs Trade Partnership Against Terrorism (CTPAT) Program**

- (a) Under the Customs Trade Partnership Against Terrorism ("CTPAT") the U.S. Government and businesses work to protect the supply chain from the introduction of terrorist contraband (weapons, explosives, biological, nuclear, or chemical agents, etc.). As a CTPAT member, Buyer conditions its supply chain relationships on CTPAT participation and/or adherence to the CTPAT security guidelines. With respect to goods imported into the United States pursuant to this Purchase Order, Seller shall complete Buyer's CTPAT Foreign Supplier Security Self-Assessment Questionnaire and shall keep such Questionnaire updated. Buyer may grant an exception to the questionnaire if Seller provides sufficient evidence of Seller's favorable participation in a government recognized security program (e.g., Authorized Economic Operator).
- (b) Seller agrees to ensure the physical integrity and security of all shipments under this Purchase Order against the unauthorized introduction of harmful or dangerous materials, drugs, contraband, or weapons (including weapons of mass destruction), or introduction of unauthorized persons in transportation conveyances or containers. Seller's security measures must include, but are not limited to, physical security of manufacturing, packing and shipping areas; restrictions on access of unauthorized personnel to such areas; personnel screening to the maximum limits of law in Seller's or manufacturer's country; and development, implementation and maintenance of procedures to protect the security and integrity of all shipments.
- (c) Seller acknowledges that shipments made under this Purchase Order must be with certified and validated CTPAT transportation companies, unless otherwise approved by Buyer. Non-U.S. transportation providers must participate in a trade security program sponsored by the government of the country of shipment.

- (d) Seller certifies that its supply chain security procedures and their implementation are in accordance with the general security recommendations at: [www.cbp.gov/border-security/ports-entry/cargo-security/c-tpat-customs-trade-partnership-against-terrorism/apply/security-criteria](http://www.cbp.gov/border-security/ports-entry/cargo-security/c-tpat-customs-trade-partnership-against-terrorism/apply/security-criteria). Within five (5) days of Buyer's written request, Seller shall provide documentation, which may include completion of questionnaires or certificates, evidencing compliance with such security requirements. Upon prior written notification to Seller, Buyer, or its designee, may audit pertinent books and records of Seller and its subcontractors, and make reasonable inspection of Seller's and its subcontractors' premises, in order to verify compliance with the requirements of this provision.
- (e) Any delay in delivery due to Seller's failure to comply with this provision shall not relieve Seller of its obligations and shall not constitute a force majeure or give rise to an excusable delay.

### **35. Trade Agreements**

- (a) If Seller will deliver goods to a country having a preferential trade program ("Trade Agreement") with the country from which the goods are shipped, or if the two countries are members of a customs union, Seller shall cooperate with Buyer to review eligibility of goods for preferential tariff treatment and provide Buyer required documentation to support the applicable treatment. Similarly, should any Trade Agreement applicable to the scope of a Purchase Order exist at any time during its term and be of benefit to Buyer in Buyer's judgment, Seller shall cooperate with Buyer's efforts to realize any such available credits, including counter-trade or offset credit value, which may result from such Purchase Order, and Seller acknowledges that such credits and benefits shall inure solely to Buyer's benefit.
- (b) Seller shall agree and cooperate with any verification audit/on-site inspection at Seller's facilities requested by Buyer or Buyer's Customs authorities to verify compliance with the rules of origin requirements.

### **36. Independent Contractor**

Seller and Buyer are and shall be deemed to be independent contractors at all times during performance of the work specified in this Purchase Order. Under no circumstances shall Seller be deemed an agent for Buyer or Buyer be deemed an agent for Seller.