



TERMS AND CONDITIONS OF PURCHASE:

1. ACCEPTANCE- AGREEMENT:

Seller's commencement of work on the goods subject to this Purchase Order or shipment of goods, whichever occurs first, shall be the effective mode of acceptance of this Purchase Order. Any acceptance of this Purchase Order is limited to acceptance of the expressed terms contained on the face and back thereof. Any proposal for additional or different terms or any attempt by Seller to vary in any degree any of the terms of this offer in Seller's acceptance is hereby objected to and rejected, unless agreed to in writing. Additional or different terms or any attempt by Seller to vary in any degree the terms of this Purchase Order shall be deemed material and are objected to and rejected, unless agreed to in writing by Buyer. Additional or different terms or any attempt by Seller to vary in any degree the terms of this Purchase Order shall be deemed material and are objected to and rejected.

2. APPLICABLE LAW:

This Purchase Order shall be governed by the State of Maryland, excluding its conflict of laws rules, except that any provision of the Purchase Order that is incorporated in full text or by reference from the Federal Acquisition Regulations (FAR), Defense Federal Acquisition Regulations (DFAR), or from any Federal agency that implements or supplements the FAR or DFAR shall be construed and interpreted according to the federal common law of government contracts as enunciated and applied by federal judicial bodies, boards of contract appeals, and quasi-judicial agencies of the federal government. If this Order is issued under a Government prime contract, any provision in this Order that is: (i) incorporated in full text or by reference from the Federal Acquisition Regulations (FAR); and/or (ii) incorporated in full text or by reference from any agency regulation that implements or supplements the FAR; and/or (iii) that is substantially based on any such agency regulation or FAR provision, shall be construed and interpreted according to the U.S. federal common law of government contracts as enunciated and applied by U.S. federal judicial bodies, boards of contract appeals, and quasi-judicial agencies of the U.S. Government. By accepting this Purchase Order, Seller represents that it has and will continue to comply with the provisions of all applicable Federal, State, and Local laws and regulations. The parties agree that the state courts of the state of Maryland and the federal courts of the state of Maryland shall have jurisdiction over them and this agreement, and that Maryland is the appropriate place of venue of any litigation arising out of or in connection with this Purchase Order, and that all such litigation shall, to the extent possible, be in Maryland.

3. DELIVERY:

Time is of the essence on this contract, and if Seller anticipates or encounters difficulty in the delivery of items, rendering of services, or any other requirements of this Purchase Order, including but not limited to documentation by the time promised, the Seller shall notify Buyer immediately of the circumstances and all relevant information pertaining to the delay. Buyer reserves the right without liability in addition to its other rights and remedies to terminate this Purchase Order by notice effective by Seller as to items not yet shipped or services not yet rendered, and to purchase substitute items or services elsewhere and charge the Seller with any loss incurred.



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(a) Shipment. Delivery shall be FOB Origin. Deliveries shall be strictly in accordance with Buyer's delivery schedule, and time is of the essence for this Order.

(b) Schedule/Timely Performance. In the event of any anticipated or actual delay, including but not limited to delays attributed to labor disputes, Seller shall: (i) promptly notify Buyer in writing of the reasons for the delay and the actions being taken to overcome or minimize the delay; (ii) provide Buyer with a written recovery schedule; and (iii) if requested by Buyer, ship via air or other expedited routing, at no additional cost to Buyer, to avoid or minimize delay to the maximum extent possible.

(c) Early Shipments/Over-shipments. Except for the purchase of materials and/or components which may be done in a manner to ensure economic efficiency and non-stop production, Seller shall not make product commitments or production arrangements in excess of the amount or in advance of the time necessary to meet Buyer's delivery schedule; however, Seller is authorized to ship up to fifteen (5) days in advance of Buyer's delivery schedule. Early shipments or excess quantities may be returned at Seller's risk and expense at the full invoice price plus transportation charges or alternate arrangements agreed upon.

(d) Unless otherwise specified on the Purchase order, "Due Date" represents delivery at specified "ship to" address.

If in order to comply with the Buyer's required delivery date it necessary for Seller to ship by a more expensive way than specified in this Purchase Order, any increased transportation costs resulting therefrom shall be paid for by Seller unless the necessity for such rerouting or expedited handling has been caused solely and exclusively by the Buyer.

4. PACKAGING:

All supplies provided under this Purchase Order shall be suitably prepared and packed for shipment so as to assure safe delivery, the lowest transportation rates, and to meet carrier's requirements unless otherwise stipulated in the Purchase Order. Packaging shall be done in a manner that does not hinder the ability to expeditiously inspect, integrate into inventory, and/or count product. Buyer reserves the right to request changes to packaging methodology to facilitate the above. No charge shall be allowed for packing, crating, or carriage unless stated in the Purchase Order. Each container shall be clearly marked to show Buyer's Purchase Order Number. A packing sheet showing Purchase Order Number and number of packages must be included in each container or single unit of shipment, or with each truckload shipment. Buyer's count and weight shall prevail relative to any shipment discrepancies. Seller shall mark containers or packages with any necessary lifting, loading or other handling instructions.

5. INSURANCE:

In the event that Seller's goods or services hereunder require or contemplate performance of services by Seller's employees, or persons under contract to Seller, to be done on Buyer's property, or property of Buyer's customers, the Seller agrees that all such work shall be done as an independent contractor and that the persons doing such work shall not be considered employees of the Buyer. Seller shall maintain all necessary insurance coverage's, including general and product liability and Workers' Compensation insurance. Seller shall indemnify and hold harmless and defend Buyer from any and all claims or liabilities arising out of the work covered by this paragraph.



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6. PROPRIETARY INFORMATION-CONFIDENTIALITY- ADVERTISING:

Seller shall consider all information furnished by Buyer to be confidential and shall not disclose any such information to any other person, or use such information itself for any purpose other than performing this contract, unless Seller obtains written permission from Buyer to do so. This paragraph shall apply to drawings, photos, specifications, and other documents prepared by Buyer for Purchase in connection with this Purchase Order. Seller shall not advertise or publish the fact that Buyer has contracted to purchase goods from Seller, nor shall any information relating to the Purchase Order be disclosed without Buyer's written permission.

7. PROTECTION OF PROPRIETARY INFORMATION.

Any information identified as confidential or proprietary that is provided by one party to the other party (hereinafter referred to as "Proprietary Information") shall remain the property of the disclosing party. The disclosure of data shall not be construed as granting expressly or by implication, estoppel, or otherwise a license, title, or other right to the receiving party under any idea, invention, know how, patent, trademark, or copyright or any other proprietary information now or hereinafter owned or controlled by the furnishing party and/or owned or controlled by any third party. Each party agrees to comply with all proprietary information markings and restrictive legends applied by the other party to such Proprietary Information. Oral or visual information shall be identified as proprietary at the time of disclosure and so confirmed in writing within ten (10) days. Proprietary information shall be held in confidence until five (5) years after the completion or termination of this Order.

Each party agrees to use Proprietary Information only for the purpose of performing under this Order and agrees not to disclose such information to third parties or affiliates without the prior written consent of the disclosing party. Each party shall disclose Proprietary Information only to its employees and suppliers having a "need to know" and shall ensure that each such employee is aware of this clause and has agreed to abide by its provisions.

Each party agrees that it will protect and maintain the confidence of Proprietary Information using the same degree of care it uses to protect its own proprietary information, but in no event less than a reasonable degree of care. Neither party shall copy or reproduce any Proprietary Information without the prior written consent of the disclosing party. The receiving party shall, upon request of the disclosing party promptly return all drawings and specifications and other furnished Proprietary Information

Notwithstanding the foregoing, this Order does not restrict disclosure or use of any information which would otherwise be considered "Proprietary Information" if the receiving party can demonstrate: (i) the information is published or generally known by the public (other than as a result of the breach of this section); (ii) the information was known by it at the time of disclosure as evidenced by competent proof; (iii) the information has become lawfully available to the receiving party from a third party without restriction on disclosure; (iv) the disclosing party approved in writing the public release by the receiving party; or (v) the information was developed or discovered by the receiving party without access to or use of any Proprietary Information provided by the disclosing party; or, (vi) the protection period has expired.

If the receiving party becomes aware of any compromise of information provided by the other party, its officers, employees, agents, suppliers, or subcontractors (an "Incident"), that party will take appropriate immediate action to investigate and contain the Incident and any associated risks, including prompt notification to the disclosing party as soon as possible after learning of the Incident. Each party will additionally provide its reasonable cooperation in any investigation



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regarding the nature and scope of any Incident. Any costs that may be incurred for remedial actions caused by an Incident shall be borne by receiving party.

The parties agree that, in the event of a breach or threatened breach of its obligations under this clause, the disclosing party may be irreparably harmed such that monetary damages alone will not adequately compensate for its injuries. In the event of any such breach or threatened breach, the disclosing party shall be entitled, in addition to any rights or remedies it may have at law or in equity, to temporary and permanent injunctive relief, without posting bond or other security, issued by any court of competent jurisdiction enjoining and restraining the receiving party from continuing such breach and the payment by the receiving party of all costs associated with any related litigation, including attorneys' fees.

Neither Party makes any representation regarding the use, accuracy or sufficiency of the Proprietary Information. THERE ARE NO WARRANTIES, WHETHER WRITTEN OR ORAL, EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR USE AND WARRANTIES ARISING FROM COURSE OF PERFORMANCE, DEALING, USAGE OR TRADE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED, EVEN IF THE DISCLOSING PARTY HAS BEEN MADE AWARE OF THE PURPOSE; WARRANTIES AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES ARE EXPRESSLY DISCLAIMED EVEN IF THE DISCLOSING PARTY HAS BEEN ADVISED OF ANY SUCH INFRINGEMENT.

Notwithstanding anything to the contrary, Seller reserves the right to restrict rights and access to, or delivery of, certain information including, but not necessarily limited to: Financial Records and Manufacturing and Process Instructions, whether or not actually used in performance of any resulting agreement between the parties. In the event that any audit of Seller's records is required by law or regulation, only duly authorized representatives of the United States Government will be permitted access to any proprietary information of Seller, financial or otherwise.

In the event that any obligations related to proprietary information set forth on the face of this Order or within a duly signed non-disclosure agreement between Buyer and Seller are inconsistent with the provisions set forth herein, the obligations set forth on the face of this Order or within such non-disclosure agreement shall govern the parties' obligations.

8. PATENTS AND INTELLECTUAL PROPERTY RIGHTS:

Seller agrees upon receipt of notification to promptly assume full responsibility for defense of any suit or proceeding which may be brought against Buyer or its agents, customers, or other vendors for alleged patent infringement, as well as for any alleged unfair competition resulting from similarity in design, trademark, or appearance of goods or services provided hereunder, and Seller further agrees to indemnify Buyer, its agents and customers against any and all expenses, losses, royalties, profits and damages including court costs and attorneys' fees resulting from any such suit or proceeding, including any settlement. Buyer may be represented by and actively participate through its own counsel in any such suit proceeding if it so desires, and the costs of such representation shall be paid by Seller.

9. IDEMNIFICATION:

Seller shall defend, indemnify and hold harmless Buyer against all damages, claims or liabilities and expenses (including attorney's fees) arising out of or resulting in any way from any defect in the goods and/or services purchased hereunder, or from any act or omission of Seller, its agents,



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employees or subcontractors. This indemnification shall be in addition to the warranty obligations of the Seller.

10. CHANGES:

Buyer shall have the right at any time to make changes in drawings, designs, specification, materials, packaging, time and place of delivery and method of transportation. If any such changes cause an increase or decrease in the cost, or the time required for the performance, an equitable adjustment shall be made and this agreement shall be modified in writing accordingly. Seller agrees to accept any such changes subject to this paragraph. . Only Buyer's Procurement Representative has authority to make changes in, to amend, or to modify this ORDER on behalf of BUYER. Such changes, amendments or modifications must be in writing and signed by BUYER'S Procurement Representative. Buyer may at any time by a written order, and, without notice to sureties, if any, make changes within the general scope of this Order, in any one or more of the following:

- Drawings, designs or specifications;
- Method of shipment or packing;
- Place of delivery;

AND- if this Order includes services:

- A description of services to be performed;
- Time of performance (e.g. hours of the day, days of the week, etc.); and
- Place of performance.

If any such change causes an increase or decrease in the cost and/or the time required for performance of this Order, Buyer and Seller shall negotiate an equitable adjustment in the price or schedule, or both, to reflect the increase or decrease. Buyer shall modify this Order in writing accordingly. Seller shall immediately comply with such direction at the current contract unit prices for minor changes (such as changes in quantity of less than 10% or small technical requirement changes that do not require redesign or purchase of new components) pending any equitable adjustment, if any, but Seller shall not be required to perform any other additional scope without prior agreement on price..

11. APPROVALS:

Wherever this Order provides for submittal of designs, components, or other items for approval of Buyer, such approvals shall not be construed as Buyer's agreement as to the adequacy of said design, component, or item, nor as an agreement or acknowledgment that the design, component, or item shall meet the requirements of this Order. Such approvals are solely for the purpose of insuring Buyer's knowledge of Seller's plans and progress and shall indicate only that Seller's general approach towards meeting requirements under this Order is satisfactory. Such approvals shall in no way relieve Seller of its responsibility for any error or deficiency which may exist in the submitted design, component, or other item, as Seller shall be responsible for meeting all the requirements of this Order.

12. ADMINISTRATION:

(a) Notwithstanding any other provisions of this Order or any document referenced herein, Buyer's Procurement Representative and the Seller's Contracts Representative have the sole



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Tel: 410 548 1627 Fax: 410 548 1628
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authority to make contractual commitments on behalf of Buyer/Seller, to provide/receive contractual direction, and to change contractual requirements as defined in this Order. Buyer or Seller's program management, engineering, and technical personnel and other representatives may from time to time render assistance or give technical advice or discuss or effect an exchange of information with the other party concerning the Products hereunder. HOWEVER, ONLY BUYER'S PROCUREMENT REPRESENTATIVE AND SELLER'S CONTRACTS REPRESENTATIVE SHALL HAVE THE AUTHORITY TO DIRECT/AUTHORIZE OR BIND ITS RESPECTIVE PARTY WITH RESPECT TO CHANGES OR MODIFICATIONS TO THIS ORDER.

(b) Whenever Seller believes it has received direction from personnel other than the Procurement Representative, Seller shall promptly confirm the direction with the Procurement Representative if Seller believes that the direction might constitute a change or modification to any requirement of this contract, including its delivery terms, schedule or specifications. Seller shall not implement any changes or modifications to this contract (including contract specifications and quality control provisions) without first having received written authorization to do so from the Procurement Representative.

(c) Where Buyer approval of any kind is required under the terms of this Order, only the written approval of Buyer's Procurement Representative shall satisfy this requirement.

13. INSPECTION/TESTING:

Payment for the goods delivered hereunder shall not constitute acceptance thereof. Buyer shall have the right to inspect such goods and to reject any or all of said goods, which are in the Buyer's judgment defective or nonconforming. All Products, including raw materials and components, and Seller's and its subcontractors' manufacturing facilities shall be subject to inspection and test by Buyer, Buyer's Customer and/or the Government if this Order is issued under a U.S. Government prime contract, to the extent practicable at all times and places. The exercise of the right of inspection and test, however, shall in no way relieve Seller of its obligation to furnish all Products in strict accordance with this Order. If inspection and test are made on the premises of Seller or any subcontractor of Seller, Seller or such subcontractor shall furnish, without additional charge, all reasonable facilities and assistance for the safe and convenient inspection and test required. All inspection tests shall be performed in such manner as not to cause delay.

Goods rejected and goods supplied in excess of quantities called for herein may be returned to Seller at its expense and, in addition to Buyer's other rights. Buyer may charge Seller all expenses of unpacking, examining, repacking and reshipping such goods. In the event Buyer receives goods whose defects or nonconformities are not apparent on examination, Buyer reserve the right to require replacement, as well as payment of damages. Nothing contained in this Purchase Order shall relieve in any way Seller from the obligation of testing, inspection and quality control.

14. INVOICES:

An itemized invoice must be sent promptly to Buyer's Accounting Department for Products delivered and accepted as herein provided. Seller shall issue a separate original invoice for each delivery of Products that shall include Buyer's Order number and line item number. Delays in receiving invoices shall be considered just cause for withholding payment without losing any discount privilege. Payment terms are net thirty (30) days unless otherwise provided on the face of this Order. Each payment made shall be subject to reduction to the extent of amounts which are



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found by Buyer not to have been properly payable, and shall also be subject to reduction for overpayments. Except as otherwise provided in this Order, no payment for extras shall be made unless such extras and the price have been authorized by Buyer's Procurement Representative.

15. WARRANTY:

Seller expressly warrants that all goods or services furnished under this agreement shall conform to all specifications and appropriate standards, will be new, and will be free from defects in material or workmanship. Seller warrants that all such goods or services will conform to any statements made of the containers or labels or advertisements for such goods or services, and that any goods will be adequately contained, packaged, marked and labeled. Seller warrants that all goods or services furnished hereunder will be merchantable, and will be safe and appropriate for the purpose for which goods or services of that kind are normally used. If Seller knows or has reason to know the particular purpose for which Buyer intends to use the goods or services, Seller warrants that such goods or services will be fit for such particular purpose. Seller warrants that goods or services furnished will conform in all respects to sample. Inspection, test, acceptance or use of the goods or services furnished hereunder shall not affect the Seller's obligation under this warranty, and such warranties shall survive inspection, test, acceptance and use. Seller's warranty shall run to Buyer, its successors, assigns and customers, and users of products sold by Buyer. Seller agrees to replace or correct defects of any goods or services not conforming to the foregoing warranty promptly, without expense to Buyer, when notified of such nonconformity by Buyer, provided Buyer elects to provide Seller with the opportunity to do so. In the event of failure of Seller to correct defects in or replace nonconforming goods or services promptly, Buyer, after reasonable notice to Seller, may make such corrections or replace such goods and services and charge Seller for the cost incurred by Buyer in doing so. Seller warrants that the prices for the articles sold to Buyer hereunder are not less favorable than those currently extended to any other customer for the same or similar articles in similar quantities. In the event Seller reduces its price for such article during the term of this contract, Seller agrees to reduce the prices hereof correspondingly. Seller warrants that prices shown on this Purchase Order shall be complete, and no additional charges of any type shall be added without Buyer's express written consent. Such additional charges include, but are not limited to, shipping, packaging, labeling, customs duties, taxes, storage, insurance, boxing and crating.

16. ASSIGNMENTS AND SUBCONTRACTING:

No part of this Purchase Order may be assigned or subcontracted by Seller or its agents without prior written approval of Buyer.

17. SET-OFF:

All claims for money due or to become due from Buyer shall be subject to deduction or set-off by the Buyer by reason of any counterclaim arising out of this or any other transaction with Seller.

18. VENDOR IMPOSED SURCHARGES OR FEES:

Unless accepted in writing, Buyer expressly prohibits the imposition of surcharges and fees associated with the performance of this Purchase Order. Without written acceptance, Buyer will not pay surcharges or fees included on invoices.

19. TAXES:



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Tel: 410 548 1627 Fax: 410 548 1628
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The prices set forth in this Purchase Order include all applicable federal, state, and local taxes.

20. EXPORT COMPLIANCE AND CONTROLS:

Seller shall fully comply with all U.S. export/import compliance laws and regulations. Seller agrees to notify Buyer if any articles or services to be delivered under this Purchase Order are restricted by export/import control laws or regulations. Seller shall immediately notify Buyer if Seller is listed or becomes listed on the Denied Persons List, Unverified List, Specially Designated Nationals Lists, or Debarred List or if Seller's export privileges are otherwise denied, suspended or revoked in whole or in part by any U.S. Government entity or agency.

a. If seller is engaged in the United States in the business of either exporting, manufacturing or brokering ITAR items, Seller represents that it is registered with the Directorate of Defense Trade Controls (DDTC), as may be required by 22 C.F.R. 122.1 of the ITAR and that it maintains an effective export/import compliance program in accordance with DDTC guidelines.

b. Supplier acknowledges that any technical data furnished by Buyer in connection with this Order may be subject to Export Control Laws.

21. ORDER OF PRECEDENCE:

In the event of any inconsistency between the provisions of this Purchase Order, the inconsistency shall be resolved by giving precedence in the following order: 1) Purchase Order, 2) Drawings, schematics, blueprints, and/or technical specifications, 3) Terms and Conditions of Purchase.

22. PRIORITY RATINGS:

If so identified on the Purchase Order that this order is a "rated order" certified for national defense, the seller shall adhere to 15 CFR Part 700 and follow all requirements of the Defense Priorities Allocation System (DPAS).

23. GRATUITIES AND KICKBACKS:

No money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind shall be offered or given to any employee of the Buyer with the intention of securing favorable treatment as a supplier. By accepting this Purchase Order, Seller certifies and represents that it has not made or solicited and will not make or solicit kickbacks in violation of the Anti-Kickback Act of 1986 (41 USC 51-58). Failure of Seller to honor this commitment may, at Buyer's option, result in immediate termination of the Order in accordance with Clause 16, Termination for Default, without provision for cure. Buyer's further expectation is that Seller will have (or will develop) and adhere to a code of ethical standards. If Seller has cause to believe that Buyer or any employee or agent of Buyer has behaved improperly or unethically in connection with this Order, Seller shall report such behavior to the CEO of Matech Solutions, Inc.

24. FORCE MAJEURE.

Neither party shall be liable for delays in delivery or other non-performance caused by circumstances beyond its reasonable control and without its fault or negligence, examples of these causes are (1) acts of God or of the public enemy, (2) acts of the Government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. The party affected by the Force Majeure shall give prompt written notice thereof and, upon cessation of the Force Majeure, take all reasonable steps to resume compliance with its obligations. If Seller's failure is caused by the failure



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Tel: 410 548 1627 Fax: 410 548 1628
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of a subcontractor of Seller, at any tier, to perform or make progress, and if such failure arises out of causes beyond the reasonable control of both, and if such failure is without the fault or negligence of either, Seller shall not be deemed to be in default or liable for additional costs, unless the Products or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit Seller to meet the required delivery schedules, the Buyer directed the Seller in writing to purchase these supplies or services from the other source and the Seller failed to comply reasonably with this direction. If a force majeure event occurs, the delivery schedule shall be revised. Notwithstanding the above, if such delays extend Seller's delivery or performance date by more than ninety (90) days, Buyer may terminate such part of this Order remaining to be performed. In the event of such termination, the rights and obligations of the parties shall be determined in accordance with the provisions of Clause 32 Termination for Convenience herein.

25. WORK ON BUYER'S OR ITS CUSTOMER'S PREMISES:

(a) If this Order involves work by Seller on Buyer's or Buyer's Customer's premises, Seller and Seller's Suppliers shall comply with all safety and security regulations and shall take all precautions required by Buyer or otherwise necessary to prevent the occurrence of any injury to person or property during the progress of such work. Seller shall promptly inform Buyer of any injury or damage that occurs.

(b) Seller shall provide timely notice to Buyer prior to the introduction to the premises of any hazardous material, as defined in any Federal, state, or local law or ordinance or in any lawful order, rule or regulation there under applicable to the premises. Seller shall equip its employees, agents and subcontractors for the use of such hazardous material, and for the use of such other hazardous materials, as identified by Buyer to Seller, used by Buyer on the premises.

(c) Buyer may, at its sole discretion, remove or require Seller to remove any specified personnel of Seller from Buyer's or Buyer's Customer's premises and request that such personnel not be reassigned to any Buyer premises under this Order. Any costs arising from or related to removal of Seller's employee shall be borne solely by Seller and not charged to this Order.

26. SPECIAL TOOLS AND/OR SPECIAL TEST EQUIPMENT:

(a) Unless otherwise provided herein, special tools means equipment, dies, jigs, fixtures molds, patterns, taps, gauges, and patterns all components of these items (hereinafter collectively referred to as "Special Tooling"), used in the manufacture of Products shall be furnished by and at the expense of Seller, shall be kept in good condition, and, when necessary, shall be replaced by Seller without expense to Buyer. Special Test Equipment means either single or multipurpose integrated test units engineered, designed, fabricated, or modified to accomplish special purpose testing (hereinafter collectively referred to as "Special Test Equipment") in performing this Order.

(b) If a deliverable on the face of this Order is for any Special Tooling to be fabricated or acquired by Seller for the purpose of filling this Order, such Special Tooling shall become the property of Buyer or Government and shall be identified by Seller as such and shall be managed in accordance with the Furnished Property clause of this Order. Unless otherwise specified in this Order, Buyer shall make payment for the Special Tooling and/or Special Test Equipment only upon acceptance of the first run of Products fabricated therewith.



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(c) In the event that any Special Tooling and/or Special Test Equipment is or becomes the property of Buyer and is required to remain at Seller's facility in support of this Order, Seller shall, at its own expense, (i) maintain such Special Tooling and/or Special Test Equipment in proper working order (routine, preventative maintenance), (ii) be responsible for such Special Tooling and/or Special Test Equipment as set forth in Clause 25, Furnished Property, below, and (iii) shall use the same only for the production of Products for Buyer, unless otherwise authorized in writing. Any repairs, replacement and/or refurbishment, excepting routine preventative maintenance, for any Buyer/Government Property shall be at the Buyer's expense. Seller shall follow its normal industrial practice in maintaining property control records for such Special Tooling and/or Special Test Equipment, and, when this Order has been completed, such Special Tooling and/or Special Test Equipment shall have its accountability transferred to a different Order between Buyer and Seller, be disposed of or returned to Buyer as Buyer may direct. Buyer shall provide such direction within thirty (30) days following the completion of this Order.

(d) Seller shall include the substance of this clause in all purchase orders and subcontracts issued by it hereunder.

27. FURNISHED PROPERTY:

Buyer may provide to Seller property owned by either Buyer or its Customer (Furnished Property). Unless previously authorized in writing by Buyer's Procurement Representative, Furnished Property shall be used only for the performance of this Order. The principles of FAR 52.245-1 will apply to Buyer or Government Property. Appropriate substitutions of Buyer for Government and Contracting Officer will be made throughout the clause, excepting unilateral and audit/review rights which remain reserved for the Government. In the event that any Furnished Property or Special Tooling and/or Special Test Equipment (that is or becomes the property of Buyer/Government) is required to remain at Seller's facility in support of manufacturing efforts, Seller shall, at its own expense, maintain such property in proper working order (routine, preventative maintenance). Any repairs, replacement and/or refurbishment, excepting routine preventative maintenance, for any Buyer/Government Property shall be at the Buyer's expense.

Upon completion or termination of this Order, Seller shall notify Buyer in writing of any Buyer furnished property that remains in Seller's possession. Within ninety (90) days of Seller's notice, Buyer shall instruct Seller as to the return or disposition of such Buyer furnished property. If Buyer requests that its furnished property be returned, Seller shall deliver such property to Buyer in good condition, subject to ordinary wear and tear and normal manufacturing losses. Any costs associated with disposition of Buyer or Government property shall be borne by Buyer. In the event disposition is not received within the time specified, Seller is authorized to return the special tooling and Buyer/Government Property to Buyer at Buyer's expense.

28. RIGHT OF ACCESS TO FACILITIES AND RECORDS:

Subject to all applicable Government security regulations, acceptance of this Order shall grant to authorized representatives of Buyer and its customer (with the prior concurrence of Buyer's Procurement Representative and Seller) right of access to all facilities involved in performing work under this Order and to all applicable records in order to review progress, discuss problems/failures and witness testing pertaining to the requirements of this Order. Nothing in this clause shall grant



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Tel: 410 548 1627 Fax: 410 548 1628
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Buyer or any other non US Government entity the right to audit Seller's financial records. Should an audit of our cost proposal be necessary and required by regulation, Buyer may contact our local Defense Contract Audit Agency (DCAA) to request an assist audit. Seller shall provide adequate information on performance of this Order in response to any other reasonable requests by Buyer and/or its customer. (in accordance with Far 52.246-2)

29. RECORDS RETENTION.

For non U.S. Government funded Orders, Seller shall retain all applicable records related to the work hereunder, including its subcontractor records, for five (5) years after final payment by Buyer. For U.S. Government funded Orders, Seller should refer to Subpart 4.7, Contractor Records Retention, of the Federal Acquisition Regulations for guidance on records retention.

30. DISPOSAL OF PRODUCTS:

Seller shall not sell, or otherwise dispose of as scrap or otherwise, any completed or partially completed or defective Products without defacing or rendering such Products unsuitable for use. Upon completion or termination of this Order, Seller shall, at Seller's expense, dispose of all Products, including partially completed Products, as required or directed by Buyer.

31. BUYER MAY PROVIDE TO SELLER PROPERTY OWNED BY BUYER OR ITS CUSTOMER:

Such property shall be used only for the performance of this Purchase Order. Title of such property shall remain in Buyer or its customer. Seller shall be responsible for, and shall promptly notify Buyer of, any loss or damage. Without additional charge, Buyer shall manage, maintain and preserve such property in accordance with good commercial practice. Upon request, Seller shall submit to Buyer, in an acceptable form, an inventory of such property and shall deliver or make such other disposal of such property as Buyer may direct from time to time.

32. NOTIFICATIONS:

Notices and authorizations pursuant to or regarding this Order shall be in writing and shall be delivered in person; by registered or certified mail (in each case, return receipt requested and postage prepaid); by nationally recognized overnight courier (with all fees prepaid and proof of delivery); by facsimile; by email; or as otherwise designated by written notice from either party to the other.

When Seller anticipates making any of the following changes, Seller shall provide written notification of the anticipated change to Buyer thirty (30) days prior written notice to making the change or as soon as practical AND (90) days prior when First Article Activities apply:

- Change in Seller's suppliers, which have been previously approved by Buyer.
- Change in Seller's quality or process certification (NADCAP, ISO/AS, Government, etc.).
- Change in machinery or inspection methods/techniques, which have been previously approved by Buyer.
- Change in Seller's plans or processes, including any control or frozen plans, which have been previously approved by Buyer.
- Change of geographical location for manufacture of the Products.

To the extent practical, Seller will provide prompt written notice of any of the following to Buyer:



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- Change in company ownership.
- Change in senior or site management, including Quality management.
- Major reduction/change in workforce.
- Acquisitions that may impact current operation or key personnel.

Seller shall promptly notify Buyer's Procurement Representative of any communications initiated by Buyer's Customer, any higher tier contractor(s), or the U. S. Government, that affects the applicable prime contract, this Order, and/or any related contract.

33. TERMINATION FOR CONVENIENCE:

(a) Buyer may terminate, for its convenience, the whole or any part of the work required under this Order by delivering to Seller a written notice of termination specifying the work terminated and the effective date thereof.

(b) Upon receipt of said notice, Seller must cease work and shall cause any and all of its suppliers and subcontractors to cease work, including but not limited to the manufacture and procurement of materials for the fulfillment of the terminated portion of the Order, and upon request deliver to Buyer all completed and partially completed Products and work in process, as well as any other deliverables described below.

(c) In the event Seller has a claim for adjustment, it must notify Buyer in writing of its intent to file a claim within twenty-one (21) calendar days from the effective date of termination. Seller's final termination claim must be submitted to Buyer within sixty (60) calendar days from the date that Seller's intent to file a claim was submitted to Buyer.

(d) Buyer's only obligation shall be to pay Seller a percentage of the price reflecting the percentage of the work performed prior to the notice of termination plus reasonable charges Seller can demonstrate using its standard record keeping system have resulted from the termination inclusive of a reasonable fee and administrative costs associated with the termination provided that such costs were commercially reasonable.

(e) Upon Buyer's request, Seller shall make reasonably available to US Government representatives, any books, records or documents supporting Seller's termination claim proposal.

(f) Upon Buyer's payment to Seller, title to all deliverables shall vest in Buyer. Deliverables include, but are not limited to: Products, work-in-progress, Special Tooling, Special Test Equipment, plans, drawings, specifications, or other information specifically acquired under this Order. Buyer's right of termination is in addition to and not in derogation of Buyer's rights under Clause 35, Termination for Default, hereof. Upon receipt of a notice of termination, Seller shall continue with performance of any work not terminated under this Order. Seller shall also protect and preserve all property related to this Order that is in the possession of Seller and in which Buyer has or may acquire an interest.



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(g) If Seller ceases to conduct its operations in the normal course of business, including inability to meet its obligations as they mature, or if any proceeding under the bankruptcy or insolvency laws is brought by or against Seller, or a receiver for Seller is appointed or applied for, or an assignment for the benefit of creditors is made by Seller, Buyer may terminate (for convenience) this Order without liability, except for payment for deliveries of Products, which have been previously accepted or which are completed as of the date of termination and are subsequently delivered and accepted in accordance with the terms of this Order.

34. TERMINATION FOR CAUSE:

Buyer may terminate this Purchase Order or any part hereof for cause in the event of breach by the Seller or if the Seller fails to comply with any of the terms or conditions of this Purchase Order. Late deliveries, deliveries of products which are defective or which do not conform to this Purchase Order, or missing or inadequate documentation, and failure to provide Buyer, upon request, or reasonable assurances of future performance shall all be causes allowing Buyer to terminate this Purchase Order for cause. In the event of termination for cause, Buyer shall not be liable to Seller for any amount, and Seller shall be liable to Buyer for any and all damages sustained by reason of the default, which gave rise to the termination.

35. SUSPENSION OF WORK:

(a) By written notice Buyer reserves the right to suspend work under this Order for a period not to exceed 90 days. Within such period of any suspension of work, Buyer shall: (i) cancel the suspension of work order; (ii) terminate this Order in accordance with Clause 18, Termination for Convenience of this Order; (iii) cancel this Order in accordance with Clause 35, Termination for Default of this Order; or (iv) if the Seller agrees, extend the stop work period. Upon receipt of such written notice, the Supplier shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the Products covered by the Order, including costs incurred by subcontractors, during the period of work stoppage.

(b) Seller shall resume work whenever a suspension is canceled. Seller shall be entitled to an equitable adjustment in the price or schedule or both if: (i) this Order is not canceled or terminated; (ii) the suspension results in a change in Seller's cost of performance or ability to meet the Order delivery schedule; and (iii) Seller submits a claim for adjustment within thirty (30) days after the suspension is canceled.

36. TERMINATION FOR DEFAULT:

(a) Buyer may, by written notice of default to Seller, terminate the whole or any part of this Order if Seller: (i) fails to make delivery of the Products or to perform the work or services within the time specified herein; (ii) fails to perform any other provision of this Order or breaches any of the terms hereof; (iii) fails to provide adequate assurance of future performance; (iv) fails to make progress so as to endanger performance of this Order in accordance with its terms. Seller shall have ten (10) days (or such longer period as Buyer may authorize in writing) to cure any such failure after receipt of notice from Buyer specifying such failure. Upon failure to cure the default, Buyer may give Seller written notice of Termination for Default. Default involving delivery schedule delays shall not be subject to the cure provision.



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(b) Following a termination for default of this Order, Buyer may require Seller to transfer title and deliver to Buyer, as directed by Buyer, any (i) completed Products, (ii) any partially completed Products and materials, parts, tools, dies, jugs, fixtures, plans, drawings, information, and contract rights (collectively, "Manufacturing Materials") that Seller has specifically produced or acquired for the terminated portion of this Order. Upon direction from Buyer, Seller shall also protect and preserve property in its possession in which Buyer or its customer has an interest.

(c) If Buyer terminates this Order in whole or in part, in addition to any other remedies of Buyer at law or equity or under this Order, Buyer may procure, upon such terms and in such manner as Buyer deems appropriate, Products similar to those terminated, and Seller shall pay Buyer upon demand all excess re-procurement costs (including administrative costs) that Buyer may incur for such re-procurement. If after termination for default under this Order, it is determined that Seller was not in default, such termination shall be deemed a termination for convenience.

(d) Seller shall continue performance of the non-terminated portion of this Order as directed by Buyer.

(e) Seller's liability in connection with this section is subject to the Limitation of Liability clause of these terms.

37. BUYER'S REMEDIES:

Except as expressly limited by the terms of this Order, all rights and remedies of Buyer set out in this Order are cumulative and are in addition to any remedies provided at law or equity.

38. CUSTOMER COMMUNICATION:

Buyer shall be solely responsible for all liaison and coordination with the Customer, any higher tier contractor(s), or the U.S. Government, as it affects any applicable prime contract, for this Order, and any related order. Except as required by law, Seller shall not communicate with the Customer, any higher tier contractor(s), or the U.S. Government, with respect to the applicable prime contract, this Order, and/or any related order without prior written approval from Buyer's Procurement Representative. Seller shall promptly notify Buyer's Procurement Representative of any communications initiated by the Customer, any higher tier contractor(s), or the U.S. Government, that affects the applicable prime contract, this Order, and/or any related order.

39. RULES OF CONSTRUCTION:

Each party has participated fully in the review and negotiation of this Order. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

40. ELECTRONIC CONTRACTING:

Buyer and Seller agree that if this Order, or any ancillary agreement or correspondence, is transmitted electronically neither Buyer nor Seller shall contest the validity thereof on the basis that this Order, or the acknowledgement, ancillary agreement, or correspondence exists only in electronic form, an electronic record was used in its creation or formation, or it contains only an



electronic signature or it was generated automatically, without human intervention by a system intended for the purposes of generating same

41. DISPUTES:

All claims, controversies, or disputes arising out of or relating to this Purchase Order shall be resolved by negotiation and mutual agreement between the parties. If the dispute cannot be resolved, Seller agrees, at Buyer's request, to endeavor to settle the dispute by mediation using current commercial mediation rules. The parties will continue to perform under this Purchase Order during the dispute resolution process.

42. WAIVER:

Buyer's failure to insist on performance of any of the terms or conditions contained herein or to exercise any right or privilege or Buyer's waiver of any breach hereunder shall not thereafter waive any other terms, conditions, or privileges, whether of the same or similar type or not.

43. LIMITATION ON BUYERS LIABILITY-STATUTE OF LIMITATIONS:

In no event shall Buyer be liable for anticipated profits or for incidental or consequential damages. Buyer's liability on any claim of any kind for any loss or damage arising out of or in connection with or resulting from this contract or from the performance or breach thereof shall in no case exceed the price allocable to the goods or services or unit thereof, which gives rise to the claim. Buyer shall not be liable for penalties of any description. Any action resulting from any breach on the part of Buyer as to the goods or services delivered hereunder must be commenced within one year after the cause of action has accrued.

44. SURVIVAL:

This term and the following terms shall survive the completion or termination of this order:

- CLAUSE 2, Applicable Law, Venue and Disputes
- CLAUSE 6, PROPRIETARY INFORMATION-CONFIDENTIALITY- ADVERTISING
- CLAUSE 7, PROTECTION OF PROPRIETARY INFORMATION
- CLAUSE 9, IDEMNIFICATION
- CLAUSE 15, WARRANTY
- CLAUSE 19, TAXES
- CLAUSE 20, EXPORT COMPLIANCE AND CONTROLS
- CLAUSE 27, FURNISHED PROPERTY
- CLAUSE 29, RECORDS RETENTION
- CLASUE 43, LIMITATION ON BUYERS LIABILITY-STATUTE OF LIMITATIONS

45. ENTIRE AGREEMENT:

This Purchase Order integrates, merges and supersedes any prior offers, negotiations, and agreements concerning the subject matter hereof and constitutes the entire agreement between the parties.