



Part 4 – Commercial Item General Conditions

National Aerospace Solutions, LLC
Arnold Engineering Development Complex Test
Operations & Sustainment

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GC-1 ENTIRE AGREEMENT AND SURVIVAL

- A. This Purchase Order embodies the entire agreement between BUYER and SELLER. The Parties shall not be bound by or liable for any statement, representation, promise or understanding not set forth herein. This Purchase Order supersedes all other writings and oral communications and nothing contained in proposals, correspondence, discussions, order acknowledgments or other of SELLER'S forms has any effect on this Purchase Order unless specifically incorporated herein. This Purchase Order may be modified only by a written Purchase Order Revision signed by an authorized representative of BUYER.
- B. The provisions of this Purchase Order which are expressly or by implication to come into or continue in force and effect after the expiration or termination of this Purchase Order, including but not limited to the clauses herein titled or otherwise addressing Quality Standards, Title, Security Interest, Release of Liens and Risk of Loss, Warranties and Guarantees, Warranty Work and Technical Advisory Services, Confidentiality and Publicity, Intellectual Property Rights, Import and Export Laws and Regulations, Indemnity, Price and Payment and Governing Law and Dispute Resolution shall remain in effect and be fully enforceable following the performance of and payment for the Work and termination of this Purchase Order.

GC-2 DEFINITIONS

The following terms shall have the meanings assigned to them below when used in this Purchase Order:

- (1) "Affiliate" means any corporation or other entity that, directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, another corporation or entity. The term "control" with respect to any entity means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such entity, whether through the ownership of voting securities, by contract or otherwise.
- (2) "Applicable Law" means all applicable laws, ordinances, statutes, rules, regulations, orders or decrees in effect at the time the Work under this Purchase Order is performed.
- (3) "NAS" means National Aerospace Solutions, LLC the entity executing this Purchase Order.
- (4) "BUYER" means the NAS entity shown on the Purchase Order form. To the extent that BUYER is not the ultimate consumer of the Products being herein purchased, all rights, benefits and remedies conferred upon BUYER by this Purchase Order shall also accrue and be available to and are for the express benefit of Customer for which the Products are purchased.
- (5) "Customer" means The United States of America, including but not limited to, the U. S. Department of the Air Force, Headquarters and their authorized representatives and successors in interest.
- (6) "days" means calendar days unless business days are clearly stated.
- (7) "Final Acceptance" of the products means when (1) all goods, materials, articles, equipment and supplies are finally inspected and accepted by BUYER'S representative at the final destination, and (2) all drawings, data, processes and all other property to be furnished by SELLER hereunder have been submitted to and accepted by BUYER."
- (8) "Indemnified Party" means NAS, Customer, their respective Affiliates, the successors and permitted assigns of each such entity and the directors, officers, personnel, agents and representatives of each such entity.
- (9) "Intellectual Property Rights" means all rights in patents and patent applications, inventions, trademarks, copyrights, designs and mask works and any registrations or applications for registration thereof, together with all rights in trade secrets, know-how and confidential information and all other intellectual property rights anywhere in the world.
- (10) "Jobsite" means the Project location in which the work will be performed.



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- (11) "Liabilities" means any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, interest, attorney's fees, costs, expenses, and losses of whatsoever kind or nature.
- (12) "Party" means BUYER or SELLER; "Parties" means BUYER and SELLER.
- (13) "Product" or "Products" means the goods, materials, articles, equipment, supplies, drawings, data, processes and all other property to be furnished by SELLER hereunder.
- (14) "Project" means "Test Operations and Sustainment for the Arnold Engineering Development Complex, at Arnold Air Base, TN, Tunnel 9 at White Oak, MD and at the National Full Scale Aerodynamic Facility at Moffett Field CA."
- (15) "Purchase Order" means this purchase order, including the signature page, all Parts referenced on the signature page and all attachments thereto, each of which is hereby incorporated herein, as amended from time to time.
- (16) "Schedule" means the schedule of the Work necessary to meet delivery dates specified in this Purchase Order.
- (17) "SELLER" means the entity providing the Products and responsible for the execution of this Purchase Order.
- (18) "Services" means all services to be performed by SELLER including the performance of Warranty Work and Technical Advisory Services, if any, by SELLER or any Subsupplier.
- (19) "Subsupplier" means any third party of any tier providing Products or Services related to any portion of the Work in furtherance of SELLER'S obligations under this Purchase Order.
- (20) "Technical Advisory Services" means Services performed by SELLER and/or a Subsupplier at the Jobsite that consist of technical assistance, expert guidance, direction and advice regarding the assembly, care, handling, testing and/or operation of the Product during the installation, pre-commissioning, commissioning, start-up and/or performance testing of the Product.
- (21) "Warranty Period" has the meaning set out in the General Condition titled "WARRANTIES AND GUARANTEES".
- (22) "Warranty Work" means Services performed in accordance with the General Condition titled "WARRANTIES AND GUARANTEES".
- (23) "Work" means all of the obligations to be performed by SELLER pursuant to this Purchase Order, including the supply and delivery of the Products and the performance of Services.

GC-3 GENERAL RIGHTS AND OBLIGATIONS

All rights, benefits and remedies conferred upon BUYER by this Purchase Order shall also accrue and be available to and for the express benefit of Customer, including without limitation all warranties and guarantees set forth in this Purchase Order.

GC-4 INDEPENDENT CONTRACTOR AND USE OF SUBSUPPLIERS

- A. SELLER represents it is fully experienced, properly qualified, registered, licensed, equipped, organized and financed to perform the Work under this Purchase Order and SELLER acknowledges BUYER has relied upon these representations in entering into this Purchase Order. SELLER shall act as an independent contractor and not as an agent of BUYER or Customer in performing this Purchase Order, maintaining complete control over its employees and its Subsuppliers. SELLER shall perform the Work using its own methods subject to compliance with the Purchase Order.



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- B. SELLER'S obligations, responsibilities and Liabilities under this Purchase Order shall apply in full force to all Work performed by all Subsuppliers, including but not limited to any Warranty Work and Technical Advisory Services. SELLER shall be liable to BUYER for the acts and omissions of Subsuppliers and their personnel to the same extent SELLER is liable for acts and omissions of SELLER and its personnel.
- C. SELLER shall provide BUYER copies of any purchase order and subcontract to Subsuppliers used for the Work upon request by BUYER. SELLER may delete the pricing information in the lower tier purchase orders and subcontracts prior to providing them to the BUYER unless the compensation to be paid thereunder is reimbursable under this Purchase Order.
- D. SELLER shall obtain BUYER'S prior written approval of any and all Subsuppliers that SELLER intends to perform any Services at the Jobsite, including but not limited to Warranty Work or Technical Advisory Services.
- E. SELLER shall ensure that all purchase orders and subcontracts with any Subsupplier shall contain provisions giving SELLER an unrestricted right to assign the relevant purchase order and subcontract and any or all benefits, interests, rights and causes of action arising under it to BUYER and/or its designees.

GC-5 CHANGES

- A. BUYER may at any time direct, in writing, changes, including but not limited to changes in any one or more of the following:
 - (1) drawings, data sheets, specifications, or technical attachments,
 - (2) additions to or deletions from quantities ordered,
 - (3) Schedule,
 - (4) method of shipment or packing, and
 - (5) place of delivery.
- B. If any such change causes an increase or decrease in the cost of or timing required to perform the Work, as SELLER'S sole remedy, an adjustment may be requested in the price or Schedule, or both, and the Purchase Order shall be modified by a written Purchase Order Revision executed by both Parties. Any request by SELLER for adjustment must be asserted within thirty (30) days from the date of receipt by the SELLER of the notification of change. However, nothing in this General Condition shall excuse SELLER from proceeding with the Work as changed.
- C. If this Purchase Order requires BUYER to review and comment on SELLER'S technical documents, SELLER shall submit, within thirty (30) days from the date of SELLER'S receipt of such comments, any request for an adjustment to the price and/or Schedule that would result from implementation of BUYER'S comments. No adjustment will be made hereunder unless BUYER expressly authorizes the change by a written Purchase Order Revision.
- D. Failure of SELLER to timely provide any request for adjustment shall be deemed a waiver of SELLER'S right to any adjustment to the price and/or Schedule if and to the extent BUYER is prejudiced by such delay. In no case shall a claim by SELLER be considered if asserted after final payment under this Purchase Order.

GC-6 PRICING OF ADJUSTMENTS

In addition to rights provided in other clauses under this Purchase Order, BUYER shall have the right to, and SELLER shall provide at BUYER'S request, price and/or cost information, other than certified cost or pricing data, to support BUYER'S analysis of SELLER'S price adjustment proposals in accordance with Federal Acquisition Regulations (FAR) Part 15, Subpart 15.4, "Contract Pricing." SELLER is responsible for providing price and/or cost information that is adequate for BUYER to determine whether the proposed price is fair and reasonable.



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GC-7 PRICE AND PAYMENT

- A. The prices specified herein, unless otherwise expressly stated in this Purchase Order, are firm, shall exclude all taxes and duties of any kind which either Party is required to pay with respect to the sale of Products covered by this Purchase Order, but shall include all taxes levied with respect to Services performed hereunder. All charges and expenses in connection with the packing of the Products and their carriage to the place of delivery to the BUYER are included.
- B. SELLER shall be paid the prices stipulated herein for Products delivered and accepted and for Services satisfactorily performed hereunder. However, payment may be withheld and portions thereof may be deducted if in BUYER'S reasonable opinion SELLER is not performing Work in accordance with the provisions of this Purchase Order. In such case, BUYER may set off any and all amounts claimed by BUYER, including any back-charge amounts due to BUYER, under this Purchase Order or in other transactions.
- C. Payment of each correct invoice shall be made in accordance with the payment terms Part 3 of this Purchase Order after the BUYER receives the correct invoice, subject to any rights of BUYER provided elsewhere in this Purchase Order. Invoices for Products shall be mailed at the time of shipment, or applicable progress milestone, and for Technical Advisory Services in accordance with Part 3 of this Purchase Order. Any cash discount period offered by SELLER shall be computed from the date the Products are transferred to BUYER or the correct invoice is received, whichever is later, and provided that required certification documents are received by BUYER. The foregoing payment and cash discount periods shall be extended by the period of any delay caused by an error in the invoice requiring correction.
- D. SELLER shall promptly pay each of its first tier Subsuppliers the amount to which they are entitled under each invoice. SELLER shall also have full responsibility for proper payment to all lower-tier Subsuppliers. BUYER may require SELLER to submit satisfactory evidence of payment to its Subsuppliers and releases of all claims that may be made by SELLER'S Subsuppliers. If there is any indication of any unpaid claim, BUYER may require SELLER to furnish proof of payment satisfactory to BUYER or a bond against such claim in a form and from a company satisfactory to BUYER. SELLER shall indemnify, defend and hold harmless each Indemnified Party against any Liabilities arising from any such claim. In addition, BUYER reserves the right to make payments due hereunder directly to Subsuppliers whenever BUYER has reason to believe SELLER has not paid or is likely not to pay any amounts due them on a timely basis. The amount of any such payments made by BUYER directly to Subsuppliers shall be credited against any payments otherwise due from BUYER to SELLER.
- E. SELLER must satisfactorily fulfill all drawing and data requirements specified in this Purchase Order as a pre-condition for final payment. The acceptance by SELLER of the final payment under this Purchase Order shall constitute a release by SELLER of each Indemnified Party from all liens (whether statutory or otherwise and including mechanics' or Subsuppliers' liens), claims and liability hereunder with respect to any Work performed or furnished in connection with this Purchase Order, or for any act or omission of any Indemnified Party relating to or affecting this Purchase Order, except claims for which SELLER has delivered a notice of dispute to BUYER prior to the final payment. SELLER agrees to execute a release and indemnity of all claims in connection with or in any way related to this Purchase Order as a condition for final payment.
- F. This Purchase Order includes all related US customs duty and import drawback rights if any (including rights developed by substitution and rights which may be acquired from Subsuppliers) which SELLER can transfer to BUYER. SELLER agrees to provide BUYER timely notice of the existence of any such rights. SELLER shall supply BUYER all documents required to obtain drawback.



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GC-8 RECORDS AND AUDIT

- A. SELLER shall maintain records and accounts in connection with the performance of this Purchase Order which will accurately document incurred costs, both direct and indirect, of whatever nature for a period of 6 years 3 months from final payment unless a longer period is otherwise specified by applicable law. BUYER, Customer, or their representatives shall have the right to examine and copy, at all reasonable times and with advance notification, such records and accounts for the purposes of confirming compliance with Purchase Order provisions, verifying payments or requests for payment when costs are the basis of such payment or evaluating the reasonableness of proposed Purchase Order price adjustments and claims.
- B. If BUYER or Customer establishes uniform codes of accounts for the Project, SELLER shall use such codes in identifying its records and accounts.
- C. For Purchase Orders in excess of \$150,000.00, FAR clause 52.215-2, Audit and Records – Negotiation (Oct 2010) shall also apply.

GC-9 SELLER'S COMPLIANCE WITH SCHEDULE REQUIREMENTS AND QUALITY STANDARDS

- A. Timely performance and delivery by SELLER in accordance with the Schedule are essential to this Purchase Order. SELLER shall furnish sufficient personnel, material and tools and shall work such hours as necessary to meet the Schedule and shall continuously and diligently perform the Work in accordance with the Schedule and the other requirements set forth herein. SELLER shall notify BUYER in writing of any actual or anticipated delays immediately upon discovery. Such notice shall include a description of the cause of delay, the estimated period of delay, and corrective actions being taken.
- B. The Products and all Warranty Work shall be subject to expediting by BUYER and Customer. SELLER may, from time to time, be required to provide to BUYER for approval an original and subsequently updated Schedule showing all activities and sequence of operations needed for the orderly performance and completion of the Work. As and when requested by BUYER, SELLER shall provide the schedules and periodic progress reports of SELLER and the Subsuppliers to demonstrate Work progress in form and manner directed by BUYER.
- C. All Products shall comply with the standards of quality specified in this Purchase Order or those customary in the industry if no requirement is specified. SELLER shall maintain a quality management system throughout the term of this Purchase Order. The Products, SELLER'S quality management system and all Warranty Work shall be subject to quality surveillance by BUYER and/or Customer in accordance with BUYER'S Quality Surveillance Plan in this Purchase Order. Quality surveillance is defined as BUYER'S selective review, observation and evaluation of processes, procurement, manufacturing operations, quality control systems and programs to assist BUYER in monitoring SELLER'S compliance with the quality requirements of this Purchase Order at all times during manufacturing and Warranty Work. Quality surveillance may consist of quality planning, surveillance, evaluation, quality program verification, quality program audit, or status verification.
- D. BUYER'S and Customer's representatives shall be afforded free access during working hours to SELLER'S and its Subsuppliers' plants for purposes of expediting the manufacturing and shipment and for purposes of quality surveillance, observation, examination, inspection and witness of testing. The expediting and quality surveillance services performed by BUYER and/or Customer shall not result in any additional charges to BUYER and shall not affect SELLER'S obligation to perform in accordance with the requirements established by this Purchase Order.
- E. SELLER'S failure to perform Work in compliance with the Schedule shall be deemed to be reasonable grounds for insecurity in which event BUYER may demand that SELLER provide adequate assurances that SELLER will perform on time. BUYER'S demand may require SELLER to provide a written recovery plan with corrective measures to ensure SELLER'S compliance with the Schedule requirements at no cost to BUYER, which may include adding personnel, working overtime and/or extra shifts and making air shipments of materials and parts to SELLER and the Product to BUYER.



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- F. SELLER'S failure to adhere to the standards of quality required by this Purchase Order shall be deemed to be reasonable grounds for insecurity in which event BUYER may demand that SELLER provide adequate assurances of SELLER'S ability to meet said standards. BUYER'S demand may require SELLER to provide a written recovery plan showing corrective measures to ensure SELLER'S compliance with the quality requirements at no cost to BUYER.
- G. If within five (5) business days from a notice described in the sub clauses above, SELLER has not provided adequate assurance acceptable to BUYER, or remedied the condition to BUYER'S satisfaction, BUYER may exercise any available remedy at its discretion, including establishing a corrective action plan which may in part include the assignment of in-shop expediting and/or supplier quality personnel to periodically visit and, if necessary, reside at the manufacturing location(s), as appropriate. BUYER may backcharge SELLER and SELLER shall be liable for the reasonable costs incurred by BUYER to develop and perform activities under such corrective action plan.
- H. If SELLER or any Subsupplier is not ready to perform an inspection or test at the scheduled time and BUYER, therefore, is required to return to the testing or inspection location, BUYER may backcharge SELLER and SELLER shall be liable for the reasonable costs incurred by BUYER to perform any subsequent surveillance activities.
- I. The making or failure to make an inspection, examination or test of, or payment for, or acceptance of the Products shall in no way relieve the SELLER from its obligation to conform to all of the requirements of this Purchase Order and shall in no way impair BUYER'S right to reject or revoke acceptance of nonconforming Products, or to avail itself of any other remedies to which BUYER may be entitled, notwithstanding BUYER'S knowledge of the nonconformity, its substantiality or the ease of its discovery.

GC-10 EXCUSABLE DELAYS

- A. Except for defaults of SELLER'S Subsuppliers, SELLER shall not be in default because of any failure to perform this Purchase Order under its terms if the failure arises from unforeseeable causes beyond the control and without the fault or negligence of the SELLER. 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.
- B. In each instance, the failure to perform must be unforeseeable and beyond the control and without the fault or negligence of the SELLER. "Default" includes failure to make progress in the work so as to endanger performance.
- C. If the failure to perform is caused by the failure of a Subsupplier to perform or make progress, and if the cause of the failure was unforeseeable and beyond the control of both SELLER and the Subsupplier, and without the fault or negligence of either, SELLER shall not be deemed to be in default unless the Products or Services were obtainable from other sources in sufficient time for SELLER to meet the required delivery schedule.
- D. SELLER shall, within twenty-four (24) hours of the commencement of any such delay, give to BUYER written notice thereof and within seven (7) calendar days of commencement of the delay, a written description of the anticipated impact of the delay on performance of the Work. Within seven (7) calendar days after the termination of any excusable delay, SELLER shall provide a written notice to BUYER



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specifying the actual duration of the delay. Failure to give any of the above notices shall be sufficient ground for denial of an extension of time.

- E. If BUYER determines that the delay was unforeseeable, beyond the control and without the fault or negligence of SELLER, BUYER will determine the duration of the delay and will extend the time of performance of this Purchase Order by modifying the delivery date specified in the Purchase Order. Such extension shall be the sole remedy for the delay.

GC-11 TITLE AND RISK OF LOSS

Except as otherwise provided herein, all Products furnished by SELLER hereunder shall become the property of BUYER or Customer as applicable upon payment therefor or upon delivery, whichever occurs earlier. Notwithstanding the foregoing, SELLER shall be responsible for and shall bear any and all risk of loss or damage to the Products until delivery thereof in accordance with the delivery provisions of this Purchase Order. Upon such delivery, SELLER shall cease to bear the risk of loss or damage; provided however, that any loss or damage, whenever occurring, which results from SELLER'S nonconforming packaging or crating shall be borne by SELLER.

GC-12 SAFETY FOR BUYER'S AND CUSTOMER'S REPRESENTATIVES

- A. SELLER shall ensure the safety of BUYER'S and Customer's representatives while present at or in SELLER'S plants and the plants of Subsuppliers. In that regard, SELLER shall provide appropriate personal protection equipment, such as safety glasses and hard hats, where applicable, for BUYER'S and Customer's representatives. If, at any time, a BUYER or Customer representative deems the conditions at SELLER'S plants or the plants of SELLER'S Subsuppliers are unsafe and promptly notifies SELLER accordingly, such representative(s) shall be entitled to suspend BUYER'S activities (including, but not limited to, any activities relating to expediting, quality surveillance and delivery) at such plants until such time as the unsafe conditions are resolved by SELLER to BUYER'S reasonable satisfaction.
- B. If any BUYER activities are suspended due to safety concerns of a BUYER'S or Customer's representative, SELLER shall promptly reschedule any Work required to be conducted in the presence of a representative and SELLER shall be fully liable for any resulting delay. BUYER may backcharge SELLER and SELLER shall be liable for the reasonable costs incurred by BUYER and Customer due to any such suspension and subsequent resumption of BUYER'S activities at SELLER'S plants or the plants of SELLER'S Subsuppliers.

GC-13 FINANCIAL REPRESENTATION

- A. SELLER represents and warrants that it is and will remain throughout the term of this Purchase Order solvent and adequately capitalized and financially capable to perform all obligations necessary to execute the Work, collectively referred to in this General Condition as "financial capability". From time to time and at BUYER'S request, SELLER shall provide BUYER with information satisfactory to BUYER to verify SELLER'S financial capability and the financial capability of its Subsuppliers within five (5) days of BUYER'S request.
- B. In the event that reasonable grounds for insecurity over SELLER'S financial capability arise, BUYER may exercise all available remedies including making payments to Subsuppliers on SELLER'S behalf, directly or as co-payee, and requiring SELLER to provide adequate security from third parties in a form and from a company acceptable to BUYER, such as irrevocable and unqualified bonds, letters of credit, or guarantees in BUYER'S favor. As examples only and without limitation, the Parties agree that delays by SELLER in placing orders for Product component parts, delays by SELLER in paying Subsuppliers or failure to timely verify its financial capability after any such request shall be deemed to be reasonable grounds for insecurity.

GC-14 WARRANTIES AND GUARANTEES

- A. The Warranty Period is defined as the period from the commencement of Work until twelve (12) calendar months after completion of the Project, or, with respect to liens, title or latent defects, at any time. In addition, any reperformance, repair, or replacement Work shall be re-warranted for twelve (12) calendar



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months after the satisfactory completion of such Work and the Warranty Period for repaired or replaced Work shall be extended accordingly.

- B. SELLER warrants at all times during the Warranty Period that the Products furnished hereunder shall: (1) be new, fit for purpose, of good and suitable quality and in good condition; (2) conform in all respects to the requirements of this Purchase Order and all applicable drawings, data sheets, specifications, codes and standards; (3) be free of any defects including defects in design, materials and fabrication, and; (4) be genuine and original and shall include only genuine and original components, with no counterfeit items or suspect items furnished hereunder.
- C. SELLER warrants at all times during the Warranty Period that the Services performed hereunder shall (1) conform in all respects to the requirements of this Purchase Order and all applicable drawings, data sheets, specifications, codes, and standards; and (2) be performed by personnel with the requisite experience and capabilities and in accordance with the standard of skill and care reasonably to be expected of suppliers performing similar services in regard to similar products.
- D. If at any time prior to the expiration of the Warranty Period, BUYER or Customer discovers any defect, deficiency or nonconformity in SELLER'S Work resulting from SELLER'S Products or Services failing to conform to the warranties provided above (collectively referred to in this General Condition as "defects"), SELLER shall, upon written notice from BUYER, promptly correct such defects at SELLER'S sole cost, in accordance with the requirements of this Purchase Order at a time acceptable to BUYER or Customer, (i) for Products, by redesigning, repairing or replacing the defective Products as directed by BUYER or Customer and (ii) for Services, by re-performing the defective Services and remedying any defect in the Products which results from the defective Services. In case of an emergency endangering life or property or in a situation where the Product or the facility in which the Product is installed has ceased operation or is materially and adversely affected in its operation, BUYER may take the corrective action and notify SELLER as soon as possible thereafter.
- E. If SELLER does not commence the corrective action after its receipt of a warranty notice, or if, having commenced corrective action, SELLER does not continue to diligently pursue completion of the corrective action, or if SELLER fails to complete any such corrective action within a reasonable and appropriate time under the circumstances, or in the event of an emergency requiring immediate corrective action, BUYER may take such steps as BUYER determines are necessary to correct the defect. BUYER may backcharge SELLER and SELLER shall be liable for the reasonable costs of BUYER'S remedial action.
- F. Failure of BUYER to discover defects shall in no way relieve SELLER of its responsibility to promptly make such modifications as are required to minimize delay and/or damage to the Products and other Work.
- G. SELLER'S warranty obligations shall in no event extend to damage to a Product to the extent such damage is caused by:
- (1) material failure by BUYER or Customer to install or maintain the Product in accordance with the recommendations set forth in the manuals provided by SELLER to BUYER; or
 - (2) operation of the Product by BUYER or Customer materially in excess of operating specifications for the Product as set forth in the manuals provided by SELLER to BUYER.

Notwithstanding the foregoing, SELLER agrees to use its best efforts, at BUYER'S expense, to replace or to repair any such damage and to minimize the expenses in so doing.

GC-15 WARRANTY WORK AND TECHNICAL ADVISORY SERVICES

The following requirements shall apply to all Warranty Work and Technical Advisory Services at the Jobsite. For purposes of this General Condition, "SELLER'S Personnel" shall mean the employees, agents and representatives of SELLER and each Subsupplier performing Services.



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A. Performance Requirements

- (1) SELLER shall provide the SELLER'S Personnel when and as required for the Services in accordance with the Project schedule. BUYER shall provide SELLER reasonable prior notice of the required start dates for SELLER'S Personnel at the Jobsite. SELLER'S Personnel performing Technical Advisory Services shall commence the Services when directed by BUYER and shall complete the Services as expeditiously as practicable.
- (2) SELLER'S Personnel shall comply with all applicable Project procedures, regulations, work rules, and work hours, and all other obligations specified in this General Condition. BUYER may at its sole discretion deny access to the Jobsite for cause to any individual by written notice to SELLER. In the event an individual is excluded from the Jobsite, SELLER shall promptly replace such individual with another who is fully competent and skilled to perform the Services.
- (3) In addition to the warranties provided in the General Condition titled "WARRANTIES AND GUARANTEES", SELLER warrants that the SELLER'S Personnel performing any Technical Advisory Services shall:
 - (i) be fully experienced and properly qualified to advise, direct and/or provide the Technical Advisory Services as required to ensure that the Product becomes fully operational in accordance with this Purchase Order, and
 - (ii) be authorized to act on behalf of SELLER.
- (4) In the event that any Technical Advisory Services do not comply with any of the standards or warranties provided in this Purchase Order, SELLER'S Personnel shall perform or re-perform the Technical Advisory Services and remedy any defect in the Products which results from the non-compliant Technical Advisory Services, all at no cost to BUYER or Customer.
- (5) The Parties acknowledge that acts or omissions of SELLER'S Personnel performing Technical Advisory Services will in no way modify any of SELLER'S quality obligations set forth in the General Conditions titled "SELLER'S COMPLIANCE WITH SCHEDULE REQUIREMENTS AND QUALITY STANDARDS" or SELLER'S warranty obligations set forth in the General Condition titled "WARRANTIES AND GUARANTEES" or excuse SELLER'S performance thereunder.

B. Visas, Permits, Licenses, Taxes

- (1) SELLER shall timely procure and pay for all visas and other applicable governing authority requirements to perform the Services and shall furnish any bonds, security or deposits required by any applicable governing authority to permit performance of the Services.
- (2) SELLER shall pay all taxes, levies, duties and assessments of every nature due in connection with the Services and shall make any and all payroll deductions and withholdings required by law.

C. Safety, Health and Security

- (1) SELLER'S Personnel shall comply with the Site safety requirements, the Project Safety and Health Plan and all other BUYER-directed and Customer-directed safety and health requirements. SELLER'S Personnel shall perform the Services at all times in a manner to avoid the risk of endangerment to health, bodily harm to persons and damage to property. SELLER'S Personnel shall have sole responsibility for taking all necessary safety and health precautions and continuously inspecting all tools, equipment and materials used in the Services to discover and correct any conditions which might result in any of the aforementioned risks. SELLER shall use all safety equipment required for the Services and shall maintain and furnish accident, injury and all other records and reports required by Applicable Law and by BUYER and Customer.
- (2) SELLER shall comply with BUYER'S and Customer's security requirements and at all times conduct operations under this Purchase Order in a manner to avoid the risk of loss, theft, or damage by vandalism, sabotage or any other means to any equipment, material, work or other property.
- (3) If BUYER or Customer maintains medical or first aid facilities at the Jobsite, it will make available such facilities for the treatment of SELLER'S Personnel who may be injured or become ill while engaged in the performance of the Services. In consideration for the use of such medical or first aid facilities and the receipt of medical or first aid services, SELLER hereby agrees: (i) to include as part of its obligation under the General Condition titled Indemnity the obligation to release, defend, indemnify and hold harmless each Indemnified Party from all Liabilities arising from or related to the use of such services or facilities; and (ii) in



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the event any of SELLER'S Personnel require medical services outside the Jobsite, including transportation thereto, to promptly pay for such services directly to the providers thereof.

D. Environmental Requirements

- (1) Throughout performance of the Services, SELLER'S Personnel shall conduct all operations in such a way as to minimize impact upon the natural environment and prevent any release or spread of contaminated or hazardous materials.
- (2) In the event SELLER'S Personnel encounters at the Jobsite material reasonably believed to be a contaminated or hazardous material, SELLER'S Personnel shall immediately stop work in the affected area and notify BUYER of the condition. Pending receipt of written instructions from BUYER, SELLER shall not resume Services in the affected area.
- (3) SELLER shall promptly remediate any environmental damage arising from any discharge, spillage or seepage into the environment of any pollutant or hazardous material by SELLER'S personnel at SELLER'S sole cost. SELLER shall indemnify, defend and hold harmless the Indemnified Parties from any and all Liabilities arising from any such discharge, spillage or seepage.

E. Insurance

- (1) Unless otherwise specified in this subcontract, SUBCONTRACTOR shall, maintain in effect at all times during the performance of the Work insurance coverage, with limits not less than those set forth below with insurers rated by A.M. Best Company no less than A-VII or equivalent S&P rating of BBB, and under forms of policies satisfactory to CONTRACTOR.

SUBCONTRACTOR shall deliver to CONTRACTOR no later than ten (10) calendar days after the effective date of this subcontract, but in any event prior to commencing the Work or entering the Jobsite, certificates of insurance and endorsements as evidence of the insurance coverage required herein. Certificates of Insurance shall demonstrate SUBCONTRACTOR'S insurance policies contain the minimum coverage set forth in this clause. SUBCONTRACTOR shall also provide a certified copy of Additional Insured and Waiver of Subrogation endorsements for all applicable policies of insurance. SUBCONTRACTOR shall deliver to CONTRACTOR thirty (30) calendar days' advance written notice prior to cancellation, termination or material alteration of said policies of insurance. Certificates shall identify on their face the project name and the applicable subcontract number.

Insurance Coverage:

- (1) Workers' Compensation Insurance with limits and coverage as required by any applicable law or regulation both State and/or Federal, including U.S.L. & H.W. Compensation Act.
- (2) Employer's Liability Insurance, including when required Marine Employer's Liability and Jones Act coverage, of not less than \$1,000,000 each accident for bodily injury and bodily injury by disease.

The above policies shall include an Insurer's Waiver of Subrogation in favor of CONTRACTOR, CUSTOMER, each of their parents, subsidiaries and affiliates, and the officers, directors and employees of each such entity (collectively "Customer Group").

- (3) Commercial General Liability Insurance

SUBCONTRACTOR shall maintain Commercial General Liability Insurance (CGL) with limits not less than those listed below. The CGL insurance shall be written on an occurrence form, shall provide coverage for liability arising from all operations by or on behalf of SUBCONTRACTOR. Insurance shall include coverage for liability arising from premises and operations, independent contractors, products and completed operations for at least (24) months following contract termination, broad form property damage, personal and advertising injury, explosion, collapse and underground (XCU) damage and contractual liability coverage as applicable to any contractual indemnity.

\$2,000,000 Combined single limit for Bodily Injury and Property Damage each



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	occurrence;
\$2,000,000	Personal Injury Limit each occurrence;
\$2,000,000	Products-Completed Operations Annual Aggregate Limit; and
\$2,000,000	General Annual Aggregate Limit (other than Products-Completed Operations).

The Commercial General Liability Insurance, coverage limits may be achieved by a combination of primary and Excess or Umbrella Liability coverages, and including such Excess or Umbrella Liability Insurances(s) shall apply to the indemnity agreement in the General Condition titled "INDEMNITY" and shall include each member of the Customer Group as an Additional Insured. Such insurance(s) shall also include an Insurer's Waiver of Subrogation in favor of each Additional Insured, contain a cross liability and severability of interest clause and be primary and non-contributory with any similar insurance coverage (primary or excess) maintained by the Additional Insureds. The insurance limits provided by SUPPLIER'S insurance (primary and excess) to the Additional Insureds must be exhausted before any contribution from such Additional Insureds' own insurance but not other insurance applicable to a loss which may be subject to contribution.

- (4) Automobile Liability Insurance including contractual liability coverage for the operation of any vehicle to include, but not be limited to, owned, hired and non-owned.

The combined single limit for Bodily Injury and Property Damage Liability shall be not less than \$1,000,000 for any one accident or loss. The required limits may be satisfied by a combination of a primary policy and an excess or umbrella policy.

- (5) Excess or Umbrella Liability Insurance with limits not less than \$3,000,000 per occurrence/aggregate. Coverage shall be provided on a follow form basis, applying as excess over the primary policies of Employer's Liability, Commercial General Liability and Automobile Liability as required above. Such insurance shall include the same Additional Insured and Insurer's Waiver of Subrogation provisions required by the primary policies and shall be primary and non-contributory with any similar insurance coverage maintained by the Additional Insureds.

Neither CONTRACTOR nor CUSTOMER is maintaining any insurance on behalf of SUBCONTRACTOR, including insurance covering loss or damage to the Work or to any other property of SUBCONTRACTOR unless otherwise specifically set forth herein. Any liability insurance maintained by any member of the Customer Group is excess of and shall not in any manner contribute to any loss covered by SUBCONTRACTOR'S primary insurance or with any other insurance available to SUBCONTRACTOR in excess of such primary insurance and applicable to such loss.

The requirements contained herein as to types and limits, as well as CONTRACTOR'S approval of insurance coverage to be maintained by SUBCONTRACTOR, are not intended to and shall not in any manner limit or qualify the liability and obligations assumed by SUBCONTRACTOR under this subcontract. SUBCONTRACTOR shall require each lower-tier subcontractor to comply with all insurance requirements appropriate for its scope of work as set forth in FAR 28.306(b) and as specified in FAR 28.307, and any deficiency shall not relieve SUBCONTRACTOR of its responsibility herein. Upon written request, SUBCONTRACTOR shall provide CONTRACTOR with complete, certified copies of all required insurance policies, and/or copies of lower-tier subcontractor certificates of insurance.

CONTRACTOR shall have no duty to advise SUBCONTRACTOR in the event SUBCONTRACTOR'S insurance does not comply with the requirements of this subcontract. If SUBCONTRACTOR fails to procure and maintain all the insurance coverage required by this clause, SUBCONTRACTOR shall indemnify and hold harmless each member of the Customer Group from and against all claims, demands, costs, charges and expenses that would have been covered by such insurance had SUBCONTRACTOR complied with its obligations herein.

In accordance with the submittal requirements set forth above, SUBCONTRACTOR shall deliver the original and one (1) copy of the Certificate(s) of Insurance and endorsements required by this



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clause and all subsequent notices of cancellation, termination and material alteration of such policies to:

National Aerospace Solutions, LLC
100 Kindel Drive
Arnold AFB, TN 37389-9101
Attn: Mike Ramsey
NAS Acquisition Services Manager

Reference: PO No. TBD

Non-Waiver. CONTRACTOR'S acceptance of any evidence of insurance, including any certificate of insurance, shall not: (i) constitute acceptance of the adequacy of SUBCONTRACTOR'S insurance coverage, (ii) imply that any insurance coverage provided by SUBCONTRACTOR complies with the requirements of this subcontract, (iii) be deemed as a modification of any of SUBCONTRACTOR'S requirements in the subcontract, or (iv) waive CONTRACTOR'S or CUSTOMER'S rights to enforce any of SUBCONTRACTOR'S requirements in this subcontract, including the requirements concerning insurance coverage amounts, insurance terms and conditions and qualifications of insurance companies.

GC-16 BACKCHARGES

- A. In the event SELLER fails to complete any Work in accordance with the requirements of this Purchase Order, or by its actions indicates inability or unwillingness to complete the Work in accordance with the terms of this Purchase Order, or if the Products or Services are found to be defective as to workmanship or materials or to be in non-conformance with this Purchase Order, or if any rework of the Products is required as a result of a breach of warranty hereunder, SELLER shall promptly correct any such noncompliance when so directed. BUYER will take reasonable measures to discover such noncompliance as quickly as practical; however, failure to do so shall in no way relieve SELLER of its responsibility during the Warranty Period to promptly take such corrective actions as are required.
- B. If (i) upon being notified by BUYER or Customer of any noncompliance under this Purchase Order, including the discovery of deficient Products or Services, and having been directed to correct noncompliance by a specific date, SELLER states or by its actions indicates its inability or unwillingness to comply or (ii) an emergency situation arises that requires immediate corrective action, then BUYER or Customer may proceed to accomplish the corrective work or remedial action by the most expeditious means available and backcharge SELLER for the cost of the required work.
- C. All reasonable costs incidental to any corrective work performed by SELLER or remedial action performed by BUYER or Customer shall be borne by SELLER and shall be charged to SELLER as appropriate, including without limitation the engineering, design, repair, replacement, removal, transportation to the Jobsite, customs duties or clearance fees, disassembly (including without limitation disassembly as required to gain access to the defective or nonconforming Product), reinstallation, reconstruction, retesting, and reinspection as may be necessary to correct the defect or nonconformity or to demonstrate that previously defective or nonconforming Work conforms to the requirements of this Purchase Order, and including all labor costs associated therewith. Additionally, SELLER shall be responsible for and reimburse BUYER for BUYER'S and Customer's other costs associated with the investigation of the defect or non-conformity and the necessary corrective action, including costs of reviewing and inspecting SELLER'S remedial Work and otherwise administering and enforcing the provisions of the General Condition titled "WARRANTIES AND GUARANTEES".
- D. The backcharge for such work and any work subject to backcharge pursuant to the terms of this Purchase Order shall be computed as follows:



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- (1) incurred labor costs (manual and non-manual) including payroll additives, travel and subsistence;
- (2) material at net delivered cost;
- (3) contractors and subcontractors (including consultants) at cost;
- (4) equipment and tool rentals at prevailing rates;
- (5) an equitable amount for BUYER'S overhead, general and administrative costs.

E. Provided the Project schedule permits, BUYER shall furnish SELLER with a written estimate of the backcharge amount before performing the corrective work. BUYER will backcharge SELLER upon completion of the backcharge work for actual costs incurred, computed as shown above, or withhold such sum from funds due SELLER. If insufficient funds are or will be due SELLER to cover the backcharge, BUYER may draw on any third party security provided by SELLER.

GC-17 PUBLICITY AND ADVERTISING

SELLER its employees, and SUBCONTRACTOR'S lower-tier subcontractors and suppliers and their employees shall not make, or permit to be made, any announcement or release any information concerning this Purchase Order or the Project, orally or in writing, to any member of the public, the press, any business entity or any official body unless prior written consent is obtained from BUYER as to the text and the recipient thereof.

GC-18 NONDISCLOSURE

A. DFARS clause 252.204-7000, Disclosure of Information (AUG 2013) applies to this subcontract and, prohibits SUBCONTRACTOR from releasing to anyone outside SUBCONTRACTOR'S organization any information (including unclassified information), regardless of medium (e.g., film, tape, document), pertaining to any part of this subcontract or any program related to this subcontract, unless:

The CUSTOMER'S Contracting Officer has given prior written approval; or

The information is otherwise in the public domain before the date of release.

- B. In order to comply with the above mentioned DFARS, copies of any information requested to be released must be submitted to CONTRACTOR for forwarding to the Contracting Officer for security and policy review and clearance sixty (60) days prior to the requested release date.
- C. If so requested by CONTRACTOR, SUBCONTRACTOR further agrees to require its employees to execute a nondisclosure agreement prior to performing any work under this subcontract.
- D. SUBCONTRACTOR agrees to include a similar requirement in all lower-tier subcontracts. All requests for authorization to release information by lower-tier subcontractors shall be subject to the approval of CONTRACTOR.

GC-19 RIGHTS IN DATA – COMMRCIAL ITEMS

A. Definitions.

- (1) The definitions of FAR 52.227-14(a) are incorporated by reference.
- (2) Work-for-Hire shall have the meaning in 17 U.S. Code § 101.

B. Allocation of rights.

- (1) Except as provided in paragraph (c) of this clause, the CONTRACTOR/BUYER and Government shall have unlimited rights in—
 - (i) Data constituting "Work-For-Hire data; and
 - (ii) Form, fit, and function data delivered under this subcontract;
- (2) Subject to (b)(3), CONTRACTOR/BUYER and the Government shall have a right to use or copy at AEDC all other technical data delivered under this subcontract (except for restricted computer software) that constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair of items, components, or processes delivered or furnished for use under this SUBCONTRACT/PO.



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- (3) SUBCONTRACTOR shall have the right to—
 - (i) Assert copyright in produced in the performance of this SUBCONTRACT/PO other than Work-For-Hire data;
 - (ii) Use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the Contractor in the performance of this contract, unless provided otherwise in paragraph (d) of this clause; and
 - (iii) Protect from unauthorized disclosure and use those data that are limited rights data or restricted computer.
 - (4) *Removal of copyright notices.* The CONTRACTOR/BUYER will not remove any authorized copyright notices placed on data pursuant to this paragraph (c), and will include such notices on all reproductions of the data.
- C. *Release, publication and use of data.* SUBCONTRACTOR/SELLER shall have the right to use, release to others, reproduce, distribute, or publish any data first produced or specifically used by SUBCONTRACTOR/SELLER in the performance of this contract, except—
- (1) As prohibited by Federal law or regulation (e.g., export control or national security laws or regulations);
 - (2) As expressly set forth in this contract; or
 - (3) If SUBCONTRACTOR/SELLER receives or is given access to data necessary for the performance of this contract which contain restrictive markings, SUBCONTRACTOR/SELLER shall treat the data in accordance with such markings unless otherwise specifically authorized otherwise in writing by the CONTRACTOR/BUYER.

GC-20 HAZARDOUS MATERIAL DISCLOSURE REQUIREMENTS

In the performance of this Purchase Order, SELLER shall comply with all applicable laws, rules, requirements, and ordinances including, but not limited to, those relating to environmental law, toxic or hazardous materials, occupational health and safety. If this Purchase Order calls for the transfer to BUYER and/or Customer by SELLER of any chemical substance or mixture, or any material which may generate or release a chemical substance or any hazardous agent, SELLER shall provide before or with said transfer a Material Safety Data Sheet (Federal OSHA Hazard Communication Standard, 29 CFR 1910.1200) and label which are current, accurate and complete, which include but are not limited to a statement of Product hazards and precautions for safe use. Copies of the Material Safety Data Sheet shall include the Purchase Order number, shipping location, and shall be sent to the shipping location identified in this Purchase Order.

GC-21 EXPORT CONTROLS AND RESTRICTED PARTIES

- A. SELLER acknowledges that all applicable export laws, rules and regulations of the origin countries shall apply to the exports of commodities, software and technology (technical data and assistance) under this Purchase Order. SELLER also acknowledges that other laws, rules and regulations may restrict the use of certain parties under this Purchase Order. Such laws, rules and regulations are generally described below.
- B. Restricted Parties Lists
- The U.S. Government, foreign country governments and international organizations publish Restricted Parties Lists (“Lists”) that identify parties (such as known or suspected terrorists, money launderers and drug traffickers) restricted from certain or all types of transactions. SELLER shall review all applicable Lists prior to initiating transactions with any third party for the performance of all or any portion of the Work to ensure such third party is not identified on any applicable Lists. SELLER shall not enter into any transactions with any third party identified on any applicable Lists.
- C. Licensing Requirements
- (1) General: Each country has export regulations that control commodities, software and technology for various reasons, such as national security, foreign policy, anti-terrorism, and to avoid the proliferation of conventional weapons of mass destruction, e.g. certain nuclear, chemical or biological agents. Numerous



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countries have export regulations that specifically address dual-use items, meaning commercial items with the potential to be applied to military and/or weapon proliferation uses. SELLER shall ensure that all necessary export licenses are obtained, or license exceptions confirmed, prior to the export of any commodity, software or technology.

- (2) United States of America (USA) Export Licensing Requirements
- (i) SELLER shall comply with all applicable U.S. export control laws and regulations. The information which BUYER may disclose to SELLER pursuant to the Purchase Order may be subject to the provisions of the Export Administration Act of 1979 and the U.S. Export Administration Regulations (15 C.F.R. 730-774) promulgated there under, the U.S. Department of Energy's export regulations (10 C.F.R. Part 810), the Arms Export Control Act, the International Traffic in Arms Regulations, and the sanctions and laws administered by the U.S. Treasury Department, Office of Foreign Assets Control (OFAC). SELLER acknowledges that these statutes and regulations impose restrictions on the import and export to foreign countries and foreign nationals of certain categories of items and data and that licenses from the U.S. Department of Energy, U.S. Department of Commerce, U.S. State Department and/or OFAC may be required before such items or data can be disclosed, and that such licenses may impose further restrictions on use of and further disclosure of such data.
 - (ii) All work produced by SELLER that is deemed to be export controlled shall be clearly marked with a legend on each page which states "Restricted access and distribution pursuant to U.S. export control laws".

- D. SELLER shall furnish to BUYER all necessary export compliance information including, as applicable, Export Control Classification Numbers (ECCN) under the U.S. Export Administration Regulations, or classifications under the International Traffic in Arms Regulations (ITAR) and/or the regulations applicable to the U.S. Department of Energy and/or the Nuclear Regulatory Commission regarding controlled items, technology or services. SELLER shall provide such export compliance information in writing to BUYER prior to the SELLER'S export or shipment from SELLER'S facility. SELLER shall confirm and detail in writing whether or not an export license from any country government (including the U.S. Government) or other government authorization is required for the applicable export. In accordance with BUYER'S delivery terms, SELLER is required to obtain any necessary export license or other government authorization in a timely manner. When BUYER is required to obtain an export license, or to meet any applicable import rules and regulations, SELLER is to timely provide all necessary compliance assistance to BUYER and its agents.
- E. SELLER shall be responsible for any delay resulting from SELLER'S failure to comply fully and timely with any such law, rule or regulation described above.
- F. SELLER hereby agrees to indemnify, defend and hold BUYER, Customer, each of their respective Affiliates and the respective directors, officers, employees and representatives of each harmless from and against any and all claims, legal or regulatory actions, final judgments, reasonable attorneys' fees, civil fines and any other losses which any of them may incur as a result of SELLER'S failure to comply with its obligations under this clause.

GC-22 INDEMNITY

- A. In addition to the other indemnity obligations assumed elsewhere in this Purchase Order, SELLER hereby releases and shall indemnify, defend and hold harmless each Indemnified Party from and against any and all Liabilities arising in connection with or incidental to the performance of this Purchase Order, including those arising out of injury to or death of SELLER'S employees and Subsupplier's employees and those arising from SELLER'S breach of any obligation or warranty under this Purchase Order, whether arising before or after completion of the Work hereunder, and in any manner directly or indirectly caused, occasioned, or contributed to in whole or in part, or claimed to be caused, occasioned or contributed to in whole or in part, by reason of any act, omission, fault (including product liability or any other type of strict liability) or negligence, whether active or passive of SELLER, its Subsuppliers or of anyone acting under its direction or control or on its behalf.



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- B. SELLER'S aforesaid indemnity, defense and hold harmless obligations, or portions or applications thereof, shall apply even in the event of the fault or negligence, whether active or passive, of the Indemnified Party claiming indemnification hereunder to the fullest extent permitted by applicable law but no further, but in no event shall they apply to liability to the extent caused by the fault or negligence of the Indemnified Party claiming such indemnification.
- C. For all work in the United States, SELLER specifically waives any immunity provided against this indemnity by an industrial insurance or workers' compensation statute and SELLER shall obtain waivers of subrogation in favor of the Indemnified Parties by all insurers providing workers compensation or similar insurance coverage for employees of SELLER and its Subsuppliers.
- D. BUYER, Customer and the insurers of each, shall not financially contribute in any way to defense and indemnity obligations of SELLER, whether or not covered by insurance.

GC-23 SUSPENSION

Notwithstanding any other provisions of this Purchase Order, BUYER may at any time suspend or extend the time for SELLER'S performance upon written notice of such suspension or extension. SELLER shall suspend or extend the performance of the Work in accordance with BUYER'S instructions and, in the case of suspension, resume performance as subsequently directed by BUYER. Provided that the suspension or extension does not result from any acts, omissions or delays of SELLER and provided further that SELLER timely complies with the requirements set forth below, SELLER shall be entitled to reimbursement for additional actual costs reasonably and necessarily incurred by SELLER, excluding profit, in implementing such suspension or extension. In the case of extension, SELLER must provide BUYER its written claim for the additional costs with supporting documentation within ten (10) days after receipt of the notice of extension. In the case of suspension, SELLER must: (i) provide BUYER with written notice of its intent to claim additional costs together with an estimate of the elements and amounts of any cost within ten (10) days after receipt of the notice of suspension; (ii) provide BUYER written updates on the additional cost estimates on a bi-weekly basis during the period of suspension upon request; (iii) provide BUYER its written claim for additional costs with supporting documentation no later than thirty (30) days after receipt of BUYER'S notice to resume work.

GC-24 TERMINATION FOR CONVENIENCE

- A. SELLER'S performance under this Purchase Order may be terminated by BUYER for convenience in whole or in part whenever BUYER shall elect. Any such termination shall be effected by delivery to SELLER of a notice of termination specifying the extent to which performance under the Purchase Order is terminated, and the date upon which such termination becomes effective. Upon receipt of any such notice, SELLER shall, unless the notice requires otherwise:
 - (1) immediately discontinue Work on the date and to the extent specified in the notice;
 - (2) place no further orders for materials other than as may be necessarily required for completion of any portion of the Work that is not terminated;
 - (3) promptly obtain cancellation on terms satisfactory to BUYER of all purchase orders and subcontracts to Subsuppliers or assign those purchase orders and subcontracts as directed by BUYER; and
 - (4) assist BUYER upon request in the maintenance, protection, and disposition of property acquired by BUYER under this Purchase Order.
- B. If requested in writing within thirty (30) days after notice of termination, BUYER will pay to SELLER as full compensation:
 - (1) all amounts due and not previously paid to SELLER for Products completed in accordance with this Purchase Order prior to such notice, and for Work thereafter completed as specified in such notice;
 - (2) a reasonable amount for any Products then in production, provided that no such adjustment shall be made in favor of SELLER with respect to any Products which are SELLER'S standard stock; and
 - (3) reasonable costs incurred by SELLER to settle and pay claims arising out of the canceled orders.



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- C. The amounts to be paid to SELLER shall be set out in a written Purchase Order Revision signed by BUYER. The payment will not include any consideration for loss of anticipated profits on the terminated Work, all claims for which SELLER agrees to waive. Furthermore, the total sum to be paid to SELLER for termination shall be subject to adjustment to the extent any Work contains defects as of the termination date.
- D. Upon termination, BUYER shall have the right, at its sole option, to assume and become liable for any written obligations and commitments that SELLER may have undertaken with third parties in connection with the Work to be performed. If BUYER elects to assume any obligation of SELLER then (1) the amount paid pursuant to this General Condition shall be reduced by the amount of such obligations and commitments and (2) SELLER shall execute all assignments or other documents and take all other reasonable steps requested by BUYER for such assumption.

GC-25 TERMINATION FOR DEFAULT

- A. BUYER may terminate the whole or any part of SELLER'S performance under this Purchase Order in any one of the following circumstances that constitute default under this Purchase Order:
 - (1) if SELLER fails to make delivery of the Products or to perform in accordance with the Schedule or any extension thereof;
 - (2) if SELLER delivers nonconforming Products;
 - (3) if, following request by BUYER, SELLER fails to provide timely and acceptable assurance of SELLER'S ability to meet the quality standards or the delivery date(s) of this Purchase Order or its financial obligations in relation to this Purchase Order;
 - (4) if SELLER fails to comply with the General Condition titled Applicable Law and Standards of Conduct;
 - (5) if SELLER fails to fulfill or comply with any other provision of this Purchase Order; or
 - (6) If SELLER becomes insolvent, does not pay its debts as due, or makes a general assignment for the benefit of creditors or reasonable grounds for insecurity arise with respect to SELLER'S ability to perform.
- B. In the event of any occurrence of any of items (1), (2) or (5) above, BUYER will provide SELLER with written notice of the nature of the default and BUYER'S intention to terminate for default. BUYER may by written notice terminate this Purchase Order in the event SELLER does not correct the default within ten (10) days of such notice or such longer period of time as appropriate considering the circumstances and as specified in such notice of default to SELLER.
- C. Upon the occurrence of any of items (3), (4) or (6) above, BUYER may terminate this Purchase Order immediately upon written notice without any cure period.
- D. Upon receipt of any notice of termination, SELLER shall, unless the notice requires otherwise:
 - (1) immediately discontinue the Work on the date and to the extent specified in the notice;
 - (2) place no further orders for materials or services other than as may be necessarily required for completion of any portion of the Work that is not terminated;
 - (3) obtain cancellation on terms satisfactory to BUYER of all contracts with Subsuppliers unless SELLER is directed by BUYER to take other actions with respect to the same, which may include assignment of all or some of those contracts to BUYER or to BUYER'S designee on terms satisfactory to such assignee; and
 - (4) assist BUYER upon request in the maintenance, protection, and disposition of property acquired by BUYER under this Purchase Order.
- E. In the event BUYER terminates this Purchase Order in whole or in part as provided herein, BUYER may:
 - (1) procure, under such terms and in such manner as BUYER may deem appropriate, items of the Work which are similar to the items so terminated and SELLER shall be liable to BUYER for:
 - (i) any additional costs for such similar items of Work that exceed the amounts that BUYER would have paid SELLER for the terminated items of Work pursuant to this Purchase Order, including recovery of price paid for undelivered goods;



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- (ii) backcharges covering the costs of BUYER to complete the Work with respect to the terminated items of Work; and
 - (iii) any other costs incurred by BUYER for SELLER'S non-delivery, repudiation and breach of this Purchase Order, including all fees and costs in exercising any remedy.
 - (2) BUYER may exercise any other rights or remedies available to BUYER at law or in equity. SELLER shall also be liable to BUYER for the cost of rework; repurchase and BUYER'S backcharges related thereto in the event that any Work contains defects as of such termination date. If this Purchase Order is not terminated in its entirety, SELLER shall continue the performance of this Purchase Order to the extent not terminated by BUYER.
- F. Upon termination of this Purchase Order, payment of all amounts due SELLER under this Purchase Order or any other may be withheld pending completion of the Work, including performance of rework, and may be used to offset Liabilities of SELLER under this Purchase Order. In the event BUYER terminates this Purchase Order in whole or in part as provided herein, BUYER may take immediate possession and utilize the Work in progress and any data, designs, licenses, equipment, material, components, plant, tools (including special tooling and special test equipment) and property (including Intellectual Property Rights) of any kind used under this Purchase Order and required for completion of Work or performance of rework. SELLER agrees to assist the completion of Work and the performance of rework as requested by BUYER, including the secondment of personnel to BUYER. SELLER further agrees that it shall, promptly upon BUYER'S request, either assign or sublicense to BUYER or BUYER'S nominee all agreements under which SELLER is licensed to use any Intellectual Property Rights of any third party to the extent necessary or desirable for the purpose of allowing BUYER, Customer, or any other contractor or subcontractor on BUYER'S or Customer's behalf, to complete the performance of the Work, and pay all costs associated with such assignment or sublicense. SELLER shall assign those agreements under which SELLER is licensed to use Intellectual Property Rights used exclusively with respect to the Work and sublicense rights under those agreements used generally in SELLER'S business. In the event SELLER fails to comply with this obligation, SELLER agrees that BUYER may, at SELLER'S sole expense, procure such licenses directly from such third parties.
- G. If, after notice of termination of this Purchase Order, it is determined for any reason that SELLER was not in default under the provisions of this General Condition, the rights and obligations of the Parties shall be the same as if the notice of termination had been issued pursuant to the General Condition titled Termination for Convenience.

GC-26 ASSIGNMENT

- A. Neither this Purchase Order nor any rights, duties or obligations hereunder may be assigned or delegated in whole or in part by SELLER without the express written consent of BUYER, and any such assignment or delegation without such written consent shall be null and void. BUYER will provide written consent to assign compensation due or to become due under this Purchase Order, provided that such consent shall be subject to BUYER receiving in such assignment the remedies provided BUYER under this Purchase Order, including rights to setoffs, deductions, making payments directly to Subsuppliers and issuing payment to dual payees.
- B. BUYER shall have the rights to assign and delegate its rights and obligations under this Purchase Order in whole or in part by novation to Customer and to any Affiliate of BUYER. Within five (5) business days of request by BUYER, SELLER shall execute a written novation agreement in the form provided by BUYER to effect such assignment and delegation.
- C. Upon the delegation or novation of a Party's obligations hereunder to any permitted assignee, and such permitted assignee's assumption in writing of such obligations, such Party shall be deemed released from and shall have no further rights, obligations, responsibilities or liabilities under this Purchase Order. All of the rights, benefits, duties, liabilities and obligations of the Parties hereto shall inure to the benefit of and be binding upon their respective permitted successors and permitted assigns.



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GC-27 APPLICABLE LAW

Irrespective of the place of performance, the provisions in this Subcontract 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 federal government provided, however, that (i) the "Christian Doctrine" shall not apply, meaning that federal procurement clauses (e.g., the FAR, including agency supplements) or portions thereof not appearing in this Subcontract shall not be read into this Subcontract, and (ii) where the language of any clause, provision or term herein is more restrictive than the language of a federal procurement clause, provision or term, the differing language of this Subcontract shall control. To the extent that federal common law of government contracts is not dispositive, the laws of the State of Tennessee shall apply without regard to its choice of law rules.

GC-28 NOTICES

All notices to be provided by one Party to the other Party pursuant to any of the General Conditions of this Purchase Order shall be effective upon receipt and shall either be (a) delivered personally; (b) sent by first class recorded delivery post; (c) sent by an overnight post or courier service; or (d) by facsimile to the representatives of each Party identified on the signature page of this Purchase Order at the addresses or to facsimile numbers provided thereon. Each Party may substitute its representative and change the address and facsimile therefore upon written notice to the other Party.

GC-29 NON-WAIVER

- A. Any relinquishment of any right by BUYER or release of any obligation by SELLER under this Purchase Order must be set forth in writing in order to constitute a waiver. Failure by BUYER to insist upon strict performance of any of the terms and conditions hereof, failure or delay by BUYER in exercising any rights or remedies provided herein or by law, failure or delay by BUYER to properly notify SELLER in the event of breach, BUYER'S acceptance of or payment for any Work hereunder, or termination of all or part of this Purchase Order shall not release SELLER from any of the warranties or obligations of this Purchase Order and shall not be deemed a waiver of any right of BUYER to insist upon strict performance hereof or a waiver of any of its rights or remedies as to any such Products regardless when shipped, received or accepted, or as to any prior or subsequent default hereunder. The remedies provided to BUYER are not mutually exclusive and BUYER'S exercise of any remedy or remedies will not prevent BUYER from exercising any other remedy or remedies it has under subcontract or at law.
- B. A requirement that a SELLER-furnished document or material is to be submitted for or subject to "Authorization to Proceed", "Review", "Comment", or any combinations of such words or words of like import shall mean only that the SELLER shall submit the document, obtain resolution of any comments and BUYER'S authorization to proceed before implementing the information in the document. Review shall not mean that BUYER will perform a complete check. Review or Authorization to Proceed shall not constitute acceptance or approval of any SELLER-furnished document or material. Any actions by BUYER and Customer in regard to any authorization to proceed, approval, acceptance, review, or comment shall not relieve SELLER from full compliance with the requirements of this Purchase Order and SELLER'S obligations hereunder.

GC-30 SEVERABILITY

The invalidity or unenforceability of any portion or provision of this Purchase Order shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Purchase Order. The Parties shall modify such portion or provisions of this Purchase Order to effect the Parties' original intent and amend this Purchase Order by incorporating the modification herein.



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GC-31 REPRESENTATIONS AND CERTIFICATIONS

All Representations and Certifications provided by SELLER are included, and made part of this Purchase Order as Appendix A-1. BUYER may require re-certification of any or all of the Representations and Certifications contained in Appendix A-1 on an annual basis or as otherwise directed by BUYER.

GC-32 COMPLIANCE WITH LAWS

In the performance of this Purchase Order, SELLER shall comply with all Applicable Laws, including, but not limited to the Foreign Corrupt Practices Act, False Claims Act, Anti-Kickback Act, Export Controls law, and those relating to environmental law, toxic or hazardous material, occupational health and safety.

GC-33 GC=34 GOVERNMENT CLAUSES INCORPORATED BY REFERENCE

The United States Government clauses applicable to this Purchase Order are incorporated by reference and included as Appendix FOA-1 to the Purchase Order Cover Page.

GC-34 DISPUTE RESOLUTION

- A. All disputes arising under or relating to this Purchase Order which cannot be resolved by negotiation shall be resolved under this clause.
- B. "Claim," as used in this clause, means a written demand or written assertion by either BUYER or SELLER (the "Parties") seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of Purchase Order terms, or other relief whether in contract or in tort, arising under or relating to this Purchase Order. A voucher, invoice, other routine request for payment or request for equitable adjustment under a remedy granting clause that is not in dispute when submitted is not a claim under this clause. The submission may be converted to a Claim, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.
- C. If for any reason SELLER and BUYER are unable to negotiate a resolution of a Claim, SELLER or BUYER shall notify the other Party in writing that a dispute exists and request or provide a final determination by BUYER. Any such request by SELLER shall be clearly identified by reference to this clause and shall summarize the facts in dispute and SELLER'S proposal for resolution. With respect to Claims for equitable adjustment under any remedy granting clause under this Purchase Order, SELLER shall be deemed to have waived such Claim unless SELLER has requested resolution of the Claim under this clause within one year of the date that such Claim first arises or the Final Acceptance of the Work under this Purchase Order, whichever occurs earlier.
- D. As a condition precedent to further consideration of any Claim by SELLER where the amount requested by SELLER exceeds \$100,000 or the resolution of the Claim could result in payment by BUYER in excess of \$100,000, SELLER shall provide the following certification:

"I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the Purchase Order adjustment for which SELLER believes BUYER or U.S. Government is liable; and that I am duly authorized to certify the claim on behalf of SELLER".

The foregoing certification may be executed by any person duly authorized by SELLER'S governing documents to bind SELLER with respect to the Claim. At the request of BUYER, SELLER agrees to provide evidence of such authorization.

- E. BUYER will, within forty-five (45) calendar days of any request by SELLER, either (1) provide a written final determination setting forth the contractual basis for its decision and defining what Purchase Order



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adjustments it considers equitable; or (2) notify SELLER of the date by which the decision will be made. Upon SELLER'S written acceptance of BUYER'S determination, the Purchase Order will be modified in accordance with the General Condition titled "CHANGES", and the determination implemented accordingly or, failing agreement, BUYER may in its sole discretion pay such amounts and/or revise the time for performance of the Work in accordance with BUYER'S final determination.

- F. If a Claim by SELLER is based on alleged actions, inactions or omissions of Customer and the interests of justice would be served by resolving SELLER'S Claim in a single proceeding, BUYER may, in its sole discretion, elect to sponsor SELLER'S Claim under the Disputes clause of BUYER'S Prime Contract and allow SELLER to proceed in BUYER'S name. In the event that BUYER so sponsors a Claim, SELLER agrees to enter into a sponsorship agreement under which SELLER waives its right to reimbursement from BUYER except to the extent that Customer is liable to BUYER; and SELLER shall indemnify BUYER for any costs and expenses associated with sponsorship of the Claim.
- G. If BUYER'S final determination is not accepted by SELLER the matter shall, within thirty (30) calendar days, be referred to senior executives of the Parties for resolution in accordance with the following procedures:
- (1) The Parties' senior executives shall have designated authority to settle the dispute. Where appropriate for resolution, the Parties may prepare and exchange memoranda stating the issues in dispute and their respective positions, summarizing the negotiations that have taken place and attaching relevant documents. The senior executives may, in their discretion, meet for negotiations at a mutually agreed time and place as soon as is practicable after the exchange of memoranda.
 - (2) All communications, whether oral or written, related to the foregoing meeting shall be deemed to have been made as part of efforts to compromise the Claim and may not be admissible as evidence in any subsequent proceedings.
- H. If the matter has not been resolved within sixty (60) calendar days of the commencement of the referral to senior executives, the Parties shall attempt to resolve the dispute in non-binding mediation in accordance with the Center for Public Resources Model Procedure for Mediation of Business Disputes. Each Party shall be responsible for its own expenses.
- I. If the matter has not been resolved within sixty (60) calendar days of the commencement of mediation, or if either BUYER or SELLER will not participate in mediation, either Party may pursue any legal remedy.
- The Parties further agree to waive all rights regarding jurisdiction or venue, including but not limited to forum non conveniency, and agree that the only venue for the filing of any court proceeding with respect to any dispute under this Subcontract shall be exclusively in Federal District Court, with venue in the United States Court for the Eastern District of Tennessee, Southern Division. However, in the event the requirements for jurisdiction in Federal District Court are not present, such litigation shall be brought in a Tennessee Circuit or Chancery Court as appropriate, in a county with appropriate jurisdiction. Each party hereby waives its right to a jury trial in any judicial proceeding. Further, any court ordered mediation or binding arbitration shall be in Tullahoma, Tennessee.
- J. If a court awards prejudgment interest on a claim, the interest rate shall be the applicable rate established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (Public Law 95-563)
- K. SELLER shall proceed diligently with performance of this Purchase Order, pending final resolution of any request for relief, Claim, appeal, or action arising under the Purchase Order, and comply with any decision of BUYER.
- L. These contractual remedies shall not be deemed to waive, act as a condition precedent to accrual or otherwise extend any statute of limitation applicable to any request for equitable adjustment or Claim.



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GC-35 BUY AMERICAN ACT

This Purchase Order is subject to Buy American and Free Trade clauses included in the cover page to the PO. SELLER is solely responsible for compliance with such clauses and agrees to indemnify and hold harmless BUYER from any and all direct, indirect or consequential expenses or other damages relating to or arising out of the failure of SELLER or its Subsuppliers to comply with such clauses.