



GENERAL TERMS AND CONDITIONS

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1. DEFINITIONS

- a) “Buyer” means The Lightship Group, LLC.
- b) “Seller” means the concern that is to supply the Goods and/or Services.
- c) “Purchase Order” means a written order on Buyer’s form signed by Buyer’s authorized representative and include the terms and conditions included on its face and/or attached hereto.
- d) “Goods” or “Services” means those goods or services identified in this Purchase Order, which may be changed from time to time by the mutual written agreement of the parties.

2. AGREEMENT

These terms and conditions, together with any written agreements, special provisions and/or specifications set forth, by Buyer on the face and/or attached, by Buyer, to this or any other Purchase Order, constitute the entire agreement between Buyer and Seller and supersede all communications written or oral, prior to or contemporaneous with any Purchase Order and shall not be subject to variation irrespective of any wording in Seller’s acceptance. Any additional or different terms appearing in Seller’s acceptance are hereby rejected. A Purchase Order



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incorporating these terms and conditions becomes binding when accepted by Seller, which acceptance shall occur at the earlier of either (i) written acknowledgement by Seller (which shall include e-mail) or (ii) commencement of performance of the Services by Seller or delivery of any of the Goods by Seller.

3. INSPECTION

Inspection by the Buyer and/or its agents shall not relieve Seller of its responsibility to furnish material or services in strict accordance with the requirements of this Purchase Order.

4. OPERATIONS OF THE SELLER

Any operations of the Seller on Buyer's premises shall be contained to areas authorized by the Buyer. Seller shall clean the premises to Buyer's satisfaction.

5. ASSIGNMENT-SUBCONTRACTING

Seller shall not assign this Purchase Order or subcontract any part of the Goods or Services without Buyer's prior written consent. Seller's purchase of any raw materials or standard commercial articles shall not be deemed a subcontract.

6. PUBLICITY

- a) Seller agrees that neither the Goods nor Services shall be referred to, described, or illustrated in connection with any publicity referencing the Buyer without the prior written authorization of Buyer.
- b) Seller agrees that financial, business, legal and technical information, including the identity of and any other information relating to the Buyer's, affiliates and Buyer's past, present or prospective customers, vendors, suppliers, distributors or other business partners, which Supplier develops, learns of or obtains during the provision of Goods or Services or that are received by or for the Supplier in confidence, constitute "Proprietary Information." Seller will hold in strict confidence and not directly or indirectly disclose or use any Proprietary Information except as necessary to provide the Goods or Services. Proprietary Information shall not include information that Seller can document is or becomes readily available to the public without restriction through no fault of Seller.

7. TIME SHEETS

If the Purchase Order requires the furnishing of field services, the Buyer has the right to require as a condition of payment complete time sheets accounting for all Services for which payment is required. Time Sheets must contain the names, craft identification, wage rates, and hours worked under this Purchase Order.

8. WARRANTY

Seller warrants to the Buyer that all Goods and Services will comply with all applicable specifications, drawings, samples, or other descriptions, whether provided by the Buyer or Seller, will be free from defects in designs, material, or workmanship, and all such Goods and Services will be suitable for its intended purpose. The foregoing warranties shall expire one (1) year after use of the Goods and/or Services for its intended purpose. If any of the warranties of design, workmanship, or materials are not satisfied, Seller, upon notice from the Buyer, agrees to



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promptly replace or correct any Goods and/or Services required to satisfy the warranties specified above without any expense to the Buyer.

9. INDEMNITY, COMPLIANCE WITH LAW, LOANED TOOLS, AND INSURANCE

a) Indemnification

Seller shall indemnify, hold harmless and defend Buyer, its agents, directors and employees from and against all losses and claims, demands, payments, actions, recoveries and judgments of every nature and description and all costs and expenses involved therein, including reasonable attorney's fees by reason of: (1) injury or death of Seller's employees in connection with the Goods and/or Services provided herein by Seller; (2) death or injury to any persons or damage to any property in any way arising from or caused directly or indirectly by an act or omission of Seller, its agents, employees and/or subcontractors in connection with the Goods and/or Services provided by Seller or from or by any defect whatever in the Goods and/or Services caused or contributed to by any act or omission of Seller, its agents and employees; (3) any breach by Seller of the representations, warranties and covenants contained herein; or (4) infringements or violations of patent, copyright or trademark rights arising in connection with any use or sale of the Goods and/or Services furnished by Seller. Buyer shall have the right, at Buyer's option, to participate in the defense of any suit or claim without relieving Seller of any obligation hereunder. If the use of any Goods is enjoined, the Seller, at its expense, shall procure for the Buyer the right to continue using such Goods or replace same with non-infringing material, or modify it so it becomes non-infringing.

b) Compliance with the Law

Seller shall comply with all applicable federal, state, and municipal laws, ordinances, regulations, and orders in regard to Goods supplied or Services performed under this Purchase Order.

c) Tools and Equipment Furnished by Buyer

From time to time, Buyer may provide certain tools, equipment, materials, samples, drawings data and other property (including but not limited to Government Furnished Material) to Seller in order for Seller to provide some or all of the Goods or Services (the "Buyer Property"). Seller shall be responsible for and assumes the risk of loss or damage to any Buyer Property, but all of the same shall be and remain the property of Buyer at all times. Upon termination of the provision of the Services for any reason, Seller shall return all of the Buyer Property to Buyer in the condition in which it was received except for reasonable wear and tear. Seller shall indemnify, hold harmless and defend Buyer, its employees, agents and officers from all claims, suits and losses arising out of the Seller's use and/or possession of Buyer Property by Seller, Seller's employees, agents and/or contractors.

d) Insurance

At Seller's expense, Seller shall procure and keep in effect during the period of performance of the Purchase Order and any warranty period provided herein or by Seller, whichever period is longer, the following insurance coverage:

- i. Comprehensive General Liability, \$2 million per occurrence; including:



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- A. Property damage coverage: \$2 million each occurrence
- B. Broad Form Contractual Liability or its equivalent: \$2 million per occurrence
Product Liability: \$2 million per occurrence
- C. Completed Operations: \$2 million per occurrence
- ii. Ship repairers Legal Liability (if Seller is providing vessel repair): \$2 million per vessel, per occurrence
- iii. State Workers Compensation and Employer's Liability. Statutory limits based on state (State Workers Compensation): \$1 million bodily injury each accident; \$1 million bodily injury by disease each employee (Employer's Liability)
- iv. Comprehensive Automobile Liability: \$2 million combined single limit each accident. Pollution Liability; \$2 million per occurrence
- v. Longshore & Harbor Worker's Act (USL&H) and Employer's Liability as required: Statutory limits (USL&H) \$1 million bodily injury each accident; \$1 million bodily injury by disease each employee (Employer's Liability)
- vi. Maritime Employers Liability (Jones Act) as required: \$1 million for each person per occurrence.

With the exception of State Workers Compensation and USL&H coverage, all certificates of insurance required by Seller shall name Buyer (and any other party(s) as required by Buyer's prime contract) as additional insured(s); provided, however, that such naming shall not relieve Seller nor its underwriters of any liability to Buyer for which Seller or its underwriters would otherwise be responsible hereunder or under law. Such insurance shall also contain waiver of subrogation clauses in favor of Buyer. Seller shall deliver to Buyer within ten (10) days of the Purchase Order issue date or sooner at Buyer's request, and upon each renewal of said insurance a certificate of insurance evidencing compliance with these requirements. All insurance shall provide that insurance coverage shall not be cancelled nor shall there be any change in scope or amount of coverage of such policy unless thirty (30) days' prior written notice shall be given to Buyer. All insurance, its limits, conditions, terms, and coverage shall meet the approval of Buyer. Seller shall provide any additional coverage or coverage amounts required by Buyer.

10. CANCELLATION FOR DEFAULT OR FOR CONVENIENCE OF BUYER

- a) The Buyer reserves the right to cancel this Purchase Order or any part thereof by written notice to the Seller. Upon receipt of such notice, Seller shall discontinue work on all unshipped Goods and the Buyer shall pay the Seller the Purchase Order price for all components separately priced and delivered prior to the receipt by Seller of the notice of cancellation, and a pro rata portion of this Purchase Order price for all components delivered and not separately priced on the Purchase Order. In regard to unshipped material at the time of cancellation, the Buyer shall pay the Seller all labor and material costs incurred on the work, plus normal overhead and profit, less salvage value.
- b) If this Purchase Order is cancelled because of the Seller's default of any of the terms and conditions of this Purchase Order, or if a petition is filed by or against the Seller under the bankruptcy laws of the United States, or the Seller makes a general assignment for the benefit of its creditors, or the Seller fails to meet its current obligations as they fall due, or a receiver is appointed for any of the property of the Seller, or if this Purchase Order is terminated pursuant to Section 20(h), the Buyer's obligation under this Purchase Order shall terminate.



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11. PERMITS AND LICENSES

Seller shall procure all permits and licenses required for the performance of the work described in this Purchase Order, all at Seller's expense.

12. TIME IS OF THE ESSENCE

Time is of the essence with regard to this Purchase Order.

13. APPLICABLE LAWS

- a) All matters arising from or related to this Purchase Order shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, excluding choice of law rules, except that any provision in this Purchase 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 Government. Any capitalized terms not defined herein shall have the meaning ascribed to them in the FAR. The following FAR provisions and clauses in effect as of the date of the earlier of the Purchase Order or any prime contract are incorporated herein, with the same force and effect as if they were given in full text. Upon Seller's request, Buyer will make their full text available. The full text of a FAR provision or clause may be accessed electronically at these addresses: <http://farsite.hill.af.mil/> or <http://www.acq.osd.mil/dpap/sitemap.html>. In all provisions and clauses listed herein, terms shall be revised to suitably identify the party to establish Seller's obligations to Buyer and to the Government, and to enable Buyer to meet its obligations under the prime contract. Without limiting the generality of the foregoing, and except where further clarified or modified below, the term "Government" and equivalent phrases shall mean "Buyer", the term "Contracting Officer" shall mean "Seller's primary contact with Buyer", the term "Contractor" or "Offeror" shall mean "Seller", "Subcontractor" shall mean "Seller's subcontractor" under this Purchase Order, and the term "Contract" shall mean this "Purchase Order". For the avoidance of doubt, the words "Government" and "Contracting Officer" do not change when a right, act, authorization, or obligation can be granted or performed only by the Government or the prime contract Contracting Officer or duly authorized representative or when title to property is to be transferred directly to the Government. If any of the following FAR provisions and clauses do not apply to this Purchase Order, such clauses are considered to be self-deleting. Seller shall incorporate into each lower tier contract issued in support of this Purchase Order all applicable FAR provisions and clauses in accordance with the flow down requirements specified in such provisions and clauses. With respect to any applicable FAR clauses incorporated into this Purchase Order relating to rights in noncommercial technical data and noncommercial computer software and noncommercial computer software documentation, the Seller grants to Buyer the right to use, disclose, modify, combine, integrate or make derivative works of any noncommercial technical data, noncommercial computer software and/or noncommercial computer software documentation delivered under this Purchase Order to the extent necessary, and for such period as is required, for Buyer to complete its performance under the Buyer's Government programs.



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Incorporated FAR Clause:

52.204-21 Basic Safeguarding of Covered Contractor Information Systems-The Contractor shall apply basic safeguarding requirements and procedures to protect covered contractor information systems pursuant to this clause.

b) (1) Seller shall comply with all applicable laws, orders, rules, regulations, and ordinances.

(2) Seller shall be responsible for compliance with all requirements and obligations relating to its employees under all applicable local, state, and federal statutes, ordinances, rules, and obligations including, but not limited to, employer's obligations under laws relating to: income tax withholding and reporting; civil rights; equal employment opportunity; discrimination on the basis of age, sex, race, color, religion, disability, national origin, or veteran status; overtime; minimum wage; social security contribution and withholding; unemployment insurance; employer's liability insurance; worker's compensation; veteran's rights; and all other employment, labor, or benefits related laws.

(3) Seller certifies compliance that materials incorporated into the product comply with the laws regarding slavery and human trafficking of the country or countries in which they are doing business. Further, if Seller does business in California, Seller shall comply with the California Civil Code 1714.43, and Seller shall require its subcontractors to comply with California Civil Code 1714.43.

(4) Buyer is a federal government contractor subject to the nondiscrimination and affirmative action compliance requirements of Executive Order 11246, as amended, Executive Order 13672, the Rehabilitation Act of 1973, as amended, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended. Buyer is committed to compliance with these nondiscrimination and affirmative action requirements. As part of Buyer's efforts to comply with these laws and their implementing regulations. Buyer has developed and implemented equal employment opportunity and affirmative action policies and programs, which are designed to ensure that all qualified applicants and employees are treated without regard to such factors as race, color, religion, sex, national origin, disability, veteran status, sexual orientation, gender identity, or any other reason prohibited by law.

(5) In accordance with the implementing regulations of these laws, these Terms and Conditions serve as notification to Seller about Buyer's nondiscrimination and affirmative action policies, and also "requests appropriate action" of Seller to ensure full compliance throughout the subcontracting chain under related federal contract(s).

To the extent applicable, the equal employment opportunity and affirmative action requirements set forth in 41 C.F.R. Part 60-1.4(a) (women and minorities) (if > \$10,000), 41 C.F.R. Part 60-250.5(a) (if > \$25,000) and Part 60-300.5(a) (covered veterans), and the employee notice requirements set forth in 29 C.F.R. Part 471, Appendix A to Subpart A, are hereby incorporated by reference into this Purchase Order.

This contractor and subcontractor shall abide by the requirements of 41 CFR 60 741.5(a) (if > \$15,000). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities



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(If this procurement is \geq \$10,000.) Additionally, this contractor and subcontractor shall abide by the requirements of 41 CFR 60–300.5(a). This regulation prohibits discrimination against qualified protected veterans and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans (if this procurement is \geq \$150,000).

- c) Seller shall provide to Buyer with each delivery any Safety Data Sheets (SDSs) (formerly known as Material Safety Sheets or MSDSs) (29 C.F.R. 1910.1200) applicable to the Goods and Services in conformance with and containing such information as required by the Occupational Safety and Health Act of 1970 and regulations promulgated thereunder, or its state approved counterpart.

14. ARBITRATION

- a) All claims or disputes between the Seller and the Buyer arising out of or relating to this Purchase Order, shall be decided by a single arbitrator in accordance with the rules of the American Arbitration Association, unless the parties mutually agree otherwise. Such arbitrator will have experience with government federal contracting. Written notice of the demand for arbitration shall be filed with the other party to this Purchase Order and with the American Arbitration Association and shall be made within a reasonable time after the dispute or claim has arisen, but in any case, no later than six (6) months after the dispute or claim has arisen. All arbitration hearings shall occur in Washington, D.C. Seller and Buyer agree to be bound by the findings and award of such arbitration finally and without recourse to any court of law other than for the enforcement of the arbitrator's decision. In any arbitration or litigation between the Seller and Buyer, the prevailing party shall be awarded its expenses arising out of such litigation or arbitration, including but not limited to reasonable attorney and expert witness fees and costs. Until final resolution of any dispute hereunder, Seller shall diligently proceed with the performance of this Purchase Order as directed by the Buyer.
- b) Notwithstanding the foregoing, Seller acknowledges that its violation or attempted violation of any provision of Section 6 will cause irreparable damage to Buyer or its affiliates, and Seller therefore agrees that Buyer shall be entitled as a matter of right to an injunction restraining any violation or further violation of such provision by Sellers or others acting on its behalf. Buyer's right to injunctive relief shall be cumulative and in addition to any other remedies provided by law or equity. Any legal action or proceeding relating to this Section 14(b) shall be brought exclusively in the state or federal courts located in Norfolk, Virginia, and each party consents to the jurisdiction thereof.

15. COVERED DEFENSE INFORMATION

Supplier and subcontractors of Supplier associated with the Goods and Services shall provide adequate security on all covered contractor information systems, including but not limited to, complying with the following Defense Federal Acquisition Regulation Supplement (DFARS) used in this Section 15:

252.204-7012 Safeguarding Covered Defense Information and Cyber Incident Reporting- The Seller shall provide adequate security on all covered contractor information systems. To provide adequate security, the Seller shall implement, at a minimum, information security protections pursuant to the clause. The Seller shall also report cyber incidents in accordance with paragraphs (c) and (m)(2) of the clause within 72 hours of discovery of the incident. This clause is applicable in subcontracts for



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operationally critical support, or for which subcontract performance will involve covered defense information, including subcontracts for commercial items.

252.204-7020 NIST SP 800-171 DoD Assessment Requirements-The Seller shall not award a subcontract or other contractual instrument, that is subject to the implementation of NIST SP 800-171 security requirements, in accordance with DFARS clause 252.204-7012 of this contract, unless the subcontractor has completed, within the last 3 years, at least a Basic NIST SP 800-171 DoD Assessment, for all covered contractor information systems relevant to its offer that are not part of an information technology service or system operated on behalf of the Government. If the Seller's subcontractor does not have a current Basic Assessment posted in SPRS, the subcontractor may conduct and submit a Basic Assessment, in accordance with the NIST SP 800-171 DoD Assessment Methodology to <mailto:webptsmh@navy.mil> for posting to SPRS along with the information required by paragraph (d) of the clause.

If a subcontractor or supplier will not have access to covered defense information (CDI) as part of its role in the provision of the Goods or Services, then it will not need to comply with this Section 15. *In this case this will be documented on the Purchase Order and all parties will sign for certification.*

16. CONTRACT INFORMATION

Buyer may, at any time, exclusively by a signed written order, and without notice to sureties, if any, make changes within the general scope of this Purchase Order in any one or more of the following:

- Drawings, designs, or specifications when the supplies being furnished are to be specially manufactured for Buyer in accordance with the drawings, designs, or specifications.
- Method of shipment or packing.
- Place of inspection, delivery, or acceptance.
- Delivery schedules; and/or
- Any other matters affecting this Purchase Order.

If any such change causes an increase or decrease in the cost of or the time required for performance of this Purchase Order, an equitable adjustment shall be made in the contract price, the delivery schedule, or both, and the Purchase Order shall be modified in writing accordingly. Any claim by Seller for adjustment under this article must be asserted in writing to Buyer no later than thirty (30) calendar days (or, in the case of Goods and Services associated with ship repair, five (5) calendar days) after the date of receipt by Seller of the written change authorization or within such extension as Buyer may grant in writing. Buyer may, in its sole discretion, consider any such claim regardless of when asserted. Such claim shall be in the form of a complete change proposal fully supported by information. Pending any such adjustment, Seller will diligently proceed with the Purchase Order as modified. Where the cost of property made excess or obsolete as a result of a change is included in Seller's claim for adjustment, Buyer shall have the right to direct the manner of disposition of such property. Buyer shall have the right to examine any of Seller's pertinent books and records for the purpose of verifying Seller's claim.



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BUYER SHALL NOT BE LIABLE FOR ANY OF SELLER'S INCREASED COSTS OF PERFORMANCE THAT RESULT FROM SELLER'S IMPLEMENTATION OF CHANGES OR MODIFICATIONS THAT BUYER'S PROCUREMENT REPRESENTATIVE DID NOT FIRST APPROVE.

Each payment made shall be subject to reduction to the extent of amounts which are found by Buyer not to have been properly payable and shall also be subject to reduction for overpayments.

17. PAYMENTS; REMEDIES.

- a) Unless otherwise provided, terms of payment shall be the following: a check shall be sent via the U.S. postal service on the Wednesday following the sixtieth (60th) day after the latest of the following: (i) Buyer's approval of Seller's accurate invoice in accordance with proper invoicing instructions as identified on the Purchase Order or other master-type agreement; (ii) scheduled delivery date of the Goods or Services; or (iii) actual delivery of the Goods or Services.
- b) If the Seller does not deliver all or any part of the Goods or Services, including any change order, within the time specified or otherwise delays Buyer because of Seller's failure or neglect to perform its obligations under this Purchase Order, including any change order, or if the Goods and Services do not conform to the requirements set forth herein or in any Purchase Order and if as a result Buyer shall incur damages or expenses, or become obligated to pay damages and/or additional expenses, the Seller agrees to pay the Buyer as actual damages, and not as a penalty, all damages (including liquidated damages) or expenses (including attorney's fees) incurred by Buyer due to Seller's failure or negligence. Buyer reserves the right of set-off against payments due for amounts claimed by Seller under this Purchase Order or any other purchase order between the parties to recover said aforementioned damages and expenses.
- c) All loss or damage to the Goods and Services under this Purchase Order resulting from any cause related to Seller's actions or that of their subcontractors shall be assumed by Seller and shall be solely at Seller's risk until final acceptance by Buyer and/or Buyer's customer. Seller shall take all necessary precautions to protect the work and the work of others from damage caused by Seller's operations. If the Seller or their subcontractors cause damage to the work or property of Buyer's customer or Buyer's property, the Seller shall promptly correct such damage to Buyer's satisfaction, or Buyer may remedy and deduct the cost thereof from any amounts due to Seller.
- d) The remedies set forth in this Section 17 shall be in addition to, and shall not prejudice, the Buyer's other remedies at law or in equity, including, without limitation, the Buyer's ability to receive legal damages and/or equitable relief with respect to any breach of this Agreement, or to terminate any and all Purchase Orders.
- e) Unless a longer period is specified in this Purchase Order or by law or regulation, Seller shall retain all records related to this Purchase Order for five (5) years from the date of final payment received by Seller. Records related to this Purchase Order include, but are not limited to, financial, proposal, procurement, specifications, production, inspection, test, quality, quality processes and procedures, shipping and export, certifications, and receipt records.

18. CUSTOMER COMMUNICATIONS



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

Seller shall not provide any proprietary information to Buyer without prior execution by Buyer of a Proprietary Information Agreement or Non-Disclosure Agreement that expressly covers the delivery of Goods or performance of Services.

Except as required by law, no public release of any information, or confirmation or denial of same, with respect to this Purchase Order or the subject matter hereof, shall be made by Seller without the prior written approval of Buyer.

19. SURVIVABILITY

If this Purchase Order expires, is completed, or is terminated, Seller shall not be relieved of those obligations contained in the following Sections: 8 (Warranty), 9 (Indemnity, Compliance with Law, Loaned Tools, and Insurance), 13 (Applicable Laws), 14 (Arbitration), 15 (Covered Defense Information), and 21 (Applicability of Terms and Conditions).

20. EXPORT CONTROL

- a) Seller shall comply with all applicable United States export control laws and regulations, including, but not limited to, the requirements of the Arms Export Control Act, 22 U.S.C. 2751-2799aa-2, the International Traffic in Arms Regulation (ITAR), 22 C.F.R. 120 et seq., the Export Administration Act, 50 U.S.C. app. 2401-2420, the Export Administration Regulations, 15 C.F.R. 730-774, and the regulations of the Office of Foreign Assets Control (31 C.F.R. Parts 500-595). Seller shall obtain all required export licenses and agreements necessary to deliver the Goods or perform the Services, as applicable.
- b) Without limiting the foregoing, Seller shall not transfer any export-controlled item, data, or services, to include transfer to a person who is not a "U.S. Person" as defined in the ITAR (22 C.F.R. 120.15), without the authority of a Government export license, technical assistance agreement, or other authority. The restrictions on the transfer of export-controlled data apply equally to data furnished by Buyer and to any such data incorporated in documents generated by Seller. Additionally, no disclosure of data furnished by Buyer can be made unless and until Buyer has considered the request and provided its written approval through contractually authorized channels. Seller will comply with the conditions in any such approval and in the export license or other Government authorization for such disclosure.
- c) Further, a Government export license, export agreement, or applicable license exemption or exception shall be obtained by Seller prior to the transfer of any export-controlled item, data or services to any U.S. Person that is employed by any "Foreign person" within the meaning of 22 C.F.R. 120.16.



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- d) Seller shall notify in writing the Buyer if any use, sale, import or export by Buyer of the Goods is restricted by any export control laws or regulations applicable to Seller.
- e) Seller shall immediately notify in writing the Buyer if Seller is listed in any Denied Persons List or if Seller's export privileges are otherwise denied, suspended, or revoked in whole or in part by any government entity or agency.
- f) If Seller is engaged in the business of either exporting or manufacturing (whether exporting or not) defense articles or furnishing defense services, Seller represents that it maintains an effective export/import compliance program in accordance with the ITAR and it is registered with the United States Office of Defense Trade Controls (unless covered by one of the exemptions set forth in 22 C.F.R. 122.1) as required by the ITAR.
- g) Where Seller is a signatory under a Buyer export license or export agreement (e.g., Technical Assistance Agreement, Manufacturing License Agreement), Seller shall provide immediate written notification to the Buyer in the event of changed circumstances affecting said license or agreement.
- h) Failure of the Government or any other government to issue any required export or import license, or withdrawal/termination of a required export or import license by the Government or any other government, shall relieve Buyer of its obligations under this Purchase Order. Provided that Seller has diligently pursued obtaining such license and, through no fault of Seller, such license has been denied, withdrawn, or terminated, Seller shall also be relieved of its obligation under this Purchase Order. In either event, Buyer may terminate this Purchase Order without additional cost or other liability.
- i) If the technical data required to perform this Purchase Order is subject to ITAR, Seller shall comply with all export licenses, and the following:
 - i. The technical data shall be used only in performance of Services or delivery of Goods; and
 - ii. The data shall not be disclosed to any Non-U. S. Person, including lower-tier subcontractors within the same country, unless said person is expressly authorized pursuant to an export license or export agreement. The restrictions on the disclosure of export-controlled data apply to both data furnished by Buyer and to any such data incorporated in documents generated by Seller; and
 - iii. Any rights in the data may not be acquired by Seller or any other non-U.S. Person; and
 - iv. Seller shall return, or at Buyer' direction, destroy all of the technical data exported to Seller pursuant to this Purchase Order upon fulfillment of its terms; and
 - v. Unless otherwise expressly directed by Buyer, Seller shall deliver the Goods or Services only to Buyer or to an agency of the Government.

21. APPLICABILITY OF TERMS AND CONDITIONS

All Purchase Orders issued by Buyer whether written or oral shall incorporate these terms and conditions. Sellers acknowledge these terms and conditions by responding to a periodic mailing by



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the Buyer or by accepting and/ or acknowledging a Purchase Order referencing the terms and conditions.

22. NON-WAIVER OF RIGHTS

The failure of Buyer to insist upon strict performance of any of the terms and conditions set forth herein, or to exercise any rights or remedies, shall not be construed as a waiver of its rights to assert any of the same or to rely on any such terms or conditions at any time thereafter. The invalidity in whole or in part of any term or condition set forth herein shall not affect the validity of other parts hereof.

23. SUBCONTRACT CLOSEOUT

Seller agrees to submit its final invoice within 30 days of completion of the work. Seller shall submit a FINAL invoice bearing the statement, "FINAL INVOICE". Buyer may unilaterally close-out this subcontract if Seller fails to submit the close-out documentation within the specified time period.

24. NOTIFICATION OF DEBARMENT/SUSPENSION STATUS

The Seller certifies at the time of award, it is not suspended, debarred, or declared ineligible and shall provide immediate notice to Buyer in the event of being suspended, debarred, or declared ineligible by any Federal department or agency, or upon receipt of a notice of proposed debarment during the performance of this Subcontract.