

Terms and Conditions

1. ACCEPTANCE OF PURCHASE ORDER

Seller's acknowledgment, acceptance of payment, or commencement of performance, shall constitute Seller's unqualified acceptance of this Contract, subject to these terms and conditions. Buyer will not be bound to any prices or delivery to which it has not specifically agreed in writing. Unless expressly accepted in writing by Buyer, additional or differing terms or conditions proposed by Seller or included in Seller's acknowledgment are rejected by Buyer and shall have no effect. Seller agrees that the terms, conditions, and specifications of the Order shall prevail over any inconsistent provisions in any form or other paper submitted by Seller. Modifications hereof or additions hereto, to be effective, must be made in writing and be signed by Buyer's purchasing representative.

2. PRIORITY RATING

If so identified, this Order is a "rated order" certified for national defense, emergency preparedness, and energy program use, and Seller shall follow all the requirements of the Defense Priorities and Allocation System Regulation (15 C.F.R. Part 700). Seller must accept or reject a rated order and transmit the acceptance or rejection (in writing or electronically) to Buyer within 15 working days after receipt of a "DO" rated order and 10 working days after receipt of a "DX" rated order. If the order is rejected, a company must provide the reasons for the rejection.

3. DEFINITIONS

The following terms shall have the meanings set forth below:

- (a) "Buyer" means Akima Logistics Services, LLC, an Alaska limited liability company.
- (b) "Buyer Procurement Representative" means a person authorized by Buyer's cognizant procurement organization to administer and/or execute this Contract.
- (c) "Contract" means the instrument of contracting, such as "Purchase Order", "PO", "Subcontract", or other such type designation, including these General Provisions, all referenced documents, exhibits and attachments. If these terms and conditions are incorporated into a "master" agreement that provides for releases, (in the form of a Purchase Order or other such document) the term "Contract" shall also mean the Release document for the Work to be performed.

(d) "Customer" means Buyer's counter-party to the Prime Contract or any other Buyer customer.

(e) "FAR" means the Federal Acquisition Regulation, issued as Chapter 1 of Title 48, Code of Federal Regulations.

(f) "Prime Contract" means the contract between the Buyer and Customer, including all modifications and attachments thereto.

(g) "Seller" means the party identified on the face of this Contract with whom Buyer is contracting.

(h) "Work" means all required labor, articles, materials, supplies, goods, and services constituting the subject matter of this Contract.

4. PACKING AND SHIPMENT

(a) All goods shall be shipped FOB Destination unless otherwise agreed to by Buyer. Buyer may state shipping instructions on the Order. Seller shall at all times comply with Buyer's written shipping instructions.

(b) Seller shall be responsible for ensuring the proper packaging of goods hereunder. No charges will be allowed for packing, crating, freight, local cartage, insurance, premium, and/or any other services unless so specified in this Order.

(c) Buyer will not accept any partially shipped orders or incomplete orders unless otherwise agreed by Buyer in writing prior to shipment

(d) Order number(s) must appear on all correspondence, shipping labels, and shipping documents, including all packing sheets, bills of lading, air bills, and invoices.

(e) If, without written authorization from Buyer, Seller ships Items so as to arrive more than five (5) days in advance of schedule, Buyer may return the Items to Seller and Seller shall be liable for transportation charges and risk of loss for the return of the Items as well as for the shipment of the Items. Seller shall not invoice Buyer for payment prior to the scheduled delivery date. Invoices covering Items shipped in advance of the delivery schedule will not be paid until normal maturity after the specified date of delivery.

(f) Seller shall comply with the delivery schedules but shall not make material or production commitments in advance of such time as Seller reasonably believes is necessary to meet the schedules without Buyer's prior written consent.

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Except as otherwise expressly provided in the Order Buyer need not accept any variation in quantity of Item provided by Seller. Buyer may return excess quantities to Seller at Seller's sole expense and risk, or retain such excess quantities at no increase in price.

5. RISK OF LOSS

(a) F.O.B. Destination, Freight Prepaid - Seller shall bear the risk of any loss or damage to the Items until they are delivered in conformity to the "Ship To" address on the front page of this Order. Upon such delivery, Seller's responsibility for loss or damage shall cease, except for loss or damage resulting from Seller's acts or omissions.

(b) F.O.B. Origin Freight Collect - Seller shall bear the risk of any loss or damage to the Items until they are delivered in conformity to the freight provider. Upon such delivery, Seller's responsibility for loss or damage for Items in transit shall cease, except for loss or damage resulting from Seller's acts or omissions.

6. TITLE

Except as otherwise expressly stated in this Contract, title to all Items furnished under this Contract shall pass to Buyer upon final delivery to Buyer.

7. DELAYS

Seller understands that Buyer depends upon prompt delivery by Seller at the time specified in the schedules furnished by Buyer in order to comply with Buyer's contractual obligations to third parties. Because time is of the essence, if delivery of the Item is not made in the quantities and at the time and manner specified, Buyer shall have the right without liability, and in addition to its other rights and remedies under this Order and the law, to take any of the following actions: (1) direct expedited delivery of Items for which Seller shall bear all premium transportation charges and risk of loss; (2) direct acceleration of the production of any delayed item for which Seller shall bear all premium labor costs and other acceleration costs; (3) delay payment for a period of time equal to the lateness of such delivery or performance; and/or (4) terminate this Order by written notice effective when received by Seller as to the Item not yet delivered, and purchase substitute Item elsewhere and charge Seller with any loss incurred. Seller shall, in the event of a delay or threat of delay, due to any cause, in the production,

delivery, of Item hereunder, immediately notify Buyer in writing of the delay. Seller's notice shall include all relevant information with respect to such delay or threatened delay. Seller shall be liable for any damages resulting from failure to make delivery within the time called for by this Order or by any written instructions of Buyer, except where such delay in delivery was due to causes in Article 20 and Seller notifies Buyer as required by this Article 6. Seller agrees to add the substance of this Article 6 to each subcontract or purchase order issued by Seller hereunder.

8. WARRANTY

Seller warrants that all Work furnished pursuant to this Contract shall strictly conform to applicable specifications, drawings, samples, descriptions, and other requirements of this Contract and be free from defects in design, material, and workmanship. This warranty shall begin upon final acceptance and extend for a period of one (1) year. If any nonconforming Work is identified within the warranty period, Seller, at Buyer's option, shall promptly repair, replace, or reperform the Work within ten (10) days after receipt of Buyer's notice of nonconformance. Transportation of replacement Work, return of nonconforming Work, and reperformance of Work shall be at Seller's expense. If repair, or replacement, or reperformance of Work is not timely, Buyer may elect to return, reperform, repair, replace, or reprocur the non-conforming Work at Seller's expense. All warranties shall run to Buyer and its Customers. In the event that Buyer rejects any Work or repudiates acceptance of any Work, Seller will refund to Buyer all fees paid by Buyer with respect to the Work.

9. NEW MATERIALS

The Work to be delivered hereunder shall consist of new materials, as defined in FAR 52.211-5, not used, or reconditioned, remanufactured, or of such age as to impair its usefulness or safety.

10. COUNTERFEIT WORK

(a) The following definitions apply to this clause: "Counterfeit Work" means Work that is or contains unlawful or unauthorized reproductions, substitutions, or alterations that have been knowingly mismarked, misidentified, or otherwise misrepresented to be an authentic, unmodified part from the original manufacturer, or a source with the

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express written authority of the original manufacturer or current design activity, including an authorized aftermarket manufacturer. Unlawful or unauthorized substitution includes used Work represented as new, or the false identification of grade, serial number, lot number, date code, or performance characteristics. "Suspect Counterfeit Work" means Work for which credible evidence (including, but not limited to, visual inspection or testing) provides reasonable doubt that the Work part is authentic.

(b) Seller shall not deliver Counterfeit Work or Suspect Counterfeit Work to Buyer under this Contract.

(c) Seller shall only purchase products to be delivered or incorporated as Work to Buyer directly from the Original Component Manufacturer (OCM)/Original Equipment Manufacturer (OEM), or through an OCM/OEM authorized distributor chain. Seller may use another source only if (i) the foregoing sources are unavailable, (ii) Seller's inspection and other counterfeit risk mitigation processes will be employed to ensure the authenticity of the Work, and (iii) Seller obtains the advance written approval of Buyer.

(d) Seller shall maintain counterfeit risk mitigation processes in accordance with industry recognized standards and with any other specific requirements identified in this Contract.

(e) Seller shall immediately notify Buyer with the pertinent facts if Seller becomes aware that it has delivered Counterfeit Work or Suspect Counterfeit Work. When requested by Buyer, Seller shall provide OCM/OEM documentation that authenticates traceability of the affected items to the applicable OCM/OEM. Seller, at its expense, shall provide reasonable cooperation to Buyer in conducting any investigation regarding the delivery of Counterfeit Work or Suspect Counterfeit Work under this Contract.

(f) This clause applies in addition to and is not altered, changed, or superseded by any quality provision, specification, statement of work, regulatory flowdown, or other provision included in this Contract addressing the authenticity of Work.

(g) In the event that Work delivered under this Contract constitutes or includes Counterfeit Work, Seller shall, at its expense, promptly replace such Counterfeit Work with genuine Work conforming to

the requirements of this Contract. Notwithstanding any other provision in this Contract, Seller shall be liable for all costs relating to the removal and replacement of Counterfeit Work, including without limitation Buyer's costs of removing Counterfeit Work, of installing replacement Work and of any testing necessitated by the reinstallation of Work after Counterfeit Work has been exchanged. The remedies contained in this paragraph are in addition to any remedies Buyer may have at law, equity or under other provisions of this Contract.

(h) Seller shall include paragraphs (a) through (f) and this paragraph (h) of this clause or equivalent provisions in lower tier subcontracts for the delivery of items that will be included in or furnished as Work to Buyer.

11. FURNISHED PROPERTY

(a) Buyer may, by written authorization, provide to Seller property owned by either Buyer or Customer (Furnished Property). Furnished Property shall be used only for the performance of this Contract.

(b) Title to Furnished Property shall remain in Buyer or its Customer. Seller shall clearly mark (if not so marked) all Furnished Property to show its ownership.

(c) Except for reasonable wear and tear, Seller shall be responsible for, and shall promptly notify Buyer of, any loss or damage to Furnished Property. Without additional charge, Seller shall manage, maintain, and preserve Furnished Property in accordance with applicable law, the requirements of this Contract and good commercial practice.

(d) At Buyer's request, and/or upon completion of this Contract, Seller shall submit, in an acceptable form, inventory lists of Furnished Property and shall deliver or make such other disposal as may be directed by Buyer.

(e) The Government Property Clause applicable to this Contract shall apply in lieu of paragraphs (a) through (d) above with respect to Customer-furnished property, or property to which the Customer may take title under this Contract.

12. CHANGES

(a) The Buyer Procurement Representative may at any time, by written notice, and without notice to sureties or assignees, suspend or stop work or make changes within the general scope of this

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Contract in any one or more of the following: (i) drawings, designs, or specifications; (ii) method of shipping or packing; (iii) place of inspection, acceptance, or point of delivery; and (iv) delivery schedule.

(b) If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of this Contract, Buyer shall make an equitable adjustment in the Contract price and/or delivery schedule, and modify this Contract accordingly. Changes to the delivery schedule will be subject to a price adjustment only.

(c) Seller must assert its right to an equitable adjustment under this clause within twenty (20) days from the date of receipt of the written change order from Buyer. If Seller's proposed equitable adjustment includes the cost of property made obsolete or excess by the change, Buyer shall have the right to prescribe the manner of disposition of the property.

(d) Failure to agree to any adjustment shall be resolved in accordance with the "Disputes" clause of this Contract. However, nothing contained in this "Changes" clause shall excuse Seller from proceeding without delay in the performance of this Contract as changed.

(e) Information, advice, approvals or instructions given by Buyer's technical personnel or other representatives shall be deemed expressions of personal opinion only and shall not affect Buyer's and Seller's rights and obligations hereunder unless set forth in writing, signed by Buyer's Purchasing Representative, and which states it constitutes an amendment or change to this Order.

13. INSPECTION

(a) Buyer and its Customer may inspect all Work at reasonable times and places, including, when practicable, during manufacture and before shipment. Seller shall provide all information, facilities, and assistance necessary for safe and convenient inspection without additional charge.

(b) No such inspection shall relieve Seller of its obligations to furnish and warrant all Work in accordance with the requirements of this Contract. Buyer's final inspection and acceptance shall be at destination.

(c) If Seller delivers non-conforming Work, Buyer may, in addition to any other remedies available at law or at equity: (i) accept all or part of

such Work at an equitable price reduction; or (ii) reject such Work; or (iii) require Seller, at Seller's cost, to make all repairs, modifications, or replacements at the direction of Buyer necessary to enable such Work to comply in all respects with Contract requirements.

(d) Seller shall not re-tender rejected Work without disclosing the corrective action taken.

14. PAYMENT, TAXES, AND DUTIES

(a) Unless otherwise provided, terms of payment shall be net forty-five (45) days from the latest of the following: (1) Buyer's receipt of Seller's proper invoice; (2) scheduled delivery date of the Work; (3) actual delivery of the Work; or (4) Buyer's receipt of payment from the Customer for the Work.

(b) Each payment made shall be subject to reduction to the extent of amounts which are found by Buyer or Seller not to have been properly payable, and shall also be subject to reduction for overpayments. Seller shall promptly notify Buyer of any such overpayments found by Seller.

(c) Buyer shall have a right to recoup or setoff, as the case may be, against payments due or at issue under this Contract or any other contract between the parties or between the Buyer's and Seller's affiliates.

(d) Payment shall be deemed to have been made as of the date of mailing Buyer's payment or electronic funds transfer.

(e) Unless otherwise specified, prices include all applicable federal, state and local taxes, duties, tariffs, and similar fees imposed by any government, all of which shall be listed separately on the invoice.

(f) Payment will be in United States dollars unless otherwise agreed to by specific reference in this Order.

(g) Certificate of Compliance: As required, an executed certificate of compliance must be submitted with each invoice certifying that the Items delivered is of the quality specified and conforms in all respects with the Order requirements.

(h) Seller shall keep its work and all goods supplied by it hereunder and Buyer premises free and clear of all liens and encumbrances, including mechanic's liens, in any way arising from performance of this Contract by Seller or by any of its vendors or subcontractors. Seller may be required by

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Buyer to provide a satisfactory release of liens and waiver of claims as a condition of interim and final payments.

15. INTELLECTUAL PROPERTY

(a) Seller warrants that the Work performed or delivered under this Contract will not infringe or otherwise violate any intellectual property, trade secret or other proprietary rights of any third party in the United States or any foreign country. Seller shall defend, indemnify, and hold harmless Buyer, its officers, directors, employees, consultants, agents, affiliates, successors, permitted assigns and Customers from and against all losses, costs, claims, causes of action, damages, liabilities, and expenses, including attorney's fees, all expenses of litigation and/or settlement, and court costs, arising out of any action by a third party that is based upon a claim that the Work performed or delivered under this Contract infringes, misappropriates or otherwise violates any intellectual property, trade secret or other proprietary rights of any person or entity ("Infringement Claims"). In addition to Seller's obligation to defend, indemnify, and hold harmless the Buyer against Infringement Claims, in the event of such Infringement Claims, Subcontractor shall at its expense and at Buyer's election, i) obtain for Contractor and Owner the right to continue the use of such goods, materials or services; (ii) in a manner acceptable to Buyer, substitute equivalent goods, materials or services or make modifications thereto so as to avoid such infringement, misappropriation or other violation or (iii) refund to Contractor an amount equal to the purchase price for such goods or services plus any excess costs or expenses incurred in obtaining substitute goods or services from another source.

(b) In addition to the Customer's rights in data, inventions, and any other intellectual property, Seller agrees that Buyer shall have a limited, irrevocable, nonexclusive, world-wide, royalty-free license to: (i) make, have made, sell, offer for sale, use, execute, reproduce, display, perform, distribute (internally or externally) copies of, and prepare derivative works of any inventions, discoveries, improvements, maskworks and patents as well as any and all data, copyrights, reports and works of authorship delivered in performance of this Contract, to the limited extent necessary for Buyer to make use of the Work performed or items delivered under this Contract in the performance of its contract obligations with its

Customer; and (ii) authorize others to do any, some or all of the foregoing.

(c) The tangible medium storing copies of all reports, memoranda or other materials in written form including machine readable form, prepared by Seller and furnished to Buyer pursuant to this Contract shall become the sole property of Buyer.

(d) No other provision in this Contract, including but not limited to the Indemnity clause, shall be construed to limit the liabilities or remedies of the parties under this clause.

16. INFORMATION ASSURANCE

(a) Information provided by Buyer to Seller remains the property of Buyer. Seller shall comply with the terms of any proprietary information agreement with Buyer and comply with all proprietary information markings and restrictive legends applied by Buyer to anything provided hereunder to Seller. Seller shall not use any Buyer provided information for any purpose except to perform this Contract and shall not disclose such information to third parties without the prior written consent of Buyer. Seller shall maintain data protection processes and systems sufficient to adequately protect Buyer provided information and comply with any law or regulation applicable to such information.

(b) If Seller becomes aware of any compromise of information used in the performance of this Contract or provided by Buyer to Seller, its officers, employees, agents, suppliers, or subcontractors (an "Incident"), Seller shall take appropriate immediate actions to investigate and contain the Incident and any associated risks, including notification within seventy-two (72) hours to Buyer after learning of the Incident. As used in this clause, "compromise" means that information has been exposed to unauthorized access, inadvertent disclosure, known misuse, loss, destruction, or alteration other than as required to perform the Work. Seller shall provide reasonable cooperation to Buyer in conducting any investigation regarding the nature and scope of any Incident. Any costs incurred in investigating or remedying Incidents shall be borne by Seller. Seller shall defend, indemnify, and hold harmless Buyer, its Customers and suppliers from and against any claims, damages, losses, costs, and expenses, including reasonable attorneys' fees, relating to, or in connection with, any Incident.

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(c) Any Buyer provided information identified as proprietary or subject to restrictions on public disclosure by law or regulation shall be encrypted (i) if transmitted via the Internet, or (ii) during electronic storage if potentially accessible by the Internet or otherwise by non-authorized users.

(d) The provisions set forth above are in addition to and do not alter, change or supersede any obligations contained in a proprietary information agreement between the parties.

(e) DFARS 252.204-7012 applies to covered defense information if said clause is included in this Contract.

17. INFORMATION OF SELLER

Seller shall not provide any proprietary information to Buyer without prior execution of a proprietary information agreement by the parties.

18. FREE LIBRE & OPEN SOURCE SOFTWARE (FLOSS)

(a) This clause only applies to Work that includes the delivery of software (including software residing on hardware).

(b) Seller shall disclose to Buyer in writing any FLOSS (as defined below) that will be used or delivered in connection with this Contract and shall obtain Buyer's prior written consent before using or delivering such FLOSS in connection with this Contract. Buyer may withhold such consent in its sole discretion.

(c) As used herein, "FLOSS License" means the General Public License ("GPL"), Lesser/Library GPL, (LGPL), the Affero GPL (APL), the Apache license, the Berkeley Software Distribution ("BSD") license, the MIT license, the Artistic License (e.g., PERL), the Mozilla Public License (MPL), or variations thereof, including without limitation licenses referred to as "Free Software License", "Open Source License", "Public License", or "GPL Compatible License."

(d) As used herein, "FLOSS" means software that incorporates or embeds software in, or uses software in connection with, as part of, bundled with, or alongside any (1) open source, publicly available, or "free" software, library or documentation, or (2) software that is licensed under a FLOSS License, or

(3) software provided under a license that (a) subjects the delivered software to any FLOSS License, or (b) requires the delivered software to be licensed for the purpose of making derivative works or be redistributable at no charge, or (c) obligates Buyer to sell, loan, distribute, disclose or otherwise make available or accessible to any third party (i) the delivered software, or any portion thereof, in object code and/or source code formats, or (ii) any products incorporating the delivered software, or any portion thereof, in object code and/or source code formats.

(e) Seller shall defend, indemnify, and hold harmless Buyer, its Customers and suppliers from and against any claims, damages, losses, costs, and expenses, including reasonable attorney's fees, relating to use in connection with this Contract, or the delivery, of FLOSS. No other provision in this Contract, including but not limited to the Indemnity clause, shall be construed to limit the liabilities or remedies of the parties for the use of FLOSS in connection with this Contract or for the delivery of FLOSS under this Contract.

19. CONTROL OF BUYER INFORMATION

Seller shall not, without first obtaining Buyer's written permission, in any manner advertise or publish the fact that it has furnished or has contracted to furnish Buyer with the Item(s) herein ordered, nor disclose any of the details connected with this Order to any third party. Seller shall not use Buyer's name, logo, trademark, service mark, or trade dress without prior written approval of Buyer.

20. TERMINATION FOR CONVENIENCE

(a) Buyer reserves the right to terminate this Contract, or any part hereof, for its convenience. Buyer shall terminate by delivering to Seller a Notice of Termination specifying the extent of termination and the effective date. In the event of such termination, Seller shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this Contract, Seller shall be paid a percentage of the Contract price reflecting the percentage of the Work actually performed prior to the notice of termination, plus reasonable charges Seller can demonstrate to the satisfaction of Buyer using its standard record keeping system have resulted from the termination. Seller shall not be paid for any Work performed or costs incurred which reasonably could have been avoided.

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(b) In no event shall Buyer be liable for lost or anticipated profits, or unabsorbed indirect costs or overhead, or for any sum in excess of the total Contract price. Seller's termination claim shall be submitted within ninety (90) days from the effective date of the termination.

(c) Seller shall continue all Work not terminated.

21. TERMINATION FOR CAUSE

(a) Buyer, by written notice, may terminate this Contract for default, in whole or in part, if Seller (i) fails to comply with any of the terms of this Contract; (ii) fails to make progress so as to endanger performance of this Contract or the performance of the Prime Contract; (iii) fails to provide adequate assurance of future performance; (iv) files or has filed against it a petition in bankruptcy; or (v) becomes insolvent or suffers a material adverse change in financial condition.

(b) Prior to a termination for cause (default), Seller shall have ten (10) days (or a longer period as Buyer may authorize in writing, or sooner to the extent the Customer requires a cure period of less than ten (10) days) to cure any such failure after receipt of notice from Buyer. Default involving delivery schedule delays, bankruptcy or adverse change in financial condition shall not be subject to the cure provision.

(c) Following a termination for default of this Contract, Seller shall be compensated only for Work actually delivered and accepted. Buyer may require Seller to deliver to Buyer any supplies and materials, manufacturing materials, and manufacturing drawings that Seller has specifically produced or acquired for the terminated portion of this Contract. Buyer and Seller shall agree on the amount of payment for these other deliverables.

(d) If after termination for cause under this Contract, it is determined that Seller was not in default, such termination shall be deemed a termination for convenience.

(e) Seller shall continue all Work not terminated or cancelled.

(f) In the event of Seller's default hereunder, Buyer may exercise any or all rights and remedies accruing to it, both at law, including without limitation, those set forth in Article 2 of the Uniform Commercial Code, or in equity. In addition, in the event Buyer

terminates for default all or any part of this Order, Seller shall be liable for Buyer's re-procurement costs.

22. FORCE MAJEURE

Neither Buyer nor Seller shall be liable for any failure to perform due to any of the following causes: (i) acts of God or of a public enemy, (ii) industry-wide labor disputes or strikes, (iii) fires, floods, epidemics, terrorism, quarantine restrictions, or unusually severe weather, (iv) shortage of labor, fuel, raw material or machinery, or (v) worldwide parts shortage(s) or rationing allocations. In the event that performance of this Order is hindered, delayed or adversely affected by causes of the type described above ("Force Majeure"), then the Party whose performance is so affected shall so notify the other Party's authorized representative in writing within ten (10) calendar days after it becomes aware of any such cause and, at Buyer's option, this Order shall be completed with such adjustments to delivery schedule as are reasonably required by the existence of Force Majeure or this Order may be terminated for convenience pursuant to Article 20.

23. WAIVERS, APPROVALS, & REMEDIES

(a) Failure by either party to enforce any of the provisions of this Contract or applicable law shall not constitute a waiver of the requirements of such provisions or law, or as a waiver of the right of a party thereafter to enforce such provision or law.

(b) Buyer's approval of documents shall not relieve Seller of its obligation to comply with the requirements of this Contract.

(c) The rights and remedies of either party in this Contract are cumulative and in addition to any other rights and remedies provided by law or in equity.

24. INSURANCE

The Seller shall secure, pay the premiums for and keep in force until the expiration of this Agreement adequate insurance to specifically include liability assumed by the Seller under this Agreement. The following types of insurance are required and shall be maintained by the Seller in the minimum amounts shown below for the full duration of this Agreement and any extensions thereof:

(a) Worker's Compensation and Employers Liability:

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Worker's Compensation – Statutory Limits
 Employer's Liability
 \$500,000 Each Accident
 \$500,000 Disease – Each Employee
 \$500,000 Disease – Policy Limit

Policy shall include Longshore and Harbor Workers Act endorsement, as required by law.

Policy shall include Jones Act endorsement for any maritime employments subject to the Act and required by law.

- (b) Commercial General Liability:
- \$1,000,000 Limit per Occurrence
 - \$1,000,000 Personal and Advertising Injury
 - \$1,000,000 Products/Completed Operations
 - \$2,000,000 General Aggregate Limit
 - \$300,000 Fire Legal Liability
 - \$10,000 Medical Payments

- (c) Automobile:
 Liability \$1,000,000 Combined Single Limit for all owned, non-owned and hired vehicles. Physical Damage for all hired vehicles. Umbrella policy acting as excess over the General Liability, Automobile and Workers Compensation policies with the following limits and endorsements:

- \$1,000,000 Per Occurrence
- \$1,000,000 General Aggregate

- (d) If the SOW involves work overseas in support of a US Government Prime Contract, Defense Base Act coverage shall apply subject to the Statutory limits and include Employers Liability at the following limits:

- Employer's Liability
- \$500,000 Each Accident
- \$500,000 Disease – Each Employee
- \$500,000 Disease – Policy Limit

- (e) If the Work involves Professional Services, Seller shall provide evidence of Professional Liability with a limit of at least \$1,000,000. Buyer reserves the right to require higher limits depending upon the nature of work being done under this Agreement.

- (f) If the Work involves any hazardous work, including but not limited to, Aviation (operation, use or maintenance of any aircraft), Maritime (operation, use or maintenance of any watercraft), Hazardous Materials (storage handling, testing for, remediation

or any other use), Medical Services shall be subject to review of Buyer's Risk Management.

All coverages shall be written with an insurance company with an AM Best Rating/Financial Size Category of at least A/XII. Evidence of coverage shall be provided on a Certificate of Insurance before the start of the contract and upon each renewal for the duration of the contract. The Certificate shall list the Agreement number (or leased premises address) for each of reference.

All coverages shall: (i) provide Thirty Days Notice of Cancellation and Notice of Material Change be provided to the Buyer; (ii) name Buyer as Additional Insured; (iii) include a Waiver of Subrogation in favor of Buyer; and (iv) be Primary and Non-contributory.

Buyer reserves the right to require a full and complete copy of any insurance policy for review prior to commencement of Work under this Order.

25. EXPORT CONTROL

(a) Seller shall comply with all applicable U.S. export control laws and economic sanctions laws and regulations, specifically including but not limited to the International Traffic in Arms Regulations (ITAR), 22 C.F.R. 120 et seq.; the Export Administration Regulations, 15 C.F.R. 730-774; and the Foreign Assets Control Regulations, 31 C.F.R. 500-598 (collectively, "Trade Control Laws"). Without limiting the foregoing, Seller shall not transfer any export controlled item, technical data, technology, or service, including transfers to foreign persons employed by or associated with, or under contract to Seller or Seller's lower tier suppliers, unless authorized in advance by an export license (such as Technical Assistance Agreement (TAA) or Manufacturing License Agreement (MLA), license exception or license exemption, collectively, "Export Authorization"), as required.

(b) Seller shall promptly notify Buyer if any deliverable under this Contract is restricted by applicable Trade Control Laws. Before providing Buyer any item or data controlled under any of the Trade Control Laws, Seller shall provide in writing to the Buyer Procurement Representative the export classification of any such item or controlled data (i.e. the export classification under the EAR, ITAR, EU List of Dual Use Items and Technology, Wassenaar Arrangement's List of Dual-Use Goods and

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Technologies or other applicable export control list) and shall promptly notify the Buyer Procurement Representative in writing of any changes to the export classification information of the item or controlled data. Seller represents that an official authorized to bind the Seller has determined that the Seller or the designer, manufacturer, supplier or other source of the Work has properly determined their export classification. In any case where advance notice to BIS or an export license is required, Seller shall be responsible for arranging such shipment in full compliance with applicable law, and responsible either for giving any required advance notice to BIS or for procuring the required export license prior to such shipment.

(c) Seller hereby represents that neither Seller nor any parent, subsidiary or affiliate of Seller is included on any of the restricted party lists maintained by the U.S. Government, including the Specially Designated Nationals List administered by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC"), Denied Parties List, Unverified List or Entity List maintained by the U.S. Commerce Department's Bureau of Industry and Security ("BIS"), or the List of Statutorily Debarred Parties maintained by the U.S. State Department's Directorate of Defense Trade Controls, or the consolidated list of asset freeze targets designated by the United Nations, European Union, and United Kingdom (collectively, "Restricted Party Lists"). Seller shall immediately notify the Buyer Procurement Representative if Seller, or any parent, subsidiary or affiliate of Seller becomes listed on any Restricted Party List or if Seller's export privileges are otherwise denied, suspended or revoked in whole or in part by any U.S. or non-U.S. government entity or agency.

(d) If Seller is engaged in the business of exporting manufacturing (whether exporting or not) or brokering defense articles or furnishing defense services, Seller represents that it is and will continue to be registered with the Directorate of Defense Trade Controls, as required by the ITAR, and it maintains an effective export/import compliance program in accordance with the ITAR.

(e) Where Seller is a party to or signatory under a Buyer Export Authorization, Seller shall provide prompt notification to the Buyer Procurement Representative in the event of (1) changed

circumstances including, but not limited to, ineligibility, a violation or potential violation of the ITAR or other applicable governmental restrictions, and the initiation or existence of a U.S. Government investigation, that could affect Seller's performance under this Contract, or (2) any change by Seller that might require Buyer to submit an amendment to an existing Export Authorization or request a new or replacement Export Authorization. Seller shall provide to Buyer all information and documentation as may reasonably be required for Buyer to prepare and submit any required export license applications. Delays on Seller's part to submit the relevant information for export licenses shall not constitute an excusable delay under this Contract.

(f) Seller shall include paragraphs (a) through (d) and this paragraph (f) of this clause or equivalent provisions in lower tier subcontracts for the delivery of items that will be included in or delivered as Work to Buyer. Seller shall immediately notify Buyer upon learning that any lower tier subcontractor with which it engages has become listed on the Restricted Parties List.

(g) Seller shall indemnify, defend, and hold harmless Buyer for all losses, costs, claims, causes of action, damages, liabilities and expense, including attorney's fees, all expense of litigation and/or settlement, and court costs, arising from any act or omission of Seller, its officers, employees, agents, suppliers, or subcontractors at any tier, in the performance of any of its obligations under this clause.

26. STANDARDS OF BUSINESS ETHICS AND CONDUCT

By the acceptance of this Order, Seller represents that it has not participated in any conduct in connection with this Order that violates the Standards of Business Ethics and Conduct of Buyer (available upon request or, alternatively, equivalent Business Ethics and Conduct Standards of Seller. If, at any time, Buyer determines that Seller is in violation of the applicable Standards of Business Ethics and Conduct, Buyer may cancel this Order upon written notice to Seller and Buyer shall have no further obligation to Seller.

27. ASSIGNMENT

Any assignment of Seller's Contract rights or delegation of Seller's duties shall be void, unless

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Buyer gives prior written consent. Nevertheless, Seller may assign rights to be paid amounts due, or to become due, to a financing institution if Buyer is promptly furnished a signed copy of such assignment reasonably in advance of the due date for payment of any such amounts. Amounts assigned shall be subject to setoff or recoupment for any present or future claims of Buyer against Seller. Buyer shall have the right to make settlements and/or adjustments in price without notice to any assignee financing institution.

28. INDEPENDENT CONTRACTOR

Seller is an independent contractor in all its operations and activities hereunder. The employees used by Seller to perform Work under this Contract shall be Seller's employees exclusively without any relation whatsoever to Buyer. Seller shall be responsible for, indemnify and hold harmless Buyer and its Customers from and against all losses, costs, claims, that Buyer may suffer as a result of Seller's breach of this Section.

29. RETENTION OF RECORDS

Unless a longer period is specified in this Contract or by law or regulation, Seller shall retain all records related to this Contract for three (3) years from the date of final payment received by Seller. Records related to this Contract include, but are not limited to, financial, billing, proposal, procurement, specifications, production, inspection, test, quality, shipping and export, and certification records. At no additional cost, Seller shall timely provide access to such records to the Customer and/or Buyer upon request.

30. ELECTRONIC CONTRACTING

The parties agree that if this Contract is transmitted electronically neither party shall contest the validity of this Contract, or any acknowledgement thereof, on the basis that this Contract or acknowledgement contains an electronic signature.

31. INDEMNITY

To the extent allowed by law, Seller shall defend, indemnify, and hold harmless Buyer, its officers, directors, employees, consultants, agents, affiliates, successors, permitted assigns and Customers from and against all losses, costs, claims, causes of action, damages, liabilities, and expenses, including attorney's fees, all expenses of litigation and/or settlement, and court costs, arising from any act or

omission of Seller, its officers, employees, agents, suppliers, or subcontractors at any tier, in the performance of any of its obligations under this Contract.

32. ORDER OF PRECEDENCE

(a) In the event of any inconsistency or conflict between or among the provisions of this Contract, such inconsistency or conflict shall, subject to Section 12(d) above, be resolved by the following descending order of preference: 1. Order-specific provisions provided in full text on the Contract as additions to the pre-printed terms; 2. Documents incorporated by reference on the Contract which apply to the Contract as a whole and not to a specific line item therein; 3. These Terms and Conditions of Purchase and Supplements thereto; 4. Statement of Work; and 5. Specifications attached hereto or incorporated by reference (see Paragraph 31(b) below).

(b) Buyer's specifications and those of the Prime Contract, both shall prevail over specifications of Seller. In the event of conflict between specifications, drawings, samples, designated type, part number, or catalog description, the specifications shall govern over drawings, drawings over samples, whether or not approved by Buyer, and samples over designated type, part number, or catalog description. In cases of ambiguity in the specifications, drawings, or other requirements of this Contract, before proceeding, Seller must consult Buyer, whose written interpretation shall be final.

33. SEVERABILITY

Each clause, paragraph and subparagraph of this Contract is severable, and, if one or more are declared invalid, the remaining provisions of this Contract will remain in full force and effect.

34. SURVIVABILITY

If this Contract expires, is completed, or is terminated, Seller shall not be relieved of those obligations contained in the following clauses:

Applicable Laws
Disputes
Counterfeit Work
Electronic Contracting
Export Control

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Indemnity
Information Assurance
Insurance
Intellectual Property
Release of Information
Retention of Records
Use of Free, Libre and Open Source Software (FLOSS)
Customer flowdown clauses and other provisions that by their nature should survive.
Warranty

35. WAIVERS, APPROVALS, AND REMEDIES

(a) Failure by either party to enforce any of the provisions of this Contract or applicable law shall not constitute a waiver of the requirements of such provisions or law, or as a waiver of the right of a party thereafter to enforce such provision or law.

(b) Buyer's approval of documents shall not relieve Seller of its obligation to comply with the requirements of this Contract or otherwise indicate acceptance of goods or work furnished thereto.

(c) The rights and remedies of either party in this Contract are cumulative and in addition to any other rights and remedies provided by law or in equity.

36. DISPUTES

(a) For disputes which involve question of compliance of the Seller's work with the requirements of this Contract and/or the Prime Contract which is not disposed of by mutual agreement, Seller hereby agrees to be bound to the Buyer to the same extent that Buyer is bound to the Customer, by the terms of the Prime Contract, and by any and all final decisions or determinations made thereunder by the Contracting Officer, Agency Board of Contract Appeals, or Court, authorized or designated in the Prime Contract or by law for the resolution of such disputes. Buyer hereby agrees to permit Seller to pursue the claim or dispute in question with the Customer under the "Disputes" clause of the Prime Contract (in Buyer's name), provided that Seller allows Buyer the opportunity to monitor and participate in any pursuit of such claim or dispute, and provided further that Seller shall defray its own cost of pursuing dispute procedures, including attorneys' fees and related expenses. Notwithstanding the foregoing, nothing in this clause shall require Buyer to present or certify a claim to

the Customer on Seller's behalf if it cannot do so in good faith, which Buyer shall determine in its sole discretion.

(b) Disputes under this Agreement unrelated to questions of compliance of the Seller's work with the requirements the Prime Contract shall be referred to each party's designated executive management for resolution within thirty (30) calendar days before either party may commence formal proceedings. When seeking to resolve a dispute, the parties' designated executive management shall consider the impact of the disputed matter, the effect of the dispute and Buyer's success as the Prime Contractor, the cost to both parties of resolving the dispute and the practical effects on the business of each party resulting from the resolution or failure to resolve any such dispute.

In the event the designated executives are unable to resolve a dispute within thirty (30) calendar days of written notification or longer, if extended by the mutual agreement of both parties, either party may then submit the matter for formal proceedings as indicated below.

Within the next thirty (30) days, the parties agree to voluntarily participate in facilitative mediation, using a mutually agreeable facilitator having experience in areas covered by the SOW. Mediation is a condition precedent to filing suit in a court of competent jurisdiction. If the parties are unable to agree on a facilitative mediator, each party will name a mediator who may attend mediation as counsel on their behalf, and the two named mediators will pick a third mediator, who will act as the facilitator. Each party agrees to send at least one representative, with settlement authority, for a minimum of one (1) full day of facilitative mediation. The site of mediation shall be at a neutral site as agreed by the parties and each party shall bear its own costs and expenses associated with alternative dispute resolution.

If facilitative mediation fails, this Agreement shall be governed by and construed in accordance with U.S. Federal Law and the Law of the Commonwealth of Virginia, as applicable without giving effect to its conflict of law rules. The State and Federal Courts in the Commonwealth of Virginia shall be exclusive for all disputes. Each party shall pay its own costs and expenses, including attorneys' fees.

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EACH PARTY HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF UNDER OR IN CONNECTION WITH THIS CONTRACT.

The rights and obligations set forth in this Article shall survive completion and final payment under this Agreement.

37. LIMITATION OF LIABILITY

In no event shall Buyer be liable for any claim of any kind, for any loss or for any damage arising out of, in connection with, or resulting from the Contract in excess of the price allocable to the products or services giving rise to such claims. Any action resulting from Buyer's default as to this Contract must commence within one year after the cause has accrued.

NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, BUYER SHALL HAVE NO LIABILITY FOR ANY CONSEQUENTIAL, SPECIAL, PUNITIVE, INCIDENTAL OR INDIRECT DAMAGES.

38. CLOSEOUT

Within sixty (60) calendar days after the Seller's delivery of materials or completion of services and the acceptance by Buyer, Buyer will issue to Seller a Closeout Package ("Package") that will include documents required for processing of payment. The Package may include the following as applicable: Seller Release of Claims; Seller's Assignment of Refunds, Rebates, Credits, and Other Amounts; Sellers Patents Report; and any other documentation or request for information considered necessary by Prime Contractor or the Customer to closeout this Subcontract. Seller agrees to be bound by the terms regarding Final Payment and understands that claims not properly asserted prior to Final payment may be expressly barred. Seller agrees to submit all information and documentation, including a FINAL invoice bearing the statement, "This FINAL invoice was prepared using final audited rates" as required by the Package along with Seller's final invoice. In the event Seller fails to submit the required closeout information and documentation in a timely manner, such failure shall constitute Seller's express

agreement that the amounts paid to date by Buyer. Such payments, as determined by Buyer's records, constitute the full, complete, and final extent of Buyer's financial obligation to Seller. In that case, Seller shall forever fully and finally remise, release, and discharge Buyer, its officers, agents, and employees, of and from any and all liabilities, obligations, claims, and demands whatsoever arising under or relating to this Contract.

The Seller expressly authorizes Buyer to rely on the foregoing representations and releases in connection with Buyer's closeout of or other actions taken with respect to Buyer's contract with the Customer. As determined by the Customer or Buyer, Seller's failure to submit closeout information and documentation shall be a material breach of the terms of this Contract, and may subject Seller to forfeiture of all or part of any fee withheld.

39. CONTRACT DIRECTION

(a) Only the Buyer Procurement Representative has authority on behalf of Buyer to make changes to this Contract. All amendments must be identified as such in writing and executed by the parties.

(b) Buyer engineering and technical personnel may from time to time render assistance or give technical advice or discuss or effect an exchange of information with Seller's personnel concerning the Work hereunder. No such action shall be deemed to be a change under the "Changes" clause of this Contract and shall not be the basis for equitable adjustment.

(c) Except as otherwise provided herein, all notices to be furnished by Seller shall be in writing and sent to the Buyer Procurement Representative.

40. COMMUNICATION WITH CUSTOMER

Seller shall not communicate with the Customer or any higher tier customer in connection with this Contract, except as expressly permitted by Buyer. This clause does not prohibit Seller from communicating with the U.S. Government with respect to (1) matters Seller is required by law or regulation to communicate to the U.S. Government, (2) fraud, waste, or abuse communicated to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information, (3) any matter for which this Contract, including a FAR or

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FAR Supplement clause included in this Contract, provides for direct communication by Seller to the U.S. Government, or (4) any material matter pertaining to payment or utilization.

41. COMPLIANCE WITH LAW

(a) Seller warrants that the goods to be furnished and the services to be rendered under this Contract shall be manufactured, sold, used and rendered in compliance with all relevant federal, state, local law, orders, rules, ordinances, and regulations, including but not limited to the Foreign Corrupt Practices Act, 15 U.S.C. § 78 et seq. (the "FCPA") and all laws and regulations of Seller's place of performance, and in compliance with applicable international prohibitions on child labor. Seller certifies that with respect to the production of the goods and/or the performance of the services covered by this Contract, it has fully complied with Sections 6, 7, 12, and 15 of the Fair Labor Standards Act of 1938, as amended, and of regulations and orders of the United States Department of Labor under Section 14 thereof, if applicable.

(b) Seller warrants that all goods delivered under this Contract are in conformance with the latest OSHA requirements.

(c) Seller warrants that in the performance of this Contract, it will comply with all applicable U.S. Department of Transportation regulations on hazardous materials and any other pertinent federal, state, or local statutes, laws, rules, or regulations; and Seller further agrees to save Buyer harmless from any loss, damage, fine, penalty, or expense whatsoever that Buyer may suffer as a result of Seller's failure to comply with this warranty. The foregoing is in addition to and not in mitigation of any other requirements of this Contract.

(d) Seller warrants that it has complied with the Anti-Kickback Act of 1986 and has not offered or given and will not offer or give to any employee, agent, or representative of Buyer any gratuity or any kickback within the meaning of the Anti-Kickback Act of 1986. Any breach of this warranty shall be a material breach of each and every contract between Buyer and Seller.

(e) Seller warrants that it has not paid a contingent fee to obtain this Contract award to any third party

(f) Seller shall obtain and maintain all registrations, licenses and permits required to perform the work hereunder.

(g) **The Buyer and Seller shall abide by the requirements of 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a). These regulations prohibit discrimination against qualified individuals on the basis of protected veteran status or disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities, and to treat qualified individuals without discrimination on the basis of their physical or mental disability.**

(h) For orders placed in support of and charged to a U.S. Government Prime Contract or subcontract thereunder procuring an item meeting the Federal Acquisition Regulation (FAR) definition of a commercial item, the clauses related to commercial items and services set forth in the FAR or the Defense Federal Acquisition Regulation Supplement (DFARS) in effect as of the date of said prime contract are incorporated herein by reference, providing however the terms "Government" and "Contractor" shall be revised to identify properly the contracting parties under this Contract. In DFARS 252.215-7003, the term "Offeror" shall mean Seller. Seller shall include the terms of this Section, including this Paragraph 36(h) in all contracts or subcontracts awarded under this Contract. The DFARS clauses set forth herein are applicable only to contracts issued under DoD contracts.

(i) In addition to the terms and conditions contained herein, this Contract shall also be subject to all applicable terms and conditions, specifications, and other requirements in Buyer's contract with Customer. In the event of a conflict between these terms and conditions and the terms and conditions, specifications, and other requirements in Buyer's contract with Customer, the latter shall prevail.

42. CYBERSECURITY

The Seller shall provide adequate security to safeguard Buyer and Customer information/data on its information systems from unauthorized access and disclosure. The Seller shall apply the

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following basic safeguarding requirements to Buyer and Customer information/data:

- 1) Protecting Buyer and Customer information on public computers or websites: It is prohibited to process Buyer and Customer information/data on public computers (e.g., those available for use by the general public in kiosks, hotel business centers, etc.) or computers that do not have access control. Buyer and Customer information/data shall not be posted on websites that are publicly available or have access limited only by domain/Internet Protocol restriction. Such information may be posted to web pages that control access by user ID/password, user certificates, or other technical means, and that provide protection via use of security technologies. Access control may be provided by the intranet (vice the website itself or the application it hosts).
- 2) Transmitting electronic information. Transmit email, text messages, blogs, and similar communications using technology and processes that provide the best level of security and privacy available, given facilities, conditions, and environment.
- 3) Transmitting voice and fax information. Transmit voice and fax information only when the sender has a reasonable assurance that access is limited to authorized recipients.
- 4) Physical or electronic barriers. Protect information by at least one physical or electronic barrier (e.g., locked container or room, login and password) when not under direct individual control.
- 5) Sanitization. At a minimum, clear information/data on media that has been used to process Buyer and Customer information/data before external release or disposal. Overwriting is an acceptable means of clearing media in accordance with National Institute of Standards and Technology 800-88, Guidelines for Media Sanitization, at http://csrc.nist.gov/publications/drafts/800-88-rev1/sp800_88_r1_draft.pdf

- 6) Intrusion protection. Exercise reasonable care against computer intrusions and data compromise including exfiltration by adopting appropriate measures including the following:
 - a. Current and regularly updated malware protection services, e.g., anti-virus, anti-spyware.
 - b. Prompt application of security-relevant software upgrades, e.g., patches, service packs, and hot fixes.
- 7) Transfer limitations. Transfer Buyer and Customer information only to those second-tier subcontractors that both have a need to know and provide at least the same level of security as specified in this clause.

The Seller shall include the substance of this clause in all second-tier subcontracts under this subcontract (if allowed in accordance with the Article entitled LOWER TIER SUBCONTRACTING), if the Seller's subcontractor will have access to or generate Seller information. By executing this agreement, Seller certifies and affirms that the controls and requirements in this clause are in place. The Seller also certifies and affirms that they will immediately contact Buyer if there are any internal or external violations of their information systems. Seller will be required to, at its own expense, attend Buyer's IT Security training in the event Seller requires access to Buyer's network.

43. RESERVED

44. NOTICE OF DISCREPANCIES

Seller shall immediately notify Buyer in writing when discrepancies in Seller's process, materials, or approved inspection/quality control system are discovered or suspected which may materially affect the Items delivered or to be delivered under this Contract.