

**GENERAL DYNAMICS
ORDNANCE AND TACTICAL SYSTEMS
TERMS AND CONDITIONS - COMMERCIAL
(March 22, 2023)**

1. DEFINITION:

Unless otherwise specified, as used herein:

- a. "Government" means the Government of the United States of America.
- b. "Prime Contract" or "Buyer's Contract" means the contract or subcontract, at any tier, entered into by Buyer and Buyer's customer and under which Buyer has issued this Purchase Order.
- c. "Contracting Officer" means the person having cognizance on behalf of the Government of the Prime Contract and any other officer or civilian employee who is properly designated Contracting Officer for the purposes of this Purchase Order; and the term includes, except as otherwise provided in this Purchase Order, the authorized representatives of such Contracting Officer acting within the limits of their authority.
- d. "Goods" means the items to be delivered under this Purchase Order.
- e. "Buyer" means General Dynamics Ordnance and Tactical Systems.
- f. "FAR" means the Federal Acquisition Regulation.
- g. "DFARS" means the DoD FAR Supplement.
- h. "Services" means the services to be provided under this Purchase Order.
- i. "Buyer's Representative" means the Authorized Representative of Buyer. Only individuals within Buyer's Procurement Group can be authorized representatives.
- j. "Materials" means all articles, goods, equipment, and services to be delivered or provided under this Purchase Order.
- k. "Order" or "Purchase Order" means this Agreement and the Purchase Order incorporating this Agreement..

2. ACCEPTANCE OF PURCHASE ORDER: Unless otherwise required on the face of the Purchase Order, if this Purchase Order is issued in response to the Seller's offer and contains the Seller's most recent offered terms and is issued within the validity period, its issuance constitutes acceptance of the Seller's offer. Seller's signature in such case is required for administrative purposes only, however written acknowledgement and acceptance by Seller may be a requirement if listed on the Purchase Order. In the case that this Purchase Order constitutes an offer by Buyer, acceptance of this Purchase Order by Seller is expressly limited to the terms and conditions contained in this Purchase Order. Acceptance of this Purchase Order by Seller is expressly limited to the terms and conditions contained in this Purchase Order. Any term or condition stated by the Seller in any prior proposal, on Seller's acknowledgment form, or in otherwise acknowledging or accepting this Purchase Order is deemed by Buyer to be a material alteration of this Purchase Order and is hereby rejected unless Buyer specifically agrees otherwise in writing. Acceptance of the Materials covered by this Purchase Order will not constitute acceptance by Buyer of Seller's terms and conditions. Any of the following acts by Seller will constitute acceptance of this Purchase Order and all of its terms and conditions: signing and returning a copy of this Purchase Order, delivering any of the Materials ordered, commencing performance or informing the Buyer in any manner of commencement of performance, or returning Seller's own form of acknowledgment.

3. PRICE: Seller shall furnish the Materials in accordance with the prices and delivery schedule stated on the face of this Purchase Order. Buyer shall not be billed at prices other than stated on this Purchase Order unless authorized by a Purchase Order Change Notice issued and signed by Buyer. Seller warrants that the prices charged for the Materials covered by this Purchase Order are the lowest prices charged by the Seller to any customers purchasing similar Materials in the same or similar quantities and under like circumstances.

4. DELIVERY:

a. Time is of the essence in the performance of this Purchase Order. If Seller fails to make shipment or delivery when due, or if any shipment or delivery is made which is not in all respects in accordance with this Purchase Order (including time of shipment or delivery), Buyer reserves the right to reject such delivery, and, if Buyer so elects, Buyer may treat this Purchase Order as repudiated by Seller and cancel it or any outstanding deliveries hereunder, without liability to Seller and without prejudice to Buyer's rights to claim damages or to enforce any other remedy provided by law. All expenses of transportation and storage, if any, resulting therefrom shall be for Seller's account.

b. Any provisions herein for shipment or delivery of Materials or the rendering of services by installments shall not be construed as making the obligation of Seller severable and Seller acknowledges that a default with respect to any one installment shall impair the value of the whole contract. Shipments sent C.O.D. without Buyer's written consent will not be accepted and will be at Seller's sole risk and expense.

c. Invoices shall not be issued nor payments made prior to delivery. Individual invoices must be issued for each shipment under this Purchase Order. Discount invoices will be payable based on applicable discount period computed from the date of scheduled or actual delivery of the items ordered or the date of receipt of the correct invoice, whichever is later. Unless freight and other charges are itemized, any discount will be taken on full amount of invoice. All payments are subject to adjustment for shortage or rejection.

5. INSPECTION:

a. Seller is responsible for performing or having performed all inspections and tests necessary to substantiate that the Materials conform to Purchase Order requirements. Seller shall tender for acceptance only Materials that have been found by the Seller to be in conformance with the Purchase Order requirements.

b. All Materials may also be inspected and tested by Buyer, its customers, higher tier contractors, and (in the case of Materials purchased for a U.S. Government contract or subcontract) the U.S. Government, at all reasonable times and places. If such inspection or testing is made on Seller's premises, Seller shall provide without additional charge all reasonable facilities and assistance for such inspections and test. In its internal inspection and testing of the Materials, Seller shall, if required by Buyer, use an inspection system accepted by Buyer in writing. All inspection records relating to the Materials shall be available to Buyer during the performance of this Purchase Order, and for such longer periods as may be specified by Buyer in its acceptance of the inspection system, if any.

c. Final inspection and acceptance by Buyer shall be at destination unless otherwise specified in this Purchase Order. Such inspection shall be in accordance with the stated requirements of this Purchase Order. If rejection of a shipment would result from Buyer's normal inspection level under such procedures, Buyer may, at its option, conduct an above-normal level of inspection, up to 100% inspection, and charge the Seller the reasonable costs thereof. Acceptance of a lot through sampling criteria specified herein shall not preclude Buyer's right to reject, or to exercise any other right or remedy it may have under this Purchase Order or by law with respect to, individual items that fail to comply with any requirement of this Purchase Order.

d. No inspection (including source inspection), tests, approval (including design approval) or acceptance of the Materials shall relieve Seller from responsibility for any defects in the Materials or other failures to meet the requirements of this Purchase Order, for latent defects, fraud, such gross mistakes as amount to fraud, and Seller's warranty obligations. If the Materials are defective or otherwise not in conformity with the requirements of this Purchase Order, Buyer may, by written notice to Seller: (i) rescind this order as to such Materials; or (ii) reject such Materials and require the delivery of replacements. Deliveries of replacements shall be accompanied by a written notice specifying that such Materials are replacements. If Seller fails to deliver required replacements promptly, Buyer may: (i) replace or correct such Materials and charge the Seller the cost occasioned Buyer thereby; or (ii) terminate this Purchase Order for cause as provided in Paragraph 21(b) hereof. Rights granted to Buyer under this Clause are in addition to any rights or remedies provided elsewhere in this Purchase Order or in law.

e. Seller shall be responsible for all of Buyer's costs, damages, losses, claims, causes of action, liabilities, and expenses, arising from any act or omission of the Seller, its employees, subcontractors, agents, officers, or suppliers resulting from failure to meet any of the requirements and/or specifications of this Purchase Order. Seller shall be responsible for, without limitation, additional inspections to ensure compliance where necessary, investigations into inspection failures, any penalties or costs incurred by Buyer as a result in delay in delivery, and remediation costs for defective Materials.

6. WARRANTY:

a. If any warranty clause is incorporated below under Clause 40, Special U.S. Government Provisions, or in the Special Provisions, such warranty provisions are in addition to the provisions in this clause to the extent to which they are consistent. To the extent its provisions are inconsistent with this clause, the provisions of any warranty incorporated under Clause 40 or in the Special Provisions shall prevail.

b. In addition to all other express or implied warranties, Seller represents and warrants that any Materials (including packaging) provided under this Purchase Order shall: (1) conform to the description in the Purchase Order; (2) be free from defects in Materials and/or workmanship; (3) conform to Buyer's instructions, specifications, drawings and data; (4) be merchantable; (5) be free from defects in design and be fit for the purpose intended; and (6) conform to all warranties, express or implied by law. Seller warrants all Materials furnished and/or installed hereunder to be new and not used or reconditioned (unless otherwise specified in this Purchase Order). Seller warrants that it will perform this Purchase Order with the degree of skill and judgment which is normally exercised by recognized firms with respect to Materials of a similar nature, and this will be provided in a good, competent and workmanlike manner. These warranties, and all other warranties, express or implied, shall survive delivery, inspection, acceptance, and payment.

c. In addition to the warranties above, if Seller supplies, or incorporates into Materials supplied under this Purchase Order, Materials that are manufactured by a third-party, Buyer shall have the benefit of warranties extended to Seller by the third-party to the extent they exceed Seller's warranties in scope or duration.

d. Seller's warranties shall run to Buyer and its customers.

e. In addition to any other rights or remedies Buyer may have under this Purchase Order or at law, if Materials are found not to be as warranted within a period of one (1) year after acceptance by Buyer, Buyer may, at its sole option, (i) return such Materials to Seller at Seller's expense for credit or refund; (ii) direct Seller to promptly repair or replace the defective Materials; or (iii) repair or replace the defective Materials using Buyer's employees or third parties and recover the cost of such repair or replacement from Seller.. Any Materials corrected or furnished in replacement shall from the date of delivery of such corrected or replacement Materials, be subject to the provisions of this Clause for the same period and to the same extent as Materials initially furnished pursuant to this Purchase Order. Even if the Parties disagree about the existence of a breach of this warranty, Seller shall promptly comply with Buyer's direction to repair, rework or replace the Materials. If the Parties later determine that Seller did not breach this warranty, the Parties shall equitably adjust the price of the Materials under this Purchase Order.

f. In addition to any other remedies Buyer may have under this Purchase Order or at law, if the Services are found not to be performed as warranted within a period of one (1) year after the conclusion of the performance of the Services by Seller, Seller shall, at Buyer's option, either refund to Buyer the amount paid for the Services, or perform the Services again in a proper manner to the extent necessary to provide Buyer with the result originally contemplated by Buyer.

g. With respect to Materials found not to be as warranted, Seller shall bear the costs, if any, of inspection, disassembly, reassembly, retesting and any other similar costs incurred in connection with, or as a consequence of, correction, repair or replacement of Seller's Materials, including any such costs associated with assemblies into which Materials have been incorporated. Any Materials corrected or furnished in replacement shall, from the date of delivery of such corrected or replacement Materials, be subject to the provisions of this Clause for the same period and to the same extent as Materials initially furnished pursuant to this Purchase Order.

COUNTERFEIT GOODS – In addition to all other warranties provided under this Purchase Order, Seller warrants that any and all Goods delivered hereunder are new and not refurbished or used, are being supplied by the Original Manufacturer (OM) (Original Equipment Manufacturer (OEM), Original Component Manufacturer (OCM), Contract Manufacturer) or their expressly authorized dealers (Authorized Aftermarket Manufacturer, Authorized Dealer, Authorized Supplier, as defined in DFARS 252.246-7007 and 252.246-7008), agent or distributor, and that Seller has documented traceability of the Goods or components to the aforementioned sources.

Seller must have a counterfeit avoidance program and process (including inspection, testing, and authentication) in conformance with AS5553. Seller shall maintain a documented system (Standard Practice, procedure, or other documented approach) that provides for prior notification and Buyer approval before parts/components are procured

from sources other than OMs or the OMs authorized dealers. Seller must provide the following with shipment of the items upon request of Buyer:

- (1) Certificate of Conformance (C of C), certifying the items are genuine and meet all Purchase Order and original manufacturer requirements.
- (2) Traceability information to original manufacturer.
- (3) Results from any additional inspections, tests, and examinations as required by this Purchase Order.

Any Goods for which the above requirements are not met shall be considered defective under this Purchase Order and may be rejected by Buyer. Seller must replace any Goods that are not genuine, new and unused items and any counterfeit items will not be returned to the Seller which is a requirement of counterfeit parts DFARS provisions. Buyer reserves the right to quarantine any and all suspect counterfeit parts it receives and to notify the Government Industry Data Exchange Program (GIDEP) and other relevant government agencies. Seller shall not return any counterfeit Goods to the supply chain and shall ensure these Goods are stored for inspection. All counterfeit parts received by Seller must be reported to Buyer immediately.

Seller shall be liable to Buyer for any damages, costs, penalties, judgments, or fines against Buyer to the extent caused by Seller's failure to meet all requirements of this Clause and, at Buyer's election, Seller may also be required to deliver suitable replacement Goods traceable to the OM, meeting all OM specifications. The remedies in this section shall apply regardless of whether the warranty period or guarantee period has ended, and are in addition to any remedies available at law or in equity. Seller shall include the substance of this clause in all of its sub-tier contracts with its suppliers providing electronic parts, assemblies containing critical items, electronic parts, or performing authentication testing, in support of this Purchase Order.

If the procurement of materials under this contract is pursuant to, or in support of, a contract, subcontract, or task order for delivery of goods or services to the Government, the making of a materially false, fictitious, or fraudulent statement, representation or claim or the falsification or concealment of a material fact in connection with this contract may be punishable, as a Federal felony, by up to five years' imprisonment and/or substantial monetary fines. In addition, trafficking in counterfeit goods or services, to include military goods or services, constitutes a Federal felony offense, punishable by up to life imprisonment and a fine of fifteen million dollars.

This Counterfeit Goods section shall survive termination, expiration or cancellation of this contract.

CONFLICT MINERALS – In addition to all other warranties provided under this Purchase Order, Seller warrants that the Materials delivered hereunder are free from Gold, Tungsten (Wolframite), Tantalum (Columbit-Tantalite) or Tin (Cassiterite), hereafter referred to as "Conflict Minerals", that have originated in the Democratic Republic of Congo, Central African Republic, Angola, Burundi, Rwanda, South Sudan, Tanzania, Uganda or Zambia, hereafter referred to as "DRC". For purposes of this Clause, Conflict Minerals purchased from scrap or recycled sources are not considered to have originated from the DRC. Seller is required to review all materials and components which are necessary for the functionality or production of the Materials being sold under this Purchase Order and disclose annually whether any of the Conflict Minerals are present, and if so, those that originated in the DRC, and to provide a chain of custody if the Conflict Minerals do originate from the DRC. The Seller shall determine the country of origin (where the materials were originally mined and processed) or whether the minerals originated from scrap of recycled sources. Seller must provide the following prior to shipment of the items upon request of Buyer:

- (1) Country of Origin Inquiry (17 CFR 250 and 249B) documentation certifying that items are free from Conflict Minerals that have originated in the DRC.
- (2) Traceability information on raw material sub-tier suppliers.
- (3) To the extent an audit has been performed, results from any independent private sector audit; certifying that such an audit was obtained, including the audit report as part of the Country of Origin Inquiry and identifying the auditor.

Any Materials for which the above requirements are not met shall be considered defective under this Purchase Order and may be rejected by Buyer or returned. Seller shall be liable to Buyer for any damages, costs, penalties, judgments, or fines against Buyer to the extent caused by Seller's failure to meet all requirements of this Clause and, at Buyer's election, Seller may also be required to deliver suitable replacement Materials at Seller's cost.

Seller shall include the substance of this clause in all of its sub-tier contracts with its suppliers providing components in support of this Purchase Order.

7. NO WAIVER; SEVERABILITY: The failure of Buyer to insist upon the performance of any provision of this Purchase Order, or to exercise any right or privilege granted to the Buyer under this Purchase Order or by law, shall not be construed as waiving such provision or any other provision of this Purchase Order, and the same shall continue in full force and effect. If any provision of this Purchase Order is found to be illegal or otherwise unenforceable by any court or other judicial or administrative body, the other provisions of this Purchase Order shall not be affected thereby, and shall remain in full force and effect. Where this Purchase Order provides rights and remedies to Buyer, such rights and remedies shall be in addition to any other rights and remedies provided at law or elsewhere in this Purchase Order and shall not be construed as Buyer's exclusive rights or remedies.

8. COMPLIANCE WITH LAWS:

(a) General. Seller warrants that in the performance of this Purchase Order it will comply with all applicable laws, orders, rules, regulations, and ordinances of government entities, whether or not such provisions are referenced elsewhere in this Purchase Order, which include, but are not limited to, all applicable provisions of the Fair Labor Standards Act, the Occupational Safety and Health Act, the Truth in Negotiations Act, the Resources Conservation and Recovery Act, the Walsh-Healey Public Contracts Act (41 U.S. Code 35-45) and FAR 52.222-20, the Davis-Bacon Act (40 U.S. Code 276a-7), the Contract Work Hours and Safety Standards Act (40 U.S. Code 327-333) and FAR 52.222-4 and the Copeland ("Anti-Kickback") Act (18 U.S. Code 874 and U.S. Code 276c), together with the regulations issued thereunder. Such compliance is agreed to be a material element of the performance of this contract.

(b) Specific Areas. Without diminishing Seller's obligations under subparagraph (a), Seller agrees to the treatment of the specific areas of compliance as set forth in the following paragraphs:

(1) Cost or Pricing Data. Seller agrees that:

(i) if cost or pricing data, as defined in the Truth in Negotiations Act (Truthful Cost or Pricing Data) and implementing regulations, are required or requested; and

(ii) Seller or its lower-tier subcontractors:

(A) fail to provide current, accurate and complete cost or pricing data;

(B) claim an exception to a requirement or request to provide cost or pricing data and such exception is at any time determined to be inapplicable;

(C) furnish data of any description that were not accurate;

(D) as a prospective contractor, with notice of applicable cutoff dates and at Buyer's request, submit cost or pricing data that are not accurate, current and complete as of the cutoff date on Buyer's Certificate of Current Cost or Pricing Data; or

(E) the Government alleges any of foregoing;

such conduct by Seller or its lower-tier subcontractors shall be treated as a failure to comply with all applicable laws, orders, rules, regulations, and ordinances of government entities and shall be subject to the remedies below.

(2) Approved Chemical Substances. Seller agrees that only chemical substances included in the list of approved chemical substances published by the Environmental Protection Agency pursuant to the Toxic Substances Control Act shall be sold hereunder and that failure to comply with this provision shall be treated as a failure to comply with all applicable laws, orders, rules, regulations, and ordinances of government entities and shall be subject to the remedies below.

(3) Material Safety Data Sheet. Seller agrees to provide a completed Material Safety Data Sheet (OSHA Form 20 or equivalent) for any chemical substances sold hereunder as required by any federal, state or local law, ordinance, rule or regulation and that failure to comply with this provision shall be treated as a failure to comply

with all applicable laws, orders, rules, regulations, and ordinances of government entities and shall be subject to the remedies below.

(4) Seller shall provide a current withholding certificate, executed on the latest version of the applicable Internal Revenue Service (“IRS”) form, to document Seller’s status for purposes of both Foreign Account Tax Compliance Act (“FATCA”) and non-resident alien (“NRA”) withholding. Generally, the withholding certificate will be in the form of a W-9 (if a U.S. individual, partnership, or a corporation), a W-8BEN (if a foreign individual), a W-8BEN-E (if a foreign entity), or a W-8ECI (if a foreign entity with effectively connected U.S. income). The most current form applicable to Seller’s situation may be obtained from the IRS at <http://www.irs.gov>. Seller’s failure to provide a current U.S. withholding certificate may result in potential delays of payment processing and/or U.S. tax withholding under FATCA or NRA provisions which otherwise may be unnecessary.

(c) Remedies.

(1) In addition to any other remedies provided under this Purchase Order or by law, if:

(i) Seller or its officers, employees, agents, suppliers, or subcontractors at any tier fails to comply with any applicable laws, orders, rules, regulations, and ordinances of government entities and, as a result

(ii) Buyer’s contract price or fee is reduced, Buyer’s costs are determined to be unallowable, Buyer incurs any fines, penalties or interest costs, or Buyer incurs any other costs, losses, or damages;

then Buyer may reduce the price, or the recoverable costs and fee, of this Purchase Order or of any other contract with Seller, by a corresponding amount or amounts, or may demand payment of such amounts, or both, and Seller shall promptly pay any such amount demanded.

(2) Seller will defend, indemnify, and hold Buyer harmless from any loss, damages, or costs arising from or caused in any way by any actual violation of any federal, state, or local law, ordinance, rule, or regulation, or failure by the Seller to (i) have any chemical substances sold hereunder included in the list of approved chemical substances published by the Environmental Protection Agency pursuant to the Toxic Substances Control Act; or (ii) provide a completed Material Safety Data Sheet (OSHA Form 20 or equivalent) for any chemical substances sold hereunder as required by any federal, state or local law, ordinance, rule or regulation.

9. ORDER OF PRECEDENCE: Any inconsistency in this Purchase Order shall be resolved by giving precedence in the following order: (a) the face of this Purchase Order; (b) Special Provisions, if any; (c) these Terms and Conditions; (d) Attachments, Exhibits, or Annexes, if any; and (e) the Statement of Work. Notwithstanding the foregoing, no term shall conflict with any required FAR/DFARS provisions, in which case the required FAR/DFARS clause(s) shall take precedence.

10. EXCUSABLE DELAYS:

a. Buyer shall not be liable for any delay or failure to perform if the delay or failure to perform arises from causes beyond the control and without the fault or negligence of Buyer. Examples of such causes include: (1) acts of God or of the public enemy, (2) acts of the Government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather.

b. Seller shall not be liable for any delay or failure to perform to the extent such delay or failure to perform arises from causes beyond the control and without the fault or negligence of Buyer (including, as examples, any of the enumerated causes listed in Paragraph 10(a), and provided Seller gives written notice to Buyer as soon as any such cause is anticipated (or, if it could not be anticipated, as soon as possible after it occurs). Seller shall use its best efforts to anticipate the effects of such cause, to mitigate the effect of such cause and to make deliveries as expeditiously as possible. If Buyer believes the failure, delay, or anticipated delay in Seller’s performance may impair Buyer’s ability to meet Buyer’s production or delivery schedules or otherwise interfere with Buyer’s operation, Buyer may, at its sole option and without liability to Seller, cancel remaining deliveries in whole or in part.

11. TITLE AND RISK OF LOSS: Title to, and risk of loss of, Materials purchased under this Purchase Order shall remain with Seller until such Materials are delivered at the F.O.B. point specified in the Purchase Order, or at such other point specified in this Purchase Order where title is to pass. If no such point is given, then until the Materials

are delivered to a public carrier consigned to Buyer or delivered to Buyer, whichever delivery shall occur first, title and risk of loss remain with Seller. In the case of deliveries by barge or ship, however, title and risk of loss will pass when the Materials are unloaded into Buyer's tanks, bins, or other storage facilities. Nothing herein shall be construed to diminish Buyer's rights in the event of Seller's breach of its obligations under this Purchase Order.

12. INDEMNITY:

a. Seller agrees to indemnify, defend, and hold harmless Buyer from all losses, claims, demands, suits (including those from Seller's employees), expenses, damages and costs including, but not limited to, all reasonable attorney's fees incurred or suffered by Buyer as the result of:

- (1) Seller's breach of warranty;
- (2) The injury to or death of any person, or damage to or destruction of property howsoever arising out of Seller's performance of this Purchase Order and irrespective of Buyer's negligence in any degree.
;
- (3) Defect in the Materials purchased under this Purchase Order;
- (4) The failure of Seller or any of the Materials to comply with all applicable Federal, State, and Local laws and ordinances;
- (5) The negligent acts or omissions of Seller, irrespective of Buyer's negligence in any degree;
- (6) The injury to or death of any person, or damage to or destruction of property howsoever arising out of the failure of Materials to meet the warranties set forth herein.

b. All work to be performed on this Purchase Order by Seller is at Seller's risk as to the methods, processes, procedures, and safe conduct of the work. If this Purchase Order covers the performance of labor and/or supervision of installation on Buyer's premises or within facilities owned or controlled by Buyer, Buyer's customer, or any other entity, Seller shall be solely responsible for the safe conduct of such work and the protection of the premises or facilities, and of any persons on the premises or facilities. Seller agrees to defend, indemnify, hold harmless, and protect Buyer against all losses, claims, damages, suits, including those suffered or brought by Seller's employees, liabilities, cost, and attorney's fee for injury to or death to any person, or damage to or destruction of property arising out of the performance of this Purchase Order, irrespective of Buyer's negligence in any degree.

c. If Materials purchased are of an explosive, flammable, toxic, hazardous or otherwise dangerous nature, Seller shall fully indemnify and hold Buyer harmless against any claims asserted against Buyer on account of any personal injury, property damages, or violation of law or regulation caused by such Materials, or by the transportation, manufacture, sale, handling, or disposal thereof, prior to the completion of unloading at Buyer's plant, warehouse, or facility, regardless of the passage of title or responsibility for risk of loss.

d. Seller shall save Buyer, its agents and customers, and users of its products harmless from all loss, damage and liability, which may be incurred on account of infringement or alleged infringement of any United States or foreign patent, copyright, trademark, trade name or trade secret arising out of the manufacture, sale or use of such items by Seller, Buyer, Buyer's agent or customers, or users of its products and Seller shall, at its own expense, defend all claims, suits and actions against Buyer, its agents or customers, or users of its products in which such infringement is alleged, provided Seller is duly notified of such claims, suits and actions.

e. Seller, to the extent not covered by the foregoing paragraphs of this Clause, shall defend, indemnify, and save Buyer harmless, against and from any demands, decisions, judgments, orders, awards, costs and expenses, including attorney fees, arising from or incurred in resisting any claim, demand, or asserted right of Buyer's customer based on any act or omission by Seller under or in any way related to this Purchase Order or to any step leading to award of this Purchase Order.

13. INTELLECTUAL PROPERTY: Seller warrants that it has all right and title to the intellectual property required to perform its obligations and deliver Materials for Buyer's intended use. Seller shall indemnify and defend Buyer for and against any claims, demands, judgments, suits, costs, fees, including without limitation attorney fees, or damages of any kind resulting from Seller's violation or breach of any third party's intellectual property rights in the performance of this Purchase Order.

14. PACKING AND SHIPPING: No charge shall be made by Seller for packaging or storage unless specified on the face of this Purchase Order. All Goods shall be packaged, marked, and otherwise prepared as specified elsewhere in this Purchase Order and in accordance with good commercial practices to obtain lowest shipping rates. On containers, Seller shall mark handling and loading instructions, shipping information, Purchase Order number,

item and account number, shipment date, and names and addresses of Seller and Buyer, in addition to any other information required by this Purchase Order. An itemized packing list shall accompany each shipment.

15. INSURANCE:

a. Unless Buyer approves in writing a self-insurance program of Seller, the Seller shall maintain at Seller's cost, with insurers of nationally recognized stature issued by companies rated A-VII or above by AM Best, insurance fully covering all furnished property. At a minimum, Seller must have the following insurance coverage for potential liability incurred in the performance of this Purchase Order:

1. General Commercial Liability - \$1,000,000 Bodily Injury and Property Damage - combined single limit per occurrence. Buyer shall be included as an additional insured.
2. Automobile Liability - \$1,000,000 Bodily Injury and Property Damage, combined single limit per occurrence. Buyer shall be included as an additional insured.
3. Workers Compensation – As required by law applicable to Seller's operations. Seller and insurer waive subrogation rights against Buyer.
4. Employer Liability - \$1,000,000 per occurrence. Seller and insurer waive subrogation rights against Buyer.

Seller's insurance shall be primary to any insurance coverage procured by Buyer. On Buyer's request, Seller shall furnish Buyer with evidence of Seller's compliance with any aspect of this Clause.

b. To the extent Seller is required by this Purchase Order to insure against loss or damage to property of Buyer or a customer of Buyer, (i) insurance policies of Seller shall disclose the interest of Buyer and Buyer's customer; (ii) those policies shall contain an endorsement that no cancellation or material change in the coverage adversely affecting the interest of Buyer or Buyer's customer shall be effective unless Seller or the insurer gives written advance notice of cancellation or change, and unless Seller has complied with such other direction as may be given by Buyer or Buyer's customer as applicable.

c. The Parties understand and agree that the Seller is an independent contractor to Buyer, and Seller shall be solely responsible for providing its employees and/or agents with Worker's Compensation insurance as required by the jurisdiction governing Seller at the time work is performed under this Purchase Order. Seller shall maintain no less coverage than what is required under applicable law or regulation, and shall hold harmless, indemnify and defend Buyer from claims by Seller's employees and/or agents for injuries, or aggravation of existing injuries, sustained in connection with work being performed under this Purchase Order.

16. TAXES: Prices shown on this Purchase Order do not include taxes. Seller shall add taxes as a separate line item on the Seller's invoice, if applicable. Refer to the face of this Purchase Order for tax status.

17. DESIGN, TOOLS, DIES, ETC.:

a. Unless otherwise agreed herein, Seller at its sole cost shall supply all material, equipment, designs, drawings, tools and facilities required to perform this Purchase Order.

b. Any Materials, equipment, designs, drawings, tools or other property furnished by Buyer or specifically paid for by Buyer shall be Buyer's property, shall be used only in filling orders from Buyer and may on Buyer's demand be removed by Buyer without charge. Seller shall use such property at its own risk and shall be responsible for all loss of or damage to the same or to any person while property is in Seller's custody. Seller shall, at its sole cost, store and maintain all such property in good condition and repair. Buyer makes no warranties of any nature with respect to any such property, which is furnished "AS IS".

c. Buyer shall have no liability to Seller for any delays or failures in the delivery of material, including information, furnished by Buyer to Seller under the Purchase Order ("Buyer-Furnished Items"). If Buyer-Furnished Items are not delivered to Seller in sufficient time to enable Seller to meet delivery dates, Seller may notify Buyer of the delay and shall be entitled to an extension of such equal to the period of delay.

d. Graphics arts and packaging materials: All film negatives, positives, engravings, electrodes and dies made by Seller for the production of Material of this Purchase Order will become the property of Buyer and be delivered to Buyer at the completion of work under this Purchase Order.

e. Notwithstanding anything herein to the contrary, the provisions of this paragraph 17 do not apply to property owned by the United States Government. Disposition and use of United States Government property shall be governed by applicable United States Government regulations.

18. SURVIVAL: Seller shall not be relieved of its obligations under the following clauses (or under any applicable Special U.S. Government Provision that, by its nature, requires continuing obligations on Seller to achieve its intended effect) because of the termination, expiration, or completion of this Purchase Order:

Inspection
Warranty
Intellectual Property
Compliance with Laws
Indemnity
Insurance
Limitation of Liability
Amendments and Governing Law
Publicity
Changes
Pricing of Adjustments
Disputes
Designs, Tools, Dies, Etc.
Compliance with Export Laws
Proprietary Information

19. ASSIGNMENT: No assignment of this Purchase Order by Seller or of monies due or to become due hereunder shall be made without the prior written consent of Buyer. No Materials to be delivered under this Purchase Order shall be procured by Seller from a third party in completed or substantially completed form without Buyer's prior written consent.

20. INSOLVENCY: Buyer may terminate this Purchase Order for cause if Seller files a voluntary petition under any Federal or State bankruptcy act, is adjudicated a bankrupt, or if Seller becomes insolvent or commits an act of bankruptcy or engages in any act which reasonably causes Buyer to deem itself insecure. In the event the Seller enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Seller agrees to furnish written notification of the bankruptcy to the Buyer listed on the Purchase Order within five (5) days of initiation of the proceedings related to bankruptcy filing.

21. TERMINATION:

a. **Convenience.** Buyer may, at any time, terminate this Purchase Order in whole or in part for its convenience by written notice, or oral notice confirmed in writing.

(1) Upon termination for convenience of Buyer, settlement shall be made in accordance with the following principles:

(a) If the materials covered by the Purchase Order are shelf items, then Buyer shall be liable to Seller only for the difference between Purchase Order price and the fair market price or the amount received on disposal of the items, whichever price or amount is higher. In no event shall Buyer be liable for an amount in excess of 15% of the Purchase Order price.

(b) If the materials covered by the Purchase Order are special order items or services, then Buyer shall be liable only for costs of direct materials, direct labor and variable overhead incurred prior to the date of termination that relate directly to the materials covered in the Purchase Order, less any salvage value. In no event shall Buyer be liable in an amount more than the Purchase Order price for the terminated Materials.

(2) In the event that this Purchase Order is issued to support a United States Government contract, termination for convenience of Buyer shall be made in accordance with the principles contained in Federal Acquisition Regulation (FAR) clause 52.249-2 (Termination for Convenience) in effect as of the date of this Purchase Order, and in which (i) "Contracting Officer" means "Buyer's Representative," (ii) "Government" means

"Buyer," and (iii) "Contractor" means "Seller." The provisions of clause 52.249-2 shall govern such termination for convenience with the following exceptions: (i) Seller shall must submit a complete inventory schedule under paragraph (c) of FAR 52.249-2 within sixty (60) days from the effective date of termination; (ii) Seller shall submit a final termination settlement proposal under paragraph (e) of FAR 52.249-2 within six (6) months; (iii) Seller must submit any claim for equitable adjustment under paragraph (l) of FAR 52.249-2 within forty-five (45) days from the effective date of termination; and (iv) all references to and the right to appeal under the Disputes Clause of FAR 52.249-2 are hereby deleted.

b. **Default.** If Seller fails to make delivery of the Materials, in accordance with the delivery dates specified in this Purchase Order, fails to perform any of the requirements or to perform any of the other provisions of this Purchase Order, or fails to make progress so as to endanger performance of this Purchase Order in accordance with its terms and does not cure such latter failure within ten (10) days after notice from the Buyer, Buyer may (in addition to any other right or remedy provided by this Purchase Order or by law) terminate all or any part of this Purchase Order by written notice to Seller without liability and purchase substitute goods elsewhere, and Seller shall be liable to Buyer for any excess cost occasioned Buyer thereby. Seller shall continue performance of this Purchase Order to the extent not terminated pursuant to this Clause 21(b). Except with respect to defaults of subcontractors at any tier, Seller shall not be liable to Buyer for any excess costs if the failure to perform this Purchase Order arises out of causes beyond the control and without the fault or negligence of the Seller. If the failure to perform is caused by the default of a subcontractor at any tier, and if such default arises out of causes beyond the control of both the Seller and subcontractor, and without the fault or negligence of either of them, the Seller shall not be liable for any excess costs for failure to perform to Buyer, unless the Materials to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Seller to meet the requirements of this Purchase Order.

If this Purchase Order is terminated as provided in this Clause 21(b), the Buyer, in addition to any other rights provided herein, may require the Seller to transfer title and deliver to the Buyer: (i) any completed Materials, and (ii) such partially completed Materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights as the Seller has specifically produced or specifically acquired for performance of this Purchase Order.

If, after notice of the termination of this Purchase Order "with cause," it is determined that the failure to perform is due to causes totally beyond the control and totally without the fault or negligence of the Seller, such notice of default shall be deemed to have been issued pursuant to Clause 21(a) hereof, and the rights and obligations of the parties hereto shall be governed by Clause 21(a). The rights and remedies of Buyer in this Clause are in addition to any other rights and remedies provided by law or under this Purchase Order.

22. LIMITATION OF LIABILITY:

NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, UNDER NO CIRCUMSTANCES SHALL BUYER BE LIABLE TO SELLER (i) FOR ANY PUNITIVE, EXEMPLARY OR OTHER SPECIAL DAMAGES ARISING UNDER OR RELATING TO THE PURCHASE ORDER OR THE SUBJECT MATTER HEREOF OR (ii) FOR ANY INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION LOSS OF USE, GOODWILL, INCOME, PROFITS OR ANTICIPATED PROFITS, BUSINESS OR BUSINESS OPPORTUNITY, SAVINGS, DATA, OR BUSINESS REPUTATION) ARISING UNDER OR RELATING TO THIS PURCHASE ORDER OR THE SUBJECT MATTER HEREOF, REGARDLESS OF WHETHER SUCH DAMAGES ARE BASED IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), UNDER WARRANTY, OR ANY OTHER THEORY, AND REGARDLESS OF WHETHER BUYER HAS BEEN ADVISED OF, KNEW, OR SHOULD HAVE KNOWN OF THE POSSIBLITY OF SUCH DAMAGES. THIS PROVISION SHALL SURVIVE ANY TERMINATION OR EXPIRATION OF THIS AGREEMENT FOR ANY REASON.

23. AMENDMENTS AND GOVERNING LAW: No agreement or understanding to modify this Purchase Order shall be binding upon the Buyer unless in writing and signed by Buyer's authorized agent. All specifications, drawings, and data submitted to Seller with this Purchase Order are hereby incorporated herein and made a part hereof. Irrespective of the place of performance, this Purchase Order will be construed and interpreted according to the Federal Common Law of Government Contracts as enunciated and applied by Federal Judicial Bodies, Boards of Contract Appeals, and Quasi-Judicial Agencies of the Federal Government. To the extent that the federal common law of government contracts is not dispositive, the laws of the State of Florida shall apply, exclusive of its rules concerning conflicts of laws. .

To the extent that the Federal Common Law of Government Contracts is not dispositive, the Laws of the State of Florida shall apply, exclusive of its rules concerning conflicts of laws.

24. ANTI-TRAFFICKING VIOLATIONS: Seller represents and warrants that it and its officers, employees, agents and representatives will comply with all laws and regulations prohibiting trafficking in persons and/or the use

of forced labor, and further that, Seller will, if this Purchase Order is in support of a U.S. Government program, comply with the following FAR and DFARS clauses associated with Combating Trafficking in Persons including, but not limited to: FAR 52.222-50, FAR 52.244-6, DFARS 252.203-7004, DFARS 252.222-7007, and DFARS 252.225-7040. Seller hereby agrees to defend and indemnify Buyer from and against any liability that Buyer may incur as a result of violation of any relevant law or regulation.

If applicable, Seller acknowledges it is aware of and in full compliance with California's Transparency in Supply Chains Act (Cal. Civ. Code §1714.43), and will continue to be in compliance throughout the duration of this Purchase Order. If Seller does any business in the State of California, whether under this Purchase Order or otherwise, Seller shall assume this Act applies.

25. PUBLICITY: Seller shall not make or authorize any news release, advertisement, or other disclosure (except as required by law) that denies or confirms the existence of this Purchase Order without prior written consent of Buyer.

26. CHANGES: This Purchase Order and the terms and conditions herein may not be changed in any respect without written approval or direction of Buyer's Representative. Buyer may, at any time, by written instruction from Buyer's Procurement Department to Seller, make changes in the work to be performed or the items to be furnished hereunder in any one or more of the following: (a) drawings, designs, or specifications; (b) method of shipment or packing; (c) time and/or place of inspection, delivery, or acceptance of the Materials; and (d) the quantity of items ordered. If Seller deems any instruction or direction by or on behalf of Buyer to be a change to this Purchase Order, it must so notify Buyer in writing within seven (7) days of the receipt of such instruction or direction. If such changes cause an increase or decrease in the amount due under the Purchase Order or the time required to perform and Seller makes a proper and timely request, an equitable adjustment shall be made and the Purchase Order shall be modified in writing accordingly; provided however, that any equitable adjustment in price to which Seller may be entitled as a result of an increase in the quantity of items ordered shall not exceed the unit price established for such items herein. Any equitable adjustment for suspension or interruption of, or delay in, Seller's performance shall exclude profit. Any claim hereunder must be asserted in writing within fifteen (15) days from the date the change is ordered. Nothing contained herein shall excuse Seller from proceeding without delay with the Purchase Order as changed, including failure of the parties to agree upon any equitable adjustment. Buyer's engineering and technical personnel are not authorized to change the Goods or Services ordered or any other provision of this Purchase Order. Changes shall not be binding upon Buyer, except when confirmed in writing by an authorized member of Buyer's Procurement Department.

27. DISPUTES:

a. **Claims for Adjustment.** For any claims seeking an equitable adjustment or other relief in excess of \$100,000 submitted by Seller under this Purchase Order, Seller shall submit to Buyer a signed certificate that states as follows, substituting Seller's legal name where indicated: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the Purchase Order adjustment for which [the Seller] believes General Dynamics Ordnance and Tactical Systems is liable; and that I am duly authorized to certify the claim on behalf of [the Seller]." If requested by Buyer, Seller shall identify the portion of its claim for which it believes the Government is liable and shall execute the certification above, substituting "the Government" for "General Dynamics Ordnance and Tactical Systems" as to such amount. **THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS SHALL NOT APPLY TO THIS ORDER.**

b. **Government Decisions.** If a final decision is issued by a Contracting Officer for Buyer's Contract (or the Prime Contract under which Buyer's Contract is issued) and the decision relates in any way to this Purchase Order or to the Goods or Services ordered hereunder, said decision, if binding upon the Buyer, shall also be binding upon Buyer and Seller with respect to this Purchase Order. If Buyer appeals or commences an action regarding such decision, any decision upon such appeal or action, if binding upon the Buyer under the Prime Contract, shall be binding upon the Buyer and Seller as it relates to this Purchase Order. If any appeal is taken or an action commenced by Buyer, Seller shall assist Buyer in its prosecution thereof in every reasonable manner and otherwise fully cooperate with Buyer at Seller's own expense.

If, as a result of any decision or judgment binding upon Buyer, Buyer is unable to obtain reimbursement from the Government (or Buyer's customer) for, or is required to refund or credit to the Government (or Buyer's customer), any amount with respect to which Buyer has paid Seller, Seller shall, on demand, promptly repay such amount to Buyer. In no event shall Buyer be liable to Seller for any Claim submitted by Seller that the Government rejects.

c. Resolution of Other Disputes. Any dispute between Buyer and Seller that is not resolved pursuant to the provisions of this Purchase Order or through discussions between the parties may be resolved through legal action. The Parties covenant and agree that any and all actions arising out of or related to this Agreement shall be brought and maintained in the federal and state courts sitting in Hillsborough County or Pinellas County, Florida, and Seller and Buyer irrevocably consent and submit to the exclusive jurisdiction of and the service of process for such courts for any and all actions arising under or relating to this Purchase Order. **THE PARTIES HEREBY IRRECOVABLY WAIVE ANY AND ALL RIGHTS THEY MAY HAVE TO A TRIAL BY JURY IN ANY ACTION ARISING OUT OF OR RELATING TO THIS PURCHASE ORDER.**

d. Seller to Continue Performance. Seller shall proceed diligently with performance of this Purchase Order pending final resolution of any request for relief, claim, dispute, appeal or action arising under or in connection with this Purchase Order and pending such resolution shall comply with Buyer's written direction, if any, on the matters at issue.

e. Except as expressly set forth in this Document, in the associated Purchase Order, or as expressed in writing by the Buyer's Representative, and only if Buyer has received the U.S. Government Contracting Officer's consent, the Seller shall not make any direct claims or take direct course of action against the U.S. Government.

28. COMPLIANCE WITH EXPORT LAWS. The information provided by Buyer may be subject to the U.S. export control laws and regulations, including the International Traffic in Arms Regulations (ITAR). Seller may not export or re-export any information, technical data, or supplies except in strict compliance with all U.S. export control laws and regulations, including ITAR. Technical data that are controlled by the ITAR shall not be released to foreign nationals, including employees, companies, or other entities, whether within or outside of the United States, unless the Seller shall first obtain the written consent of Buyer, and shall obtain the appropriate license or other advance approval from the U.S. Government. Seller's obligation to adhere to the ITAR shall survive the expiration or termination of this Purchase Order. Seller hereby agrees to defend and indemnify Buyer from and against any liability which Buyer may incur as a result of Seller's violation of any U.S. export or re-export control law or regulation.

29. ORDER OF PRECEDENCE: Any inconsistency in this Purchase Order shall be resolved by giving precedence in the following order: (a) the face of this Purchase Order; (b) Special Provisions, if any; (c) these Standard Terms and Conditions; (d) Attachments, Exhibits, or Annexes, if any; and (e) the Statement of Work. Notwithstanding the foregoing, no term shall conflict with any required FAR/DFARS provisions, in which case the required FAR/DFARS clause(s) shall take precedence.

30. RETENTIONS: In addition to any other rights Buyer has, Buyer may, at its sole option, withhold payment of up to ten percent (10%) of the total value of this Purchase Order or individual invoices until Seller provides all required objective quality evidence, submits required data items, and satisfactorily fulfills all other reporting and documentation requirements.

31. RECORDS RETENTION: Seller shall retain all inspection, acceptance, quality, financial and contractual records, documents, and supporting information required for the performance of this Purchase Order for a period of six (6) years after final payment.

32. PRICING OF ADJUSTMENTS. All adjustments, including but not limited to "equitable adjustments," under this Purchase Order shall be based upon Seller's costs, plus a reasonable profit unless profit is expressly excluded by language of this Purchase Order. Seller's costs shall be those that are reasonable, allowable, and allocable under the standards of Part 31 of the Federal Acquisition Regulation (and, if this Purchase Order is issued under a contract or subcontract with any Department of Defense entity, Part 231 of DFARS) as in effect in Buyer's Contract on the date of this Purchase Order.

33. PROPRIETARY INFORMATION. All written information obtained by Seller from Buyer in accordance with this Purchase Order and which is identified as proprietary by Buyer shall be received in confidence and shall remain the property of Buyer, and shall be used and disclosed by Seller only to the extent necessary for the performance of this Purchase Order except that upon prior written notice to Buyer, Seller may use such information in the manufacture of end items for direct sale to the Government to the extent that the Government has the right to authorize such use by Seller, and, provided that Seller, to the extent practicable, prominently identifies such end items as being manufactured by Seller for direct sale to the Government. If Buyer and Seller have separately executed a written agreement regarding the protection and disclosure of information obtained by Seller from Buyer under this

Purchase Order and such written agreement conflicts with this provision, then the terms of the written agreement shall control.

Seller shall not provide any proprietary information to Buyer, nor shall Buyer be required to take any steps to protect any information provided by Seller, unless Buyer and Seller have separately executed a written agreement regarding the protection and disclosure of such Seller information.

34. ASSURANCES. Seller understands and agrees that, as partial consideration under this Purchase Order, it is obligated to provide certain assurances of its ability to continue its business and perform in the event of a disaster. To that end, Seller agrees to establish and/or maintain a Business Continuity Disaster Recovery Plan (BCDR) which shall remain in effect at least during the term of this Purchase Order. Such plan shall be provided to Buyer upon request, and shall, at a minimum, provide a reasonable and realistic plan of action on how Seller will remain capable of performing, transfer performance temporarily to another provider, or recover operations within a very short period of time (within days) after a disaster. If Buyer disapproves of Seller's BCDR, Seller shall make such changes to meet the requirement of this clause

35. LIEN WAIVERS. Seller shall furnish, upon Buyer's request, waivers by Seller and all other persons entitled to assert any lien rights in connection with the performance of this Purchase Order.

36. NOTICE OF LABOR DISPUTES. Whenever an actual or potential labor dispute delays, or threatens to delay, the timely performance of this Order, Seller shall immediately notify Buyer in writing of all relevant information with respect to such dispute.

37. PROHIBITION OF GRATUITIES.

a. Seller represents and warrants that it and its officers, employees, agents and representatives have not offered or given, and agrees that it and its officers, employees, agents and representatives will not offer or give, any kickbacks or gratuities in the form of entertainment, gifts, or otherwise to any officer or employee of Buyer or Buyer's customer with a view toward securing this or any other Purchase Order, any favorable treatment with respect to the awarding or amending of this or any other Purchase Order, or the making of any determination with respect to Seller's right or duties.

b. For any breach of Seller's obligations under this Clause, Buyer shall have, in addition to any other rights provided by this Purchase Order, the right to terminate any or all Purchase Orders with Seller for cause, and to recover from Seller the amount of any gratuity, plus all reasonable costs (including attorney fees) incurred in seeking such recovery. (Seller is also advised that, if this Purchase Order is issued under a prime contract or subcontract of the Government, any gratuity offered or given in violation of this Clause may also entail liabilities of Seller under applicable statutes, regulations, or other Purchase Order provisions.)

38. CONSTRUCTION. This Purchase Order shall be construed to have been drafted equally by all parties. The language of all parts of the Purchase Order shall be construed as a whole, according to its fair meaning, and any presumption or other principle that the language herein is to be construed against any party shall not apply. The headings used herein are for reference only and shall not affect the interpretation of the Purchase Order.

39. COMPLETE AGREEMENT: This Purchase Order constitutes the entire contract between Buyer and Seller for the specific purchase described herein. No other negotiations, promises or agreements about this Purchase Order are binding. All of the provisions herein shall be limited to this Purchase Order and shall not modify, cancel or waive provisions of other agreements, to include an Ordering Agreement or pricing agreements for other purchase orders. No revision, addition, amendment, or supplement to this Purchase Order or to any of its terms or conditions shall be effective unless agreed to in writing and signed by Buyer's Representative.

40. SPECIAL U.S. GOVERNMENT PROVISIONS. The provisions set forth in this Clause shall apply only if this Purchase Order is issued under a Government prime contract or under a subcontract, at any tier, issued to Buyer under a Government prime contract.

a. Audit. Seller agrees that its books and records and its plants or any such part thereof as may be engaged in the performance of this Purchase Order, shall at all reasonable times be subject to inspection and audit by any person designated by the head of any executive department of the Government.

b. Quality Control. Except as otherwise provided in this Purchase Order, Seller's system of Quality Control during the performance of this Purchase Order shall be in accordance with the specifications required by Buyer's Contract.

c. Seller agrees it will negotiate Purchase Order modification(s) in good faith to incorporate additions, deletions, and changes to the clauses set forth below if Buyer deems them necessary to comply with Buyer's Contract or modifications to Buyer's Contract. If any such modification to this Purchase Order causes an increase or decrease in the cost, or the time required for the performance, of any part of the work under this Purchase Order, an equitable adjustment shall be made pursuant to the "Changes" clause of this Purchase Order.

d. The following clauses of the FAR and DFARS are incorporated herein by reference, and made part hereof with the same force and effect as if they were given in full text, to the extent and with the changes to the clause text specified herein. The date of each clause is specified; however, the clause in effect in the Buyer's Contract on the date of this Purchase Order shall be incorporated by reference and changes, if necessary, to each such clause shall be made to be consistent with the intent of the changes set forth below.

41. REPRESENTATIONS AND CERTIFICATIONS. The following representations and certifications are material representations relied upon by Buyer in making award to Seller. Seller shall notify Buyer of any change of circumstances affecting representations and certifications made by Seller. *The representations and certifications as set forth below omit several choices that appear in the FAR version. By executing this Purchase Order, Seller represents that it has considered the full FAR version of the representations and certifications before executing this Purchase Order and affirms that the representations and certifications below are accurate.*

FAR 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (Sept 2007). Applicable only if this Purchase Order exceeds \$150,000.

Certification. The offeror, by signing its offer, hereby certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on its behalf in connection with the awarding of this contract.

Disclosure. If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, the offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The offeror need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.

FAR 52.209-5 Certification Regarding Responsibility Matters (8/2020)

(1) Seller certifies, to the best of its knowledge and belief, that-

(i) The Seller and/or any of its Principals-

(A) Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(B) Have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal Criminal tax laws, or receiving stolen property;

(C) Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision;

(D) Have not, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds \$10,000 for which the liability remains unsatisfied.

(ii) The Seller has not, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a division or business segment, and similar positions).

This Certification Concerns a Matter Within the Jurisdiction of an Agency of the United States and the Making of a False, Fictitious, or Fraudulent Certification May Render the Maker Subject to Prosecution Under Section 1001, Title 18, United States Code.

FAR 52.222-22 Previous Contracts and Compliance Reports (2/1999)

Seller represents that if Seller has participated in a previous contract or subcontract subject to the Equal Opportunity clause (FAR 52.222-26): (i) Seller has filed all required compliance reports; and, (ii) that representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

FAR 52.222-25 Affirmative Action Compliance (4/1984)

The offeror represents that --

- (a) It * has developed and has on file, * has not developed and does not have on file, at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2); or
- (b) It * has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

FAR 52.223-19 Compliance with Environmental Management Systems (5/2011)

(Applicable if the Seller is operating U.S. Government owned or leased facilities or vehicles, located in the United States)

The Seller's work under this Purchase Order shall conform with all operational controls identified in the applicable agency or facility Environmental Management Systems and provide monitoring and measurement information necessary for the Buyer to address environmental performance relative to the goals of the Environmental Management Systems.

ITAR/FCPA Disclosure Certification

By signing this Purchase Order, Seller hereby certifies he has not paid, or offered or agreed to pay, or has caused to be paid, or offered or agreed to be paid directly or indirectly, in respect of this Purchase Order any political contributions, fees or commissions (as defined in Part 130 of the International Traffic In Arms Regulations ["ITAR"], as amended and/or the Foreign Corrupt Practices Act ["FCPA"], as amended).

Seller further certifies that it will not offer, pay, promise to pay, or authorize the payment of any money, or offer, give, promise to give, or authorize the giving of anything of value to a Territory official (as defined in the FCPA, as amended), to any Territory political party or official thereof or any candidate for Territory political office, or to any person, while knowing or being aware of a high probability that all or a portion of such money or thing of value will be offered, given or promised, directly or indirectly, to any Territory official, to any Territory political party or official thereof, or to any candidate for Territory political office, for the purposes of:

- (a) influencing any act or decision of such Territory official, political party, party official, or candidate in his or its official capacity, including a decision to fail to perform his or its official functions; or
- (b) inducing such Territory official, political party, party official, or candidate to use his or its influence with the Territory government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality, in order to assist Buyer or Seller in obtaining or retaining business for or with, or directing business to Buyer or Seller.

INCORPORATION OF FEDERAL CLAUSES –

(A) The following clauses incorporated by reference shall be those in effect on the effective date of the Government Prime Contract (as amended) with Buyer to which this Order, subcontract, Purchase Order, or agreement relates. The FAR and Supplements thereto are obtainable from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Portions of the FAR are also accessible at <https://www.acquisition.gov/content/regulations>.

(B) Any reference in the following clauses to the “Disputes” clause shall mean the Article entitled “Disputes Under A Government Prime Contract” of the Order to which these Terms and Conditions are attached.

(C) Seller shall insert the following provisions in lower tier subcontracts, either verbatim or in substance, and by incorporation-by-reference or otherwise as appropriate.

(D) Wherever used, the terms “Contract” and “Contractor” shall mean this Order (or subcontract, Purchase Order, or agreement) and Seller (including Seller as Bidder or Offeror), respectively. The terms “Government,” “Contracting Officer,” and equivalent phrases shall mean Buyer except where further clarified or modified and except that the clauses identified by * shall have their original meaning as written in the FAR, and when identified by ** shall not only have their original meaning as written in the FAR, but also shall mean Buyer. “Subcontractor,” however, shall mean “Seller’s Subcontractor.”

(E) Any clauses that may have been omitted from the Purchase Order or these terms and conditions but are covered under the Christian Doctrine are applicable to the associated subcontract award.

I. FAR Clauses

- 52.203-7 Anti-Kickback Procedures (6/2020)**
Applicable if this Order exceeds \$150,000, except that paragraph (c)(1) of FAR 52.203-7 is not included in this Order. Paragraph (c)(4) is revised by deleting “The Contracting Officer may” and inserting “To the extent the Contracting Officer has effected an offset at the prime contract level or has directed Buyer to withhold any sum from the Seller, Buyer may ...”
(If applicable, this clause, in its entirety, is hereby flowed down as if the language of the clause is contained within this document.)
- 52.203-14 Display of Hotline Posters (11/2021)**
- 52.204-16 Commercial and Government Entity Code Reporting (8/2020)**
- 52.204-18 Commercial and Government Entity Code Reporting Maintenance (8/2020)**
- 52.204-21 Basic Safeguarding of Covered Contractor Information Systems (11/2021)**
(Applicable in all subcontracts, including subcontracts for the acquisition of commercial items, other than commercially available off-the-shelf items, in which the subcontractor may have Federal contract information residing in or transiting through its information system. When applicable, the language of this clause, in its entirety, is hereby flowed down as if the language of the clause is contained within this document.)
- 52.204-23 Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (11/2021)**
(The language of this clause, in its entirety, is hereby flowed down as if the language of the clause is contained within this document.)
- 52.204-24 Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (11/2021)**
(The Seller shall review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from receiving federal awards for “covered telecommunication equipment or services”).

By accepting this Purchase Order, Seller represents that it DOES NOT use covered telecommunications equipment or services, or use any equipment system, or service that uses covered telecommunications equipment or services, AND, WILL NOT provide covered telecommunications equipment or services to GD-OTS and/or the U.S. Government in the performance of this contract, subcontract, or other contractual instrument.

If the Seller does use covered telecommunications equipment or services OR will provide covered telecommunication equipment or services, then disclosure must be made through GD-OTS per 52.204-24(e.)

52.204-25 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (11/2021) (The language of this clause, in its entirety, is hereby flowed down as if the language of the clause is contained within this document.)

52.204-26 Covered Telecommunications Equipment or Services-Representation (10/2020) (The Seller shall review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from receiving federal awards for “covered telecommunication equipment or services”).

By accepting this Purchase Order, Seller represents it does not provide covered telecommunications equipment or services as a part of its offered products or services to GD-OTS or the U.S. Government in the performance of any contract, subcontract, or other contractual instrument AND that Seller does not use covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment services.)

52.209-7 Information Regarding Responsibility Matters (10/2018) (Applicable in subcontracts greater than \$600,000. When applicable, and if the Seller has current active Federal contracts and grants with a total value greater than \$10,000,000, the Offeror, by acceptance of a Purchase Order, agrees to comply with the requirements of this FAR clause.)

52.209-12 Certification Regarding Tax Matters (10/2020) (Applicable in subcontracts exceeding \$5,500,000. When applicable, by acceptance of a Purchase Order, Offeror certifies that it has filed all Federal tax returns required during the three years preceding award, that it has not been convicted of a criminal offense under the Internal Revenue Code of 1986, and that it has not, no more than 90 days prior to award, been notified of any unpaid Federal tax assessments for which the liability remains unsatisfied.)

52.219-8 Utilization of Small Business Concerns. (10/2022), (Applicable only if this Order offers further subcontracting opportunities)

52.222-26 Equal Opportunity (9/2016)
Subparagraphs (b)(1) through (11) of FAR 52.222-26 are applicable to the solicitation and any resulting Order

52.222-50 Combating Trafficking In Persons (11/2021) Paragraph (h) of this clause is applicable to portions of the subcontract that are for supplier, other than commercially off-the-shelf items, acquired outside of the United States, or services to be performed outside the United States; and has an estimated value that exceeds \$550,000. If paragraph (h) is applicable, the Seller shall submit a certification to the Buyer prior to award of the subcontract and annually thereafter. Certification shall cover the items listed in paragraph (h)(5) of this clause.

52.222-56 Certification Regarding Trafficking in Persons Compliance Plan (10/2020)

52.223-18 Encouraging Contractor Policies to Ban Text Messaging While Driving (6/2020), (Applicable in all subcontracts that exceed the micro-purchase threshold as defined in FAR 2.101 at the time of subcontract award)

52.225-13 Restrictions on Certain Foreign Purchases (2/2021)

- 52.225-19 Contractor Personnel in a Designated Operational Area or Supporting a Diplomatic or Consular Mission Outside the United States (5/2020)** (Applicable in all subcontracts that require personnel to perform outside the United States (1) in a designated operational area during contingency operations, humanitarian or peacekeeping operations, or other military operations, or (2) when supporting a diplomatic or consular mission. When applicable, the clause, in its entirety, is hereby flowed down as if the language of the clause is contained within this document.)
- 52.225-25 Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran – Representation and Certifications (6/2020)**
- 52.227-14 Rights in Data – General (5/2014)**
- 52.229-11 Tax on Certain Foreign Procurements – Notice and Representation (6/2020)** (Applicability is defined in FAR 29.402-3(a). When applicable, by Offerors acceptance of a Purchase Order, Offeror certifies that it is not a foreign person. If the Offeror is a foreign person and exemptions under this clause do not apply, FAR 52.229-12 will then apply, the Offeror shall submit the IRS form W-14, and the Offeror will be subject to withholding in accordance with clause 52.229-12.)
- 52.232-39 Unenforceability of Unauthorized Obligations (6/2013)**
- 52.232-40 Providing Accelerated Payments to Small Business Subcontractors (3/2023)** (Applicable if Buyer receives accelerated payments from the U.S. Government. When applicable, the clause, in its entirety, is hereby flowed down as if the language of the clause is contained within this document.)
- 52.244-6 Subcontracts for Commercial Items (3/2023)** (This clause, in its entirety, is hereby flowed down as if the language of the clause is contained within this document.)

II. DFARS Clauses

- 252.203-7002 Requirement to Inform Employees of Whistleblower Rights (12/2022)** (This clause, in its entirety, is hereby flowed down as if the language of the clause is contained within this document.)
- 252.203-7004 Display of Hotline Posters (1/2023)** (Applicable in subcontracts that exceed \$6,000,000 unless the subcontract is solely for commercial items.)
- 252.204-7003 Control of Government Personnel Work Product (4/1992)**
- 252.204-7004 Antiterrorism Awareness Training for Contractors (2/2019)** (Applicable in subcontracts, including subcontracts for commercial items, when subcontractor performance requires physical access to a Federally-controlled facility or military installation. When applicable, this clause, in its entirety, is hereby flowed down as if the language of the clause is contained within this document.)
- 252.204-7008 Compliance with Safeguarding Covered Defense Information Controls (10/2016)** (Applicable in solicitations, except for solicitations solely for the acquisition of COTS items.) Replace “Contracting Officer” with “Buyer”
- 252.204-7012 Safeguarding Covered Defense Information and Cyber Incident Reporting (1/2023)** (Applicable in subcontracts for operationally critical support or for which subcontract performance will involve covered defense information, including subcontracts for commercial items, without alteration, except to identify the parties. When applicable, this clause, in its entirety, is hereby flowed down as if the language of the clause is contained within this document.)

SUBCONTRACTORS NOT COMPLIANT WITH DFARS 252.204-7012 SHALL NOT STORE, SEND, RECEIVE OR CREATE ANY COVERED DEFENSE INFORMATION

(CDI) OR CONTROLLED UNCLASSIFIED INFORMATION (CUI) ON SUBCONTRACTOR'S COVERED INFORMATION SYSTEMS INCLUDING DIGITAL PHOTOGRAPHS OR COPIES. SUBCONTRACTORS SHALL REPORT ANY BREACH OF DFARS REQUIREMENT TO BUYER WITHIN TWENTY-FOUR (24) HOURS OF ANY BREACH OR POTENTIAL BREACH OF THIS PROTOCOL.

Subcontractor must notify Contractor when submitting a request to vary from a NIST SP 800-171 security requirement, in accordance with paragraph (b)(2)(ii)(B) of this clause.

Subcontractor must provide the incident report number, automatically assigned by DoD, to the Contractor as soon as practicable, when reporting a cyber incident to DoD as required in paragraph (c) of this clause.

252.204-7018 Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services (1/2023) (Applicable in all subcontracts, including subcontracts for the acquisition of commercial items. This clause, in its entirety, is hereby flowed down as if the language of the clause is contained within this document.)

252.204-7019 Notice of NIST SP 800-171 DoD Assessment Requirements (3/2022) (Applicable for any subcontractor that has access to, processes, stores, or transmits Controlled Unclassified Information, CUI. This clause must be flowed down to all subcontractors at all tiers)

252.204-7020 NIST SP 800-171 Assessment Requirements (1/2023) (Applicable for any subcontractor that has access to, processes, stores, or transmits Controlled Unclassified Information, CUI. This clause must be flowed down to all subcontractors at all tiers, except for when the purchase is solely for COTS items.)

252.204-7021 Cybersecurity Maturity Model Certification Requirements (1/2023) (Applicable for any subcontractor that has access to, processes, stores, or transmits Controlled Unclassified Information, CUI. This clause must be flowed down to all subcontractors at all tiers, except for when the purchase is solely for COTS items.)

252.209-7004 Subcontracting with Firms that are Owned or Controlled by the Government of a Country that is a State Sponsor of Terrorism. (5/2019) 252.225-7007 Prohibition on Acquisition of Certain Items from Communist Chinese Military Companies (12/2018)

252.225-7009 Restriction on Acquisition of Certain Articles Containing Specialty Metals. (12/2022) (Applicable in all subcontracts, including subcontracts for commercial items, that are for items containing specialty metals, as defined in this clause. When applicable, paragraphs (a) through (c) and paragraph (e)(2) are flowed down as if the language of each paragraph are contained within this document.)

252.225-7040 Contractor Personnel Supporting U.S. Armed Forces Deployed Outside the United States (10/2015) (Applicable when subcontractor personnel are supporting U.S. Armed Forces deployed outside of the United States in (1) Contingency Operations; (2) Peace operations consistent with Joint Publication 3-07.3; or (3) Other military operations or military exercises, when designated by Combatant Commander or as directed by the Secretary of Defense. When applicable, this clause, in its entirety, is hereby flowed down as if the language of the clause is contained within this document.)

252.225-7048 Export-Controlled Items (6/2013)

252.225-7052 Restriction on the Acquisition of Certain Magnets, Tantalum, and Tungsten (1/2023) (Applicable at all tiers unless an exception of paragraph (c) of this clause applies. This clause, in its entirety, is hereby flowed down as if the language of the clause is contained within this document.)

- 252.225-7055 Representation Regarding Business Operations with the Maduro Regime (5/2022)**
(By submission of an offer, Seller represents that it DOES NOT have any business operations with an authority of the Maduro regime or the government of Venezuela that is not recognized as the legitimate government of Venezuela by the U.S. Government)
- 252.225-7056 Prohibition Regarding Business Operations with the Maduro Regime (1/2023)**
(This clause, in its entirety, is hereby flowed down as if the language of the clause is contained within this document).
- 252.227-7015 Technical Data- Commercial Items (3/2023)**
- 252.227-7037 Validation of Restrictive Markings on Technical Data (1/2023)**
(In paragraph (b), “Contractor’s” remains in the clause with a lower case “c.” In paragraphs (c) and (d)(I), “hereunder” is inserted after “subcontract.” In paragraphs (f) and (g)(2)(i), change “this contract” to “the prime contract,” and in paragraph (i), change “a contract” to “the prime contract.” No substitutions for “Government” or “Contracting Officer” are made.)
- This clause is required to be flowed down to subcontractors at all levels that are delivering technical data.
- 252.244-7000 Subcontracts for Commercial Items (1/2023)** (This clause, in its entirety, is hereby flowed down as if the language of the clause is contained within this document.)
- 252.246-7007 Contractor Counterfeit Electronic Part Detection and Avoidance System (1/2023)**
(Applicable in purchases for electronic parts or assemblies containing electronic items. When applicable, this clause, in its entirety, is hereby flowed down as if the language of the clause is contained within this document.)
- 252.246-7008 Sources of Electronic Parts (1/2023)**
(Applicable when electronic parts or assemblies containing electronic parts are provided, including subcontracts for commercial items, unless the subcontractor is the original manufacturer). (When applicable, this clause, in its entirety, is hereby flowed down as if the language of the clause is contained within this document.)

III. ADDITIONAL FAR/DFARS CLAUSES

GD-OTS reserves the right to add FAR/DFARS clauses and other contract terms in Section III of the subject Terms and Conditions in addition to any special provisions that may be required to be flowed down from its customer.