

**COMMUNICATIONS & POWER INDUSTRIES
("CPI")
TERMS AND CONDITIONS OF PURCHASE
GENERAL PROVISIONS**

1. TERMS AND CONDITIONS OF PURCHASE

Subject only to any applicable written override agreement, these CPI Terms and Conditions of Purchase ("CPI Purchase Terms") of the CPI Purchase Order ("Purchase Order") on which they are attached, appended, included or referenced, apply to all purchases by **Communications & Power Industries LLC, Communications & Power Industries Canada Inc., their affiliates, divisions and subsidiaries (collectively "CPI" or "Buyer")** of any items, materials, goods or products including hardware, software, specially manufactured items ("Products") and services ("Services") furnished by any supplier ("Seller") to CPI and supersede any prior offers, negotiations, agreements and representations concerning the Products or Services of this Purchase Order and constitutes the entire agreement between the parties. The Purchase Order is expressly conditional on Seller's acceptance of these CPI Purchase Terms. Unless expressly accepted in writing by CPI, additional or different terms and conditions proposed by Seller or included in Seller's quotation, acknowledgement or other documentation are objected to by CPI and shall have no effect despite any usage of trade or course of performance. Seller's acknowledgement, acceptance of payment or commencement of performance, shall constitute Seller's unqualified acceptance of the Purchase Terms. CPI's receipt of Products or Services is not acceptance by CPI of Seller's terms and conditions, is not a waiver of CPI Purchase Terms, and does not create any contractual obligation to purchase Products or Services from Seller. As used in these CPI Purchase Terms "Government" shall mean the Government of the United States or Canada or any of their agencies.

2. PRICES AND INVOICES

Seller shall invoice at the prices on the face of the Purchase Order ("Prices"). Unless otherwise agreed by CPI in writing, all Prices are Firm Fixed Prices, and all Prices must be in U.S. or Canadian Dollars, converted, if necessary, at the date this contract is formed, when a Purchase Order is signed, or the Products or Services are delivered, whichever reflects a lesser Dollar to local currency exchange rate. Unless otherwise stated in the Purchase Order or other writing signed by an authorized representative of CPI, Prices include and Seller shall pay all applicable taxes (sales, use, excise, value-added, service or other similar taxes), license fees, customs fees, duties, whether or not separately stated. Seller shall hold CPI harmless from all these taxes and duties. Seller shall mail (Fax or email) invoices covering orders, shipping notices, bills of lading and receipts promptly after shipment. Seller is responsible for requesting from CPI any required certification that any transaction is tax exempt. Seller's invoice must state the order number (including letters) and ordering location and must identify the country of origin of each Product sold to CPI. Discounts apply to payments sent within the stated period, starting from the later of receipt of a proper invoice or delivery at destination. Except as otherwise specified on the face of the Purchase Order, payment is due forty-five (45) calendar days from the later of: (a) acceptance of Products or Services, (b) the date CPI receives a correct invoice, or (c) the date when CPI receives conforming Products or Services but not earlier than the scheduled date of delivery specified on the Purchase Order. CPI may withhold payment for shortages or non-conforming Products or Services. In no event may Seller quote prices to CPI that would be unlawfully discriminatory.

3. PACKAGING, SHIPMENT, DELIVERY

Seller shall comply with CPI's shipping instructions and shall suitably wrap, box and/or crate all Products to protect against all hazards of shipment, storage and exposure. Unless otherwise agreed by CPI in writing, Seller shall be responsible for insurance and other charges and costs related to transportation and any special packaging requested by CPI. Seller shall be responsible for insuring that all packages containing hazardous materials or dangerous goods comply with all applicable regulations regarding the labeling and shipment of the specific materials, and shall provide hazardous material data sheets on all these orders. Seller shall insure that all packages are marked to show the Purchase Order number and that itemized packing slips that accompany each delivery show the Purchase Order number, part number, order quantity, and Product description. Seller shall mark each item or the container with the English name of the

country of origin and provide a completed certificate that certifies country of origin sufficient to satisfy customs authorities for duty drawback or any other purposes. In the absence of a proper packing slip, CPI's count as to the quantity delivered is conclusive. Unless otherwise agreed by CPI in writing, Seller shall not charge and CPI shall not pay any separate charge for cartons, wrapping, packing, boxing, crating, delivery, drayage or similar costs. If CPI agrees to pay transportation charges and Seller prepays and bills these charges to CPI, Seller shall state the amount separately on the invoice and support it with billing receipts. CPI may cancel this order without liability to Seller if deliveries are not made as promised. Despite any inspection or any shipping terms to the contrary in Seller's quotation, acknowledgment, or other Seller documentation, unless otherwise agreed by CPI in writing, Seller bears all risk of loss, damage or destruction of Products until final acceptance by CPI.

4. DELAY

Seller shall immediately notify CPI of any matter which may delay Seller's performance under this Purchase Order and the anticipated duration of the delay. Seller agrees to insert the substance of this provision in all subcontracts and purchase order hereunder. Excusable delays are those which arise out of causes beyond the control and without the fault or neglect of Seller, including but not limited to threatened or actual labor disputes, acts of God or of any government, fires, floods, strikes, embargoes, unusually severe weather, or delays of Seller's subcontractor(s) or supplier(s) arising from causes beyond the control and without the fault or neglect of both Seller and such supplier(s) or subcontractor(s) provided Seller could not have obtained the suppliers or services from other sources in sufficient time to permit Seller to meet the delivery schedule. Despite any other provision of this Purchase Order, CPI may terminate this Purchase Order in whole or in part without cost to CPI where any actual or projected excusable delay is material or indefinite, would result in frustration of purpose of this Purchase Order, or where CPI reasonably believes that it is required to repurchase products similar to Products under CPI's contractual obligations.

5. PROPERTY FURNISHED BY BUYER

Unless otherwise agreed to in writing, CPI retains all title and intellectual property rights in and to property furnished by CPI, or the cost of which is or will be charged to CPI, including but not limited to specifications, drawings, samples, tooling, tools, equipment, materials, or information furnished to or made available to Seller, their replacements, and the property described in these CPI Purchase Terms as CPI Confidential Information ("CPI Property") and are provided "as is." While CPI Property is in Seller's possession or control, Seller shall keep it in safe and good condition and covered, at its expense, by property insurance acceptable to CPI with loss payable to CPI. Seller shall return the Property in the same condition as received, reasonable wear and tear excepted. Seller shall not use CPI Property except to manufacture Products and perform Services for CPI under Purchase Orders or as authorized in writing by CPI. Seller shall plainly mark or adequately identify all CPI Property with the name "CPI" and as applicable the CPI drawing or tool number. Seller shall not copy, modify, furnish, quote, sell or advertise any CPI Property, in whole or in part, nor goods made using CPI Property, in whole or in part, without CPI's express prior written consent. Upon CPI's written request, Seller shall provide an inventory of and return CPI Property promptly to CPI. Despite any defect in CPI Property, or any fault or neglect of CPI, Seller shall indemnify, defend and hold CPI harmless from and against all loss of and damage to CPI Property, any claims that may be asserted against CPI Property, and any claims relating in any way or arising from any use by Seller of CPI Property or products produced from CPI Property.

6. INSPECTION, ACCEPTANCE, REJECTION

A. Seller shall establish and maintain a quality control and inspection program and testing system acceptable to CPI adequate to ensure that all Services performed and Products delivered conform to all applicable specifications and other contract requirements.

B. CPI and its customer may inspect all Products or Services 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.

C. No such inspection shall relieve Seller of its obligation to furnish and warrant all Products or Services in accordance with the requirements of this Purchase Order. CPI's final inspection and acceptance shall be at destination. Payment shall not constitute acceptance.

D. If Seller delivers non-conforming Products or Services, CPI may, in addition to any other remedies available at law or at equity: (i) accept all or part of such Products or Services at an equitable price reduction; or (ii) reject such Products or Services; (iii) return non-conforming Products for refund or credit; or (iv) require Seller, at Seller's cost to make all repairs, corrections, modifications or replacements at the direction of CPI necessary to enable such Products or Services to comply in all respects with the contract requirements. Seller shall not re-tender rejected Products or Services without disclosing the corrective action taken.

7. WARRANTY

A. Products. Seller warrants all Products to be of new material, be and only contain materials obtained directly from the Original Equipment Manufacturer ("OEM") or an authorized OEM reseller or distributor, be of merchantable quality, be free from defects in material, workmanship and design, free from unreasonable hazards in design and performance, be fit for CPI's purposes as described in the Purchase Order or as described or relayed by CPI to Seller, conform to all applicable instructions, specifications, drawings, data, quantity, quality and other requirements of CPI, conform to all representations, affirmations, promises, descriptions, samples or models forming the basis of the contract, and not be or contain Counterfeit Items. For purposes of this Warranty, a Counterfeit Item is defined to include, but is not limited to, (i) an item that is an illegal or unauthorized copy or substitute of an OEM item; (ii) an item that does not contain its proper external or internal materials or components required by the OEM or that is not constructed in accordance with OEM design; (iii) an item or component that is used, refurbished or reclaimed but the Seller represents as being a new item, (iv) an item that has not successfully passed all OEM required testing, verification, screening and quality control but that Seller represents as having met or passed such requirements, or (v) an item with a label or other marking intended, or reasonably likely, to mislead a reasonable person into believing a non-OEM item is a genuine OEM item when it is not.

B. Services. Seller further warrants that it will take all proper and necessary precautions for the safety and protection of persons and property, and will provide proper warnings for hazards that cannot be eliminated. For all efforts by Seller to supply design, engineering, installation, repair, maintenance, technical, construction, consulting, professional and other Services with respect to the Products, Seller warrants that it has and will maintain sufficiently trained, experienced and appropriately licensed personnel to promptly and efficiently perform Services in a competent, workmanlike manner that is free from faults and defects, and that meets or exceeds the standard of performance reasonably expected of similar providers of Services.

C. Periods and Remedies. For both Products (including components and parts thereof) and Services, unless otherwise specified on the face of the Purchase Order, these warranties extend for the Seller's standard warranty periods, or for a period of one (1) year following acceptance by CPI, whichever is longer. If any nonconforming Product or Services ("the Work") is identified within the Warranty period, Seller, at Buyer's option, shall promptly repair, replace, or re-perform the Work. All transportation charges of replacement Work, return of nonconforming Work, and re-performance of Work shall be Seller's expense. If repair, or replacement, or replacement of Work is not timely, Buyer may elect to return, re-perform, repair, replace, or re-procure the nonconforming Work at Seller's expense.

D. General. All the above warranties are in addition to warranties of additional scope given by Seller to CPI and are not limited by Seller's standard warranties. These warranties and all implied warranties survive inspection, tests, acceptance and payment, and run to CPI, its employees or agents and subsequent

owners and users. None of these warranties and no other implied or express warranties are considered disclaimed, limited or excluded unless in writing signed by CPI's authorized representative. All warranties shall run to Buyer and its customer. If Seller breaches any warranty, CPI shall be entitled to all additional remedies under applicable law arising from the breach. Furthermore, Seller shall indemnify, defend and hold CPI harmless from and against any loss, damage, or expense whatsoever that CPI may suffer from breach of any of these warranties.

8. CHANGES

CPI may at any time, by written Purchase Order amendment signed by CPI ("Change Order"), and without notice to sureties or assignees (i) suspend all or any portion of Seller's work, and/or (ii) make changes within the general scope of this Purchase Order that affect any one or more of the following including but not limited to:

- specifications, drawings, designs, statement of work or description of services;
- method of shipment or packing;
- quantities of Products or Services;
- place, date and manner of delivery; or
- place and date of inspection or acceptance.

If any such suspension or change directed by CPI causes an increase or decrease in the cost of or the time required for performance, Seller may claim an equitable adjustment in the Price accompanied by written evidence of related direct costs, or an adjustment to the delivery schedule, or both. Seller must assert any claim for adjustment in writing within ten (10) days from the date of receipt of the written Change Order in a format specified by CPI. Any claim by Seller for adjustment must be approved by CPI in writing before Seller implements the claimed adjustment. Price increases, including any proposed surcharges or markups, are not binding on CPI unless evidenced by an amendment to the Purchase Order signed by CPI. Failure to agree to any adjustment is a Dispute to which the Disputes provisions apply. However, nothing in this section, including any Dispute, excuses Seller from diligently proceeding with performance of this Purchase Order as changed.

9. TERMINATION/SUSPENSION/INDEMNITY

A. For Default. By written notice to Seller, CPI may terminate this Purchase Order in whole or in part or cancel all or any part of the undelivered portion of the Purchase Order for breach or default of Seller if Seller:

- does not make deliveries of Products or perform Services as specified in the Purchase Order or its delivery schedule;
- breaches, defaults or fails to perform under any provision of this Purchase Order including Seller warranties, or fails to make reasonable progress towards completion of the Purchase Order at the times specified so as to endanger scheduled performance, and does not cure or provide assurances in writing how it intends to cure Seller's default within a period of ten (10) business days (or longer as authorized in writing) after receiving written notice from CPI specifying the breach, default or failure;
- fails promptly to provide adequate written assurances of future performances satisfactory to CPI when requested by CPI;
- becomes insolvent, generally does not pay its debts as they become due, becomes subject to a voluntary or involuntary petition under any bankruptcy or insolvency law, makes an assignment for the benefit of creditors, dissolves or has a material adverse change in its business, properties, prospects, operations or condition (financial or otherwise); or
- attempts to cancel, terminate, modify or change any contract of sale unless made by mutual agreement in writing and signed by CPI's authorized representatives.

If CPI terminates part of this Purchase Order, Seller shall diligently continue performance of the remainder. Seller is liable to CPI, and CPI may deduct from or set-off against any part of the price still due under this or any other outstanding Purchase Order for any excess costs for purchasing similar products or services from other suppliers and other damages incurred. The rights and remedies of CPI set forth in this section are in addition to, and not in lieu of, any other remedies which CPI may have in law or equity or pursuant to other sections of CPI Purchase Terms. If the parties or a court of competent

jurisdiction determine that Seller was not in breach or default, or that the breach or default was excusable, the rights and obligations of the parties are the same as under TERMINATION FOR CONVENIENCE. Seller waives and is not entitled to receive profit on Products not received or unperformed services terminated for default or for convenience.

B. For Convenience. CPI for its convenience may, at any time by written notice to Seller, with or without cause and with or without explanation, suspend performance or terminate this Purchase Order in whole or in part without liability for default. Seller shall stop production on the date and to the extent specified in the notice and shall terminate all orders and subcontracts to the extent they relate to terminated Products or Services. Within thirty (30) calendar days after receiving notice of suspension or termination, Seller shall submit to CPI in writing the costs and expenses Seller incurs resulting from suspended or terminated Purchase Orders in the format specified by CPI. Costs and expenses not received within this period are waived. Upon CPI audit or other verification, the sole obligations of CPI are limited to: (i) the unpaid Prices for all Products completed, delivered and accepted by CPI or Services performed to the reasonable satisfaction of CPI by the effective date of suspension or termination, (ii) the percentage of Purchase Order Prices reflecting the percentage of work performed on unfinished Products ordered by CPI by the effective date of suspension or termination, and (iii) the reasonable costs established by Seller to the satisfaction of CPI, without duplication in the Prices of Products or Services under (i) or (ii), that are directly related to Products or Services scheduled for delivery within thirty (30) days of receiving the notice of suspension or termination. Instead of paying any amount to Seller, CPI may, at its option, direct Seller to delay delivery for an additional ninety (90) days. Seller shall pay CPI directly or CPI may deduct from or set-off against any part of the price still due under this or any other outstanding Purchase Order for additional costs and expenses of CPI to correct or complete any unsatisfactory performance, or CPI may procure substitute Products or Services from another Supplier. Seller shall have the right to appeal under the Disputes section any determination under this section unless Seller fails to submit its termination claim within the time provided. CPI payments under this section are its sole and exclusive liability for suspension or termination for convenience by CPI under this Purchase Order.

C. Transfer Title. If CPI terminates this Purchase Order for default of or breach by Seller, or for CPI's convenience, CPI may require Seller to transfer title and deliver to CPI (a) any completed Products, and (b) partially completed Products and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights that Seller has specifically produced or acquired for the terminated portion of this Purchase Order.

D. Indemnity. Despite any defenses of Seller, CPI may set-off, withhold or recover from Seller sums that may be claimed or withheld by the Government or CPI's customer, and in addition to other indemnities in these CPI Purchase Terms, Seller shall indemnify, defend and hold harmless CPI and any higher tier contractor to which CPI owes a similar obligation from and against any and all actions, claims, costs, damages, expenses and liabilities, including administrative expenses and attorneys' fees or other professional fees and costs, for physical damage to or loss of tangible property, for injury or death of any person, and for any product recall or retrofit, arising from, related to or caused by: (a) acts or omissions of Seller, its employees, agents, or subcontractors or suppliers at any tier, including but not limited to any representations, certifications, or obligations under this Purchase Order or applicable laws, regulations, or orders of government agencies, (b) Seller's failure to discharge or release any claim of lien or other encumbrances arising out of services, labor, equipment or materials furnished by Seller, its contractors or vendors, or (c) in addition to Seller's warranty obligations, any defect in design, workmanship or materials carried out or employed by Seller or its employees, agents or subcontractors or suppliers at any tier under this Purchase Order.

10. DISPUTES, APPLICABLE LAW, ARBITRATION:

A. Disputes. In the event of a claim or controversy between the parties under this Purchase Order, including, without limitation, all transactions it contemplates, its validity, interpretation, construction, performance and enforcement, or its negotiation, breach, termination or invalidity, or the Products, Services, software or documentation provided or to be provided

("Dispute"), the parties shall first attempt to resolve the Dispute through negotiations by each party's representatives authorized to settle Disputes. Any claim or controversy relating in any way to this contract or its performance which is not settled by agreement within twenty (20) days following the earlier of the date of the claim or commencement of negotiations shall be decided by CPI, which shall furnish a written decision to Seller. CPI's decision shall be final and conclusive unless, within 15 days of receipt of such decision, Seller gives CPI written notice that it desires to contest CPI's decision. Such contest shall be considered a "Dispute" which shall, at the election of CPI, be disposed of either by binding arbitration or shall be adjudicated by a court of competent jurisdiction for CPI's place of business on the face of the Purchase Order. Each party consents to the exclusive personal jurisdiction and venue of the courts specified in this section and waives, to the fullest extent permitted by law, any objection it may now have or later have to the jurisdiction of any such courts, and each party waives any claim that any action or proceeding brought in either court has been brought in an inconvenient forum. Exclusive choice of forum does not prohibit enforcement of any judgment obtained from that forum in any other appropriate forum. If the dispute is based upon alleged fault of the Government or a decision of the Government's contracting officer, by appeal to the Government under the Disputes article of the applicable prime contract with the Government. In order to resolve any issues or related matters in one action, CPI may require any dispute to be resolved in a court of competent jurisdiction in a place designated by CPI to obtain jurisdiction over and service on third parties.

B. Applicable Law. All Disputes arising out of or relating to this Purchase Order, whether resolved in a court of competent jurisdiction or by arbitration, are governed by the laws of CPI's place of business on the face of the Purchase Order, excluding its choice of law rules, and excluding the Uniform Computer Information Transactions Act or similar federal or state laws or regulations. If this is a Government subcontract, it shall be construed under and governed by applicable statutes and regulations of federal government contracts as applied by federal courts and boards of contract appeals. The United Nations Convention for the International Sale of Goods (CISG) is excluded and will not apply unless expressly agreed.

C. Arbitration. If CPI elects to resolve a dispute by arbitration, such dispute shall be settled only by binding arbitration pursuant to the Commercial Arbitration Rules ("Rules") of the American Arbitration Association ("AAA") as the appointing authority subject to the following:

1. The arbitration shall be conducted and comply with the procedural law of the Federal Arbitration Act, to the extent not inconsistent with the Rules or this section. The arbitration shall take place at the location of CPI's place of business on the face of the Purchase Order and may be conducted in the English language before a single arbitrator appointed by the AAA. If the parties agree to three arbitrators, at least one arbitrator must be a member of the American Board of Trial Advocates or the American College of Trial Lawyers. Subject to legal privileges, each party shall be entitled to discovery in accordance with the Federal Rules of Civil Procedure.
2. The arbitrator(s) shall have no power to award attorney's fees or punitive or exemplary damages or other damages not measured by the prevailing party's actual damages. The arbitrator(s) shall issue a decision with written findings and the bases for decision and such decision shall be final, binding and enforceable at any court of competent jurisdiction. The parties shall share equally fees and expenses of the AAA and the arbitrator(s) but not its own attorneys' fees.
3. Either party may seek in any court of competent jurisdiction any interim or provisional relief that is necessary to protect the rights or property of that party, including injunctive or other relief to prevent any unauthorized copying, disclosure, use, retention or distribution of its intellectual property. Interim or provisional relief shall remain in effect until the arbitration award is rendered or the controversy is resolved. The party

seeking this relief does not waive any other right or remedy hereunder.

11. TRADE SECRETS AND CONFIDENTIAL INFORMATION

A. Trade Secrets. “Protectable Technical Data” means: (a) all data required by the Government, regardless of the Government’s rights therein, that would otherwise be protectable as proprietary or under the law of trade secrets; and (b) all disclosures of CPI’s and Seller’s scientific or technical information, all specifications, schematics, drawings, designs, processes, procedures, formulas, data-processing techniques, improvements, components, computer software, mask works, compositions of material, performance data, or other technical information and processes acquired through access to CPI facilities, records and studies or through observations of activities, or in connection with the negotiation, performance or enforcement of this Purchase Order, and other information that is valuable and secret (not generally known to competitors and customers), which are protectable as proprietary or under the law of trade secrets, whether or not recorded (regardless of the form or method of the recording), relating to supplies procured by CPI or an agency of the Government. Recorded data means that data which is contained in drawings, writings, films, sound recordings, magnetic or semiconductor memory-storage apparatus, or similar media. Notwithstanding any other provisions of this Purchase Order or the rights of the Government, neither party will disclose or use Protectable Technical Data provided by the other, or otherwise acquired through access to facilities, records, and studies or through observations of activities of the other, except such use as is necessary to the fulfillment of obligations under CPI’s contract with its customer or this Purchase Order, unless the recipient can show that such Protectable Technical Data was already in the possession of recipient or was subsequently received from another party under no obligation to maintain such Protectable Technical Data in confidence. If recorded data which would otherwise be Protectable Technical Data is furnished to the Government under this Purchase Order with unlimited rights, either party may use such data if the Government furnishes it to others with unlimited rights or if it has otherwise lost its protection. CPI shall not be obligated to protect recorded Protectable Technical Data provided by Seller unless there is notification in writing or by suitable legend that such data is proprietary or is submitted for limited use only. No publicity releases or other public disclosure shall be made regarding this contract without CPI’s express written permission.

B. Confidential Information. “CPI Confidential Information” means all information that is proprietary and material to CPI or its customers and not generally known by the public, including but not limited to (i) Protectable Technical Data of CPI as defined above, (ii) price, cost and sales data, (iii) the identities and locations of vendors and consultants furnishing materials and services to CPI or its customers and the terms of these arrangements, (iv) CPI customer lists; (v) past, present and future financial information that has not been released to the public, commercial, marketing and customer information, financial forecasts and projections plans, strategies, and advertising campaigns, or (vi) information and technology embodied in computer programs (regardless of whether in source or object code form), system and user documentation, program designs not otherwise considered Trade Secrets, and Intellectual Property related to any of the foregoing, all of which is the sole and exclusive property of CPI.

1. Seller shall protect and keep confidential all CPI Confidential Information and shall observe the terms and conditions of any and all Nondisclosure Agreements (NDA) in effect now or in the future by Seller with or for the benefit of CPI. In addition, except for use necessary to the fulfillment of obligations under CPI’s contract with its customer or this contract, or unless Seller can show that specific information was already in the possession of Seller or was subsequently received from another party without any obligation to maintain it in confidence, Seller *shall not* without the express written permission of CPI in each instance:
 - disclose CPI Confidential Information to third parties;
 - use, nor assist any third party to use, CPI Confidential Information, directly or indirectly, for any purpose other than supplying Products to CPI, including, without limitation, develop, design, manufacture, engineer, reverse

engineer, reconstruct or decompile, refurbish, sell or offer for sale Products or other products or services; or

- reproduce or distribute CPI Confidential Information except to Seller’s employees who have a need to know and use it to fulfill Seller’s obligations under CPI’s contract with its customer or this contract.
2. Seller shall protect CPI Confidential Information with the same degree of care it uses to protect its own confidential information but not less than due care, shall return to CPI or destroy all copies of CPI Confidential Information upon request of CPI, shall segregate CPI Confidential Information when not in use and shall not remove, alter, or obscure any copyright, trademark, trade secret, or other proprietary or confidentiality notices or legends from any CPI Confidential Information. Seller shall timely notify CPI of any third party attempts to violate CPI rights as protected by any NDA or these provisions. CPI may in a proper case assert that it would suffer immediate and irreparable harm for which monetary damages would be an inadequate remedy if Seller were to breach or threaten to breach its obligations under any NDA or these provisions, so that CPI may apply to a court having proper jurisdiction for equitable relief, including injunctive relief.
 3. Seller has not disclosed and shall not disclose to CPI any trade secret, proprietary or confidential information or other intellectual property of Seller or any third party that is subject to restrictive rights of any kind unless it is the subject of a separate written NDA made by the parties before its receipt by or disclosure to CPI. Before disclosure and agreement to protect any Seller information, Seller must specifically identify the nature of the information, documents or materials to be disclosed, the purposes for which it is to be disclosed, and include notification in writing or suitable legend that it is proprietary or confidential or is submitted for limited use. Seller may not make publicity releases or other public disclosures about this Purchase Order without the express written permission of CPI. Seller agrees not to assert any claim against CPI with respect to any information that Seller has disclosed or may disclose to CPI.

12. INTELLECTUAL PROPERTY RIGHTS

A. Intellectual Property. “Intellectual Property” means technology, including but not limited to technical information and Inventions (where “Inventions” means discoveries, improvements, developments, ideas and designs, whether or not patentable), by Seller, or any of its subcontractors or suppliers at any tier, conceived or first reduced to practice during or in the performance of work performed in contemplation of an order from CPI by Seller, or any of its subcontractors or sub-tier suppliers, or which are related to Products or Services purchased under a Purchase Order or in contemplation of a Purchase Order, or which are derived from the use of or based on CPI Property or other information supplied by CPI.

B. Intellectual Property Rights. “Intellectual Property Rights” means all rights in and to or arising from Intellectual Property, including but not limited to patents, copyrights, work made for hire, Trade Secrets, Confidential Information, and all business or contract rights or goodwill in, related to or used to develop any Intellectual Property, and all other intellectual and industrial proprietary rights in any jurisdiction, any “Innovations” which means all inventions, discoveries, works of authorship, know-how and technical information that are improvements, enhancements, modifications or discoveries by Seller or CPI with respect to Intellectual Property, and to the extent allowed by law, all rights referred to as Moral Rights to Intellectual Property.

C. CPI Ownership of Intellectual Property Rights. As part of the consideration for the Purchase Order, CPI owns free from any restriction (i) all rights, title and interest throughout the world in and to Intellectual Property Rights from the date of their creation, and (ii) all documents, including copyrights, which incorporate, relate to or concern any Intellectual Property Rights.

D. Assignment to CPI. To the extent any Intellectual Property Rights are not owned by CPI under applicable law, and without further cost to CPI, Seller assigns and transfers to CPI all right, title and interest in Intellectual Property Rights of Seller or on behalf of any person employed by or working for or with Seller or any of its subcontractors or sub-tier suppliers. Seller shall cause the employee, consultant, developer or other person who contributes to or owns any Intellectual Property Rights to promptly disclose in writing and assign ownership to CPI, either solely or jointly with others, all Intellectual Property Rights not already owned by CPI, and shall require the execution and delivery of all instruments of transfer and other documents necessary to file, perfect or protect title to Intellectual Property Rights in CPI. Seller shall include provisions in its contracts to require that each person and their employers at every tier cooperate fully and comply with all actions, including the execution of documents and oaths, which in CPI's opinion may be necessary or desirable to obtain, sustain or reissue patents or copyrights on any Intellectual Property, assure the transfer or assignment of Intellectual Property Rights to CPI, maintain CPI's title to Intellectual Property Rights, treat as confidential all information received or developed by them in connection with this contract, not publish or otherwise disclose this information to others at any time without the express written consent of CPI; and obtain and deliver promptly to CPI full written descriptions of all Intellectual Property Rights. To the extent any person has any Moral Rights, Seller must obtain all consents or waivers from individual creators necessary to insure that CPI may do or authorize any acts or omissions without infringing any Moral Rights. Seller ratifies and consents to any action that CPI may take with respect to Moral Rights, and will confirm any ratification, consents and agreements with respect to Moral Rights as requested by CPI.

E. License of Intellectual Property Rights. To the extent Seller or any of its subcontractors or sub-tier suppliers retain any ownership or rights in or to any Intellectual Property Rights to be transferred to CPI, Seller grants, and shall require any of its subcontractors or sub-tier suppliers to grant, to CPI and CPI's subcontractors and customers, an irrevocable, non-exclusive, fully paid-up worldwide license (i) to use any patents, copyrights, industrial designs or other Intellectual Property Rights owned or controlled by Seller or its subcontractors or sub-tier suppliers at any time in connection with Products or Services, and (ii) to reproduce, distribute copies of, perform publicly, display publicly, or make derivative works from any software included in or provided with Products or Services in connection with this Purchase Order. If Seller is unable to secure any signature to any document to which CPI is entitled under this section, Seller irrevocably designates and appoints CPI and its duly authorized officers and agents as its agents and attorneys-in-fact with full power of substitution to act for and on behalf of Seller to execute and file any documents described in this section. The obligations of this Section survive termination or completion of the Purchase Order.

F. Open Source Software. Seller shall not use or include in any deliverables to CPI, without the prior written consent of CPI, any open source, publicly available, or free software, i.e., Free Open Source Software ("FOSS") or Free/Libre Open Source Software ("FLOSS"), furnished under a license that permits modification and redistribution of such software but which may be required to be sold, loaned, distributed, disclosed or otherwise made available to any third party at no charge, or which contains a "copyleft" provision which requires any software incorporating or based on the FOSS or FLOSS code to be made available or released or redistributed to others in object or source code form under the same license provisions as the original FOSS or FLOSS code used (i.e., open source).

13. INTELLECTUAL PROPERTY INDEMNITY:

A. Seller shall, at its expense, indemnify, defend and hold CPI and subsequent owners harmless from and against any and all claims, demands, losses, suits, actions, or proceedings (each a "Claim") and liabilities for damages (including but not limited to direct damages and damages for infringement), judgments, settlements or awards against CPI, and shall pay all associated costs and expenses (including but not limited to attorneys' fees, settlement costs, expert fees and other professional fees, and costs related to any appeal, such as a bond), as they are incurred ("Costs and Expenses"), resulting from or in any way related to any actual or alleged direct or contributory infringement of or inducement to infringe, intellectual property rights of a third party (including but not limited to patents, copyright, trade secret, trademark, mask work or other proprietary rights) arising from the manufacture, use, sale or disposal of

Products or software furnished under this Purchase Order, including infringement arising out of compliance with specifications furnished by CPI, delivery of any FOSS or FLOSS as described above, or for actual or alleged misuse or misappropriation of a trade secret resulting directly or indirectly from Seller's actions. Seller waives any claim against CPI under the Uniform Commercial Code, United Nations Convention on Contracts for the International Sales of Goods or otherwise, including any hold harmless or similar claim, in any way related to a Claim arising out of compliance with specifications furnished by CPI.

B. Seller shall give CPI prompt written notice of any Claim. Seller shall conduct its defense at all times in a manner that is not adverse to the interests of CPI. CPI may, at its option and expense, monitor the lawsuit or proceeding, participate in its defense, and be represented by its own counsel. In no event may Seller enter into any settlement that would involve payment by CPI. If CPI determines in its sole discretion that Seller does not or is not able to protect the interests of CPI with respect to any Claim, CPI may take control of the lawsuit or proceeding and charge Seller its Costs and Expenses. If the Products including any software are held infringing or if either Seller or CPI reasonably believes the Products or software may infringe third party rights, and their use is or may be enjoined as a result of any lawsuit or proceeding, Seller shall, at its own expense (a) procure the right to continue using the Products or software; (b) replace the infringing Products or software with a non-infringing product; (c) change the infringing Products or software to be non-infringing; or (d) accept return of the infringing Products or software, refund the Price paid by CPI for the Products or software and pay CPI for the costs of cover as provided by Section 2-712 of the Uniform Commercial Code.

14. WORK ON BUYER PREMISES

Seller shall perform work in accordance with CPI's safety rules and safety laws and regulations and shall indemnify, defend and hold CPI harmless from and against any losses or damages to property or injuries to persons, including death or latent illness such as asbestos exposure, caused by, or in connection with, work contracted for by this contract on or at CPI's premises (including claims of Seller's employees and third party claims) despite any fault or neglect of CPI. Before commencing work, Seller shall furnish to CPI satisfactory evidence of public liability, property damage and Workers' Compensation Insurance if requested by CPI.

15. ASSIGNMENT AND SUBCONTRACTING

Any assignment of Seller's Contract rights or delegation of Seller's duties shall be void, unless prior written consent is given by CPI. Nevertheless, Seller may assign rights to be paid amounts due, or to become due, to a financing institution if CPI 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 CPI against Seller. CPI shall have the right to make settlements and/or adjustments in price without notice to any assignee financing institution.

16. LIMITATIONS AND EXCLUSIONS OF LIABILITY

SELLER WAIVES AND SHALL NOT BE ENTITLED TO DAMAGES IN EXCESS OF THE PRICE ALLOCABLE TO THE UNIT OF PRODUCT, PARTS OR SOFTWARE FURNISHED OR TO BE FURNISHED, OR THE SERVICE RENDERED OR TO BE RENDERED, RESULTING IN THE LOSS OR DAMAGE CLAIMED. SELLER WAIVES AND IN NO EVENT SHALL CPI BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, SPECIAL OR EXEMPLARY LOSS, DAMAGES OR PENALTIES OF ANY KIND, INCLUDING BUT NOT LIMITED TO LOST BUSINESS REVENUE, LOST PROFITS, LOST PRODUCTION, DOWNTIME, LOST SAVINGS, LOSS OF GOODWILL, OR ANY OTHER FORM OF DAMAGES, HOWEVER CAUSED, WHETHER BASED ON CONTRACT, TORT OR ANY OTHER LEGAL THEORY, FORESEEABLE OR NOT, EVEN IF CPI IS ADVISED OF THE POSSIBILITY OF THESE TYPES OF DAMAGES.

17. NO WAIVER

The rights and remedies of CPI provided in this Purchase Order and by law are cumulative. No term or provision of this Purchase Order may be waived by either party, and no breach excused by either party, unless the waiver or consent is in writing signed by an authorized representative of the party granting the



waiver or consent. Waiver by either party of any performance is not considered waiver of future compliance with the waived provision or any other provision of this Purchase Order.

18. SEVERABILITY

Whenever possible, each provision of these CPI Purchase Terms is to be interpreted in a manner so as to be effective and valid under applicable law, but if and to the extent a court or arbitrator holds any part of this Purchase Order to be illegal, unenforceable, or invalid in whole or in part for any reason, the invalid term is to be considered severable and not to affect the validity or enforceability of the remainder of this Purchase Order. The parties shall interpret the remaining provisions, or portions of them, to best accomplish the objectives of the parties within the limits of applicable law.

19. NOTICES

Each party giving notices required or permitted pursuant to this Purchase Order shall give notice in writing and deliver notice (a) in person, (b) by courier, (c) by first class mail, postage prepaid, or its international equivalent, (d) by commercial delivery such as Federal Express or equivalent, or (e) by facsimile or email with confirmation of delivery and an extra copy mailed. Seller shall send all notices to CPI at CPI's place of business on the face of the Purchase Order, and CPI shall send notices to Seller at the address set forth in the Purchase Order. Each party may send notices to another address communicated from time to time by notice in writing to the other. Notice is effective if the party giving notice has complied with this Section and the notice has been received.

20. COMPLIANCE WITH LAWS

Seller shall comply with applicable federal, state, and local law and regulations, and orders of Seller's country and agencies of the United States or Canada Government. Seller represents that no law, rule, or ordinance of the United States, Canadian Governments, any State or Province, or any other applicable governmental agency of any country, has been or will be violated in manufacturing or supplying the Products or Services. Seller shall comply with all such laws, regulations and orders, including without limitation the U.S. Foreign Corrupt Practices Act ("FPCA"), the International Traffic in Arms Regulations ("ITAR") and its registration requirements, the Export Administration Regulations ("EAR") of the U.S. Arms Export Control Act, and non-U.S. export laws and regulations. The FPCA, similar statutes in other countries, United Nations Convention against Corruption and other treaties broadly prohibit the offering, giving or promising, directly or indirectly, money or anything of value to any official or government or political party official or instrumentality to assist in obtaining or retaining business or securing improper advantage. The ITAR and EAR govern the release or export or re-export, directly or indirectly, of any hardware, software, technology, information or technical data to any foreign governments, corporations, businesses or associations, or any individual or country for which the Government requires an export license or other government approval, without first obtaining such license or approval. CPI is a defense contractor under certain security obligations with regard to access to its facilities and technology including Intellectual Property. Accordingly, disclosure of certain information under this Purchase Order may be deemed an export, and Seller will not assign any personnel to perform services at CPI facilities who are not licensed to receive the export at issue. Any breach of these requirements is material or fundamental to the contract of supply, and Seller shall indemnify, defend and hold CPI harmless from and against all claims, demands, damages, costs, fines, penalties, attorneys' fees, and other expenses arising from failure to comply.

21. GRATUITIES

Seller warrants that it has not offered or given and will not offer or give any gratuity to induce any person or entity to enter into, execute or perform the Purchase Order or any other agreement. Upon CPI's written request, an officer of Seller shall certify in writing that Seller has complied with and continues to comply with this section. Any breach of this warranty shall be a material breach of this and any other agreement between CPI and Seller.

22. PUBLIC DISCLOSURE

Seller shall not disclose to any third party, including any governmental authority, or publicly release the terms of the Purchase Order without the prior written approval of CPI; provided, however, that Seller may make any public disclosure it believes in good faith that it is required to make by applicable law, rule or regulation and in that event shall notify CPI and exert reasonable efforts to protect from public disclosure the confidentiality of the financial terms of the contract. Without the prior written approval of CPI, Seller shall not issue any press release, advertising, publicity or public statement or engage in any other form of public disclosure that implies any endorsement by CPI of Seller or Seller's products or services.

23. INSURANCE

Seller will obtain and maintain comprehensive general liability insurance or a self insurance retention program that covers its liability to third parties in connection with the sale of products, property damage, contractual liability, products liability and completed operations, workers' compensation and employer's liability for all employees engaged in performing the work. Seller will notify CPI at least thirty (30) days before cancellation or implementation of any material change in the foregoing policies, and upon request, shall furnish to CPI a certificate of insurance as evidence of required coverage.

24. MISCELLANEOUS

A. Amendment. These CPI Purchase Terms and related contract documents may not be amended, varied, modified or rescinded, unless expressly agreed to in writing signed by CPI.

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

C. Precedence. Any inconsistencies in this Purchase Order shall be resolved in accordance with the following descending order: (1) Terms on the face of the Purchase Order and/or Task Order, and related CPI documents, drawings, schedules or special terms and conditions; (2) CPI Purchase Terms; (3) CPI Supplements; (4) Statement of Work and (5) Specifications attached hereto or incorporated by reference. CPI's specifications shall prevail over those of the U. S. Government and both of the foregoing shall prevail over specifications of the Seller.

With respect to any industry standards, requirements, regulations, or specifications, drawings, statements of work or other documents specified or referenced on this Purchase Order (collectively "the documents"), unless otherwise indicated, the revision in place of the documents at the date of this Purchase Order shall be the required revision as applied to this Purchase Order.

D. U.S. Government Contracts/Subcontracts. When Products or Services are for use in connection with a Government prime contract or subcontract, in addition to these General Provisions the provisions of the attached supplements ("CPI Supplements") and the referenced Federal Acquisition Regulation (FAR) or Defense Federal Acquisition Regulation Supplement (DFARS) shall apply and are incorporated by reference, as required by the terms of CPI's prime contract, or higher tier subcontract under which this Purchase Order is a subcontract, or by operation of law or regulation. In the event of a conflict between CPI Supplements, including their FAR or DFARS provisions, and these General Provisions, CPI Supplements shall control.

E. Electronic Contracting. The parties agree that if this Purchase Order is transmitted electronically, neither party shall contest the validity of this Purchase Order, or any acknowledgment thereof, on the basis this Purchase Order or acknowledgment contains an electronic signature.

**COMMUNICATIONS & POWER INDUSTRIES
("CPI")
TERMS AND CONDITIONS OF PURCHASE**

Supplement 1—U.S. Government Contract Provisions from the Federal Acquisition Regulation (FAR)

1. When the materials or products furnished are for use in connection with a U.S. Government prime contractor or subcontract, in addition to CPI's Terms and Conditions of Purchase, General Provisions, the following provisions shall apply. The effective version of each Federal Acquisition Regulation ("FAR") provision shall be the same version as that which appears in Buyer's prime contract or higher tier subcontract under which this Purchase Order is a subcontract, where "Buyer" means "CPI." In the event of a conflict between these FAR provisions and CPI's Terms and Condition of Purchase, General Provisions, the applicable FAR provisions shall control. For the acquisition of commercial items under purchase orders placed in support of and charged to a U.S. Government prime contract or subcontract, only the FAR clauses annotated with "*" shall apply. For the definition of a commercial item, see FAR 2.101.

2. The following clauses set forth in the FAR in effect as of the date of the prime or higher-tier subcontract are incorporated herein by reference. In all clauses listed herein, the term "Government", "Contracting Officer" and "Contractor" shall be revised to suitably identify the contracting parties herein and effect the proper intent of the clause or provision except where further clarified or modified below. However, the words "Government" and "Contracting Officer" do not change: (1) when a right, act, authorization or obligation can be granted or performed only by the Government or the prime contract Contracting Officer or duly authorized representative, such as in FARs 52.227-1 and 52.227-2, and (2) when title to property is to be transferred directly to the Government. "Subcontractor" shall mean "Seller's Subcontractor" under this Purchase Order. The listed FAR clauses are incorporated herein as if set forth in full text unless made inapplicable by its corresponding note, if any. If any of the following FAR clauses do not apply to this Purchase Order, such clauses are considered to be self-deleting.

A. APPLICABLE TO ALL ORDERS

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| 1. | 52.203-3 | Gratuities |
| 2. | 52.203-5 | Covenant Against Contingent Fees |
| 3. | 52.203-10 | Price or Fee Adjustment for Illegal or Improper Activity |
| 4. | 52.204-2 | Security |
| 5. | 52.204-9 | Personal Identity Verification of Contractor Personnel |
| 6. | 52.211-5 | Material Requirements |
| 7. | 52.211-15 | Defense Priority and Allocation Requirements |
| 8. | 52.219-8* | Utilization of Small Business Concerns |
| 9. | 52.222-1 | Notice to Government of Labor Dispute |
| 10. | 52.222-41* | Service Contract Act of 1965, as amended |
| 11. | 52.222-50 & Alt* 1 | Combating Trafficking in Persons and Alternate 1 (Include Alt 1 if it is included in prime contract.) |
| 12. | 52.222-51" | Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements |
| 13. | 52.222-53* | Exemption from Application of the Service Contract Act to Contracts for Certain Services – Requirements |
| 14. | 52.222-54 | Employment Eligibility Verification (This clause is applicable to Purchase Orders for construction or commercial services (except for commercial services that are part of a purchase of COTS item, but for minor modifications, performed by the COTS provider, and that are normally provided for that COTS item); (ii) has a value more than \$3,000; and (iii) includes work performed in the United States.) |
| 15. | 52.223-3 | Hazardous Material Identification and Material Safety Data—"Government" means "Government and Buyer". |
| 16. | 52.223-7 | Notice of Radioactive Materials (Applicable in contracts supplies which are, or which contain radioactive materials.) |
| 17. | 52.223-11 | Ozone-Depleting Substances |
| 18. | 52.224-2 | Privacy Act |
| 19. | 52.225-1 | Buy American Act—Supplies |
| 20. | 52.225-3 | Buy American Act—Free Trade Agreement—Israeli Trade Act |
| 21. | 52.225-5 | Trade Agreements |
| 22. | 52.225-8 | Duty Free Entry |
| 23. | 52.225-13 | Restrictions on Certain Foreign Purchases |
| 24. | 52.227-1 | Authorization and Consent and Alternate 1 (Include Alt 1 if it is included in the prime contract.) |
| 25. | 52.227-9 | Refund of Royalties |
| 26. | 52.227-10 | Filing of Patent Applications—Classified Subject Matter |
| 27. | 52.227-11 | Patent Rights—Ownership by the Contractor |
| 28. | 52.227-14 | Rights in Data—General |
| 29. | 52.228-5 | Insurance—Work on a Government Installation |
| 30. | 52.233-3 | Protest After Award |
| 31. | 52.234-1 | Industrial Resources Developed Under Defense Production Act Title III |
| 32. | 52.236-13 | Accident Prevention |
| 33. | 52.237-2 | Protection of Government Buildings, Equipment and Vegetation |
| 34. | 52.242-13 | Bankruptcy |
| 35. | 52.243-6 | Change Order Accounting |
| 36. | 52.244-2 | Subcontracts |
| 37. | 52.244-6 | Subcontracts for Commercial Items |
| 38. | 52.245-1 | Government Property |

- 39. 52.245-1 Alt 1 Government Property (Alt 1—Applicable to Purchase Orders other than cost reimbursement, time and material, and labor hour Purchase Orders and FP Purchase Orders awarded on the basis of submission of cost or pricing data.)
- 40. 52.246-2 Inspection of Supplies—Fixed Price
- 41. 52.247-63 Preference for U.S.-Flag Air Carriers
- 42. 52.247-64* Preference for Privately-Owned U.S.-Flag Commercial Carriers
- 43. 52.249-2 Termination for Convenience of the Government (Fixed Price)—“Government” shall mean “Buyer.”. In paragraph (d), the term “45 days” is changed to “90 days.” The term “one year” in paragraph (e) is changed to “six months.” The term “90 days” in paragraph (l) is changed to “forty-five days.”

B. ORDERS OVER \$10,000 SHALL ALSO INCLUDE THE FOLLOWING:

- 1. 52.222-20 Walsh-Healy Public Contracts Act
- 2. 52.222-21 Prohibition of Segregated Facilities
- 3. 52.222-26* Equal Opportunity
- 4. 52.222-36* Affirmative Action for Workers with Disabilities

C. ORDERS OVER \$30,000 SHALL ALSO INCLUDE THE FOLLOWING:

- 1. 52.209-6 Protecting the Government’s Interest When Subcontracting with Contractors Debarred, Suspended, or proposed for Debarment (Applies if this Purchase Order exceeds \$30,000. Copies of notices provided by Seller are to be provided to both Contracting Officer and Buyer.)

D. ORDERS \$100,000 SHALL ALSO INCLUDE THE FOLLOWING:

- 1. 52.203-6 Restrictions on Subcontractor Sales to the Government
- 2. 52.203-7 Anti-Kickback Procedures (less paragraph (c)(1))
- 3. 52.203-12 Limitation on Payments to Influence Certain Federal Transactions
- 4. 52.215-2 Audit and Records Negotiation
- 5. 52.215-14 Integrity of Unit Prices (less paragraph b)
- 6. 52.222-4 Contact Work Hours and Safety Standards Act—Overtime Compensation
- 7. 52.222-35* Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and other eligible Veterans
- 8. 52.222-37 Employment Reports on Veterans
- 9. 52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement
- 10. 52.248-1 Value Engineering

E. ORDERS OVER \$650,000 SHALL ALSO INCLUDE THE FOLLOWING:

- 1. 52.219-9 Small Business Subcontracting Plan (Note to Seller: This clause requires adoption of small business subcontracting plan and reporting.)

F. ORDERS OVER \$5,000,000 SHALL ALSO INCLUDE THE FOLLOWING:

- 1. 52.203-14 Display of Hotline Poster(s) (Applicable to Orders over \$5,000,000.)
- 2. 52.203-13 Contractor Code of Business Ethics and Conduct (Applicable to Orders over \$5,000,000 and that have a period of performance of more than 120 Days. In paragraph (b)(3)(i), the meaning of “agency office of the Inspector General” and “Contracting Officer” does not change, in paragraph (b)(3)(ii), the meaning of “Government” does not change and in paragraphs (b)(3)(iii) and (c)(2)(ii)(F), the meaning of “OIG of the ordering agency”, “IG of the agency”, “agency OIG” and “Contracting Officer” do not change.)

G. ORDERS, UNLESS OTHERWISE EXEMPT, SHALL ALSO INCLUDE THE FOLLOWING:

- 1. 52.215-10 Price Reduction for Defective Cost or Pricing Data
- 2. 52.215-11 Price Reduction for Defective Cost or Pricing Data—Modifications
- 3. 52.215-12 Subcontract Cost or Pricing Data
- 4. 52.215-13 Subcontract Cost or Pricing Data—Modifications
- 5. 52.215-15 Pension Adjustments and Asset Reversions
- 6. 52.215-18 Reversion of Adjustment or Plans for Post-retirement Benefits (PRB) Other than Pensions
- 7. 52.215-19 Notification of Ownership Changes
- 8. 52.215-20 Requirements for Cost or Pricing Data or Information Other than Cost or Pricing Data
- 9. 52.215-21 Requirements for Cost or Pricing Data or Information Other than Cost or Pricing Data-Modifications

H. APPLICABLE TO COST REIMBURSEMENT, TIME & MATERIAL OR LABOR HOUR PURCHASE ORDERS

- 1. 52.215-16 Facilities Capital Cost of Money
- 2. 52.216-7 Allowable Cost and Payment (cost reimbursement) Seller agrees to execute assignment documents in order to comply with subsection (h).
- 3. 52.216-8 Fixed Fee (Applicable to cost plus fixed fee order.)
- 4. 52.216-10 Incentive Fee (Applicable to cost plus incentive fee order.)
- 5. 52.216-11 Cost Contract—No Fee (Applicable if this is a cost no fee order.)
- 6. 52.216-12 Cost Sharing Contract—No Fee (Applicable if this is a cost sharing, no fee order.)
- 7. 52.222-2 Payments for Overtime Premiums—insert “0%” in paragraph (a) unless indicated otherwise on the face of this order.
- 8. 52.232-7 Payments under Time and Material and Labor Hour Contracts – “schedule” means “this Order”, “voucher” means “invoices(s)”, “Government” means “Buyer” and “Contracting Officer” means “Buyer’s Purchasing Representative”.

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| 9. | 52.232-20 | Limitation of Cost (If fully funded) |
| 10. | 52.232-22 | Limitation of Funds (If incrementally funded) |
| 11. | 52.242-1 | Notice of Intent to Disallow Costs |
| 12. | 52.242-3 | Penalties for Unallowable Costs |
| 13. | 52.243-2 | Changes – Cost Reimbursement (Applicable such orders) |
| 14. | 52.243-3 | Changes – Time and Material or Labor Hours (Applicable to such orders) |
| 15. | 52.244-2 | Subcontracts (Paragraphs (h) and (i) only apply) |
| 16. | 52.245-5 | Government Property (Cost Reimbursement, Time and Material or Labor Hour Contracts) – “Government” means “Government and Buyer”. Substitute the following for Paragraph (g) in cost reimbursement orders only: “Seller shall return all Government Furnished Property in as good condition as when received, except for reasonable wear and tear for use of property in accordance with the provisions hereof.” |
| 17. | 52.246-3 | Inspection of Supplies (Cost Reimbursement)—“Contracting Officer” means “Buyer Purchasing Representative” and “Government” means “Buyer and Government” (provided that an inspection system accepted by the Government will be deemed accepted by the Buyer) and where “Government” first appears in paragraph (k), it shall mean “Government and/or Buyer”. The provisions in this clause of access, right to inspect, safety protection, and relief from liability apply equally to Buyer and the Government. |
| 18. | 52.246-5 | Inspection of Services (Cost Reimbursement)—“Contracting Officer” means “Buyer Purchasing Representative” and “Government” means “Buyer and Government” (provided that an inspection system accepted by the Government will be deemed accepted by the Buyer). The provisions in this clause of access, right to inspect, safety protection, and relief from liability apply equally to Buyer and the Government. |
| 19. | 52.246-6 | Inspection of Time and Materials and Labor Hour— “Contracting Officer” means “Buyer Purchasing Representative” and “Government” means “Buyer and Government” (provided that an inspection system accepted by the Government will be deemed accepted by the Buyer) and where “Government” first appears in paragraph (k), it shall mean “Government and/or Buyer”. The provisions in this clause of access, right to inspect, safety protection, and relief from liability apply equally to Buyer and the Government. |
| 20. | 52.249-6 | Termination (Cost Reimbursement) “Government” means “Buyer” and “Contracting Officer” means “Buyer’s Purchasing Representative.” Alternative IV is applicable to time and material or labor hour orders only. |
| 21. | 52.249-14 | Excusable Delays |

3. CERTIFICATIONS

The offeror, by signing its offer, hereby certifies compliance with the following the clauses and is, therefore, eligible for award:

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| A. | 52.203-11 | Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (over \$100,000) |
| B. | 52.209-5 | Certification Regarding Responsibility Matters (over \$30,000) |
| C. | 52.222-22 | Previous Contracts and Compliance Reports (over \$10,000) |
| D. | 52.223-13 | Certificate of Toxic Chemical Release Reporting (over \$100,000) |

4. ADDITIONAL CLAUSES

A. COST ACCOUNTING STANDARDS (Applicable unless otherwise exempt)

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| 1. | 52.230-2 | Cost Accounting Standards |
| 2. | 52.230-3 | Disclosure and Consistency of Cost Accounting Practices |
| 3. | 52.230-5 | Cost Accounting Standards-Educational Institution |
| 4. | 52.230-6 | Administration of Cost Accounting Standards |

Seller shall communicate and otherwise deal directly with the Contracting Officer to the extent practicable and permissible as to all matters relating to Cost Accounting Standards. Seller shall provide Buyer with copies of all communications between Seller and the Contracting Officer respecting Cost Accounting Standards. FAR 52.230-2, and Administration of Cost Accounting Standards, FAR 52.230-6, provided Seller shall not be required to disclose to Buyer such communications containing information which is legally privileged and confidential to the Seller. In addition to any other remedies provided by law or under this Purchase Order, Seller agrees to indemnify and hold Buyer harmless to the full extent of any loss, damage, or expense if Buyer is subjected to any liability as the result of a failure of the Seller or its lower-tier subcontractors to comply with the requirements of FARs 52.230-2, 52.230-3, 52.230-5 or 52.230-6. Paragraph (b) is deleted in each of the foregoing clauses, except in the FAR 52.230-6.

B. TRUTH IN NEGOTIATIONS (Cost or Pricing Data)

Unless exempt, Seller shall submit a FAR Part 15 compliant cost proposal inclusive of appropriate updates throughout the negotiation process. At the conclusion of negotiations, and regardless of any prior certification, Seller must certify as to the accuracy, currency and completeness of its information in accordance with the FAR required Certificate of Current Cost or Pricing Data.

1. Indemnification

If any price (including profit or fee) negotiated in connection with the prime contract between the Government and the Buyer or any cost that is reimbursable under said contract is reduced because cost or pricing data furnished by the Seller in connection with any proposal submitted by the Buyer relating to said contract or in connection with this Purchase Order was not accurate, complete, or current, the Seller shall indemnify the Buyer in the amount of the reduction.

The phrase “cost or pricing data” as used herein shall be deemed to include any such data which related to a lower-tier prospective or actual subcontract, at any level, which was submitted by the Seller or which it procured by submission of, in connection with the aforesaid proposal or this Purchase Order in support of its cost estimate.

If any reduction in the contract price under this clause reduces the price of items for which payment was made prior to the date of the modification reflecting the price reduction, the Seller shall be liable and shall pay the Buyer at the time such overpayment is repaid:

- a. Simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to the Seller to the date the Buyer is repaid by the Seller at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C. 6621(a)(2); and
- b. For Department of Defense contracts only, a penalty equal to the amount of the overpayment, if the Seller knowingly submitted cost or pricing data which were incomplete, inaccurate, or non-current.

2. Cost or Pricing Data for Changes

Prior to the pricing of any change or other modification to this Purchase Order which involves increases and/or decreases in costs plus applicable profit expected to exceed the threshold for submission of cost or pricing data, subcontractors shall submit cost or pricing data and shall certify that the data, as defined in FAR 15.406-2, submitted either actually or by specific identification in writing are accurate, complete, and current as of the date of completion of negotiations.

When required to obtain cost or pricing data from its subcontractors, pursuant to the provisions of this Purchase Order, Seller shall obtain such data.

C. DISPUTES

In the event of a Dispute between the U.S. Government and CPI, as the Prime Contractor, that may affect the liability of Seller, upon request by Seller, CPI may elect to proceed under the Government Disputes article, to either: (a) proceed to appeal on behalf of the Seller under the applicable prime contract, in which case Seller shall participate to protect its interests and each party shall pay its own costs without prejudice to any right each may otherwise have to recovery or allowance, or (b) permit Seller to appeal, in the name of the prime contractor, under the Disputes article of the prime contract with the Government, in which case CPI shall provide reasonable assistance to Seller, and all costs of Seller's appeal and such assistance shall be paid by Seller without prejudice to any right Seller may otherwise have to recovery or allowance. Between CPI and Seller, disposition of any dispute under such appeal procedure (or a final judgment of a court of competent jurisdiction on any appeal) shall be final and conclusive. Pending final disposition of any Dispute, Seller shall proceed diligently with the performance of this Purchase Order in accordance with these CPI Purchase Terms.

**COMMUNICATIONS & POWER INDUSTRIES
("CPI")
TERMS AND CONDITIONS OF PURCHASE**

Supplement 2 – U.S. Government Contract Provisions from the Department of Defense FAR Supplement (DFARS)

1. When the materials or products furnished are for use in connection with a U.S. Government prime contractor or subcontract, in addition to CPI's Terms and Conditions of Purchase, General Provisions, and Supplement 1—U.S. Government Contract Provisions from the Federal Acquisition Regulation (FAR), the following provisions shall apply. The effective version of each Department of Defense FAR Supplement ("DFARS") provision shall be the same version as that which appears in Buyer's prime contract or higher tier subcontract under which this Purchase Order is a subcontract, where "Buyer" means "CPI". In the event of a conflict between these DFARS provisions, or Supplement 1—FAR Provisions, or CPI's Terms and Conditions of Purchase, General Provisions, the DFARS provisions shall control. For the acquisition of commercial items under purchase orders placed in support of and charged to a DOD prime contract or subcontract, only the DFARS clauses annotated with "*" shall apply. For the definition of a commercial item, see FAR 2.101.
2. The following clauses set forth in the DFARS in effect as of the date of the prime or higher-tier subcontract are incorporated herein by reference. In all clauses listed herein, the term "Government", "Contracting Officer" and "Contractor" shall be revised to suitably identify the contracting parties herein and effect the proper intent of the clause or provision except where further clarified or modified below. However, the words "Government" and "Contracting Officer" do not change: (1) when a right, act, authorization or obligation can be granted or performed only by the Government or the prime contract Contracting Officer or his or her duly authorized representative, and (2) when title to property is to be transferred directly to the Government. "Subcontractor", however, shall mean "Seller's Subcontractor" under this Purchase Order. The listed DFARS clauses are incorporated herein as if set forth in full text unless made inapplicable by its corresponding note, if any. If any of the following FAR clauses do not apply to this Purchase Order, such clauses are considered to be self-deleting.
3. The Seller, by signing its offer, hereby certifies compliance with the following clauses and is, therefore, eligible for award. With respect to any applicable DFARS clauses incorporated into this Purchase Order relating to rights in noncommercial technical data and noncommercial computer software and noncommercial computer software documentation, the Seller grants to Buyer the right to use, disclose, modify, combine or make derivative works of any noncommercial technical data, noncommercial computer software and/or noncommercial computer software documentation delivered under this Purchase Order to the extent necessary, and for such period as is required, for Buyer to complete its performance under the Buyer's U.S. Government programs.

A. APPLICABLE TO ALL ORDERS

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| 1. | 252.204-7000 | Disclosure of Information |
| 2. | 252.204-7008 | Requirements for Contracts Involving Export-Import Control Items |
| 3. | 252.204-7009 | Requirements Regarding Potential Access to Export-Controlled Items |
| 4. | 252.208-7000 | Intent to Furnish Precious Metals as Government Furnished Material |
| 5. | 252.209-7004 | Subcontracts with Firms That Are Owned or Controlled by the Government of a Terrorist Country |
| 6. | 252.211-7003 | Item Identification and Valuation (Seller's obligation under this clause are limited to cooperating with Buyer's efforts to comply with this clause, including granting Buyer access to Seller's deliverables at its facilities and to appropriate property records.) |
| 7. | 252.211-7007 | Item Unique Identification of Government Property (Seller's obligations under this clause are limited to cooperating with Buyer's efforts to comply with this clause, including granting Buyer access to Seller's deliverables at its facilities and to appropriate property records.) |
| 8. | 252.215-7000 | Pricing Adjustments (Applies if FARs 52.215-12 or 52.215-13 apply to this Order) |
| 9. | 252.222-7000 | Restrictions on Employment of Personnel |
| 10. | 252.223-7001 | Hazard Warning Labels |
| 11. | 252.223-7002 | Safety Precautions for Ammunition and Explosives ("Government" means "Government and Buyer") |
| 12. | 252.223-7003 | Change in Place of Performance – Ammunition and Explosives |
| 13. | 252.223-7006 | Prohibition on Storage and Disposal of Toxic and Hazardous Materials |
| 14. | 252.223-7007 | Safeguarding Sensitive Conventional Arms, Ammunitions and Explosives |
| 15. | 252.225-7001 | Buy American Act and Balance of Payments Program |
| 16. | 252.225-7002 | Qualifying Country Sources as Subcontractors |
| 17. | 252.225-7007 | Prohibition on Acquisition of United States Munitions list Items from Communist Chinese Military Companies (applicable to acquisition of munitions list items only) |
| 19. | 252.225-7009 | Restriction on Acquisition of Certain Articles Containing Specialty Metals |
| 20. | 252.225-7012 | Preference for Certain Domestic Commodities |
| 21. | 252.225-7013 | Duty Free Entry |
| 22. | 252.225-7015 | Restriction on Acquisition of Hand of Measuring Tools |
| 23. | 252.225-7016 | Restriction of Acquisition of Ball and Roller Bearings |
| 24. | 252.225-7019 | Restriction of Acquisition of Foreign Anchor and Mooring Chain |
| 25. | 252.225-7021 | Trade Agreements (Applies if the Work contract contains other than U.S.-made, qualifying designated country end products. Applies in lieu of FAR 52.225-5.) |
| 26. | 252.225-7025 | Restriction on the Acquisition of Forgings |
| 27. | 252.225-7027 | Restriction of Contingent Fees fir Foreign Military Sales |
| 28. | 252.225-7028 | Exclusionary Policies and Practices of Foreign Governments |

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| 29. | 252.225-7030 | Restriction on Acquisition of Carbon Alloy, and Armor Steel Plate |
| 30. | 252.225-7031 | Secondary Arab Boycott |
| 31. | 252.225-7038 | Restriction on Acquisition of Air Circuit Breakers |
| 32. | 252.225-7040 | Contractor Personnel Supporting a Force Deployed Outside the United States |
| | 252.225-7043 | Anti-Terrorism/Force Protection Policy for Defense Contractors Outside the United States (Applies where Seller will be performing or traveling outside the U.S. under this Order. For paragraph (c), see applicable information cited in DFARS 225.7401.) |
| 33. | 252.227-7013 | Rights in Technical Data – Noncommercial Items |
| 34. | 252.227-7014 | Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation |
| 35. | 252.227-7015 | Technical Data – Commercial Items |
| 36. | 252.227-7016 | Rights in Bid or Proposal Information |
| 37. | 252.227-7017 | Identification and Assertion of Use, Release, or Disclosure Restrictions |
| 38. | 252.227-7019 | Validation of Asserted Restrictions – Computer Software |
| 39. | 252.227-7025 | Limitation on the Use or Disclosure of Government Furnished Information Marked with Restrictive Legends |
| 40. | 252.227-7026 | Deferred Delivery of Technical Data or Computer |
| 41. | 252.227-7027 | Deferred Ordering of Technical Data or Computer Software |
| 42. | 252.227-7028 | Technical Data or Computer Software Previously Delivered to the Government |
| 43. | 252.227-7030 | Technical Data – Withholding of Payment |
| 44. | 252.227-7037 | Validation of Restrictive Markings on Technical Data |
| 45. | 252.227-7038 | Patent Rights – Ownership by the Contractor (Large Business) |
| 46. | 252.227-7039 | Patents – Reporting of Subject Inventions |
| 47. | 252.228-7005 | Accident Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles |
| 48. | 252.231-7000 | Supplemental Cost Principles |
| 49. | 252.235-7003 | Frequency Authorization |
| 51. | 252.239-7016 | Telecommunications Security Equipment Devices, Techniques, and Services |
| 52. | 252.243-7001 | Pricing of Contract Modifications |
| 53. | 252.244-7000 | Subcontracts for Commercial Items and Commercial Components |
| 54. | 252.246-7001 | Warranty of Data |
| | 252.246-7003 | Notification of Potential Safety Issues |
| 55. | 252.247-7024* | Notification of Transportation of Supplies by Sea |

B. ORDERS \$100,000 SHALL ALSO INCLUDE THE FOLLOWING:

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| 1. | 252.203-7001 | Prohibition on Persons Convicted of Fraud or Other Defense Contract Related Felonies |
| 2. | 252.247-7023* | Transportation of Supplies by Sea |
| 3. | 252.249-7002 | Notification of Anticipated Contract Terminations or Reductions (less paragraph (d)(1)) |

C. ORDERS OVER \$500,000 SHALL ALSO INCLUDE THE FOLLOWING:

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| 1. | 252.226-7001 | Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns |
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D. ORDERS OVER \$650,000 SHALL ALSO INCLUDE THE FOLLOWING:

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| 1. | 252.219-7003 | Small Business Subcontracting Plan (DoD Contracts) |
| 2. | 252.225-7006 | Quarterly Reporting of Actual Contract Performance Outside the United States (First tier subcontractors only) |

E. ORDERS OVER \$1,000,000 SHALL ALSO INCLUDE THE FOLLOWING:

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| 1. | 252.225-7033 | Waiver of United Kingdom Levies |
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F. ORDERS OVER \$1,500,000 SHALL ALSO INCLUDE THE FOLLOWING:

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| 1. | 252.211-7000 | Acquisition Streamlining |
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G. ADDITIONAL CLAUSES:

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| 1. | 252.203-7001 | Agency Office of the Inspector General (Applies when FAR 52.203-13 applies to this Order.) |
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