

CPI Satcom & Antenna Technologies Inc.

**GENERAL PROVISIONS FOR TIME AND MATERIALS PURCHASE ORDERS FOR
COMMERCIAL SERVICES IN SUPPORT OF A U. S. GOVERNMENT CONTRACT**

1.0 DEFINITIONS –

- a. "Days" means calendar days unless otherwise expressly noted.
- b. "Order" as used herein includes the Firm Fixed-Price Purchase Order, the Schedule, these General Terms and Conditions, any Special Terms and Conditions, any Government Contract Provisions, any plans, any specifications, and other documents incorporated by reference or attached hereto.
- c. "BUYER" means CPI Satcom & Antenna Technologies Inc., the legal entity issuing this order.
- d. "BUYER's Supply Chain Team Member" means the authorized Purchasing Agent representing BUYER
- e. "Order" means the Purchase Order in which these General Provisions are incorporated.
- f. "Government" means the Government of the United States of America.
- g. "SELLER" means the person, firm or corporation which will furnish the Deliverables required under this Order.
- h. "SELLER's Contract Representative" means the authorized Purchasing Agent or Contract Manager representing SELLER.
- i. "Service" means products, supplies, engineering support, data or services (including software and software documentation) provided by SELLER.

2.0 ACCEPTANCE OF ORDER – Seller shall accept this Order by signing the acceptance copy and returning it promptly to Buyer or by providing to Buyer any of the Services specified herein. By Seller's acceptance of this Order, Seller agrees to the terms, conditions, and specifications of this Order. Buyer hereby objects to and rejects any terms, conditions, or specifications contained in Seller's acceptance of this Order (or any other form or paper submitted by Seller) which differ from or add to the terms, conditions, and specifications of the Order. Seller agrees that the terms, conditions, and specifications of the Order shall prevail over any inconsistent provisions in any form or other paper submitted by Seller.

3.0 WAIVER - Buyer's failure to enforce any provision of the Order or to protest any breach or default of the Order by Seller shall not be construed as evidence of (or evidence to interpret) the rights or obligations of the parties, or as a waiver of any Seller obligation or Buyer right provided under the Order or by law. No right or remedy of Buyer shall be deemed waived or released unless such waiver or release is in writing and signed by an authorized representative of Buyer.

4.0 DELIVERY

4.1 Transportation: Transportation shall be in accordance with the Delivery Terms specified on the front page of the Purchase Order. Buyer shall not be liable for insurance or premium transportation charges unless Buyer consents to such charges in writing.

4.2 Risk of Loss: Seller shall bear the risk of any loss or damage to the Services until they are delivered in conformity to the "Ship To" address on the front page of this Purchase Order.

4.3 Title: Except as otherwise expressly stated in this Order, title to all Services furnished under this Order shall pass to Buyer upon final acceptance, regardless of when or where Buyer takes physical possession of the result of the Service.

4.4 Delays: Seller understands that Buyer depends upon prompt delivery by Seller at the time specified in the schedules furnished by Buyer in order to comply with Buyer's contractual obligations to third parties. Because time is of the essence, if delivery of the Service is not made in the quantities and at the time and manner specified, Buyer shall have the right without liability, and in addition to its other rights and remedies under this Order and the law, to take any of the following actions: (1) direct expedited delivery of Services for which Seller shall bear all premium transportation charges and risk of loss; (2) direct acceleration of Services for which Seller shall bear all premium labor costs and other acceleration costs; (3) delay payment for a period of time equal to the lateness of such delivery or performance; and/or (4) terminate this Order by written notice effective when received by Seller as to the Services not yet delivered, and purchase substitute Services elsewhere and charge Seller with any loss incurred. Seller shall, in the event of a delay or threat of delay, due to any cause, in the production, delivery, of Services hereunder, immediately notify Buyer in writing of the delay. Seller's notice shall include all relevant information with respect to such delay or threatened delay. Seller shall be liable for any damages resulting from failure to make delivery within the time called for by this Order or by any written instructions of Buyer, except where such delay in delivery was due to causes beyond the reasonable control of Seller and Seller notifies Buyer as required by this Section 4.4. Seller agrees to add the substance of this Section 4.4 to each subcontract or purchase Order issued by Seller hereunder.

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

4.6 Quantity: Seller shall comply with the delivery schedules but shall not make material or production commitments in advance of such time as Seller reasonably believes is necessary to meet the schedules without Buyer's prior written consent. Except as otherwise expressly provided in the Order, Buyer need not accept any variation in quantity of Services provided by Seller. Buyer may return excess quantities to Seller at Seller's sole expense and risk, or retain such excess quantities at no increase in price.

5.0 INSPECTION AND FINAL ACCEPTANCE - Final acceptance by Buyer of any Service under this Order shall not limit or affect any warranty or right of indemnity granted by Seller herein. Except as otherwise agreed in writing, all delivery under this Order shall be subject to final inspection and acceptance by Buyer. The Parties expressly agree that any prior inspection or payment by Buyer will not constitute final acceptance. Buyer's final acceptance of the Service shall take place only after complete delivery in accord with the schedule specified herein and after final inspection by Buyer. Buyer's final acceptance shall be contingent upon agreement by Buyer that the Service conforms to the applicable contract Order requirements. Final acceptance by Buyer shall be conclusive, except for latent defects, negligent or intentional misrepresentations by Seller that a nonconformity or defect would be or had been cured, acceptance induced by false or negligent assurances of Seller or as otherwise provided in this Order or applicable law.

6.0 FACILITIES, TOOLS, AND PLANT VISITS

6.1 Unless otherwise specified herein, Seller shall supply all necessary services, facilities, materials, and equipment (including, but not limited to tools, test apparatus, etc.).

6.2 During performance of this Order, authorized representatives of Buyer or Buyer's customer shall have the right to visit Seller's facilities involved in the performance hereunder at any time during normal business hours to conduct reviews, monitor, coordinate, or expedite performance and to secure necessary information for such purposes. Such visits will be coordinated with Seller's appropriate personnel to minimize any effect on Seller's normal operations.

7.0 TERMINATION

7.1 BUYER may at any time terminate all or any part of this Order by written notice to SELLER if (a) termination is in the best interest of the BUYER; (b) SELLER fails to deliver the Service within the time specified by this Order or any written extension; (c) SELLER fails to perform any other provision of this Order or fails to make progress, so as to endanger performance of this Order, and does not cure the failure within ten calendar days after receipt of notice from BUYER specifying the failure; or (d) in the event SELLER declares bankruptcy, suspension of business, or initiates any reorganization and/or arrangement for the benefit of its creditors. Seller shall continue Service not terminated.

7.2 In the event of such termination, SELLER shall immediately cease all work terminated hereunder and cause any and all of its suppliers and SELLERS to cease work. SELLER must submit all claims within sixty calendar days after the effective date of termination.

8.0 REPRESENTATIONS AND WARRANTIES

8.1 Except as to any Service or materials thereof which the specifications contained herein specifically provide need not be new, Seller represents and warrants to Buyer that the Services and materials provided are new (not used or reconditioned), not counterfeit parts and not of such age or so deteriorated as to impair their usefulness or safety.

Seller also represents and warrants to Buyer that all Services and materials furnished under the Order will comply with the requirements of this Order; be free from defects in design (except to the extent of Buyer's design), material, manufacture, and workmanship; will be free from liens and encumbrance; and, to the extent Seller knows such purpose, will be fit and sufficient for the purpose for which the item was intended. If the Services and materials furnished contain any manufacturer's warranties, Seller hereby assigns such warranties to Buyer. Seller also represents and warrants to Buyer that all labor provided hereunder shall be performed by qualified personnel, with diligence, and shall conform to the terms, specifications, and description of the Service specified by Buyer. Seller further represents and warrants to Buyer that the Services(s) provided under this Order will not infringe upon the rights of any third party. These representations and warranties extend to the future performance of the Service and shall continue for a period of twelve months (or such longer period of time as Seller may warrant similar Service to its most favored customer following final acceptance by Buyer.

8.2 Buyer shall not be deemed to waive any defects or nonconformity by reason or approval of samples or receipt of, or payment for Service. If Buyer finds through inspection and testing or through use that any Service delivered by Seller is other than as warranted above, Seller shall promptly deliver repaired or replacement Service. Seller shall warrant repaired or replacement Service as set forth in this Article 8.0.

8.3 Services must be in accordance with their stated specifications or CPI Satcom & Antenna Technologies Inc. specification and drawing requirements in order to meet product safety requirements. Services must comply with their designed or intended purpose without causing unacceptable risk of harm to persons or damage to property.

9.0 CHANGES

9.1 Buyer's Supply Chain Team Member may, in writing, direct changes in: description of Services, place, and/or time of performance of the Services, within the general scope of this Order. If the BUYER's Supply Chain Team Member directed change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this Order, whether or not changed by the directed change, SELLER must assert any claim in writing within twenty-five calendar days and deliver a fully supported proposal to BUYER's Supply Chain Team Member within sixty calendar days after SELLER's receipt of such a directed change. BUYER and SELLER shall negotiate an equitable adjustment in the price and / or schedule to reflect the increase or decrease. Failure of the Parties to agree upon any adjustment shall not excuse SELLER from performing in accordance with BUYER's direction. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the Section of this Order entitled "Disputes".

9.2 Seller shall not, make any changes in the Service that do not conform to the requirements of this Order without the prior written consent of BUYER.

10.0 RIGHTS AND USE OF BUYER'S PROPRIETARY INFORMATION AND MATERIALS Seller, if required, shall use Seller's proprietary information only in the performance of and for the purpose of performing this Order. The restrictions on disclosure or use of Proprietary Information by SELLER shall apply to all materials derived by SELLER or others from BUYER's Proprietary Information. Upon the completion, termination, or cancellation of this Order, or upon BUYER's request at any time, SELLER shall return to BUYER all of BUYER's Proprietary Information and all materials derived therefrom, unless specifically directed otherwise in writing by BUYER.

11.0 INTELLECTUAL PROPERTY

11.1 Intellectual Property Rights

11.1.1 "Intellectual Property" shall mean creations of the mind including: ideas, inventions, works of authorship, and symbols, names, images, and designs embodied in for example, technical data, designs, information, computer software, drawings, formulae, specifications, diagrams, processes, know-how, procedures and technology and all legal rights in such creations of the mind.

11.1.2 "Works" shall mean physical manifestations of Intellectual Property created under this Order.

11.1.3 "Background Intellectual Property" shall mean Intellectual Property that is (i) in existence prior to the effective date of this Order or (ii) is designed, developed or licensed by a Party after the effective date of this Order independently of both (A) the work undertaken or in connection with this Order and (B) the Proprietary Information and Intellectual Property of the other Party to this Order.

11.1.4 "Foreground Intellectual Property" shall mean all Intellectual Property conceived, created, acquired or initially reduced to practice in connection with this Order.

11.1.5 Each Party shall retain and exclusively own all rights in its Background Intellectual Property and in all Foreground Intellectual Property that it creates. Foreground Intellectual Property jointly generated by employees of more than one Party shall be jointly owned. Neither Party shall have any obligation to account to the other Party for income arising from use of the jointly owned Foreground Intellectual Property. Nothing in this clause shall modify or alter any rights that the Government may have in any Items, Works and/or Services, including data or software deliverables to the Government.

11.1.6 SELLER hereby grants to BUYER a non-exclusive, worldwide, right and license to copy, modify, use, sell, offer for sale and disclose any Item, Works or other deliverable delivered by SELLER under this Order for the performance of this Order and any higher tier contract. If the Item or other deliverable contains third party intellectual property, Seller agrees to obtain the rights from the third party that are sufficient for SELLER to grant BUYER the rights in the above license. SELER warrants that it has the rights in the Services, Works or other deliverable sufficient to grant to BUYER the above license.

11.2 Intellectual Property Indemnification

11.2.1 SELLER shall indemnify, defend, and hold harmless, BUYER and BUYER's Customer and their respective officers, directors, agents, and employees against liability and losses including without limitation, defense costs and attorneys' fees, for any allegation of or suit or action for infringement of any United States or foreign patent, copyright, trademark, or other intellectual property right arising out of the manufacture or delivery of Services under this Order or out of the use or disposal of such Services by or for the account of BUYER. SELLER shall at its own expense either procures for BUYER and/or BUYER's Customer the right to continue using the alleged infringing Item, replace it with non-infringing Services, or modify it so that it becomes non- infringing. The foregoing indemnity shall not apply unless BUYER or BUYER's Customer informs SELLER of the suit or action or other proceeding alleging infringement and gives SELLER the opportunity as is afforded by applicable laws, rules, or regulations, to participate in the defense thereof.

12.0 ASSIGNMENT, TRANSFER, DELEGATION, AND SUBCONTRACTING - No right or interest of SELLER or BUYER hereunder or arising out of this Order may be assigned or transferred, whether by operation of law or otherwise, and/or all or substantially all of its performance of this Order without the prior written consent of BUYER or SELLER, respectively, which shall not be unreasonably withheld. Notwithstanding the foregoing, BUYER may assign this Order without SELLER's consent to a successor company resulting from a restructuring, consolidation, merger or other combination within CPI Satcom & Antenna Technologies Inc. SELLER shall not delegate any of its duties or obligations under this Order. SELLER may assign its right to monies due or to become due. No assignment, transfer, delegation or Ordering by SELLER, with or without BUYER's consent, shall relieve SELLER of any of its obligations under this Order or prejudice any of BUTER's rights against SELLER whether arising before or after the date of any assignment or transfer. Any unauthorized assignment, transfer or delegation is void. This Section does not limit SELLER's ability to purchase standard commercial supplies or raw materials.

13.0 GOVERNING LAW AND VENUE

13.1 The Parties agree that this Order shall be governed by and construed in accordance with the laws of the State of New York and without regard to its conflict of laws rules.

13.2 All claims or disputes arising under or in any way related to this Agreement shall be resolved through good faith negotiations between authorized representatives of each Party. In the event that such negotiations do not lead to a written settlement signed by a duly authorized representative of each Party within thirty calendar days or such longer period of time as may be mutual agreed, then either Party may elect to resolve the matter through the state or federal courts. Venue for any action brought under or relating to this Agreement shall exclusively be in the State of New York. The Parties hereby irrevocably waive any right to challenge such venue on the basis of forum non conveniens or otherwise. **THE PARTIES HEREBY IRREVOCABLY WAIVE ANY AND ALL RIGHTS THEY MAY HAVE TO A TRIAL BY JURY IN ANY ACTION ARISING OUT OF OR RELATING TO THIS ORDER.**

13.3 The Parties further agree and consent to accept service of process by certified or registered United States mail, return receipt requested, addressed as provided herein. In the event that legal action is commenced by either Party, the substantially prevailing Party shall be entitled to recover its costs and attorneys' fees from the other Party.

14.0 SEVERABILITY - If a court of competent jurisdiction determines one or more provisions of this Order illegal or invalid, that determination shall not affect the enforceability of the remaining provisions to the extent they can be given effect without the illegal or invalid provision. In the event that any provision of this Order is held invalid OR UNENFORCEABLE, THE Parties shall make every effort to mutually agree to a new provision in regard to the same subject.

15.0 COMPLIANCE WITH APPLICABLE LAWS

15.1 United States Law: Seller, at its sole expense, shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations which may be applicable to the Item and Seller's performance under this Order, including, without limitation, all laws, regulations, and rules related to the safety and conditions of each job site, including but not limited to those promulgated or prescribed pursuant to the Occupational Safety and Health Act of 1970, and any amendment thereto. Seller agrees to comply with any applicable provisions of the Rehabilitation Act of 1973, the Veteran's Readjustment Act of 1974, and Executive Order 11246, and implementing regulations of the U.S. Department of Labor, which embody governmental policy on equal employment opportunity. To the extent applicable: This contractor and subcontractor shall abide by the requirements of 41 CFR 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified protected veterans and qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and qualified individuals with disabilities. Seller also agrees that in connection with activities under this Order it shall not make or promise to make any improper payments, or provide or offer to provide anything of value, directly or indirectly, to government officials or other parties in violation of the Foreign Corrupt Practices Act or other applicable anti-bribery laws.

15.2 Foreign Corrupt Practices Act and Anti-Bribery Laws: Seller agrees to comply with the Foreign Corrupt Practices Act, the UK Bribery Act of 2010, and all applicable anti-bribery laws. Seller specifically represents and warrants that, in connection with the performance of its activities under this Order, neither it, nor anyone acting on its behalf, has or will, directly or indirectly, offer, pay, promise to pay, or authorize the giving of, any money or thing of value to any Government Official or to any person, while knowing that all or a portion of such money or thing of value will be offered, given or promised, directly or indirectly, to a Government Official, for the purpose of influencing any act or decision of such Government Official, including any act or decision to fail to perform his/her lawful duty, or for the purpose of inducing such Government Official to use his/her influence with any government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality to obtain or retain business for any person. "Government Official" means any officer, employee, agent, representative, or any other person acting in an official capacity for or on behalf of a government, government-owned or -controlled entity or instrumentality, public international organization, political party, party official or political candidate.

15.3 Export: SELLER shall not export, directly or indirectly, any hardware, software, technology, information or technical data disclosed under this Order to any individual or country for which the U.S. Government requires an export license or other government approval, without first obtaining such license or approval.

SELLER further understands that BUYER is a defense contractor providing work for the United States Government, and as such, is under certain mandatory security obligations with regard to access to its facilities and technology. Due to the fact that disclosure of certain information to any individual may be deemed an export, SELLER agrees that it will not assign any worker to perform services under this Order (including but not limited to accessing SELLER's web based portal for the applicable program) unless that person either receives a license for the export at issue or qualifies as a "U.S. person," defined as:

- i. U. S. citizen;
- ii. U.S. national, including an alien lawfully admitted for permanent resident (those possessing a valid Form I-551"); or
- iii. Ayslee or refugee as defined in 8 U.S. C. 1324(b)(a)(3).

15.4 Employment Verification: In addition to the foregoing requirements, SELLER will comply with the Immigration Reform and Control Act of 1986 ("IRCA") and in particular, have all of its workers fill out an I-9 form, verifying their authorization to work in the United States.

15.5 Compliance with Office of Federal Contract Compliance Programs ("OFCCP")

To the extent applicable:

The SELLER and its Subcontractors shall abide by the requirements of 41 CFR 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified protected veterans and qualified individuals on the basis of disability, qualified protected veterans and qualified individuals with disabilities.

15.6 Prohibition on Contracting with the Enemy

15.6.1 Seller shall exercise due diligence to ensure that none of the funds received under this contract are provided directly or indirectly to a person or entity who is actively opposing United States or Coalition forces involved in a contingency operation in which members of the armed forces are actively engaged in hostilities.

15.6.2 Seller shall exercise due diligence to ensure that none of its subcontracts are associated with a person or entities listed in NDAA FY2012 Section 841/FY2014 Section 831 Identified Entities list posted at <http://www.acq.osd.mil/dpap/pacc/cc/policy.html>.

15.6.3 In accordance with recent U.S. Government restrictions and/or regulations, Buyer will no longer accept products, either directly or indirectly, from the following entities or any subsidiary or affiliate of such entities:

Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, Dahua Technology Company and Acronis International GmbH (hereinafter "Prohibited Entities"). As such, Seller, hereby represents and warrants to Buyer that no products from Prohibited Entities will be sold, licensed or transferred to Buyer pursuant to this Order. This representation and warranty extends to the future performance of this Order.

15.6.4 Buyer has the authority to (1) Terminate this contract for default, in whole or in part, if the Seller failed to exercise due diligence as required by Sections 15.6.1, 15.6.2, and 15.6.3 of this clause; or (2) Void this contract, in whole or in part, if the Buyer or the U.S. Government determines in writing that any funds received under this contract have been provided directly or indirectly to a person or entity who is actively opposing United States forces involved in a contingency operation in which members of the armed forces are actively engaged in hostilities.

16.0 INSURANCE - Unless otherwise specified by Buyer in writing, Seller shall maintain and cause Seller's subcontractors to maintain during the term of this Order (a) workers' compensation insurance as prescribed by the law of the state of nation in which the Service is performed; (b) employer's liability insurance with limits of at least \$500,000 for each occurrence; (c) automobile liability insurance if the use of motor vehicles is required hereunder, with limits of at least \$1,000,000 combined single limit for bodily injury and property damage per occurrence; and (d) Commercial General Liability ("CGL") insurance, ISO 1988 or later occurrence form of insurance, including, without limitation, Blanket Contractual Liability and Broad Form Property Damage, with limits of at least \$1,000,000 combined single limit for bodily injury and property damage per occurrence. All CGL and automobile liability insurance shall designate Buyer, its affiliates, and its directors, officers, and employees (all referred to as "Buyer") as additional insured. All such insurance must be primary and non-contributory and required to respond and pay prior to any other insurance or self-insurance available. If specifically requested by Buyer, Seller and Seller's subcontractors shall furnish, prior to the start of Service, certificates or adequate proof of the foregoing insurance, including, without limitation, endorsements and policies. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting the interest of Buyer or Buyer's Customer shall not be effective (1) for such period as the laws of the State in which this Order is to be performed prescribe or (2) until thirty calendar days after the insurer or Seller gives written notice to Buyer, whichever period is longer. Any other coverage available to Buyer shall apply on an excess basis. Seller agrees that Seller, Seller's insurer(s) and anyone claiming by, through, under or in Seller's behalf shall have no claim, right of action or right of subrogation against Buyer and Buyer's Customer based on any loss or liability insured against under the foregoing insurance. Insurance companies providing coverage under this Order must be rated by A. M. Best with at least an A-rating. Seller's obligation to obtain the foregoing insurance does not waive or release Seller's liabilities or duties to indemnify under this Order.

17.0 INDEMNIFICATION - SELLER agrees to indemnify, defend and hold harmless BUYER, its affiliates, subsidiaries, directors, officers, employees and agents from and against any and all actions, causes of action, liabilities, claims, expenses (including reasonable attorney's fees and court costs, losses, damages, penalties, fines, forfeitures, suits, judgments, liens, awards and damages of any kind and nature whatsoever for (a) property damage (b) personal injury, including any death, and (c) all violations of applicable laws which arise out of, or are in any way related to SELLER's or any of its suppliers' (1) breach of obligations or responsibilities arising from this Order, or (2) failure to comply with all applicable Federal, state and local laws and regulations in the performance of this Order. SELLER's obligation hereunder is not limited to insurance available to or provided by SELLER or any of its suppliers. SELLER expressly waives any immunity under industrial insurance, whether arising out of statute or common law, to the extent of the indemnity set forth in this Section.

18.0 CERTIFICATIONS AND REPRESENTATIONS - All certifications and representations, which the SELLER submitted to BUYER in connection with the award of this Order, are incorporated herein and made a part hereof and BUYER has relied such upon in issuing this Order. The SELLER shall promptly advise BUYER should there be any change in SELLER's status with respect to these certifications and representations.

19.0 PUBLICITY - Neither Party shall issue any press release or make any other public statement relating to this Order, any work done under this Order or any of the transactions contemplated by this Order without obtaining the prior

written approval of the other Party as to the contents and the manner of presentation and publication of such press release or public statement. This restriction applies to all releases of information to the public, industry, OR Government organizations except (a) information for actual or potential Orders or vendors necessary for the SELLER to accomplish this Program, (b) information to be supplied to a duly authorized representative of BUYER project office, and (c) information necessary for BUYER to provide to its Government customer.

20.0 GRATUITIES - SELLER warrants that neither it nor any of its employees, agents or representatives have offered or given, or will offer or give, any gratuities to BUYER's employees, agents or representatives for the purpose of securing this Order or securing favorable treatment under this Order.

21.0 PROTECTION OF PROPERTY - At all times SELLER shall, and ensure that any of SELLER's suppliers shall, use suitable precautions to prevent damage to BUYER's property. If any such property is damaged by the fault or negligence of SELLER or any SELLER thereof, SELLER shall, at no cost to BUYER, promptly and equitably reimburse BUYER for such damage or repair or otherwise make good such property to BUYER's satisfaction. If SELLER fails to do so, BUYER may perform the repairs and recover from SELLER the cost thereof.

22.0 INDEPENDENT CONTRACTOR – It is the intention of BUYER and SELLER that for all purposes SELLER is and shall be an independent contractor and the sole employer and/or principal of any and all persons assigned by SELLER to provide Services under this Agreement. SELLER is obligated to perform all requirements of an employer under federal, state, and local laws and ordinances (or foreign law, if applicable). Such compliance shall include, but not be limited to, laws regarding minimum wages, social security, unemployment insurance, federal and state income taxes and workers' compensation insurance. SELLER, not BUYER, is the "common law employer" within the meaning of Treas. Reg. § 31.3401(c)-1(c) of employees of all persons assigned by subcontractor to provide Services under this Order. Under no circumstances shall SELLER or its employees or agents be construed to be employees, representatives, or agents of BUYER for any purpose, including but not limited to record keeping obligations under state or federal OSHA and Worker's Compensation Laws. SELLER's employees and agents shall not be entitled to participate in the profit sharing, pension, or other plans established for the benefit of BUYER's employees. If required by federal or state law, SELLER agrees to comply with the Family and Medical Leave Act ("FMLA") for its employees and agrees that with regard to such employees, it is the primary employer as defined by the FMLA regulations.

23.0 USE OF FREE AND OPEN SOURCE SOFTWARE (FOSS) *(This clause only applies to Service that includes the delivery of software (including software residing on hardware)).*

23.1 SELLER shall disclose to BUYER in writing any FOSS that will be used or delivered in connection with this Order and shall obtain BUYER's prior written consent before using or delivering such FOSS in connection with this Order. BUYER may withhold such consent in its sole discretion.

23.2 As used herein, "FOSS License" means, but is not limited to, the General Public License ("GPL"), Lesser/Library GPL, (LGPL), the Affero GPL (APL), the Apache license, the Berkeley Software Distribution ("BSD") license, the MIT license, the Artistic License (e.g., PERL), the Mozilla Public License (MPL), or variations thereof, including without limitation licenses referred to as "Free Software License", "Open Source License", "Public License", or "GPL Compatible License."

23.3 As used herein, "FOSS" means software that incorporates or embeds software in, or uses software in connection with, as part of, bundled with, or alongside any (1) open source, publicly available, or "free" software, library or documentation, or (2) software that is licensed under a FOSS License, or (3) software provided under a license that (a) subjects the delivered software to any FOSS License, or (b) requires the delivered software to be licensed for the purpose of making derivative works or be redistributable at no charge, or (c) obligates BUYER to sell, loan, distribute, disclose or otherwise make available or accessible to any third party (i) the delivered software, or any portion thereof, in object code and/or source code formats, or (ii) any products incorporating the delivered software, or any portion thereof, in object code and/or source code formats.

23.4 SELLER agrees to defend, indemnify, and hold harmless BUYER, its customers and suppliers from and against any claims, damages, losses, costs, and expenses, including reasonable attorney's fees, relating to use in connection with this Order or the delivery of FOSS.

24.0 LIMITATION OF LIABILITY

IN ADDITION TO ANY OTHER LIMITATIONS ON BUYER'S LIABILITY SET FORTH HEREIN, IN NO EVENT SHALL BUYER, ITS EMPLOYEES, AGENTS OR REPRESENTATIVES BE LIABLE, BY REASON OF BUYER'S BREACH OR TERMINATION OF THIS ORDER OR BY REASON OF ANY ACTS OR OMISSIONS IN CONNECTION WITH THIS ORDER, FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, HOWEVER CAUSED, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUE, LOSS OF DATA, SERVICE INTERRUPTION, INCREASED COST OF SERVICES, OR ANY CLAIMS OR DEMANDS AGAINST SELLER BY ANY OTHER ENTITY, WHETHER SUCH REMEDY IS SOUGHT IN ORDER, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE. IN NO EVENT SHALL BUYER'S LIABILITY FOR DAMAGES IN ANY CIRCUMSTANCES SET FORTH IN THIS CLAUSE EXCEED THE PRICE PAYABLE FOR THE DELIVERABLE TO BE PROVIDED BY SELLER UNDER THIS ORDER. THIS ORDER SHALL NOT CREATE FOR NOR GIVE TO ANY THIRD PARTY ANY CLAIM OR RIGHT OF ACTION AGAINST BUYER WHICH WOULD NOT ARISE WITHOUT THIS ORDER.

25.0 FURNISHED PROPERTY

25.1 Buyer may furnish Seller property owned by Buyer and required by Seller for the performance of the Service under this Order, or have Seller acquire property for Buyer's account (hereafter referred to as "Furnished Property"). This may include, without limitation, tools, equipment or material of every description, and any replacement thereof or any material affixed or attached thereto.

25.2 Title to Furnished Property shall not vest in Seller. Title thereto shall not be affected by the incorporation or attachment thereto of any property not owned by Buyer; nor shall any Furnished Property or any part thereof, be or become a fixture or lose its identity because it is affixed to any realty. Seller shall maintain property control records of Furnished Property consistent with good business practice and as may be prescribed by Buyer. Seller shall issue such reports as Buyer may require. Seller shall cause all Furnished Property to be clearly marked (if not so marked) to show that it is property of Buyer.

25.3 Except as may be authorized by Buyer in writing, Furnished Property shall be used only for the performance of this Order.

25.4 Seller shall, in accordance with sound industrial practice, maintain in operating condition, repair, protect, and preserve Furnished Property until disposed of by Seller in accordance with this clause.

25.5 Seller assumes the risk of, and shall be responsible for any loss of or damage to Furnished Property in Seller's possession except for reasonable wear and tear resulting from performance of this Order.

25.6 Buyer shall at all times have access to the premises wherein any Furnished Property is located.

25.7 Upon the completion of this Order, Seller shall submit, in a form acceptable to Buyer, inventory schedules covering all items of Furnished Property not consumed in the performance of this Order (including any scrap). Seller shall hold the same at no charge for sixty (60) days. After this, Seller shall dismantle, prepare for shipment and, at Buyer's direction, store or deliver said property (at Buyer's expense), or make such other disposal of Furnished Property as directed by Buyer. The net proceeds of any such disposal shall be credited to the price of the Order or shall be paid over as Buyer may direct.

25.8 Seller shall cooperate with Buyer in executing such documents as Buyer deems appropriate to protect the security interests of Buyer in such Furnished Property.

26.0 SECURITY AND ACCESS TO BUYER'S FACILITIES WHILE VISITING OR WORKING AT BUYER'S FACILITIES

26.1 SELLER agrees that, while visiting or working at BUYER's facilities, SELLER and its personnel shall comply with all facility rules and regulations of which they have notice, including, but not limited to, the security and safety requirements and shall take all precautions required by any of these or otherwise necessary to prevent the occurrence of any injury to person or property during the term of this Order.

26.2 Facility Access

26.2.1 SELLER and SELLER's personnel shall be granted access to BUYER facilities only during BUYER's normally scheduled business hours or as otherwise specifically agreed in writing between the Parties.

26.2.2 SELLER shall be required to provide information concerning citizenship or immigrant status of SELLER's personnel entering the premises of BUYER. SELLER agrees to furnish this information before commencement of work and at anytime thereafter before substituting or adding new personnel to work on BUYER's premises. Information submitted by SELLER shall be certified by an authorized representative of SELLER as being true and correct. SELLER shall comply with all the rules and regulations established by BUYER for access to and activities in and around premises controlled by BUYER or BUYER's customer.

26.3 Safety SELLER agrees to comply with the federal Occupational Safety and Health Act (OSHA), all applicable OSHA regulations or standards, and all BUYER's safety rules of which SELLER has notice, regarding the performance of Services under this Order.

26.4 Hazardous Substances

26.4.1 BUYER uses a number of "hazardous substances", as defined in 29 C.F.R. 1910.1200, and some of these substances are used in work areas where SELLER may perform Services. The Material Safety Data Sheet ("MSDSs") kept on file by BUYER for any hazardous substances which are present in such work areas shall be made available for review by SELLER upon request.

26.4.2 SELLER agrees not to deliver or transport any hazardous substances or materials, as defined in 29 C.F.R. Section 1910.1200, onto BUYER's property without having first obtained prior written approval from the BUYER's Environmental, Health and Safety Department, and SELLER agrees to comply with any instructions from such Department regarding such substances and materials.

26.4.3 SELLER agrees to immediately report any known spill of hazardous materials, hazardous substances, or hazardous wastes on BUYER's property whether caused or not by SELLER. In addition, for spills of hazardous materials, hazardous substances, or hazardous wastes which are owned or controlled by SELLER, SELLER agrees that containment and cleanup shall be at the sole expense of SELLER and shall be performed to the satisfaction of BUYER's Environmental, Health and Safety Department.

26.4.4 Emergency Medical Aid SELLER authorizes BUYER to administer minor first aid to SELLER or SELLER's agents or employees for injuries incurred on BUYER's property. In the event of a serious injury or if immediate emergency care is believed necessary for an illness, SELLER authorizes BUYER to arrange for emergency response services at SELLER's expense.

26.5 Use of BUYER's Computers or Computer Networks (*If applicable*)

In the event SELLER's personnel require access to BUYER's computer networks for the purposes of performing work under this Order, SELLER and SELLER's personnel agree to comply with the requirements set forth in the Statement of Work.

27.0 PAYMENT

27.1 Allowable Costs. Buyer shall pay Seller as follows upon the submission of invoices or vouchers approved by BUYER's Supply Chain Team Member:

- a. Hourly rate
 1. The amounts shall be computed by multiplying the appropriate hourly rates described in the Schedule by the number of direct labor hours performed. The rates shall include wages, indirect costs, general and administrative expense, and profit. Fractional parts of an hour shall be payable on a prorated basis. Vouchers may be submitted once each month to BUYER. Seller shall substantiate vouchers by evidence of actual payment and by individual daily job timecards, or other substantiation approved by BUYER's Supply Chain Team Member.
 2. BUYER may withhold five percent (5%) of the amounts due under this paragraph (a) until completion of work by Seller.
 3. Unless the Schedule prescribes otherwise, the hourly rates in the Schedule shall not be varied by virtue of the Contractor having performed work on an overtime basis. If the Schedule provides rates for overtime, the premium portion of those rates will be reimbursable only to the extent that the overtime is approved in advance by BUYER's Supply Chain Team Member
- b. Materials and Subcontracts
 1. Reasonable and allocable costs of direct materials and (to the extent that they are clearly excluded from the hourly rate) material handling costs comprising, where appropriate, general and administrative expenses allocated by direct materials in accordance with Seller's usual accounting practices; provided, however, Seller regularly sells such materials to members of the general public in the normal course of its business, Seller shall invoice BUYER at no higher than its established catalog price, less discounts to its most favored customer.
 2. The cost of subcontracts that are authorized under the subcontracts clause hereof shall be reimbursable costs under this clause.
 3. To the extent able, Seller shall:
 - i. obtain materials at the most advantageous prices available with due regard to securing prompt delivery of satisfactory materials, and
 - ii. take all cash and trade discounts, rebates, allowances, credits, salvage, commission, and other benefits.

27.2 Total Cost and Ceiling Price

- a. If at any time Seller has reason to believe that the Allowable Costs that will accrue in performing this subcontract/PO in the next succeeding 30 days, if added to all other payments and costs previously accrued, will exceed 85 percent of the ceiling price in the Schedule, Seller shall notify BUYER's Buyer giving a revised estimate of the total price to BUYER for performing the contract with supporting reasons and documentation.
- b. BUYER shall not be obligated to pay Seller any amount in excess of the ceiling price in the Schedule, and Seller shall not be obligated to continue performance, if to do so would exceed such ceiling price, unless and until BUYER's Supply Chain Team Member shall have specified in writing a revised ceiling price.

27.3 Audit

At any time before final payment, BUYER's Supply Chain Team Member may conduct either directly or have an agent audit the invoices or vouchers and substantiating material.

28.0 WITHHOLDING - In addition to all other remedies provided by law and stated in this Order, BUYER may withhold payment of an invoice if SELLER has not complied with any of its obligations under this Order and BUYER

shall not be required to make any payment until SELLER completely satisfies the obligation(s) at issue. SELLER is not entitled to interest on any withheld payments.

29.0 HEADINGS - The headings used in this Order are inserted for the convenience of the Parties and shall not define, limit, or describe the scope or the intent of the provisions of this Order.

30.0 FEDERAL ACQUISITION REGULATION AND DEPARTMENT OF DEFENSE FAR SUPPLEMENT CLAUSES

30.1 SELLER agrees to comply with any applicable provisions of the Rehabilitation Act of 1973, the Veteran's Readjustment Act of 1974, and Executive Order 11246, and implementing regulations of the U.S. Department of Labor, which embody governmental policy on equal employment opportunity.

30.2 For Commercial Services acquired under the Federal Acquisition Regulation (FAR)/Department of Defense FAR Supplement (DFARS), the following FAR/DFARS provisions are incorporated herein by reference:

SELLER SHALL INCLUDE IN EACH LOWER-TIER SUBCONTRACT THE APPROPRIATE FLOW DOWN CLAUSES AS REQUIRED BY THE FAR AND DFARS.

FAR/DFARS Clauses – Applicable to Solicitation Only

- 52.222-56 Certification Regarding Trafficking in Persons Compliance Plan (Applicable if at least \$500,000 of the value of the Subcontract will be performed outside the United States; and the acquisition is not entirely for commercially available off-the-shelf items).
- 252.204-7008 Compliance with Safeguarding Covered Defense Information Controls
- 252.204-7019 Notice of NIST SP 800-171 DoD Assessment Requirements
- 252.225-7003 Report of Intended Performance Outside the United States and Canada – Submission with Offer.
- 252.239-7009 Representation of Use of Cloud Computing

FAR Clauses

- 52.203-13 Contractor Code of Business Ethics and Conduct (if this Subcontract exceeds \$5,500,000 and the performance period is 120 days or more. All disclosures of violation of the civil False Claims Act or of the Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.)
- 52.203-15 Whistleblower Protections under the American Recovery and Reinvestment Act of 2009, if the subcontract is funded under the Recovery Act
- 52.203-16 Preventing Personal Conflicts of Interest (if the contract exceeds \$150,000)
- 52.203-17 Contractor Employee Whistleblower Rights (if the contract exceeds \$150,000)
- 52.203-19 Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements
- 52.204-21 Basic Safeguarding of Covered Contractor Information Systems.
- 52.219-8 Utilization of Small Business Concerns (if the subcontract offers further subcontracting opportunities and if Order exceeds \$150,000. Services contracts are excluded.)
- 52.222-17 Nondisplacement of Qualified Workers (applies to Service Order only)
- 52.222-19 Child Labor – Cooperation with authorities and remedies (if contract exceeds \$3,000)
- 52.222-21 Prohibition of Segregated Facilities,
- 52.222-26 Equal Opportunity

- 52.222-35 Equal Opportunity for Veterans (if the contract exceeds \$150,000)
- 52.222-36 Affirmative Action for Workers with Disabilities (if the contract exceeds \$15,000)
- 52.222-37 Employment Reports on Veterans (if FAR 52.222-35 applies)
- 52.222-40 Notification of Employee Rights under the National Labor Relations Act (Applies if this Subcontract exceeds \$150,000)
- 52.222-41 Service Contract Labor Standards (if subject to the Labor Standards and the contract exceeds \$2,500)
- 52.222-50 Combating Trafficking in Persons
- 52.222-51 Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements
- 52.222-53 Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Requirements
- 52.222-54 Employment Eligibility Verification (if Subcontract exceeds \$150,000)
- 52.222-55 Minimum Wages under Executive Order 13658 13658 (Applicable if FAR 52.222-41 applies and the work will be performed, in whole or in part, in the United States)
- 52.223-18 Encouraging Contractor Policies to Ban Text Messaging While Driving
- 52.225-8 Duty-Free Entry
- 52.247-64 Preference for Privately Owned U. S. Flag Commercial Vessels

DFARS CLAUSES

- 252.203-19 Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements
- 252.204-7009 Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information
- 252.204-7012 Safeguarding Covered Defense Information and Cyber Incident Reporting (Include this clause in subcontracts, or similar contractual instruments, 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; and Seller shall rapidly report cyber incidents directly to DoD at <http://dibnet.dod.mil>, the Buyer's Security Operations Center Hotline at (210) 638-7050, and the Buyer's Supply Chain Team Member. The Seller shall provide the Buyer with the incident report number, automatically assigned by DoD, as soon as practicable. The Seller shall also notify the Buyer when submitting a request to vary from a NIST SP 800-171 security requirement to the Contracting Officer, in accordance with paragraph (b)(2)(ii)(B) of this clause.
- 252.204-7015 Notice of Authorized Disclosure of Information for Litigation Support
- 252.204-7020 NIST SP 800-171 DoD Assessment Requirements
- 252.204-7021 Cybersecurity Maturity Model Certification Requirements
- 252.223-7008 Prohibition of Hexavalent Chromium
- 252.225-7009 Restriction on Acquisition of Certain Articles Containing Specialty Metals (if the Subcontract exceeds \$150,000)
- 252.225-7004 Report of Intended Performance outside the United States and Canada – Submission after Award (Applicable if subcontract exceeds \$13,500,000).



- 252.239-7010 Cloud Computing Services
- 252.239-7018 Supply Chain Risk
- 252.246-7007 Contractor Counterfeit Electronic Part Detection and Avoidance System
- 252.246-7008 Sources of Electronic Parts