

General Terms of Purchase
Times Microwave Systems

CONTENTS

1)	DEFINITIONS.....	3
2)	INTEGRATION/TERMS AND CONDITIONS	3
3)	USE OF AGREEMENT BY AFFILIATES.....	4
4)	SELLER REPRESENTATIONS/COMPLIANCE WITH APPLICABLE LAWS.....	4
5)	ENVIRONMENTAL MATTERS.....	4
6)	EXPORT/IMPORT CONTROL	6
7)	ASSIGNMENT AND SUBCONTRACTING	9
8)	CONTRACT DIRECTION.....	Error! Bookmark not defined.
9)	CHANGES.....	9
10)	STOP WORK ORDER	10
11)	TERMINATION FOR CONVENIENCE.....	10
12)	TIMELY PERFORMANCE	Error! Bookmark not defined.
13)	DEFAULT	11
14)	DELAY AND DEFAULT	11
15)	EXTRAS	12
16)	NEW MATERIALS.....	12
17)	ANTICIPATION OF DELIVERY SCHEDULE.....	12
18)	LIEN	Error! Bookmark not defined.
19)	INSPECTION AND ACCEPTANCE.....	12
20)	PACKING, TITLE, TRANSPORTATION	13
21)	STANDARD TERMS OF SETTLEMENT	13
22)	TAX	14
23)	TMS'S PROPERTY.....	14
24)	WORK ON BUYER'S OR ITS CUSTOMER'S PREMISES:	16
25)	ACCESS TO BUYER'S COMPUTER SYSTEMS	17
26)	UK PROTECTED MATERIALS.	17
27)	GRATUITIES/KICKBACKS	17
28)	RESERVED	18
29)	INFORMATION OF TMS.....	18
30)	INFORMATION OF SELLER	18
31)	CLASSIFIED INFORMATION	19
32)	INSURANCE/INDEMNIFICATION	19
33)	INTELLECTUAL PROPERTY	20
34)	OFFSET CREDIT/COOPERATION.....	22
35)	QUALITY CONTROL SYSTEM	22
36)	RELEASE OF INFORMATION	22
37)	RECORD RETENTION REQUIREMENTS.....	23
38)	ENGLISH LANGUAGE.....	23
39)	ELECTRONIC COMMERCE	23
39)	INDEPENDENT CONTRACTOR RELATIONSHIP.....	23
40)	FORMER GE EMPLOYEES.....	24
41)	SEVERABILITY	24
42)	SURVIVABILITY	24
43)	GOVERNING LAW	24
44)	DISPUTE RESOLUTION.	25
45)	WAIVER, APPROVAL, AND REMEDIES	26
46)	LIMITATION OF LIABILITY	26
47)	QUALITY OF WORK; REMOVALS OR REPLACEMENTS.	26
48)	SELLER SECURITY AND CRISIS MANAGEMENT POLICY/C-TPAT.....	26

49)	PERSONAL DATA PROTECTION	28
50)	PRODUCT SUPPORT.....	30
51)	PRECEDENCE.....	30
52)	GOVERNMENT CONTRACT REQUIREMENTS.....	30
53)	NON PROFIT INSTITUTIONS	35
54)	SERVICES TERMS AND CONDITIONS.....	36
55)	IMPORT AND EXPORT.....	39
56)	ANTI-DUMPING	39
57)	NON-UK SUPPLIERS.	39
58)	SUPPLEMENTARY TERMS AND CONDITIONS FOR COST REIMBURSEMENT ORDERS	
	41	

1) DEFINITIONS

The following terms shall have the meanings set forth below:

- a) "Affiliate" means (1) a company, whether incorporated or not, which owns, directly or indirectly, a majority interest in either party (a "parent company"), and (2) a company, whether incorporated or not, in which a five percent (5%) or greater interest is owned, either directly or indirectly, by: (i) either party or (ii) a parent company. The terms "the Systems division of GE Aviation", "GE Aviation Systems", "TMS", "Middle River Aircraft Systems", "MRAS", "Times Microwave Systems", "TMS", "Dowty Propellers", "A Part of GE's Aviation Business", "General Electric Company" or "GE" either as a trade name or as a component of a trade name, shall be deemed to refer to an Affiliate of TMS, without limitation.
- b) "Contract" means the instrument of contracting, such as "PO", "Contract", or other such type designation, including all referenced documents, exhibits and attachments. If these terms and conditions are incorporated into a "master" agreement that provides for releases, (in the form of a Contract or other such document) the term "Contract" shall also mean the Release document for the Work to be performed.
- c) "PO" or "Contract" as used in any document constituting a part of this Contract shall mean this Contract.
- d) "FAR" means the Federal Acquisition Regulation.
- e) "FAR Supplement" means authorized supplements to the FAR, including the DOD FAR Supplement (DFARS).
- f) "Times Microwave Systems" ("TMS" or "Buyer") means the legal entity listed on the face of the Contract.
- g) "Buyer's Procurement Representative" means a person authorized by TMS's recognized procurement organization and properly delegated the authority to administer and/or execute this Contract.
- h) "Goods" means the product(s) supplied by Seller under this Contract, including without limitations all components, raw materials, and intermediate assemblies thereof.
- i) "Seller" means the party identified on the face of the Contract with whom TMS is contracting.
- j) "Work" means all required Goods and services constituting the subject matter of this Contract.

2) INTEGRATION/TERMS AND CONDITIONS

- a) This Contract integrates, merges, and supersedes any prior offers, negotiations, and agreements concerning the subject matter hereof and constitutes the entire agreement between the parties.
- b) Seller's acknowledgment, acceptance of payment, or commencement of performance, shall constitute Seller's unqualified acceptance of this Contract. Any acceptance of this Contract is limited to acceptance of the express terms of the offer set forth in this Contract.
- c) Additional or differing terms or conditions proposed by Seller or included in Seller's acknowledgment hereof are hereby objected to by TMS and have no effect unless expressly accepted in writing by TMS, however such proposal shall not operate as a rejection of this offer unless such

variances are in the terms of the description, quantity, price or delivery schedule of the Work but shall be deemed a material alteration thereof, and this offer shall be deemed accepted by the Seller without said additional or different terms. If this Contract shall be deemed an acceptance of a prior offer by Seller, such acceptance is limited to the express terms set forth in this purchase order.

d) These terms and conditions may be invoked in a purchase agreement, between Buyer and Seller, against which Buyer may place multiple purchase orders. Under such circumstances, each purchase order shall constitute a separate and distinct contract between the parties and these terms and conditions shall be in addition to those of such order, and shall be deemed incorporated in each such order. Regardless of whether an order is issued in connection with a purchase agreement invoking these terms or independently of any purchase agreement, these terms and conditions shall supersede and replace all terms and conditions appearing or referred to on the face or on the reverse of any proposal, acknowledgement, or acceptance or any other communication issued by the Seller in connection with such order.

3) USE OF AGREEMENT BY AFFILIATES

Seller agrees that an Affiliate of TMS may enter into purchase orders hereunder with Seller or a Seller Affiliate that incorporate the terms and conditions of this Contract. Any Affiliate of TMS shall rely on and enforce this Contract and shall be responsible for its own obligations, including but not limited to, all charges incurred in connection with such purchase order. The parties agree that nothing in this Contract shall be construed as requiring Buyer to indemnify Seller or to otherwise be responsible for any acts or omissions of an Affiliate, nor shall anything in this Contract be construed as requiring an Affiliate to indemnify Seller or to otherwise be responsible for the acts or omissions of Buyer and the Seller acknowledges that no such indemnifications are given or responsibilities assumed.

4) SELLER REPRESENTATIONS/COMPLIANCE WITH APPLICABLE LAWS

a) Seller represents, warrants, certifies and covenants that it shall perform all activities required under this purchase order in compliance with all applicable international, national, state and local laws, including, but not limited to environmental, health and safety laws and regulations.

b) RESERVED

c) Work supplied under this purchase order may be exported worldwide, including countries that prohibit the importation of goods manufactured with child labor or forced, indentured or convict labor. Seller represents, warrants, certifies and covenants that no Work supplied under this Contract have been or will be produced using forced, indentured or convict labor, or the labor of persons in violation of the minimum working age laws of the country of manufacture, or in violation of minimum wage, hour of service or overtime laws of the country of manufacture.

From time to time, at Buyer's request, Seller shall provide certificates to Buyer in form and substance acceptable to Buyer relating to the requirements of this Article 4, subsection c.

d) Seller shall permit Buyer or its representatives to have reasonable access to the site where work under this order is performed to assess (1) Seller's work quality and compliance with Buyer's specifications and (2) Seller's compliance with its representations, warranties, certifications and covenants hereunder.

5) ENVIRONMENTAL MATTERS

a) Certifications, Representations, and Warranties

i) Seller represents, warrants, certifies and covenants that it shall perform all activities required under this Contract in compliance with all applicable national, EU, state/provincial and local environmental, health and safety laws and regulations;

ii) Seller represents, warrants, certifies and covenants that it will take appropriate actions to provide a safe and healthy workplace, and to protect local environmental quality in all of its activities, including without limitation, transport.

iii) Seller represents, warrants, certifies and covenants that each chemical substance constituting or contained in goods sold or otherwise transferred to TMS hereunder is on the list of chemical substances compiled and published by (a) the Administrator of the Environmental Protection Agency pursuant to: the Toxic Substances Control Act (15 USC Section 2601 et seq.) as amended; or (b) the European Inventory of Existing Commercial Chemical Substances (EINECS) or the European List of Notified Chemical Substances (ELINCS); or (c) any equivalent lists in any other jurisdictions to which GE informs Seller or Seller knows the goods likely will be shipped to or through. Seller represents, warrants, certifies and covenants that each chemical substance constituting or contained in goods sold or otherwise transferred to Buyer is pre-registered if required, and registered if required, under Regulation (EC) No 1907/2006 ("REACH"), is not restricted under Annex XVII of REACH and if subject to authorization under REACH is authorized for Buyer's use.

iv) Seller shall notify Buyer if it decides not to Preregister or Register substances that will be subject to Preregistration or Registration under REACH and are constituting or contained in goods supplied to Buyer at least 12 months before their Preregistration or Registration deadline. Seller will monitor the publication by the European Chemicals Agency of the list of substances meeting the criteria for Authorization under REACH (the "candidate list") and immediately notify Buyer if any of the goods supplied to Buyer is manufactured by Seller with or contains a substance officially proposed for listing on the candidate list. Seller shall provide Buyer with the name of the substance as well as with sufficient information to allow Buyer to safely use the goods or fulfill its own obligations under REACH.

v) Seller represents, warrants, certifies and covenants that none of the goods supplied under this Contract contains any: (a) lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (PBB), polybrominated diphenyl ethers (PBDE) or any other hazardous substances the use of which is restricted under EU Directive 2002/95/EC (27 January 2003)(RoHS Directive), as amended; (b) arsenic, asbestos, benzene, polychlorinated biphenyls (PCBs), carbon tetrachloride, beryllium, or radioactive materials; (c) chemical restricted under the Montreal Protocol on ozone-depleting substances; (d) substance listed on the candidate list of the REACH legislation (Regulation (EC) No 1907/2006) or restricted under Annex XVII of REACH; or (e) other chemical the use of which is restricted in any other jurisdictions to which GE informs Seller the goods are likely to be shipped or the Seller knows the goods are likely to be shipped to or through; unless Buyer expressly agrees otherwise in writing as an addendum to this Contract and Seller identifies an applicable exemption from any relevant legal restriction on the inclusion of such chemicals or hazardous materials in the goods sold or transferred to Buyer. Upon request from Buyer and subject to reasonable confidentiality provisions which enable Buyer to meet its compliance obligations, Seller will provide Buyer with the chemical composition, including proportions, of any substance, preparation, mixture, alloy or goods supplied under this Contract and any other relevant information or data regarding the properties including without limitation test data and hazard information.

vi) Unless specifically defined as a requirement by Buyer engineering drawings or specifications, the use of cadmium plating or nickel cadmium plating is strictly prohibited in the manufacture of this Work. The use of cadmium plating or nickel cadmium plating is strictly prohibited on all tooling, fixturing, and test equipment that is used for manufacturing, assembly, test, or material

handling of the Work unless Seller has notified Buyer in advance and has obtained its prior written consent to such use. Approval shall not be granted where there is a potential for Seller's Good to come into contact with titanium containing items.

vii) Seller represents, warrants, certifies and covenants that, except as specifically listed in a mutually agreed, written addendum to this Contract, none of the goods supplied under this Contract are subject to electrical or electronic reuse or recycling take back requirements pursuant to applicable national law

viii) Seller represents, warrants, certifies and covenants that it has established an effective program to ensure that the activities of any Sellers it utilizes to provide any goods or services that will be incorporated into the goods supplied under this Contract will be conducted in conformance with Section 6 a), subparts i through vii, above.

b) Covenants.

i) With respect to any goods or other materials sold or otherwise transferred to Buyer hereunder, Seller shall provide all relevant information, including without limitation, safety data sheets in the language and the legally required format of the location to which the goods will be shipped and mandated labeling information, required pursuant to applicable requirements such as: (a) the Occupational Safety and Health Act (OSHA) regulations codified at 29 CFR 1910.1200; or (b) *REACH* or EU Directive 67/548/EC, as amended, if applicable, and (c) any other applicable law, rule or regulation or any similar requirements in any other jurisdictions to which Buyer informs Seller the goods are likely to be shipped. For each such material, identification shall reference the stock or part number of the delivered Work. Hazardous materials include, but are not limited to, materials embedded in a delivered Work in such a manner as to present a potential for personal injury or harm or property damage in the course of normal use, repair, accidents or disposal. All safety data sheets and labels required under this section and HAZCOM shall accompany each delivery, with a copy to General Electric Company, Group Environmental Affairs & Safety, One Neumann Way, M/D T165, Cincinnati, OH 45215.

ii) Where applicable, for any goods specifically listed in a mutually agreed written addendum to this Contract as "electrical or electronic equipment" as indicated in a.vii. above, Seller agrees to assume responsibility for taking back those goods in the future upon the request of Buyer and treating or otherwise managing them in accordance with the requirements of applicable national legislation. Seller also agrees to take back as of the date of this Contract the used goods currently owned by Buyer or to arrange with a third-party to do so in accordance with all applicable requirements. No additional charge will be sought by Seller and no additional payments will be due from Buyer for Seller's agreement to undertake these responsibilities.

iii) From time to time, at TMS's request, Seller shall provide certificates to TMS relating to any applicable legal requirements or to update sub-part A of this Contract, in each case in form and substance satisfactory to TMS.

iv) Seller shall permit TMS or its representatives to have reasonable access to the sites where the work under this Contract is performed and to its employees in order to assess (1) work quality, (2) conformance with TMS's specification, and (3) conformance with Seller's representations, warranties, certifications and covenants under this Contract.

6) EXPORT/IMPORT CONTROL

a) Seller agrees to comply with all applicable export and import control laws and regulations of Seller's and Buyer's country, and with all applicable export or import authorizations and their provisos. Without limiting the foregoing, Seller agrees that it will not transfer any export controlled

item, data or services, to include transfer to foreign persons employed by or associated with, or under contract to Seller or Seller's lower-tier Sellers, without the authority of an Export License or applicable license exemption or exception.

b) Where Work is to be delivered to Buyer in the United States:

i) Seller agrees to comply with all applicable U.S. Government export regulations, including but not limited to the International Traffic in Arms Regulations (22 CFR Part 120-130) and the Export Administration Regulations (15 CFR Parts 730-774).

ii) Seller agrees to notify TMS of the US Munitions List Classification or US Export Commodity Classification Number of each deliverable under this Contract.

iii) Seller shall provide to TMS all information necessary to support any export or import authorization requirements by TMS for items ordered hereunder.

iv) Seller shall immediately notify the Buyer Procurement Representative if Seller is listed in any Denied Parties List, has been convicted of violating any of the U.S. criminal statutes enumerated in 22 CFR §120.27, is ineligible to contract with, or to receive a license or other approval to export or import articles or services, from any agency of the U.S. Government, or if Seller's export privileges are otherwise denied, suspended or revoked in whole or in part by any U. S. Government entity or agency.

v) Seller acknowledges that if it engages in the United States in the business of either manufacturing or exporting defense articles or defense services, as defined in 22 CFR §§120.6, 120.9, then Seller is required to register with the U.S. Department of State, Office of Defense Trade Controls.

c) Where Work is to be delivered to TMS in the United Kingdom:

i) Seller agrees to comply with all applicable U.S. Government export regulations, including but not limited to the International Traffic in Arms Regulations (22 CFR Part 120-130) and the Export Administration Regulations (15 CFR Parts 730-774).

ii) Seller shall be responsible for obtaining any required licenses to export the Work and associated technical data to Buyer.

iii) Seller certifies that the Work supplied to Buyer is not subject to the International Traffic in Arms Regulations (ITAR) (22 CFR Part 120-130) or Export Administration Regulations (EAR) (15 CFR Parts 730-774). Seller shall obtain Buyer's prior written approval prior to incorporating any item, technology or software that is subject to the ITAR or EAR into the Work.

iv) Seller shall complete Buyer's Export Seller Certification Form providing required export classification information (e.g., U.S. Commerce Control List, United States Munitions List category or UK Control List category, Harmonized Tariff Schedule, Country of Origin, etc. as well as copies of relevant export authorizations permitting export or re-export to Buyer or Buyer's designated end user.

d) With respect to defense articles and defense services (as defined in Sections 120.6 and 120.9 of the ITAR) furnished hereunder, Seller certifies that it has not paid, offered or agreed to pay, and agrees that it shall not pay, offer or agree to pay, for the solicitation or promotion or otherwise to secure the conclusion of a sale of defense articles or defense services to or for the use of the armed forces of an international organization or non-U.S. Country, any (i) fee, commission, loan, gift, donation or other

payment of \$1,000 or more, whether in cash or in kind, or (ii) political contribution (including any loan, gift, donation, rebate, payment of expenses or other payment) to or for the benefit of, or at the direction of, any foreign person or entity (including any non-U.S. candidate, committee, political party, political faction, or government or governmental subdivision, or any individual elected, appointed or otherwise designated as an employee or officer thereof).

Notwithstanding the foregoing, in the event Seller pays, offers or agrees to pay any such fee, commission, loan, gift, donation, political contribution or other payment with respect to such defense articles or defense services, Seller shall provide to the Buyer, in a timely manner and not later than 20 days after such an event, full disclosure of all information necessary for the Buyer to comply fully with Sections 130.9 and 130.10 of the ITAR.)

e) **CITIZENSHIP STATUS:** Unless otherwise permitted under U.S. export regulations, only U.S. Persons as defined herein shall be permitted to work on Buyer's purchase orders. The term "U.S. Person" means any natural person who is a lawful permanent resident as defined by 8 U.S.C. 1101(a)(20) or who is a protected individual as defined by 8 U.S.C. 1324b(a)(3). It also means any corporation, business association, partnership, trust, society or any other entity or group that is incorporated to do business in the United States. It also includes any governmental (federal, state or local) entity.

f) With regard to all technical data exported to Seller under the authority of a valid U.S. export license granted pursuant to 22 CFR 124.13 (Procurement by U.S. persons in foreign countries--Offshore Procurement), Seller agrees to the following:

i) The use of the technical data is limited to the manufacture of the defense articles required by this contract or purchase order only; and

ii) Disclosure of the technical data is prohibited to any other person except subcontractors within the same country; and

iii) Acquisition of any rights in the data by any foreign person is prohibited; and

iv) Any subcontract(s) between the Seller and other foreign persons in the approved country for manufacture of equipment for delivery pursuant to the contract or purchase order contain all the limitations of this paragraph F; and

v) Seller, including subcontractors, shall destroy or return to the Buyer in the United States all of the technical data exported pursuant to this contract or purchase order upon fulfillment of their terms; and

vi) Delivery of the defense articles manufactured abroad must be made only to the Buyer in the United States or to an agency of the U.S. Government as directed by Buyer.

g) The United States of America prohibits the importation of Work from certain countries. No Work from prohibited countries may be used directly or indirectly in the design, manufacture, test, or other methods of providing any of the items covered by this Contract. The list of prohibited countries can change from time to time and it is Seller's responsibility to ensure compliance with such list at all times. Current information can be obtained by accessing the Internet at URL <http://www.treas.gov/ofac/>

h) Seller shall indemnify TMS for all liabilities, penalties, losses, damages, costs or expenses, including attorney fees, that may be imposed on or incurred by TMS in connection with any violations of laws and/or regulations by Seller.

7) ASSIGNMENT AND SUBCONTRACTING

a) Any purported assignment or subcontracting of Seller's contract rights or delegation of duties shall be void, unless prior written consent is given by Buyer. However, Seller may assign rights to be paid amounts due, or to become due, to a financing institution if Buyer is promptly furnished a signed copy of such assignment reasonably in advance of the due date for payment of any such amounts. Amounts assigned to an assignee shall be subject to setoffs or recoupment for any present or future claims of TMS against Seller. Buyer shall have the right to make settlements and/or adjustments in price without notice to the assignee.

b) If a third party submits a solicited or unsolicited offer to Seller that would result in a Change of Ownership or Control of Seller, as defined below, Seller shall give notice of such offer to Buyer as early as commercially practical following Seller's receipt of the offer. The notice shall include the identity of the offeror, the date and time of the offer and the conditions of the offer. Before Seller accepts the offer, it shall give Buyer an opportunity, within a reasonable time, to advise Seller of its objection to the offer. If despite Buyer's objections, the Change in Ownership and Control occurs, Buyer has the right at its discretion to terminate this Contract for default at no cost to Buyer. In the event of such termination, Seller agrees to render full cooperation to Buyer in order to minimize disruption to the Buyer's program. Pending termination or in lieu of termination, Buyer may require Seller to provide adequate assurance of performance, including, but not limited to the institution of special controls regarding the protection of Buyer's proprietary information.

For purposes of this sub-paragraph (b), the terms "Change in Ownership or Control" shall mean any of the following: i) the sale of equity shares controlling 20% or more of the voting rights in Seller or Seller's parent, ii) the sale, lease, transfer or other disposition of substantially all of the assets of Seller or Seller's parent, iii) a merger, reorganization, consolidation, share exchange, recapitalization, business combination, liquidation or dissolution or similar transaction, iv) a tender offer or exchange offer for any of the outstanding shares of capital stock of Seller or Seller's parent, v) a sale by Seller of the assets relating to the product Seller produces or will produce for Buyer, or vi) any public disclosure of a proposal or plan or intention to do any of the foregoing.

8) CHANGES

a) The Buyer's Procurement Representative may at any time, by written notice, and without notice to sureties or assignees, make "Changes" within the general scope of this Contract in any one or more of the following: (i) drawings, designs or specifications; (ii) method of shipping or packing; (iii) place of inspection, acceptance, performance, or point of delivery; (iv) delivery schedule; (v) description of services to be performed; and (vi) time of performance of Work (i.e., hours of the day, days of the week, etc.). Changes may only be made in writing by the Buyer Procurement Representative.

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

c) Any claim for an equitable adjustment by Seller must be submitted in writing to TMS within thirty (30) days from the date of notice of the change, unless the Parties agree in writing to a longer period. TMS may audit any of Seller's books and records in connection with any equitable adjustment proposal. Seller shall provide TMS with access to such premises, documents, personnel and facilities as may be reasonably necessary to allow TMS or its representative(s) to carry out such audit(s).

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

9) CONTRACT DIRECTION

- a) Only the Buyer's Procurement Representative has authority to change this Contract. Such changes must be in writing.
- b) TMS engineering and technical personnel may from time to time render assistance or give technical advice or discuss or effect an exchange of information with Seller's personnel concerning the Work hereunder. Such actions shall not be deemed to be a change under the "Changes" clause of this Contract and shall not be the basis for equitable adjustment.

Except as otherwise provided herein, all notices to be furnished by the Seller shall be sent to the Buyer's Procurement Representative.

10) STOP WORK ORDER

- a) Seller shall stop Work for up to ninety (90) days in accordance with the terms of any written notice received from Buyer, or for such longer period of time as the Parties may agree and shall take all reasonable steps to minimize the incurrence of costs allocable to the Work covered by this Contract during the period of Work stoppage.
- b) Within such period, TMS shall either terminate or continue the Work by written order to Seller. In the event of a continuation, an equitable adjustment in accordance with the principles of the "Changes" clause, shall be made to the price, delivery schedule, or other provision affected by the Work stoppage, if applicable, provided that the claim for equitable adjustment is made within thirty (30) days after such continuation.

11) TERMINATION FOR CONVENIENCE

- a) Buyer may terminate all or any part of this Contract for convenience at any time. Buyer shall terminate by delivery to Seller of a notice of termination specifying the extent of termination and the effective date.

After receipt of a notice of termination, and except as directed by Buyer, Seller shall immediately: (1) stop work as directed in the notice; (2) place no further subcontracts or orders for materials, services, or facilities, except as necessary to complete the continued portion of the Contract; and (3) terminate all Subcontracts to the extent they relate to work terminated. After termination, Seller shall submit a final termination settlement to Buyer in the form and in the manner prescribed by Buyer, and in accordance with applicable portions of subparts 49.1, 49.2 and 49.3 of the Federal Acquisition Regulation (FAR).

In the event that Buyer wrongfully terminates this purchase order for default, in whole or in part, such termination becomes a Termination for Convenience under this Article 11.

Seller agrees to waive any claim when a reduction in the quantity on order has an order value which is under \$1,000.00.

When a change in requirements results in a quantity reduction those quantities will be deleted from the schedule on the basis that any quantity with incurred cost will be consumed by future releases. Should the quantity with incurred cost not be consumed, this Article 11 applies.

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

c) Seller shall continue all Work not terminated.

c) To the extent permitted by law, either Seller or Buyer may terminate this Contract effective immediately and without liability upon written notice to the other party if any one of the following events occurs: (a) the other party files a voluntary petition in bankruptcy or otherwise seeks protection under any law for the protection of debtors; (b) a proceeding is instituted against the other party under any provision of the bankruptcy law which is not dismissed within sixty (60) days; (c) the other party is judged bankrupt; (d) a trustee or receiver is appointed by a court for all or a substantial portion of the assets of the other party; (e) the other party becomes insolvent or suspends business; or (f) the other party makes an assignment of its assets for the benefit of its creditors.

12) DEFAULT

a) TMS, by written notice, may terminate this Contract for default, in whole or in part, if (i) Seller fails to comply with any of the terms of this Contract, or (ii) Seller fails to perform within the time specified therein or any extension thereof, or (iii) fails to make progress as to endanger performance of this Contract, or (iv) fails to provide adequate assurance of future performance. Seller shall have five (5) days (or such longer period as TMS may authorize in writing) to cure any such failure after receipt of notice from TMS. Default involving delivery schedule delays shall not be subject to the cure provision.

b) TMS shall not be liable for any Work not accepted; however, TMS may require Seller to deliver to TMS any supplies and materials, manufacturing materials, and manufacturing drawings that Seller has specifically produced or acquired for the terminated portion of this Contract. TMS and Seller shall agree on the amount of payment for these other deliverables.

c) In the event of termination, in whole or in part, TMS may acquire, under terms TMS considers appropriate, supplies or services similar to those terminated, in which case Seller shall continue performance of such order to the extent not terminated and shall be liable to Buyer for any excess costs for Buyer's procurement of such similar supplies or services.

d) In lieu of termination for default, Buyer, at its sole discretion, may elect (1) to extend the schedule and/or (2) to waive deficiencies in Seller's performance, in which case an equitable reduction in the purchase order price shall be negotiated. In the event Seller, for any reason, anticipates difficulty in complying with the required schedule, or in meeting any of the other requirements of any order, Seller shall promptly notify Buyer in writing. The rights and remedies of Buyer provided in this clause shall not be exclusive and shall be in addition to any other rights and remedies provided by law or under any Buyer purchase order.

e) Seller shall continue all Work not terminated.

f) If after termination under subsection a of this Article 12, it is later determined that Seller was not in default, such termination shall be deemed a Termination for Convenience.

13) TIMELY PERFORMANCE

a) Seller's timely performance is a critical element of this Contract. Time is of the essence.

b) Unless advance shipment has been authorized in writing by TMS, TMS may store at Seller's expense, or return, shipping charges collect, all Work received in advance of the scheduled delivery date.

c) If Seller becomes aware of difficulty in performing the Work, Seller shall give timely written notice to TMS, giving pertinent details. This notification shall not change any delivery schedule.

d) In the event of a termination for convenience or change, no claim will be allowed for any manufacture or procurement in advance of Seller's normal flow time unless there has been prior written consent by Buyer.

14) DELAY AND DEFAULT

In the event Seller for any reason anticipates any difficulty in complying with the required delivery date or any of the other requirements of this Contract, Seller shall promptly notify Buyer in writing or by electronic mail system. In the event of a delivery delay, non-delivery or any other default by Seller in meeting the requirements of this Contract, Buyer may terminate this Contract without further compensation to Seller, and Buyer's rights will be as specified in the New York Uniform Commercial Code. If progress payments have been made under this Contract, and the Contract is terminated for default, Buyer shall have the rights of the US Government set forth in FAR 52.232-16 Progress Payments, including paragraph (h), "Special Terms Regarding Default."

15) EXTRAS

Work shall not be supplied in excess of quantities specified in the Contract. Seller shall be liable for handling charges and return shipment costs for any excess quantities.

16) NEW MATERIALS

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

17) ANTICIPATION OF DELIVERY SCHEDULE

Unless otherwise agreed to in writing, Seller shall not make material commitments or production arrangements in excess of the amount or in advance of the time necessary to meet schedules that are within lead time. It is Seller's responsibility to comply with its scheduled lead times but not to anticipate Buyer's requirements. Goods shipped to Buyer in advance of scheduled lead times may be returned to Seller at Seller's expense.

18) SECURITY INTEREST

In the event items will be bailed to Seller or progress payments will be made, Seller hereby grants Purchaser a security interest in equipment, machinery, contract rights, inventory, goods, merchandise and raw materials, whether now existing or hereafter arising, and any replacements, improvements, substitutions, attachments, accessories and accessions thereto or thereon provided by Purchaser or purchased by Seller with progress payments or advances made by Purchaser and to be used by Seller in manufacturing products ordered by Purchaser under this purchase order. Seller agrees to execute and deliver all documents requested by Purchaser to protect and maintain Purchaser's security interest.

19) INSPECTION AND ACCEPTANCE

a) Notwithstanding (i) payment; (ii) passage of title; (iii) prior inspection or test, or (iv) execution of an acceptance document, TMS and its customer may inspect all Work prior to acceptance or rejection at reasonable times and places, including, when practicable, during manufacture and before shipment. If any inspection or test is made on the premises of Contractor or its supplier, Contractor, without additional charge, shall provide all reasonable facilities and assistance for the safety and convenience of the inspectors in the performance of their duties. All inspections and tests on the premises of Contractor or its supplier shall be performed in such a manner as not to unduly delay the Work.

- b) All Work performed pursuant to these terms and conditions (including but not limited to services, including, but not limited to, engineering and design/development work) shall comply with all applicable specifications and all other requirements of these terms and conditions and shall be subject to inspection and test by the Buyer and its customer at all times and places.
- c) No such inspection shall relieve Seller of its obligations to furnish all Work in accordance with the requirements of this Contract nor impose liabilities on Buyer therefor. The inspection or test of any Work by Buyer shall not relieve Seller from any responsibility regarding defects or other failures to meet Contract requirements, which may be discovered subsequently.
- d) TMS's final inspection and acceptance shall be at the delivery location specified by TMS unless otherwise designated by TMS.
- e) Seller shall provide and maintain a test and inspection system acceptable to TMS and its customers, if required.
- f) Seller shall not re-tender rejected Work without disclosing the corrective action taken.

20) PACKING, TITLE, TRANSPORTATION

- a) Unless otherwise specified, all Work is to be packed in accordance with good commercial practice. TMS may direct specific terms or requirements for packaging.
- b) A complete packing list shall be enclosed with all shipments. Seller shall mark containers or packages with necessary lifting, loading, and shipping information, including the TMS Contract number, item number, dates of shipment, and the names and addresses of consignor and consignee. Bills of lading shall include this Contract number.
- b) Seller agrees to comply with U.S. Guidelines for Regulating Wood Packaging Materials in International Trade, 7 CFR Part 319, and shall indemnify TMS for any fees, costs or penalties assessed by the U.S. Animal and Plant Health Inspection Service, USDA, or any other governmental agency, for noncompliance with these regulations.
- c) Unless otherwise stipulated on the face of this purchase order, Work covered by this Contract shall be shipped "F.O.B. Seller's Plant," as defined by the New York Uniform Commercial Code ("NYUCC"). If Work is to be delivered "F.O.B. Destination," as defined by the NYUCC, transportation charges must be prepaid by Seller.
- d) In any event, title to said Work shall pass to Buyer on the title passage date (earlier of the Manufacturing Required Date (MRD) or the use date, unless Goods are delinquent to the MRD, in which case title passage shall occur upon arrival of such Work at the specified delivery location). Buyer insures all Work for which it accepts risk of loss while such Work is in transit. Therefore, Seller shall not declare any insurance value on such Work shipped via any carrier.
- e) Seller shall release rail or truck shipments at the lowest released valuation permitted in the governing tariff or classification. No charges for unauthorized transportation will be paid by Buyer. Any unauthorized shipment which results in excess transportation charges must be fully prepaid by the Seller. If Seller does not comply with the stated delivery schedule, Buyer may, in addition to any other right which Buyer may have, require delivery by fastest way. The charges resulting from this mode of transportation must be fully prepaid and the full cost of the shipment must be absorbed by the Seller.

21) STANDARD TERMS OF SETTLEMENT

a) **STANDARD:** Unless Buyer chooses the accelerated payment program described in (b) below, Buyer's standard terms of settlement shall be issuance of Buyer of the full invoiced amount (not discounted) to Seller within ninety (90) days (meaning within 90 days of the Payment Start Date). Settlement and invoicing must be paperless, and in a format acceptable to Buyer. Seller must provide banking information to establish electronic funds transfer for U.S. Sellers and wire transfer for non-U.S. Sellers.

b) **ACCELERATED PAYMENT PROGRAM:** Buyer reserves the right to choose the settlement of invoices with Seller by using Buyer's accelerated payment program as follows: Seller agrees to accept the invoice amount discounted by two and one-half percent (2.5%), in exchange for Buyer's initiation of Buyer on the 15th day following the Payment Start Date (as defined in (d) below) ("net 15 less 2.5 %"). If payment is initiated earlier than such 15th day, the invoice amount may be further discounted to reflect substantially similar economics as "net 15 less 2.5%".

c) **USE OF GECF:** Funding for accelerated payment of invoices under the Seller accelerated payment program will be provided by General Electric Commercial Finance ("GECF"). If Seller chooses to settle an invoice pursuant to the accelerated payment program, the following shall occur: (1) title to the Goods that are being delivered shall pass directly to GECF consistent with Article 20 above; (2) once title to the Goods has passed to GECF, GECF will immediately and directly transfer title to Buyer; and (3) any and all of the Seller's obligations under this Contract, including Seller's representations and warranties, shall extend to and benefit Buyer as if title passed directly to Buyer.

d) As used in this Article 21, the "Payment Start Date" shall be:

- i) For receivable material and/or Services: From the latest of (a) the manufacturing required date as identified on the part schedules report, (b) the material received date as identified in Buyer's computer system, or (c) the invoice date; and,
- ii) For non-receivable material and/or services: From the invoice date; invoices for services must be dated no earlier than the last day of the period of time during which services that are the subject of the invoice were provided.

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

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

g) Invoices must state clearly the order number and order line item number, applicable serial, part, drawing, release and advice note numbers, descriptions, quantities and weights and if applicable, VAT and Seller's VAT registration number.

h) Buyer shall be entitled to set off any amount owing from Seller to Buyer or to any of Buyer's Affiliates against any amount payable under this Contract.

22) RESERVED

23) TMS'S PROPERTY

a) All tangible and intangible property, including but not limited to tools, tool drawings, materials, processes, procedures, process parameters, drawings, computer software, documents, information or data of every description furnished to Seller by Buyer, or by Buyer's affiliates, subsidiaries or Sellers,

or paid for in whole or in part by Buyer, and any replacement thereof, or any materials affixed or attached thereto, shall be and remain the personal property of Buyer, and, unless otherwise agreed to in writing by Buyer shall be used by Seller solely to render services or provide products to Buyer. Such property, and whenever practical each individual item thereof, shall be plainly marked or otherwise adequately identified by Seller as being the property of Buyer or Buyer's designee, and shall be safely stored separate and apart from Seller's property. Seller shall not substitute any property for Buyer's property and shall not use such property except in filling Buyer's purchase orders. Such property while in Seller's custody or control shall be held at Seller's risk and shall be insured by Seller for replacement cost with loss payable to Buyer. Such property shall be subject to removal at Buyer's written request, in which event Seller shall prepare such property for shipment and shall deliver it as directed by Buyer in the same condition as originally received by Seller, reasonable wear and tear excepted, all at Seller's expense. The foregoing shall not be deemed to affect the rights, if any, of the U.S. Government in any such property or to grant any rights to Buyer in conflict with DFARS 252.227-7013, Rights in Technical Data Noncommercial Items, DFARS 252.227-7014 Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation, or DFARS 252.227-7015 Technical Data-Commercial Items

b) Buyer hereby grants Seller a license to use the tools, drawings, specifications, processes, procedures, process parameters, computer software, and other data (hereinafter collectively referred to as "Data") furnished by the Buyer, or by Buyer's affiliates, subsidiaries or Sellers, or paid for in whole or in part by Buyer hereunder for the sole purpose of performing this order for Buyer. All Data is the property of Buyer and shall not be used, disclosed to others or reproduced for any purpose, including, but not limited to, the design, manufacture or repair of parts or to obtain FAA or other Government approval to do so; provided; however, Seller may provide Data furnished or paid for in whole or in part by Buyer hereunder to Seller's Sellers for the sole purpose of enabling Seller's Sellers to assist Seller in performing this Contract for Buyer and on condition that Seller's Sellers agree in writing for Buyer's benefit to the terms of Articles 21, 24, and 27 hereof. This license is nonassignable, and this license is terminable with or without cause by Buyer at any time. All Data furnished or paid for by Buyer shall be deemed to be proprietary property to Buyer, whether or not it is marked with any restrictive legend.

c) Upon completion of performance of all of the Contract requirements including but not limited to the record retention requirements set forth herein, the Seller shall destroy all Data furnished by the Buyer for the sole purpose of performing the Contract. The Buyer may require the Seller to provide a certification of the destruction of Data.

d) Buyer shall have the right to audit all pertinent books and records of Seller, and to make reasonable inspections of Seller's facilities to verify compliance with this Article and any the article entitled "Intellectual Property."

e) In the event Seller, without Buyer's prior written consent and authorization, designs or manufacturers for sale to any person or entity other than Buyer any GE part, or any part or hardware that is substantially similar to or can replace or repair a GE part, or obtains FAA or other governmental approval for such hardware or repair, the Seller, in any adjudication involving or relating to Buyer's Data, shall be required to establish by clear and convincing evidence that neither Seller nor any of its employees, Sellers or agents used in whole or in part, directly or indirectly any of Buyer's Data in such design or manufacture or in obtaining FAA or other governmental approval with respect to such hardware or repair.

f) In the event Seller is notified by Buyer that Work ordered under this Contract is patented, Seller agrees to mark such goods with any patent numbers or other markings designated by Buyer, including updates to such numbers or markings.

24) WORK ON BUYER'S OR ITS CUSTOMER'S PREMISES:

If Seller's work under this Contract involves operations by Seller on the premises of Buyer or one of its customers, then:

- a) Seller shall comply with all of Buyer's safety and security procedures and shall take all necessary precautions to prevent the occurrence of any injury to person or property during the progress of such work. Seller shall maintain such insurance coverage(s) as set forth in this Contract.
- b) Seller agrees that all of its employees whom may require access to Purchaser's or its customer's premises to perform work pursuant to this order shall be tested and certified (in writing) to be free from the following illegal or unauthorized drugs prior to being assigned to perform such work: cannabinoid metabolites (marijuana) opiate derivatives (heroin, morphine, codeine) cocaine metabolites (benzoylecgonine, ecgonine) amphetamines (methamphetamines) phencyclidine.

In addition, such drug tests shall include screening for prescription drug use. In the event Seller's employee acknowledges use of prescription drugs, or if the drug screening results are positive for prescription drug use, Seller shall not assign such employee to perform work pursuant to any order unless, (1) Seller confirms that there are corresponding documented medical authorizations for use of such prescription drugs; and (2) Seller determines, using appropriately qualified resources, that the employee is fit to perform the work under any order and free of any impairment that would prevent the employee from performing competent and safe work under any order.

- c) Seller's employees shall be retested and recertified to be free of these unauthorized drugs after a six (6) month absence from performing work on Purchaser's or its customer's premises.
- d) Seller shall comply with any and all federal, state, or local anti-drug, alcohol abuse and /or drug testing statutes or regulations for any of its employees who may be covered by such statutes or regulations. Seller shall have, retain, and be able to provide to Purchaser, upon request, an approved drug and alcohol misuse prevention plan.
- e) Seller shall conduct a criminal convictions records investigation of its employees before they are assigned to work on any order that requires the employee to enter Purchaser's premises or the premises of a customer of Purchaser (hereinafter collectively "Buyer Premises"). A Criminal Convictions Records Investigation shall consist of a records search (documented by a written report retained by the Seller of the results of such search) by the appropriate law enforcement or other local or state agency in each location in which the employee has resided and worked in at least the seven years preceding the date of the criminal conviction records investigation. Seller is required to use a Purchaser approved source to conduct such Criminal Convictions Records Investigation. Purchaser reserves the right, at its discretion, to request from Seller documentation of the completion of a criminal convictions records investigation for any employee assigned to work on Purchaser's or its customer's premises. Seller's failure to have completed a criminal convictions investigation of any of its employees in accordance with this Article shall be grounds for immediate expulsion of the Seller and its employees from Purchaser's or its customer's premises and Purchaser shall have the right to terminate all orders for default.
- f) The Seller shall not assign any employee to work on the Buyer's premises where:
 - i) The Seller is not in possession or has not seen a criminal conviction certificate of that employee;
 - ii) The criminal conviction certificate reveals the employee has been convicted of an offence.

- g) The Seller shall ensure that the provisions of this clause are included in any subcontract pursuant to any purchase order with a subcontractor who performs Work on Buyer's premises.

25) ACCESS TO BUYER'S COMPUTER SYSTEMS

a) Access to Buyer's computer systems by Seller's personnel shall include only those individual persons who have been specifically granted an authorized user id by a Buyer. Buyer reserves the right to, at any time, verify the citizenship status of all Seller personnel who have access to Buyer's computer systems. Such access shall be limited by Buyer to those systems, which in Buyer's sole discretion, are required for the Seller's personnel to perform assigned work and shall be valid until such access is revoked or surrendered. Such access shall be surrendered by Seller's personnel upon Buyer's request or upon removal or reassignment by Seller.

b) Seller agrees to adhere to the Buyer information technology ("IT") security guidelines detailed herein to the extent such requirements are applicable to goods and services hereunder. If such requirements are not applicable as of the date of this Order, Seller shall immediately notify Buyer upon such requirements becoming applicable and before Seller accesses any Buyer network or data. Seller's failure to notify Buyer in advance shall constitute a material breach of this Order.

c) Buyer IT Security Guidelines:

i) If Seller is given access to Buyer's e-mail, computers, systems, electronic storage media or networks, Seller shall adhere to the requirements contained in the "Guidelines for Acceptable Use of Information Resources"; and

ii) If Seller will host and/or house any Buyer data (including, but not limited to, Confidential Information and Buyer Personal Data) or if Seller's network will be connected to Buyer's network, Seller shall adhere to the requirements contained in the "GE Supplier Information Security Policy".

d) Buyer and Seller shall agree in good faith to additional security requirements to render Buyer/Seller IT environments secure, and Seller shall implement such changes to comply with Buyer's security guidelines and/or requests.

e) Buyer reserves the right to conduct on-site audits of Seller's facility and practices to determine whether Seller's compliance with this Article is reasonably sufficient to protect Buyer's interests. If Buyer reasonably determines that Seller's implementation is/are insufficient to protect Buyer's property and interests, Buyer may give Seller notice of such determination. Upon receiving such notice, Seller shall have forty-five (45) days thereafter to make such policy changes and take the implementation actions reasonably requested by Buyer.

26) RESERVED

27) GRATUITIES/KICKBACKS

Any officers, employees or agents of Buyer, the U.S. Government, or Buyer's customers, are prohibited from soliciting or accepting entertainment, gifts, gratuities, compensation or favors from Seller. Seller shall at all times comply with the requirements of this policy. When Seller has reasonable grounds to believe that a violation of this gratuity policy by Seller or Buyer's representatives may have occurred, Seller shall promptly report the potential violation to Buyer by using the GE Aviation hot line (1-800-443-3632) or (513-243-6922) or by reporting it in writing.

For violation of this Article 26 by Seller, this Contract may be terminated in whole or in part. Buyer may also require Seller to provide proof that it has implemented internal management controls sufficient to prevent future violations. These rights and remedies of Buyer are not exclusive and are in addition to any other rights and remedies provided to Buyer under this Contract or by law.

28) NONDISCRIMINATION IN EMPLOYMENT

Seller will not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, disability, national origin, or any other characteristic protected by law. Seller agrees to comply with the applicable provisions of any federal, state, or local law or ordinance, and all lawful orders, rules, and regulations issued thereunder. Seller shall also comply with any provisions, representations or agreements, or contractual clauses required thereby to be included or incorporated by reference or operation of law in the contract, including but not limited to FAR 52.222-26, FAR 52.222-36, FAR 52.222-37 and the applicable requirements (all of which have been incorporated by reference herein) set forth in 41 CFR Chapter 60, as well as any Executive Orders as now or hereafter issued, amended or codified. Seller certifies that it is in compliance with the requirements for non-segregated facilities set forth in 41 CFR Chapter 60-1.8.

29) INFORMATION OF TMS

Information, including but not limited to technical and business information, provided by TMS to Seller remains the property of TMS. Seller agrees to comply with the terms of any Proprietary Information Agreement (or equivalent non-disclosure agreement) with TMS and to comply with all Proprietary Information markings and Restrictive Legends applied by TMS to anything provided hereunder to Seller. Seller agrees not to use any TMS provided information for any purpose except to perform this Agreement and agrees not to disclose such information to third parties without the prior written consent of TMS.

30) INFORMATION OF SELLER

a) Notwithstanding any document marking to the contrary, any information, knowledge or data which Seller has disclosed or may hereafter disclose to Buyer, or Buyer's affiliates, subsidiaries or Sellers, incident to the placing and filling of this Contract shall not be deemed to be confidential or proprietary information. Accordingly Buyer shall not be liable for any use or disclosure thereof.

b) With respect to any information, knowledge or data disclosed to Buyer, or Buyer's affiliates, subsidiaries or Sellers, by Seller, Seller warrants that it has the full and unrestricted right to disclose the same to Buyer, or Buyer's affiliates, subsidiaries or Sellers, without incurring legal liability to others, and that Buyer, and Buyer's affiliates, subsidiaries or Sellers, shall have full and unrestricted right to use and disclose the same as it may deem fit. Seller warrants that in the conduct of work under the order, Seller shall not use confidential or proprietary information of any third party for which Seller does not have transferable license rights and if such information is in, or comes into, Seller's possession, during the term of the order, Seller shall not communicate or otherwise disclose such confidential or proprietary information to Buyer, or Buyer's affiliates, subsidiaries or Sellers.

c) Except as otherwise agreed in writing with Buyer, Seller warrants that it is not the proprietor of any intellectual property rights (including copyright, trade secret, patent, application for patent, invention or license right) which would impair or restrict the freedom of Buyer, or Buyer's subsidiaries and affiliates, and their respective vendors and customers, to make use of the service rendered, work product called for or produced under this Contract. In the event that this situation changes, Seller hereby agrees not to assert any such intellectual property rights against Buyer, Buyer's subsidiaries and affiliates, and their respective vendors and customers, on account of any use made of such work product (or derivatives or improvements thereof) by any of them.

d) Seller agrees to obtain the same warranty and commitment contained in this Article 30 running in favor of Buyer, Buyer's subsidiaries and affiliates and their respective vendors and customers from each of Seller's subcontractors.

31) CLASSIFIED INFORMATION

Upon completion of work by Seller under this purchase order, Seller shall return to Buyer all classified information furnished by Buyer in connection herewith, including all reproductions thereof, then in Seller's possession or control, and Seller shall surrender classified information or materials developed by Seller in connection with this order, unless the information has been destroyed or the retention of the information is authorized in writing by Buyer or the government.

32) INSURANCE/INDEMNIFICATION

a) Seller shall defend, indemnify, release and hold harmless the Buyer, its directors, officers, employees, agents representatives, successors and assigns (each an "Indemnified Party"), whether acting in the course of their employment or otherwise, against any and all suits, actions, or proceedings, at law or in equity, and from any and all claims, demands, losses, judgments, damages, costs, expenses (including attorneys' fees), or liabilities (including without limitation claims for personal injury or property damage, claims or damages payable to customers of Buyer, and breaches of Seller's obligations, representations, warranties, covenants and/or certifications set forth elsewhere in this Agreement including but not limited to Articles 4, 5, 23, 26 and 36, arising from any act or omission of Seller, its agents, employees, or subcontractors, or from any conditions of real or personal property of Seller, except to the extent attributable to the sole and direct gross negligence of Buyer. An Indemnified Party shall have the right to participate in the selection of counsel and Seller shall not enter into any settlement agreement that contains any admission of liability on the part of Buyer and/or any other Indemnified Party.

b) Seller shall without limitation as to time indemnify and save TMS harmless from all claims which may be asserted against property covered hereunder, including without limitation mechanic's liens or claims arising under Worker's compensation or Occupational Disease laws and from all claims from injury to persons or property arising out of or related to such property unless the same are caused solely and directly by TMS negligence.

c) Seller does hereby irrevocably indemnify and agree to defend any claim or litigation, or to pay or reimburse any judgment and all loss and expense costs (including reasonable attorney fees) incurred in connection with any claim or litigation which asserts or is based upon any alleged design or manufacturing defect, negligence, failure to warn, or breach of warranty related to Seller's product(s) (including parts and components thereof purchased by Seller from its Sellers), delivered to TMS, or breach of, or non-compliance with, any provision of this Contract.

d) Seller warrants materials furnished pursuant to this Contract shall be free from asbestos containing materials.

e) RESERVED

f) At a minimum, Seller will maintain and provide evidence of the following levels of insurance coverage:

i) Comprehensive General Liability – Bodily Injury/Property Damage (including coverage for contractual liability insuring the liabilities assumed in this Order, for products liability, Sellers protective liability, where applicable, collapse or structural injury and/or damage to

underground utilities, where applicable, and coverage for damage to property in the Seller's custody, care and controls, as well as naming Buyer as an additional insured) in the amount of \$3,000,000 combined single limit per occurrence;

- ii) Aviation Products Liability - in the amount of \$5,000,000 minimum per occurrence;
- iii) Comprehensive Automobile Liability – Bodily Injury/Property Damage covering all owned, hired and non-owned automotive equipment in the amount of \$1,000,000 combined single limit each occurrence, Employers Liability in the amount of \$1,000,000 each occurrence;
- iv) Property Insurance covering the full value of all goods and services owned, rented or leased by Seller in connection with this Order;
- v) Workers Compensation Insurance protecting Seller from all claims under any applicable Worker's Compensation and Occupational Disease Act. Coverage similar to Workers Compensation and Employers' Liability shall be obtained for each local employee outside the United States where work in connection with this Contract is performed.

Seller shall provide Buyer with a certificate of insurance evidencing that the required minimum coverage are in effect and that Buyer, its directors, officers, employees, agents and representatives are named as additional insureds, provide a waiver of subrogation clause in favor of the additional insureds, and provide that all coverage provided by the Seller shall be primary. Such insurance shall also cover the actions of a subcontractor that Seller may utilize under this Contract. Such insurance shall require the underwriters to provide Buyer thirty (30) days advance written notice of any cancellation or adverse material change with respect to any of the policies. If Seller fails to procure or maintain in force the insurance specified herein, Buyer may secure such insurance and the cost thereof shall be borne by Seller. It is understood and agreed that the insurance provided by Seller hereunder shall operate independent and apart from any obligations imposed upon Seller under the indemnity provisions of this Contract.

33) INTELLECTUAL PROPERTY

33.1 INTELLECTUAL PROPERTY OWNERSHIP

a) Buyer shall be entitled to full ownership of all data, information, inventions, or discoveries, whether patented or unpatented, conceived or first actually reduced to practice in the performance of any order placed by Buyer with Seller. Buyer shall also be entitled to full ownership of all data, information, inventions, or discoveries, whether patented or unpatented, related in any way to the maintenance, repair or overhaul of Goods supplied by Seller under any purchase order. Seller hereby assigns and agrees to assign to Buyer any and all such data, information, inventions, or discoveries and Seller also assigns and agrees to assign to Buyer all intellectual property rights thereto, including any trade secrets and patents and copyrights issuing thereon. Seller further agrees to provide reasonable assistance to Buyer, at Buyer's expense, for securing all such intellectual property rights.

b) The Seller agrees to promptly disclose any such data, information, invention or discovery to Buyer. With respect to any such invention or discovery, the Seller further agrees that it will cooperate with Buyer, its officers and agents, in obtaining, at the expense of Buyer with respect to the prosecution thereof, patents on such inventions or discoveries in the name of and for the benefit of Buyer in the United States and/or foreign countries to the extent that Buyer may consider desirable. Seller will procure from its employees, without charge to Buyer, the execution of all patent applications, assignments and other instruments necessary to the procurement of such patents and to the vesting of title thereto in Buyer. Any compensation due Seller's employees shall be paid solely by Seller.

c) Buyer shall become the sole owner of any and all notes, reports, memoranda, and any other information (regardless of the media of expression) made or prepared in connection with any order placed by Buyer. Seller will not use any material developed by Seller under any order placed by Buyer without first obtaining the written consent of Buyer. All such materials, irrespective of the media of expression, shall be deemed to be works for hire and shall belong exclusively to Buyer. If by operation of law any of the material is not work made for hire, then Seller agrees to assign, and hereby assigns, to Buyer the ownership of such material including all copyrights thereto. Buyer may obtain and hold in its own name copyrights, registrations, and other protection that may be available in such material, and Seller shall provide any assistance required to perfect such protection.

d) If Seller is a non-profit institution, and if the work being done hereunder is pursuant to a contract with the U.S. Government which contains provisions regarding retention of intellectual property rights of the Seller, Seller shall retain ownership of inventions and Seller hereby grants and agrees to grant to Buyer an irrevocable, fully paid license under any patents covering inventions conceived and/or reduced to practice in the course of this order, to make, have made, use and sell such inventions with the right to extend such license to Buyer's customers, including the U.S. Government, and to any of Buyer's licensees or co-producers of Buyer's or Buyer's affiliates, subsidiaries or Sellers products.

e) Seller agrees that it will cause its employees to execute contracts of employment or other agreements assuring the Seller the ability to comply fully with the provisions of this Article 33.1.

33.2 INTELLECTUAL PROPERTY INDEMNIFICATION

a) Seller shall indemnify and save Buyer, and Buyer's subsidiaries and affiliates, and their respective vendors and customers, harmless from and against any expense or liability, including costs, fees and all damages, arising out of any claim, suit or proceeding that the manufacture or furnishing of Work under this Contract, or the use of Work or sales of such Work constitutes infringement of any patent, trade secret or copyright. If an injunction should issue, Seller shall procure for Buyer, and Buyer's Affiliates, and their respective vendors and customers, the rights to continue using said Work, or modify them in a manner acceptable to Buyer so they become non-infringing, or with the written approval of Buyer, remove said Work and refund the purchase price. The forgoing provisions apply to all Work provided by the Seller.

b) Any compensation which may be claimed by or due to any Seller employee or any of Seller's employees in connection with any information, invention or patent or other intellectual property or intellectual property right, whether by agreement, statute, regulation or otherwise, shall be paid solely by Seller, and Seller shall indemnify and hold Buyer and Buyer's subsidiaries and affiliates, and their respective vendors and customers, harmless from and against any expense or liability, including costs, fees and all damages, arising out of all such claims, suits or proceedings therefore. If an injunction should issue, Seller shall procure for Buyer, and Buyer's subsidiaries and affiliates, and their respective vendors and customers, the rights to continue using the Goods and/or services supplied by the Seller.

33.3 APPLICABLE FAR CLAUSES

If the Work under any order is a subcontract to a US Government Contract at any level, Seller and Buyer shall comply with the rights in data, patents and copyrights clauses as set forth in the Government Contracts, and unless otherwise specified, the rights of Buyer shall be those provided in Article 33.1. The following clauses apply:

FAR

52.227-10 FILING OF PATENT APPLICATIONS--CLASSIFIED SUBJECT MATTER

52.227-11 PATENT RIGHTS-RETENTION BY THE SELLER. (SHORT FORM) (APPLIES IF THIS ORDER IS FOR EXPERIMENTAL, DEVELOPMENTAL OR RESEARCH WORK TO BE PERFORMED BY A SMALL BUSINESS FIRM OR NON-PROFIT ORGANIZATION).

52.227-12 PATENT RIGHTS-RETENTION BY THE SELLER. (LONG FORM) (APPLIES IF THIS ORDER IS FOR EXPERIMENTAL, DEVELOPMENTAL OR RESEARCH WORK NOT COVERED BY 52.227-11)

52.227-13 PATENT RIGHTS-ACQUISITION BY THE GOVERNMENT

DFARS

252.227-7034 PATENTS--SUBCONTRACTS

252.227-7039 PATENTS--REPORTING OF SUBJECT INVENTIONS

NASA FAR SUPPLEMENT

If an order is placed under a National Aeronautics and Space Administration ("NASA") prime contract, the following NASA FAR Supplement clauses apply:

18-52.227-11 PATENT RIGHTS-RETENTION BY THE SELLER (SHORT FORM)

2318-52.227-70 NEW TECHNOLOGY (DOES NOT APPLY TO SMALL BUSINESS FIRM OR NONPROFIT ORGANIZATION. SEE 52.227-11)

18-52.227-71 REQUESTS FOR WAIVER OF RIGHTS TO INVENTIONS

18-52.227-72 DESIGNATION OF NEW TECHNOLOGY AND PATENT REPRESENTATIVE

18-52.227-85 INVENTION REPORTING AND RIGHTS - FOREIGN

34) OFFSET CREDIT/COOPERATION

All offset or countertrade credit value resulting from this Contract shall accrue solely to the benefit of TMS. Seller agrees to cooperate with TMS in the fulfillment of any foreign offset/countertrade obligations.

35) QUALITY CONTROL SYSTEM

- a) Seller shall provide and maintain a quality control system to an industry recognized Quality Standard and in compliance with any other specific quality requirements identified in this Contract.
- b) Records of all quality control inspection work by Seller shall be kept complete and available to TMS and its customers.
- c) Seller agrees that it is subject to whichever quality assurance conditions are specified on the face of the PO.

36) RELEASE OF INFORMATION

Seller shall not make any announcement, take or release any photographs (except for its internal operation purposes for manufacture and assembly of goods), or release any information concerning this Contract or any part thereof or with respect to its business relationship with Buyer, to any third party, member of the public, press, business entity, or any official body except as required by applicable law, rule, injunction or administrative Contract, without Buyer's prior written consent. Buyer's written approval, if granted, will be subject to any "Acknowledgement of Sponsorship" clause in Buyer's Government Prime Contract, if applicable. Further, Seller or its agents shall not use Buyer's name, photographs, logo, trademark, or other identifying characteristics or that of any of its subsidiaries or Affiliates without Buyer's prior written approval.

37) RECORD RETENTION REQUIREMENTS

- 1) Seller shall maintain, for four (4) years, Contract files for supplies, equipment, material, or services including supporting documentation, back-up files including, but not limited to, invoices and memoranda, e.g., memoranda of negotiations showing the principal elements of price negotiations, other books, records, accounting procedures and practices, and other data related to the performance of Work under this Contract, regardless of the type of data and regardless of whether such items are in written form, in the form of computer data, or in any other form. Retained records shall include, but not be limited to records related to labor, supplies, equipment, material, or services purchased and/or used to perform Work under this Contract. Product acceptance records, including inspection records, material certifications, and acceptance test records, shall be retained in accordance with FAR subpart 4.7.
- 2) Seller shall maintain complete and accurate records on a job order basis in connection with the work required under any order and all charges for labor or services will be substantiated by proper time clock cards, time vouchers, or other similar records signed by employees doing work under any order.
- 3) Buyer and, when orders relating to Government Contracts are involved, the United States of America and any department thereof, shall have the right from time to time to inspect and audit, during any reasonable hours, all of the Seller's books and records concerning the work carried on under any order, including those books and records pertaining to overhead and other general expenses. This clause 37 survives the expiration of any order placed for five (5) years following the final payment hereunder.

38) ENGLISH LANGUAGE.

Except as the parties may otherwise agree, this purchase order, data, notices, shipping invoices, correspondence and other writings shall be written in the English language. In the event of any inconsistency between any terms of this purchase order and any translation thereof into another language, the English language meaning shall control.

39) ELECTRONIC COMMERCE

Seller agrees to participate in all BUYER current and future electronic commerce applications and initiatives upon BUYER request. For contract formation administration, changes and all other purposes each electronic message sent between the parties within such applications or initiatives will be deemed: (a) "written and a "writing"; (b) "signed" (in the manner below); and (c) an original business record when printed from electronic files or records established and maintained in the normal course of business. The parties expressly waive any right to object to the validity, effectiveness, or enforceability of any such electronic message on the ground that a "statute of frauds" or any other law requires written, signed agreements. Between the parties, any such electronic documents may be introduced as evidence in any proceedings as business records under the best evidence rule or the business records exception to the hearsay rule. By placing the name or other identifier on any such electronic message, the party doing so intends to sign the message with his/her signature attributed to the message content. The effect of each such message will be determined by the electronic message content and by New York law, excluding any such law requiring signed agreements or otherwise in conflict with this paragraph.

39) INDEPENDENT CONTRACTOR RELATIONSHIP

- a) Seller is an independent contractor in all its operations and activities hereunder. The employees used by Seller to perform Work under this Contract shall be Seller's employees exclusively without any relation whatsoever to TMS.
- b) Seller shall be responsible for any costs or expenses including attorneys' fees, all expenses of litigation and/or settlement, and court costs, arising from any act or omission of Seller, its officers, employees, agents, Sellers, or subcontractors at any tier, in the performance of any of its obligations under this Contract.
- c) Nothing in this Contract and no action taken by the parties pursuant to this Contract shall constitute or be deemed to constitute a partnership between the parties, or shall constitute either party as the agent, employee or representative of the other.

40) FORMER GE EMPLOYEES

If access is requested to Buyer's facilities or computer systems, the Seller must confirm satisfactory performance of the individual for whom access is requested if the individual was previously employed by the Buyer or its affiliates. The Seller shall use a form provided by Buyer to obtain its employee's consent and waiver for Buyer to release employment information to Seller regarding the individual's performance when employed by the Buyer or its affiliates. All forms and more detailed instructions can be found at:

http://www.geae.com/aboutgeae/doingbusinesswith/supplier_security_requirements.html.

41) SEVERABILITY

Each paragraph and provision of this Contract is severable, and if one or more paragraphs or provisions are declared invalid it shall be given no effect and shall be deemed to be excluded from this Contract, but the remaining provisions of this Contract will remain in full force and effect. The parties shall use all reasonable endeavours to replace the invalid or unenforceable provision by a valid provision, the effect of which is as close as possible to the intended effect of the invalid provision.

42) SURVIVABILITY

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

- Governing Law
- Dispute Resolution
- Export/Import Control
- Independent Seller Relationship
- Information of TMS
- Insurance/Indemnification
- Intellectual Property
- Release of Information
- Waiver, Approval, and Remedies
- Limitation of Liability
- Quality of Work/Removals or Replacements

43) GOVERNING LAW.

This purchase order shall be governed by the laws of the state of New York, notwithstanding its conflict of laws rules.

44) DISPUTE RESOLUTION.

- a) Except as specifically provided for in paragraph h below, the parties intend to forsake litigation and resolve with finality any and all disputes arising under or related to this purchase order, and the goods and/or services provided pursuant to the purchase order, exclusively by the process identified in this article. This article shall remain effective in the event that a petition in bankruptcy is filed by or against a party to this contract or order, or if a party makes an assignment for the benefit of creditors, or if any other insolvency proceeding is commenced against a party. Invocation of this paragraph shall not relieve either party of any obligation, right or duty of performance arising under or related to any purchase order.
- b) Any and all disputes, controversies or claims arising under or relating to this purchase order or the breach, termination or invalidation thereof or the goods and/or services provided pursuant to the purchase order shall, upon written notice, be referred to a senior management representative from each of the parties who will confer in good faith to attempt to resolve the matter. The party sending the first written notice (the "Initial Notice") shall (1) set forth in detail all of its claims or issues in dispute and (2) designate its representative. The other party shall have 5 business days to designate its representative and add any other issues or claims for resolution not identified in the Initial Notice. The representatives shall have 30 days from the date of the Initial Notice to resolve the issues identified in the notices. If the representatives are unable to resolve the matter within this 30-day period, either party may refer the matter to administered mediation, through the CENTER FOR RESOLUTION OF DISPUTES, 8 W 9th St, Cincinnati OH 45202 (tel 513-721-4466). Such mediation shall be started within 30 days from the date of referral, and the mediation process must be concluded within 30 days from the start date.
- c) If the dispute or claim is not fully resolved pursuant to paragraph b, either party may after 90 days, but not later than 120 days from the date of the initial notice, make a written demand for binding arbitration to be administered by the American Arbitration Association (AAA) by one arbitrator in accordance with its commercial arbitration rules. A party's failure to make a timely demand for arbitration shall result in the forfeiture of all the claims and issues that party identified in its written notice.
- d) The arbitration proceedings shall be conducted in Cincinnati, Ohio, and the order shall be interpreted and applied in accordance with the laws of the state of New York without regard to New York's choice of law provisions. The arbitration shall not be consolidated with any claim or controversy of any other party. No discovery shall be conducted except by the written agreement of both parties. All fees and expenses of the arbitration shall be shared equally by the parties. However, each party shall bear the expense of its own counsel, experts, witnesses, and preparation and presentation of proofs. If court proceedings to stay litigation or compel arbitration are necessary, the party who unsuccessfully opposes such proceedings shall pay all associated costs, expenses and attorney's fees which are reasonably incurred by the other party. The arbitrator shall have no authority to award punitive and exemplary or other damages beyond the prevailing party's actual damages and shall not, in any event, make any ruling, finding, or award that does not conform to the terms and conditions of the order. The arbitration award shall be in writing and shall specify the factual and legal basis for the award. Judgment on the award rendered may be entered in any court of competent jurisdiction, and in connection with enforcing arbitration awards Seller hereby consents and submits to jurisdiction of the Courts of the State of Ohio and the U.S. Federal Courts in the Southern District of Ohio over any action at law, suit in equity or other proceeding that may arise out of this purchase order.
- e) Either party may at any time, without inconsistency with this order, seek from a court of competent jurisdiction located in Cincinnati, Ohio, any equitable, interim or provisional relief to avoid

irreparable injury, or to vindicate an executing party's intellectual property rights, including, without limitation, the recovery of damages for infringement or other misappropriation.

f) The parties intend all statements made and documents provided or exchanged in connection with this dispute resolution process to be confidential and neither party shall disclose the existence or content of the dispute or claim, or the results of any dispute resolution process, to third parties other than outside counsel, except with the prior written consent of the other party or pursuant to legal process.

g) The parties may by written mutual consent agree to dates and times other than those set forth in this article.

h) The provisions of this article shall not modify or displace a party's indemnification obligations or the procedures specified in the "Termination for Convenience" section of this Contract. In addition, this article shall not apply to and will not bar litigation regarding any claims related to a party's proprietary or intellectual property rights.

45) WAIVER, APPROVAL, AND REMEDIES

a) Failure by TMS to enforce any of the provision(s) of this Contract shall not be construed as a waiver of the requirement(s) of such provision(s), or as a waiver of the right of TMS thereafter to enforce each and every such provision(s).

b) The rights and remedies of TMS in this Contract are cumulative and in addition to any other rights and remedies provided by law or in equity.

46) LIMITATION OF LIABILITY

TMS SHALL NOT BE LIABLE FOR ANY INDIRECT DAMAGES INCLUDING SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES, OR LOST PROFITS.

47) REMOVALS OR REPLACEMENTS.

Seller agrees that, notwithstanding the provisions of any warranties, expressed or otherwise, negotiated with respect to Work purchased from Seller by Buyer or Buyer's customer, Seller shall reimburse Buyer for labor and material cost, including overhead and general and administrative (G&A) expense reasonably incurred by Buyer in connection with:

1) The unscheduled removal and/or replacement of such Goods or components thereof from a higher level assembly due to failure of such Work to conform to requirements of this Contract or defective material, workmanship or design; or

2) Any such removal of said Work at Seller's request; or

3) Any such removal of said Work required due to any previously required changes to said Work that Seller has failed to incorporate.

This remedy is not exclusive and shall not be in lieu of any other remedy available at law, in equity or under this purchase order.

48) SELLER SECURITY AND CRISIS MANAGEMENT POLICY/C-TPAT

a) Seller shall have and comply with a company security and crisis management policy. Upon Buyer's request, Seller shall provide Buyer a copy thereof and certification (in a form acceptable to Buyer) of Seller's compliance with this Article. Seller shall revise and maintain the policy proactively, and as may be requested by Buyer, in anticipation of security and crisis risks relevant to the Seller's business. Seller's policy, at a minimum, shall identify, and require the taking, by Seller's management and employees, of the measures necessary to do the following:

- 1) provide for the physical security of the people working on Seller's premises and others working for or on behalf of Seller;
- 2) provide for the physical security of Seller's facilities and physical assets related to the performance of work, including, in particular, the protection of Seller's mission critical equipment and assets;
- 3) protect from the loss of, misappropriation of, corruption of, and/or other damage to software related to the performance of work;
- 4) protect from the loss of, misappropriation of, corruption of, and/or other damage to Buyer's and Seller's drawings, technical data, and other proprietary information related to the performance of work;
- 5) provide for the prompt recovery – including through preparation, adoption, and maintenance of a disaster recovery plan – of facilities, physical assets, software, drawings, technical data, other intellectual property, and the Seller's business operations in the event of a security breach, incident, crisis or other disruption of Seller's ability to use the necessary facilities, physical assets, software, drawings, technical data, or other intellectual property or to continue operations;
- 6) ensure the physical integrity and security of all shipments against the unauthorized introduction of harmful or dangerous materials;
- 7) identify an individual contact (name, title, location and email/telephone/fax numbers) responsible for Seller's facility, personnel, and shipment security measures.

Buyer reserves the right to inspect Seller's policy and to conduct on-site audits of Seller's facility and practices to determine whether Seller's policy and Seller's implementation of the policy are reasonably sufficient to protect Buyer's interests. If Buyer reasonably determines that Seller's policy and/or policy implementation is/are insufficient to protect Buyer's property and interests, Buyer may give Seller notice of such determination. Upon receiving such notice, Seller shall have forty-five (45) days thereafter to make the policy changes and take the implementation actions reasonably requested by Buyer. Seller's failure to take such actions shall give Buyer the right to terminate this purchase order immediately without further compensation to Seller.

b) C-TPAT Compliance. The Customs-Trade Partnership Against Terrorism ("C-TPAT") program of the United States Customs and Border Protection is designed to improve the security of shipments to the United States. This section applies only to Sellers with non-U.S. locations that are involved in the manufacture, warehousing or shipment of goods to Buyer or to a customer or supplier of Buyer located in the United States. Seller agrees that it will review the C-TPAT requirements for foreign manufacturers and that it will maintain a written plan for security procedures in accordance with the recommendations of U.S. Customs and Border Protection as outlined at http://www.customs.gov/xp/cgov/import/commercial_enforcement/ctpat/criteria_importers/ctpat_importer_criteria.xml ("Security Plan"). The Security Plan shall address security criteria such as: container security and inspection, physical access controls, personnel security, procedural security, security training and threat awareness and information technology security. Note: The C-TPAT recommendations are similar to the Security and Crisis Management Policy requirements in Section 49(a) above, and Seller's

Security and Crisis Management Policy may meet the recommendations of C-TPAT. Upon request of Buyer, Seller shall:

- 1) certify to Buyer in writing that it has read the C-TPAT security criteria, maintains a written Security Plan consistent with the C-TPAT security criteria and has implemented appropriate procedures pursuant to such plan;
- 2) identify an individual contact responsible for Seller's facility, personnel and shipment security measures and provide such individual's name, title, address, email address and telephone and fax numbers; and
- 3) inform Buyer of its C-TPAT membership status.

Where Seller does not exercise control of manufacturing or transportation of goods destined for delivery to Buyer or its customers in the U.S., Seller agrees to communicate the C-TPAT recommendations to its suppliers and transportation providers and to use commercially reasonable efforts to ensure that such suppliers and transportation providers implement such recommendations. Further, upon advance notice by Buyer to Seller and during Seller's normal business hours, Seller shall make its facility available for inspection by Buyer's representative for the purpose of reviewing Seller's compliance with the C-TPAT security recommendations and with Seller's Security Plan. Each party shall bear its own costs in relation to such inspection and review. All other costs associated with development and implementation of Seller's Security Plan and C-TPAT compliance shall be borne by the Seller.

49) PERSONAL DATA PROTECTION

a) Definitions:

As used throughout this Section 49, the following terms shall have the meaning set forth below.

- i) "Buyer Data" means Personal Data and all other information concerning Buyer, its personnel or clients provided by or on behalf of Buyer to Seller; Processed by Seller; created by Seller based on information provided by or on behalf of Buyer or Processed by Seller; or otherwise maintained by Buyer or any third party on behalf of Buyer.
- ii) "Notices" means all filings, communications, notices, press releases or reports related to any Security Breach.
- iii) "Personal Data" means any information relating to an identified or identifiable individual, including without limitation, name, address, telephone number, e-mail address, business contact information, social security number, driver's license number, financial account number or other financial information, or medical or health-related information.
- iv) "Process" or "Processing" means any operation or set of operations performed upon Buyer Data, whether or not by automatic means, such as collection, recording, organization, storage, adaptation or alteration, retrieval, accessing, consultation, use, disclosure by transmission, dissemination, or otherwise making available, alignment or combination, blocking, erasure, or destruction.
- v) "Security Breach" means any event involving an actual compromise of the security, confidentiality, or integrity of data, including, but not limited to, any unauthorized access or use by a known or unknown 3rd party or an employee of the Service Provider. Security Breach would also include any inadvertent or accidental disclosure by anyone.

- b) **Data Processing:** Seller shall Process Buyer Data only to the extent necessary to perform the services under this Contract or as otherwise instructed by Buyer in writing. Seller agrees to keep Buyer Data confidential, and agrees to not disclose such Data to third parties without first receiving the express written approval from Buyer and satisfying its obligations in Section 49(e) below. Seller further agrees that it will Process Buyer Data in a manner consistent with national, state, provincial, and local law.
- c) **Data Security – Access to System:** Seller shall, upon Buyer's request, provide Buyer with all information pertaining to its data security systems and procedures (physical, technological and organizational) reasonably required by Buyer to assess the adequacy (in Buyer's sole discretion) of such systems and procedures with respect to the services to be provided under this purchase order, and shall comply, subject to applicable law, with Buyer's Employee Data Protection Standards and Buyer's Guidelines for Acceptable Use of GE Information Resources.
- d) **Data Security Measures:** Without limiting the foregoing, Seller shall implement and maintain physical, technical and organizational measures to ensure the security and confidentiality of Buyer Data in order to prevent, among other things, accidental, unauthorized or unlawful access, use, modification, disclosure, loss, or destruction of Buyer Data. The security measures taken shall be in compliance with applicable data protection laws and shall be adapted to the risks represented by the Processing and the nature of the Buyer Data to be Processed, having regard to the state of the art and the cost of implementation.
- e) **Agreements with Third Parties:** In the event that the Buyer provides the Seller with express written approval to disclose Buyer Data to a Third Party, Seller represents and warrants that, to the extent it provides any Buyer or Personal Data to any of its suppliers, subcontractors and/or agents (such provision being necessary to Service Provider's performance of Services), it shall maintain with such suppliers, subcontractors and/or agents during the term of this purchase order contractual arrangements obligating such third parties to implement and maintain physical, technical and organizational data security measures consistent with the obligations placed on Seller in Section 49(d).
- f) **Security Breach – Notification:** Seller shall notify Buyer in the most expedient time possible and without unreasonable delay of any Security Breach involving any Buyer or Personal Data. Seller shall also provide Buyer with a detailed description of the Security Breach, the type of data that was the subject of the Security Breach, the identity of each affected person, and any other information Buyer may request concerning such affected persons and the details of the Security Breach, as soon as such information can be collected or otherwise becomes available.
- g) **Security Breach – Costs:** Seller agrees to take action immediately, at its own expense, to investigate the Security Breach and to identify, prevent and mitigate the effects of any such Security Breach, and to carry out any recovery necessary to remedy the impact. Seller shall, to the extent permitted by applicable law, provide Buyer with reasonable notice of and the opportunity to comment on and approve the content of all Notices prior to any publication or communication thereof to any third party, except Buyer shall not have the right to reject any content in a Notice that Seller must include in the Notice in order to comply with applicable law. Seller shall pay for or reimburse Buyer for all costs, losses and expenses relating to any Security Breach, including without limitation, the cost of Notices that Buyer makes as a result of: (i) any unauthorized access by Seller or Seller Personnel of any Buyer Data; (ii) any unauthorized access by a third party of any Buyer Data that is Processed on behalf of Buyer by Seller where such unauthorized access is proximately caused by Service Provider's breach of this Agreement, negligence or willful misconduct; or (iii) any failure by Seller to comply with any laws relating to the privacy or security of Buyer Data.
- h) **Termination of Contract:** Upon termination of this Contract, for whatever reason, the Seller shall stop Processing Buyer Data and shall immediately return to the Buyer any hard copies of the Buyer

Data in its possession and permanently delete any electronic copies of the Buyer Data on any of its electronic systems.

50) RESERVED

51) PRECEDENCE

Any inconsistencies in this Contract shall be resolved in accordance with the following descending order of precedence: (1) Face of the purchase order, Release document or Schedule, (which shall include continuation sheets), as applicable, including any special terms and conditions; (2) Any master-type agreement (such as corporate, sector or blanket agreements); (3) these General Provisions; and (4) Statement of Work.

52) GOVERNMENT CONTRACT REQUIREMENTS.

a) FAR FLOWDOWNS: The parties recognize that some or all of the Work that is the subject of this Contract may be used to satisfy requirements in furtherance of TMS's performance under a U.S. Federal Government prime or sub-contract. The following clauses and those in subsequent appendices in effect on date of the order are hereby incorporated by reference, to the extent they apply to Buyer's contract with the Government or Buyer's contract with its customer has flowed down said clauses. However, in the event of a conflict between the clauses listed below and the Buyer's prime contract, the Buyer's prime contract shall prevail. Where applicable, the terms "government", "Contracting Officer", and similar terms shall mean Buyer, and the term "Seller" and similar terms shall mean Seller. The full text of a clause may be accessed electronically at URL: <http://farsite.hill.af.mil/vffar1.htm>

FAR CLAUSES

52.202-1	DEFINITIONS
52.203-3	GRATUITIES
52.203-5	COVENANT AGAINST CONTINGENT FEES
52.203-6	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT
52.203-7	ANTI-KICKBACK PROCEDURES
52.203-10	PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY
52.203-12	LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS
52.204-2	SECURITY REQUIREMENTS
52.204-4	PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER
52.204-9	PERSONAL IDENTITY VERIFICATION OR SELLER PERSONNEL
52.211-5	MATERIAL REQUIREMENTS
52.211-15	DEFENSE PRIORITY AND ALLOCATION REQUIREMENTS (IF DPAS RATING INDICATED ON ORDER)
52.214-26	AUDIT AND RECORDS-SEALED BIDDING
52.214-28	SUBCONTRACTOR COST OR PRICING DATA--MODIFICATIONS--SEALED BIDDING
52.215-2	AUDIT AND RECORDS-NEGOTIATION
52.215-12	SUBCONTRACTOR COST OR PRICING DATA
52.215-13	SUBCONTRACTOR COST OR PRICING DATA--MODIFICATIONS
52.215-14	INTEGRITY OF UNIT PRICES
52.215-15	TERMINATION OF DEFINED BENEFIT PENSION PLANS
52.215-18	REVERSION OR ADJUSTMENT OF PLANS FOR POSTRETIREMENT BENEFITS OTHER THAN PENSIONS (PRB)
52.215-19	NOTIFICATION OF OWNERSHIP CHANGES

52.215-20	REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA.
52.215-21	REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA - MODIFICATIONS
52.219-8	UTILIZATION OF SMALL BUSINESS CONCERNS
52.219-9	SMALL BUSINESS SUBCONTRACTING PLAN
52.222-3	CONVICT LABOR
52.222-4	CONTRACT WORK HOURS AND SAFETY STANDARDS ACT--OVERTIME COMPENSATION
52.222-20	WALSH-HEALEY PUBLIC CONTRACTS ACT
52.222-21	PROHIBITION OF SEGREGATED FACILITIES
52.222-26	EQUAL OPPORTUNITY
52.222-35	EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS,VETERANS OF THE VIETNAM ERA AND OTHER ELIGIBLE VETERANS
52.222-36	AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES
52.222-37	EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA AND OTHER ELIGIBLE VETERANS
52.222-39	NOTIFICATION OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES
52.222-50	COMBATTING TRAFFICKING IN PERSONS
52.223-3	HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA
52.223-14	TOXIC CHEMICAL RELEASE REPORTING (EXCEPT PARAGRAPH E) (IF ORDER EXCEEDS \$100,000). (IF REQUIRED, THE SELLER AGREES TO SUBMIT THE CERTIFICATION CONTAINED IN FAR 52.223-13.)
52.225-1	BUY AMERICAN ACT – SUPPLIES
52.225-2	BUY AMERICAN ACT–NORTH AMERICAN FREE TRADE AGREEMENT–ISRAELI TRADE ACT
52.225-5	TRADE AGREEMENTS
52.225-8	DUTY-FREE ENTRY
52.225-13	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES
52.225-15	SANCTIONED EUROPEAN UNION COUNTRY END PRODUCTS
52.226-1	UTILIZATION OF INDIAN ORGANIZATIONS AND INDIAN-OWNED ECONOMIC ENTERPRISES
52.227-1	AUTHORIZATION AND CONSENT AND ALTERNATE I.
52.227-2	NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT
52.227-9	REFUND OF ROYALTIES
52.228-3	WORKER'S COMPENSATION INSURANCE (DEFENSE BASE ACT)
52.228-4	WORKER'S COMPENSATION AND WAR-HAZARD INSURANCE OVERSEAS
52.228-5	INSURANCE - WORK ON A GOVERNMENT INSTALLATION
52.229-3	FEDERAL, STATE AND LOCAL TAXES
52.229-4	FEDERAL, STATE AND LOCAL TAXES (STATE AND LOCAL ADJUSTMENTS)
52.229-6	TAXES - FOREIGN FIXED-PRICE CONTRACTS
52.229-7	TAXES - FIXED-PRICE CONTRACTS WITH FOREIGN GOVERNMENTS
52.232-16	PROGRESS PAYMENTS (APPLIES ONLY IF SPECIFIED IN ORDER)
52.232-32	PERFORMANCE-BASED PAYMENTS
52.234-1	INDUSTRIAL RESOURCES DEVELOPED UNDER DEFENSE PRODUCTION ACT TITLE III
52.242-15	STOP-WORK ORDER
52.244-5	COMPETITION IN SUBCONTRACTING
52.244-6	SUBCONTRACTS FOR COMMERCIAL ITEMS
52.245-2	GOVERNMENT PROPERTY(FIXED-PRICE CONTRACTS)
52.245-17	SPECIAL TOOLING
52.245-18	SPECIAL TEST EQUIPMENT

52.247-1	COMMERCIAL BILL OF LADING NOTATIONS (APPLIES ONLY WHERE DIRECT SHIPMENT TO THE GOVERNMENT IS SPECIFIED)
52.247-63	PREFERENCE FOR US-FLAG AIR CARRIERS
52.247-64	PREFERENCE FOR PRIVATELY OWNED US-FLAG COMMERCIAL VESSELS
52.248-1	VALUE ENGINEERING
52.249-14	EXCUSABLE DELAYS

DFARS CLAUSES

252.203-7001	PROHIBITION ON PERSONS CONVICTED OF FRAUD OR OTHER DEFENSE CONTRACT-RELATED FELONIES
252.204-7000	DISCLOSURE OF INFORMATION
252.209-7000	ACQUISITION FROM SUBCONTRACTORS SUBJECT TO ON-SITE INSPECTION UNDER THE INTERMEDIATE RANGE NUCLEAR FORCES (INF) TREATY
252.211-7000	ACQUISITION STREAMLINING 252.215-7000 PRICING ADJUSTMENTS
252.219-7003	SMALL, SMALL DISADVANTAGED, AND WOMAN OWNED SMALL BUSINESS SUBCONTRACTING PLAN (DOD CONTRACTS)
252.225-7001	BUY AMERICAN ACT AND BALANCE OF PAYMENTS PROGRAM
252.225-7002	QUALIFYING COUNTRY SOURCES AS SUBCONTRACTORS
252.225-7003	REPORT OF INTENDED PERFORMANCE OUTSIDE THE UNITED STATES
252.225-7004	REPORTING OF CONTRACT PERFORMANCE OUTSIDE THE UNITED STATES
252.225-7013	DUTY FREE ENTRY
252.225-7014	PREFERENCE FOR DOMESTIC SPECIALTY METALS (WITH ALT I)
252.225-7015	PREFERENCE FOR DOMESTIC HAND OR MEASURING TOOLS
252.225-7016	RESTRICTION ON ACQUISITION OF BALL AND ROLLER BEARINGS
252.225-7019	RESTRICTION ON ACQUISITION OF ANCHOR AND MOORING CHAIN
252.225-7021	TRADE AGREEMENTS
252.225-7022	RESTRICTION ON ACQUISITION OF POLYACRYLONITRILE (PAN) BASED CARBON FIBER
252.225-7025	RESTRICTION ON ACQUISITION OF FORGINGS
252.225-7027	RESTRICTION ON CONTINGENT FEES FOR FOREIGN MILITARY SALES
252.225-7028	EXCLUSIONARY POLICIES AND PRACTICES OF FOREIGN GOVERNMENTS
252.225-7030	RESTRICTION ON ACQUISITION OF CARBON, ALLOY, AND ARMOR STEEL PLATE
252.225-7032	WAIVER OF UNITED KINGDOM LEVIES (IF ORDER WITH A UNITED KINGDOM FIRM IS OVER \$1,000,000)
252.225-7033	WAIVER OF UNITED KINGDOM LEVIES
252.225-7036	BUY AMERICAN ACT-NORTH AMERICAN FREE TRADE AGREEMENT IMPLEMENTATION ACT-BALANCE OF PAYMENTS PROGRAM
252.225-7037	DUTY-FREE ENTRY - ELIGIBLE END PRODUCTS
252.225-7038	RESTRICTION ON ACQUISITION OF AIR CIRCUIT BREAKERS
252.225-7039	SELLER PERSONNEL AUTHORIZED TO ACCOMPANY US ARMED FORCES DEPLOYED OUTSIDE THE UNITED STATES
252.226-7001	UTILIZATION OF INDIAN ORGANIZATIONS, INDIAN-OWNED ECONOMIC ENTERPRISES, AND NATIVE HAWAIIAN SMALL BUSINESS CONCERNS
252.227-7013	RIGHTS IN TECHNICAL DATA - NONCOMMERCIAL ITEMS
252.227-7014	RIGHTS IN NONCOMMERCIAL COMPUTER SOFTWARE AND NONCOMMERCIAL COMPUTER SOFTWARE DOCUMENTATION
252.227-7015	TECHNICAL DATA-COMMERCIAL ITEMS
252.227-7016	RIGHTS IN BID OR PROPOSAL INFORMATION
252.227-7017	IDENTIFICATION AND ASSERTION OF USE, RELEASE, OR DISCLOSURE RESTRICTIONS
252.227-7018	RIGHTS IN NONCOMMERCIAL TECHNICAL DATA AND COMPUTER SOFTWARE--SMALL BUSINESS INNOVATIVE RESEARCH (SBIR) PROGRAM

- 252.227-7019 VALIDATION OF ASSERTED RESTRICTIONS-COMPUTER SOFTWARE
- 252.227-7020 RIGHTS IN SPECIAL WORKS
- 252.227-7021 RIGHTS IN DATA--EXISTING WORKS
- 252.227-7025 LIMITATIONS ON THE USE OR DISCLOSURE OF GOVERNMENT-FURNISHED INFORMATION MARKED WITH RESTRICTIVE LEGENDS
- 252.227-7026 DEFERRED DELIVERY OF TECHNICAL DATA OR COMPUTER SOFTWARE (IF DELIVERY OF TECHNICAL DATA IS REQUIRED)
- 252.227-7027 DEFERRED ORDERING OF TECHNICAL DATA OR COMPUTER SOFTWARE (IF DELIVERY OF TECHNICAL DATA IS REQUIRED)
- 252.227-7028 TECHNICAL DATA OR COMPUTER SOFTWARE PREVIOUSLY DELIVERED TO THE GOVERNMENT
- 252.227-7030 TECHNICAL DATA - WITHHOLDING OF PAYMENT
- 252.227-7032 RIGHTS IN TECHNICAL DATA AND COMPUTER SOFTWARE (FOREIGN)
- 252.227-7036 DECLARATION OF TECHNICAL DATA CONFORMITY
- 252.227-7037 VALIDATION OF RESTRICTIVE MARKINGS ON TECHNICAL DATA
- 252.231-7000 SUPPLEMENTAL COST PRINCIPLES
- 252.232-7003 FLEXIBLE PROGRESS PAYMENTS (APPLIES ONLY IF SPECIFIED IN ORDER)
- 252.232-7004 DOD PROGRESS PAYMENT RATES (APPLIES ONLY IF SPECIFIED IN ORDER)

- 252.235-7003 FREQUENCY AUTHORIZATION
- 252.242-7002 EARNED VALUE MANAGEMENT SYSTEM (APPLIES ONLY IF SPECIFIED IN ORDER)
- 252.242-7005 COST/SCHEDULE STATUS REPORT (APPLIES ONLY IF 252.234-7001 APPLIES)
- 252.243-7001 PRICING OF CONTRACT MODIFICATIONS
- 252.244-7000 SUBCONTRACTS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS(DOD CONTRACTS)
- 252.246-7001 WARRANTY OF DATA (IF ORDER REQUIRES TECHNICAL DATA)
- 252.247-7023 TRANSPORTATION OF SUPPLIES BY SEA
- 252.247-7024 NOTIFICATION OF TRANSPORTATION OF SUPPLIES BY SEA
- 252.249-7002 NOTIFICATION OF PROPOSED PROGRAM TERMINATION OR REDUCTION

IF AN ORDER IS PLACED UNDER A NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) PRIME CONTRACT, THE FOLLOWING NASA FAR SUPPLEMENT CLAUSES APPLY:

- 18-52.204-76 SECURITY REQUIREMENTS FOR UNCLASSIFIED AUTOMATED INFORMATION RESOURCES
- 18-52.208-81 RESTRICTIONS ON PRINTING AND DUPLICATING
- 18-52.219-74 USE OF RURAL AREA SMALL BUSINESSES
- 18-52.219-75 SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS SUBCONTRACTING REPORTING
- 18-52.219-76 NASA Small and Disadvantaged Business Goal
- 18-52.223-70 SAFETY AND HEALTH (APPLIES TO ORDERS IN EXCESS OF \$1,000,000 OR THAT INVOLVE USE OF HAZARDOUS MATERIALS OR OPERATIONS)
- 18-52.227-14 RIGHTS IN DATA - GENERAL
- 18-52.242-73 NASA SELLER FINANCIAL MANAGEMENT REPORTING
- 18-52.244-70 GEOGRAPHIC PARTICIPATION IN THE AEROSPACE PROGRAM
- 18-52.245-73 FINANCIAL REPORTING OF NASA PROPERTY IN THE CUSTODY OF SELLERS

b) SUSPENSION/DEBARMENT: By submitting its written offer, or providing oral offers or quotations at TMS's request, or accepting this Contract, including oral orders from TMS, Seller certifies that to the best of its knowledge and belief, that Seller and/or any of its Principals (as defined

in FAR 52.209-5) are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any U.S. Federal Government Agency. Seller shall provide immediate written notice to TMS if at any time it learns that its certification was erroneous or has become erroneous by reason of changed circumstances.

c) **ANTI-KICKBACK:** By acceptance of this Contract, Seller certifies that it has not paid any kickbacks and is in compliance with the Anti-Kickback Act of 1986, 41 U.S.C. 51-58, and further, Seller agrees to indemnify Buyer for any costs, liabilities or administrative offsets incurred by Buyer as a result of violations or alleged violations of FAR 52.203-7, "Anti-Kickback Procedures", by Seller, its employees, its subcontractors or their employees.

d) **PRICING:** When costs are a factor in any determination of the price to be paid hereunder for Work in satisfaction of a U.S. Government prime or subcontract, including price adjustments pursuant to the "Changes" clause of this Contract or any other provision of this Contract, such cost shall be in accordance with part 31 of the FAR and the DFARS in effect under Buyer's Prime Contract.

f) **TECHNICAL DATA:** Seller shall indemnify Buyer for any withholdings, claims, damages and expenses resulting from any assertion by the Government of its rights under DFARS 252.227-7030, "Technical Data - Withholding of Payment" and DFARS 252.246-7001, "Warranty of Data", and arising in whole or in part out of any failure by Seller to deliver technical data or any deficiency in said technical data as delivered, including, but not limited to, the presence of restrictive markings thereon not specifically authorized by this purchase order.

g) **PRICE REDUCTION FOR DEFECTIVE COST OR PRICING:** (applicable to this order or any modification thereof for which cost or pricing data has been required.) If any price, including profit or fee, negotiated in connection with this order or any modification thereof or any cost reimbursable under this order, including modifications thereof, was increased by any significant sums because:

- 1) Seller furnished cost or pricing data, which was not accurate, complete and current as certified in Seller's certificate of current cost or pricing data;
- 2) A subcontractor of Seller pursuant to the clauses of this purchase order entitled "Subcontractor Cost or Pricing Data--Modifications", or any Subcontract clause therein required, furnished cost or pricing data, which was not accurate, complete and current as certified in Seller's Certificate of Current Cost or Pricing Data;
- 3) A subcontractor or prospective subcontractor of Seller furnished cost or pricing data which was required to be accurate, complete and current and to be submitted to support a Subcontract cost estimate furnished by the subcontractor but which was not accurate, complete and current as of the date certified in the subcontractor's Certificate of Current Cost or Pricing Data; or
- 4) If Seller or its subcontractor, or prospective Seller or its subcontractor furnished any data, not within (1), (2), or (3) above, which was not accurate, complete, and current as submitted, then the price or cost shall be reduced accordingly and the purchase order shall be modified in writing as may be necessary to reflect such reduction.

Seller agrees to indemnify Buyer for any costs, liabilities, and expenses resulting from failure of Seller or any subcontractor or supplier of any tier hereunder, incurred by Buyer as a result of Seller's or its subcontractor's defective cost or pricing data.

h) **GOVERNMENT FACILITIES:** Unless this purchase order authorizes the use of Government-owned facilities, Seller must negotiate the use of Government owned facilities used in the manufacture of Goods purchased hereunder with the appropriate Government agency furnishing Government facilities to Seller. All charges to Buyer for such use must be concurrently billed as a separate item aside from all other costs.

If this Contract authorizes rent-free use of Government facilities, Seller agrees that it will not directly or indirectly, through overhead charges or otherwise, seek reimbursement under this Contract for any rental charge paid by the Seller for the use on other contracts of the facilities referred to herein. Any subcontract hereunder which authorizes the subcontractor to use Government facilities on a no-charge basis shall contain a provision to the same effect as stated herein.

i) **PRIORITY RATINGS:** When a priority rating is specified for Work, this is a rated order certified for national defense use and Seller is required to follow all provisions of the Defense Priorities and Allocations System (DPAS) Regulations (15 CFR 700).

j) **DIRECT SHIPMENTS TO THE U.S. GOVERNMENT:** If deliveries of Work including data under this purchase order are to be made directly to the U.S. Government, Seller agrees to prepare and distribute the DOD form 250, "Material Inspection and Receiving Report", as set forth in part 53 of DFARS, and to enter thereon the price of all Government Furnished Material (GFM) included in items so delivered to the Government. The Government has agreed that the price of GFM will be made available to Seller by the U.S. Government. However, no delivery shall be delayed by reason of failure of the U.S. Government to furnish such prices to Seller. Seller shall include a similar provision in each subcontract hereunder.

k) **PROCUREMENT INTEGRITY:** Seller agrees to comply with the requirements of section 27 of the "Office of Federal Procurement Policy Act" (41 U.S.C. 423), as amended by section 814 of Public Law 101-189, and with the implementing regulations contained in FAR 3.104, and agrees to indemnify Buyer for any costs and liabilities incurred by Buyer as a result of violations of the act or regulations by Seller, its employees, its agents, its consultants, or subcontractors, or their employees.

l) **CONDITIONAL GOVERNMENT SOURCE INSPECTION:** During the performance of this order, Seller's quality control system, inspection system and manufacturing processes are subject to review, verification and analysis by authorized Government representatives. Inspection and release of material covered by this order by a Government representative prior to shipment is not required unless Seller is otherwise notified.

m) **COST ACCOUNTING STANDARDS ("CAS"):** (Applicable when CAS is incorporated in this Contract.) Seller agrees to indemnify Buyer for any costs, liabilities, and other expenses which result from Seller's failure to comply with an applicable cost accounting standard, or failure to comply with Public Laws 91-379 and 100-679.

n) **ADDITIONAL REQUIREMENTS:** Additional clauses specific to the performance of a given U.S. Federal Government prime or sub-contract, if any, will be detailed on the face of the Purchase Orders issued under this Contract and deemed incorporated herein.

o) **GOVERNMENT PROPERTY/MATERIAL:** All special tooling and special test equipment, the full cost or a substantial portion of which is charged to Buyer under this Contract, or is furnished by Buyer to Seller for performance under this Contract, shall be controlled and accounted for in accordance with Buyer's then current tooling supplement, available upon request from Buyer's Procurement Representative. Seller shall provide Buyer with written notice, at least sixty (60) days in advance, of Seller's intention to acquire or fabricate special test equipment in support of the requirements under this Contract.

p) **RESERVED**

q) **RESERVED**

r) If a U.S. domestic Seller intends to procure any materials from offshore (non U.S.) concerns, and to obtain duty free import under Buyer's contract, Seller must obtain permission from Buyer and advise Buyer, in writing, of Seller's offshore order number and value.

53) NON PROFIT INSTITUTIONS

IF SELLER IS A NON-PROFIT INSTITUTION, AS CAN BE DOCUMENTED TO BUYER PRIOR TO ACCEPTANCE OF THIS CONTRACT, THE FOLLOWING SHALL APPLY:

- a) Any references to indemnification in the Contract shall be limited to such indemnification as may be permitted by law or regulation.
- b) Buyer's right to Set Off is not applicable to non-profit institutions.
- c) the Dispute Resolution Article shall be modified to refer to the law of the state (or country) under which the non-profit institution is chartered.
- d) Termination for Convenience, is modified to add a reference to FAR 52.249-5, Termination for Convenience of the Government (Educational and Other Nonprofit Institutions), with the following changes: delete paragraph (h), in paragraph (c) change "120 days" to "60 days", and in paragraph (d) change "1 year" to "60 days."

54) SERVICES TERMS AND CONDITIONS.

a) NATURE OF SERVICES

1) Seller agrees to undertake the performance of all services called for in any order, to pursue the same diligently, and to complete the same within any time limit specified in the order. With respect to each order, the services contracted for shall be those described in the order, and in any statements of work, plans, specifications, general conditions, or other papers attached to or referred to in the order, which together with these terms and conditions are hereafter called the "Contract Papers." Said services shall include the furnishing of all materials, tools, equipment, labor, superintendence and facilities necessary therefore, excepting however, any items which are to be specifically furnished or performed by Buyer as provided in the Contract Papers. Orders placed in connection with these terms and conditions may relate to work: (a) called for by contracts between Buyer and the United States Government (hereinafter referred to as "Government Contracts"; (b) called for by contracts between Buyer and any other legally constituted body or person; or (c) for Buyer's own account. Any work relating to Government Contracts will bear the applicable government contract number. All rights conferred on the U.S. Government by these terms and conditions shall apply solely, to Government Contracts where required thereby, and not to other orders.

2) Seller agrees to accept all United States Government FAR and DFAR clauses that are contained in Buyer's contract with the Government.

b) CONTRACT PRICE

1) Seller shall be compensated for all services performed by Seller for Buyer in connection with each order in the manner and amount specified on the order. Payment for labor hour contracts will be made in an amount determined by multiplying the total number of hours actually required to perform each type of work by the hourly rate specified in the order for each type of work performed or as the Parties may otherwise agree. However, the total amount shall not exceed the total price specified in the order. Premium pay for any off shift work effort (2nd or 3rd shift) will be negotiated separately.

2) It is expressly understood and agreed that the hourly rate so specified shall include (in addition to the wages or salaries to which the employees of Seller performing such services shall be entitled) compensation to Seller for time spent by any general administrative, supervisory or clerical employee; overhead expenses, profit, and any and all other direct or indirect costs or expenses in any manner attributed to the performance of said services except such as are

hereinafter specifically provided for. Time spent directly on the job by squad leaders, contract engineers and chief designers shall be billed in accordance with the above schedule.

3) Seller shall compute its employees' wages and withhold applicable national and local taxes, and national insurance.

4) Straight time rates shall be paid for all hours worked on any holiday on which Seller's employees are requested by Buyer to work.

c) QUALITY OF SERVICES

All services performed hereunder shall be subject to the inspection of an engineer, manager or other representative designated by Buyer and shall be in strict accordance with the requirements of the contract papers. The Seller agrees to use only experienced, trained and qualified employees in the performance of services required by any order and all services performed must be of first class quality and workmanship.

d) SELLER'S EMPLOYEES

1) Seller represents that no employee assigned to provide services to Buyer under any order has been employed by the United States Department of Defense ("DOD") in a procurement function within two years of the date of their assignment, where Buyer would be in violation of the Defense Acquisition Improvement Act of 1986 (10 U.S.C. 2397b, 2397c) if Buyer compensated such employee. Further, Seller agrees to advise Buyer in writing of all employees assigned to provide services under any order who previously worked for the DOD in any capacity within two years prior to the date of their assignment, including a description of the duties performed for DOD and their last DOD pay grade. If requested by Buyer, Seller will have the Seller's employee obtain a written opinion from an ethics officer in the individual's former DOD agency that the individual may accept compensation when assigned to perform work for Buyer.

2) It is mutually agreed that any of Seller's personnel performing services under any order shall remain employees of Seller subject to its right of direction, control and discipline and shall neither become employees of Buyer nor be entitled to any rights, benefits or privileges of Buyer employees. As appropriate, Buyer shall give direction as to the ultimate objective of the project to the Seller. The Seller is responsible for ensuring that its personnel accomplish the requirements of the project and work consistent with Buyers pertinent safety regulations and all other reasonable health, safety, environmental and behavioral requirements. The Seller shall ensure that its personnel adhere to the provisions herein and that they have the requisite knowledge, training and ability to perform work under any order competently and in accordance with applicable laws, regulations and Buyer company policies. Seller's personnel performing services under any order will be provided with copies of Buyer policies 20.3, 20.4, 20.5 and 20.10 dealing with "health, safety and environmental practices", "business practices", "COMPLIANCE WITH ANTITRUST LAWS", and "STANDARDS OF CONDUCT IN TRANSACTIONS WITH THE UNITED STATES GOVERNMENT". Compliance with these policies is mandatory, and any failure to comply will be cause for immediate removal of Seller's involved employee or immediate termination of any order.

3) Seller's employees are not authorized, expressly or otherwise, to enter into any agreements or to make any commitments financial or otherwise, for or on behalf of Buyer. Specifically, no employee of Seller shall make contact with the DOD or other United States Government agency employees, members of Congress or Congressional employees regarding the continuation, renewal, amendment or modification of a federal contract to Buyer.

- 4) No employee of Seller shall engage in any other work or business adverse to the interests of Buyer during the time such employee is assigned to work at or in support of Buyer.
- 5) Seller agrees to comply with, and to execute for Buyer, such certifications as may be required by the United States Government pursuant to section 6 of the Office of Federal Procurement Policy Act Amendments of 1988 ("Procurement Integrity"), and agrees to report immediately to Buyer any information concerning a violation or possible violation of the Act or its implementing regulations.
- 6) Seller agrees to disclose to Buyer whether any of its employees it assigns to Buyer, whether presently or within the past twelve months, has (a) provided services as a consultant to any branch or department of the United States Government at any level or (b) furnished advice, information, direction or assistance (including marketing or lobbying support) to an offeror or any other Seller in support of the preparation or submission of an offer for a United States Government contract by that offeror. If such disclosure is made, Seller agrees to execute for Buyer any certifications required by law in respect of such disclosures.
- e) **REPORTS:** The Seller shall render progress reports as often as reasonably requested by Buyer, pertaining to the services performed hereunder, showing time expended daily by each of its personnel for each component of various projects both periodically and cumulatively. Such reports shall be in a form that will enable Buyer to evaluate the progress made and the schedules to be met, and to keep a current account of time and monies expended upon each and all projects.
- f) **SECURITY CLASSIFICATION LAWS & REGULATIONS -- PRECAUTIONS:** Seller agrees to comply with all applicable security classification laws and regulations of the United States and United Kingdom Governments, insofar as said laws, rules and regulations pertain to any order hereunder. Such compliance shall include, but not be limited to, taking all reasonable precautions to assure that work performed shall be protected against theft, destruction, or unauthorized disclosure.
- g) **FAIR LABOR STANDARDS ACT:** By accepting any order, Contractor represents that the goods or services to be furnished hereunder, were or will be produced in compliance with the requirements of the Fair Labor Standards Act of 1938, as amended, and unless otherwise agreed in writing, Contractor shall provide to Purchaser, prior to accepting a purchaser order, a certificate stating that the goods or services covered by the invoice were produced in compliance with the requirements of the Fair Labor Standards Act of 1938, as amended, including section 12(a).
- h) **RESERVED**

Seller certifies to Purchaser that it has (i) confirmed the identity of each individual assigned to work on Purchaser's purchase orders; (ii) verified that such individuals are legally entitled to work in the U.S. and are employees of Seller; and (iii) preserved such records as required by the Department of Homeland Security. Seller shall make all records supporting such certification available to Purchaser at Purchaser's request. There may be jobs that require U.S. citizenship because of national security or exposure to classified information. In such cases, each such job will be separately identified by Purchaser as requiring U.S. citizenship.
- i) **LABOR NOTICES**
 - 1) The Seller shall immediately give notice to Buyer (to be followed by written notices and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies and the progress thereof. The Seller shall use its best efforts to resolve any such complaint, trouble, dispute or controversy.

2) Seller warrants that Buyer shall have no liability or bargaining obligations under any collective bargaining agreement between Seller and its employees. Seller agrees to give Buyer copies of any collective bargaining agreements existing between it and its employees and agrees to give Buyer prompt notice of any union organization with respect to its employees.

j) **TRAVEL EXPENSES**

Reasonable and genuine travel expenses (coach airfare, mid-sized rental cars, moderately priced hotels, etc.) required for Buyer's business purposes and required by this Contract will be reimbursed upon submittal of receipts for all items \$15.00 and over. All travel expenses must be detailed in an expense account statement and be submitted to Buyer with the invoice. In addition, all costs defined as unallowable in the FAR part 31.205 must be identified on the expense account statement. Alcohol and premium airfare are examples of common unallowable costs. If additional information on unallowable costs is needed, please contact the Buyer's Procurement Representative.

55) RESERVED

56) ANTI-DUMPING

Seller warrants that all sales made hereunder are or will be made at not less than fair value under the United States Anti-Dumping law (19 U.S.C. sec 1673 et. seq.), and Seller will indemnify, defend and hold Buyer harmless from and against any costs or expenses (including but not limited to any anti-dumping duties which may be imposed) arising out of or in connection with any breach of this warranty.

57) NON-US SUPPLIERS.

IF SELLER IS LOCATED OUTSIDE THE UNITED KINGDOM THE PRECEDING TERMS AND CONDITIONS ARE MODIFIED AS FOLLOWS:

a) Article 5, "ENVIRONMENTAL MATTERS," shall apply to orders the extent its provisions and/or the legal and regulatory references therein, based on a reasonable interpretation thereof, have extraterritorial application outside of the United States and/or relate to, or arise from, goods, materials, and/or other items to be imported to the United States.

b) Article 6, sub-paragraph e, "CITIZENSHIP STATUS," is modified to add the following: "For data export purposes, only citizens of the country in which the Seller is located shall be permitted to work on Purchaser purchase orders without prior written approval from Purchaser. Seller shall preserve such records as required by local laws and regulations regarding the citizenship status of Seller's employees."

c) Article 14, "DELAY AND DEFAULT". The reference to the Uniform Commercial Code is changed to refer to "Article 45 of the United Nations Convention on Contracts for the International Sale of Goods."

d) Article 20, "PACKING, TITLE, AND TRANSPORTATION" is modified to replace sub-paragraph (c) with the following language: "Goods covered by this purchase order shall be shipped in accordance with ICC Incoterms, 2000 Edition. Unless otherwise specified on the face of the order, the applicable shipping and delivery Incoterms will be FCA (named place)."

e) Article 28, "NONDISCRIMINATION IN EMPLOYMENT," is deleted.

f) Article 44, "DISPUTE RESOLUTION" is deleted and replaced with the following:

"DISPUTE RESOLUTION. This Contract shall be interpreted in accordance with the laws of the state of New York, U.S.A. without regard to New York's choice of law provisions. Except as otherwise provided, the United Nations Convention on Contracts for the International Sale of Goods is not applicable to this purchase order. All disputes arising in connection with this purchase order shall be finally settled under the rules of conciliation and arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said rules. The arbitration shall be held in New York City, conducted in the English language, and any arbitrator's award shall not exceed actual compensatory damages. Notwithstanding the foregoing, each party has the right at any time, at its option and where legally available, to commence an action or proceeding in a court of competent jurisdiction to apply for interim or conservatory measures, but not monetary damages."

g) Article 52, "GOVERNMENT CONTRACT REQUIREMENTS". The following clauses are not applicable to international suppliers when work is performed outside the United States and its possessions:

52.211-15	(applies to rated subcontracts placed with U.S. suppliers)	
52.219-9	52.222-26	52.229-3
52.222-3	52.222-35	52.229-4
52.222-4	52.222-36	52.229-5
52.222-20	52.222-37	252.219-7003

h) Article 54, subparagraph d.1 "SELLER'S EMPLOYEE'S," shall be modified to read as follows: "Seller's employees are not authorized, expressly or otherwise, to enter into any agreements or make any commitments, financial or otherwise, for or on behalf of Purchaser. Specifically, no employee of Contractor shall make contact with the Department of Defense or other United States Government agency employees, members of the United States Congress, Congressional employees or any analogous foreign government agency or employees thereof regarding the continuation, renewal, amendment or modification of a Government Contract between Purchaser and any government or government agency.

i) Article 54, subparagraph g, "FAIR LABOR STANDARDS ACT," shall be deleted.

j) IMPORTER OF RECORD.

1) If Seller is importer of record, Seller agrees that Purchaser will not be a party to the importation of the Work; that the transaction(s) represented by this purchase order will be consummated subsequent to importation; that Seller will neither cause nor permit Purchaser's name to be shown as "importer of record" on any customs declaration; and that, if the Goods must be returned to Seller, Seller agrees to be U.S. exporter and to comply with all applicable export regulations.

2) If Purchaser is the importer of record, Seller shall ship the Goods to the port of entry as advised by Purchaser and show proper broker notification on all shipping waybills. Any additional transportation or clearance charges incurred by Purchaser due to non- adherence to this clause will be the responsibility of Seller.

3) Regardless of which party is the importer of record, Seller's shipping cartons and documentation must meet all U.S. customs country of origin marking and invoicing requirements. Seller will be responsible for any fines or liabilities resulting from insufficient, improper or negligent invoicing or marking of shipments.

k) U.S. EXPORTER.

If Seller is the U.S. exporter for any U.S. origin bailed or purchased material required by Seller to complete this purchase order, Seller shall be responsible for obtaining any required export license, authorizing a U.S. freight forwarder, and complying with U.S. Export Administration Regulations/International Traffic-in-Arms Regulations. If the Seller requests the Purchaser to export the materials, the Purchaser shall be responsible for procuring the export license, utilizing its duly authorized freight forwarder, and complying with U.S. EXPORT ADMINISTRATION REGULATIONS and INTERNATIONAL TRAFFIC-IN-ARMS REGULATIONS.

l) DRAWBACK.

If Seller is an importer of record, upon request and where applicable, Seller will provide Purchaser customs form 7543 entitled "Certificate of Delivery" properly executed.

m) TSCA WARRANTY.

Regardless of which party is the importer of record, Seller will be responsible for complying with the import restrictions contained in section 13 of the Toxic Substance Control Act (TSCA) 15 U.S.C. 2601 et seq., providing the appropriate TSCA Certification required under 19 CFR 12.121, and any fines or liabilities resulting from breaches of this section.

n) INTELLECTUAL PROPERTY AND EXPORT LICENSES:

In connection with the performance of any work under this Contract, Seller, at its own cost, shall be responsible for: (1) determining whether, and the extent to which, any foreign or U.S. Government-funded intellectual property that was not provided by Purchaser will be used; (2) if any such foreign or U.S. Government-funded intellectual property will be used, obtaining, on behalf of Purchaser, a license under which the foreign or U.S. Government shall grant to Purchaser the unlimited right to use such intellectual property; (3) determining whether, and the extent to which, export licenses are required for export of all deliverables, whether tangible or intangible, under this purchase order from Seller's country to Purchaser; (4) obtaining the required export license.

All of Purchaser's obligations under this Contract are conditional upon the issuance of intellectual property and/or export licenses by the foreign or U.S. Government granting Purchaser the right to use such foreign or U.S. Government-funded intellectual property and/or to export from Seller's country all deliverables, whether tangible or intangible under this purchase order.

58) SUPPLEMENTARY TERMS AND CONDITIONS FOR COST REIMBURSEMENT ORDERS

WHEN THIS CONTRACT, OR ANY PURCHASE ORDER OR LINE ITEM DELIVERABLE THEREUNDER IS IDENTIFIED AS A "COST REIMBURSABLE" ORDER, A "COST-TYPE CONTRACT", A "LABOR HOUR" CONTRACT, A "TIME AND MATERIALS (T&M) CONTRACT, OR OTHER SIMILAR DESIGNATION, THE FOLLOWING TERMS SHALL APPLY:

a) INSPECTION AND NON-CONFORMANCE. Inspection shall be accomplished in accordance with FAR 52.246-8, Inspection of Research and Development--Cost Reimbursement.

b) TERMS OF SETTLEMENT. Article 21, Standard Terms of Settlement, is supplemented by the following: "If this is a cost type Contract, the frequency of invoicing shall be as stated in the body of this purchase order, and unless otherwise stated, shall not be more frequent than once each thirty (30) calendar days. Invoices will be processed for payment in accordance with Buyer's standard terms of settlement. Payment will require approval of the invoice by the Buyer or a designated representative."

c) MODIFIED ARTICLES:

- 1) Article 9, Changes, is deleted and replaced with FAR 52.243-2, alt v., Changes - cost reimbursement.
- 2) Article 11, Termination for Convenience, is modified to add a reference to FAR 52.249-6, Termination (Cost Reimbursement) with the following changes: deletes paragraphs (e) and (j); in paragraph (d) change "120 days" to "60 days" and in paragraph (f) change "1 year" to "60 days."

1) THE FOLLOWING FAR AND DFAR CLAUSES APPLY:

FAR

52.216-7 ALLOWABLE COST AND PAYMENT

52.216-8 FIXED FEE

52.216-10 INCENTIVE FEE

52.232-20 LIMITATION OF COST

52.242-1 NOTICE OF INTENT TO DISALLOW COSTS

52.242-15 STOP WORK ORDER (WITH ALT I)

52.249-14 EXCUSABLE DELAYS

52.228-7 INSURANCE-LIABILITY TO THIRD PERSONS

52.232-22 LIMITATION OF FUNDS

52.245-5 GOVERNMENT PROPERTY (COST REIMBURSEMENT, TIME-AND-MATERIAL, OR LABOR HOUR CONTRACTS): " Government Property" shall mean property of the Buyer or Government under this clause. Paragraph (g) is rewritten in its entirety to read "Risk of Loss. While in subcontractor's custody or control, subcontractor assumes all risk for loss of or damage to property furnished by Buyer or the Government and all property furnished by Buyer or the Government and to property where the Buyer or the Government acquired title by virtue of this purchase order."
