

Computrol, Inc. GENERAL TERMS AND CONDITIONS

For Supply & Services Subcontracts

This document, together with the attachments appended hereto constitutes the Terms and Conditions for the Agreement between the parties, and acceptance is strictly limited to the terms and conditions contained herein. Additional or differing terms, conditions or limitations of liability proposed by SELLER, whether in a quote, acceptance, or delivery document shall have no effect unless accepted in writing by BUYER. In particular, any limitation of liability or disclaimer of warranty is expressly rejected. Agreement by SELLER to furnish the Goods or Services to these terms and conditions, or SELLER's commencement of such performance or acceptance of payment shall constitute acceptance by SELLER of these Terms and Conditions.

1. Definitions

Words, as employed in this Agreement, shall have their normally accepted meanings. The following terms shall have the described meaning:

- (a) "Agreement" shall mean the Purchase Order, Subcontract, or Contract, these General Terms and Conditions, and any special conditions appended hereto or documents incorporated herein.
- (b) "Authorized Distributor" shall mean a Distributor distributing product within the terms of an Original Component Manufacturer (OCM) or the Original Equipment Manufacturer (OEM) contractual agreement. Contractual Agreement terms include, but are not limited to, distribution region, distribution products or lines, and warranty flow down from the OCM/OEM. Under this distribution, the distributor would be known as an Authorized Distributor. The term Franchised Distributor is considered synonymous with Authorized Distributor.
- (c) "Authorized Source" shall mean Original Component Manufacturers (OCM), Original Equipment Manufacturer (OEM), Authorized Distributor (AD), Authorized Aftermarket Manufacturer, and Suppliers, approved by the Organization, that obtain parts exclusively from an OCM, OEM, AD, or Authorized Aftermarket Manufacturer.
- (d) "Authorized Aftermarket Manufacturer" shall mean an organization that fabricates a part under a contract with, or with the express written authority of, the original component manufacturer based on the original component manufacturer's designs, formulas and/or specifications.
- (e) "Authorized Reseller" purchases parts and materials exclusively from the OCM, OEM, or their Authorized Distributors (ADs) and then sells the products to the end user. Chain of custody is maintained throughout the process. "Resellers" apply to certain Commercial Off-The-Shelf (COTS) assemblies and commodities such as Information Technology (IT) equipment, hardware, fasteners, and raw materials.
- (f) "BUYER" or "Computrol, Inc." shall mean Computrol, Inc. and its affiliates in this Agreement.
- (g) "Contract Manufacturer" shall mean an organization that produces goods under the label or brand of another organization. This includes building assemblies to the brand organization supplied Bills of Material (BOM) and assembly drawings.
- (h) "Counterfeit Part" shall mean (1) An unauthorized copy, imitation, substitute, or modified part, which is knowingly misrepresented as a specified genuine part of the manufacturer. (2) Or a previously used Electrical, Electronic, and Electromechanical (EEE) Part which has been modified and is knowingly misrepresented as new without disclosure to the customer that it has been previously used. NOTE: (1) Examples of a counterfeit part can include, but are not limited

to; the false identification of grade, serial number, date code or performance characteristics. NOTE 2: This definition shall be read so as not to conflict with the definition for "counterfeit electronic part" cited in the Defense Acquisition Regulation Supplement (DFARS) 252.246-7007, where that definition shall govern to the extent that clause applies.

(i) "Electrical, Electronic, and Electromechanical (EEE) Parts" are components designed and built to perform specific functions using electricity, and are not subject to disassembly without destruction or impairment of design use. Examples of electrical parts include resistors, capacitors, inductors, transformers, and connectors. Electronic parts include active devices, such as monolithic microcircuits, hybrid microcircuits, diodes, and transistors. Electromechanical parts are devices that have electrical inputs with mechanical outputs, or mechanical inputs with electrical outputs, or combinations of each. Examples of electromechanical parts are motors, synchros, servos, and relays. Although some of these electromechanical parts may be properly thought of as assemblies, for the purposes of this policy these are considered to be parts.

(j) "Goods" shall mean those Goods identified in this Agreement, which may be changed, from time to time by the mutual written agreement of the parties.

(k) "Independent Distributor (Broker)" shall mean a Distributor that purchases parts with the intention to resell them back into the market. Purchased parts may be obtained from OCMs/OEMs or Contract Manufacturers (typically from excess inventories), or from other independent distributors. Re-sale of the purchased parts (re-distribution) may be to OCMs/OEMs, Contract Manufacturers, or other independent distributors. Independent Distributors do not have contractual agreements with the OCMs/OEMs.

(l) Original Component Manufacturer (OCM): An entity that designs and/or engineers a part and is pursuing or has obtained the intellectual property rights to that part. NOTE 1: The part and/or its packaging are typically identified with the OCM's trademark. NOTE 2: OCMs may contract out manufacturing and/or distribution of their product. NOTE 3: Different OCMs may supply product for the same application or to a common specification.

(m) Original Equipment Manufacturer (OEM): A company that manufactures products that it has designed from purchased components and sells those products under the company's brand name.

(n) "SELLER" shall mean the party identified as the SELLER in this Agreement, which may be identified as a subcontractor, supplier, vendor, etc.

(o) "Services" shall mean those Services identified in this Agreement, which may be changed, from time to time by the mutual written agreement of the parties.

(p) "Subcontractors" shall mean a third party that delivers in accordance with a specification or a Statement of

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Work to include some or all of the following: design, development, assembly, test, services, and production. Deliverables may include software, hardware, and/or services.

2. Price

The prices established by this Agreement are firm fixed prices unless otherwise stated in the Agreement. SELLER warrants that any unit prices charged herein do not exceed the unit prices charged by SELLER to other customers in substantially similar transactions.

3. Schedule and Delivery; Notice of Delay

SELLER shall strictly adhere to all Agreement schedules. **Time is and shall remain of the essence in the performance of this Agreement.** SELLER shall notify BUYER in writing immediately of any actual or potential delay to the performance of this Agreement. Such notice shall include a revised schedule and shall not constitute a waiver to BUYER's rights and remedies hereunder.

4. New Materials; Packaging, Shipping, Markings

(a) All goods to be delivered hereunder shall consist of new materials;

(b) SELLER shall prepare and package the goods to prevent damage or deterioration and shall use best commercial practice for packing and packaging of items to be delivered under this Agreement, unless otherwise specified in the Agreement. Wooden packaging from SELLER must conform to International Standards for Phytosanitary Measures (ISPM 15) regarding the Regulation of Wood Packaging Material in International Trade (2009), as amended.

(c) Unless otherwise stated in the Agreement, F.O.B. point shall be Destination (Incoterms 2010 DAP [name U.S. Computrol, Inc. location or U.S. Port] for International transactions);

(d) All suppliers shall purchase parts, materials, chemicals, and assemblies directly from authorized sources (reference subparagraphs 1 and 2 for further requirement resolution). Only new and authentic materials are to be supplied or used in products delivered to BUYER. No counterfeit or suspect counterfeit parts are to be delivered or contained within delivered product.

(1) EEE parts Authorized Distributors (ADs) shall only purchase product directly from the OCM. Parts shall not be purchased from other Authorized Distributors (ADs) or Independent Distributors (IDs) without written consent from BUYER. Procurement practices and documentation shall enable traceability back to the applicable OCM for each purchase transaction.

(2) Contract Manufacturers (CMs), Maintenance Repair and Overhaul (MRO) services, and Resellers shall only purchase parts, materials, and assemblies from the OCM, OEM, or their ADs. Independent Distributors (IDs) shall not be used without written consent from BUYER. Procurement practices and documentation shall enable traceability back to the applicable OCM/OEM or AD for each purchase transaction.

(e) Every article of foreign origin shall be marked in a conspicuous place as legible, indelibly, and permanently as the nature of the article will permit in such manner as to indicate to the ultimate purchaser the English name of the country or origin of the article.

(f) For any shipments to be imported by the BUYER:

(1) SELLER shall provide to BUYER'S Procurement Representative, in writing, five business days advance notification of shipments. Such notification shall include submission of a copy of the Commercial invoice and packing list required by this provision and such other information as BUYER may reasonably request.

(2) SELLER shall forward copies of its shipping documents and any applicable Certificates via email or facsimile, to BUYER so that BUYER may facilitate Customs clearance. These documents shall include:

(i) Commercial Shipping Invoice

(ii) Any applicable Free Trade Agreement or Special Trade Program Certifications/Statements, examples include NAFTA and IFTA certificates of origin.

(iii) If using Ocean Transport: Ocean ISF details according to Customs Publication, dated August 2009 – Importer Security Filing and Additional Carrier Requirements (10+2)

(g) For articles returned to BUYER after repair, SELLER shall

(1) Include a Foreign Repairer Certificate attesting to the work performed abroad in accordance with 19 CFR § 10.8.

(2) Reference any return instructions as provided by BUYER.

(3) Include a commercial invoice stating the reason for RETURN. Products being returned to BUYER after repair must include the hardware value from the original sale of the item. Example: "Original hardware for Customs purposes only: "

(4) Include the cost of the repair as a separate line item on the commercial invoice.

(5) For repair work done under warranty, the SELLER is required to include the estimated cost of repair.

(h) For articles being returned with a Department of State license, SELLER is required to indicate the license number on the commercial invoice.

(i) For articles being returned under any ITAR exemption, SELLER is required to include the exemption citation on the commercial invoice.

(j) SELLER is required to site 48 CFR 252.225 -7013 (e)(2) (iv.) (A) For any Duty Free Entries against a US Prime Contract.

5. Quality

(a) BUYER's final acceptance of Goods or Services is subject to BUYER's inspection within sixty (60) days after receipt at BUYER's facility or such other place as may be designated by BUYER, notwithstanding any payment or prior test or inspection.

(b) SELLER and its suppliers shall establish and maintain a quality management and counterfeit parts program consistent with current industry standards (e.g., ISO9001, AS9100, AS9115, AS9120, AS5553, AS6496, AS6174, etc.). Subject to applicable national security regulations, BUYER and BUYER's Customer shall have the right of access, on a non-interference basis, to any area of SELLER's or SELLER's supply chain sub-tier premises where any part of the work is being performed. SELLER shall flow this requirement down to its sub tier supply chain suppliers as a condition of this Agreement. SELLER shall, without additional costs to BUYER, provide all

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reasonable in-plant accommodations, facilities, and assistance for the safety and convenience of the BUYER and the BUYER's representatives in the performance of their duties.

(c) SELLER shall keep and maintain inspection, test, and related records, which shall be available to BUYER or BUYER's representative. SELLER shall allow copies to be made and shall furnish all information required by the BUYER or BUYER's Customer.

6. Rejection

If SELLER delivers non-conforming Goods or Services, BUYER may, at its option and SELLER's expense: (i) return the Goods for refund or credit; (ii) require SELLER to promptly correct or replace the Goods or Services; (iii) correct the nonconformance; or, (iv) obtain conforming Goods or Services from another source. BUYER shall specify the reason for any return or rejection of nonconforming Goods or Services and/or shall describe the action taken. SELLER shall be liable for any increase in costs, including procurement costs attributable to BUYER's rejection of the non-conforming Goods or Services. If BUYER determines or has reason to believe that Goods provided contain suspect and/or counterfeit parts, BUYER shall provide SELLER the appropriate notice, and impound and report the suspect/counterfeit parts per industry standards.

7. Payment, Taxes, and Duties

(a) Unless otherwise provided, terms of payment shall be net sixty (60) days from actual delivery of Goods or Services and BUYER's receipt of SELLER's proper invoice (as defined in the Agreement).

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

(c) BUYER shall have a right to recoup or setoff against payments due or at issue under this Agreement or any other subcontract between the parties.

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

(e) Unless otherwise specified, prices include all applicable federal, state and local taxes, duties, tariffs, and similar fees imposed by any government, all of which shall be listed separately on the invoice. Prices shall not include any taxes, impositions, charges or exactions for which BUYER has furnished a valid exemption certificate or other evidence of exemption.

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

8. Changes

(a) By written order, BUYER may from time to time direct changes for: (i) technical requirements; (ii) shipment or packing methods; (iii) place of delivery, inspection or acceptance; (iv) reasonable adjustments in quantities, delivery schedules or both; (v) amount of BUYER-furnished property; (vi) time of performance; (vii) place of performance; and, (viii) terms and conditions of this Agreement required to meet BUYER's obligations under BUYER's Government prime contract or subcontract.

(b) If any such change causes an increase or decrease in the price or in the time required for its performance, SELLER shall promptly notify BUYER thereof and assert its claim for equitable adjustment within thirty (30) days after the change is ordered, and an equitable adjustment shall be made. However, nothing in this provision shall excuse SELLER from proceeding immediately with the directed change(s). Changes shall not be binding upon BUYER except when specifically confirmed in a written subcontract or change order. Only the BUYER Procurement Representative has authority on behalf of BUYER to make changes to this Agreement.

9. Force Majeure

The following events, and only the following events, shall constitute force majeure under this Agreement: (a) acts of God or of a public enemy; (b) acts of Government; (c) fires; (d) floods; (e) epidemics; (f) quarantine restrictions; (g) strikes; (h) freight embargoes; and, (i) unusually severe weather. In each case, the failure to perform must be entirely beyond the control and without the fault or negligence of the SELLER. Each party shall give the other immediate notice of any event that such party claims is a *Force Majeure* condition that would prevent the party from performing its obligations hereunder, and of the cessation of the condition. A party's notice under this Section shall include the party's good faith estimate of the likely duration of the *Force Majeure* condition.

10. Termination for Convenience

(a) BUYER may, in its sole discretion and by notice in writing, direct SELLER to terminate work under this Agreement in whole or in part, at any time, and such termination shall not constitute default. In such event, BUYER shall have all rights and obligations accruing to it either at law or in equity, including BUYER's rights to title and possession of the goods and materials paid for. BUYER may take immediate possession of all work so performed upon notice of termination.

(b) SELLER shall immediately stop work and limit costs incurred on the terminated work.

(c) Upon termination for convenience, BUYER, after deducting any amount(s) previously paid, shall reimburse SELLER for the actual, reasonable, substantiated, and allowable costs with the total amount to be paid by the BUYER, being determined by BUYER, and not to exceed the value of the Agreement.

11. Termination for Default

(a) BUYER may, by written Notice of Default to SELLER, terminate this Agreement in whole or in part if the SELLER fails to: (i) deliver the Goods or to perform the Services within the time specified in this Agreement or any extension; (ii) make progress, so as to endanger performance of this Agreement; or, (iii) perform any of the other provisions of this Agreement.

(b) BUYER may require SELLER to transfer title and deliver to BUYER, in the manner and to the extent directed by BUYER, any partially completed Goods and raw material, parts, tools, dies, jigs, fixtures, plans, drawings, Services, information and contract rights (Materials) as SELLER has produced or acquired for the performance of this Agreement, including the assignment to BUYER of SELLER's subcontracts. SELLER further agrees to protect and preserve property in the possession of SELLER in which BUYER has an interest. Payment for completed Goods delivered to and accepted by

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BUYER shall be at the Agreement price. Payment for unfinished Goods or Services, which have been delivered to and accepted by BUYER and for the protection and preservation of property, shall be at a price determined in the same manner as provided in section 10, hereof, except that SELLER shall not be entitled to profit. BUYER may withhold from SELLER monies otherwise due SELLER for completed Goods and/or Materials in such amounts as BUYER determines necessary to protect BUYER against loss due to outstanding liens or claims against said Goods and Materials.

(c) SELLER shall promptly notify BUYER if SELLER is the subject of any petition in bankruptcy. In the event of SELLER's bankruptcy, BUYER may require SELLER to post such financial assurance, as BUYER, in its sole discretion, deems necessary. Failure to post such financial assurance upon ten (10) days written notice shall constitute a default under this Agreement. The rights and remedies of BUYER in this clause are in addition to any other rights and remedies provided by law or under this Agreement.

(d) If SELLER is terminated for default pursuant to this clause, SELLER is liable to the BUYER for any excess repurchase costs incurred in acquiring goods and/or services similar to those terminated for default, and for any other damages, whether or not repurchase is effected.

12. Compliance with Law

(a)(1) The provisions of this Agreement shall be interpreted in accordance with the laws of the State of New York without regard to its conflict of law provisions, except that any provision in this Agreement that is (i) incorporated in full text or by reference from the Federal Acquisition Regulations (FAR); (ii) incorporated in full text or by reference from any agency regulation that implements or supplements the FAR or; (iii) that is substantially based on any such agency regulation or FAR provision, shall be construed and interpreted according to the federal common law of government contracts as enunciated and applied by federal judicial bodies, boards of contracts appeals, and quasi-judicial agencies of the federal Government. All disputes arising out of or related to this Agreement will be subject to the exclusive jurisdiction and venue of the state and federal courts located in State of New York and the Parties hereby consent to such jurisdiction and venue.

(2) SELLER, at its expense, shall provide reasonable cooperation to BUYER in conducting any investigation regarding the nature and scope of any failure by SELLER or its personnel to comply with applicable local, state, and federal laws, orders, rules, regulations, and ordinances that may affect the performance of SELLER's obligations under this Agreement.

(b)(1) SELLER, in the performance of this Agreement, shall comply with all applicable local, state, and federal laws, orders, rules, regulations, ordinances, guidelines, directives, FAA, DOT and other transportation regulations and Hazard Communication Standards promulgated pursuant to the Occupational Health and Safety Act. SELLER shall procure all licenses/permits, pay all fees, and other required charges. NOTE: Export licenses, unless otherwise specified in the Agreement, will be obtained by BUYER.

(2) If: (i) BUYER's contract price or fee is reduced; (ii) BUYER's costs are determined to be unallowable; (iii) any fines, penalties, withholdings, or interest are assessed on BUYER; or (iv) BUYER incurs any other costs or damages; as a result of any violation of

applicable laws, orders, rules, regulations, or ordinances by SELLER, its officers, employees, agents, suppliers, or subcontractors at any tier, BUYER may proceed as provided for in (3) below.

(3) Upon the occurrence of any of the circumstances, other than withholdings, identified in paragraph (2) above, BUYER may make a reduction of corresponding amounts (in whole or in part) in the price of this Agreement or any other contract with SELLER, and/or may demand payment (in whole or in part) of the corresponding amounts. SELLER shall promptly pay amounts so demanded. In the case of withholding(s), BUYER may withhold the same amount from SELLER under this Agreement.

(c) SELLER represents that each chemical substance constituting or contained in products sold or otherwise transferred to BUYER hereunder is on the list of chemical substances compiled and published by the Administrator of the Environmental Protection Administration pursuant to the Toxic Substances Control Act (15 U.S.C. Sec. 2601 et seq.) as amended.

(d) Export Control and Compliance

If this order involves the delivery of products, software, software documentation, technical data, or computer services (which includes design, assembly, testing, repair, maintenance, or modification of BUYER products or technologies) subject to United States export control laws and regulations, SELLER shall comply with all applicable U.S. export and re-export control laws and regulations and any local government export regulations. Within 30 days of contract award or prior to receipt by BUYER, SELLER shall also provide BUYER with all applicable trade control classification information (e.g. ECCNs, USML codes, HTS codes, Schedule B codes) for the commodities supplied to BUYER.

(1) ITAR Control and Compliance – Companies engaged in manufacturing, exporting, or modification of Defense Articles or furnishing Defense Services (whether or not the Defense Articles or Services are intended for export) are required to register with the Department of State, Directorate of Defense Trade Controls (“DDTC”) in accordance with ITAR 22 C.F.R 122. If so engaged, SELLER, by its offer and/or acceptance of this order, represents that it is registered with the DDTC. Proof of such registration will be promptly provided to BUYER upon request.

(2) Non-U.S. Companies – Non-U.S. companies shall be registered as required under its local government export regulations and shall also provide the applicable trade control classification information for its commodities as indicated above. Canadian companies must be registered by the Canadian Federal or Provincial government authorities.

(3) SELLER shall maintain its registration throughout the complete period of performance of this order, including any warranty period, and shall immediately notify BUYER in the event that any such registration and/or other required authorization is revoked, expired, or invalidated for any reason.

(4) Where SELLER holds an export license or export agreement (e.g. TAA, MLA), SELLER shall provide prompt notification to the BUYER Procurement Representative in the event of changed circumstances including, but not limited to, changes in SELLER's ownership or address, ineligibility, a violation or potential violation of the ITAR or other export control regulation, and the initiation or

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existence of a U.S. Government investigation, that could affect the SELLER's performance under this Agreement.

(5) SELLER warrants that it is not (1) a person or entity whose name appears on the list of Specially Designated Nationals and Blocked Persons published by the Office of Foreign Assets Control, U.S. Department of Treasury ("OFAC Listed Person") or (2) a department, agency, or instrumentality of, or otherwise controlled by or acting on behalf of any OFAC Listed Person or the government of a country subject to U.S. economic sanctions administered by OFAC. SELLER further warrants that it will immediately notify BUYER if it becomes subject to any of the foregoing lists or sanctions.

(6) If BUYER provides technical data required to perform this contract and such data is subject to the ITAR or EAR, SELLER shall comply with all export licenses and the following:

- a. The technical data shall be used only in performance of work required by this Contract;
- b. The data shall not be disclosed to any Non-U.S. Person, including SELLER's subcontractors within the same country, unless said person or company is expressly authorized in advance pursuant to an export license or export agreement. The restrictions on the disclosure of export-controlled data apply to both data furnished by BUYER and to any such data incorporated in documents generated by SELLER;
- c. Electronic transmission of such data by SELLER to BUYER or to third parties, where authorized, must be encrypted by BUYER;
- d. Any rights in the data may not be acquired by SELLER or any other Non-U.S. Person, except as subject to separate agreement with the BUYER;
- e. SELLER shall return, or at BUYER'S direction, destroy all of the technical data exported to SELLER pursuant to this Contract upon fulfillment of its terms; and
- f. SELLER shall include paragraphs (a) through (e) and this paragraph (f) of this clause or equivalent provisions in lower-tier subcontracts for the delivery of items that will be included in or delivered as work to BUYER.

(e) SELLER shall: (i) comply with the requirements of the Foreign Corrupt Practices Act (FCPA) (15 U.S.C. §§ 78dd-1, *et. seq.*) (as amended), regardless of whether SELLER is within the jurisdiction of the United States; (ii) neither directly nor indirectly, pay, offer, give, or promise to pay or give, any portion of monies or anything of value to a non-U.S. public official or any person in violation of the FCPA and/or in violation of any applicable country laws relating to anti-corruption or anti-bribery; and, (iii) SELLER hereby agrees not to interact with any government official, political party or public international organization on behalf of BUYER without the prior written permission of the BUYER's Procurement Representative.

(f) SELLER's failure to comply with the entirety of this Article shall be immediate cause for default.

13. Standards of Business Ethics and Conduct

BUYER will conduct its business fairly, impartially, and in an ethical and proper manner. SELLER shall conduct its business fairly, impartially, and in an ethical and proper manner.

SELLER shall not engage in any personal, business, or investment activity that may be defined as a conflict of interest, whether real or perceived. If SELLER has cause to believe that BUYER or any employee or agent of BUYER has behaved improperly or unethically under this Agreement, SELLER is encouraged to exert reasonable effort to report such behavior when warranted.

14. Intellectual Property (see *Alternate I below for International application*)

(a) Unless otherwise expressly set forth in the agreement or subsequent writing, any work, writing, idea, discovery, improvement, invention (whether patentable or not), trade secret or intellectual property of any kind first made or conceived by SELLER in the performance of this Agreement or which is derived from the use of information supplied by BUYER shall be the exclusive property of the BUYER. SELLER shall disclose promptly all such works, writings, ideas, discoveries, improvements, inventions, trade secrets or intellectual property to BUYER, and shall execute all necessary documents to perfect BUYER's title thereto and to obtain and maintain effective protection thereof. Unless otherwise expressly set forth in the Agreement or subsequent writing, any work produced under this Agreement is to be deemed a work-for-hire to the extent permitted by law, and, to the extent not so permitted, shall be assigned to, and shall be, the exclusive property of, the BUYER. SELLER shall ensure that BUYER's customer receives appropriate license rights in works, inventions, and other intellectual property in accordance with the relevant clauses flowed down to SELLER.

(b) SELLER hereby grants to BUYER, and to BUYER's subcontractors and customers, in connection with the use, offer for sale, or sale of products provided to or work being performed for BUYER, an irrevocable, non-exclusive, paid-up worldwide license under any and all intellectual property (whether domestic or foreign), including patents, copyrights, industrial designs and/or mask works owned or controlled by SELLER at any time or licensed to SELLER, provided such a sublicense does not conflict with any provisions of the license to the SELLER.

(c) SELLER hereby grants to BUYER, and to BUYER's subcontractors and customers, a perpetual, non-exclusive, paid-up worldwide license to reproduce, distribute copies of, perform publicly, display publicly, or make derivative works from any software included in or provided with Goods or Services under this Agreement (Software Documentation) as reasonably required by BUYER in connection with BUYER's testing or use of the Good or Service.

[Alternate I - for International application]

Intellectual Property

(a) Background (Preexisting) Intellectual Property. SELLER grants to BUYER, and to BUYER's subcontractors, suppliers, and customers in connection with goods or work being performed by BUYER, an irrevocable, nonexclusive, paid-up, worldwide license under any information, know-how, inventions, patents, industrial designs, and mask works (whether domestic or foreign) owned or controlled by SELLER at any time before or during the term of this contract, but only to the extent that the absence of such would otherwise interfere with BUYER's or BUYER's subcontractors', suppliers', or customers; use

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or enjoyment of goods or the work product or foreground inventions belonging to BUYER under this Agreement.

(b) **Foreground Intellectual Property.** Unless otherwise expressly set forth in the Agreement or subsequent writing, all information, know-how, inventions, patents, industrial designs, and mask works (whether domestic or foreign) conceived, developed, or first reduced to practice by, for, or with SELLER in the course of any work that is performed under this Agreement and any patents resulting from such inventions (both domestic and foreign) shall be the property of BUYER. SELLER will (i) promptly disclose all such inventions to BUYER in written detail and (ii) execute all papers, cooperate with BUYER, and perform all acts necessary and appropriate in connection with the filing, prosecution, maintenance, or assignment of related patents or patent applications on behalf of BUYER. SELLER shall ensure that BUYER's customer receives appropriate license rights in works, inventions, and other intellectual property in accordance with the relevant clauses flowed down to SELLER.

(c) **Preexisting Works of Authorship and Copyright.** Unless superseded by an attached SELLER Software License Agreement agreed to in writing by both BUYER and SELLER, SELLER grants to BUYER, and to BUYER's subcontractors, suppliers, and customers in connection with goods or work being performed by BUYER, a perpetual, irrevocable, nonexclusive, paid-up, worldwide license in SELLER's copyrights to reproduce, distribute copies of, perform publicly, display publicly, and make derivative works from software included in or provided with or for Goods (software) and related information and materials (software documentation) that is owned or controlled by SELLER at any time before or during the term of this Agreement, but only to the extent that such copyrights would otherwise interfere with BUYER's or BUYER's subcontractors', suppliers', or customers' use or enjoyment of Goods or the work products, inventions, or works of authorship belonging to BUYER and resulting from this Agreement.

(d) **Foreground Works of Authorship and Copyrights.** Unless otherwise expressly set forth in the Agreement or subsequent writing, all works of authorship (including, but not limited to, documents, data, drawings, software, software documentation, photographs, video tapes, sound recordings, and images) created by, for, or with SELLER in the course of any work performed under this Agreement, together with all copyrights subsisting therein, shall be the sole proprietary property of BUYER. To the extent permitted under United States copyright law, all such works will be works made for hire, with the copyrights therein vesting in BUYER. The copyrights in all other such works, including all of the exclusive rights therein, will be promptly transferred and formally assigned free of any additional charges to BUYER. SELLER shall ensure that BUYER's customer receives appropriate license rights in works of authorship in accordance with the relevant clauses flowed down to SELLER.

(e) **BUYER Supplied Data.** Any information supplied by the BUYER shall remain BUYER's property, shall not be photo-stated or otherwise duplicated without BUYER's written consent and shall be returned to BUYER upon completion of Agreement or upon demand.

15. Proprietary Information and Rights

(a) Subject to 15(d) and Article 14, Intellectual Property, the Parties shall only share Proprietary Information under this Agreement pursuant to an existing Proprietary Information Agreement (PIA) as incorporated into the Agreement;

(b) Unless otherwise agreed to in a subsequent writing or expressly set forth in this Agreement and subject to Article 15(d), all specifications, information, data, drawings, software, and other items supplied to BUYER shall be disclosed to BUYER without any restrictive rights on a non-proprietary basis;

(c) Unless otherwise agreed to in a subsequent writing or expressly set forth in this Agreement and subject to Article 15(d), all specifications, information, data, drawings, software, and other items which are: (i) supplied to SELLER by BUYER; or, (ii) paid for by BUYER and/or BUYER's customer during the performance of this Agreement shall be treated as proprietary to BUYER and shall not be disclosed to any third party without BUYER's express written consent. SELLER agrees not to use any such furnished information except to perform this Agreement; and,

(d) Applicable U.S. Government Procurement Regulations incorporated into this Agreement shall take precedence over any conflicting provision of this Article 15 to the extent that such Regulations so require. The incorporation by reference of such Regulations dealing with SELLER's rights in Technical Data, subject inventions, copyrights, software and similar intellectual property are not intended to, and shall not, unless otherwise required by applicable law, obviate or modify any greater rights which SELLER may have previously granted to BUYER pursuant to prior agreements between the parties.

16. Goods Warranty

(a) SELLER warrants the Goods delivered pursuant to this Agreement, unless specifically stated otherwise in this Agreement, shall (i) be new; (ii) be and only contain materials obtained directly from authorized sources; (iii) not be or contain Counterfeit Items; (iv) contain only authentic, unaltered labels and other markings; (v) have documentation that authenticates traceability to the applicable authorized source, that can be made available upon request; and (vi) be free from defects in workmanship, materials, and design and conform to all the specifications and requirements of this Agreement. These warranties shall survive inspection, test, final acceptance, and payment of Goods and Services;

(b) SELLER warrants that any hardware, software, and firmware Goods delivered under this Agreement to the extent reasonably possible: (i) do not contain any viruses, malicious code, Trojan horse, worm, time bomb, self-help code, back door, or other software code or routine designed to (a) damage, destroy, or alter any software or hardware; (b) reveal, damage, destroy, or alter any data; (c) disable any computer program automatically; or (d) permit unauthorized access to any software or hardware; and (ii) do not contain any 3rd party software (including software that may be considered free software or open source software) that (a) may require any software to be published, accessed or otherwise made available without the consent of BUYER or (b) may require distribution, copying or modification of any software free of charge;

(c) This warranty entitlement shall inure to the benefit of both BUYER and BUYER's customer and shall cover a period of 12 months following final acceptance; and,

(d) SELLER shall be liable for and save BUYER harmless from any loss, damage, or expense whatsoever that BUYER may suffer from the breach of any of these warranties. Remedies shall be at BUYER's election, including those specified in Article 6 herein.

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17. Services Warranty

Unless stated otherwise in the documents accompanying these terms and conditions, SELLER shall warrant all services against defects in performance for a period of one year following delivery. If this Agreement includes the provision of Services, SELLER warrants that it has and will maintain sufficient trained personnel to promptly and efficiently execute the Services contemplated under this Agreement. SELLER further warrants that the Services shall be performed to high professional standards reasonably expected of similar service providers in BUYER's geographic region.

18. International Transactions

When BUYER has identified an offset obligation directly related to the performance of this Agreement in its solicitation or in relation to any properly enacted modification, and SELLER's performance of this Agreement generates offset credits which BUYER could use to satisfy that identified offset obligation, then BUYER shall have the right to such SELLER offset credits. The BUYER shall have no rights to any other offset credits that may be generated by the SELLER in connection with this Agreement. The SELLER agrees to provide all reasonably necessary information in such form as may be required to enable BUYER to obtain the aforementioned offset credits.

19. Indemnification

(a) SELLER shall indemnify, hold harmless, and at BUYER's request, defend BUYER, its officers, directors, customers, agents and employees, against all claims, liabilities, damages, losses and expenses, including attorneys' fees and cost of suit arising out of or in any way connected with the Goods or Services provided under this Agreement, including, without limitation: (i) the breach of any warranty contained herein; (ii) any claim based on the death or bodily injury to any person, destruction or damage to property, or contamination of the environment and any associated clean-up costs; (iii) SELLER failing to satisfy the Internal Revenue Service's guidelines for an independent contractor; (iv) any claim based on the negligence, omissions or willful misconduct of SELLER or any of SELLER's agents, subcontractors, employees or anyone acting on behalf of SELLER; and, (v) any claim by a third party against BUYER alleging that the Goods or Services (including but not limited to software), the results of such Services, or any other products or processes provided under this Agreement, infringe a patent, copyright, trademark, trade secret or other proprietary right of a third party, whether such are provided alone or in combination with other products, software or processes. SELLER shall not settle any such suit or claim without BUYER's prior written approval. SELLER agrees to pay or reimburse all costs that may be incurred by BUYER in enforcing this indemnity, including attorneys' fees.

(b) Should BUYER's use, or use by its distributors, subcontractors or customers, of any Goods or Services purchased from SELLER be enjoined, be threatened by injunction, or be the subject of any legal proceeding, SELLER shall, at its sole cost and expense, either:

(i) substitute fully equivalent non-infringing Goods or Services; (ii) modify the Goods or Services so that they no longer infringe but remain fully equivalent in functionality; (iii) obtain for BUYER, its distributors, subcontractors or customers the right to continue using the Goods or Services; or, (iv) if none of the foregoing is possible, refund all amounts paid for the infringing Goods or Services.

(c) SELLER shall without limitation as to time, defend, indemnify and hold BUYER harmless from all liens which may be asserted against property covered hereunder, including without limitation mechanic's liens or claims arising under Workers' Compensation or Occupational Disease laws and from all claims for injury to persons or property arising out of or related to such property unless the same are caused solely and directly by BUYER's negligence.

(d) SELLER shall without limitation as to time, defend, indemnify and hold BUYER harmless from all Workers' Compensation or Occupational Disease laws claims for bodily injury including death to employees of SELLER brought forth by the SELLER's employees and/or their family arising out of or in connection with this Agreement.

20. Furnished Property

(a) All drawings, tools jigs, dies, fixtures, materials, and other property supplied or paid for by BUYER and/or BUYER's customer shall be and remain the property of BUYER and/or BUYER's customer; and if SELLER fails to return such property upon BUYER's demand, BUYER shall have the right, upon reasonable notice, to enter SELLER's premises and remove any such property at any time without being liable for trespasses or damages of any sort.

(b) All such items shall be used only in the performance of work under this Agreement unless BUYER consents otherwise in writing.

(c) SELLER shall have the obligation to maintain any and all property furnished by BUYER to SELLER and all property to which BUYER acquires an interest by this Agreement and shall be responsible for all loss or damage to said property except for normal wear and tear. For U.S. Government contracts, SELLER's responsibility for loss or damage to said property shall be determined in accordance with FAR Part 52.245-1 or FAR Part 52.245-1 Alternate I, as applicable.

(d) Upon request, SELLER shall provide BUYER with adequate proof of insurance against such risk of loss or damage.

(e) SELLER shall clearly mark, maintain an inventory, and keep segregated or identifiable all of BUYER's property. At BUYER's request, and/or upon completion of this Agreement, SELLER shall submit, in an acceptable form, inventory lists of Furnished Property and shall deliver or make such other disposal as may be directed by BUYER.

21. Insurance

If this Agreement is for the performance of Services on BUYER's premises or BUYER's customer's premises, or, SELLER utilizes their own vehicles to deliver Goods to BUYER's facility, SELLER shall maintain the following insurance in at least the minimum amounts stated herein. SELLER shall also maintain, and SELLER shall cause its subcontractors to maintain, such general liability, property damage, employers' liability, and worker's compensation insurance, professional errors and omissions insurance, motor vehicle liability (personal injury and property damage) insurance and aviation liability as are maintained in their normal and ordinary course of business. Upon request by the BUYER, SELLER shall provide certificates of insurance evidencing limits of not less than the following:

1. Commercial General Liability \$5,000,000 combined single limit per occurrence (including products/completed operations and contractual liability coverage)

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2. Workers' Compensation Statutory for the jurisdiction where the work is to be performed, including Federal Acts if applicable Employers' Liability, \$1,000,000 each person/accident. In states where Workers' Compensation insurance is a monopolistic state-run system (e.g., Ohio, Washington, North Dakota, and Wyoming), SELLER shall add Stop Gap Employers Liability with limits not less than \$500,000 for each accident or disease. To the extent that any work to be performed is subject to the Jones Act, the Longshore and Harbor Workers' Compensation Act, or the Defense Base Act, the Workers' Compensation policy must be endorsed to cover such liability under such Act.
3. Automobile Liability \$5,000,000 combined single limit per accident

Some or all of the following additional insurance coverages may be required, depending upon the nature of the work to be performed. These additional insurance requirements if any will be identified in the BUYER's Agreement.

If Applicable:

- A. Professional Liability \$5,000,000 per claim
 1. Internet Liability and Network Protection (Cyber-risk) insurance with limits of at least \$2,500,000 each claim or wrongful act.
 2. Media Liability insurance with limits of at least \$2,500,000 each claim or wrongful act.
- B. Aviation Liability including products \$50,000,000 per occurrence (including aircraft products and completed operations and War, Hijacking and other perils (AVN 52D))
- C. Hangar-keepers' Liability \$50,000,000 per occurrence
- D. All Risk Property Insurance Replacement Value (covering property of BUYER or BUYER's customer in the care, custody or control of SELLER and include BUYER as Loss Payee.
- E. Fidelity or Crime insurance covering employee dishonesty, including but not limited to dishonest acts of SELLER, its employees, agents, subcontractors and anyone under SELLER's supervision or control. The SELLER shall be liable for money, securities or other property of BUYER. SELLER shall include a client coverage endorsement written for limits of at least \$1,000,000 and shall include BUYER as Loss Payee.
- F. Environmental Insurance (Contractor's Pollution Liability) with limits of at least \$5,000,000 each occurrence, claim, or wrongful act and \$10,000,000 aggregate. The policy must include BUYER, its Affiliates, and their directors, officers, and employees as Additional Named Insured's. SELLER shall provide a copy of the Additional Insured endorsement to BUYER. If required within the scope of SELLER's work to be performed, the insurance required herein cannot exclude coverage for bodily injury, property damage, pollution or environmental harm resulting from or arising out of the work to be performed, asbestos, lead or silica-related claims, claims arising out of microbial matter or bacteria, testing, monitoring, measuring operations or laboratory analyses, or liability arising out of the operation of a treatment facility. The policy must contain a separation of insured's clause. If a motor vehicle is used in connection with the work to be performed, the Business

Automobile Liability policy will include coverage at least as broad as Insurance Services Office (ISO) CA 99 48 and be endorsed to include Motor Carrier Act endorsement MCS 90.

- G. Pollution Legal Liability with limits of at least \$3,000,000 each occurrence, claim, or wrongful act and \$6,000,000 aggregate

The above limits may be satisfied by any combination of both primary and excess limits. SELLER shall arrange a waiver of subrogation for the above and with the exception of 2.(Workmen's Comp), B.(Aviation Liability), C (Hangar-keeper's Liability), D (All Risk Property), & E. (Fidelity or Crime) shall name BUYER as an additional insured under each of the above policies and shall provide to BUYER, within fifteen (15) days of BUYER issuance of this Agreement, a Certificate of Insurance evidencing compliance with this section The SELLER shall notify BUYER when cancellation or any material change in the policies adversely affects the interests of the BUYER in such insurance and such changes shall not become effective until thirty (30) days after written notice is provided to the BUYER.

22. Release of Information

Except as required by law, SELLER shall not publish any information developed under this Agreement, nor disclose, confirm, or deny any details about the existence or subject matter of this Agreement, or use BUYER's name in connection with SELLER's sales promotion or publicity without prior written approval of the BUYER.

23. Disputes

All disputes under this Agreement that are not disposed of by mutual agreement may be decided by recourse to an action at law or in equity. Pending final resolution of a dispute hereunder, SELLER shall proceed diligently with the performance of this Agreement and in accordance with all the Terms and Conditions contained herein and with the BUYER's direction thereof. BUYER and SELLER shall each bear its own costs of processing any dispute hereunder. In no event shall the SELLER acquire any direct claim or direct course of action against the United States Government.

If this Agreement is in support of a prime contract or higher tier subcontract supporting the U.S. Government, the following terms shall apply, notwithstanding any other provisions in this Agreement:

(a) Any decision of the Contracting Officer under the prime contract which binds BUYER shall bind both BUYER and SELLER to the extent that it relates to this Agreement –provided that:

- The BUYER notifies with reasonable promptness the SELLER of such decision;
- The BUYER, at its sole discretion, authorizes in writing the SELLER to appeal in the name of the BUYER such decision at its own expense; or
- If BUYER should appeal such decision, BUYER at its sole discretion offers to the SELLER the opportunity at its own expense to join BUYER in such appeal.

(b) Any decision upon such appeal, when final, shall be binding upon the SELLER.

(c) The SELLER shall keep BUYER informed of any appeal it makes by providing copies of all pertinent documents to BUYER.

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(d) The SELLER shall indemnify and hold harmless from any and all liability of any kind incurred by or imputed to BUYER under Section 5, "Fraudulent Claims," of the Contract Disputes Act of 1978, as amended, if SELLER is unable to support any part of its claim and it is determined that such inability is attributable to fraud or misinterpretation of fact on the part of SELLER.

Pending any prosecution, appeal, or final decision or settlement of any dispute arising under this Agreement, the SELLER shall proceed diligently, as directed by BUYER, with the performance of this Agreement.

Nothing in this clause nor any authorization or offer shall be deemed to constitute acceptance or acknowledgement by BUYER of the validity of SELLER's claim or any part thereof, nor be deemed to limit or in any way restrict BUYER from taking any actions, included available remedies, it deems appropriate to protect its own interests.

As used in this clause, the word "appeal" means an appeal taken under the Contract Disputes Act of 1978, as amended. In no event shall the SELLER acquire any direct claim or direct course of action against the U.S. Government.

24. Assignments, Subcontracting, Organizational Changes

(a) Neither this Agreement nor any interest herein nor claim hereunder may be transferred, novated, assigned, or delegated by SELLER; nor may all or substantially all of this Agreement be further subcontracted by SELLER without the prior written consent of BUYER. Lack of consent shall not be deemed as a waiver or otherwise relieve SELLER of its obligations to comply fully with the requirements hereof.

(b) Notwithstanding the above, SELLER may, without BUYER's consent, assign moneys due or to become due hereunder provided BUYER continues to have the right to exercise any and all of its rights hereunder, settle any and all claims arising out of, and enter into amendments to the Agreement without notice to or consent of the assignee. BUYER shall be given prompt notice of any assignment. Amounts so assigned shall continue to be subject to any of BUYER's rights to set-off or recoupment under this Agreement or at law.

(c) BUYER may assign this Agreement to any successor in interest.

(d) SELLER shall promptly notify BUYER in writing of any organizational changes made by SELLER, including name or ownership changes, mergers or acquisitions.

25. Government Contracts

For each Agreement awarded in support of and charged to a U.S. Government Contract, the provisions found in Supplement 1 – U.S. Government Contract Provisions from the FAR (Corporate Form CC009) and Supplement 2 – U.S. Government Contract Provisions from the DFARS (Corporate Form CC010) shall apply along with any other applicable and mandatory flow-downs required by the FAR or DFARS or any other Federally published Supplement. All such appended FAR, DFARS, or other clauses are incorporated by reference as if set forth at length herein. SELLER agrees that all such clauses that under applicable law must flow-down to lower tier subcontractors of BUYER shall so flow-down to SELLER's subcontractors. SELLER further agrees to promptly provide [Computrol, Inc.](#) with all information required for [Computrol, Inc.](#) to fulfill its obligations to the U.S. government under the terms of its prime contract or higher-tier

subcontract, including any information required for BUYER to satisfy its obligations under FAR 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards, and FAR 52.204-14, Service Contract Reporting Requirements.

26. Order of Precedence

Any inconsistency or conflict in this Agreement shall be resolved by giving precedence in the following order: (a) the face of BUYER's Agreement, Purchase Order, and/or Task Order, including Corporate Forms CC009, CC010, and CC011 and any other agency supplemental clauses that are noted on the face of the BUYER's document; (b) these General Terms and Conditions for Supplies and Services Agreements (CC008); (c) any other provisions set forth in the Agreement, including any terms and conditions stated or referenced therein; (d) the Statement of Work; and (e) Specifications attached hereto or incorporated by reference.

27. Independent Contractor Status

SELLER is, and shall remain, an independent contractor during the performance of this Agreement.

28. Communication with BUYER's Customer

BUYER shall be solely responsible for any and all communication with BUYER's customer regarding this or any related Agreement. This clause does not prohibit SELLER from communicating with the U.S. Government regarding (1) matters SELLER is required by law or regulation to communicate to the Government, (2) fraud, waste, or abuse communicated to a designated investigative or law enforcement representative of a federal department or agency authorized to receive such information, or (3) any matter for which this Agreement, including a FAR or FAR Supplement clause included in this Agreement, provides for direct communication by SELLER to the Government.

29. Conflict of Interest

It is understood and agreed that the SELLER, under the terms of this Agreement, or through the performance of this Agreement, is neither obligated nor expected to deliver or provide material or perform work, which will place the SELLER in an Organizational Conflict of Interest (OCI) per FAR 9.5, which could serve as a basis for excluding the SELLER from supplying products or services to the U.S. Government customer. It will be the SELLER's responsibility to identify any situation in which the potential for an OCI exists. **Failure to provide such notice will be considered a material breach of this Agreement.**

30. Audit Rights

Buyer reserves the right to audit SELLER's records to assure compliance with the terms of this Agreement. SELLER shall make available all data reasonably requested by BUYER and/or BUYER's Representative.

31. SELLER Business Systems

"SELLER Business Systems" as used in this clause means SELLER's material management and accounting system, cost estimating system, accounting system, earned value management system, property management system, and purchasing system. When SELLER's Business Systems are reviewed and approved by a Government agency, SELLER shall provide prompt notice to BUYER

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whenever there is a material change in the status of the Government's approval or determination of adequacy of any of SELLER's Business Systems. Should the Government observe a deficiency in SELLER's Business Systems and if any of those systems produces data that is integral to the output of the BUYER, acting in its role as a prime to the Government or to another prime contractor, which may result in the SELLER's and/or BUYER's Business Systems being disapproved, SELLER shall be liable for and save BUYER harmless from any loss, damage, or expense whatsoever that BUYER may suffer.

32. Electronic Transmissions

(a) The parties agree that if this Agreement is transmitted electronically, neither party shall contest its validity, or any acknowledgment thereof, on the basis that this Agreement or acknowledgment contains an electronic signature.

(b) SELLER shall, at BUYER's request and SELLER's expense, send and receive business transactions by electronic means using Web-based technologies. Such Web-based technologies for electronic transmissions may include a) email and (b) the Internet directly between BUYER and SELLER.

33. Standards on Slavery and Combatting Human Trafficking in the Supply Chain

(a) SELLER – Pursuant to the California Transparency in Supply Chains Act and consistent with BUYER's commitment to excellence and corporate social responsibility, BUYER supports the eradication of human trafficking and slavery in supply chains around the world, including in our own. BUYER sets forth the following Standards that SELLER shall meet in order to do business with BUYER:

- SELLER shall operate in full compliance with the laws of their respective countries and with all other applicable laws, rules and regulations.
- SELLER shall employ only workers who meet the applicable minimum legal age requirement for employment in the country or countries in which they are doing business.
- SELLER shall not employ any prison, indentured or forced labor.
- SELLER shall comply with all applicable laws, regulations and industry standards on working hours and working conditions.
- SELLER shall certify that materials incorporated into goods provided to BUYER comply with the laws regarding slavery and human trafficking of the country or countries in which SELLER is doing business.

(b) If BUYER determines that supplier has violated these Standards, BUYER may, in its discretion, either terminate this Agreement and/or require the supplier to implement a corrective action plan as a condition of future business.

34. Conflict Minerals

By accepting these terms and conditions, SELLER agrees to timely respond, to the best of its knowledge and belief following a reasonable country of origin due diligence inquiry in accordance with the framework in the Organization for Economic Cooperation and Development (OECD) Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas or other prevailing industry standard, to any request by, or on behalf of, BUYER, for information on the origin, source and chain of custody

information of 3TG (tin, tantalum, tungsten, and gold) minerals necessary to the functionality or production of a product manufactured by you or supplied by you to BUYER. Further, SELLER agrees to provide BUYER timely notice when SELLER becomes aware that any 3TG in a product or component it supplies to BUYER finances or benefits armed groups in the Democratic Republic of Congo or an adjoining country. In addition, you understand and acknowledge that any information you provide in this regard may be used by BUYER to comply with its reporting obligations under the Rule 13p-1 of the Securities and Exchange Act of 1934, as amended and the Dodd-Frank Wall Street Reform and Consumer Protection Act, including filing a Form SD and Conflict Minerals Report with the U.S. Securities and Exchange Commission.

35. Last Buy Notice

The BUYER may in the future wish to, but makes no commitment to, acquire additional items, parts, subcomponents, and/or components like those to be/being acquired under this Agreement.

The SELLER shall notify the BUYER in writing of any:

- (a) items, parts, subcomponents, and/or components, and/or
- (b) electronics in equipment, assemblies, subassemblies, parts, components or items delivered or to be delivered under this Agreement, whether supplied by the SELLER or by the SELLER's lower-tier subcontractor(s), that are or are expected to be going out of production or will no longer be commercially available.

To the extent practicable, SELLER shall provide BUYER with a "last time buy" notice for such "end-of-life" items at least twelve (12) months prior to their anticipated date of discontinuance or unavailability. However, if twelve (12) months' notice is not reasonable given the circumstances, then SELLER shall provide BUYER with notice as soon as practicably possible.

SELLER is to specifically identify those items by name or title, part number(s), function and location in the item delivered, and the name and address of the supplier.

36. Liens

SELLER shall keep its work and all goods supplied by it hereunder and BUYER premises free and clear of all liens and encumbrances, including mechanic's liens, in any way arising from performance of this Agreement by SELLER or by any of its vendors or subcontractors. SELLER may be required by BUYER to provide a satisfactory release of liens as a condition of final payment.

37. Supply Chain Security

SELLER acknowledges that BUYER has customers that are certified C-TPAT (Customs Trade Partnership Against Terrorism) members. Consistent with the BUYER's customers obligations and responsibilities under C-TPAT, SELLERs with international cargo shipping shall support as required to meet the continuing needs of BUYER's customer.

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38. Severability

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

39. Survivability

All of the provisions of this Agreement shall survive the termination (whether for convenience or default), suspension or completion of this Agreement unless they are clearly intended to apply only during the term of this Agreement.

40. Waivers

Failure of the BUYER to enforce at any time, or from time to time, any provision of this Agreement or applicable law shall not be construed as a waiver thereof. The remedies herein reserved shall be cumulative and additional to any other remedies in law or equity.

41. Agreement Direction

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

(b) The BUYER's 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 Goods/Services to be delivered hereunder. No such action shall be deemed to be a change under the "Changes" clause of this Agreement and shall not be the basis for equitable adjustment.

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

42. Cyber Security and Incident Reporting

If DFARS 252.204-7012, Safeguarding Covered Defense Information and Cyber Incident Reporting, is applicable to purchase orders issued by BUYER, SELLER shall be responsible for the following in addition to those requirements specified in the above DFARS clause:

- (a) As defined therein, the SELLER shall rapidly report cyber incidents to the DoD at <http://dibnet.dod.mil> and the BUYER, providing the requisite information required under the clause.
- (b) Without exception, any cyber incident the SELLER encounters shall be reported to BUYER as soon as practicable within 72 hours of discovery of an incident.
- (c) In the event of a data breach, BUYER shall be afforded unfettered access to certain technical information (e.g., logs, packet flow information, etc.). This information will be required to satisfy BUYER's customer information requests.
- (d) Failure to report or provide these notices will be considered a material breach of this Agreement

In further support of this requirement, should BUYER elect to utilize supplier checklists, representations or certifications of compliance, outside vendor verification, and/or onsite security audits, SELLER

43. Limitation of Liability

IN NO EVENT SHALL THE BUYER BE LIABLE FOR INDIRECT, SPECIAL, CONSEQUENTIAL, MULTIPLE OR PUNITIVE DAMAGES, OR ANY DAMAGE DEEMED TO BE OF AN INDIRECT OR CONSEQUENTIAL NATURE ARISING OUT OF OR RELATED TO ITS PERFORMANCE UNDER THE CONTRACT, WHETHER BASED UPON BREACH OF CONTRACT, WARRANTY, NEGLIGENCE AND WHETHER GROUNDED IN TORT, CONTRACT, CIVIL LAW OR OTHER THEORIES OF LIABILITY, INCLUDING STRICT LIABILITY. TO THE EXTENT THAT THIS LIMITATION OF LIABILITY CONFLICTS WITH ANY OTHER PROVISION(S) OF THIS CONTRACT, SAID PROVISION(S) SHALL BE REGARDED AS AMENDED TO WHATEVER EXTENT REQUIRED TO MAKE SUCH PROVISION(S) CONSISTENT WITH THIS PROVISION. IN NO EVENT SHALL THE TOTAL CUMULATIVE LIABILITY OF BUYER WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE FOR THE PERFORMANCE OR BREACH OF THE CONTRACT OR ANYTHING DONE IN CONNECTION THEREWITH EXCEED THE AGREEMENT PRICE. NOTWITHSTANDING ANYTHING ELSE IN THE AGREEMENT TO THE CONTRARY, THE STATED MONETARY LIMITATION HEREINABOVE IS THE MAXIMUM LIABILITY BUYER HAS TO THE SELLER.

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