	<b>Document Title:</b> Terms and Conditions of Purchase -- Commercial			
<b>Department / Process Owner</b> Contracts & Supply Chain	<b>DOCUMENT NUMBER:</b> SC-442	<b>REVISION:</b> A	<b>REV DATE:</b> 1/19/2025	<b>APPROVAL:</b> G. Wingenbach


This document sets forth the purchase order terms and conditions applicable binding upon suppliers of Products or Services (herein each referred to as a “**Seller**”) to PLEXSYS Interface Products Inc. and its Affiliates (herein referred to as the “**Buyer**”), pursuant to purchaser orders issued from time to time by the Buyer to Seller as more fully described herein.

**1. Governing Law:** Both Parties agree that, irrespective of the place of performance of this Order, this Order will be governed, construed, and interpreted according to the law of the State of Washington without regard to its conflict of laws or choice of law rules or principles, except that any provision of this Order incorporated from the Federal Acquisition Regulation (FAR) or any agency regulation that supplements the FAR shall be governed by the federal common law of government contracts. The 1980 United Nations Convention on Contracts for the International Sale of Goods and its related instruments will not apply to this Order.

**2. Order of Precedence:** In the event of any inconsistency between the terms set forth in this Order, the inconsistency shall be resolved by giving precedence in the following order:

- a. The requirements set forth on the purchaser order (including mandatory clauses flowed down in accordance with the Buyer’s customer requirements) submitted by the Buyer to Seller, with the purchase order most recently delivered by Buyer to Seller, taking precedence.
- b. The terms and conditions herein (including any referenced Addenda) but excluding FAR/DFARS clauses and provisions and Other Agency Supplemental Clauses.
- c. FAR/DFARS and Other Agency Supplemental Clauses not already addressed above.
- d. Any Statement of Work
- e. Any applicable Specifications or Drawings
- f. All Quality/Mission Assurance Requirements
- g. Supplier Data Requirements List (SDRL)/Data Item Description (DID)
- h. Other Referenced Documents

**3. Dispute Resolution:** Any dispute arising under or in connection with this Order with respect to the rights, duties, or obligations of the Parties shall be submitted in writing for resolution to ascending levels of management of the respective Parties.

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If a dispute cannot be resolved to both Parties' mutual satisfaction, after good faith negotiations, within forty-five (45) days from the date of the written claim is received by the other Party, or such additional time as the Parties agree upon in writing, either Party may bring suit. If federal courts have subject matter jurisdiction to resolve a dispute, the Parties agree that the dispute shall be brought only in a federal district court in the state of Washington. The Parties waive any objection based on lack of personal jurisdiction, improper venue or *forum non conveniens*.

Pending any prosecution, appeal, or final decision referred to in this clause, or the settlement of any dispute arising under this Order, both Parties shall proceed diligently, with their respective obligations under this Order.

To the maximum extent permitted by law, the Parties waive any right to a jury trial.

In no event shall Buyer be liable for anticipated profits, incidental or consequential damages. Buyer's liability on any claim, of any kind and for any loss or damage arising out of, connected with or resulting from this Order, or from the performance or breach thereof shall, in no case, exceed the price allocable to the Products and/or Services, or unit thereof, which gives rise to the claim. Buyer shall not be liable for penalties of any description. Any action resulting from any breach on the part of Buyer as to the Products and/or Services delivered hereunder must be commenced within one year after the cause of action has accrued.

In no event shall Seller acquire any direct claim, or direct course of action against the U.S.G. except as authorized by law.


#### 4. Termination:

##### **Termination** (for Time and Material Order)

Buyer, upon providing seven (7) days written notice, may terminate this Order, in whole or in part, when it is in the best interest of Buyer. If this Order is terminated, Buyer shall be liable only for payment in accordance with the payment provisions of this Order for Services rendered prior to the effective date of termination, and Seller shall have no claim against Buyer for Services not performed, anticipatory profits lost, or indirect or consequential damages claimed to have been suffered by reason of such termination.

##### **Termination for Convenience** (for Firm Fixed Price Order)

This Order to include any and all rights granted, and obligations assumed hereby, may be terminated in whole or in part by Buyer by giving written notice to Seller. Upon receipt of a notice of termination, and except as otherwise directed by Buyer, Seller shall immediately stop work, notify subcontractors to stop work, and protect property in Seller's possession in which Buyer has or may acquire an interest, for the terminated

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portion of the Order. Seller shall take these actions regardless of any delay in determining or adjusting any amounts due under this clause.

As directed by Buyer, Seller shall transfer title and possession to Buyer of any inventory and property, including plans, drawings, and information held by Seller which is for Buyer's Order. In accordance with Buyer's instructions, Seller shall assign to Buyer all right, title, and interest of Seller under the subcontracts of Seller that are terminated, in which case Buyer shall have the right to settle or to pay any termination settlement proposal arising out of those terminations. With approval or ratification to the extent required by Buyer, Seller shall settle all outstanding liabilities and termination settlement proposals arising from the termination of Seller's subcontracts; the approval or ratification will be final for purposes of this clause.

Seller shall submit a termination settlement proposal within sixty (60) days after the effective date of the termination notice incorporating all claims of Seller in the form and with the certification prescribed by Buyer. Seller and Buyer may agree upon the whole or any part of the amount to be paid because of the termination and this Order shall be amended and Seller paid the agreed amount. In no event shall payment to Seller exceed the total Order price as reduced by the amount of payments previously made and this Order price of work not terminated. If applicable, the cost principles and procedures of FAR Part 31, in effect on the date of this Order, shall govern all costs claimed, agreed to, or determined under this clause.


Unless otherwise provided in this Order, Seller shall maintain all records and documents relating to the terminated portion of this Order for three (3) years after final settlement. This includes all books and other evidence bearing on Seller's costs and expenses under this Order. Seller shall make these records and documents available to Buyer, at Seller's office, at all reasonable times, without any direct charge.

#### **Termination for Default** (for Firm Fixed Price Order)

Buyer may terminate this Order in whole or in part, by written notice of default to Seller if Seller:

- i. Fails to deliver the Products or perform the Services within the time specified in this Order or any extension; and
- ii. Fails to make progress so as to endanger performance of this Order or to perform any of the other provisions of this Order and does not cure that failure within a period of ten (10) days after receipt of the notice from Buyer specifying Seller's failure to perform; or
- iii. Becomes insolvent or makes a general assignment for the benefit of creditors, or files or has filed against it a petition of bankruptcy or pursues any other remedy under any other law relating to the relief for debtors, or in the event a trustee or receiver is appointed for Seller's property or business; or assignment.

If Buyer terminates this Order in whole or in part, it may acquire, under the terms and in the manner Buyer

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considers appropriate, Products or Services similar to those terminated, and Seller will be liable to Buyer for any excess costs for those Products or Services. However, Seller shall continue the work not terminated. In addition, Buyer may rework or repair any Product or re-perform any Service, at Seller's cost.

If this Order is terminated for default, Buyer may require Seller to transfer title and deliver to Buyer, as directed by Buyer, any (1) completed Products, and (2) partially completed Products and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as "manufacturing materials" in this clause) that Seller has specifically produced or acquired for the terminated portion of this Order. Upon direction of Buyer, Seller shall also protect and preserve property in its possession in which Buyer has an interest.

Buyer shall pay this Order's price for completed Products delivered or Services performed and accepted. Seller and Buyer shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property.

Buyer shall, at its option, have the right to set off against, or as appropriate apply to the payment or performance of any obligation, sum or amount owing at any time to Buyer under this Order, all deposits, amounts, or balances held by Buyer for the account of Seller, any amounts owed by Buyer to Seller, and any sum Buyer determines to be necessary to protect Buyer against loss because of outstanding liens or claims of former lien holders.


The rights and remedies of Buyer in this clause are in addition to any other rights and remedies provided by law or under this Order.

## 5. Notice Requirements:

Notices shall be deemed to have been duly given: (a) upon delivery, if delivered by hand during regular business hours; (b) one (1) business day after dispatch by a nationally recognized overnight courier; or (c) upon successful transmission, if sent by email or facsimile before 5:00 PM local time of the recipient on a business day, otherwise on the next business day.

## 6. Authority to Commit

The assigned Subcontracts Administrator and Buyer are the only parties authorized to make or approve any changes in any of the requirements of this subcontract. Notwithstanding any other provisions contained elsewhere in this contract, in the event the Supplier makes any changes at the direction of any person other than the Subcontracts Administrator or Buyer, the changes will be considered to have been made without authority and no adjustment will be made in the contract terms and conditions, including price.

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## 7. Confidentiality:

Unless expressly stated otherwise herein, the exchange of information under this Order shall be governed by this Clause, which supersedes any prior agreement between Buyer and Seller to protect information relating to the purpose of this Order.

The Receiving Party shall hold all Proprietary Information in confidence and restrict disclosure thereof to only its employees, Affiliates, contract labor, subcontractors, advisors, and agents who have a need to know so that the Receiving Party may perform its obligations under this Order and are under obligations to hold such information in confidence under terms and conditions at least as restrictive as the terms and conditions of this Order.

Seller agrees to use Buyer's Proprietary Information only for purposes necessary for performing Seller's obligations under this Order and shall not use Buyer's Proprietary Information for any other purpose without the prior written consent of Buyer. Upon Buyer's request, Seller shall destroy or transfer to Buyer all existing copies of Buyer's Proprietary Information. If the Proprietary Information is copied or reproduced in whole or in part, the copy or reproduction shall carry the same marking as that which appears on the original.


The Receiving Party agrees to use at least the same degree of care in safeguarding the Disclosing Party's Proprietary Information, including during storage and transmittal, as it uses for its own Proprietary Information, but in no case less than reasonable care. Promptly upon discovery of an unauthorized disclosure, access, or use, the Receiving Party shall: (a) notify the Disclosing Party; (b) make reasonable attempts to retrieve the Proprietary Information; (c) comply with any reasonable written requests of Disclosing Party regarding such unauthorized disclosure, access, or use; and (d) review and take other reasonable action as appropriate to prevent any future unauthorized disclosures, accesses, or uses.

### Exceptions

The Receiving Party shall not be liable hereunder for use or disclosure of Proprietary Information which occur after such Proprietary Information:

1. is or becomes publicly known through no wrongful act of the Receiving Party; or
2. is known to or in the possession of the Receiving Party without restriction on disclosure or use through no wrongful act of the Receiving Party, as evidenced by competent proof; or
3. is rightfully received by the Receiving Party from a third party without restriction and without breach of this Order; or
4. is independently developed by the Receiving Party without the use of or reference to the Proprietary Information.

The Receiving Party shall not be liable hereunder for use or disclosure of Proprietary Information if such

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Proprietary Information is disclosed to satisfy a legal order by a court of competent jurisdiction or U.S.G. action; provided, however, that the Receiving Party shall first advise the Disclosing Party within sufficient time prior to the disclosure so that the Disclosing Party has the opportunity to seek appropriate relief from the court or governmental order, and provided further that the Receiving Party shall disclose only those portions of the Proprietary Information legally required to be disclosed and request confidential treatment of the Proprietary Information by the court or governmental entity.

The Receiving Party agrees that the Proprietary Information of the Disclosing Party is valuable and unique, and that the loss resulting from unauthorized disclosure thereof may cause irreparable injury to the Disclosing Party, which may not be adequately compensated in money damages. The Receiving Party, therefore, expressly agrees that the Disclosing Party shall be entitled to seek injunctive and/or other equitable relief, in addition to any other remedies available to the Disclosing Party for breach of this clause.

Buyer's right to use and disclose information provided under this Clause shall not be affected by termination or completion of this Order and remains in effect until performance in full of all contracts and agreements through which Buyer needs to use Seller's information to perform under Buyer's higher tier contract or Prime Contract, and any follow-on contracts to such agreements. The limitations on the scope of use of information under this Clause shall not be affected by termination or completion of this Order.

## 8. Intellectual Property Rights:


"Intellectual Property" means ideas, inventions, information, works of authorship, and symbols, names, images, and designs embodied in for example, Technical Data, designs, computer software, mask works, computer models, Data, drawings, formulae, specifications, diagrams, processes, know-how, procedures and technology, and all legal rights therein.

"Works" means physical manifestations of Intellectual Property created under this Order.

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

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

Each Party shall retain and exclusively own all rights in its Background Intellectual Property and in all Foreground Intellectual Property that it creates. Foreground Intellectual Property jointly generated by employees of more than one Party shall be jointly owned. Neither Party shall have any obligation to account

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to the other Party for income arising from use of the jointly owned Foreground Intellectual Property. Nothing in this clause shall modify or alter any rights that the U.S.G. may have in any Products and/or Services, including Data or software deliverables to the U.S.G. Seller hereby grants to Buyer a non-exclusive, perpetual, irrevocable, worldwide, right and license (with right to sublicense) to copy, modify, use, sell, offer for sale and disclose any Work or other deliverable delivered by Seller under this Order for the performance of this Order and any higher tier contract or Prime Contract, and any follow-on contracts to such agreements. Notwithstanding the above license, Buyer shall not have the right to copy or modify any Seller hardware, except as provided by Clause 9.B (Defective Work) and Clause 12.C (Warranty). If the Work or other deliverable contains third party intellectual property, Seller agrees to obtain the rights from the third party that are sufficient for Seller to grant Buyer the rights in the above license. Seller warrants that it has the rights in the Work or other deliverable sufficient to grant to Buyer the above license.

Seller warrants that the performance of Seller under this Order, including any Services provided by Seller to Buyer, and the sale, use, or incorporation into manufactured Products of all machines, devices, material, software, and firmware which are not of Buyer's design, composition, or manufacture shall be free and clear of infringement of any valid patent, copyright, trademark, mask works, or other proprietary rights.

Seller shall indemnify, defend, and hold harmless Buyer, its directors, officers, employees, consultants, agents, Affiliates, successors, permitted assigns and customers ("Indemnitees") from and against all claims, suits, actions, awards (including but not limited to awards based on intentional infringement of patents known at the time of such infringement, exceeding actual damages and/or including attorney's fees and/or costs), liabilities, damages, costs and attorney's fees related to the actual or alleged infringement of any U.S. or foreign intellectual property right (including, but not limited to, any right in a patent, trademark, copyright, industrial design or semiconductor mask work, or based on misappropriation or wrongful use of information or documents) and arising out of the performance of Seller under this Order or the manufacture, sale or use of Products delivered by Seller under this Order, or the provision of Services by Seller under this Order, by either Buyer or Buyer's customer ("Infringement Claims"). Buyer and/or its customer will promptly notify Seller of any such Infringement Claim and Seller will, at its own expense retain competent counsel approved by the Buyer, and fully defend such Infringement Claim on behalf of the Indemnitees. Seller will have no obligation under this clause with regard to any infringement arising from (a) the compliance of Seller's new Product design with formal specifications issued by Buyer where infringement could not be avoided in complying with such specifications or (b) use or sale of Products for other than their intended application in combination with other items when such infringement would not have occurred from the use or sale of those Products solely for the purpose for which they were designed or sold by Seller.

If the manufacture, use or sale of a Product delivered by Seller under this Order is likely to be or is enjoined as a result of a suit, Seller, at no expense to Buyer, shall obtain for Buyer and its customer the right to use and sell the Product or shall substitute an equivalent Product acceptable to Buyer, at its sole discretion, and extend this indemnification thereto.



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Notwithstanding the foregoing, when this Order is performed under the authorization and consent of the U.S.G. to infringe U.S. Patents, Seller's liability for U.S. patent infringement under this Order shall be coextensive with Buyer's liability.

The terms of this Clause shall survive termination or completion of this Order.

## 9. Warranties and Defects:


Seller expressly warrants that all Product(s) delivered, and Service(s) performed hereunder shall be free from defects, shall be of good materials and workmanship, shall conform to all requirements of this Order, and shall be free of any claim of any third party.

Seller shall pass through and assign to Buyer all OEM warranties and shall further warrant all goods and services provided hereunder for not less than 24 months from the date of acceptance by Buyer. All warranties shall survive inspection, acceptance and payment.

Seller acknowledges that any deliverable incorporating an AI System, including components, algorithms, or outputs, shall be clearly identified in its documentation and deliverables to Buyer. Seller warrants that all AI Systems included in deliverables comply with the specifications and standards set forth in this Order and applicable laws and regulations concerning AI. Seller shall disclose to Buyer any AI-related processes or data utilized in deliverables, ensuring that these processes do not infringe upon third-party rights or violate any data protection laws. Seller shall not use AI Systems to process Buyer's data or proprietary information without Buyer's prior written consent. Any AI System developed or used by Seller must not retain Buyer's data beyond the scope of this Order or use such data to train or enhance any AI models without explicit written authorization from Buyer. Seller agrees to indemnify, defend, and hold harmless Buyer against any claims, damages, losses, liabilities, and expenses (including reasonable attorneys' fees) arising from or related to any breach of this clause, including but not limited to unauthorized disclosure or misuse of Buyer's data and intellectual property through AI Systems. In the event of an AI-related incident impacting the deliverables, Seller shall promptly notify Buyer and cooperate fully in resolving such incidents, including taking corrective actions to mitigate potential damages.

The foregoing warranties shall survive inspection and Acceptance of, and payment for, the Product(s) delivered, and Service(s) performed hereunder and shall remain in effect as to each Product furnished or Service performed and shall run to Buyer, its successors, assigns, and customers. These warranties shall not be deemed to limit any warranties of additional scope given to Buyer by Seller, nor limit Buyer's rights or Seller's obligations under any other provision of this Order, at law or in equity. No warranties are waived by Buyer supplying, reviewing, commenting upon, or approving plans, specifications, or Data, issuing changes to this Order, or inspecting or Acceptance of the Product(s) or Service(s) or both.



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Buyer may determine the Product(s) or Service(s) or both do not meet the warranties and guarantees specified herein. For Product(s), Buyer may, within its sole discretion, return such Product(s) to Seller at Seller's expense, including transportation charges, for correction, replacement, repair, or credit. For Service(s), Buyer may, within its sole discretion, refuse to confirm satisfactory completion of Service(s) and require Seller re-perform such Service(s). If repair, replacement, or re-performance of the Product(s) or Service(s) or both is not timely, Buyer may elect to return, repair, replace, or re-procure the non-conforming Work at Seller's expense. Any corrected, replaced, or repaired Product(s) or re-performed Service(s) shall be subject to the provisions of this Clause. Should Buyer's customer require Acceptance of the Product(s) or Service(s) or both not conforming to this warranty, the Parties will mutually agree on consideration to Buyer, including but not limited to a refund or equitable reduction in price.

Notwithstanding any prior Acceptance, Buyer may reject or require prompt correction of any Products or Services which are, in Buyer's judgment, defective in material or workmanship or otherwise fail to meet the drawings, designs, statement of work, specifications or other technical documents, or other requirements of this Order.

If Seller delivers defective or nonconforming Products or Services, Buyer may take one of the following actions:


Accept all or part of the defective or non-conforming Products or Services at an equitable price reduction or credit against any amounts that may be owed to Seller under this Order or;

Reject all or any part of a delivery or performance of defective or non-conforming Products or Services and demand delivery of conforming Products or re-performance of Services. All rejected Products shall be shipped back to Seller at Seller's expense and any re-performance of defective or nonconforming Services shall be at no cost to Buyer. All repair, replacement and other correction and redelivery shall be completed within the original delivery schedule unless otherwise directed by Buyer. Any rejected or corrected Products or Services shall not thereafter be tendered for Acceptance unless the former rejection or requirement for correction is disclosed;

If Seller is unable or unwilling to re-perform or correct defective or nonconforming Products or Services, Buyer may:

Make or perform, or have a third party make or perform, all repairs, modifications, or replacements necessary to enable such Product or Service to comply in all respects with Order requirements and charge the expense incurred to Seller; or

Terminate this Order for default in whole or in part.

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Seller shall immediately notify Buyer upon discovery of actual or potential defects or non-conformance affecting delivered Product or performed Service.

#### **10. Standards of Business Conduct:**


Seller shall comply with the PLEXSYS Supplier Code of Conduct, available on the Buyer's website at: [Terms and Conditions | PLEXSYS](#), or Seller's equivalent. Seller shall ensure that its employees are aware of the compliance requirements, as outlined in the PLEXSYS Supplier Code or Seller's equivalent, and the importance of ethical behavior. Seller represents and warrants that it has not participated, and will not participate, in any conduct that violates the PLEXSYS Supplier Code or Seller's equivalent. If Buyer determines that Seller is in violation of any material provisions of the PLEXSYS Supplier Code or Seller's equivalent policy or provisions, Buyer may terminate this Order with immediate effect upon delivery of written notice to Seller, and Buyer shall have no further obligation to Seller. If Buyer determines that Seller is in violation of any material provisions of the PLEXSYS Supplier Code or Seller's equivalent policy or provisions, Buyer may provide Seller with a written notice specifying the minor violation and granting a cure period of fifteen (15) days for Seller to rectify the issue. If Seller fails to cure such minor violations within the specified period, Buyer may terminate this Order upon written notice to Seller, and Buyer shall have no further obligation to Seller. For the avoidance of doubt, if Seller's equivalent ever ceases to be equivalent to the PLEXSYS Supplier Code, Seller shall immediately comply with the PLEXSYS Supplier Code.

#### **11. Mutual Indemnification:**

Each Party shall indemnify, defend and hold the other Party harmless from all liabilities, costs and expenses (including, without limitation, attorneys fees) that such Party may suffer, sustain or become subject to as a result any misrepresentation or breach of warranty, covenant or agreement of the indemnifying Party contained herein or the indemnifying Party's gross negligence or willful misconduct in performance of its obligations under this Agreement.

#### **12. Force Majeure:**

Except for a default of Seller's subcontractor at any tier or Seller's failure to implement reasonable disaster recovery and business continuity measures, neither Buyer nor Seller shall be liable for any failure to perform due to any cause beyond its reasonable control and without its fault or negligence. Such causes include, but are not limited to: (1) acts of God or of the public enemy; (2) acts or failure of any government in either its sovereign or contractual capacity; (3) fires, floods, epidemics, terrorism, quarantine restrictions, strikes, freight embargoes, nuclear incident, or any other act or event beyond reasonable control and without the fault of either Party or its subcontractors. In the event that performance of this Order is hindered, delayed, threatened to be delayed, or adversely affected by causes of the type described above, then the Party whose

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performance is so affected shall immediately notify the other Party's Authorized Representative in writing, including all relevant information with respect thereof, and shall likewise notify promptly of any subsequent change in the circumstances, and at Buyer's sole option, this Order shall be completed with such adjustments to delivery schedule as are reasonably required by the existence of such cause or this Order may be terminated for convenience.

### 13. Amendments:

Buyer's Authorized Representative may at any time, in writing, make changes within the general scope of this Order in (1) drawings, designs, statement of work, specifications, planning and /or other technical documents; (2) method of shipment, packaging, or packing; (3) time and place of inspection, delivery or Acceptance; (4) reasonable adjustments in quantities and/or delivery schedules; (5) place of performance of the Service; (6) the amount of Buyer/Government furnished property; and (7) terms and conditions required to meet Buyer's obligations under its higher tier contract or Prime Contract, including, but not limited to, any mandatory flow-down clauses.

If any authorized change causes an increase or decrease in the cost or time required to perform this Order, Buyer and Seller shall negotiate an equitable adjustment in the price and/or schedule, to reflect the increase or decrease. Buyer shall modify this Order in writing accordingly.

Any claim for adjustment shall be unconditionally waived unless: (i) asserted in writing and delivered to Buyer's Authorized Representative within fifteen (15) days of the date of the written change order and (ii) a fully supported proposal is delivered to Buyer's Authorized Representative within thirty (30) days of the date of the written change order.


Failure to agree to any adjustment shall be a dispute within the meaning of the "Disputes" clause. However, Seller shall not be excused from proceeding with this Order as changed.

### 14. Assignment:


Seller shall not assign or transfer, in whole or in part, this Order or any of its rights, payments, claims or interest under this Order without Buyer's prior, written consent. Any purported assignment in contravention of this clause shall be deemed null and void. Buyer may make direct settlements or adjustments in price, or both, with Seller under the terms of this Order notwithstanding any assignment of claims for money due or to become due under this Order and without notice to the assignee.

### 15. Complete Agreement:

This Order is the Parties' final expression of their agreement and is the complete and exclusive statement of

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all terms and conditions of agreement. Unless otherwise specified in writing by the Authorized Representative of Buyer, this Order supersedes and cancels all prior understandings, proposals, communications, whether oral or written, and agreements between the Parties, whether such understandings, proposals, communications, and agreements were written or oral, concerning the matters addressed in this Order. No course of prior dealings between the Parties, and no usage of trade, shall be relevant to supplement or explain any term used in this Order. The descriptive headings contained in this Order are for convenience of reference only and in no way define, limit or describe the scope or intent of this Order.

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## FEDERAL ACQUISITION REGULATION (FAR) AND DEFENSE FAR SUPPLEMENT (DFARS) FLOWDOWN CLAUSES AND PROVISIONS

The following clauses set forth in the FAR and DFARS as in effect on the date of this Order, unless otherwise noted, are incorporated herein by reference. The listed FAR and DFARS clauses are incorporated herein as if set forth in full text unless made inapplicable by its corresponding note, if any. Seller shall include the appropriate FAR and DFARS clauses as required in any lower-tier subcontract. Whenever said clauses include a requirement for the resolution of disputes between the Parties in accordance with the FAR “Disputes” clause, the dispute shall instead be disposed of in accordance with the clause entitled “Disputes” in these terms and conditions. Where necessary to derive proper meaning in a subcontract situation from these clauses and any other program- specific clauses incorporated into this Order, “Contractor” means “Seller,” “Contracting Officer” means “Buyer,” “Contract” means this Order and “Government” means “Buyer or the Government.” However, the words “Government” and “Contracting Officer” do not change: (1) when a right, act, authorization or obligation can be granted or performed only by the Government or the Prime Contract Contracting Officer or duly authorized representative, (2) when title to property is to be transferred directly to the Government, and (3) in FAR 52.227-1, 52.227-2, and DFARS 252.227- 7013 and 252.227-7014.

a. If this Order is (i) in support of a U.S.G. Department of Defense (DoD) Prime or higher-tier Contract, and (ii) such Prime or higher-tier Contract contains a version of DFARS 252.244-7000 earlier than November 2023, then the following clauses with the associated NOTE(S) also apply to this Order:

FAR 52.242-15, Stop-Work Order (NOTE: The 90-day period in the first and fourth sentences of paragraph (a) is changed to 120 days.)

FAR 52.245-1, Government Property or Alt I

NOTE 1: Applicable to any Order if Government property is furnished to Seller.


NOTE 2: The basic clause (non-Alt 1 version) applies in most instances except for conditions referenced in Note 3 below.

NOTE 3: The Alternate 1 version of FAR 52.245-1 shall apply if; this Order was issued to Seller as a Firm Fixed Price type contracts not awarded on the basis of submission of certified cost or pricing data, Buyer’s Prime Contract contains the Alternate 1 provisions, or if Seller has a disapproved property control system at the time of Order award. Under the Alternate 1 clause Seller shall assume Full Risk of Loss for Government Property under Seller’s accountability during performance of this Order.

NOTE 4: In the phrases “Government Property”, “Government-furnished property”, and in references to title to property, “Government” shall not mean “Buyer”.

NOTE 5: Seller shall provide Buyer immediate notice of any disapproval, withdrawal of approval, or non-acceptance by the Government of its property control system. In the event of any of the aforementioned conditions Seller shall immediately assume Full Risk of Loss for all loss or damage to Government property commencing on the day Seller’s property system approval was withdrawn or rescinded.

DFARS 252.203-7002, Requirement to Inform Employees of Whistleblower Rights DFARS 252.203-7003,

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NOTE: Applicable when Order contains FAR 52.203-13, Contractor Code of Business Ethics and Conduct.

DFARS 252.204-7000, Disclosure of Information

DFARS 252.211-7007, Reporting of Government Furnished Property

NOTE: Applicable if prime contract requires, may require, or permits contractor access to a DoD installation.

DFARS 252.211-7008, Use of Government Assigned Serial Numbers

NOTE: Applicable if flow down required in accordance with DFARS 211.274-5(b).

DFARS 252.223-7006 Prohibition on Storage, Treatment, and Disposal of Toxic or Hazardous Materials

DFARS 252.225-7048 Export-Controlled Items (NOTE: Applicable if performance of this Order involves the use of, or access to, "export-controlled items" as defined in this DFARS clause.)

b. If this Order is in support of a U.S.G. Prime Contract or an Order for supply of Products or Services to a higher-tier customer for an agency other than the DoD, then the following FARS/DFAR clauses shall apply to this Order and be incorporated into such Order by this reference:

FAR 52.242-15, Stop-Work Order (NOTE: The 90-day period in the first and fourth sentences of paragraph (a) is changed to 120 days.)

FAR 52.245-1, Government Property or Alt I

NOTE 1: Applicable to any Order if Government property is furnished to Seller.

NOTE 2: The basic clause (non-Alt 1 version) applies in most instances except for conditions referenced in Note 3 below.

NOTE 3: The Alternate 1 version of FAR 52.245-1 shall apply if; this Order was issued to Seller as a Firm Fixed Price type contracts not awarded on the basis of submission of certified cost or pricing data, Buyer's Prime Contract contains the Alternate 1 provisions, or if Seller has a disapproved property control system at the time of Order award. Under the Alternate 1 clause Seller shall assume Full Risk of Loss for Government Property under Seller's accountability during performance of this Order.

NOTE 4: In the phrases "Government Property", "Government-furnished property", and in references to title to property, "Government" shall not mean "Buyer".

NOTE 5: , and shall include in such notice a detailed explanation of the circumstances and any planned corrective actions Seller shall provide Buyer written notice within 24 hours of any disapproval, withdrawal of approval, or non-acceptance by the Government of its property control system. In the event of any of the aforementioned conditions Seller shall immediately assume Full Risk of Loss for all loss or damage to Government property commencing on the day Seller's property system approval was withdrawn or rescinded.

## **FAR and DFAR Clauses Incorporated by Reference**


### **Limitation on Payments to Influence Certain Federal Transactions ..... 52.203-12**

NOTE: In accordance with FAR 52.203-12(g), applicable to any Order that exceeds the threshold specified in FAR 3.808 on the date of subcontract award.

### **Contractor Code of Business Ethics and Conduct..... 52.203-13**

NOTE 1: Applicable to any Order greater than \$6,000,000 and period of performance greater than 120 days.

NOTE 2: Notwithstanding any alterations to this clause to reflect the relationship between Buyer and Seller, all

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disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the Office of the Inspector General of the agency issuing the Prime Contract under which this Order is being issued, with a copy to the Authorized Representative of the Buyer and the Contracting Officer of the Prime Contract.

**Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 ..... 52.203-15**

NOTE: Applicable to Orders funded under the American Recovery and Reinvestment Act of 2009.

**Contractor Employee Whistleblower Rights ..... 52.203-17**

**Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements ..... 52.203-19**

NOTE: Applicable in all solicitations and resultant contracts, other than personal services contracts with individuals.

**Basic Safeguarding of Covered Contractor Information Systems ..... 52.204-21**

NOTE: Applicable to all Orders, except for commercially available off-the-shelf items, in which Seller may have Federal contract information residing in or transiting through its information system.

**Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab Covered Entities ..... 52.204-23**

**Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment ..... 52.204-25**

NOTE: Pursuant to (e), not including (b)(2).

**Prohibition on a ByteDance Covered Application ..... 52.204-27**

**Federal Acquisition Supply Chain Security Act Orders ..... 52.204-30**

**Defense Priority and Allocation Requirements ..... 52.211-15**

NOTE: Applicable unless this Order provides no DPAS rating.

**Utilization of Small Business Concerns ..... 52.219-8**

NOTE: Applicable to any Order that offers further subcontracting opportunities.

**Prohibition of Segregated Facilities ..... 52.222-21**

**Equal Opportunity ..... 52.222-26**

NOTE: Applicable only if this Order is not exempted by Secretary of Labor under Executive Order 11246 as amended per FAR 22.807.


**Equal Opportunity for Veterans ..... 52.222-35**

NOTE: Applicable to any Order of \$150,000 or more.

**Equal Opportunity for Workers with Disabilities ..... 52.222-36**

NOTE: Applicable to any Order greater than \$150,000 or lower threshold if effective under older, higher-tier



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contract.

**Employment Reports on Veterans.....52.222-37**

NOTE: Applicable to any Order at or over the Simplified Acquisition Threshold.

**Notification of Employee Rights Under the National Labor Relations Act.....52.222-40**

NOTE: Applicable to any Order greater than \$10,000 and will be performed wholly or partially in the United States.

**Combating Trafficking in Persons .....52.222-50**

**Minimum Wages Under Executive Order 14026.....52.222-55**

NOTE: Applicable to Orders subject to the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute.

**Paid Sick Leave Under Executive Order 13706 .....52.222-62**

NOTE: Applicable to Orders subject to the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute.

**Privacy Act..... 52.224-2**

NOTE: Applicable to Orders for the design, development, or operation of a system of records, as defined in FAR 52.224-2(c).

**Privacy Training ..... 52.224-3**

NOTE 1: Applicable to Orders under which Seller will (1) have access to a system of records, (2) create, collect, use, process, store, maintain, disseminate, disclose, dispose, or otherwise handle personally identifiable information, or (3) design, develop, maintain, or operate a system of records.

NOTE 2: Use Alternate I when an agency specifies that only its agency-provided training is acceptable.

**Contractors Performing Private Security Functions Outside the United States .....52.225-26**

NOTE: Applicable to Orders that will be performed outside the United States in areas of (1) combat operations, as designated by the Secretary of Defense, or (2) other significant military operations, upon agreement of the Secretaries of Defense and State that the clause applies in that area.

**Providing Accelerated Payments to Small Business Subcontractors.....52.232-40**

NOTE: Applicable when Seller is a small business concern.


**Subcontracts for Commercial Products and Commercial Services..... 52.244-6**

**Preference for Privately Owned U.S. - Flag Commercial Vessels.....52.247-64**

NOTE: Applicable to Orders that may involve ocean transportation of supplies subject to the Cargo Preference Act of 1954.

**Anti-Terrorism Awareness Training for Contractors 252.204-7004**

NOTE: Applicable when performance requires routine physical access to a Federally controlled facility or military installation.

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**Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information .....252.204-7009**

NOTE: Applicable to Orders for services that include support for the Government's activities related to safeguarding covered defense information and cyber incident reporting

**Safeguarding Covered Defense Information and Cyber Incident Reporting .....252.204-7012**

NOTE: Applicable to all Orders, at any tier, including orders for commercial items, for operationally critical support, or for which performance will involve covered defense information, unless this Order is solely for commercially available off-the-shelf items. Seller must notify Buyer within 24 hours of any cyber incident as defined in DFARS 252.204-7012.

**Limitations on the Use or Disclosure of Information by Litigation Support Contractors .....252.204-7014**

**Notice of Authorized Disclosure of Information for Litigation Support.....252.204-7015**

**Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services.....252.204-7018**

**NIST SP 800-171 DoD Assessment Requirements .....252.204-7020**

NOTE: Applicable to all Orders, unless this Order is solely for commercially available off-the-shelf items.

**Item Unique Identification and Valuation .....252.211-7003**

NOTE: Applicable if included in Buyer's higher tier contract or Prime Contract.

**Prohibition of Hexavalent Chromium .....252.223-7008**

NOTE: Applicable to any Order for Products, maintenance and repair Services, or construction materials unless the exceptions listed in DFARS 223.7304 apply.

**Prohibition of Procurement of Fluorinated Aqueous Film-Forming Foam Fire-Fighting Agent for Use on Military Installations .....252.223-7009**

NOTE: Applicable to Orders and any lower-tier subcontracts relating to firefighting on a military installation.


**Restriction on Acquisition of Certain Articles Containing Specialty Metals .....252.225-7009**

NOTE 1: Exclude paragraphs (d) and (e)(1); paragraph (c)(6) is hereby deleted.

NOTE 2: Upon Seller notification of noncompliance with the terms of this clause and the provision of specific information related to the source of the noncompliance, Buyer will facilitate management of the allowance for up to 2% otherwise noncompliant specialty metal content in the end item. The 2% minimal content exception does not apply to and cannot be used to exempt specialty metals contained in high performance magnets.

**Restriction on the Acquisition of Certain Magnets, Tantalum, and Tungsten.....252.225-7052**

NOTE: Applicable to Orders for Products containing (1) Samarium-cobalt magnets, (2) Neodymium-iron-boron magnets, (3) Tantalum metals and alloys, (4) Tungsten metal powder, and (5) Tungsten heavy alloy or any finished or semi-finished component containing tungsten heavy alloy. Seller shall provide written certification of compliance with DFARS 252.225-7052 prior to delivery, and Buyer reserves the right to verify compliance through documentation review and/or facility inspection.

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**Prohibition Regarding Business Operations with the Maduro Regime.....252.225-7056**

**Prohibition on Certain Procurements from the Xinjiang Uyghur Autonomous Region .....252.225-7060**

**Prohibition Regarding Russian Fossil Fuel Business Operations (Deviation 2024-00006) .....252.225-7967**

**Rights in Technical Data — Other Than Commercial Products and Commercial Services.....252.227-7013**

**Technical Data - Commercial Products and Commercial Services.....252.227-7015**

**Validation of Restrictive Markings on Technical Data .....252.227-7037**

**Cloud Computing Services .....252.239-7010**

NOTE: Applicable to Orders that involve or may involve cloud services, including but not limited to Infrastructure as a Service (IaaS), Platform as a Service (PaaS), Software as a Service (SaaS), and cloud storage solutions. Seller must comply with all cybersecurity requirements specified in DFARS 252.239-7010.

**Subcontracts for Commercial Products or Commercial Services.....252.244-7000**

**Management and Reporting of Government Property .....252.245-7005**

**Notification of Potential Safety Issues .....252.246-7003**

NOTE: Applicable to Orders for (i) parts identified as critical safety items, (ii) systems and subsystems, assemblies, and subassemblies integral to a system, or (iii) repair, maintenance, logistics support, or overhaul services for systems and subsystems, assemblies, subassemblies, and parts integral to a system.

**Contractor Counterfeit Electronic Part Detection and Avoidance System .....252.246-7007**

NOTE: Applies to Orders for electronic parts or assemblies containing electronic parts. Paragraphs (a) through (e) of DFARS 252.246-7007 are incorporated by reference. Seller must maintain a counterfeit electronic part detection and avoidance system meeting the requirements of paragraphs (a) through (e).

**Sources of Electronic Parts.....252.246-7008**

NOTE: Applies to Orders for electronic parts or assemblies containing electronic parts.