



Commercial Terms and Conditions

1. **ACCEPTANCE** -Seller's acknowledgement of this Order or commencement of any work or performance of any services hereunder shall constitute acceptance by Seller of this Order and all of its terms and conditions. Any terms proposed in Seller's acceptance of Buyer's Order which add to, vary from, or conflict with the terms herein are hereby objected to and shall be void. Terms herein shall constitute the complete and exclusive statement of the terms and conditions of the contract between parties. To be valid and enforceable, all Orders must be written on Buyer's official order form, bear an order number and be signed by an authorized signatory of the Buyer.
2. **PRICE AND DELIVERY** -Seller shall furnish the good and/or services called for by this Order in accordance with the price(s) and delivery or schedule stated herein. Price(s) include all applicable taxes. If price(s) and/or delivery date and/or schedule are not stated herein, Seller shall offer Seller's lowest price(s), showing any applicable taxes separately, and/or best delivery date and/or schedule, which shall be subject to approval and written acceptance by Buyer. Seller hereby warrants that the price(s) for the goods and/or services under the Order are not less favorable than those currently extended to any other customer for the same or like articles in equal or lesser quantities. The terms of delivery are as stated on the front hereof. The obligation of Seller to meet the delivery dates, specifications and quantities set forth herein is of the essence of this Order.
3. **ASSIGNMENT AND SUBCONTRACTING** – Assignment by Seller of this Order or any interest herein or any payment due or to become due hereunder, without the prior written consent of Buyer, shall be void. Seller shall obtain Buyer's approval for any purchase order or subcontract involving: (a) All or substantially all of the work required hereunder; (b) Capital expenditures over \$100; (c) Rental or acquisition of real property or motor vehicles; (d) Research and development; (e) Construction or alteration of buildings; or (f) Cost plus fixed fee basis.
4. **WARRANTIES** – In addition to and without prejudice to all other warranties, both express and implied, Seller warrants that all goods and services furnished hereunder will be (a) merchantable, (b) free from defects in workmanship and material, (c) to the extent such goods or services are not furnished pursuant to detailed designs provided by Buyer, free from defects in design, (d) fit for the particular purposes intended, (e) in compliance with all requirements or other descriptions upon which this Order is based and (f) free from all liens, encumbrances and claims by way of infringement or otherwise. All warranties, both express and implied, including the above, shall constitute conditions, shall survive inspection, test, acceptance, use and payment shall inure to Buyer, its customers and users.
5. **QUALITY PROVISIONS:**
 - 5.1. **SUPPLIER QUALITY PLANS** - The Quality Engineer will coordinate and implement the requirements of part specific Quality Plans when deemed applicable. The AS&E Supply Chain Manager has the overall responsibility for the purchasing contract and shall establish and maintain effective communication with the Supplier. The communication includes transference of the Supplier Quality plan to the Supplier. The Quality Engineer assigned to the project is responsible for establishing and maintaining this Quality Plan and working with the supplier to ensure all requirements are met. The Supplier shall review all required documents (Purchase orders, Bills of Materials, Quality Plans, etc.) to ensure that the requirements are understood and are integrated into their process and product.
 - 5.2. **INSPECTION** – All goods and services shall be subject to inspection and test by Buyer, its customers, and, as applicable, higher tier contractors and the U.S. Government, at all times and places, as such parties may require, and Seller shall provide without additional charge all reasonable facilities and assistance necessary therefore. Final inspection and

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acceptance shall be made by Buyer or its customers, unless otherwise specified in this order. Seller shall provide and maintain an inspection system acceptable to Buyer. Records of all inspection work by Seller shall be kept complete and available to Buyer during the performance of this Order and for such longer periods as buyer determines. No inspection (including source inspection), test, approval (including design approval), or acceptance by any of the foregoing parties shall relieve Seller from responsibility for all defects or other failure to meet the requirements of this Order or from any warranties.

5.2.1. **First Piece Inspection:** A First Piece Inspection is performed on an item that is either a prototype or a production part that is not manufactured with production tooling or processes. The First Piece Inspection typically includes 100% inspection of dimensions and features as required on the drawing and/or specifications.

5.2.2. **First Article Inspection:** A First Article Inspection is an inspection performed on the first part produced using **production materials and processes**. The First Article Inspection typically includes 100% Verification of dimensions and features as specified on the drawing and/or specifications using Documented evidence (by way of inspection and/or test records) of the effective inspection and/or test of the assembly. The specifications include the General standards and specifications in Section 5.4 of this document. AS&E may request to witness inspection/test process. The First Article Inspection may also include integration and test into the next higher assembly. The pre-requisites for performing First Article Inspections include the following::

5.2.2.1. All documentation that is required by the AS&E's BOM and/or P.O. is released and in place.

5.2.2.2. Tooling, processes and resources are representative of subsequent production releases.

5.2.3. **Source Inspection:** The Supplier shall notify the Quality Engineer when a source inspection, if required (or requested), is due so that an inspection by AS&E or a designated third party may be scheduled in a timely manner. The criteria for source inspection shall be provided per Source Inspection Approval Sheet.

5.3. **QUALITY AUDITING ACTIVITY:** AS&E reserves the right to verify, through mutually agreed-upon audit activity, that the supplier is able to provide, and will continue to provide, parts and assemblies that meet or exceed the requirements of the contract and applicable Quality Plan(s).

5.4. **APPLICABLE GENERAL STANDARDS AND SPECIFICATIONS:** These documents are accessible at the FTP site that is accessible through the link at the bottom of every AS&E Purchase Order. Utilize this FTP site to access the following documents

5.4.1.1.1. WI-4.9-001 Workmanship standard cable/harness & wiring

5.4.1.1.2. WI-4.9-002 Workmanship Standard Fasteners and Fastener Assemblies

5.4.1.1.3. WI-4.9-003 Fabrication general – Machining

5.4.1.1.4. WI-4.9-004 Fabrication general – Sheet metal

5.4.1.1.5. S500-9061 Marking and Silk-screening

5.4.1.1.6. S500-9062 Packaging Specification

5.5. **DEFINITIONS:**

5.5.1. **Repair:** A procedure which reduces but not completely eliminates a nonconformance. The purpose of repair is to reduce the effect of the nonconformance. Repair is distinguished from rework in that the characteristic after repair still does not completely conform to the applicable drawings, specifications, or contract requirements.

5.5.2. **TDA:** Temporary Deviation Authorization is provided to a supplier to allow a one time deviation to the technical requirements. The TDA must be approved by AS&E and forwarded to the supplier for inclusion with the hardware shipped to AS&E.

5.5.3. **Rework:** A procedure applied to a nonconformance that completely eliminates it and result in a characteristic that conforms completely to the drawings, specifications or contract requirements.

5.6. **Additional Quality Requirements:**

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- 5.6.1. **Material or Component Substitution Review:** No material or components shall be substituted without written authorization from AS&E for AS&E designed parts. If approved, a TDA or an ECO shall be initiated by AS&E to document and authorize the change.
 - 5.6.2. **Nonconformances:** The Supplier shall notify AS&E (Buyer and Quality Engineer) at the earliest time possible of any product that they intend to ship with nonconforming condition(s). The Quality Engineer shall document and facilitate the disposition of the nonconformance with the AS&E Buyer. A TDA is required for any Use-As-Is disposition. Corrective Action may be requested with the supplier to ensure the nonconformance does not recur on subsequent operation/assemblies.
 - 5.6.3. **Repair:** Repairs are not permissible without prior authorization by AS&E. This does not preclude the supplier from replacing the non-conforming component with an acceptable one unless the replacement requires processes that are not part of the original manufacturing process.
 - 5.6.4. **Certificate of conformance:** If required, a Certificate of Conformance which states that each unit has successfully passed the required inspection and testing must be supplied. The Certificate of Conformance requested may also pertain to a specific process used to produce the product.
 - 5.6.5. **Test Data Report:** If required, a test report which details the actual results of all required test measurements shall be provided with the product with the frequency requested in the table below.
 - 5.6.6. **Inspection Data Report:** If required, an Inspection report which details the actual results of all dimensions listed on the drawing. A copy of the drawing with legible dimensional recordings and signature and date on each page can be substituted for a report. Suggested header format is: Dimension, Location, Tolerance, Actual Measurement, Measurement Tool Used, Inspected By and Date.
6. **REMEDIES** – With respect to goods or services which are not manufactured and delivered or provided as warranted or otherwise are not in conformity with the requirements of this Order (“Nonconforming Items”), Buyer shall, In addition to any other rights, have the right to reject same or either rescind all or part of the Order and receive a full refund or require the replacement or correction thereof, or (ii) accept same and deduct from the replacement of such rejected supplies and services. Rights hereunder are cumulative and in addition to any other rights or remedies provided in the Order or in law of equity, including without limitation Buyer’s right to recover incidental and consequential damages from Seller.
 7. **CHANGES/TERMINATION** – (a) Buyer may, at any time, by written Change Order terminate or suspend performance of this Order in whole or in part; make changes to this Order including, without limitation, changes in drawings, designs, specifications, method of shipment or packing, or time or place of delivery; and require additional work or omission of work, under this Order. If any such change causes an increase or decrease in the cost of, or the time required for, the performance of this Order, an equitable adjustment shall be made in the contract price, or delivery date or schedule, or both, and this Order shall be modified in writing accordingly. Any claim for adjustment under this paragraph shall conclusively be deemed waived unless asserted in writing (stating the amount of the claim) within (30) days from the date of receipt by Seller of the Change Order. Where the cost or property made obsolete or excess as a result of a change is included in Seller’s claim for adjustment., Buyer shall have the right to prescribe the manner of disposition of such property. No Change Order issued hereunder will be binding on Buyer unless signed by an authorized signatory of Buyer. Nothing in this paragraph shall excuse Seller from proceeding with the Order as changed. (b) Buyer may terminate this Order if Seller ceases to conduct its operations in the normal course of business (including inability to meet its obligations as they mature) or if any proceeding under bankruptcy or insolvency laws is brought by or against Seller, or if a receiver for Seller is appointed or applied for, or if an assignment for the benefit of creditors is made by Seller.

8. **NO INFRINGEMENT** – (a) Seller warrants that goods specified herein (except for goods manufactured entirely to Buyer’s specifications) and their sale or use alone or in combination according to Seller’s specifications or recommendations, if any, will not infringe any United States or foreign patent, copyright or trademark. In case the sale or use of the goods shall be found to constitute patent, copyright or trademark infringement and their use is enjoined, Buyer may, at its sole option, pursue any remedy or remedies available by law or in equity including without limitation (i) requiring Seller either to procure for Buyer the right to continue using such goods to modify such goods so they become noninfringing or (ii) returning such goods to Seller, which shall promptly refund to Buyer the total purchase price thereof. (b) Seller shall report to Buyer in reasonable written detail each claim of patent, copyright or trademark infringement based upon performance of this Order that comes to Seller’s attention in connection with this Order.
9. **INDEMNIFICATION** – Seller agrees to defend, hold harmless and indemnify Buyer from and against any and all claims, actions, liabilities, losses, costs and expenses: (i) arising out of or incident to the work to be performed by Seller pursuant to this Order; or (ii) arising out of any actual or alleged unfair competition or infringements of any patent, trademark or copyright by any merchandise sold to Buyer hereunder; or (iii) arising out of any actual or alleged death of or injury to any person, damage to any property or any other damage or loss, by whosoever suffered, resulting or claimed to result in whole or in part from and actual or alleged defects (including defects in construction or design) in such merchandise, whether latent or patent, or the failure of said merchandise to comply with specification or with any express or implied warranties of Seller, or arising out of any actual alleged violation by such merchandise, or its manufacture, possession, use or sale, of any law, statute or ordinance or any governmental or administrative order, rule or regulation.
10. **COPYRIGHT, DATA AND PATENT RIGHTS** -Seller will not assert against Buyer, or products made by or sold by Buyer, any copyright data or patent rights resulting from activities supported by this Order. Any patent licenses or other authorizations derived by express or implied grant from Buyer to Seller as a result of this Order are restricted to the performance of the work required by this Order.
11. **CONTROL OF INFORMATION, DATA, DESIGN, ARTICLES, SCRAP, ETC.** –
- 11.1. (a) Seller shall not, without Buyer’s written permission, disclose to any third party the fact that Buyer has placed this Order with Seller or any of the details of this Order. Seller will hold confidential, will return to Buyer at Buyer’s request, and will not, without Buyer’s written permission, use, copy, or disclose to any third party, Buyer’s designs, drawings, specifications, manufacturing process or methods, trade secrets, or proprietary data which may be or have been entrusted to Seller in connection with this Order, except as to information or material which are legitimately available to Seller from other sources.
- 11.2. if any article furnished by Seller to Buyer in the performance of the work required by this Order is made to Buyer’s design or is custom made for Buyer, Seller will not, without Buyer’s written permission, sell surplus production to, or reproduce the article for, a third party. Scrap resulting from the manufacturing process of any materials furnished to Seller by Buyer shall remain property of Buyer, subject to Buyer’s direction, and shall not be disposed of without Buyer’s written consent.
12. **EQUAL EMPLOYMENT OPPORTUNITY** – Executive Order #11246, Equal Employment Opportunity, as amended, Executive Orders #11701, Employment of Veterans by Federal Agencies and Government Contractors and Sub Contractors, and #11758, Affirmative Action for Handicapped Workers, are incorporated by reference.
13. **LIEN WAIVERS** – If the furnishing of any labor or material pursuant to this Order could give rise to any liens or lien rights against any premises of Buyer of its customers, Seller agrees to furnish

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upon Buyer's request at any time or times good and sufficient lien waivers by Seller and all other person furnishing any such labor or material at Seller's instance or request.

14. **MISCELLANEOUS** – Buyer's failure to insist upon performance of any of the terms or conditions of this Order or to exercise any right or privilege in this Order contained or Buyer's waiver of any breach hereunder shall not be construed as thereafter waiving and such terms, conditions, rights, or privileges. The invalidity in whole or part of any term or condition of this Order shall not affect the validity of any other term or condition. This Order shall be interpreted and the rights of the parties determined under the laws of the Commonwealth of Massachusetts.

Supplemental Terms and Conditions – Government Orders
The following terms and conditions apply to all government orders. Except as indicated below, all commercial terms and conditions also apply to such orders.

- G16. **REMEDIES** – If seller fails promptly to replace or correct and reject Nonconforming Item(s) in accordance with Buyer's instructions, Buyer may (a) be contract of otherwise replace or correct such Nonconforming Items and charge Seller with the cost occasioned by Buyer thereby, or (b) terminate this Order for default in accordance with DOD/FAR Part49 – Termination of Contracts, and NASA/FAR Part49 Termination of Contracts.
- G17. **CHANGES/TERMINATION** – Buyer may terminate this Order for default in accordance with FAR 52.249-8. Buyer may terminate this order for convenience, in whole or in part, at any time, by written notice stating the extent and effective date of such termination, and the rights and obligations of the parties shall in such event be governed by FAR 52.249-1.
- G18. **NO INFRINGEMENT** – To the extent that the activity required by this Order is covered by a higher tier contract which includes U.S. Government Authorization and Consent to use patented inventions without indemnification, the provision of clause 8(a) above do not apply. In the event of patent assertion or litigation against Buyer or the Government arising from the performance of this Order or the use of articles furnished or work performed hereunder, Seller will provide assistance as required by FAR 27.202
- G19. **COPYRIGHT, DATA AND PATENT RIGHTS** – If this Order is supported by a higher tier contract which grants copyright, data or patent rights to the U.S. Government, Seller agrees to comply with the requirements of such grant insofar as they are applicable to subject matter of this Order and with all pertinent provisions of FAR Part 27 of the Procurement Regulations of any Government agency supporting the work of this Order
- G20. **TOOLS, ETC.** – All tools, (including without limitation, dies, gauges, jigs, fixtures, molds, patterns, etc.) falling within the definition of special tooling as set forth in FAR 45.101 which are furnished by or charged to Buyer are to remain the property of Buyer or the Government, as the case may be, and are to be used exclusively for Buyer's or the Government's product. Unless Buyer or the Government direct otherwise, Seller shall maintain such tools in satisfactory working condition and keep them adequately insured at its expense and shall maintain satisfactory records accounting for each. Such tools may be removed by Buyer or the Government at any time and shall not be disposed of without Buyer's or the Government's specific written permission. If this order calls for the sale of any tools, etc., payment therefore shall not be due until samples of these tools have been approved by Buyer. There is attached hereto and made a part of this Order, when applicable a form entitled Reclamation Form which must be completed by

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Seller and returned to Buyer and prior to payment being made for items of special tooling provided for hereunder.

- G21. **WORKING CONDITIONS** – If Applicable to this Order, Seller will comply with FAR including without limitation the following: Work Hours Act of 1962. Prohibitions Against use of Convict Labor; Walsh-Healy Public Contracts Act; Fair Labor Standards Act of 1938 and Nondiscrimination in Employment (Executive Order 10925).
- G22. **BENEFITS TO OFFICIALS** – No member delegate to Congress or resident commissioner shall be admitted to any share or part of this Order or any benefit that may arise therefrom, but the provision shall not be construed to extend to this Order if given to a corporation for its general benefit.
- G23. **MILITARY SECURITY/NON DISCLOSURE OF INFORMATION** – If the subject matter of this Order is “Classified”, Seller will abide by FAR 52.204-2 (Security Requirements) and FAR 27.207 (Classified Contracts). Disclosure of information relating to the work or materials referred to in this Order to any person not entitled to receive it or failure to safeguard all “Confidential”, “Secret” or “Top Secret” matter that may come to Seller, or any person under its control, in connection with the work or material referred to in this Order shall constitute a breach of contract by Seller, its agents, employees and subcontractors to criminal liability under the laws of the United States. See Title 1 and particularly subparagraphs (d) and (e) of an Act approved March 28, 1940 (54 Stat. 79) and the provisions of an Act approved January 12, 1938 (52 Stat. 3) as supplemented by Executive Order No. 8381, dated March 22, 1940, 5 F.R. 1147.0.1. See also Second War Powers Act 1942, sections 1042, 1043, Act March 27, 1942 (P.L. No. 507.77 Congress).
- G24. **REPORTING ROYALTIES** – If this Order is at an amount which exceeds \$10,000, Seller agrees to report in writing to Buyer during the performance of this Order and prior to its completion or final settlement, the amount of any royalties or royalty rates paid or to be paid by it directly to others in connection with the performance of this Order, together with the names and addresses of licensor to whom such payments are made and either the patent numbers involved or such other information as will permit identification of the patents or other basis on which royalties are to be paid.
- G25. **FEDERAL ACQUISITION REGULATIONS** – In addition to the terms and conditions outlined above, the Seller will comply with all pertinent procurement regulations of any Government agency directly involved. Reference is hereby made in such cases to the applicable portions of the DOD/Federal Acquisition Regulations, DOD/FAR Supplement and other applicable procurement regulations

Parts 1-5 General

Part 12 Contract Delivery or Performance

Part 15 Contacting by Negotiation

Part 19 Small Business and Small Disadvantaged Business Concerns

Part 20 Labor Surplus Area Concerns

Part 22 Labor

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Part 31 Contract Cost Principles and Procedures

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Part 52 Solicitation Provisions and Contract Clauses

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