



GENERAL TERMS AND CONDITIONS OF PURCHASE (GP-001) FIXED PRICED GOODS

1. **FORMATION OF CONTRACT.** This proposed purchase, which incorporates by reference these General Provisions and all other terms and conditions set forth in this proposed purchase contract (collectively, the "Contract") is Buyer's offer to purchase the goods and any related services and/or deliverables (collectively, the "Goods") described in this offer. Acceptance is strictly limited to the terms and conditions in this offer. Unless specifically agreed to in writing Buyer's Authorized Procurement Representative, Buyer objects to, and is not bound by, any term or condition that differs from or adds to this offer. Seller's commencement of performance or acceptance of this offer in any manner shall conclusively evidence acceptance of this offer as written. Seller's provision of the Goods shall be governed solely by this Contract. Buyer and Seller are referred to herein as a "Party" or collectively as the "Parties."
2. **SCHEDULE**
 - a. Seller shall strictly adhere to the shipment or delivery schedules specified in this Contract. In the event of any anticipated or actual delay, including but not limited to delays attributed to labor disputes, Seller shall: (i) promptly notify Buyer in writing of the reasons for the delay and the actions being taken to overcome or minimize the delay; (ii) provide Buyer with a written recovery schedule; and (iii) if requested by Buyer, ship via air or other expedited routing, at no additional cost to Buyer, to avoid or minimize delay to the maximum extent possible.
 - b. Seller shall not deliver Goods prior to the scheduled delivery dates unless authorized in writing by Buyer Authorized Procurement Representative.
 - c. Buyer shall, at no additional cost, retain goods furnished in excess of the specified quantity or in excess of any allowable overage unless, within forty-five (45) days of shipment, Seller requests return of such excess. In the event of such request, Seller shall reimburse Buyer for reasonable costs associated with storage and return of the excess.
3. **PACKING AND SHIPPING**
 - a. Seller shall pack the Goods to prevent damage and deterioration. Unless otherwise set forth in this Contract, Seller shall comply with carrier tariffs. Unless this contract specifies otherwise, the price includes shipping charges for Goods sold F.O.B. destination. Unless otherwise specified in this contract, Goods sold F.O.B. place of shipment shall be forwarded collect. Seller shall make no declaration concerning the value of the Goods shipped except on Goods where the tariff rating is dependent upon released or declared value. In such event, Seller shall release or declare such value at the maximum value within the lowest rating. Buyer may charge Seller for damage to or deterioration of any Goods resulting from improper packing or packaging.
 - b. Unless this contract specifies otherwise, Seller will ship the Goods in accordance with the following instructions:
 - (i) Shipments by Seller or its subcontractors must include packing sheets containing Buyer's contract number, line item number, description and quantity of Goods shipped, part number or size, if applicable, and appropriate evidence of inspections. A shipment containing hazardous and nonhazardous materials must have separate packing sheets for the hazardous and nonhazardous materials. Seller shall not include vermiculite or other hazardous substance in any packing material included with the Goods. Items shipped on the same day will be consolidated on one bill of lading or airbill unless Buyer's Authorized Procurement Representative authorizes otherwise. The shipping documents will describe the material according to the applicable classification and/or tariff. The total number of shipping containers will be referenced on all shipping documents. Originals of all Government bills of lading will be surrendered to the origin carrier at the time of shipment.
 - (ii) Seller will not insure any FOB origin shipment unless authorized by Buyer.
 - (iii) Seller will label each shipping container with the contract number and the number that each container represents of the total number being shipped (e.g., box 1 of 2, box 2 of 2).
 - (iv) Buyer will select the carrier and mode of transportation for all shipments where freight costs will be charged to Buyer.
 - (v) Seller will include copies of documentation supporting prepaid freight charges (e.g., carrier invoices or UPS shipping log/manifest), if any, with its invoices.
 - (vi) If Seller is unable to comply with the shipping instructions in this contract, Seller will contact Buyer's Authorized Procurement Representative.
4. **QUALITY CONTROL.** Seller shall establish and maintain a quality control system acceptable to Buyer for the Goods purchased under this Contract. Seller shall permit Buyer to review procedures, practices, processes and related documents to determine such acceptability.
5. **SELLER'S NOTICE OF DISCREPANCIES.** Seller shall notify Buyer in writing when discrepancies in Seller's process, including any violation of or deviation from Seller's approved inspection/quality control system, or Goods are discovered or suspected regarding Goods delivered or to be delivered under this Contract, including the quality and specific identity of any impacted Goods.
6. ***INSPECTION**
 - a. At no additional cost to Buyer, Goods shall be subject to inspection, surveillance and test at reasonable times and places, including Seller's subcontractors' locations. Buyer has the right to visit Seller's and Seller's subcontractor location during operating hours to inspect, review and assess process and performance under this Contract, including, but not limited to, production, schedule, and quality. Any Buyer representative shall be allowed access to all areas used for the performance of this Contract. Buyer shall perform inspections, surveillance and tests so as not to unduly delay the work.
 - b. Seller shall maintain an inspection system acceptable to Buyer for the Goods purchased under this Contract.
 - c. If Buyer performs an inspection, surveillance, review or test on the premises of Seller or its subcontractors, Seller shall furnish, and require its subcontractors to furnish, without additional charge, reasonable facilities and assistance for the safe and convenient performance of these duties.
7. **ACCEPTANCE AND REJECTION**
 - a. Buyer shall accept the Goods or give Seller notice of rejection due to any defect or nonconformance within ten (10) working days after the date of delivery. No payment, prior test or inspection, or passage of title, any failure or delay in performing any of the foregoing, or



- failure to discover any defect or other nonconformance shall relieve Seller of any obligations under this Contract or impair any rights or remedies of Buyer, including revocation of acceptance.
- b. If Seller delivers non-conforming Goods, Buyer may at its option and at Seller's expense (i) require Seller to promptly correct or replace the Goods; (ii) return the Goods for credit or refund; (iii) correct the Goods; or (iv) obtain replacement Goods from another source. Return to Seller of defective or non-conforming Goods and redelivery to Buyer of corrected or replaced Goods shall be at Seller's expense.
 - c. Seller shall not redeliver corrected or rejected Goods without disclosing the former rejection or requirement for correction. Seller shall disclose any corrective action taken. Repair, replacement and other correction and redelivery shall be completed as Buyer's Authorized Procurement Representative may reasonably direct.
 - d. All costs and expenses and loss of value incurred as a result of or in connection with nonconformance and repair, replacement or other correction may be recovered from Seller by equitable price reduction or credit against any amounts that may be owed to Seller under this Contract or otherwise.

8. WARRANTY

- a. Seller warrants that:
 - (i) The Goods furnished under this contract shall conform to all specifications and requirements of this contract and shall be free from defects in materials and workmanship;
 - (ii) To the extent Goods are not manufactured pursuant to detailed designs and specifications furnished by Buyer, the Goods shall be free from design and specification defects;
 - (iii) the Goods shall not infringe any patent, copyright, trademark, or other proprietary right of any third party or misappropriate any trade secret of any third party;
 - (iv) the Goods shall be free from liens or encumbrances;
 - (v) the Goods shall not contain any viruses, malicious code, trojan horse, worm, 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
 - (vi) The Goods shall not contain and third-party software (including software that maybe considered free software or open sources 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.
- b. This warranty shall begin upon Buyer's final acceptance of the Goods and shall survive inspection, test and acceptance of, and payment for, the Goods. This warranty shall run to Buyer and its successors, assigns and customers. Such warranty shall extend for a period of one (1) year or such other period as set forth elsewhere in this Contract and Buyer shall give Seller notice after discovery of a defect or nonconformance in the Goods. The warranty shall run to Buyer and its successors, assigns and customer. In the event of any defect or nonconformance in the Goods. Buyer may, at its option, either (i) return for credit or refund, or (ii) require prompt correction or replacement of the defective or non-conforming Goods. Return to Seller of defective or non-conforming Goods and redelivery to Buyer of corrected or replaced Goods shall be at Seller's expense. Goods required to be corrected or replaced shall be subject to this article and the "Inspection" article of this contract in the same manner and to the same extent as Goods originally delivered under this contract, but only as to the corrected or replaced part or parts thereof. Even if the parties disagree about the existence of a breach of this warranty, Seller shall promptly comply with Buyer's direction to: (i) repair, rework or replace the Goods, or (ii) furnish any materials or parts and installation instructions required to successfully correct the defect or nonconformance. If the parties later determine that Seller did not breach this warranty, the parties shall equitably adjust the Contract price.

9. **TAXES.** Unless this Contract specifies otherwise, the price of this Contract includes, and Seller is liable for and shall pay, all taxes, impositions, charges and exactions imposed on or measured by this Contract except for applicable sales and use taxes that are separately stated on Seller's 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.

10. INVOICES AND PAYMENT.

- a. Unless otherwise authorized by Buyer's Authorized Procurement Representative, Seller shall issue a separate original invoice for each delivery of Goods that shall include Buyer's contract number and line item number. Seller shall forward its invoice to the address specified elsewhere in this Contract. Unless freight or other charges are itemized, Buyer may take any offered discount on the full amount of the invoice.
- b. Payment due date, including discount periods, shall be computed from the later of the scheduled delivery of Goods date, the actual delivery of Goods date or the date of receipt of a correct invoice.
- c. Payment shall be deemed made on the date Buyer's check is mailed or payment is otherwise tendered. Seller shall promptly repay Buyer any amounts paid in excess of amounts due Seller.
- d. Unless otherwise provided, terms of payment shall be net forty-five (45) days from the latest of the following: (1) Buyer's receipt of Seller's proper invoice; (2) schedule delivery date of the Work; or (3) actual delivery of the Work.
- e. Each payment made shall be subject to reduction to the extent of amount which are found by Buyer or Seller not to have been properly payable and shall also be subject to overpayment. Seller shall promptly notify Buyer of any such overpayment found by Seller.
- f. Buyer shall have a right to recoup or setoff, as the case may be, against payments due or at issue under this Contract or any other contract between the parties.
- g. All invoices shall be mailed to the attention of Buyers Account Payable, at the following address:

Alliance Spacesystems, LCC
Attention: Accounts Payable
4398 Corporate Center Drive
Los Alamitos, CA 90720

11. CHANGES

- a. Buyer's Authorized Procurement Representative may, without notice to sureties and in writing, direct changes within the general scope of this Contract in any of the following: (i) technical requirements and descriptions, specifications, statement of work, drawings or designs; (ii) shipment or packing methods; (iii) place of delivery, inspection or acceptance; (iv) reasonable adjustments in quantities or delivery schedules or both; (v) amount of Buyer-furnished property; (vi) terms and conditions of this Contract required to meet Buyer's obligations under a its customer prime contracts or subcontracts; and if this Contract includes services, (vii) description of services to be performed (viii) time of performance (e.g., hours of the day, days of the week, etc.); and (ix) place of performance. Seller shall comply immediately with such direction. Except for the rights granted to Buyer under this Article, a change pursuant to this Article shall not give rise to nor authorize any other modification of or amendment to the terms and conditions of this Contract.
- b. If such change increases or decreases the cost or time required to perform this Contract, Buyer and Seller shall negotiate an equitable adjustment in the price or schedule, or both, to reflect the increase or decrease. Buyer shall modify this Contract in writing accordingly. Unless otherwise agreed in writing, Seller must assert any claim for adjustment to Buyer's Authorized Procurement Representative in writing within twenty (20) days, and deliver a fully supported proposal to Buyer's Authorized Procurement Representative within forty-five (45) days, after Seller's receipt of such direction. Buyer may, at its sole discretion, consider any claim regardless of when asserted. If Seller's proposal includes the cost of property made obsolete or excess by the change, Buyer may direct the disposition of the property. Seller has the burden to support the amount of Seller's claim for equitable adjustment. Buyer may examine Seller's pertinent books and records to verify the amount of Seller's claim. Failure of the parties to agree upon any adjustment shall not excuse Seller from performing in accordance with Buyer's direction.
- c. If Seller considers that Buyer's conduct constitutes a change, Seller shall notify Buyer's Authorized Procurement Representative immediately in writing as to the nature of such conduct and its effect upon Seller's performance. Pending direction from Buyer's Authorized Procurement Representative, Seller shall take no action to implement any such change.

- 12. DISPUTES.** Any dispute that arises under or is related to this Contract that cannot be settled by mutual agreement of the Parties may be decided by a court of competent jurisdiction. Pending final resolution of any dispute, Seller shall proceed with performance of this Contract according to Buyer's instructions so long as Buyer continues to pay amounts not in dispute.

- 13. FORCE MAJEURE.** Seller shall not be liable for excess re-procurement costs pursuant to the "Cancellation for Default" article of this Contract, incurred by Buyer because of any failure to perform this Contract under its terms if the failure arises from causes beyond the control and without the fault or negligence of Seller. Examples of these causes are (a) acts of God or of the public enemy, (b) acts of the Government in its sovereign or contractual capacity, (c) fires, (d) floods, (e) epidemics, (f) quarantine restrictions, (g) strikes, (h) freight embargoes; or (i) unusually severe weather. In each instance, the failure to perform must be beyond the control and without the fault or negligence of Seller. If the Seller's failure is caused by the failure of a subcontractor of Seller and if such failure arises out of causes beyond the reasonable control of both, and if such delay is without the fault or negligence of either, Seller shall not be liable for excess re-procurement costs unless the goods or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit Seller to meet the required delivery schedules. Seller shall notify Buyer in writing within ten (10) days after the beginning of any such cause(s). In all cases, Seller shall use reasonable efforts to avoid or minimize all such failures, including exercising work-around plans or obtaining the Goods from other sources; otherwise Seller shall be liable for excess re-procurement costs.

- 14. TERMINATION FOR CONVENIENCE.** Buyer may terminate all or part of this Contract for its sole convenience. In the event of such termination, Seller shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to stop work. Subject to the terms of this Contract, within ninety (90) days after the effective date of termination, Seller may submit to Buyer a claim reflecting the percentage of the work performed prior to the effective date of termination, plus reasonable charges that Seller can demonstrate to the satisfaction of Buyer using its standard record keeping system have resulted from termination. Seller shall not be paid for any work performed or costs incurred which reasonably could have been avoided. Further Seller shall not be paid, and in no event shall Buyer be obligated to pay, lost or anticipated profits or unabsorbed indirect costs or overhead. In no event shall Buyer be obligated to pay Seller any amount in excess of the Contract price. The provisions of this Article shall not limit or affect the rights of Buyer to cancel this Contract for default. Seller shall continue all work not terminated.

Should this Service Contract be under U.S. Government Prime Contract the following provision is herewith incorporated into this Contract: Federal Acquisition Regulation ("FAR") 52.249-2 (May 2004), Termination for Convenience of the Government (Fixed Price)," which provisions, except for subparagraphs (d) and (j), are incorporated herein by reference. The terms "Government" and "Contracting Officer" shall mean "Buyer", "Contractor" shall mean "Seller" and the phrase "1 year" is deleted each place it occurs and "six months" is substituted in its place. The time for requesting an equitable adjustment under subparagraph I (lower case letter "L") is reduced to forty-five (45) days. Settlement and payments under this Article may be subject to approval by the Contract Officer and the Settlement Review Board.

15. CANCELLATION FOR DEFAULT

- a. Buyer may, by written notice to Seller, cancel all or part of this Contract: (i) if Seller fails to deliver the Goods within the time specified by this Contract or any written extension; (ii) if Seller fails to perform any other provision of this Contract or fails to make progress, so as to endanger performance of this Contract, and, in either of these two circumstances, does not cure the failure within 10 days after receipt of notice from Buyer specifying the failure; or (iii) in the event of Seller's bankruptcy, suspension of business, insolvency, appointment of a receiver for Seller's property or business, or any assignment, reorganization or arrangement by Seller for the benefit of its creditors.
- b. Seller shall continue work not canceled. If Buyer cancels all or part of this Contract, Seller shall be liable for Buyer's excess re-procurement costs.
- c. Buyer may require Seller to transfer title and deliver to Buyer, as directed by Buyer, any (i) completed Goods, and (ii) any partially completed Goods and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information and contract rights (collectively,



- "Manufacturing Materials") that Seller has specifically produced or acquired for the canceled portion of this Contract. Upon direction from Buyer, Seller shall also protect and preserve property in its possession in which Buyer or its Customer has an interest.
- d. Buyer shall pay the Contract price for Goods accepted. Payment for Manufacturing Materials accepted by Buyer and for the protection and preservation of property shall be at a price determined in accordance with the "Termination for Convenience" article of this Contract, except that Seller shall not be entitled to profit. Buyer may withhold from any amount due under this Contract any sum Buyer determines to be necessary to protect Buyer or Buyer's customer against loss because of outstanding liens or claims of former lien holders.
 - e. If, after cancellation, it is determined that Seller was not in default, the rights and remedies of the Parties shall be as if the Contract had been terminated according to the "Termination for Convenience" article of this Contract.
16. **ASSIGNMENT, DELEGATION AND SUBCONTRACTING.** Seller shall not assign (whether voluntary, involuntary, by merger, change of control, consolidation, dissolution, operation of law, transfer, or any other manner) any of its rights or interest in this Contract or subcontract for all or substantially all of its performance of this Contract, without Buyer's prior written consent. Seller shall not delegate any of its duties or obligations under this Contract. Seller may assign its right to monies due or to become due. Any attempt to assign or delegate in violation of this article is void. No assignment, delegation or subcontracting by Seller, with or without Buyer's consent, shall relieve Seller of any of its obligations under this Contract or prejudice any of Buyer's rights against Seller whether arising before or after the date of any assignment. This article does not limit Seller's ability to purchase standard commercial supplies or raw materials.
17. ***PUBLICITY.** Without Buyer's prior written approval, Seller shall not, and shall require that its subcontractors at any tier shall not, release any publicity, advertisement, news release or denial or confirmation of same regarding this Contract or the Goods or program to which it pertains. Seller shall be responsible to Buyer for any breach of such obligation by any subcontractor.
18. **PROPERTY MANAGEMENT.** Seller shall clearly mark, maintain an inventory of, and keep segregated or identifiable all of Buyer's property and all property to which Buyer acquires an interest by virtue of this Contract. Seller assumes all risk of loss, destruction or damage of such property while in Seller's possession, custody or control, including any transfer to Seller's subcontractors. Upon request, Seller shall provide Buyer with adequate proof of insurance against such risk of loss. Seller shall not use such property other than in performance of this Contract without Buyer's prior written consent. Seller shall notify Buyer's Authorized Procurement Representative if Buyer's property is lost, damaged or destroyed. As directed by Buyer, upon completion, termination or cancellation of this Contract, Seller shall deliver such property, to the extent not incorporated in delivered Goods, to Buyer in good condition subject to ordinary wear and tear and normal manufacturing losses. Nothing in this article limits Seller's use, in its direct contracts with the Government, of property in which the Government has an interest.
- Should this Service Contract be under U.S. Government Prime Contract and include the Sellers use or any of its subcontractor's use of Government -Owned property the following provision is herewith incorporated into this Contract:
Seller shall manage such property in accordance with FAR 52.245-1 (APR 2012), unless some other date version or equivalent FAR clause is provided.
19. **PATENT, TRADEMARK AND COPYRIGHT INDEMNITY.** Seller will indemnify, defend and hold harmless Buyer and its customer from 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 attorneys' fees and/or costs), liabilities, damages, costs and attorneys' fees related to the actual or alleged infringement of any United States or foreign intellectual property right (including, but not limited to, any right in a patent, copyright, industrial design or semiconductor mask work, or based on misappropriation or wrongful use of information or documents) and arising out of the manufacture, sale or use of Goods by either Buyer or its customer. Buyer and/or its customer will duly notify Seller of any such claim, suit or action; and Seller will, at its own expense, fully defend such claim, suit or action on behalf of indemnitees. Seller will have no obligation under this article with regard to any infringement arising from (a) Seller's compliance with formal specifications issued by Buyer where infringement could not be avoided in complying with such specifications or (b) use or sale of Goods in combination with other items when such infringement would not have occurred from the use or sale of those Goods solely for the purpose for which they were designed or sold by Seller. For purposes of this article only, the term Buyer will include Alliance Spacesystems, LLC and its Parent Company Spacesystems Holdings, LLC and all officers, agents and employees of Alliance and its Parent Company.
20. ***CONFIDENTIAL, PROPRIETARY AND TRADE SECRET INFORMATION AND MATERIALS.**
- a. Buyer and Seller shall each keep confidential and protect from unauthorized use and disclosure all (i) confidential, proprietary and/or trade secret information; (ii) tangible items and software containing, conveying or embodying such information; and (iii) tooling identified as being subject to this article and obtained, directly or indirectly, from the other in connection with this Contract or other agreement referencing this Contract, including Buyer's contract with its customer, if any, (collectively referred to as "Proprietary Information and Materials"). Proprietary Information and Materials shall not include information that is, as evidenced by competent records provided by the receiving Party, lawfully in the public domain, lawfully disclosed to or known by the receiving Party without restrictions, generally known in the trade or industry prior to disclosure hereunder, or developed by the receiving Party independently without use of or reference to the disclosing Party's Proprietary Information and Material.
 - b. Buyer and Seller shall each use Proprietary Information and Materials of the other only in performance of and for purpose of this Contract, other contracts between the Parties, and Buyer's contract with its customer, if any. However, despite any other obligations or restrictions imposed by this Article or any prior agreement, Buyer shall have the right to use and reproduce Seller's Proprietary Information and Materials internal to Buyer, regardless of when disclosed. Buyer shall further have the right to, use, disclose, reproduce and make derivative works of Sellers Proprietary Information and Materials (i) to fulfill Buyer's obligations under, and (ii) for the purposes of testing, certification, use, sale or support of any Goods delivered under this Contract or other contracts with Seller and Buyer's contract with its customer, if any. Any such use, disclosure, reproduction or derivative work by Buyer shall, whenever appropriate, include a restrictive legend suitable for the particular circumstances. The restrictions on disclosure or use of Proprietary Information and Materials shall apply to all materials derived by the receiving Party or others on its behalf from the disclosing Party's Proprietary Information and Materials. In addition to disclosure permitted hereunder, a receiving Party may disclose received Proprietary Information and Materials in response to a subpoena or court order duly issued in a judicial or legislative process, provide that the receiving Party



- has used reasonable effort to give the disclosing Party advance written notice of any such disclosure requirement and to reasonably cooperate with the disclosing Party in protecting against any such disclosure and/or obtaining a protective order narrowing its scope. c. Upon Buyer's request at any time, and in any event upon the completion, termination or cancellation of this Contract, Seller shall return to Buyer all of Buyer's Proprietary Information and Materials and all materials derived therefrom, unless specifically directed otherwise in writing by Buyer. Seller shall not, without the prior written authorization of Buyer, sell or otherwise dispose of (as scrap or otherwise) any Goods, parts or other materials containing, conveying, embodying or made in accordance with or by reference to any Proprietary Information and Materials of Buyer. Prior to disposing of such Goods, parts or other materials as scrap, Seller shall render them unusable. Buyer shall have the right to audit Seller's compliance with this article.
- c. Seller may disclose Proprietary Information and Materials of Buyer to its subcontractors as required for the performance of this Contract, provided that each such subcontractor first agrees in writing to the same obligations imposed upon Seller under this article. Seller shall be liable to Buyer for any breach of such obligation by such subcontractor.
- d. The provisions of this article are effective notwithstanding the application of any restrictive legends or notices to Proprietary Information and Materials. The provisions of this article shall survive the performance, completion, termination or cancellation of this Contract.
21. **FINANCIAL RECORDS AND AUDIT.** Seller shall retain all financial records and documents pertaining to the Goods for a period of no less than three years after final payment. Such records and documents shall date back to the time this Contract was issued and shall include without limitation, catalogs, price lists, invoices, underlying data and basis for cost estimates, and inventory records. — Buyer shall have the right to examine, reproduce and audit all Seller's records related to pricing, incurred costs and proposed costs associated with any proposals (prior to or after contract award), invoices or claims provided, however should the Seller deny the Buyer verification or audit rights for indirect cost and direct labor rates. Those cost elements will be subject to verification and audit through the U.S. Government. In the event the U.S. Government is unwilling or unable to perform such audit, the audit shall be conducted by a mutually agreed upon third party. The report resulting from any such review or audit by the U.S. Government or mutually agreed upon third party shall be released in a timely manner to the Buyer at a level of detail consistent with Seller's invoice, claim or proposal, to the satisfaction of the Buyer. The cost, if any, of such U.S. Government or third party verification and audit shall be borne by the Seller.
22. **NEW MATERIAL**
The Work to be delivered hereunder shall consist of new material, not used, or reconditioned, remanufactured, or of such age as to impair its usefulness or safety.
23. ***RIGHTS OF BUYER'S CUSTOMERS AND REGULATORS TO PERFORM INSPECTION, SURVEILLANCE AND TESTING.** Buyer's rights to perform inspections, surveillance and tests and to review procedures, practices, processes and related documents related to quality assurance, quality control, flight safety and configuration control shall extend to the customers of Buyer that are departments, agencies or instrumentalities of the United States Government, including the United States Government Federal Aviation Administration and any successor agency or instrumentality of the United States Government. Buyer may also, at Buyer's option, by prior written notice from Buyer's Authorized Procurement Representative, extend such rights to other customers of Buyer and to agencies or instrumentalities of foreign government's equivalent in purpose to the Federal Aviation Administration. Seller shall cooperate with any such United States Government-directed or Buyer-directed inspection, surveillance, test or review without additional charge to Buyer. Nothing in this Contract shall be interpreted to limit United States Government access to Seller's facilities pursuant to law or regulation.
24. **GRATUITIES.** Seller warrants that neither it nor any of its employees, agents, or representatives have offered or given, or will offer or give, any gratuities to Buyer's employees, agents or representatives for the purpose of securing this Contract or securing favorable treatment under this Contract.
25. **INDEPENDENT CONTRACTOR RELATIONSHIP.** Seller is an independent contractor in all its operations and activities hereunder. The employees used by Seller to perform under this Contract shall be Seller's employees exclusively without any relationship whatsoever to the Buyer.
26. **NO WAIVER; RIGHTS AND REMEDIES.**
- a. Any failures, delays or forbearances by Buyer in insisting upon or enforcing any provisions of this Contract, or in exercising any rights or remedies under this Contract, shall not be construed as a waiver or relinquishment of any such provisions, rights or remedies; rather, the same shall remain in full force and effect.
- b. Except as otherwise limited in this Contract, the rights and remedies set forth herein are cumulative and in addition to any other rights or remedies that the Buyer may have at law or in equity. If any provision of this Contract is or becomes void or unenforceable by law, the remainder shall be valid and enforceable. Seller acknowledges and agrees that money damages would not be an adequate remedy for any actual, anticipatory or threatened breach of this Contract by Seller with respect to its delivery of the Goods to Buyer.
- c. Seller agrees that Buyer approvals of Seller's technical and quality specifications, drawings plans, procedures, reports, and other submissions shall not relieve Seller from its obligations to perform all requirements of this Contract.
- d. Buyer may at any time deduct or set-off Seller's claims for money due or to become due from Buyer against any claims that Buyer has or may have arising out of this Contract or other transactions between Buyer and Seller.
27. **ELECTRONIC CONTRACTING.** The parties agree that if this Contract is transmitted electronically neither party shall contest the validity of this Contract, or any acknowledgement thereof, on the basis that this Contract or acknowledgement contains an electronic signature.
28. ***TRADE CONTROL COMPLIANCE.**
- a. The Parties shall comply with all export and import laws, regulations, decrees, orders, and policies of the United States Government including but not limited to the Export Administration Regulations ("EAR") of the U.S. Department of Commerce, the International Traffic in Arm Regulations ("ITAR") of the U.S. Department of State, the U.S. Customs & Border Protection Regulations, the Harmonizing Traffic Schedule, and the ant boycott and embargo regulations and guidelines as set forth in the EAR and in the U.S. Department of the Treasury, Office of Foreign Assets Control (collectively "Trade Control Laws"). .



- b. Seller shall control the disclosure of, and access to, controlled items or technical data provided by Buyer related to performance of this Contract in compliance with all applicable Trade Control Laws. Seller shall not transfer (to include transfer to foreign persons employed by or associated with, or under contract with Seller, or Seller's sub-tier suppliers or Seller's non-U.S. subsidiaries) any export controlled item, data or services, without providing advance written notice to Buyer and obtaining the required export and /or import authority.
- c. Subject to applicable Trade Control Laws, Seller shall provide Buyer with export control classification of any commodity or technology including software.
- d. Seller represents that it maintains an effective export/import control compliance program in accordance with all applicable Trade Control Laws. A copy of process control documents and other documents reasonably requested by Buyer related to Seller's compliance with applicable Trade Control Laws shall be made available to Buyer upon request.
- e. Seller shall promptly notify Buyer if Seller is, or becomes, listed in any Denied Parties List or if Seller's export privileges are otherwise denied, suspended or revoked in whole or in part by any Government entity.
- f. Seller shall timely inform Buyer of any actual or alleged violations of any applicable Trade Control Laws, including any suits, actions, proceedings, notices, citations, inquires, or other communications from any government agency concerning any actual or alleged violations, in Seller's performance under this Contract and shall comply with reasonable requests from Buyer for information regarding any such violations.
- g. Seller shall incorporate into any contracts with its sub-tier supplier's obligations no less restrictive than those set forth in this Article requiring compliance with all applicable Trade Control Laws.

29. INDEMNITY AGAINST CLAIMS

- a. Seller shall keep its work and all items supplied by it hereunder free and clear of all liens and encumbrances, including mechanic's liens, in any way arising from performance of this Contract by Seller or any of its suppliers or subcontractors.
- b. Seller shall, without limitation, indemnify and save Buyer and its customer(s) and their respective officers, directors, employees and agents harmless from and against (i) all claims (including claims under Workers' Compensation or Occupational Disease laws) and resulting costs, expenses and liability which arise from personal injury, death, or property loss or damage attributed to, or caused by, the Goods, services or other items supplied by Seller pursuant to this Contract, including, without limitation, latent defects in such Goods, services or other items, except to the extent that such injury, death, loss or damage is caused solely and directly by the negligence of Buyer; and (ii) all claims (including resulting costs, expenses and liability) by the employees of Seller or any of its subcontractors.

30. INSURANCE. Seller shall maintain in full force and effect workers' compensation insurance, comprehensive general liability insurance, property damage insurance, and such other insurance as may be appropriate for the work performed under this Contract.

31. GOVERNING LAW. This Contract and any disputes arising out of, or relating to this Contract shall be governed by and construed in accordance with the laws of the state of California without regard to the conflict of law rules thereof. .

32. CUSTOMER CLAUSES. Clauses applicable to this Contract from Buyer's contract with its customer, if any, are incorporated elsewhere in this Contract, either by attachment to this document or by some other means of reference.

Should this Service Contract be under U.S. Government Prime Contract the following provision is herewith incorporated into this Contract:
Government clauses applicable to this Contract from Buyer's contract with its customer, if any, are incorporated elsewhere in this Contract either by attachment or by some other means of reference.

33. * PRIORITY RATING. If so identified, this Contract is a "rated order" certified for national defense, emergency preparedness, and energy program use, and Seller shall follow all the requirements of the Defense Priority and Allocation System Regulations (15 C.F.R. Part 700).

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

35. SUSPENSION OF WORK

- a. Buyer's Authorized Procurement Representative may, by written order, suspend all or part of the work to be performed under this Contract for a period not to exceed one hundred (100) days. Within such period of any suspension of work, Buyer shall: (i) cancel the suspension of work order; (ii) terminate this Contract in accordance with the "Termination for Convenience" Article of this Contract; (iii) cancel this Contract in accordance with the "Cancellation for Default" Article of this Contract; or (iv) extend the stop work period.
- b. Seller shall resume work whenever a suspension is canceled. Buyer and Seller shall negotiate an equitable adjustment in the price or schedule or both if: (i) this Contract is not canceled or terminated; (ii) the suspension results in a change in Seller's cost of performance or ability to meet the Contract delivery schedule; and (iii) Seller submits a claim for adjustment within 20 days after the suspension is canceled.

36. *ACCESS TO PLANTS AND PROPERTIES. Where Seller is either entering or performing work at premises owned or controlled by Buyer or Buyer's customer or obtaining access electronically to Buyer systems or information, Seller shall comply with: (i) all the rules and regulations established by Buyer or Buyer's customer; and (ii) Buyer's request for information and documentation to validate citizenship or immigration status of Seller's personnel and subcontract personnel. In addition, Seller acknowledges that Buyer may perform routine background checks on Seller personnel. Seller shall include the substance of this clause, including this flow down requirement, in all subcontracts awarded by Seller for work under this contract.

37. *COUNTERFEIT GOODS

- a. Seller shall not furnish Counterfeit Goods to Buyer, defined as Goods or separately-identifiable items or components of Goods that: (i) are an authorized copy or substitute of an Original Equipment Manufacturer (collectively "OEM") item; (ii) are not traceable to an OEM sufficient to ensure authenticity in OEM design and manufacture; (iii) do not contain proper external or internal materials or components required by the OEM or are not constructed in accordance with OEM design; (iv) have been reworked , re-marked, re-labeled, repaired,



- refurbished, or otherwise modified from OEM design but not disclosed as such or are represented as OEM authentic or new; (v) have not passed successfully OEM required testing, verification, screening, and quality control processes. Notwithstanding the foregoing, Goods or items that contain modifications, repairs, rework, or re-marking as a result of Seller's or its subcontractor's design authority, material review procedures, quality control processes or parts management plan, and that have not been misrepresented or mismarked without legal right to do so, shall not be deemed Counterfeit Goods. Counterfeit Goods shall be deemed nonconforming to this Contract.
- b. Seller shall implement an appropriate strategy to ensure that Goods furnished to Buyer under this Contract are not Counterfeit Goods. Seller's strategy shall include, but not be limited to, the direct procurement of items from OEM or authorized suppliers, conducting approved testing or inspection to ensure the authenticity of items, and, when items are to be procured from non-authorized suppliers appropriate certificates of conformance that provide one or more of the following: (i) the OEM's original certificate of conformance for the item; (ii) sufficient records providing unbroken supply chain traceability to the OEM; (iii) test or inspection records demonstrating the item's authenticity.
 - c. If Seller becomes aware or suspects that it has furnished Counterfeit Goods to Buyer under this Contract, Seller promptly, but in no case later than thirty (30) days from discovery, shall notify Buyer and replace, at Seller's expense, such Counterfeit Goods with OEM or Buyer-approved Goods that conform to the requirements of this Contract. Seller shall be liable for all costs related to the replacement of Counterfeit Goods and any testing or validation necessitated by the installation of authentic Goods after Counterfeit Goods have been replaced.
 - d. Seller bears responsibility for procuring authentic Goods or items from its subcontractors and shall ensure that all such subcontractors comply with the requirements of this Article.

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

- 38. ***ENVIRONMENTAL HEALTH AND SAFETY PERFORMANCE.** Seller acknowledges and accepts full and sole responsibility to maintain an environment, health and safety management system ("EMS") appropriate for its business throughout the performance of this Contract. Buyer expects that Seller's EMS will promote health and safety, environmental stewardship, and pollution prevention by appropriate source reduction strategies. Seller shall convey the requirement of this clause to its suppliers. Seller shall not deliver Goods that contain any asbestos mineral fibers.
- 39. **ENTIRE AGREEMENT.** This Contract contains the entire agreement of the Parties and supersedes any and all prior agreements, understandings and communications between Buyer and Seller related to the subject matter of this Contract. No amendment or modification of this Contract shall bind either Party unless it is in writing and is signed by Buyer's Authorized Procurement Representative and an authorized representative of Seller.



GENERAL TERMS AND CONDITIONS OF PURCHASE (GP-002) FIXED PRICE SERVICES

1. **FORMATION OF CONTRACT.** This proposed purchase, which incorporates by reference these General Provisions and all other terms and conditions set forth in this proposed purchase contract (collectively, the "Contract"), is Buyer's offer to purchase the goods and any related services and/or deliverables (collectively, the "Services") described in this offer. Acceptance is strictly limited to the terms and conditions in this offer. Unless specifically agreed to in writing Buyer's Authorized Procurement Representative, Buyer objects to, and is not bound by, any term or condition that differs from or adds to this offer. Seller's commencement of performance or acceptance of this offer in any manner shall conclusively evidence acceptance of this offer as written. Seller's provision of the Services shall be governed solely by this Contract. Buyer and Seller are referred to herein as a "Party" or collectively as the "Parties."
2. **SCOPE OF SERVICES.** Seller shall furnish the Services set forth in the Contract during the terms of this Contract.
3. **INDEPENDENT CONTRACTOR RELATIONSHIP.** Seller is an independent contractor for all purposes. Seller shall have complete control over the performance of, and the details for accomplishing, the Services. In no event shall Seller or its agents, represent or employee be deemed to be agents, representatives or employees of Buyer. Seller's employees shall be paid exclusively by Seller for all Services performed. Seller shall comply with all requirements and obligations related to such employees under federal, state and local laws. Such compliance shall include, but not be limited to, laws regarding minimum wages, social security, unemployment insurance, federal and state taxes and workers' compensation insurance.
4. **STANDARDS.** Seller shall assign personnel satisfactory to Buyer. Buyer may, for good cause shown in Buyer's sole determination, require Seller to withdraw the services of any person and require that Seller promptly provides replacement for such person satisfactory to Buyer. Seller shall indemnify and hold harmless Buyer from and against any liabilities, claims, charges or suits for alleged losses, cost damages or expenses arising from Buyer's exercise of its rights hereunder.
5. **SCHEDULE.**
 - a. Seller shall strictly adhere to the schedules in this Contract. In the event of any anticipated or actual delay, including but not limited to delays attributed to labor disputes, Seller shall: (i) promptly notify Buyer in writing of the reasons for the delay and the actions being taken to overcome or minimize the delay; (ii) provide Buyer with a written recovery schedule; and (iii) if requested by Buyer, ship via air or other expedited routing, at no additional cost to Buyer, to avoid or minimize delay to the maximum extent possible.
 - b. Seller shall not deliver Services prior to the scheduled delivery dates unless authorized in writing by Buyer Authorized Procurement Representative.
6. **NOTICE TO BUYER OF LABOR DISPUTES.** Whenever Seller has knowledge that any actual or potential dispute is delaying or threatens to delay the timely performance of this Contract, Seller shall immediately give notice thereof, including all relevant information, to Buyer.
7. **PACKING AND SHIPPING**
 - a. Seller shall pack the goods and materials to prevent damage and deterioration. Unless otherwise set forth in this Contract, Seller shall comply with carrier tariffs. Unless this contract specifies otherwise, the price includes shipping charges for goods and materials sold F.O.B. destination. Unless otherwise specified in this contract, goods and materials sold F.O.B. place of shipment shall be forwarded collect. Seller shall make no declaration concerning the value of the goods and materials shipped except on goods and materials where the tariff rating is dependent upon released or declared value. In such event, Seller shall release or declare such value at the maximum value within the lowest rating. Buyer may charge Seller for damage to or deterioration of any goods and materials resulting from improper packing or packaging.
 - b. Unless this contract specifies otherwise, Seller will ship the goods and materials in accordance with the following instructions:
 - (i) Shipments by Seller or its subcontractors must include packing sheets containing Buyer's contract number, line item number, description and quantity of goods shipped, part number or size, if applicable, and appropriate evidence of inspections. A shipment containing hazardous and nonhazardous materials must have separate packing sheets for the hazardous and nonhazardous materials. Seller shall not include vermiculite or other hazardous substance in any packing material included with the goods. Items shipped on the same day will be consolidated on one bill of lading or air bill unless Buyer's Authorized Procurement Representative authorizes otherwise. The shipping documents will describe the material according to the applicable classification and/or tariff. The total number of shipping containers will be referenced on all shipping documents. Originals of all Government bills of lading will be surrendered to the origin carrier at the time of shipment.
 - (ii) Seller will not insure any FOB origin shipment unless authorized by Buyer.
 - (iii) Seller will label each shipping container with the contract number and the number that each container represents of the total number being shipped (e.g., box 1 of 2, box 2 of 2).
 - (iv) Buyer will select the carrier and mode of transportation for all shipments where freight costs will be charged to Buyer.
 - (v) Seller will include copies of documentation supporting prepaid freight charges (e.g., carrier invoices or UPS shipping log/manifest), if any, with its invoices.
 - (vi) If Seller is unable to comply with the shipping instructions in this contract, Seller will contact Buyer's Authorized Procurement Representative.
8. **CHANGES**
 - a. Buyer's Authorized Procurement Representative may, without notice to sureties and in writing, direct changes within the general scope of this Contract in any of the following: (i) technical requirements and descriptions, specifications, statement of work, drawings or designs; (ii) shipment or packing methods; (iii) place of delivery, inspection or acceptance; (iv) reasonable adjustments in quantities or delivery schedules or both; (v) amount of Buyer-furnished property; (vi) terms and conditions of this Contract required to meet Buyer's obligations under a its customer prime contracts or subcontracts; and if this Contract includes services, (vii) description of services to be performed (viii) time of performance (e.g., hours of the day, days of the week, etc.); and (ix) place of performance. Seller shall comply



- immediately with such direction. Except for the rights granted to Buyer under this Article, a change pursuant to this Article shall not give rise to nor authorize any other modification of or amendment to the terms and conditions of this Contract.
- b. If such change increases or decreases the cost or time required to perform this Contract, Buyer and Seller shall negotiate an equitable adjustment in the price or schedule, or both, to reflect the increase or decrease. Buyer shall modify this Contract in writing accordingly. Unless otherwise agreed in writing, Seller must assert any claim for adjustment to Buyer's Authorized Procurement Representative in writing within twenty (20) days, and deliver a fully supported proposal to Buyer's Authorized Procurement Representative within forty-five (45) days, after Seller's receipt of such direction. Buyer may, at its sole discretion, consider any claim regardless of when asserted. If Seller's proposal includes the cost of property made obsolete or excess by the change, Buyer may direct the disposition of the property. Seller has the burden to support the amount of Seller's claim for equitable adjustment. Buyer may examine Seller's pertinent books and records to verify the amount of Seller's claim. Failure of the parties to agree upon any adjustment shall not excuse Seller from performing in accordance with Buyer's direction.
 - c. If Seller considers that Buyer's conduct constitutes a change, Seller shall notify Buyer's Authorized Procurement Representative immediately in writing as to the nature of such conduct and its effect upon Seller's performance. Pending direction from Buyer's Authorized Procurement Representative, Seller shall take no action to implement any such change.
- 9. SUSPENSION OF WORK**
- a. Buyer's Authorized Procurement Representative may, by written order, suspend all or part of the work to be performed under this Contract for a period not to exceed one hundred (100) days. Within such period of any suspension of work, Buyer shall: (i) cancel the suspension of work order; (ii) terminate this Contract in accordance with the "Termination for Convenience" Article of this Contract; (iii) cancel this Contract in accordance with the "Cancellation for Default" Article of this Contract; or (iv) extend the stop work period.
 - b. Seller shall resume work whenever a suspension is canceled. Buyer and Seller shall negotiate an equitable adjustment in the price or schedule or both if: (i) this Contract is not canceled or terminated; (ii) the suspension results in a change in Seller's cost of performance or ability to meet the Contract delivery schedule; and (iii) Seller submits a claim for adjustment within twenty (20) days after the suspension is canceled.
- 10. TERMINATION FOR CONVENIENCE.** Buyer may terminate all or part of this Contract for its sole convenience. In the event of such termination, Seller shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to stop work. Subject to the terms of this Contract, within ninety (90) days after the effective date of termination, Seller may submit to Buyer a claim reflecting the percentage of the work performed prior to the effective date of termination, plus reasonable charges that Seller can demonstrate to the satisfaction of Buyer using its standard record keeping system have resulted from termination. Seller shall not be paid for any work performed or costs incurred which reasonably could have been avoided. Further Seller shall not be paid, and in no event shall Buyer be obligated to pay, lost or anticipated profits or unabsorbed indirect costs or overhead. In no event shall Buyer be obligated to pay Seller any amount in excess of the Contract price. The provisions of this Article shall not limit or affect the rights of Buyer to cancel this Contract for default. Seller shall continue all work not terminated.
- Should this Service Contract be under U.S. Government Prime Contract the following provision is herewith incorporated into this Contract: Federal Acquisition Regulation ("FAR") 52.249-2 (May 2004), Termination for Convenience of the Government (Fixed Price), which provisions, except for subparagraphs (d) and (j), are incorporated herein by reference. The terms "Government" and "Contracting Officer" shall mean "Buyer", "Contractor" shall mean "Seller" and the phrase "1 year" is deleted each place it occurs and "six months" is substituted in its place. The time for requesting an equitable adjustment under subparagraph I (lower case letter "L") is reduced to forty-five (45) days. Settlement and payments under this Article may be subject to approval by the Contract Officer and the Settlement Review Board.
- 11. CANCELLATION FOR DEFAULT**
- a. Buyer may, by written notice to Seller, cancel all or part of this Contract: (i) if Seller fails to deliver the Services within the time specified by this Contract or any written extension; (ii) if Seller fails to perform any other provision of this Contract or fails to make progress, so as to endanger performance of this Contract, and, in either of these two circumstances, does not cure the failure within ten (10) days after receipt of notice from Buyer specifying the failure; or (iii) in the event of Seller's bankruptcy, suspension of business, insolvency, appointment of a receiver for Seller's property or business, or any assignment, reorganization or arrangement by Seller for the benefit of its creditors.
 - b. Seller shall continue all Services not canceled. If Buyer cancels all or part of this Contract, Seller shall be liable for Buyer's excess re-procurement costs.
 - c. Buyer may require Seller to transfer title and deliver to Buyer, as directed by Buyer, any (i) completed goods, and (ii) any partially completed goods and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information and contract rights (collectively, "Manufacturing Materials") that Seller has specifically produced or acquired for the canceled portion of this Contract. Upon direction from Buyer, Seller shall also protect and preserve property in its possession in which Buyer or its Customer has an interest.
 - d. Buyer shall pay the Contract price for completed goods accepted. In addition, any payment for Manufacturing Materials accepted by Buyer and for the protection and preservation of property shall be at a price determined in accordance with the "Termination for Convenience" Article of this Contract, except that Seller shall not be entitled to profit. Buyer may withhold from any amount due under this Contract any sum Buyer determines to be necessary to protect Buyer or Buyer's customer against loss because of outstanding liens or claims of former lien holders.
 - e. If, after cancellation, it is determined that Seller was not in default, the rights and remedies of the Parties shall be as if the Contract had been terminated according to the "Termination for Convenience" article of this Contract.
- 12. FORCE MAJEURE.** Seller shall not be liable for excess re-procurement costs pursuant to the "Cancellation for Default" article of this Contract, incurred by Buyer because of any failure to perform this Contract under its terms if the failure arises from causes beyond the control and without the fault or negligence of Seller. Examples of these causes are (a) acts of God or of the public enemy, (b) acts of the Government in its sovereign or contractual capacity, (c) fires, (d) floods, (e) epidemics, (f) quarantine restrictions, (g) strikes, (h) freight embargoes; or (i) unusually severe weather. In each instance, the failure to perform must be beyond the control and without the fault or negligence of Seller. If the Seller's failure is caused by the failure of a subcontractor of Seller and if such failure arises out of causes beyond the reasonable control of



both, and if such delay is without the fault or negligence of either, Seller shall not be liable for excess re-procurement costs unless the goods or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit Seller to meet the required delivery schedules. Seller shall notify Buyer in writing within five (5) days after the beginning of any such cause(s). In all cases, Seller shall use reasonable efforts to avoid or minimize all such failures, including exercising work-around plans or obtaining the Services from other sources.

13. **QUALITY CONTROL.** Seller shall establish and maintain a quality control system acceptable to Buyer for the Services purchased under this Contract. Seller shall permit Buyer to review procedures, practices, processes and related documents to determine such acceptability.
14. **SELLER'S NOTICE OF DISCREPANCIES.** Seller shall notify Buyer in writing when discrepancies in Seller's process, including any violation of or deviation from Seller's approved inspection/quality control system, or goods/materials are discovered or suspected which may affect the Services delivered or to be delivered under this Contract.

Should this Service Contract be under U.S. Government Prime Contract the following provision is herewith incorporated into this Contract: Whenever Seller receives, either before or after shipment of goods under this Contract, notification that any of the goods, including any components, part, or material thereof, is the subject of a Government –Industry Data Exchange Program ("GIDEP") alert, Seller shall promptly furnish information to Buyer. If this Contract is over \$500,000, Seller shall participate in GIDEP under the latest revision of GIDEP Requirements Guide, NAVSEA S0300-BU-GYD-010.

15. ***INSPECTION**
 - a. At no additional cost to Buyer, Services shall be subject to inspection, surveillance and test at reasonable times and places, including Seller's subcontractors' locations. Buyer shall perform inspections, surveillance and tests so as not to unduly delay the work.
 - b. Seller shall maintain an inspection system acceptable to Buyer for the Services purchased under this Contract.
 - c. If Buyer performs an inspection or test, on the premises of Seller or its subcontractors, Seller shall furnish, and require its subcontractors to furnish, without additional charge, reasonable facilities and assistance for the safe and convenient performance of these duties.
16. **ACCEPTANCE AND REJECTION**
 - a. Buyer shall accept the Services or give Seller notice of rejection within a reasonable time after the date of delivery. No payment, prior test or inspection, or passage of title, any failure or delay in performing any of the forgoing, or failure to discover any defect or other nonconformance shall relieve Seller of any obligations under this Contract or impair any rights or remedies of Buyer.
 - b. If Seller delivers non-conforming Services, Buyer may at its option and at Seller's expense (i) require Seller to promptly reperform, correct or replace the Services; (ii) correct the Services; or (iii) obtain replacement Services from another source. Return to Seller of defective or non-conforming Services and redelivery to Buyer of corrected or replaced Services shall be at Seller's expense.
 - c. Seller shall not redeliver corrected or rejected Services without disclosing the former rejection or requirement for correction. Seller shall disclose any corrective action taken. All repair, replacement and other correction and redelivery shall be completed as Buyer's Authorized Procurement Representative may reasonably direct.
17. ***WARRANTY**
 - a. Seller warrants that:
 - (i) The Services shall be performed by employees or agents of Seller who are experienced and skilled in their profession and in accordance with industry standards.
 - (ii) The Services shall be free from defects in workmanship and conform to the requirements of this Contract; and
 - (iii) The Services shall not infringe any patents, copyright, trademark, or other proprietary right of any third party or misappropriate any trade secret of any third part.
 - b. To the extent Seller's delivery of Services includes materials and goods, Seller further warrants that:
 - i. The materials or goods shall conform to all specifications and requirements under this Contract and shall be free from defects in materials;
 - ii. To the extent the materials or goods are not manufactured pursuant to detail designs and specifications furnished by Buyer, such materials or goods shall be free from design and specification defects;
 - iii. The materials or goods shall be free from liens and encumbrances;
 - iv. The materials or goods shall 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
 - v. The materials and goods shall not contain any third-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 consent of Buyer; or (b) may require distribution, copying or modification of any software free of charge.
 - c. This warranty shall begin upon Buyer's final acceptance of the Services and shall survive inspection, test and acceptance of, and payment for, the Services. This warranty shall extend for a period of one (1) year or such other period as set forth elsewhere in this Contract and Buyer shall give Seller notice after discovery of a defect or nonconformance in the Services. This warranty shall run to Buyer and its successors, assigns and customer. In the event of any defect or nonconformance Services, Buyer may, at its option and Seller's expense, either (i) require correction or replacement or reperformance of any defective or non-conforming Services, or (ii) make an equitable adjustment in the price of the Contract. Any Services corrected, replaced or reperfomed shall be subject to the requirements of this Contract to the same extent as Services initially performed.



18. *COUNTERFEIT GOODS

- a. Seller shall not furnish Counterfeit Goods to Buyer, defined as goods or separately-identifiable items or components of goods that: (i) are an authorized copy or substitute of an Original Equipment Manufacturer (collectively "OEM") item; (ii) are not traceable to an OEM sufficient to ensure authenticity in OEM design and manufacture; (iii) do not contain proper external or internal materials or components required by the OEM or are not constructed in accordance with OEM design; (iv) have been reworked, re-marked, re-labeled, repaired, refurbished, or otherwise modified from OEM design but not disclosed as such or are represented as OEM authentic or new; (v) have not passed successfully OEM required testing, verification, screening, and quality control processes. Notwithstanding the foregoing, Goods or items that contain modifications, repairs, rework, or re-marking as a result of Seller's or its subcontractor's design authority, material review procedures, quality control processes or parts management plan, and that have not been misrepresented or mismarked without legal right to do so, shall not be deemed Counterfeit Goods. Counterfeit Goods shall be deemed nonconforming to this Contract.
- b. Seller shall implement an appropriate strategy to ensure that Goods furnished to Buyer under this Contract are not Counterfeit Goods. Seller's strategy shall include, but not be limited to, the direct procurement of items from OEM or authorized suppliers, conducting approved testing or inspection to ensure the authenticity of items, and, when items are to be procured from non-authorized suppliers appropriate certificates of conformance that provide one or more of the following: (i) the OEM's original certificate of conformance for the item; (ii) sufficient records providing unbroken supply chain traceability to the OEM; (iii) test or inspection records demonstrating the item's authenticity.
- c. If Seller becomes aware or suspects that it has furnished Counterfeit Goods to Buyer under this Contract, Seller promptly, but in no case later than thirty (30) days from discovery, shall notify Buyer and replace, at Seller's expense, such Counterfeit Goods with OEM or Buyer-approved goods that conform to the requirements of this Contract. Seller shall be liable for all costs related to the replacement of Counterfeit Goods and any testing or validation necessitated by the installation of authentic Goods after Counterfeit Goods have been replaced.
- d. Seller bears responsibility for procuring authentic goods or items from its subcontractors and shall ensure that all such subcontractors comply with the requirements of this Article.

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

- 19. *RIGHTS OF BUYER'S CUSTOMERS AND REGULATORS TO PERFORM INSPECTION, SURVEILLANCE AND TESTING.** Buyer's rights to perform inspections, surveillance and tests and to review procedures, practices, processes and related documents related to quality assurance, quality control, flight safety and configuration control shall extend to the customers of Buyer that are departments, agencies or instrumentalities of the United States Government, including the United States Government Federal Aviation Administration and any successor agency or instrumentality of the United States Government. Buyer may also, at Buyer's option, by prior written notice from Buyer's Authorized Procurement Representative, extend such rights to other customers of Buyer and Buyer's customer. Seller shall cooperate with any such United States Government-directed or Buyer-directed inspection, surveillance, test or review without additional charge to Buyer. Nothing in this Contract shall be interpreted to limit United States Government access to Seller's facilities pursuant to law or regulation.

- 20. INVOICES AND PAYMENT.** As compensation for Services to be performed by Seller, Buyer shall pay Seller as set forth in this Contract. Buyer shall have no liability for any other expenses or costs incurred by Seller.

- a. Unless otherwise authorized by Buyer's Authorized Procurement Representative, Seller shall issue a separate original invoice for each delivery of Service that shall include Buyer's contract number and line item number. Seller shall forward its invoice to the address specified elsewhere in this Contract. Unless freight or other charges are itemized, Buyer may take any offered discount on the full amount of the invoice.
- b. Payment due date, including discount periods, shall be computed from the later of the scheduled delivery of Service date, the actual delivery of Services date or the date of receipt of a correct invoice.
- c. Payment shall be deemed made on the date Buyer's check is mailed or payment is otherwise tendered. Seller shall promptly repay Buyer any amounts paid in excess of amounts due Seller.
- d. Unless otherwise provided, terms of payment shall be net forty-five (45) days from the latest of the following: (1) Buyer's receipt of Seller's proper invoice; (2) schedule delivery date of the Services; or (3) actual delivery of the Service.
- e. Each payment made shall be subject to reduction to the extent of amount which are found by Buyer or Seller not to have been properly payable and shall also be subject to overpayment. Seller shall promptly notify Buyer of any such overpayment found by Seller.
- f. Buyer shall have a right to recoup or setoff, as the case may be, against payments due or at issue under this Contract or any other contract between the parties.
- g. All invoices shall be mailed to the attention of Buyer's Account Payable, at the following address:

Alliance Spacesystems, LCC
Attention: Accounts Payable
4398 Corporate Center Drive
Los Alamitos, CA 90720

- 21. TAXES.** Unless this Contract specifies otherwise, the price of this Contract includes, and Seller is liable for and shall pay, all taxes, impositions, charges and exactions imposed on or measured by this Contract except for applicable sales and use taxes that are separately stated on Seller's 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.

- 22. FINANCIAL RECORDS AND AUDIT.** Seller shall retain all financial records and documents pertaining to the Services for a period of no less than three (3) years after final payment. Such records and documents shall date back to the time this Contract was issued and shall include without limitation, catalogs, price lists, invoices, underlying data and basis for cost estimates, and inventory records. Buyer shall have the right to examine, reproduce and audit all Seller's records related to pricing, performance, and proposed costs associated with any proposed costs.



associated with any proposals (prior to or after contract award), invoices or claims. Should the Seller deny the Buyer verification or audit rights for indirect cost and direct labor rates. Those cost elements will be subject to verification and audit through the U.S. Government. In the event the U.S. Government is unwilling or unable to perform such audit, the audit shall be conducted by a mutually agreed upon third party. The report resulting from any such review or audit by the U.S. Government or mutually agreed upon third party shall be released in a timely manner to the Buyer at a level of detail consistent with Seller's invoice, claim or proposal, to the satisfaction of the Buyer. The cost, if any, of such U.S. Government or third party verification and audit shall be borne by the Seller.

23. *CONFIDENTIAL, PROPRIETARY AND TRADE SECRET INFORMATION AND MATERIALS

- a. Buyer and Seller shall each keep confidential and protect from unauthorized use and disclosure all (i) confidential, proprietary and/or trade secret information; including Buyer provided specifications and Buyer provided information pertaining to qualification, certification, manufacturing, and/or quality testing and procedures; (ii) tangible items and software containing, conveying or embodying such information; and (iii) tooling identified as being subject to this Article and obtained, directly or indirectly, from the other in connection with this Contract or other agreement referencing this Contract, including Buyer's contract with its customer, if any, (collectively referred to as "Proprietary Information and Materials"). Proprietary Information and Materials shall not include information that is, as evidenced by competent records provided by the receiving Party, lawfully in the public domain, lawfully disclosed to or known by the receiving Party without restrictions, generally known in the relevant trade or industry prior to disclosure hereunder, or developed by the receiving Party independently without use of or reference to the disclosing Party's Proprietary Information and Material.
- b. Buyer and Seller shall each use Proprietary Information and Materials of the other only in performance of and for purpose of this Contract, other contracts between the Parties, and Buyer's contract with its customer, if any. However, despite any other obligations or restrictions imposed by this Article or any prior agreement, Buyer shall have the right to use and reproduce Seller's Proprietary Information and Materials internal to Buyer, regardless of when disclosed. Buyer shall further have the right to, use, disclose, reproduce and make derivative works of Seller's Proprietary Information and Materials (i) to fulfill Buyer's obligations under, and (ii) for the purposes of testing, certification, use, sale or support of any Goods delivered under this Contract or other contracts with Seller and Buyer's contract with its customer, if any. Any such use, disclosure, reproduction or derivative work by Buyer shall, whenever appropriate, include a restrictive legend suitable for the particular circumstances. The restrictions on disclosure or use of Proprietary Information and Materials shall apply to all materials derived by the receiving Party or others on its behalf from the disclosing Party's Proprietary Information and Materials. In addition to disclosure permitted hereunder, a receiving Party may disclose received Proprietary Information and Materials in response to a subpoena or court order duly issued in a judicial or legislative process, provide that the receiving Party has used reasonable effort to give the disclosing Party advance written notice of any such disclosure requirement and to reasonably cooperate with the disclosing Party in protecting against any such disclosure and/or obtaining a protective order narrowing its scope.
- c. Upon Buyer's request at any time, and in any event upon the completion, termination or cancellation of this Contract, Seller shall return to Buyer all of Buyer's Proprietary Information and Materials and all materials derived therefrom, unless specifically directed otherwise in writing by Buyer. Seller shall not, without the prior written authorization of Buyer, sell or otherwise dispose of (as scrap or otherwise) any Goods, parts or other materials containing, conveying, embodying or made in accordance with or by reference to any Proprietary Information and Materials of Buyer. Prior to disposing of such Goods, parts or other materials as scrap, Seller shall render them unusable. Buyer shall have the right to audit Seller's compliance with this Article.
- d. Seller may disclose Proprietary Information and Materials of Buyer to its subcontractors as required for the performance of this Contract, provided that each such subcontractor first agrees in writing to the same obligations imposed upon Seller under this article. Seller shall be liable to Buyer for any breach of such obligation by such subcontractor.
- e. The provisions of this Article are effective notwithstanding the application of any restrictive legends or notices to Proprietary Information and Materials. The provisions of this article shall survive the performance, completion, termination or cancellation of this Contract.

24. PATENT, TRADEMARK AND COPYRIGHT INDEMNITY. Seller will indemnify, defend and hold harmless Buyer and its customer from 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 attorneys' fees and/or costs), liabilities, damages, costs and attorneys' fees related to the actual or alleged infringement of any United States or foreign intellectual property right (including, but not limited to, any right in a patent, copyright, industrial design or semiconductor mask work, or based on misappropriation or wrongful use of information or documents) and arising out of the Seller's provision of the Services and/or sales or use of the Services by either Buyer or its customer. Buyer and/or its customer will duly notify Seller of any such claim, suit or action; and Seller will, at its own expense, fully defend such claim, suit or action on behalf of the indemnitees. Seller will have no obligation under this Article 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 Services 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 Services solely for the purpose for which they were designed or sold by Seller. For purposes of this Article only, the term Buyer will include Alliance Spacesystems, LLC and its Parent Company Spacesystems Holdings, LLC and all officers, agents and employees of Alliance and its Parent Company.

25. INTELLECTUAL PROPERTY

- a. Seller assigns, conveys and transfers to Buyer without further consideration each and every invention, discovery, improvement, mask work, and patent related to all works which are the subject matter of this Contract, conceived developed, or generated in performance of this Contract, and upon request shall execute any required papers and furnish all reasonable assistance to the Buyer to vest all rights, title and interest in such inventions, discoveries, improvements, mask works, and patents in Buyer.
- b. All data, copyrights, reports, and works of authorship developed in performance of this Contract shall be the sole property of the Buyer, shall be used Seller solely in work for the Buyer under this Contract. To the extent that any of the works which are the subject matter of this Contract may not, by operation of law, be works made for hire, Seller hereby assigns to Buyer the ownership of copyright in such works and the Buyer shall have the right to obtain and hold its name copyright, registrations, and similar protection which may be available in all works which are the subject matter of this Contract. Seller shall give Buyer or its designee all assistance reasonable required to perfect such rights.
- c. To the extent that any pre-existing inventions, technology, designs, works of authorship, mask works, technical information, computer software and other information or materials are used, included, or contained in the works which are the subject matter of this Contract or



deliverable items and not owned by Buyer pursuant to this or previous agreement with Seller, Seller grants to Buyer an irrevocable, nonexclusive, world-wide, royalty-free license to: (i) make, have made, sell, offer for sale, use, execute, reproduce, display, perform, distribute (internally or externally) copies of, and prepare derivative works based upon, such pre-existing inventions, technology, design, works of authorship, mask works, technical information, computer software, and other information or material and derivative works thereof; and (ii) authorize others to do any, some of the foregoing.

- d. Items delivered under this Contract such as operation and maintenance manuals shall be delivered with the right to copy for internal use and/or copy and deliver with the right to use to Buyer's customers.
- e. The tangible medium storing all reports, memoranda or other materials in written form including machine readable form, prepared by Seller and furnished to Buyer pursuant to Buyer's customer.
- f. **Seller warrants that all works which are the subject matter of this Contract performed or delivered under this Contract will not infringe or otherwise violate the intellectual property rights of any third party in the United States or any foreign country. Seller shall defend, indemnify, and hold harmless the Buyer and its customers from and against any claims, damages, losses, costs, and expenses, including reasonable attorneys' fees, arising out of any action by a third party that is based upon a claim that on works which are the subject matter of this Contract performed or delivered under this Contract infringe or otherwise violates the intellectual property rights of any person or entity.**

26. ASSIGNMENT AND CHANGE OF CONTROL.

Any assignment of Seller's Contract rights or delegation of Seller duties shall be void, unless prior written consent is given by Buyer's Procurement Representative. Nevertheless Seller may assign rights to be paid amounts due, or to become due, to a financing institution if Buyer Procurement Representative is promptly furnished with a signed copy of such assignment reasonably in advance of the due date for payment of any such amount. Amounts assigned shall be subject to setoff or recoupment for any present or future claim of Buyer against Seller. Buyer shall have the right to make settlement and/or adjustment in price without notice to any assignee financing institution.

- 27. *PUBLICITY.** Without Buyer's prior written approval, Seller shall not, and shall require that its subcontractors at any tier shall not, release any publicity, advertisement, news release or denial or confirmation of same regarding this Contract or the Services or program to which it pertains. Seller shall be responsible to Buyer for any breach of such obligation by any subcontractor.

- 28. PROPERTY MANAGEMENT.** Seller shall clearly mark, maintain an inventory of, and keep segregated or identifiable all of Buyer's property and all property to which Buyer acquires an interest by virtue of this Contract. Seller assumes all risk of loss, destruction or damage of such property while in Seller's possession, custody or control, including any transfer to Seller's subcontractors. Upon request, Seller shall provide Buyer with adequate proof of insurance against such risk of loss. Seller shall not use such property other than in performance of this Contract without Buyer's prior written consent. Seller shall notify Buyer's Authorized Procurement Representative if Buyer's property is lost, damaged or destroyed. As directed by Buyer, upon completion, termination or cancellation of this Contract, Seller shall deliver such property, to the extent not incorporated in delivered materials, to Buyer in good condition subject to ordinary wear and tear and normal manufacturing losses. Nothing in this article limits Seller's use, in its direct contracts with the Government, of property in which the Government has an interest.

Should this Service Contract be under U.S. Government Prime Contract and include the Sellers use or any of its subcontractor's use of Government-Owned property the following provision is herewith incorporated into this Contract:

Seller shall manage such property in accordance with FAR 52.245-1 (APR 2012), unless some other date version or equivalent FAR clause is provided.

- 29. *ACCESS TO PLANTS AND PROPERTIES.** Where Seller is either entering or performing work at premises owned or controlled by Buyer or Buyer's customer or obtaining access electronically to Buyer systems or information, Seller shall comply with: (i) all the rules and regulations established by Buyer or Buyer's customer; and (ii) Buyer's request for information and documentation to validate citizenship or immigration status of Seller's personnel and subcontract personnel. Seller shall include the substance of this clause, including this flow down requirement, in all subcontracts awarded by Seller for work under this contract.

30. *TRADE CONTROL COMPLIANCE

- a. The Parties shall comply with all export and import laws, regulations, decrees, orders, and policies of the United States Government including but not limited to the Export Administration Regulations ("EAR") of the U.S. Department of Commerce, the International Traffic in Arm Regulations ("ITAR") of the U.S. Department of State, the U.S. Customs & Border Protection Regulations, the Harmonizing Traffic Schedule, and the ant boycott and embargo regulations and guidelines as set forth in the EAR and in the U.S. Department of the Treasury, Office of Foreign Assets Control (collectively "Trade Control Laws").
- b. Seller shall control the disclosure of, and access to, controlled items or technical data provided by Buyer related to performance of this Contract in compliance with all applicable Trade Control Laws. Seller shall not transfer (to include transfer to foreign persons employed by or associated with, or under contract with Seller, or Seller's sub-tier suppliers or Seller's non-U.S. subsidiaries) any export controlled item, data or services, without providing advance written notice to Buyer and obtaining the required export and /or import authority.
- c. Subject to applicable Trade Control Laws, Seller shall provide Buyer with export control classification of any commodity or technology including software.
- d. Seller represents that it maintains an effective export/import control compliance program in accordance with all applicable Trade Control Laws. A copy of process control documents and other documents reasonably requested by Buyer related to Seller's compliance with applicable Trade Control Laws shall be made available to Buyer upon request.
- e. Seller shall promptly notify Buyer if Seller is, or becomes, listed in any Denied Parties List or if Seller's export privileges are otherwise denied, suspended or revoked in whole or in part by any Government entity.
- f. Seller shall timely inform Buyer of any actual or alleged violations of any applicable Trade Control Laws, including any suits, actions, proceedings, notices, citations, inquires, or other communications from any government agency concerning any actual or alleged violations, in Seller's performance under this Contract and shall comply with reasonable requests from Buyer for information regarding any such violations.



- g. Seller shall incorporate into any contracts with its sub-tier supplier's obligations no less restrictive than those set forth in this Article requiring compliance with all applicable Trade Control Laws.
31. **CUSTOMER CLAUSES.** Clauses applicable to this Contract from Buyer's contract with its customer, if any, are incorporated elsewhere in this Contract, either by attachment to this document or by some other means of reference.
- Should this Service Contract be under U.S. Government Prime Contract the following provision is herewith incorporated into this Contract: Government clauses applicable to this Contract from Buyer's contract with its customer, if any, are incorporated elsewhere in this Contract either by attachment or by some other means of reference.
32. **PRIORITY RATING.** If so identified, this Contract is a "rated order" certified for national defense, emergency preparedness, and energy program use, and Seller shall follow all the requirements of the Defense Priority and Allocation System Regulations (15 C.F.R. Part 700).
33. **GOVERNING LAW.** This Contract and any disputes arising out of, or relating to this Contract shall be governed by and construed in accordance with the laws of the state of California without regard to the conflict of law rules thereof.
34. **DISPUTES.** Any dispute that arises under or is related to this Contract that cannot be settled by mutual agreement of the Parties may be decided by a court of competent jurisdiction. Pending final resolution of any dispute, Seller shall proceed with performance of this Contract according to Buyer's instructions so long as Buyer continues to pay amounts not in dispute.
35. **NO WAIVER; RIGHTS AND REMEDIES**
- a. Any failures, delays or forbearances by Buyer in insisting upon or enforcing any provisions of this Contract, or in exercising any rights or remedies under this Contract, shall not be construed as a waiver or relinquishment of any such provisions, rights or remedies; rather, the same shall remain in full force and effect.
 - b. Except as expressly and affirmatively disclaimed in writing in this Contract, the rights or remedies set forth herein are cumulative and in addition to any other rights or remedies that the Parties may have at law or in equity. If any provision of this Contract is or becomes void or unenforceable by law, the remainder shall be valid and enforceable. Seller acknowledges and agrees that money damages would not be an adequate remedy for any actual, anticipatory or threatened breach of this Contract by Seller with respect to its delivery of the Services to Buyer.
 - c. Seller agrees that Buyer approvals of Seller's technical and quality specifications, drawings plans, procedures, reports, and other submissions shall not relieve Seller from its obligations to perform all requirements of this Contract.
 - d. Buyer may at any time deduct or set-off Seller's claims for money due or to become due from Buyer against any claims that Buyer has or may have arising out of this Contract or other transactions between Buyer and Seller.
36. **ELECTRONIC CONTRACTING.** The parties agree that if this Contract is transmitted electronically neither party shall contest the validity of this Contract, or any acknowledgement thereof, on the basis that this Contract or acknowledgement contains an electronic signature.
37. ***TRADE CONTROL COMPLIANCE**
- a. The Parties shall comply with all export and import laws, regulations, decrees, orders, and policies of the United States Government including but not limited to the Export Administration Regulations ("EAR") of the U.S. Department of Commerce, the International Traffic in Arm Regulations ("ITAR") of the U.S. Department of State, the U.S. Customs & Border Protection Regulations, the Harmonizing Traffic Schedule, and the ant boycott and embargo regulations and guidelines as set forth in the EAR and in the U.S. Department of the Treasury, Office of Foreign Assets Control (collectively "Trade Control Laws").
 - b. Seller shall control the disclosure of, and access to, controlled items or technical data provided by Buyer related to performance of this Contract in compliance with all applicable Trade Control Laws. Seller shall not transfer (to include transfer to foreign persons employed by or associated with, or under contract with Seller, or Seller's sub-tier suppliers or Seller's non-U.S. subsidiaries) any export controlled item, data or services, without providing advance written notice to Buyer and obtaining the required export and /or import authority.
 - c. Subject to applicable Trade Control Laws, Seller shall provide Buyer with export control classification of any commodity or technology including software.
 - d. Seller represents that it maintains an effective export/import control compliance program in accordance with all applicable Trade Control Laws. A copy of process control documents and other documents reasonably requested by Buyer related to Seller's compliance with applicable Trade Control Laws shall be made available to Buyer upon request.
 - e. Seller shall promptly notify Buyer if Seller is, or becomes, listed in any Denied Parties List or if Seller's export privileges are otherwise denied, suspended or revoked in whole or in part by any Government entity.
 - f. Seller shall timely inform Buyer of any actual or alleged violations of any applicable Trade Control Laws, including any suits, actions, proceedings, notices, citations, inquires, or other communications from any government agency concerning any actual or alleged violations, in Seller's performance under this Contract and shall comply with reasonable requests from Buyer for information regarding any such violations.
 - g. Seller shall incorporate into any contracts with its sub-tier supplier's obligations no less restrictive than those set forth in this Article requiring compliance with all applicable Trade Control Laws.
38. **INDEMNITY AGAINST CLAIMS**
- a. Seller shall keep its work and all items supplied by it hereunder free and clear of all liens and encumbrances, including mechanic's liens, in any way arising from performance of this Contract by Seller or any of its suppliers or subcontractors.
 - b. Seller shall, without limitation, indemnify and save Buyer and its customer(s) and their respective officers, directors, employees and agents harmless from and against (i) all claims (including claims under Workers' Compensation or Occupational Disease laws) and resulting costs, expenses and liability which arise from personal injury, death, or property loss or damage attributed to, or caused by, the Goods, services or other items supplied by Seller pursuant to this Contract, including, without limitation, latent defects in such Goods,



services or other items, except to the extent that such injury, death, loss or damage is caused solely and directly by the negligence of Buyer; and (ii) all claims (including resulting costs, expenses and liability) by the employees of Seller or any of its subcontractors.

39. **INSURANCE.** Seller shall maintain in full force and effect workers' compensation insurance, comprehensive general liability insurance, property damage insurance, and such other insurance as may be appropriate for the work performed under this Contract.
40. **SEVERABILITY.** Each clause/article, paragraph and subparagraph of this Contract is severable, and if one or more of them are declared invalid, the remaining provisions of this Contract will remain in full force and effect.
41. **ENTIRE AGREEMENT.** This Contract contains the entire agreement of the Parties and supersedes any and all prior agreements, understandings and communications between Buyer and Seller related to the subject matter of this Contract. No amendment or modification of this Contract shall bind either Party unless it is in writing and is signed by Buyer's Authorized Procurement Representative and an authorized representative of Seller.