

# REMARK C64

REVISION OCTOBER 1, 2018  
TERMS AND CONDITIONS OF PURCHASE

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## **ARTICLE 1 - DEFINITIONS.** As used throughout this Agreement:

- (a) "Affiliate" means any entity controlling, controlled by, or under common control of a party to this Agreement.
- (b) "Agreement" means these terms and conditions ("Supply Agreement"), purchase orders or purchase agreements issued to Seller referencing this Supply Agreement ("Order(s)"), and any pricing agreements, specifications, statements of work, or other papers referenced in such Orders.
- (c) "Direct Procurement" means the purchase of any Good or Service that is incorporated into or performed on an aircraft or part thereof, or is otherwise provided to Purchaser's customer.
- (d) "Goods" means all products contracted for and supplied by Seller under this Agreement, including all components, raw materials, chemicals, finished goods, intermediate assemblies and associated packaging thereof.
- (e) "Indirect Procurement" means the purchase of any Good or Service that is *not* incorporated into or performed on an aircraft or part thereof, and is not otherwise provided to Purchaser's customer.
- (f) "Intellectual Property" means data, notes, reports, specifications, designs, drawings, computer software including source code and object code, methods, processes, techniques, know-how, ideas, inventions, and discoveries.
- (g) "Intellectual Property Rights" means patents, patent applications, trade secrets, copyrights, trademarks, maskworks, database rights, industrial property rights, and other similar rights.

- (h) "Prime Contract" means a contract defined by a government contract number printed on Orders issued pursuant to this Agreement.
- (i) "Proprietary Information" means with respect to either party, all information and data, identified either orally or in writing as "Proprietary", "Confidential", or a similar designation, whether technical or non-technical, in any medium, furnished or made available directly or indirectly by one party to the other party.
- (j) "Purchaser" means the party contracting with Seller for Goods and/or Services and identified as the purchasing entity on the Order.
- (k) "Seller" means the party contracting with Purchaser to perform the work hereunder.
- (l) "Services" means those services contracted for and supplied by Seller under this Agreement and as may further be described in Orders, statements of work, specifications, or other papers included in this Agreement.

**ARTICLE 2 - TERMS AND CONDITIONS.** Either Seller's written acknowledgement or Seller's full or partial performance, whichever occurs first, will constitute acceptance of the Orders or any amendment thereto. Any acceptance of this Supply Agreement by Seller is limited to acceptance of the express terms of the offer set forth in this Supply Agreement. Any proposal for additional or different terms and conditions (whether included in Seller's quote, acknowledgement, or any other document) is rejected unless accepted in writing by the Purchaser.

**ARTICLE 3 - PAYMENT TERMS.**

- (a) Standard Terms. Purchaser shall initiate payment for approved invoices on the 120<sup>th</sup> day following the Payment Start Date (the "Net Date"). Seller agrees to accept the invoice amount discounted as follows: (a) for Direct Procurements, discounted by two and one-half percent (2.5%) in exchange for Purchaser's initiation of payment on the forty-fifth (45<sup>th</sup>) day following the Payment Start Date (2.5% 45 net 120); and (b) for Indirect Procurements, discounted by three and one-half percent (3.5%) in exchange for Purchaser's initiation of payment on the fifteenth (15<sup>th</sup>) day following the Payment Start Date (3.5% 15 net 120). The Payment Start Date shall be the later of (a) the date performance is requested by Purchaser (e.g., in a part schedules report (Goods) or statement of work (Services)), (b) the material received date, as identified in Purchaser's computer system, or (c) the invoice approval date (which shall not be earlier than the date of complete performance). If the early payment discount date or the Net Date, as applicable, falls on a weekend or a holiday, Purchaser will initiate payment to Seller on the next business day. If Purchaser initiates payment before or after the early payment discount day, the invoice will be discounted on a pro rata basis to reflect each day that payment is accelerated.

When Purchaser takes an early payment discount to settle an invoice, Seller acknowledges and confirms that (1) Purchaser has assigned its right, title and interest in the related Goods and/or Services to GE Capital US Holdings, Inc., or another Affiliate of Purchaser or a successor entity (collectively, "GEC") and title to the Goods and/or Services shall pass directly to GEC in accordance with the terms of this Agreement (2) once title to the such Goods and/or Services has passed to GEC, GEC will immediately and directly transfer such title to Purchaser and (3) all of the Seller's obligations under this Agreement, including Seller's representations and warranties, shall extend to and benefit Purchaser as if title passed directly to Purchaser.

- (b) Batched Payments. Purchaser may choose to group, on a quarterly basis, all approved invoices that are not paid on their applicable early payment discount dates and initiate payment on the following payment dates (each, a "Batched Payment Date"): (i) invoices that have Net Dates ranging from February 16<sup>th</sup> to May 15<sup>th</sup> will be grouped and payment will be initiated on April 3<sup>rd</sup>, (ii) invoices that have Net Dates ranging from May 16<sup>th</sup> to August 15<sup>th</sup> will be grouped and payment will be initiated on July 3<sup>rd</sup>, (iii) invoices that have Net Dates ranging from August 16<sup>th</sup> to November 15<sup>th</sup> will be grouped and payment will be initiated on October 3<sup>rd</sup>, and (iv) invoices that have Net Dates ranging from November 16<sup>th</sup> to February 15<sup>th</sup> will be grouped and payment will be initiated on January 3<sup>rd</sup>, with the result that some approved invoices will be paid earlier than their Net Dates and some approved invoices will be paid later than their Net Dates. If the Batched Payment Date falls on a weekend or holiday, payment of the approved invoice will be initiated on the next day that Purchaser and the banks used by Purchaser are open for business. As an example of the foregoing, please see the chart below:

Invoice Due Date	Quarterly Batched Payment Date (or next business day if such date falls on a weekend or holiday)
February 16 - May 15	April 3
May 16 - August 15	July 3

August 16 - November 15	October 3
November 16 - February 15	January 3

- (c) Invoicing. Settlement and invoicing must be paperless and in a format acceptable to Purchaser. Options acceptable to Purchaser may include Web Invoicing, Evaluated Receipt Settlement and Electronic Data Interchange. Seller must provide banking information to establish electronic funds transfer for U.S. suppliers and wire transfer for non-U.S. suppliers.

Seller shall invoice Purchaser not later than ninety (90) days after delivery of the Goods and/or completion of the Services ("Due Date"), unless otherwise specified in the applicable Purchase Order. Purchaser shall deem any invoice invalid that is received more than ninety (90) days after the Due Date, unless specific terms to the contrary are acknowledged by Purchaser in writing.

- (d) Taxes. All sums payable under this Agreement shall be exclusive of VAT or other sales tax, which shall (if applicable) be payable by the Purchaser.
- (e) Set-off. Purchaser shall be entitled to set off any amount owing from Seller to Purchaser or to any of Purchaser's Affiliated companies against any amount payable under this Agreement.

**ARTICLE 4 - TRANSPORTATION AND DELIVERY.**

- (a) Unless otherwise stipulated on the face of the Order, the applicable shipping and delivery Incoterms will be FCA (named place) Incoterms 2010. In any event, title to Goods shall pass to Purchaser upon delivery. Purchaser insures all Goods for which it accepts risk of loss while such Goods are in transit. Therefore, Seller shall not declare any insurance value on such Goods shipped via Purchaser's carrier.
- (b) Seller shall release rail or truck shipments at the lowest released valuation permitted in the governing tariff or classification. Purchaser will pay no charges for unauthorized transportation. Any unauthorized shipment, which results in excess transportation charges, must be fully prepaid by the Seller. If Seller does not comply with the stated delivery schedule, Purchaser shall require delivery by the fastest way. The charges resulting from this mode of transportation must be fully prepaid and the Seller must absorb the full cost of the shipment.
- (c) Seller's non-U.S. locations involved with the manufacture, warehousing, shipment, or delivery to U.S. agree to (1) review and use commercial reasonable efforts to comply with "GE Customs-Trade Partnership Against Terrorism (C-TPAT) Supply Chain Security Guidelines for International Suppliers/Shippers" located at [https://www.geaviation.com/sites/default/files/C-TPAT\\_guidelines\\_intl\\_suppliers\\_shippers.pdf](https://www.geaviation.com/sites/default/files/C-TPAT_guidelines_intl_suppliers_shippers.pdf) (2) develop and implement security procedures ("Security Plan") consistent with appropriate C-TPAT, AEO, or similar program criteria, and (3) provide, upon Purchaser's request, (i) a copy of the Security Plan; (ii) the current contact information of a supply chain security company point of contact; (iii) the certification number if Seller is certified by a supply chain security program (e.g., C-TPAT Status Verification Interface or SVI); (iv) any changes to its certification status; and (v) the completion of a supply chain security questionnaire (if not certified by a supply chain security program).
- (d) Seller agrees to contact Purchaser upon knowledge of any known or suspected security breach affecting the Goods (contraband, smuggling, threatening or suspicious activities detected, tampered container, trailer, lock or seal including a seal broken during a customs inspection).
- (e) Upon Purchaser's request, all shipment containers for Goods shall be labeled in accordance with Purchaser's Bar Code Shipping Label Instructions. Seller shall designate an individual responsible for compliance with said instructions and shall act as the Seller's contact for issues concerning bar code labels. If Seller uses Purchaser's supplier collaboration portal, Seller shall not print bar code shipping labels more than twenty-four hours prior to transit of Goods to Purchaser.
- (f) Seller agrees to use Purchaser's defined supplier collaboration portal, one of which is ACES, and agrees to meet the requirements set forth in that system. For the avoidance of doubt, lead times for all Goods and Services shall be those established at the time an Order is initially placed, whether by (i) such lead time being input into Purchaser's supplier collaboration portal and having such lead time approved by Purchaser or (ii) otherwise in an agreed writing. Any changes to the established lead time, and the date that such change will take effect, must be mutually agreed. Should Purchaser request Seller to deliver Goods in a time period less than the established lead time, Seller shall use commercially reasonable efforts to meet such delivery requirements and the remedies set forth in Article 4(g)(ii) and (iii) below shall not apply.
- (g) Delivery Delays.

- i) For all deliveries made pursuant to this Agreement, the Parties agree and acknowledge that time is of the essence. In the event Seller for any reason anticipates any difficulty in complying with the required delivery date or any of the other requirements of this Agreement, Seller shall promptly notify Purchaser in writing, and upon request, provide Purchaser adequate assurance of performance.
- ii) Any delay that is attributable to the Seller and that Seller does not cure within one (1) week shall result in Purchaser's right to assess the following as liquidated damages: (A) 2% for deliveries that are delinquent to the material requirement date ("Delinquency") between 8-14 days; 4% for Delinquencies between 15-21 days; 6% for Delinquencies between 22-30 days; and 10% for Delinquencies of more than 30 days, with such percentages representing the percent of the price of each Good or Service that is delayed; and (B) any amount of liquidated damages Purchaser owes to its customer as a result of Seller's failure to timely deliver the Goods/Services ((A) and (B) together, "Delivery Damages"). The Parties agree that such Delivery Damages, if assessed, are the exclusive monetary remedy for the delay period; are a reasonable pre-estimate of the damages Purchaser will suffer because of delay based on circumstances existing at the time the Order was established; and are to be assessed as liquidated damages for such delay and not as a penalty.
- iii) Further, if Seller is more than thirty (30) days delinquent in delivery, then GE may (1) reduce the market share percentages (if applicable) for the specific delayed Goods until such time as Seller is no longer delinquent and/or (2) consider the delay a material default of this Agreement exclusive of delays resulting from force majeure and delays directly caused by the Purchaser, giving rise to termination rights as set forth in Article 5 of this Agreement. Purchaser's remedies are cumulative and Purchaser shall be entitled to pursue any and all remedies available at law or equity.
- iv) For Suppliers that have earned a delivery rating of "Role Model" in the Supplier Expectations and Performance Management system ("SEPM") at the end of a particular month, Purchaser shall waive the Delivery Damages for such month. For Suppliers that have earned a SEPM rating of "Excellent" at the end of a particular month, the Delivery Damages shall be reduced by 50% for such month.

#### **ARTICLE 5 - TERMINATION.**

- (a) **Delay and Default.** In the event Seller for any reason anticipates any difficulty in complying with the required delivery date or any of the other requirements of this Agreement, Seller shall promptly notify Purchaser in writing, and upon request, provide Purchaser adequate assurance of performance. In the event of a delivery delay, non-delivery or any other default by Seller in meeting its obligations under this Agreement, Purchaser may terminate all or any part of this Agreement without further compensation to Seller, and Purchaser's rights will be (i) for Goods, as specified in the New York Uniform Commercial Code (or if Seller is located outside the U.S., Article 45 of the United Nations Convention on Contracts for the International Sale of Goods); (ii) for Services, Purchaser may procure, upon such terms and from any source or service provider as it shall deem appropriate, supplies or services similar to those terminated. In each case, Seller shall continue performance of such Agreement to the extent not terminated and shall be liable to Purchaser for any excess costs for Purchaser's procurement of such similar supplies or services. If Purchaser has made any progress payments under this Agreement, Seller shall refund to Purchaser any such payments immediately upon termination.
- (b) **Termination for Convenience.** Purchaser may terminate all or any part of this Agreement for convenience at any time after notice specifying the extent of termination and the effective date. After receipt of notice of termination, unless otherwise directed by Purchaser, Seller shall immediately: (1) stop work as directed in the notice; (2) place no further subcontracts or orders for materials, services, or facilities, except as necessary to complete the continued portion of the Agreement; and (3) terminate all subcontracts to the extent they relate to work terminated. Seller shall submit a final termination settlement to Purchaser in the form prescribed by Purchaser within ninety (90) days from the effective date of the termination. In no event shall Purchaser be liable for lost or anticipated profits, or unabsorbed indirect costs or overhead, or for any sum in excess of the total Agreement price. In the event that Purchaser wrongfully terminates this Agreement under paragraph (a), in whole or in part, such termination becomes a termination for convenience under this paragraph (b).

#### **ARTICLE 6 - DISPUTE RESOLUTION.**

- (a) **Arbitration.** If a dispute arises under or relating to this Agreement in any way, the parties will endeavor to resolve the dispute amicably, including by designating senior managers who will meet and use commercially reasonable efforts to resolve any such dispute. If the parties' senior managers do not resolve the dispute within sixty (60) days of first written request, either party may request that the dispute be settled and finally determined by binding arbitration. The arbitration will be conducted in accordance with the then-current Commercial Arbitration Rules of the American Arbitration Association by one or more arbitrators appointed in

accordance with the applicable rules. The seat of the arbitration shall be New York, New York, and any hearings shall take place at a mutually agreed location or as the arbitrator(s) order. The arbitrator(s) will have no authority to award punitive damages, attorney's fees and related costs or any other damages not measured by the prevailing party's actual damages, and may not, in any event, make any ruling, finding or award that does not conform to the terms and conditions of the Agreement and applicable law. The award of the arbitrator(s) will be final, binding and not appealable to the greatest extent the law permits, and judgment may be entered thereon in any court of competent jurisdiction. All statements made or materials produced in connection with this dispute resolution process and arbitration are confidential and will not be disclosed to any third party except as required by law or subpoena. Except as specified in paragraph (c) below, the parties intend that the dispute resolution process set forth in this Article will be their exclusive remedy for any dispute arising under or relating to this Agreement or its subject matter. Any claim against Purchaser shall be barred unless Seller has requested that it be resolved by arbitration in accordance with this Article within one year of the dispute, which shall be the effective date of termination if the dispute is related to termination.

- (b) If Seller is located outside of the United States, the terms set forth in paragraph (a) above apply, except the seat of the arbitration shall be London, England, and disputes shall be conducted in accordance with the rules of the International Chamber of Commerce.
- (c) Exception. Either party may at any time, without inconsistency with paragraph (a) above, seek from a court of competent jurisdiction any equitable, interim, or provisional relief to avoid irreparable harm or injury. Paragraph (a) above will not apply to and will not bar litigation regarding claims related to a party's Proprietary Information or Intellectual Property, nor will paragraph (a) above be construed to modify or displace the ability of the parties to effectuate any termination contemplated by this Agreement.

#### **ARTICLE 7 - PURCHASER'S PROPERTY.**

- (a) Property includes equipment, materials, bailed materials, samples, parts, tooling, tooling drawings, and software ("Property"). Purchaser's Property includes Property furnished to Seller by Purchaser or on behalf of Purchaser or paid for by Purchaser ("Purchaser's Property"). Purchaser's Property is the property of Purchaser.
- (b) Seller may use Purchaser's Property for the sole purpose of performing its obligations under this Agreement. Nothing in this Article or elsewhere in this Agreement shall be interpreted as being an implied license or a license by estoppel to Intellectual Property Rights in Purchaser's Property.
- (c) Seller shall: plainly mark or otherwise adequately identify Purchaser's Property as being the property of Purchaser, where practical; safely store Purchaser's Property apart from other Property; hold Purchaser's Property at Seller's risk and insured for replacement cost with loss payable to Purchaser while in Seller's custody or control; maintain Purchaser's Property; and upon Purchaser's written request, remove and deliver Purchaser's Property to Purchaser in the same condition as originally received by Seller, except for reasonable wear and tear.
- (d) Seller shall not analyze, have analyzed, or cause to be analyzed Purchaser's Property to determine its chemical composition, physical properties, or for reverse engineering.
- (e) Seller may not use, disclose to others or reproduce Purchaser's Property for any other purpose, including, but not limited to, (1) the design, manufacture, or repair of parts, or to obtain FAA or any other governmental approval to do so; or (2) to provide any part by sale or otherwise, to any person or entity other than Purchaser.
- (f) If Seller, without Purchaser's prior written approval, designs or manufactures for sale to any person or entity other than Purchaser or Purchaser's Affiliate any hardware that is substantially similar to or can replace or repair any Purchaser designed product or system or any part for a GE, CFM International, or other engine program in which Purchaser participates, or obtains FAA or other governmental approval for such hardware or repair, Seller shall be required to establish by clear and convincing evidence in any adjudication involving Purchaser's Property that neither Seller nor any of its employees, sub-contractors or agents used, directly or indirectly any of Purchaser's Property in such design or manufacture or in obtaining FAA or other governmental approval.
- (g) Government Contracts. If Property under this Agreement is furnished or paid for under a government subcontract (as defined in Appendix 1, below) that includes ownership of Property by the government, the government shall retain ownership of such Property. Seller hereby grants to Purchaser an irrevocable, fully paid up, perpetual license to use such Property.

## **ARTICLE 8 - INTELLECTUAL PROPERTY.**

### **(a) Background Intellectual Property**

- i) Intellectual Property developed or acquired by either party before or outside the scope of this Agreement is considered Background Intellectual Property ("Background Intellectual Property").
- ii) Nothing in this Agreement shall entitle a party to ownership rights in any Background Intellectual Property of the other party.
- iii) Seller grants to Purchaser a non-exclusive, perpetual, irrevocable, fully paid-up, worldwide license to use, copy, and make derivative works of Seller's Background Intellectual Property and to disclose Seller's Background Intellectual Property to Purchaser's customers, partners, Affiliates, and contractors in connection with the sale, test, qualification, adaptation, modification, servicing, or repair of Goods and/or Services, including where such Goods and/or Services are incorporated into a higher tier assembly. The license granted herein shall supersede any restrictions stated in any Proprietary Information Agreement and shall take precedence over any restrictive or proprietary markings contained on the face of any Goods and/or Services documentation and/or data deliverables pursuant to an Order. To the extent Purchaser discloses Seller Proprietary Information under this paragraph, such disclosure will be subject to the confidentiality terms consistent with those set forth in Article 9(c).

### **(b) Foreground Intellectual Property**

- i) Intellectual Property developed by Seller when performing its obligations under this Agreement is considered Foreground Intellectual Property ("Foreground Intellectual Property").
- ii) Purchaser shall own all Foreground Intellectual Property along with any Intellectual Property Rights thereto. As required under the terms of an Order or at Purchaser's request, Seller shall deliver all such Foreground Intellectual Property to Purchaser.
- iii) Seller hereby assigns and agrees to assign all rights in Foreground Intellectual Property to Purchaser. In addition, Seller, will provide reasonable, timely assistance to Purchaser (at Purchaser's expense) to enable Purchaser to secure Intellectual Property Rights in Foreground Intellectual Property.
- iv) When an Order includes line items for Goods and/or Services or an adaption or improvement to existing Goods and/or Services, Intellectual Property relating to such line items shall be considered Foreground Intellectual Property unless Seller establishes by documented evidence that such Intellectual Property was developed wholly outside of the scope of this Agreement, and without use of Purchaser's funds, Purchaser's Property, and Purchaser's Background Intellectual Property.
- v) All Foreground Intellectual Property that is considered "Work Made for Hire" as defined in in Section 101 of the United States Copyright Act, 17 U.S.C. § 101, and used in 17 U.S.C. § 201 (or relevant EU legislation and the UK Copyright, Design and Patents Act 1988, c. 48, as amended), shall be deemed a "work made for hire" under this Agreement, with all right, title and interest in such Foreground Intellectual Property vesting with Purchaser.
- vi) Seller will procure from its employees and subcontractors at Seller's sole expense (including any compensation due Seller's employees), all Intellectual Property Rights in Foreground Intellectual Property. Further, Seller will secure from Seller's employees and subcontractors the execution of all patent applications, assignments, and other instruments necessary for procuring Intellectual Property Rights and vesting title in Foreground Intellectual Property for Purchaser.

- (c) **Government Contracts.** If the Goods or Services under this Agreement are being delivered pursuant to a government subcontract (as defined in Appendix 1, below) that includes retention of ownership of Foreground Intellectual Property by the Seller, provision (b) above shall not apply, and Seller shall retain ownership of such Foreground Intellectual Property ("Seller's Foreground Intellectual Property"). Seller hereby grants to Purchaser a perpetual, irrevocable, fully paid up, worldwide license to use, copy, and make derivative works of Seller's Foreground Intellectual Property, with the right to sublicense, and to disclose Seller's Foreground Intellectual Property to Purchaser's customers, partners, Affiliates, and contractors in connection with the sale, test, qualification, adaptation, modification, servicing, or repair of Goods and/or Services, including where such Goods and/or Services are incorporated into a higher tier assembly. Purchaser, Purchaser's customers, suppliers, partners, Affiliates, regulators, auditors, and inspectors shall not use Seller's Foreground Intellectual Property for the purposes of manufacturing the Goods and/or Services or procuring the Goods and/or Services from sources other than Seller, without Seller's written approval. The license granted in this Article 8(c) shall supersede use restrictions stated in any Proprietary Information Agreement,

provided that to the extent Seller's Foreground Intellectual Property is considered Seller's Proprietary Information, such Seller's Foreground Intellectual Property will be subject to the confidentiality terms of Article 9.

- (d) **Patent Markings.** If Purchaser notifies Seller that Goods ordered under this Agreement are patented, Seller agrees to mark such Goods with any patent numbers or other markings designated by Purchaser, including updates to such numbers or markings.
- (e) **Intellectual Property Representations and Warranties.** Seller represents and warrants:
  - i) It is not the proprietor of any Intellectual Property Rights that would impair or restrict the freedom of Purchaser, Purchaser's Affiliates, and their respective vendors and customers to make use of the Goods and/or Services;
  - ii) Goods and/or Services shall not infringe any Intellectual Property Rights of any third party;
  - iii) Seller will not assert any Intellectual Property Rights against Purchaser, Purchaser's Affiliates, and their respective vendors and customers based on their use of the Goods and/or Services or their use, copying, and making derivative works of Seller's Background Intellectual Property; and
  - iv) Seller will obtain the same warranties and commitment contained in this article running in favor of Purchaser, Purchaser's Affiliates, and their respective vendors and customers from each of Seller's subcontractors.

#### **ARTICLE 9 - CONFIDENTIALITY AND DATA PROTECTION.**

- (a) Each party's Proprietary Information shall remain the property of that party except as expressly provided otherwise by the other provisions of this Agreement.
- (b) All Purchaser's Property, Purchaser's Background Intellectual Property, Foreground Intellectual Property, and Orders shall be deemed Purchaser's Proprietary Information.
- (c) Seller shall not disclose Purchaser's Proprietary Information to any third party or use Purchaser's Proprietary Information for the benefit of any third party without Purchaser's consent. Seller shall protect Purchaser's Proprietary Information against unauthorized use or disclosure using at least those measures that it takes to protect its own Proprietary Information of a similar nature, but no less than reasonable care. Seller will permit access to Purchaser's Proprietary Information to only Seller's personnel who have a need to know for the purpose of performing Seller's obligations under this Agreement. In the event that Seller is required by applicable law or regulation to disclose Purchaser's Proprietary Information, Seller shall provide Purchaser with prompt notice thereof and a reasonable opportunity to comment or undertake protective measures prior to such disclosure. Seller may disclose only the information that is required by such law or regulation to be disclosed without liability under this Agreement.
- (d) Notwithstanding the restrictions in this Article, Seller may disclose Purchaser's tooling and tooling drawings to Seller's sub-contractors for the sole purpose of assisting Seller in performing its obligations under this Agreement, provided that Seller's sub-contractors agree in writing to obligations of confidentiality at least as restrictive as those set forth in this Agreement for Purchaser's benefit.
- (e) Seller shall be liable to Purchaser for any unauthorized use or disclosure by Seller's personnel or any third party to which Seller discloses Purchaser's Proprietary Information.
- (f) Seller shall comply with the "GE Privacy and Data Protection Appendix (applicable to contracts/POs post April 25, 2018)", which is incorporated into this Agreement and available at <http://www.gesupplier.com/html/GEpolicies.htm>.

#### **ARTICLE 10 - CHANGES.**

- (a) Purchaser reserves the right at any time to make changes within the general scope of this Agreement. Such changes may include: (1) drawings, designs or specifications; (2) technical clarifications; (3) artwork; (4) quantity; (5) method of shipment or packing; (6) quality; (7) place or time of delivery; or (8) amount of Purchaser's furnished property.
  - i) If any change causes a significant impact on the cost of, or the time required for, performance of any work under this Agreement, an equitable adjustment shall be made in the price or delivery schedule, or both as applicable, in writing. Any Seller claim for adjustment under this article shall be deemed waived unless asserted in writing within twenty (20) days after receipt by Seller of the notice to make the change and may only include reasonable, direct costs that will necessarily be incurred as a direct result of the change.

- ii) Seller shall not proceed to implement any change for which Seller will seek an equitable adjustment until Purchaser provides for such change in writing.
  - iii) Nothing in this section, including any disagreement with Purchaser as to the equitable adjustment to be made, shall excuse Seller from proceeding with the change provided that Purchaser pays Seller all undisputed amounts pursuant to this Agreement.
- (b) Seller shall notify Purchaser in writing in advance of any and all: (1) changes to the Goods and/or Services, their specifications and/or composition; (2) process changes; (3) plant and/or equipment/tooling changes or moves; (4) transfer of any work hereunder to another site; and/or (5) sub-supplier changes, to permit Purchaser to identify any quality, regulatory or other reporting requirements that may arise from such change, including, but not limited to, FAR, DFARs, and FAA requirements, and no such change shall occur until Purchaser has had the opportunity to conduct such audits, surveys and/or testing necessary to determine the impact of such change on the Goods and/or Services and has approved such change in writing.
- i) Seller shall be responsible for obtaining, completing and submitting proper documentation regarding any and all changes, including complying with any written change procedures issued by Purchaser.
  - ii) For Goods that require Purchaser's source approval, Seller agrees to provide a minimum advance notice of 180-days to Purchaser of any changes to significant processes, including, but not limited to physical relocation of any manufacturing or quality operations. Within fourteen (14) days of such notice, Seller will generate a Critical Process Control plan, which is subject to Purchaser's review and approval.

**ARTICLE 11 - ANTICIPATION OF DELIVERY SCHEDULE.** It is Seller's responsibility to comply with its scheduled lead times, but not to anticipate Purchaser's requirements. Any material commitments or production arrangements made by Seller in excess of the amount or in advance of the time necessary to meet schedules that are within lead time shall be at Seller's sole risk and expense. Goods shipped to Purchaser in advance of Purchaser's requirements may be returned to Seller at Seller's expense.

**ARTICLE 12 - ASSIGNMENT AND CHANGE IN OWNERSHIP.**

- (a) **Assignment.** Any assignment or attempt to assign or subcontract Seller's obligations under this Agreement without the advance written consent of Purchaser shall be null and void and shall give Purchaser the right to terminate this Agreement for default.
- (b) **Change in Ownership.** If a third party submits a solicited or unsolicited offer (whether or not binding or part of a process lead by Seller) to Seller that would result in a Change of Ownership or Control of Seller, as defined below, Seller shall give notice of such offer, including the identity of the offeror, to Purchaser as early as commercially practical following Seller's receipt of the offer. Before Seller accepts the offer or enters into definitive documentation with respect to a Change of Ownership or Control, it shall give Purchaser an opportunity, within a reasonable time, to advise Seller of its impact on performance of this Agreement. If the Change in Ownership or Control occurs, Purchaser has the right at its discretion to terminate this Agreement. In the event of such termination, Seller agrees to render full cooperation to Purchaser in order to minimize disruption to the Purchaser's program. Pending termination or in lieu of termination, Purchaser may require Seller to provide adequate assurance of performance, including, but not limited to the institution of special controls regarding the protection of Purchaser's Property, Purchaser's Background and Foreground Intellectual Property, and Proprietary Information.

For purposes of this sub-paragraph (b), the terms "Change in Ownership or Control" shall mean any of the following in each case, either directly or indirectly: (1) the sale of equity shares controlling 20% or more of the voting rights in Seller or Seller's ultimate parent, (2) the sale, lease, transfer or other disposition of substantially all of the assets of Seller or Seller's ultimate parent, (3) a merger, reorganization, consolidation, share exchange, recapitalization, business combination, liquidation or dissolution or similar transaction involving Seller or Seller's ultimate parent, (4) a tender offer or exchange offer for any of the outstanding shares of capital stock of Seller or Seller's ultimate parent, (5) a sale by Seller of the assets relating to the product Seller produces or will produce for Purchaser, or (6) any public disclosure of a proposal or plan or intention to do any of the foregoing.

**ARTICLE 13 - QUALITY ASSURANCE, INSPECTION AND TEST.**

- (a) Seller shall be responsible for the specific quality, performance, productivity provisions, and documentation requirements, if any, set forth in this Agreement. In addition, Seller shall be responsible for imposing the applicable quality assurance requirements on its subcontractors. Purchaser and Purchaser's customer, shall each have the right, at no charge to Purchaser or Purchaser's customer, to access the sites where the work



under this Agreement is performed or to receive Seller data, in order to (1) conduct quality audits, (2) perform or witness inspections or tests of the Goods or Services furnished hereunder at Seller's facility (or elsewhere), (3) assess conformance with Purchaser's specifications, (4) assess part performance, (5) assess conformance with Seller's covenants under this Agreement and (6) optimize follow on processes and production. In accordance with 14 CFR 145.223 and 14 CFR 21.140, any Seller that accepts parts, which are regulated by the Federal Aviation Administration (FAA), or those regulated by EASA, DAOS or other regulator, must provide facility access to that regulator for surveillance of these parts.

- (b) The Seller agrees to use only experienced, trained and qualified employees in the performance of its obligations under this Agreement and all Services performed must be of first class quality and workmanship.
- (c) Notwithstanding Purchaser's right to audit in paragraph (a) above, all Goods and Services supplied under this Agreement shall be received subject to Purchaser's right of inspection, count, testing, acceptance and/or rejection per the technical specifications. Payment for Goods and/or Services delivered hereunder shall not constitute acceptance thereof, and all payments against documents shall be made with a reservation of rights by Purchaser for defects in Goods and/or Services, including, without limitation, defects apparent on the face thereof. The making of, or failure to make, any inspection or acceptance of the Goods or Services shall in no way impair Purchaser's right to reject nonconforming Goods or Services or to avail Purchaser of any other remedies to which it may be entitled.
- (d) Seller certifies that it shall provide and maintain quality control, inspection, and process control systems in accordance with the most current specification revision located on Purchaser's document management system for supplier quality product requirements, as applicable (S-1000, S-1001, S-1002, S-1005, S-1007; S-485, NAK 3001 (when working with the GE Aviation Czech Business Unit) and other quality requirements as specified). For clarity, GE's approval of Seller's process, quality and control processes does not release Seller from its responsibility to fulfill Purchaser's specifications and maintain such quality and process control systems. Seller will maintain Objective Evidence of its conformance with this paragraph. Objective Evidence means any statement of fact pertaining to the quality of a product or service based on observations, measurements or tests that can be fully verified. Evidence must be expressed in terms of specific quality requirements or characteristics. These characteristics are identified in drawings, specifications, and other documents that describe the item, process, or procedure.
- (e) For Direct Procurements of Goods built to Purchaser's drawings, Seller shall have Adobe PDF reader version 11 or later with JavaScript enabled and Siemens PLM software (NX9).
- (f) Counterfeit Goods. For purposes of this Article, Goods consist of those parts deliverable under this Agreement that are the lowest level of separately identifiable items (e.g., articles, components, goods and assemblies). "Counterfeit Goods" means Goods that have been misrepresented as having been designed and/or produced under an approved system or other acceptable method. Counterfeit Goods include, but are not limited to: (i) Goods that are an illegal or unauthorized copy or substitute of an Original Equipment Manufacturer (OEM) item; (ii) Goods that do not contain the proper internal or external materials or components or are not manufactured in accordance with the OEM design; (iii) Goods that are used, refurbished, or reclaimed but that Seller represents as being new; (iv) Goods that have not successfully passed all OEM required testing, verification, screening, and quality control but that Seller represents as having met those requirements; (v) Goods with a label or other marking intended, or reasonably likely, to mislead a reasonable person into believing a non-OEM Good is a genuine Good when it is not, and (vi) Goods that are an unauthorized copy or substitute that have been identified, marked, and/or altered by a source other than the item's legally authorized source and has been misrepresented to be an authorized item of the legally authorized source.
  - i) Seller warrants and certifies that Goods delivered pursuant to this Agreement, unless otherwise specifically stated on the face of the Order, shall (i) be new, (ii) be and only contain materials obtained from the OEM or an authorized OEM reseller or distributor, (iii) not be or contain any Counterfeit Goods, and (iv) contain only authentic, unaltered OEM labels and other markings. Seller shall provide to Purchaser the OEM's certificate of conformance for any Goods acquired from an authorized OEM reseller or distributor. Goods shall not be acquired from independent distributors or brokers unless specifically authorized in writing by Purchaser.
  - ii) Seller shall maintain a method of item traceability that ensures tracking of the supply chain back to the manufacturer of all Electrical, Electronic, and Electromechanical (EEE) parts included in assemblies and subassemblies being delivered per this Agreement. This traceability method shall clearly identify the name and location of all of the supply chain intermediaries from the manufacturer to the direct source of the product for Seller, and shall include the manufacturer's batch identification for the item(s)

such as date codes, lot codes, serializations, or other batch identifications. When requested by Purchaser, Seller shall provide OEM documentation that authenticates traceability of the affected items to the applicable OEM.

- iii) Seller shall immediately notify Purchaser and the GIDEP system if it knows or suspects that it has provided Counterfeit Goods.
- iv) In the event Goods delivered under this Agreement constitute Counterfeit Goods, Seller shall at its expense promptly replace such Goods with genuine Goods conforming to the requirements of this Agreement. Notwithstanding any other provision of this Agreement, Seller shall be liable for all costs relating to the removal or replacement of Counterfeit Goods, including without limitation Purchaser's or Purchaser's customer's costs of removing such Counterfeit Goods, reinserting genuine Goods, and any testing necessitated by the reinstallation of any Goods after Counterfeit Goods have been exchanged. Purchaser reserves the right to turn over suspected Counterfeit Goods to US Governmental authorities (Office of Inspector General, Defense Criminal Investigative Service, Federal Bureau of investigation, etc.) for investigation and reserves the right to withhold payment for the suspect items pending the results of the investigation. The remedies available under this Article are in addition to any other remedies Purchaser may have available to it in law or in equity, or in any other provisions in this Agreement.
- v) This paragraph (f) applies in addition to any other quality provision, specification, or statement of work included in this Agreement addressing the authenticity of Goods and Services. To the extent such provisions conflict with this paragraph (f), this paragraph prevails.
- vi) Seller shall flow the requirements of this paragraph 13(f) to its subcontractors and suppliers at any tier for the performance of this contract.

#### **ARTICLE 14 - NON-CONFORMING GOODS.**

- (a) Seller agrees that, notwithstanding the provisions of any warranties, expressed or otherwise, negotiated with respect to Goods purchased from Seller by Purchaser or Purchaser's customer, Seller shall reimburse Purchaser for labor and material cost, including overhead and general and administrative expense reasonably incurred by Purchaser in connection with:
  - i) Failure of Goods or Services to conform to the requirements of this Agreement or defective material, workmanship or design; or
  - ii) Any removal of Goods at Seller's request; or
  - iii) Any removal of Goods required due to any previously required changes to said Goods that Seller has failed to incorporate.
- (b) For Direct Procurement, Purchaser will charge Seller a fixed amount for each nonconforming good as follows (either (i) or (ii) to be defined as the "Quality Administration Cost"):
  - i) For purchase orders issued by (1) GE Aviation Systems, Ltd. from its Cheltenham or Dowty, UK site; (2) GE Aviation Systems, LLC; or (3) Unison Industries, LLC, the Quality Administration Cost shall be charged as set forth stated in the Reimbursement Schedule that is available at the following link:<http://www.geaviation.com/company/doing-business-with-aviation/> (the "Quality Administration Fee"). The Quality Administration Fee shall be charged to Seller automatically as a debit memo issued to Seller's account. For the avoidance of doubt, the Quality Administration Fee is only intended to compensate Purchaser for certain fuel and labor expenses and shall be without prejudice to Purchaser's right to recover other costs or expenses to which Purchaser is entitled under Article 14(a) above, such as removing part from the field, or its other actual damages.
  - ii) For purchase orders issued by all other entities: (1) \$8000 for the disposition of each QEM where "QEM" is defined as a nonconformance that is identified by any party after delivery of the goods or services to Purchaser and (2) 5% of the price of each affected Good or Service for each Supplier MRB where "Supplier MRB" is defined as a nonconformance that is identified prior to delivery of the goods or services to Purchaser and for which notification is made to Purchaser in accordance with Purchaser's quality system requirements. For the avoidance of doubt, for any nonconforming good or service, Seller shall only be charged per subsection (1) or (2) above. For Suppliers that have earned a rating of "Role Model" in Purchaser's Supplier Expectations and Performance Management system ("SEPM") at the end of a particular month, Purchaser shall waive the Quality Administration Cost for such month.

For Suppliers that have earned a SEPM rating of "Excellent" at the end of a particular month, the Quality Administration Cost shall be reduced by 50% for such month.

The Quality Administration Fee Cost shall be charged to Seller automatically as a debit memo issued to Seller's account. For the avoidance of doubt, the Parties agree that the Quality Administration Fee Cost is only intended to compensate Purchaser for its administrative costs to disposition the QEM or Supplier MRB. The Quality Administration Cost is intended to cover certain fuel and labor expenses and shall be without prejudice to Purchaser's right to recover other costs or expenses to which Purchaser is entitled under Article 14(a) above, including but not limited to such as costs or expenses arising from fields actions, such as removing parts from the field, unscheduled engine removals, teardowns, and retest, or other actual damages incurred.

- (c) Remedies in this Section are not exclusive and shall not be in lieu of any other remedy available at law, in equity or under this Agreement.

#### **ARTICLE 15 - INDEMNITY AND INSURANCE.**

- (a) **General Indemnification.** Seller shall defend, indemnify, and hold harmless the Purchaser, its directors, officers, employees, agents, representatives, successors and assigns (each an "Indemnified Party"), whether acting in the course of their employment or otherwise, from and against any and all loss, cost, expense, damage, claim, demand or liability (including reasonable attorney and professional fees and costs) arising from Seller's negligence, willful misconduct or breach of Agreement. An Indemnified Party shall have the right to participate in the selection of counsel and Seller shall not enter into any settlement agreement that contains any admission of liability on the part of Purchaser and/or any other Indemnified Party.
- (b) **Intellectual Property Indemnification.** Seller shall indemnify, defend, and hold harmless an Indemnified Party, from and against any and all loss, cost, expense, damage, claim, demand or liability (including reasonable attorney and professional fees and costs) arising out of any claim that the manufacture, use, sale, or furnishing of Goods and/or Services constitutes infringement of any Intellectual Property Rights, or for a breach of any of the representations and warranties contained in Article 8, above. If an injunction should issue, Seller shall
- i) Procure for Purchaser and Purchaser's subsidiaries and Affiliates, and their respective vendors and customers, the rights to continue using said Goods and/or Services; or
  - ii) At the election and with written approval of Purchaser, (x) modify the Goods and/or Services in a manner acceptable to Purchaser so they become non-infringing; (y) remove and replace the Goods with non-infringing Goods; or (z) remove the Goods and/or discontinue the Services, refund the purchase price and reimburse Purchaser for all damages and costs associated with obtaining and installing a non-infringing alternative.
- (c) **Insurance.** Seller shall obtain and keep in force for the benefit of the Seller and Purchaser the following insurance to be issued by insurance carriers with a minimum A.M. Best's rating of A-: VII, or S&P A, or better and licensed to provide insurance in the jurisdiction in which work is to be performed, with minimum limits as set forth below:
- i) Comprehensive General Liability – \$5,000,000 combined single limit per occurrence;
  - ii) Aviation Products Liability - \$5,000,000 minimum per occurrence (Aviation Direct Procurements only);
  - iii) Comprehensive Automobile Liability – Bodily injury/property damage covering all vehicles used in connection with the Goods in the amount of \$1,000,000 combined single limit each occurrence;
  - iv) Statutory Workers' Compensation and or Employer's Liability as required by state or country law.
- (d) Seller shall provide Purchaser with a certificate of insurance evidencing that the required minimum coverage is in effect and that Purchaser is named as an additional insured, provide a waiver of subrogation clause in favor of the Purchaser, and provide that all coverage provided by the Seller shall be primary. Such insurance shall not exclude the actions of any subcontractor that Seller may utilize under this Agreement. The insurance provided by Seller hereunder shall have no effect on any obligations imposed upon Seller under this Agreement.

## **ARTICLE 16 - SELLER'S REPRESENTATIONS.**

- (a) **Compliance with Laws.** Seller represents and warrants that it shall perform all activities required under this Agreement in compliance with all applicable international, national, state and local laws.
- (b) **Integrity Guide.** Seller represents and warrants that it shall act in a manner consistent with Purchaser's Integrity Guide for Suppliers, Contractors and Consultants, which is available at: <http://www.gesupplier.com/html/SuppliersIntegrityGuide.htm>
- (c) **Release of Information.** Seller shall not release any information concerning this Agreement or its business relationship with Purchaser, to any third party, except as required by applicable law, rule, injunction or administrative order, without Purchaser's prior written consent. Seller shall not use Purchaser's name, photographs, logo, trademark, or other identifying characteristics or that of any of its subsidiaries or Affiliates without Purchaser's prior written approval.
- (d) **International Electrotechnical Commission ("IEC") Standards.** If the Goods contain software, Seller represents and warrants that it will adopt policies and establish systems to comply with IEC 62443-4-1 on or before it is adopted as an international standard and will provide data regarding Seller's compliance to Purchaser upon request. If the Services involve Industrial Automation Control Systems (as defined by the IEC), Seller represents and warrants that it has adopted policies and systems to comply with IEC 62443-2-4 and will provide data regarding Seller's compliance to Purchaser upon request.
- (e) **Product Cyber Security.** Seller agrees that all Goods supplied under this Agreement that include executable binary code shall comply with the terms and conditions of the Product Cyber Security Appendix located at <http://www.gesupplier.com/html/GEPolicies.htm>.

## **ARTICLE 17 -SELLER'S EMPLOYEES**

- (a) Seller's personnel performing services under this Agreement shall remain employees of Seller subject to its right of direction, control and discipline and by virtue of this Agreement, shall neither become employees of Purchaser nor be entitled to any rights, benefits or privileges of Purchaser employees. As appropriate, Purchaser shall give direction as to the ultimate objective of the project to the Seller. The Seller shall ensure that its personnel adhere to the terms and policies in this Agreement and that they have the requisite knowledge, training and ability to perform work under this Agreement competently and in accordance with applicable laws and regulations.
- (b) Seller's employees are not authorized to enter into any agreements or to make any commitments financial or otherwise on behalf of Purchaser. Specifically, no employee of Seller shall make contact with any government official regarding the continuation, renewal, amendment or modification of a Prime Contract.

## **ARTICLE 18 - RECORD RETENTION REQUIREMENTS.**

- (a) **Record Retention.** For U.S. Government subcontracts, Seller shall maintain complete and accurate records in connection with its performance under this Agreement for seven (7) years after completion of performance under this Agreement, including but not limited to, Orders, memoranda of negotiations showing the principal elements of price negotiations, and records substantiating charges for labor or services, including proper time clock cards, time vouchers, or other similar records. For quality documents, Seller will maintain such records according to the applicable supplier quality specification, (S-1000, S-1001, S-1002, S-1005, S-1007; S-485, NAK 3001 (when working with the GE Aviation Czech Business Unit) or other quality requirements as specified), or seven (7) years, whichever is longer.
- (b) **Classified Information.** Upon completion of work by Seller under this Agreement, Seller shall return to Purchaser any classified information furnished by Purchaser, including all reproductions thereof, and Seller shall surrender classified information or materials developed by Seller in connection with this Agreement, unless the information has been destroyed, or the retention of the information is authorized in writing, by Purchaser or the government.

## **ARTICLE 19 - EXPORT CONTROL REQUIREMENTS.**

For Non-U.S. Sellers or Sellers intending to Conduct Work Outside of the U.S., the following clauses apply:

- (a) **Compliance with Export Laws.** Seller agrees to comply with all applicable government export control laws and regulations, including but not limited to the International Traffic in Arms Regulations ("ITAR," 22 CFR Part 120-130) and the Export Administration Regulations ("EAR," 15 CFR Parts 730-774).

- (b) **Export Licenses.** Seller agrees to obtain the required export licenses, unless otherwise agreed to by Purchaser.
- (c) **For items subject to the ITAR ONLY:** In the event the Goods or Services are subject to the U.S. Department of State (as defined in Sections 120.6 and 120.9 of the ITAR), Seller agrees to maintain a valid and current Directorate of Defense Trade Controls ("DDTC") registration and agrees to provide confirmation of such registration if requested by Purchaser.
- i) With respect to such defense articles and/or defense services, Seller represents and warrants that it has not and will not pay or offer to pay for the solicitation or promotion or otherwise to secure the conclusion of a sale of defense articles or defense services to or for the use of the armed forces of an international organization or non-U.S. Country any fees, commissions or political contributions as described under Part 130 of the ITAR without prior notice to Purchaser.
  - ii) In such event, Seller shall provide to the Purchaser, not later than 20 days after such an event, full disclosure of all information necessary for the Purchaser to comply fully with Sections 130.9 and 130.10 of the ITAR.).
- (d) **Prohibited Goods and Services.** The U.S. prohibits the importation of Goods or the purchase of Services from certain countries, entities, or individuals. Therefore, no Goods or Services from prohibited countries, entities, or individuals may be used directly or indirectly in the activities covered by this Agreement. The list of prohibited countries can change from time to time and it is Seller's responsibility to ensure compliance with such list at all times (located inter alia, <http://www.treas.gov/ofac>, <http://www.bis.doc.gov> and <http://pmddtc.state.gov>).

#### **ARTICLE 20 - CUSTOMS REQUIREMENTS.**

For Non-U.S. Sellers or Sellers intending to Conduct Work Outside of the U.S., the following clauses apply:

- (a) **Importer of Record.**
- i) Seller must show proper notification on all shipping waybills. In addition, shipping cartons and documentation must meet all U.S. customs country of origin marking and invoicing requirements. Seller will be responsible for any fines or liabilities resulting from insufficient, improper or negligent invoicing or marking of shipments.
  - ii) For ocean shipments ONLY, Seller accepts and shall implement sufficient procedures to enable Purchaser to comply with U.S. Customs and Border Protection's (CBP) Importer Security Filing (ISF) requirements (information about the GE Aviation ISF pre-alert form and process can be found at <https://www.geaviation.com/company/doing-business-with-aviation/supplier-security-requirements> ). Seller shall provide the following required data elements: (1) Seller or Seller's ultimate owner's registered name and address, (2) Manufacturer's name and address, (3) Purchaser's name and address, (4) Ship-to name and address of final destination, (5) Container stuffing location name and address, (6) Consolidator or stuffer name and address, (7) Importer of Record's name and U.S. Internal Revenue Service (IRS) or tax identification number, (8) Consignee name(s) and U.S. IRS or tax identification number, (9) Country of origin – the country where goods are manufactured or produced, and (10) Six-digit harmonized tariff code; such information shall be provided to the designated Purchaser ISF agent within 72 hours prior to the shipping vessel sailing. Seller or its agents shall communicate ISF requirements, including the ISF pre-alert form (by electronic mail) to Purchaser's ISF agent at least 72 hours prior to the shipping vessel sailing. Seller or its agents shall not load container onto vessel prior to receipt of ISF acceptance from Purchaser's ISF agent.
  - iii) In addition to any other rights and remedies Purchaser may have in law or in equity, Purchaser may deduct from the price of Goods any penalties, fines or assessments that U.S. Customs and Border Protection imposes on Purchaser for late or inaccurate or incomplete ISF filings caused by Seller non-compliance. Additional deductions may be taken for late deliveries, demurrage or expenses incurred due to Seller's failure to comply with ISF requirements
- (b) **Anti-Dumping.** Seller warrants that all sales made hereunder are or will be made at not less than fair value under the U.S. Anti-Dumping law (19 U.S.C. sec 1673 et. seq.), and Seller will indemnify, defend and hold Purchaser harmless from and against any costs or expenses (including but not limited to any anti-dumping duties which may be imposed) arising out of or in connection with any breach of this warranty.

**ARTICLE 21 - WORK ON PURCHASER'S OR ITS CUSTOMER'S PREMISES.** If Seller's work under this Agreement involves operations by Seller on the premises of Purchaser or Purchaser's customer or access to Purchaser's systems or its computers, then:

- (a) Seller shall comply with all of Purchaser's safety and security procedures and shall take all necessary precautions to prevent the occurrence of any injury to person or property during the progress of such work (Information about GE Aviation Security requirements can be found at
- (b) <https://www.geaviation.com/company/doing-business-with-aviation/supplier-security-requirements> .
- (c) Seller represents and warrants that all of its employees who will perform work under this Agreement on Purchaser's or its customer's premises have been tested and are free from illegal drugs. The term "illegal drugs" does not include the use of a controlled substance pursuant to a valid prescription. The prescription medication must not prevent the employee from performing competent and safe work.

OR to be used in circumstances where Seller does not have the right to conduct routine drug testing:

- (b) Seller represents and warrants that it will use reasonable endeavors to ensure that all of its employees who will perform work under this Agreement on Purchaser's or its customer's premises are free from illegal drugs. In the event that Seller has reason to suspect that any employee performing work under this Agreement on Purchaser's or its customer's premises is using illegal drugs, Seller agrees to take immediate steps to remove such employee from Purchaser's or its customer's premises and ensure that the employee does not continue to perform work under this Agreement. The term "illegal drugs" does not include the use of a controlled substance pursuant to a valid prescription. The prescription medication must not prevent the employee from performing competent and safe work.
- (d) As permitted by applicable law, Seller represents and warrants that it will conduct a criminal convictions records investigation of its employees through the use of an approved third-party background check vendor before they are assigned to work on any Order that requires that employee to enter Purchaser's or its customer's premises (information about the GE Aviation Background Check process can be found at <https://www.geaviation.com/company/doing-business-with-aviation/supplier-security-requirements> . Where Seller is located in the UK, such investigation shall, at a minimum, take the form of a Criminal Record Check (CRC) and be in accordance with the UK Rehabilitation of Offenders Act (1974) and Seller shall provide Purchaser with a copy of the CRC completed prior to assigning any employee to work on any Order that requires that employee to enter Purchaser's or its customer's premises requesting unescorted visitor access.
- (e) Seller shall include this provision in any subcontract placed pursuant to this Agreement where the subcontractor will perform work on Purchaser's or its customer's premises.
- (f) As permitted by applicable law, Purchaser reserves the right to deny any of Seller's employees, agents or subcontractors access to its or its customer's premises and/or systems for any reason in Purchaser's sole discretion, including but not limited to such individual being a former employee of Purchaser who received layoff benefits or Special Early Retirement Option (SERO) benefits from Purchaser within the prior three years or whose last performance rating as an employee of Purchaser was less than satisfactory.

## **ARTICLE 22 - ENVIRONMENTAL MATTERS.**

- (a) Seller covenants that the Goods (1) comply with all laws governing the management, handling, shipping, import, export, notification, registration or authorization of chemical substances such as the Montreal Protocol, the Stockholm Convention on Persistent Organic Pollutants, the US the Toxic Substances Control Act , the European Union's Restrictions on Hazardous Substances and REACH legislation and other comparable chemical regulations (collectively "Chemicals Legislation"); and (2) can be used as contemplated by Purchaser in full compliance with the Chemicals Legislation.
- (b) Unless Purchaser has expressly agreed otherwise in writing, Seller covenants that the Goods do not contain (1) any chemicals that are restricted or otherwise banned under Chemicals Legislation and/or (2) contain lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (PBB), polybrominated diphenyl ethers (PBDE), arsenic, asbestos, benzene, polychlorinated biphenyls, carbon tetrachloride, beryllium or radioactive materials. Seller shall notify Purchaser in writing of the presence of any engineered nanoscale material contained in the Goods or used in Seller's operations. Upon request Seller shall provide, subject to reasonable protection of Seller's confidential business information, the chemical composition of the Goods and any other relevant information regarding the Goods, including without limitation, test data and safe use and hazard information.
- (c) Unless specifically defined as a requirement by Purchaser's engineering drawings or specifications, the use of cadmium plating or nickel cadmium plating is strictly prohibited in the manufacture of Goods. The use of cadmium plating or nickel cadmium plating is strictly prohibited on all tooling, fixtures, and test equipment that is used for manufacturing, assembly, test, or material handling of the Goods unless Seller has notified Purchaser in advance and has obtained its prior written consent to such use.

- (d) If Seller is located outside of the U.S. and is shipping Goods into the U.S., regardless of which party is the importer of record, Seller agrees to comply with the import restrictions contained in section 13 of the Toxic Substance Control Act (TSCA) 15 U.S.C. 2601 et seq., provide the appropriate TSCA Certification required under 19 CFR 12.121, and be responsible for any fines or liabilities resulting from breaches of this provision.
- (e) Seller covenants that it has included requirements substantially similar to the covenants in this Agreement in all sub-contracts it enters into related to the fulfillment of this Agreement.
- (f) When Seller ships Goods to Purchaser, Seller shall provide with the Goods, in the language(s) of the location(s) where the goods are delivered to Purchaser or Purchaser's designee: (1) safe use instructions; (2) hazard communication, safe transport and labelling information; (3) compliance and certification documentation; and (4) for chemical substance and mixtures, safety data sheets (MSDS/SDS). For each such material, identification shall reference the stock or part number of the delivered Goods.

#### **ARTICLE 23 - MISCELLANEOUS.**

- (a) **English Language.** Except as the parties may otherwise agree, this Agreement, Orders, data, notices, shipping invoices, correspondence and all other writings shall be in the English language. In the event of any inconsistency between any terms of this Agreement and any translation thereof into another language, the English language meaning shall control.
- (b) **Governing Law.** All disputes between the Parties shall be governed by the laws of the state of New York, notwithstanding its conflict of laws rules. The application of the United Nations Convention on the International Sale of Goods is hereby excluded.
- (c) **Waiver.** Any failure or delay in the exercise of rights or remedies under this Agreement will not operate to waive or impair such rights or remedies. Any waiver given will not be construed to require future or further waivers.
- (d) **Modifications.** No waiver, alteration or modification of any of the provisions of this Agreement shall be binding upon either party unless in a subsequent writing signed by the duly authorized representative of the party intended to be bound thereby.
- (e) **Severability.** If any portion of this Agreement is determined to be contrary to any controlling law, rule or regulation, such portion will be revised or deleted from this Agreement, but the balance of this Agreement will remain in full force and effect.
- (f) **Reports.** Upon request, Seller shall provide progress reports pertaining to the status of the work being performed under this Agreement. Such reports shall be in a form acceptable to Purchaser.
- (g) **Business Continuity Plan.** Upon request, Seller shall provide written business continuity plans and/or crisis management protocol, to Purchaser (or a third party identified by Purchaser).
- (h) **Financial Records.** Upon request, Seller will provide financial records, such as income statements, balance sheets, and cash flow statements, to Purchaser (or a third party identified by Purchaser) to enable Purchaser to evaluate the financial health of Seller. If Seller purchases GE-directed raw material, Seller agrees that the supplier of such raw material may provide Purchaser information regarding Seller's accounts.
- (i) **Labor Disputes.** The Seller shall notify Purchaser of all impending or existing labor complaints, troubles, disputes or controversies that may affect Seller's ability to perform its obligations under this Agreement. Purchaser shall have no liability or bargaining obligations under any collective bargaining agreement between Seller and its employees. Seller agrees to give Purchaser prompt notice of any union organization with respect to its employees.
- (j) **Security Interest.** If items are bailed to Seller or progress payments made, Seller grants Purchaser a security interest in equipment, machinery, contract rights, inventory, goods, merchandise and raw materials, whether now existing or hereafter arising, and any replacements, improvements, substitutions, attachments, accessories and accessions thereto or thereon provided by Purchaser or purchased by Seller with progress payments or advances made by Purchaser and to be used by Seller in manufacturing products ordered by Purchaser under this Agreement. Seller agrees to execute and deliver all documents requested by Purchaser to protect and maintain Purchaser's security interest.
- (k) **Offset Requirements.** All offset or countertrade credit value resulting from this Agreement shall accrue solely to the benefit of Purchaser. Seller agrees to cooperate with Purchaser in the fulfillment of any foreign offset/countertrade obligations. Purchaser considers its future and current offset/countertrade obligations as a factor in all Purchaser transactions.

- (l) Audit Rights. Purchaser shall have the right to audit all pertinent books and records and systems of Seller, receive answers to reasonable information requests to Seller, and to make reasonable inspections of Seller's facilities to verify compliance with this Agreement. In the event of non-compliance, Purchaser may take appropriate actions, up to and including termination pursuant to Article 5(a).
- (m) Survival. All rights, duties and obligations which by nature should apply beyond the term of the Agreement will remain in force after the complete performance of the Agreement.

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**APPENDIX I: THE FOLLOWING PROVISIONS ARE APPLICABLE TO ALL U.S. GOVERNMENT SUBCONTRACTS**

- 01. If deliveries of Goods including data under this Agreement are to be made directly to the U.S. Government, Seller agrees to prepare and distribute the DOD form 250, "Material Inspection and Receiving Report", as set forth in part 53 of DFARS. Seller shall include a similar provision in any subcontract issued under this Agreement if the subcontractor will be making deliveries directly to the U.S. Government.
- 02. **Seller shall abide by the requirements of 41 CFR 60-1.4, 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Additionally, these regulations prohibit employers from discharging, or otherwise discriminating against, employees or applicants who inquire about, discuss, or disclose their compensation or the compensation of other employees or applicants. Moreover, these regulations require that Seller take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.**
- 03. The clauses and articles identified for flowdown on the Doing Business with GE website <http://www.geaviation.com/company/doing-business-with-aviation/> and specified as applicable to a particular GE customer contract within GE's request for proposal or Order are hereby incorporated as if fully set forth herein. Seller is responsible for accessing the site and identifying the version of the clauses and articles applicable as specified within the contract awarded GE. In instances where an identified customer contract has multiple entries on the website, or where there are inconsistencies between the clauses and articles on the website and the actual customer contract, Seller is responsible to act in accordance with the latest revision within the customer contract as of the date of the Order. Seller shall include in each lower-tier subcontract the appropriate flowdown clauses as required by the FAR and DFARS.
- 04. Whenever necessary to make the context of the clauses applicable to this Order, the terms "Government", "Contracting Officer", and similar terms shall mean Purchaser, the term "Contractor" and similar terms shall mean Seller, and the term "Contract" shall mean this Order. However, the terms "Government" and "Contracting Officer" do not change (1) when modifying "Property" (e.g. "Government Property"), (2) in the patent clauses incorporated herein, (3) when a right, act, authorization or obligation can only be granted or performed by the Government or Contracting Officer, (4) when title to property is to be transferred directly to the Government, (5) when access to proprietary financial information or other proprietary data is required, except as otherwise provided herein, and (6) where specifically modified herein.
- 05. The information in parentheses below is provided for informational purposes and to assist in determining applicability, and does not relieve any party from their contractual duties when the provision or clause applies pursuant to the requirements of each individual provision or clause. The full text of a clause may be accessed electronically at <http://farsite.hill.af.mil> or <http://www.acq.osd.mil/dpap/>

**FEDERAL ACQUISITION REGULATION (FAR) CLAUSES**

- 52.202-1 DEFINITIONS
- 52.203-3 GRATUITIES (Applies when the Order exceeds the Simplified Acquisition Threshold ("SAT"))
- 52.203-5 COVENANT AGAINST CONTINGENT FEES (Applies when the Order exceeds the SAT)
- 52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (Applies when the Order exceeds the SAT)
- 52.203-7 ANTI-KICKBACK PROCEDURES (Applies when the Order exceeds the SAT; Note: Paragraph (c)(1) is excluded; In paragraph (c)(4) replace "The contracting officer may" with "To the extent the Contracting



52.203-10	Officer has made an offset and directed Purchaser to withhold an amount, Purchaser may...") PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (Applies when the Order exceeds the SAT)
52.203-12 <sup>1</sup>	LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (Applies when the Order exceeds \$150,000)
52.203-13 <sup>1</sup>	CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (Applies when the Order exceeds \$5,000,000 and the period of performance exceeds 120 days)
52.203-14 <sup>2</sup>	DISPLAY OF HOTLINE POSTER(S) (Applies when the Order exceeds \$5,500,000)
52.203-17	Contractor Employee Whistleblower Rights and Requirement To Inform Employees of Whistleblower Rights.
52.203-19	PROHIBITION ON REQUIRING CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS OR STATEMENTS
52.204-2	SECURITY REQUIREMENTS (Applies when the Order involves access to classified information)
52.204-9	PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL (Applies when Seller's employees are required to have routine physical access to a Federally-controlled facility and/or routine access to a Federally-controlled information system)
52.204-10	REPORTING EXECUTIVE COMPENSATION AND FIRST TIER SUBCONTRACT AWARDS (Note: Seller agrees to timely provide information requested by Purchaser pursuant to this clause, and acknowledges that such information will be made publicly available)
52.204-21 <sup>1</sup>	BASIC SAFEGUARDING OF CONTRACTOR INFORMATION SYSTEMS
52.209-6	PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (Applies when the Order exceeds \$30,000)
52.211-5	MATERIAL REQUIREMENTS
52.211-15	DEFENSE PRIORITY AND ALLOCATION REQUIREMENTS (Applies when the Order is rated, see Remark 218)
52.212-4 <sup>1</sup>	CONTRACT TERMS AND CONDITIONS – COMMERCIAL ITEMS (Applies when Purchaser has notified Seller in writing that the Goods or Services are a commercial item as defined in 2.101; Note: only paragraph (I) applies)
52.215-2	AUDIT AND RECORDS—NEGOTIATION (Applies when the Order exceeds the SAT)
52.215-10	PRICE REDUCTION FOR DEFECTIVE CERTIFIED COST OR PRICING DATA (Applies when certified cost or pricing data is required)
52.215-12	SUBCONTRACTOR CERTIFIED COST OR PRICING DATA (Applies when certified cost or pricing data is required)
52.215-13	SUBCONTRACTOR CERTIFIED COST OR PRICING DATA – MODIFICATIONS (Applies when certified cost or pricing data is required)
52.215-14	INTEGRITY OF UNIT PRICES (Applies when the Order exceeds the SAT)
52.215-15	PENSION ADJUSTMENTS AND ASSET REVERSIONS (Applies when certified cost or pricing data is required)
52-215-18	REVERSION OR ADJUSTMENT OF PLANS FOR POSTRETIREMENT BENEFITS (PRB) OTHER THAN PENSIONS (Applies when certified cost or pricing data is required)
52.215-19	NOTIFICATION OF OWNERSHIP CHANGES (Applies when certified cost or pricing data is required)
52.215-20	REQUIREMENTS FOR CERTIFIED COST OR PRICING DATA AND DATA OTHER THAN CERTIFIED COST OR PRICING DATA
52.215-21	REQUIREMENTS FOR CERTIFIED COST OR PRICING DATA AND DATA OTHER THAN CERTIFIED COST OR PRICING DATA—MODIFICATIONS
52.215-22	LIMITATIONS ON PASS-THROUGH CHARGES – IDENTIFICATION OF SUBCONTRACT EFFORT (Applies when certified cost or pricing data is required)
52.215-23	LIMITATIONS ON PASS-THROUGH CHARGES (Applies when certified cost or pricing data is required)
52.219-8 <sup>1&amp;2</sup>	UTILIZATION OF SMALL BUSINESS CONCERNS (Applies when the Order exceeds the SAT)
52.219-9 <sup>2</sup>	SMALL BUSINESS CONTRACTING PLAN (Applies when the Order exceeds \$700,000)
52.222-4 <sup>2</sup>	CONTRACT WORK HOURS AND SAFETY STANDARDS ACT – OVERTIME COMPENSATION (Applies when the Order exceeds \$150,000 and may require or involve the employment of laborers or mechanics)
52.222-17 <sup>1</sup>	NONDISPLACEMENT OF QUALIFIED WORKERS (Applies when the Order exceeds the SAT and is (1) a service contract, as defined in 22.001, (2) that succeeds a contract for performance of the same or similar work at the same location, and (3) is not exempted by 22.1203-2 or waived in accordance with 22.1203-3)
52.222-19	CHILD LABOR – COOPERATION WITH AUTHORITIES AND REMEDIES
52.222-20 <sup>2</sup>	WALSH-HEALEY PUBLIC CONTRACTS ACT (Applies when the Order exceeds \$15,000)
52.222-21	PROHIBITION OF SEGREGATED FACILITIES (Applies when 52.222-26 is applicable)
52.222-26 <sup>1&amp;2</sup>	EQUAL OPPORTUNITY (Applies when the Order exceeds \$15,000 unless an exemption applies)
52.222-35 <sup>1&amp;2</sup>	EQUAL OPPORTUNITY FOR VETERANS (Applies when the Order exceeds \$150,000)

52.222-36 <sup>1&amp;2</sup>	AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (Applies when the Order exceeds \$15,000)
52.222-37 <sup>1</sup>	EMPLOYMENT REPORTS ON VETERANS (Applies when the Order exceeds \$150,000)
52.222-40 <sup>1&amp;2</sup>	NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT (Applies when the Order exceeds \$10,000)
52.222-41 <sup>1&amp;2</sup>	SERVICE CONTRACT LABOR STANDARDS (For each Order subject to the SCLS, Purchaser shall include a remark signifying SCLS applicability. Seller shall submit any required wage classifications to the Purchaser for submission to the Contracting Officer and shall not commence performance until receipt of the final wage determination from Purchaser)
52.222-50 <sup>1</sup>	COMBATTING TRAFFICKING IN PERSONS (Paragraph (h) <i>Compliance Plan</i> , applies to any portion of the contract that: (i) is for supplies, other than commercially available off-the-shelf items, acquired outside the United States, or services to be performed outside the United States; and (ii) has an estimated value that exceeds \$500,000. The Seller shall also report the information required in paragraph (d)(1-2) to Purchaser.)
52.222-54 <sup>1&amp;2</sup>	EMPLOYMENT ELIGIBILITY VERIFICATION (Applies when the Order is for Services)
52.222-55 <sup>1&amp;2</sup>	MINIMUM WAGES UNDER EXECUTIVE ORDER 13658 (Applies when 52.222-41 is applicable; Seller shall indemnify Purchaser in the event Purchaser is held liable under paragraph (j))
52.222-56 <sup>1</sup>	CERTIFICATION REGARDING TRAFFICKING IN PERSONS COMPLIANCE PLAN (Applies if it is possible that at least \$500,000 of the value of the contract may be performed outside the United States and the acquisition is not entirely for commercially available off-the-shelf items)
52.222-62	PAID SICK LEAVE UNDER EXECUTIVE ORDER 13706
52.223-3	HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (Applies when Seller is delivering hazardous materials)
52.223-15	ENERGY EFFICIENCY IN ENERGY-CONSUMING PRODUCTS (Applies when products listed in the ENERGY STAR® Program or FEMP will be provided to Purchaser)
52.223-18	ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING
52.224-3	PRIVACY TRAINING
52.225-1	BUY-AMERICAN ACT-SUPPLIES
52.225-2	BUY AMERICAN ACT CERTIFICATE (Applies when 52.225-1 applies)
52.225-5	TRADE AGREEMENTS
52.225-8	DUTY-FREE ENTRY (Applies when Goods will be imported into the Customs Territory of the United States)
52.225-13	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES
52.227-1	AUTHORIZATION AND CONSENT (Applies when the Order exceeds the SAT)
52.227-2	NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (Applies when the Order exceeds the SAT)
52.227-9	REFUND OF ROYALTIES
52.227-10	FILING OF PATENT APPLICATIONS--CLASSIFIED SUBJECT MATTER (Applies when the Order covers or is likely to cover classified subject matter)
52.227-11	PATENT RIGHTS-OWNERSHIP BY THE CONTRACTOR
52.227-13	PATENT RIGHTS-OWNERSHIP BY THE GOVERNMENT
52.228-3	WORKER'S COMPENSATION INSURANCE (DEFENSE BASE ACT) (Applies when the Order requires performance on a U.S. military base outside the US)
52.228-4	WORKER'S COMPENSATION AND WAR-HAZARD INSURANCE OVERSEAS (Applies when the Order requires performance on a U.S. military base outside the US and the Secretary of Labor waives the applicability of the Defense Base Act applies)
52.228-5	INSURANCE – WORK ON A GOVERNMENT INSTALLATION (Applies when the Order exceeds the SAT and the Order will require work on a Government installation)
52.230-2	COST ACCOUNTING STANDARDS (Applies when the Order is subject to CAS)
52.230-3	DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES (Applies when the Order is subject to CAS)
52.230-4	DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES – FOREIGN CONCERNS (Applies when the Order is subject to CAS and Seller is located outside of the U.S.)
52.230-5	COST ACCOUNTING STANDARDS – EDUCATIONAL INSTITUTIONS (Applies when the Order is subject to CAS and Seller is an Educational Institution)
52.230-6	ADMINISTRATION OF COST ACCOUNTING STANDARDS (Applies when the Order is subject to CAS)
52.232-16	PROGRESS PAYMENTS (Applies when the Order provides for progress payments to Seller)
52.232-40 <sup>1</sup>	PROVIDING ACCELERATED PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS (Applies when Seller subcontracts with small business subcontractors and Seller receives accelerated payments from Purchaser)
52.234-1	INDUSTRIAL RESOURCES DEVELOPED UNDER DEFENSE PRODUCTIONS ACT TITLE III
52.242-15	STOP-WORK ORDER
52.244-5	COMPETITION IN SUBCONTRACTING
52.244-6 <sup>1</sup>	SUBCONTRACTS FOR COMMERCIAL ITEMS
52.245-1	GOVERNMENT PROPERTY (Note: All Government Property shall be controlled and accounted for in

- accordance with Purchaser's Tooling Supplement, Remark E21)
- 52.245-9 USE AND CHARGES (Note: Seller shall request authorization to use Government Property in support of efforts under a contract number other than the contract number to which it is assigned, by submitting such request in the form prescribed by Purchaser which is available at [http://www.geaviation.com/aboutgeae/doingbusinesswith/geae\\_po\\_requirements.html](http://www.geaviation.com/aboutgeae/doingbusinesswith/geae_po_requirements.html))
- 52.247-1 COMMERCIAL BILL OF LADING NOTATIONS (Applies when the Order requires shipment to be made directly to the US Government and Seller has been authorized to ship on a Commercial Bill of Lading)
- 52.247-63 PREFERENCE FOR U.S.-FLAG AIR CARRIERS (Applies when the Order involves international air transportation of personnel or property)
- 52.247-64<sup>1</sup> PREFERENCE FOR PRIVATELY OWNED U.S.-FLAG COMMERCIAL VESSELS (Applies when Goods are to be shipped by ocean vessel unless exempted under paragraph (e)(4))
- 52.248-1 VALUE ENGINEERING (Applies when the Order exceeds \$150,000)
- 52.249-2 TERMINATION FOR CONVENIENCE (Applies in lieu of the Termination for Convenience clause in the body of this Agreement) (In paragraph (c) change "120 days" to "60 days," and in paragraph (e) change "90 days" to "45 days")
- 52.249-5 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (Applies when Seller is an educational or other non-profit institution and in lieu of the Termination for Convenience clause in the body of this Agreement) (Delete paragraph (h), in paragraph (c) change "120 days" to "60 days", and in paragraph (d) change "1 year" to "60 days")
- 52.249-8 TERMINATION FOR DEFAULT (Applies in lieu of the Termination for Default clause in the body of this Agreement) (In paragraph (a)(2) change "10 days" to "7 days")

**IF AN ORDER IS PLACED UNDER A DEPARTMENT OF DEFENSE (DOD) CONTRACT, THE FOLLOWING DOD FAR SUPPLEMENT CLAUSES APPLY IN ADDITION TO (OR IN LIEU OF WHERE NOTED) THE FAR CLAUSES ABOVE:**

- 252.203-7001 PROHIBITION ON PERSONS CONVICTED OF FRAUD OR OTHER DEFENSE-CONTRACT-RELATED FELONIES (Applies when the Order exceeds the SAT)
- 252.203-7002<sup>1</sup> REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS
- 252.203-7003<sup>1</sup> AGENCY OFFICE OF THE INSPECTOR GENERAL (As referenced in FAR 52.203-13)
- 252.203-7004<sup>2</sup> DISPLAY OF HOTLINE POSTERS (Applies when the Order exceeds \$5,500,000 in lieu of FAR 52.203-14)
- 252.204-7000 DISCLOSURE OF INFORMATION
- 252.204-7008 COMPLIANCE WITH SAFEGUARDING COVERED DEFENSE CONTROLS
- 252.204-7012<sup>1</sup> SAFEGUARDING COVERED DEFENSE INFORMATION AND CYBER INCIDENT REPORTING (Applies when the Seller has Covered Defense Information resident on or transiting through Seller's unclassified information systems. Seller shall also send to Purchaser all required notifications to the U.S. Government)
- 252.204-7015<sup>1</sup> DISCLOSURE OF INFORMATION TO LITIGATION SUPPORT CONTRACTORS
- 252.209-7004 SUBCONTRACTING WITH FIRMS THAT ARE OWNED OR CONTROLLED BY THE GOVERNMENT OF A TERRORIST COUNTRY
- 252.211-7000 ACQUISITION STREAMLINING (Applies when the Order is a systems acquisition program, or exceeds \$1,500,000)
- 252.211-7003<sup>1</sup> ITEM IDENTIFICATION AND VALUATION (Applies when the Order involves Goods for which unique item identification is required in accordance with paragraph (c)(1))
- 252.215-7000 PRICING ADJUSTMENTS
- 252.219-7003<sup>2</sup> SMALL BUSINESS SUBCONTRACTING PLAN (DOD CONTRACTS) (Applies when FAR 52.219-9 applies)
- 252.222-7006 RESTRICTIONS ON THE USE OF MANDATORY ARBITRATION AGREEMENTS
- 252.222-7007<sup>1</sup> REPRESENTATION REGARDING COMBATTING TRAFFICKING IN PERSONS
- 252.223-7008<sup>1</sup> PROHIBITION OF HEXAVALENT CHROMIUM (Applies when the Order is for supplies, maintenance or repair services)
- 252.225-7000 BUY AMERICAN – BALANCE OF PAYMENTS PROGRAM CERTIFICATE (Applies in lieu of FAR 52.225-2)
- 252.225-7001 BUY AMERICAN ACT AND BALANCE OF PAYMENTS PROGRAM (Applies in lieu of FAR 52.225-1)
- 252.225-7002 QUALIFYING COUNTRY SOURCES AS SUBCONTRACTORS
- 252.225.7007 PROHIBITION ON ACQUISITION OF UNITED STATES MUNITIONS LIST ITEMS FROM COMMUNIST CHINESE MILITARY COMPANIES (Applies when the Order involves Goods covered by the U.S. Munitions List)
- 252.225-7009<sup>1</sup> RESTRICTION ON ACQUISITION OF CERTAIN ARTICLES CONTAINING SPECIALTY METALS (Applies when the Goods contain specialty metals; Note: Use of exceptions not permitted without advance Seller notification and prior Purchaser approval. Paragraph (d) of this clause is excluded)
- 252.225-7013 DUTY-FREE ENTRY (Applies in lieu of 52.225-8)
- 252.225-7015 RESTRICTION ON ACQUISITION OF HAND OR MEASURING TOOLS (Applies when the Order exceeds the SAT and requires delivery of hand or measuring tools)
- 252.225-7016<sup>1</sup> RESTRICTION ON ACQUISITION OF BALL AND ROLLER BEARINGS (Applies when the Order requires

Seller to provide a ball and roller bearing that that is not incorporated into a higher level assembly)

252.225-7020 TRADE AGREEMENTS CERTIFICATE (Applies when DFARS 252.225-7021 applies)

252.225-7021 TRADE AGREEMENTS (Applies in lieu of FAR 52.225-5)

252.225-7025 RESTRICTION ON ACQUISITION OF FORGINGS

252.225-7028<sup>1</sup> EXCLUSIONARY POLICIES AND PRACTICES OF FOREIGN GOVERNMENTS

252.225-7030 RESTRICTION ON ACQUISITION OF CARBON, ALLOY, AND ARMOR STEEL PLATE

252.225-7032 WAIVER OF UNITED KINGDOM LEVIES - EVALUATION OF OFFERS

252.225-7033 WAIVER OF UNITED KINGDOM LEVIES

252.225-7035 BUY AMERICAN ACT- FREE TRADE AGREEMENT - BALANCE OF PAYMENTS (Applies when DFARS 252.225-7036 applies and in lieu of FAR 52.225-4)

252.225-7036 BUY AMERICAN ACT- FREE TRADE AGREEMENT - BALANCE OF PAYMENTS (Applies in lieu of FAR 52.225-3)

252.225-7037 EVALUATION OF OFFERS FOR AIR CIRCUIT BREAKERS

252.225-7038<sup>1</sup> RESTRICTION ON ACQUISITION OF AIR CIRCUIT BREAKERS

252.225-7048 EXPORT-CONTROLLED ITEMS

252.226-7001<sup>1</sup> UTILIZATION OF INDIAN ORGANIZATIONS, INDIAN-OWNED ECONOMIC ENTERPRISES, AND NATIVE HAWAIIAN SMALL BUSINESS CONCERNS (Applies when the Order exceeds \$500,000)

252.227-7013<sup>1</sup> RIGHTS IN TECHNICAL DATA-NONCOMMERCIAL ITEMS (Applies when technical data is specified to be delivered under the Order)

252.227-7014 RIGHTS IN NONCOMMERCIAL COMPUTER SOFTWARE AND NONCOMMERCIAL COMPUTER SOFTWARE DOCUMENTATION (Applies when Seller is required to deliver computer software or computer software documentation)

252.227-7015<sup>1</sup> TECHNICAL DATA—COMMERCIAL ITEMS

252.227-7016 RIGHTS IN BID OR PROPOSAL INFORMATION

252.227-7017 IDENTIFICATION AND ASSERTION OF USE, RELEASE, OR DISCLOSURE RESTRICTIONS

252.227-7018 RIGHTS IN NONCOMMERCIAL TECHNICAL DATA AND COMPUTER SOFTWARE--SMALL BUSINESS INNOVATIVE RESEARCH (SBIR) PROGRAM

252.227-7019 VALIDATION OF ASSERTED RESTRICTIONS – COMPUTER SOFTWARE

252.227-7020 RIGHTS IN SPECIAL WORKS

252.227-7021 RIGHTS IN DATA--EXISTING WORKS

252.227-7025 LIMITATIONS ON THE USE OR DISCLOSURE OF GOVERNMENT-FURNISHED INFORMATION MARKED WITH RESTRICTIVE LEGENDS

252.227-7026 DEFERRED DELIVERY OF TECHNICAL DATA OR COMPUTER SOFTWARE

252.227-7027 DEFERRED ORDERING OF TECHNICAL DATA OR COMPUTER SOFTWARE

252.227-7028 TECHNICAL DATA OR COMPUTER SOFTWARE PREVIOUSLY DELIVERED TO THE GOVERNMENT

252.227-7030 TECHNICAL DATA—WITHHOLDING OF PAYMENT (Applies when technical data is specified to be delivered under the Order)

252.227-7032 RIGHTS IN TECHNICAL DATA AND COMPUTER SOFTWARE (FOREIGN)

252.227-7037<sup>1</sup> VALIDATION OF RESTRICTIVE MARKINGS ON TECHNICAL DATA (Applies when technical data is specified to be delivered under the Agreement)

252.227-7038 PATENT RIGHTS-OWNERSHIP BY THE CONTRACTOR (LARGE BUSINESS)

252.227-7039 PATENTS--REPORTING OF SUBJECT INVENTIONS

252.232-7004 DOD PROGRESS PAYMENT RATES

252.234-7002 EARNED VALUE MANAGEMENT SYSTEM (Applies in lieu of FAR 52.234-4)

252.235-7003 FREQUENCY AUTHORIZATION

252.236-7013 REQUIREMENT FOR COMPETITION OPPORTUNITY FOR AMERICAN STEEL PRODUCERS, FABRICATORS, AND MANUFACTURERS

252.239-7010 CLOUD COMPUTING SERVICES

252.239-7018<sup>1</sup> SUPPLY CHAIN RISK

252.243-7001 PRICING OF CONTRACT MODIFICATIONS

252.244-7000<sup>1</sup> SUBCONTRACTS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS (DOD CONTRACTS)

252.246-7001 WARRANTY OF DATA (Applies when technical data is specified to be delivered under the Order)

252.246-7003<sup>1</sup> NOTIFICATION OF POTENTIAL SAFETY ISSUES

252.246-7007<sup>1</sup> CONTRACTOR COUNTERFEIT ELECTRONIC PART DETECTION AND AVOIDANCE SYSTEM

252.246-7008<sup>1</sup> SOURCES OF ELECTRONIC PARTS

252.247-7003<sup>1</sup> PASS THROUGH OF MOTOR CARRIER FUEL SURCHARGE ADJUSTMENT TO COST BEARER

252.247-7023<sup>1</sup> TRANSPORTATION OF SUPPLIES BY SEA

252.247-7024<sup>1</sup> NOTIFICATION OF TRANSPORTATION OF SUPPLIES BY SEA

252.249-7002 NOTIFICATION OF ANTICIPATED CONTRACT TERMINATION OR REDUCTION

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

- 1852.204-76 SECURITY REQUIREMENTS FOR UNCLASSIFIED INFORMATION TECHNOLOGY RESOURCES
- 1852.208-81 RESTRICTIONS ON PRINTING AND DUPLICATING
- 1852.217-70 PROPERTY ADMINISTRATION AND REPORTING
- 1852.219-74 USE OF RURAL AREA SMALL BUSINESSES
- 1852.219-75 SMALL BUSINESS SUBCONTRACTING REPORTING
- 1852.219-76 NASA 8 PERCENT GOAL
- 1852.223-70 SAFETY AND HEALTH
- 1852.227-11 PATENT RIGHTS-RETENTION BY THE CONTRACTOR (SHORT FORM)
- 1852.227-14 RIGHTS IN DATA – GENERAL
- 1852.227-70 NEW TECHNOLOGY
- 1852.227-71 REQUESTS FOR WAIVER OF RIGHTS TO INVENTIONS
- 1852.227-72 DESIGNATION OF NEW TECHNOLOGY REPRESENTATIVE AND PATENT REPRESENTATIVE
- 1852.227-85 INVENTION REPORTING AND RIGHTS – FOREIGN
- 1852.242-73 NASA CONTRACTOR FINANCIAL MANAGEMENT REPORTING
- 1852.244-70 GEOGRAPHIC PARTICIPATION IN THE AEROSPACE PROGRAM
- 1852.245-73 FINANCIAL REPORTING OF NASA PROPERTY IN THE CUSTODY OF CONTRACTORS

**IF AN ORDER IS PLACED UNDER A DEPARTMENT OF HOMELAND SECURITY (HSAR) PRIME CONTRACT, THE FOLLOWING HSAR FAR SUPPLEMENTAL CLAUSES APPLY IN ADDITION TO THE FAR CLAUSES:**

- 3052.219-70 SMALL BUSINESS SUBCONTRACTING PROGRAM REPORTING

<sup>1</sup> If Purchaser has notified Seller in writing that the Goods or Services are a commercial item as defined in 2.101, then only these clauses apply.

<sup>2</sup> The clause does not apply to international suppliers when work is performed outside the United States and its possessions.

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**APPENDIX II: SUPPLEMENTARY TERMS AND CONDITIONS FOR COST REIMBURSEMENT ORDERS**

This Appendix II supplements Appendix I and applies only to cost-reimbursement purchase orders awarded under a prime or higher tier U.S. Government contract.

THE FOLLOWING CLAUSES APPLY IN ADDITION TO THOSE SET FORTH IN APPENDIX I:

- 52.215-22 LIMITATIONS ON PASS-THROUGH CHARGES – IDENTIFICATION OF SUBCONTRACT EFFORT (Applies when the Order exceeds the SAT for non-DOD Orders)
- 52.215-23 LIMITATIONS ON PASS-THROUGH CHARGES (Applies when the Order exceeds the SAT for non-DOD Orders)
- 52.216-7 ALLOWABLE COST AND PAYMENT
- 52.216-8 FIXED FEE
- 52.216-10 INCENTIVE FEE
- 52.232-20 LIMITATION OF COST
- 52.242-1 NOTICE OF INTENT TO DISALLOW COSTS
- 52.242-15 STOP WORK ORDER (Alt 1 applies)
- 52.246-8 INSPECTION OF RESEARCH AND DEVELOPMENT – COST REIMBURSEMENT
- 52.249-14 EXCUSABLE DELAYS
- 52.228-7 INSURANCE-LIABILITY TO THIRD PERSONS
- 52.232-22 LIMITATION OF FUNDS

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