

Composiflex, Inc.
Terms and Condition of Purchase
2025

1. DEFINITIONS

- 1.1. "Buyer" means Composiflex, Inc.
- 1.2. "Customer" means the party who issued the prime contract or higher tier subcontract to Buyer.
- 1.3. "Government" means the United States Government.
- 1.4. "Prime Contract" means Buyer's or a higher tier subcontractor's prime contract with the ultimate customer under which this Contract is entered into as a subcontract of a lower tier.
- 1.5. "Seller" means the party identified on the Purchase Order, with whom Buyer is contracting for Work
- 1.6. "Terms and Conditions" means these Terms and Conditions of Purchase.
- 1.7. "Work" means all required labor, articles, materials, supplies, goods, and services which Seller is obligated to provide Buyer under the Contract.

2. CONTRACT FORMATION

- 2.1. **Offer.** The purchase order is an offer to purchase Work from the Seller by Buyer. Placing a purchase order does not constitute acceptance by Buyer of any offer, quotation, or proposal from Seller. Buyer shall not be bound to a submitted purchase order until Seller executes and returns to Buyer an acknowledgment copy of the purchase order which shall constitute acceptance of the offer set forth in the purchase order, including these Terms and Conditions.
- 2.2. **Acceptance.** Seller shall be bound by the purchase order when: (a) Seller executes and returns an acknowledgment copy of the purchase order; (b) Seller otherwise communicates to Buyer in writing its acceptance of the purchase order; or (c) Seller delivers to Buyer any of the goods, or renders to Buyer any of the services, identified in the purchase order. Any form of acceptance by Seller in response to a purchase order from Buyer shall result in Seller being bound by the purchase order which shall be subject to these Terms and Conditions. Unless Seller shall have set forth each specific objection to these Terms and Conditions in a separate writing signed and dated by Seller and delivered to Buyer contemporaneously with Seller's acceptance of Buyer's purchase order or such other manifestation of acceptance, Seller shall be deemed to have accepted all of these Terms and Conditions. A purchase order expressly limits acceptance to the Terms and Conditions stated herein, and any additional or different terms proposed by the Seller are rejected unless expressly assented to in writing by Buyer.
- 2.3. **Different Terms.** Unless expressly accepted in writing by Buyer, additional or differing terms or conditions proposed by Seller or provided by Seller are rejected by Buyer and have no effect. Buyer expressly objects to any terms contained in any of Seller's documents which are different from, or additional to, the terms of Buyer's purchase order which shall be subject to these Terms and Conditions. Buyer's execution of any document issued by Seller shall constitute only an acknowledgment of the receipt thereof, and shall not be construed as an acceptance of any of

the terms therein. No contract shall exist between Buyer and Seller except as provided in these Terms and Conditions.

2.4. Entire Agreement. The purchase order, including these Terms and Conditions constitutes the entire understanding and agreement (the "Contract") between Buyer and Seller. This Contract integrates, merges, and supersedes all prior offers, negotiations, representations, agreements, and understandings concerning the subject matter hereof, and may not be altered or supplemented by any additional terms and conditions. Any representation, promise, course of dealing, course of performance, custom or trade usage, oral or otherwise, will not be binding upon either party.

3. AMENDMENTS

The Contract may only be amended by a writing which is executed by Buyer. Any acknowledgement or other document of Seller containing or referencing other terms and conditions shall not have the effect of modifying the Contract or these Terms and Conditions, even if signed by Buyer, and any such documents are hereby rejected. Buyer shall consider a request by Seller for an amendment only if such request is in writing and is directed to specific paragraphs in the Contract.

4. PRICE AND PAYMENT TERMS

Prices stated in the purchase order shall apply to all deliveries to be made or services to be rendered under the Contract. No price increases are valid, unless Buyer expressly consents to such increase in writing. The price set forth in the purchase order is the entire price for the goods and/or services. Unless specifically otherwise set forth in the purchase order, the price is inclusive of all shipping, postage, handling, packaging, containers, and all other materials or services provided in connection with performance of the Contract by Seller. Except as otherwise set forth in the purchase order, the price includes all federal, state, and local taxes, including, but not limited to, sales tax, value added tax, or similar taxes. Seller is solely responsible for paying all applicable taxes. Prices shall not include any taxes, impositions, charges or exactions for which BUYER has furnished a valid exemption certificate or other evidence of exemption. Unless specifically otherwise set forth in the purchase order and consistent with the deliver term set forth in Section 5.1, the price is inclusive of all shipping costs; postage; customs duties, tariffs, and fees; handling, packaging, containers, and all other materials or services provided in connection with performance of the Contract by Seller. Buyer shall not be obligated to pay any fees or charges whatsoever that are not provided for in the purchase order. Unless otherwise stated in the purchase order, Buyer's payment to Seller shall be not be due until thirty (30) days following: (a) in the case of goods, delivery and acceptance of the goods; and (b) in the case of services, complete performance of the services. Without prejudice to any other right or remedy it may have, Buyer reserves the right to set off at any time any amount owing to it by Seller against any amount payable by Buyer to Seller under this Agreement.

5. DELIVERY

Time of delivery and time of performance by Seller is of the essence. Any date in the Contract for delivery of goods or performance of services is not approximate, such date is a guaranteed delivery date.

5.1. Delivery Term. Unless otherwise specified in the purchase order, delivery of goods shall be DDP Buyer's facility 1820 Nagle Road, Erie, PA 16510 (Incoterms 2020), as applicable. Seller shall be responsible for arranging transportation of the goods and the insuring of the goods while in transit and prior to acceptance of the goods by Buyer. Seller shall be solely responsible for the cost of such transportation and insurance.

5.2. Inspection and Acceptance of Goods. Final inspection and acceptance of goods shall be made as promptly as practical after delivery. However, the failure of Buyer to promptly inspect and accept or reject goods, or to detect defects via inspection, shall not relieve Seller of any liability for failure of the goods to conform to the Contract's requirements, nor result in any liability to Buyer whatsoever. In the event the goods contain a defect or otherwise do not conform to the Contract requirements, Buyer has the right to: (a) reject the goods, (b) terminate the Contract for default, (c) require Seller to correct the goods, (d) accept the goods and deduct from the amount due to Seller the greater of any damages incurred by Buyer as a result of the non-conforming goods, or the difference in value between the non-confirming goods as delivered versus the price under the Contract. Seller shall promptly, at no expense to Buyer, repair, replace, refund, or correct the non-conforming goods, according to the remed(ies) elected by Buyer. In the event Seller fails to promptly correct non-conforming goods, Buyer may replace or correct such non-conforming goods and charge Seller the costs to do so, and/or terminate the Contract. Payment for goods shall not constitute acceptance of goods. Acceptance of all or part of the goods shall not be deemed to be a waiver of Buyer's right to revoke acceptance, reject the goods, and return any portion of the goods because of a failure of the goods to conform to the requirements of the Contract. Seller shall be solely responsible for all costs related to rejected goods, including return shipping and handling charges. Buyer's remedies hereunder are cumulative, and are not in lieu of or in limitation of, any other rights and/or remedies Buyer may have under law or this Contract. Buyer shall not be liable for failure to accept any part of the goods if such failure is the result of any cause beyond the control of Buyer.

5.3. Title and Risk of Loss. Risk of loss passes from Seller to Buyer in accordance with the delivery term applicable to a shipment. Title to goods passes from Seller to Buyer upon passage of risk of loss.

6. CHANGE ORDERS

Buyer reserves the right to make, at any time, written change orders with respect to any one or more of the following: (a) specifications, drawings, and data incorporated into the Contract; (b) methods of shipment or packaging; (c) place of delivery; (d) time of delivery; (e) manner of delivery; and (f) quantities. If any such change order causes an increase or decrease in the cost of, or the time required for, performance of the Contract, an equitable adjustment shall be made in the contract price or delivery schedule, or both. Any claim by Seller for an adjustment hereunder must be approved by Buyer in writing before Seller proceeds in accordance with such change order. If Seller proceeds in accordance with such change order without having first obtained Buyer's written consent to an adjustment, Seller shall be deemed to have waived any claim for an adjustment and Buyer shall not be obligated to make or honor any adjustment relating to the change order in question.

7. SELLER'S WARRANTIES

Seller warrants that it has good and marketable title to all goods furnished to Buyer under this Contract, and such goods shall be delivered to Buyer free and clear from all liens and encumbrances. Seller warrants that all goods furnished to Buyer under this Contract shall be free from defects in material and workmanship, and shall be in conformity with the requirements of the Contract. Seller further warrants that such goods shall be merchantable and fit for the purpose which they are purchased by Buyer, as well as free from defects in design. If Buyer approves Seller's design, such approval shall not relieve Seller of its design warranty. All Seller warranties shall survive acceptance of goods by Buyer. The express warranties contained herein shall be in addition to, and not in lieu of, any other warranties given to Buyer by Seller or otherwise existing as a matter of law, whether such additional warranties are

express or implied. Any applicable statute of limitations runs from the date of Buyer's discovery of the noncompliance of the Goods or Services with the foregoing warranties. In the event of noncompliance with the foregoing warranties, at Buyer's option and in its sole and unlimited discretion, Seller shall, at its own cost and expense, promptly (i) replace or repair the defective or nonconforming Goods and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective or nonconforming goods to Seller and the delivery of repaired or replacement Goods to Buyer, if applicable, (ii) correct or re-perform the applicable Services, and/or (iii) refund the price paid by Buyer for the nonconforming Work. In the event of any breach of the foregoing warranties, Buyer shall have such remedies as are provided under this Contract or as are otherwise provided by law. Any remedies specified herein are cumulative and in addition to, not in lieu of or otherwise limiting to, any remedy Buyer may have under applicable law.

8. CONFIDENTIALITY

All information disclosed by Buyer to Seller in connection with negotiation, execution, and performance of the Contract (the "Confidential Information") shall be considered confidential to Buyer. Seller shall hold all Confidential Information in strict confidence, take all necessary and appropriate precautions to maintain confidentiality of the Confidential Information, and use the Confidential Information solely for the purpose of fulfilling Seller's obligations under the Contract. Seller's confidentiality obligations shall apply to its employees, agents, subcontractors, representatives and any other person who acquires knowledge of the Confidential Information in performance of Seller's obligations under the Contract. Each such person shall be obligated to maintain confidentiality of the Confidential Information, and Seller shall be responsible for any such person's violation of such obligations. Unless otherwise agreed to by Buyer and Seller in writing, any information which has been disclosed by Seller to Buyer in connection with the negotiation, execution, or performance of the Contract shall not be deemed to be confidential or proprietary information of Seller.

9. INDEMNIFICATION

Seller agrees to defend, indemnify and hold harmless Buyer, its officers, agents, successors, assigns and customers against all claims, demands, damages, costs, expenses, attorneys' fees or liability of any kind which arise from, or are related in any way to: (1) the actual or alleged infringement of any trade name, trademark, copyright or patent, or the misappropriation of any trade secrets or confidential information arising in connection with the possession, sale or use of the goods delivered, or services rendered, to Buyer under the Contract; (2) injuries or damages to any person or property arising from the performance of services for Buyer, if the Contract calls for the performance of such services; (3) the performance of the Contract by Seller or any agent or subcontractor of Seller; and/ or (4) the claims of third parties relating to or arising in connection with services performed and/or the goods delivered under the Contract. Seller further agrees, upon receipt of notification from Buyer, to promptly assume full responsibility for the defense of any and all such claims, suits, actions or proceedings for which Seller is obligated to provide indemnification under this Paragraph 9.

10. INSURANCE

Unless expressly agreed to by Buyer in writing otherwise, Seller agrees to maintain insurance coverage in the following minimum amounts: (1) workers' compensation at the statutory limits for the state(s) in which Seller performs the services related to the Contract; (2) general liability in the amount of \$1,000,000 per occurrence and \$3,000,000 in the aggregate; (3) automobile liability in the amount of \$50,000 per occurrence and \$100,000 in the aggregate; (4) property damages in the amount of \$100,000 per occurrence; and (5) product defect coverage in the amount of \$1,000,000 per occurrence and in the aggregate. Upon Buyer's request, Seller shall furnish a certificate of insurance or other

evidence of such coverages satisfactory to Buyer. The foregoing insurance requires shall not affect or limit the Seller's obligations to indemnify Buyer under Paragraph 9.

11. TERMINATION

In addition to any remedies that may be provided under these Terms and Conditions, Buyer may terminate the Contract with immediate effect upon written notice to the Seller, either before or after the acceptance of the goods or the Seller's delivery of the services, if Seller has not performed or complied with any of these Terms and Conditions, in whole or in part. If the Seller becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors, then the Buyer may terminate the Contract upon written notice to Seller. Buyer may terminate the Contract with immediate effect in the event Seller is in default of any of its obligations under the Contract. If Buyer terminates the Contract for any reason, Seller's sole and exclusive remedy is payment for the goods received and accepted and services accepted by Buyer prior to the termination.

12. FLOWDOWN PROVISIONS

In the event that Buyer's purchase order for Work hereunder is pursuant an underlying contract between Buyer as its Customer (the "Prime Contract"), whether such Customer is a government entity or a private entity, Seller shall assume towards Buyer all obligations and responsibilities under flowdown provisions in the Prime Contract that Buyer assumes toward Customer. Buyer shall have the benefit of all rights, remedies, and redress against Seller that Customer, under the Prime Contract, has against Buyer, to the extent applicable to this Contract. This Contract governs in case of any inconsistency between the provisions of this Contract and the provisions of the Prime Contract. Seller acknowledges that Buyer will furnish a copy of the relevant sections of the Prime Contract to Seller upon request and subject to confidentiality prior to entering into the Contract. By entering into the Contract: (a) Seller acknowledges that it has read a copy of, and understand its obligations under, the relevant sections of the Prime Contract; or (b) Seller waives the opportunity to do so. The flowdown provisions of the Prime Contract are hereby incorporated by reference as if fully set forth herein.

13. COMPLIANCE WITH LAWS

Seller agrees that, in the performance of the Contract, it will comply with all applicable laws, regulations and orders of the United States or of any state or political subdivision. Seller acknowledges that Buyer's customer may be a governmental entity. In such circumstances, without limiting the generality of the foregoing, Seller expressly represents and warrants that it shall comply with all requirements of state and/or federal law with respect to suppliers of government contracts, including, but not limited to, provisions expressly applicable to Buyer and Buyer's suppliers. Buyer will note whether its purchase order is issued under a government contract when sending the purchase order to Seller, and shall provide written notice of such contract requirements to Seller upon request.

14. GOVERNMENT CONTRACTS

Without limiting the generality of Sections 12 and 13, the parties recognize that some or all of the Work may be used to satisfy requirements of Buyer's performance under a United States Federal Government Prime or Sub-Contract. Accordingly, Seller agrees, that under such circumstances, Seller shall be bound by all applicable Federal Acquisition Regulations (FAR), Defense Federal Acquisition Regulations (DFARS), any agency acquisition regulations, and Department of Labor clauses in Buyer's contract with the Federal Government or a higher tier subcontractor. The applicable provisions with respect to the Contract shall be provided to Seller under Section 12. Seller shall comply with the FAR/DFARS that apply to the Contract, all of which are hereby incorporated by reference into the

Contract as if fully set forth herein and must be included in each lower-tier subcontract. The clauses have the same force and effect as if they were given in full text. The full text of the clauses can be accessed at: <http://www.acquisition.gov/far/> and, upon written request, Buyer will provide the Seller the full text copy of the clauses. The Seller certifies that to the best of its knowledge and belief, the Seller and any of its principals (as defined in FAR 52.209-5) are not presently debarred, suspended, proposed for debarment or declared ineligible for the award of contracts by any U.S. Federal Government Agency. Seller shall provide immediate written notice to Buyer if at any time it learns that its certification was erroneous or has become erroneous by reason of change of circumstances.

15. PRIORITY RATING

If this Contract contains a DPAS rating, this Contract is a “rated order” certified for national defense, emergency preparedness, and energy program use, and SELLER shall follow all the requirements of the Defense Priorities and Allocation System (DPAS) Regulation (15 C.F.R. Part 700).

16. FORCE MAJEURE

Neither party shall be liable or responsible to the other party, or be deemed to have defaulted under or breached the Contract, for any failure or delay in fulfilling or performing any term of the Contract when and to the extent such party's (the "Impacted Party") failure or delay is caused by or results from the following force majeure events ("Force Majeure Event(s)": (a) acts of God; (b) flood, fire, earthquake, epidemics, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order, law, or action, including modifications or cancellations to government procurement contracts or funding; (e) embargoes or blockades in effect on or after the date of this Agreement; (f) national or regional emergency; and (g) other similar events beyond the reasonable control of the Impacted Party. The Impacted Party shall give notice within ten (10) days of the Force Majeure Event to the other party, stating the period of time the occurrence is expected to continue. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. In the event that the Impacted Party's failure or delay remains uncured for a period of fifteen (15) days following written notice given by it under this Section, the other party may thereafter terminate this Contract.

17. NO WAIVER

No waiver by Buyer of any of the provisions of this Contract is effective unless explicitly set forth in writing and signed by Buyer. No failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Contract operates or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power, or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

18. PERFORMANCE BY SELLER

Buyer's purchase order is issued to Seller in reliance upon Seller's personal performance, and Seller agrees not to assign the Contract or to delegate the performance of its duties without the prior written consent of Buyer. Any such assignment or delegation which is attempted without the prior written consent of Buyer shall be void, and shall constitute a material breach of the Seller's obligations under the Contract.

19. BUYER'S PROPERTY

Unless otherwise agreed to by the Buyer and Seller in writing, the following items shall be, and remain, the property of Buyer: all tooling, molds, patterns, specifications, drawings, or other materials furnished to Seller by Buyer or specifically paid for by Buyer; all intellectual property rights related to the goods or arising out of the services performed; and all trade secrets, intellectual property, and other rights encompassed within the meaning of "Confidential Information" as defined above.

20. INDEPENDENT CONTRACTORS

The relationship between the parties is that of independent contractors. Nothing contained in this Contract shall be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

21. GOVERNING LAW, JURISDICTION, AND VENUE

This Contract and all matters arising out of or relating to this Contract shall be construed in accordance with the laws of the Commonwealth of Pennsylvania, without reference to any applicable principles of conflicts of law which would direct the application of the laws of another jurisdiction except that any provision in this Contract that is (i) incorporated in full text or by reference from the Federal Acquisition Regulation (FAR); or (ii) incorporated in full text or by reference from any agency regulation that implements or supplements the FAR or; (iii) that is substantially based on any such agency regulation or FAR provision, shall be construed and interpreted according to the federal common law of government contracts as enunciated and applied by federal judicial bodies, boards of contracts appeals, and quasi-judicial agencies of the federal government. Any legal suit, action, or proceeding arising out of or relating to this Contract shall be instituted in the state or federal courts located in the Erie, Pennsylvania, and each party irrevocably submits to the exclusive personal jurisdiction of such courts in any such suit, action, or proceeding arising out of or related to the Contract. Each party hereby irrevocably waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect to any litigation directly or indirectly arising out of under or in connection with this Contract. Until final resolution of any dispute hereunder, Seller shall diligently proceed with the performance of this Contract as directed by Buyer.

22. BUYER'S RIGHTS AND REMEDIES

The rights and remedies of Buyer in this Contract are cumulative and in addition to any other rights and remedies provided by law or in equity. No failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Contract operates or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power, or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

23. COMPLIANCE WITH LAWS

In performance of this Contract, Seller shall comply with all applicable local, state, and federal laws, orders, rules, regulations, and ordinances. Seller shall procure all licenses/permits, pay all fees, and other required charges and shall comply with all applicable guidelines and directives of any local, state and/or federal governmental authority. Seller, at its expense, shall provide reasonable cooperation to Buyer in conducting any investigation regarding the nature and scope of any failure by Seller or its personnel to comply with applicable local, state, and federal laws, orders, rules, regulations, and ordinances that may affect the performance of Seller's obligations under this Contract. Without limiting the generality of the foregoing, Seller shall comply with the laws listed on Appendix 1, which is hereby incorporated into this Contract.

24. EXPORT CONTROL

Seller shall comply with all applicable United States export and import control laws and regulations, including, but not limited to, the requirements of the Arms Export Control Act, the International Traffic in Arms Regulation (ITAR), the Export Control Reform Act of 2018, the Export Administration Regulations, and the regulations of the Office of Foreign Assets Control. Seller shall obtain all required export licenses and agreements necessary to perform under this Contract, as applicable.

Seller shall comply with all applicable United States anti-boycott laws and regulations, including but not limited to, the requirements of the Export Administration Regulations, 15 C.F.R. 760, and the Internal Revenue Code, 26 U.S.C. 999, including the requirements on reporting anti-boycott requests to the U.S. Government. Within 30 Days of submittal of any anti-boycott report made to the U.S. Government that involves this Contract, Seller shall provide a copy to Buyer.

Without limiting the foregoing, Seller shall not transfer any export-controlled item, data, or provide a controlled service, to include transfer to a person who is not a "U.S. Person" as defined in the ITAR (22 C.F.R. §120.62), without the authority of a U.S. Government export license, agreement, or other authorization. The restrictions on the transfer of export-controlled data apply equally to data furnished by Buyer and to any such export-controlled data incorporated in documents generated by Seller. Additionally, Seller will not disclose any export-controlled data furnished to it by Buyer, to a non-U.S. Person until Seller meets all regulatory and contractual requirements. Seller will strictly comply with the conditions in any such approval and in the export license or other U.S. Government authorization for such disclosure.

Further, a U.S. Government export license, agreement, or applicable license exemption or exception shall be obtained by Seller prior to the Seller's transfer of any export-controlled item, data or services to any U.S. Person that is employed by any "Foreign person" within the meaning of 22 C.F.R. §120.63.

Seller must make any electronic transmissions of unclassified export-controlled data or technology in accordance with 32 Code of Federal Regulations, Part 2002 and other applicable law. The transmission of classified export-controlled data must adhere concurrently with the applicable export regulation and the requirements outlined in the National Industrial Security Program Operating Manual at 32 Code of Federal Regulations, Part 117.

Under this Contract, the Seller acknowledges and confirms that the sale, manufacture, export, or brokerage of defense articles or provision of defense services, as those articles and services are defined in the ITAR and enumerated on the U.S. Munitions List (22 C.F.R. 121), mandates registration with the Directorate of Defense Trade Controls (DDTC), U.S. Department of State. If Seller is engaged in the business of either selling, exporting, manufacturing, or brokering of (whether exporting or not) defense articles or furnishing defense services, Seller represents that it maintains an effective export/import compliance program in accordance with the ITAR and it is registered as such with the United States Department of State's Directorate of Defense Trade Controls.

Seller shall flow down export and import compliance requirements by contract to its suppliers, vendors, and subcontractors who support Buyer Contracts and purchase orders. Seller shall, on request, provide information to Buyer on the country of origin of any Goods supplied to Buyer, including any and all components, subcomponents, and raw materials contained therein.

25. QUALITY CONTROL

Seller agrees to provide and maintain a quality control system for the Goods to an industry recognized quality standard acceptable to Buyer. Seller shall permit, authorized Buyer or Customer

representatives, and regulatory authorities to review facilities, procedures, practices, processes, and related documents to determine such acceptability. Seller shall ensure its employees are aware of their contribution to and importance of product conformity, product safety, and ethics requirements. Seller agrees to include, and to require its subcontractors to include, the substance of this provision, including this sentence, in each of its subcontracts under this Contract. Further, Seller shall comply with any other specific quality requirements identified in this Contract. Seller shall keep records of all quality control inspection work complete and available to Buyer and its Customers. Seller agrees to notify the Buyer procurement representative about changes in an item or process, which affect compliance with applicable specifications, technical data sheets, or reliability of the Good, changes of suppliers, and changes of manufacturing facility locations

26. COUNTERFEIT PARTS

26.1. Definitions for purposes of this Contract:

26.1.1. "Counterfeit Parts" shall mean an unauthorized copy, imitation, substitute, or modified part, component, module, or assembly whose origin, material, source of manufacture, performance, or characteristics are misrepresented as a specified genuine part of an original or authorized manufacturer. Counterfeit Parts includes, but is not limited to, (A) parts that have been re-marked to disguise them or falsely represent the identity of the manufacturer, (B) the false identification of serial number, date code, documentation, or performance characteristics, (C) defective parts and/or surplus material scrapped by the original manufacturer, and (D) previously used parts pulled or reclaimed and provided as "new".

26.1.2. As used herein, "authentic" shall mean (A) genuine; (B) from the legitimate source claimed or implied by the marking and design of the product offered; and (C) manufactured by, or at the behest and to the standards of, the manufacturer that has lawfully applied its name and trademark for that model/version of the material.

26.1.3. "Independent Distributor" shall mean a person, business, or firm that is neither authorized nor franchised by an Original Component Manufacturer ("OCM") to sell or distribute the OCM's products but which purports to sell, broker, and/or distribute such OCM products. Independent Distributors are also referred to as unfranchised distributors, unauthorized distributors, and/or brokers.

26.2. SELLER represents and warrants that only new and authentic materials are used in Work required to be delivered to BUYER and that the Work delivered contains no Counterfeit Parts. No other material, part, or component other than a new and authentic part is to be used unless approved in advance in writing by BUYER. To further mitigate the possibility of the inadvertent use of Counterfeit Parts, SELLER shall only purchase authentic parts/components directly from the Original Equipment Manufacturers ("OEMs")/OCMs or through the OEM's/OCM's authorized distribution chain. SELLER must make available to BUYER, at BUYER's request, OEM/OCM documentation that authenticates traceability of the components to that applicable OEM/OCM. Purchase of parts/components from independent distributors is not authorized unless first approved in writing by BUYER's Procurement Representative. SELLER must present complete and compelling support for its request and include in its request all actions to ensure the parts/components thus procured are legitimate parts. BUYER approval of SELLER request(s) does not relieve SELLER's responsibility to comply with all Contract requirements, including the representations and warranties in this subparagraph. A breach of this paragraph/clause or any subparagraph herein shall be considered a material breach of this Contract.

- 26.3. In the event that Work delivered under this Contract constitutes or includes Counterfeit Parts, SELLER shall, at its expense, promptly replace such Counterfeit Work with genuine Work conforming to the requirements of this Contract. Notwithstanding any other provision in this Contract, SELLER shall be liable and indemnify BUYER for all costs relating to the removal and replacement of Counterfeit Work, including without limitation BUYER's and higher tier customer's costs of removing Counterfeit Work of installing replacement materials and of any testing necessitated by the reinstallation of Work after Counterfeit Work have been exchanged. The remedies contained in this paragraph are in addition to any remedies BUYER may have at law, equity or under other provisions of this Contract.
- 26.4. SELLER shall maintain a documented system (policy, procedure, or other documented approach) which includes training of personnel, inspection and testing of electronic parts, counterfeit parts proliferation, traceability, and use of OEMs/OCMs or provides for prior notification and customer approval before parts/components are procured from sources other than OEMs/OCMs or through the OEM's/OCM's authorized distribution chain. SELLER shall provide copies of such documentation for its system for BUYER's inspection upon BUYER request.
- 26.5. SELLER shall flow the requirements of this clause to its subcontractors and suppliers at any tier for the performance of this Contract. If SELLER is providing electronic components/devices only, the following certification applies: Certification of Origin of Product: Acceptance of this Contract constitutes confirmation by SELLER that it is either the Original Equipment Manufacturer (OEM), Original Component Manufacturer (OCM), or a franchised or authorized distributor of the OEM/OCM for the product herein procured. SELLER further warrants that OEM/OCM acquisition documentation that authenticates traceability of the components to that applicable OEM is available upon request. If SELLER is not the OEM/OCM or a franchised or authorized distributor, SELLER confirms by acceptance of this Contract that the product(s) supplied to BUYER has been procured from the OEM/OCM or a franchised or authorized distributor of the OEM/OCM. The supplier further warrants that OEM/OCM acquisition traceability documentation is accurate and available to BUYER upon BUYER's request. A breach of this paragraph/clause or any subparagraph herein shall be considered a material breach of this Contract.

27. OBSOLESCENCE

- 27.1. "Obsolescence" is the occurrence of elimination of production or support of any material or product as a result of technological improvements, design changes, or infeasibility of continuance to manufacture a product or component.
- 27.2. Seller shall maintain an obsolescence program that will (1) monitor potential obsolescence; (2) report any possible obsolescence 12 months prior to the issue arising; (3) provide an alternative material or product.
- 27.3. SELLER shall provide BUYER with a "Last Time Buy Notice" at least twelve (12) months prior to any action to discontinue any item purchased under this Contract.

28. CONTRACT DIRECTION

- 28.1. Only the BUYER's Procurement Representative has authority to make changes in, to amend, or to modify this Contract on behalf of BUYER. Such changes, amendments or modifications must be in writing.

28.2. Program, operations, engineering, technical, or other personnel may from time to time render assistance, give technical advice, discuss, or exchange information with SELLER's personnel concerning the Work hereunder. Such actions shall not be deemed to be a change under the "Changes" clause of this Contract and shall not be the basis for equitable adjustment.

28.3. Except as otherwise provided herein, all notices to be furnished by the SELLER shall be sent to the BUYER's Procurement Representative.

29. RECOVERY OF EXPENSES

Buyer shall be entitled to recover from Seller all costs and expenses (including, but not limited to, reasonable attorney's fees) which are incurred by Buyer in enforcing its rights under this Contract, including, but not limited to, the recovery of any amounts owed by Seller to Buyer under this Contract.

30. SEVERABILITY

If any term or provision of the Contract, including these Terms and Conditions, is held invalid, illegal, or unenforceable by a court of competent jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of the Contract or invalidate or render unenforceable such term or provision in any other jurisdiction.

31. PRECEDENCE

Any inconsistencies in this Contract shall be resolved in accordance with the following descending order of precedence: (1) face of the Purchase Order, release document, or schedule (including any continuation sheets), as applicable, including any special terms and conditions; (2) these Terms and Conditions; (3) any FAR and DFARS Flowdown Provisions invoked in this Contract; (4) the Statement of Work and (5) Seller's Supplier Code of Conduct.

32. ELECTRONIC SIGNATURE VALID

The parties agree that a purchase order, acknowledgement, or any other Contract document, may be executed (i) pursuant to the process set forth in the Electronic Signatures in Global and National Commerce Act (15 U.S.C. § 7001, et. seq.), or (ii) in as many counterparts as may be required to reflect all parties' assent; all counterparts shall collectively constitute a single agreement. A legible facsimile signature or certified digital signature that can be authenticated will constitute an original and binding signature of a party.

APPENDIX 1

Seller's Employer Obligations. Seller is responsible for compliance with all requirements and obligations relating to its employees under all applicable local, state, and federal statutes, ordinances, rules, and obligations including, but not limited to, employer's obligations under laws relating to: payroll, income tax withholding and reporting; civil rights; equal employment opportunity; discrimination on the basis of age, sex, race, color, religion, disability, national origin, or veteran status; overtime; minimum wage; social security contribution and withholding; unemployment insurance; employer's liability insurance; worker's compensation; veteran's rights; and all other employment, labor, or benefits related laws.

Human Trafficking and Modern Slavery. Seller certifies compliance with all applicable laws regarding slavery and human trafficking of the state, province, and country/countries in which they are performing under this Contract and doing business, including, but not limited to, the California Transparency in Supply Chains Act and the United Kingdom Modern Slavery Act. Seller shall require its lower-tiered contractors to comply with the California Transparency in Supply Chains Act, when applicable.

Equal Employment. Seller shall ensure full compliance with all applicable equal employment, non-discrimination, and affirmative action laws and regulations, on its behalf and throughout its subcontracting chain, including but not limited to:

- i. To the extent applicable, the equal employment opportunity and affirmative action requirements set forth in 41 C.F.R. Part 60-1.4(a) (women and minorities) (if > \$10,000), 41 C.F.R. Part 60-250.5(a) (if > \$25,000) and Part 60-300.5(a) (covered veterans), and the employee notice requirements set forth in 29 C.F.R. Part 471, Appendix A to Subpart A, which are hereby incorporated by reference into this Contract.
- ii. The requirements of 41 CFR 60 741.5(a) (if > \$15,000). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities (If this procurement is >=\$10,000.)
- iii. The requirements of 41 CFR 60–300.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans (if this procurement is >=\$150,000).

Procurement Integrity Act. Seller represents and warrants that none of its officers, directors, employees, agents, contractors, lower-tier subcontractors, or other related entities have or will provide to Buyer any information, the disclosure or receipt of which would violate the Procurement Integrity Act, 41 U.S.C. § 423, as currently amended. This includes third party bid or proposal information and source selection information, as defined by the Procurement Integrity Act and the FAR. Additionally, Seller agrees to put in place effective controls to ensure compliance with the Procurement Integrity Act.

Hazardous Materials. Seller represents and warrants that each chemical substance constituting or contained in any material or part incorporated into the Goods or otherwise transferred to Buyer hereunder is on the list of chemical substances compiled and published by the Administrator of the Environmental Protection Agency pursuant to the Toxic Substances Control Act ("TSCA", 15 U.S.C. Sec. 2601 et seq.), as amended. Seller shall not incorporate any goods or materials into the Goods that contain any asbestos mineral fibers, or any other chemical substance prohibited by the EPA in a TSCA Risk Management action, which can be accessed at "Risk Management for Existing Chemicals under TSCA." Seller shall follow the procedures set forth in Section 40(d) Shipment of Non-Conforming Work, if Seller desires to provide Work that contains any chemical substances which fall under proposed bans or phase-outs under the TSCA as of the agreed upon date of shipment. Any notices required must include the chemical Abstract Services Number which can be found here: How to Access the TSCA Inventory | US EPA, and the concentration

Data Privacy. If because of this Contract, the Seller collects, stores or processes Personal Information, Seller agrees to comply and be bound by the Buyer' Privacy and Data Security Addendum located at <https://www.baesystems.com/en-us/what-wedo/suppliers/united-states/us-terms-and-conditions> and all applicable data privacy laws, including but not limited to the California Consumer Privacy Act, California Privacy Rights Act, Virginia Consumer Data Protection Act, Colorado Privacy Act, and the Massachusetts Data Privacy Law.

European Union's General Data Protection Regulations ("GDPR") and United Kingdom's Data Protection Act ("UK DPA"). If because of this Contract, the Seller collects, stores, or processes Personal Data, Seller agrees to comply with such laws and the GDPR Standard Contractual Clauses or UK International Data Transfer Agreement, as applicable and attached hereto. If Seller receives Sensitive Personal Data or is a Controller (as defined under the GDPR and/or UK DPA), Seller shall immediately notify Buyer prior to collecting, storing, and/or processing such data, and agrees to enter into a separate agreement with Buyer for the protection of that data as required by the GDPR, UK DPA, or both.

Conflict Minerals. If Seller is providing products to Buyer in the performance of this Contract, upon request, Seller shall provide Buyer with a completed Conflict Minerals Reporting Template (a copy of which can be found at www.responsiblemineralsinitiative.org) within thirty (30) Days of acceptance of this Contract. Seller also shall provide Buyer with an updated Conflict Minerals Reporting Template within thirty (30) Days of the end of each calendar year in which Seller provides products to Buyer.

Covered Telecommunications and Video Equipment. Seller represents and warrants that it does not and will not provide equipment, systems, or services that use covered telecommunications equipment or services (as defined in FAR 52.204-25) as a substantial or essential component of any system, or as critical technology as part of any system supplied to Buyer in the performance of this Contract. Seller further represents and warrants that it does not use any such covered telecommunications equipment or services, or use any equipment, system, or service that uses covered telecommunications equipment or services in supplying any systems, products, or services to Buyer.

Federal Supply Chain Acquisition Security Act Orders (“FASCSA Order”).

- i. **Prohibition.** Seller represents and warrants that it does not and will not provide or use as part of the performance of this Contract any covered articles (as defined in FAR 52.204-30), or any products or services produced or provided by a source, if the covered article or the source is prohibited by an applicable FASCSA Order.
- ii. **Notice.** If, during Contract performance, the Seller identifies, including through any notification by a supplier or subcontractor at any tier, that a covered article or product or service produced or provided by a source was provided to Buyer or used during Contract performance and is subject to a FASCSA order, Seller shall submit a report within twenty-four (24) hours to Buyer containing the following information: (A) Buyer PO or Contract number, as applicable; (B) name of the product or services provided to Buyer or used during the performance of the Contract; (C) name of the covered article or source subject to a FASCSA Order; (D) if applicable, name of the supplier or subcontractor, including the Commercial and Government Entity code (CAGE Code) and unique identifier (if known), that supplied the covered article or the product or service to Seller; (E) brand; (F) model number (original equipment manufacturer number, manufacturer part number, or wholesaler number; (G) item description; and (H) any information about mitigation actions undertaken or recommended. Within five (5) days of submitting such report, Seller shall submit a written report to Buyer containing the following information: (I) any further information about mitigation actions undertaken or recommended; (II) a description of the efforts undertook to prevent submission or use of the covered article or the product or service produced or provided by a source subject to an applicable FASCSA Order, and any additional efforts that will be incorporated to prevent future submission or use of the covered article or the product or service produced or provided by a source that is subject to an applicable FASCSA Order.
- iii. **SAM.gov Review.** During the performance of this Contract, Seller shall review SAM.gov at least once every three months, or as advised by Buyer, to check for covered articles subject to FASCSA Orders, or for products or services produced by a source subject to a FASCSA Order not identified in this Contract.
- iv. **Flow Down.** Seller shall include the substance of this clause in all subcontracts and supplier contracts, including those for the acquisition of commercial products or commercial services.

Anticorruption. Seller shall comply with all applicable laws and regulations relating to anti-corruption or anti-bribery including as applicable any U.S. Federal or State law governing public corruption, and the Foreign Corrupt Practices Act, as amended (“FCPA”) (15 U.S.C. §§ 78dd-1, et., seq.), regardless of whether the Seller is within the jurisdiction of the U.S. Seller shall immediately notify Buyer in writing if it or any of its owners, directors, officers, employees, or agents commits a violation of any such law or regulation.