

## CAE USA Inc. Terms and Conditions of Purchase for Firm Fixed Price Orders

### Version Control

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## CAE USA INC. TERMS AND CONDITIONS OF PURCHASE for FIRM FIXED PRICE ORDERS

**Definitions-** “Buyer” means CAE USA INC. “Seller” or “Supplier” means the party identified on the face of the Purchase Order. “**FAR**” means the Federal Acquisition Regulation. “**DFARS**” means the DoD FAR Supplement. “Government” means the U.S. Government. “Final Acceptance” means the Supplies and/or Services comply with the requirements of this Order. “Order” or “PO” means the Purchase Order and any attachments or documents incorporated therein by reference. “Services” means the services provided under the PO including systems design, installation, training, maintenance and modification. “Supplies” means all software, hardware, data, tools, equipment and parts furnished under this PO.

**Supplemental Terms and Conditions-** If a U.S. Government contract is referenced on the face of the Order, an additional terms and conditions supplement may be included with this Order. The supplement shall flow down the applicable FAR and DFARS clauses that are applicable terms and conditions of this Order due to the specific requirements of the U.S. Government prime contract. The supplement shall also provide detail to describe conditions upon which some clauses presented herein by this primary terms and conditions attachment shall not apply. Buyer and Seller shall determine and agree to the applicability of such modifying conditions, and Seller agreement shall be an element of the acknowledgement and acceptance detailed below.

**Acceptance of PO-** This Order and any attachments and documents incorporated herein constitute the complete and exclusive statement of the terms of this Order between Buyer and Seller and supersede all prior representations, understandings, and communications relating hereto. This Order is limited to the terms herein without modification. Seller commencement of performance, delivery of the Supplies or Services, acknowledgment of this Order, or acceptance of payment will constitute Seller’s unconditional acceptance of this Order. Additional or different terms proposed by Seller shall not be binding upon Buyer unless accepted in writing by Buyer’s Authorized Procurement Representative. The invalidity in whole or in part of any provision of this Order shall not affect the validity of other provisions. Buyer’s failure to insist, in any one or more instances, upon the performance of any term of this Order, shall not be construed as a waiver or relinquishment of Buyer’s right to such performance or to future performance of such a term or terms, and Seller’s obligation in respect thereto shall continue in full force and effect.

**Reliance-** Seller acknowledges that it is, and Buyer relies upon Seller as an expert and competent in all phases involved in the design, production, testing and manufacturing of the Supplies and/or Services under this PO. The Seller will not deny responsibility or obligation to Buyer based upon Buyer’s review or approval of a contract phase, or based upon Buyer supplied data or drawings.

**Modifications and Changes-** (A) **Modifications-** This PO may be amended only by written agreement between the parties, which will be incorporated in the PO as a Change Order. (B) **Changes-** Notwithstanding the above, Buyer through its Authorized Procurement Representative may, at any time by written notice, make changes that are within the general scope of the Order and specifically relating to: 1) drawings, designs or specifications; 2) method of shipment or packing; 3) place of inspection acceptance point or delivery; 4) delivery schedule and 5) quantity of Services or Supplies. Should any change cause a variation in the cost of performance or time required for performance, an equitable adjustment may be requested by Seller. This request for equitable adjustment must be made by Seller in writing within 30 days from the date of notice of the change and must be in a format as required by Buyer. However, nothing in this Clause will excuse the Seller from proceeding with the Order as changed. Failure of the parties to agree to an adjustment will be a dispute governed by the Disputes Clause herein.

**Technical Direction and Administrative Authority-** While Buyer’s engineering and technical personnel or other representatives may from time to time render assistance, provide information, advice or instructions to Seller concerning the Supplies or Services to be furnished by Seller, Buyer’s

Authorized Procurement Representative is the only individual authorized to direct/redirect Seller’s effort, or in any way amend the terms of this Order. Such technical direction shall be deemed expressions of personal opinion only and shall not affect Buyer’s and Seller’s rights and obligations hereunder unless set forth in writing by Buyer’s Authorized Procurement Representative pursuant to the Modifications and Changes Clause herein. The Seller shall notify Buyer’s Authorized Procurement Representative, in writing, within 15 business days from the date the Seller identifies such conduct considered to constitute a change to the Purchase Order. Seller acceptance of, or reliance upon any direction to proceed or other instruction by any of the Buyer’s technical personnel or by those other than the herein named Buyer’s Authorized Procurement Representative shall be at Seller’s own risk and shall not constitute a binding purchase commitment upon Buyer.

**Quality/Inspection System-** Seller will maintain a quality and inspection system that is acceptable to the Buyer. Buyer shall have the right at all reasonable times to inspect Seller’s quality and inspection system. If a U.S. Government contract is referenced on the face of the Order, the rights accorded to the Buyer by this clause shall be also accorded to the Government.

**Warranty-** (A) Seller warrants that all Supplies furnished will be free from defects in material and workmanship, conform to applicable drawings and specifications and unless to Buyer’s detailed design be free of design defects for one (1) year from delivery/ Final Acceptance. (B) If there is a breach of this warranty, Buyer may return Supplies at Seller’s expense for correction, replacement or credit as Buyer may direct. Defective items repaired by Seller shall be subject to the original warranty period. (C) Seller agrees that this Warranty clause and the Buyer’s rights and remedies hereunder may be assigned by the Buyer to any company or business entity to which title to the Supplies and/or Services provided hereunder may be transferred or which is a lessee of the Supplies and/or Services provided hereunder without further permission or concurrence of Seller. (D) **Price Warranty-** Seller warrants that the prices for the Supplies and/or Services are no less favorable than those currently extended to any other customer for the same or similar Supplies and/or Services in similar quantities.

**Buyer/Government Furnished Property-**In the event that Seller is provided property from Buyer or the Government, Seller shall be liable for risk of loss to this property, and shall return such property in as good a condition as when received absent fair wear and tear. Title to this property shall remain with the Buyer or Government and this title is unaffected by attachment to other property not owned by the Buyer. If a U.S. Government contract is referenced on the face of the Order, Seller shall comply with the requirements of FAR subpart 45.5 regarding the management and administration of this property. Buyer and the Government have the right to enter Seller’s property to at all reasonable times to audit this property.

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**Confidentiality-** (A) All communications between the parties and all information and other material (whether of a technical, commercial, financial or other nature) supplied to or received by either party from the other which is marked either with a restrictive legend or by its nature is intended to be exclusively the knowledge of the parties hereto or any information concerning the business transactions or the financial arrangements of either party coming to the knowledge of the other will be maintained in strict confidence by each of the parties hereto: 1) Unless and until it is in the public domain; 2) Unless the information was lawfully in the possession of the recipient or its advisors prior to its receipt from the other party hereto; 3) Unless and until the information comes lawfully into the possession of the recipient or its advisors (otherwise than by receipt from the other party hereto); or 4) Unless disclosure on publication of the information is required by a third person having a legal right to obtain or require such information. (B) Each of the parties will take all reasonable steps to minimize the risk of disclosure of information to be maintained in confidence hereunder, by ensuring that only employees whose duties will require them to possess any such information will have access thereto and that appropriate undertakings for confidentiality are secured therefrom. (C) Obligations of confidence will survive the expiry or termination of this PO.

**Defense Priorities and Allocation System-Defense Priority and Allocation Requirement (Apr 2008) If applicable & specified on Purchase Order-** based on FAR 52.211-15 this is a rated order certified for national defense, emergency preparedness, and energy program use, and the Contractor shall follow all the requirements of the Defense Priorities and Allocations System regulation (15 CFR 700).

**Intellectual Property/Data Rights-** Seller will identify any pre-existing and third party intellectual property that will be delivered under this Order. Seller agrees that any new material or invention, including computer software, technical data and designs, first developed or conceived under this Order will be a "work for hire" product under U.S. copyright law, and Seller assigns all rights, title and interest in this material to Buyer. Seller will have no right to sell, license or disclose this material without the written permission of Buyer.

**Order of Precedence-** If there is a conflict between any provisions of this Order; such conflict will be resolved based on the following order of precedence: 1) the PO, 2) these terms and conditions, 3) the statement of work, 4) the specification, 5) drawings. In all cases Buyer's specifications and drawings shall prevail over those of the Seller.

**Assignment and Subcontracting-** Seller shall not assign any of its rights or interest in this PO or subcontract or all or substantially all of its performance of this contract, without Buyer's prior written consent. Seller shall not delegate any of its duties or obligations under this contract. Seller may assign this contract to a corporate affiliate, unless it is a Buyer competitor, with written notification to Buyer. No assignment, delegation or subcontracting by Seller, with or without Buyer's consent, shall relieve Seller of any of its obligations under this contract or prejudice any of Buyer's rights against Seller whether arising before or after the date of any assignment. This article does not limit Seller's ability to purchase standard commercial supplies or raw materials.

**Governing Law-** Irrespective of the place of performance, this Order will be governed by the laws of the State of Florida.

**Publicity-** No publicity as to Buyer's or Buyer's customer identity or other information concerning this Order shall be released or published by Seller or its subcontractors (including publication in internal or trade newsletters) without the prior written consent of the Buyer.

**Delivery, Inspection, Testing and Acceptance-** (A) Delivery according to the Order schedule is a material requirement of the Order. However, Seller shall not, without Buyer's written consent, manufacture or procure materials in advance of Seller's reasonable lead time or deliver supplies ahead of schedule. (B) Supplies covered under this Order will be subject to inspection and test by Buyer to the extent practicable at any time or place (including the facilities of any Seller's subcontractor) prior to Final Acceptance. Notwithstanding any inspection and test at Seller's plant, all supplies will be subject to Final Acceptance at Buyer's facility unless otherwise stated. Seller shall provide at their expense all reasonable facilities required for such inspection or tests. Buyer may reject supplies that do not confirm to the Order requirements or which are defective in material, workmanship and design. If Seller fails to promptly replace or correct any rejected item, Buyer may 1) correct or replace the item and charge to Seller the cost of such replacement or correction or 2) without further notice terminate Seller pursuant to the Termination Clause herein. In addition to those tests described in this PO, recommended by Seller, or set forth in Seller furnished documentation, Buyer may perform such other inspections and/or tests on the delivered Supplies and Services as are reasonably necessary to insure compliance with PO requirements. If a U.S. Government contract is referenced on the face of the Order, the rights accorded to the Buyer by this clause shall be also accorded to the Government.

**Defects and Nonconforming Material -** An incident can be triggered by either a quality or logistic non-conformity. Notification to CAE USA of an incident shall be made as soon as possible (not to exceed 72 hrs.), unless the incident is deemed critical to the safe operation of the equipment or safety of personnel in which case, notification should occur promptly (No later than next morning following discovery of incident). When required, the immediate containment actions to isolate and sort the suspect parts must be completed as rapidly as possible. If production is disrupted the Seller should send a qualified team (its own or hired in people) to sort and restock the CAE USA and / or customer sites affected. All containers of sorted or reworked products should be clearly identified. All costs generated by an incident will be borne by the Seller. **Important:** Seller must inform the SQE at CAE USA of the quantity of defective parts identified during the sorting process (before rework) to ensure that it is correctly assessed in the Seller's levels (reworked parts are considered to be defective). Non-conforming material shall be presented to the CAE USA Material Review Board for disposition actions.

**Measurement of Seller Performance -** Sellers are assessed to identify opportunities for continuous improvement in the areas of quality, delivery and development. These metrics provide data to assist with Buyer's sourcing decisions. Primary measures of performance are product quality (60% composite score) and on time delivery (40%). Grading is as follows:

- 90-100 – green: acceptable
- 80-90 (composite 75-90) - yellow: performance requires increased monitoring
- Individual measures <80 – red: unacceptable
- Composite Score <75 – red: unacceptable

For any non-conforming product received (regardless of score), a Supplier Corrective Action Request (SCAR) will be issued. Seller will have 15 working days to submit both Root Cause Analysis (RCA) and SCAR response to Buyer. If unable to complete by due date contact Buyer's Supplier Quality Engineer (SQE). Responses received past their due will be considered delinquent. Product quality measures <80 will also result in a SCAR.

If a seller fails to respond to the SCAR within the required time limit, a second request is sent to the seller stating corrective action is to be submitted within 5 working days. If the seller fails to respond within the 5-day request, Quality Assurance will notify the seller that corrective action is seriously delinquent and ask that a response be sent within 48 hours. If all efforts to obtain corrective action have failed, Supply Chain Management and Program Management will be notified that the seller has been nominated for disqualification.

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Failure to meet on time delivery goals (<80) for three consecutive months will result in a SCAR action. Response process is the same as for non-conforming product.

Any detection of Counterfeit Parts will result in automatic disqualification. All costs associated with counterfeit parts shall be the responsibility of the supplier. Individual score cards can be made available upon request.

**Packing and Shipment-** Unless otherwise stated in the PO, all shipments from Seller will be [FCA Buyer's facility](#) (INCOTERMS 2010). Further, absent special packing instructions, all packing will comply with best commercial practice, but use of such practice does not relieve Seller of responsibility for packing in a manner that will insure the supplies are undamaged in shipment to the destination set forth in the Order. In order to maintain the delivery schedule of the PO, Seller agrees to use as necessary an express shipper or courier for its supplies. Sellers' price includes all charges for shipment to the specified destination. All shipping containers will become the property of Buyer.

**Export Control-** The Seller agrees to comply with all applicable U.S. export control laws and regulations including the Arms Export Control Act, 22 U.S.C.2751-2794, including the International Traffic in Arms Regulation (ITAR), 22 C.F.R. 120. Seller warrants that no defense articles, technical data or information received or provided pursuant to this agreement will be disclosed to a foreign person (within the meanings described in the International Traffic In Arms Regulations for "defense article", "defense technical data/Information", and "foreign person"), or to a foreign national, firm or country (within the meanings described in the Export Administration Regulations for "foreign national"), nor will such articles, data or information be exported from the United States, without complying with all applicable U.S. export laws, regulations, and orders, and particularly the International Traffic In Arms Regulations, the Export Administration Regulations, and directives of the Office of Foreign Assets Control of the United States, as applicable.

**Payment-** Payment for supplies or services will be made net 30 days after Final Acceptance of the supplies or services, and receipt of a correct invoice containing the Order number. Reductions to the invoice for shortages, discrepancies, rejection or late delivery may be made by Buyer prior to payment. Buyer may also set off any amounts owing to Seller against any payments due under any other PO or contract between the Parties. Invoices shall reference this PO by number and shall be sent to CAE USA Inc., P.O. Box 15000, 4908 West Tampa Blvd. Tampa FL 33684-5000, and Attention: Accounts Payable. Payment will be sent to Seller at the address designated on the face of the PO, unless otherwise advised by Seller.

**Disputes-** Any dispute arising under this Order which is not settled by agreement of the parties may be settled by legal action in State or Federal courts of the State of Florida. Any such action will be governed by the laws of the State of Florida. Pending any decision, appeal or judgment in such proceedings or the settlement of any dispute under this Order, Seller shall proceed diligently with the performance of this Order in accordance with Buyer's direction.

**Termination for Convenience-** The Buyer reserves the right to terminate this Order, or any part hereof, for its sole convenience. In the event of such termination, the Seller shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this Order, the Seller shall be paid a percentage of the Order price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Seller can demonstrate to the satisfaction of the Buyer using its standard record keeping system, have resulted from the termination. The Seller shall not be required to comply with the cost accounting standards or Order cost principles for this purpose. This paragraph does not give the Buyer any right to audit the Seller's records. The Seller shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

**Termination for Cause-** Buyer may, by written notice to Seller, cancel all or part of this contract if (i) Seller fails to deliver the Goods within the time specified by this contract or any written extension; (ii) Seller fails to perform any other provision of this contract or fails to make progress, so as to endanger performance of this contract, and, in either of these two circumstances, within ten (10) days after receipt of notice from Buyer specifying the failure, does not cure the failure or provide Buyer with a written detailed plan adequate to cure the failure if such failure reasonably cannot be cured within such 10 days and such plan is acceptable to Buyer's Authorized Procurement Representative; or (iii) in the event of Seller's suspension of business, insolvency, appointment of a receiver for Seller's property or business, or any assignment, reorganization or arrangement by Seller for the benefit of its creditors. Buyer may require Seller to transfer title and deliver to Buyer, as directed by Buyer, any (i) completed Goods, and (ii) any partially completed Goods and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information and contract rights (collectively, "Manufacturing Materials") that Seller has specifically produced or acquired for the canceled portion of this contract. Upon direction from Buyer, Seller shall also protect and preserve property in its possession in which Buyer or its Customer has an interest.

**Hazardous Material-** Seller represents and warrants that it is in compliance with all applicable laws, including the U.S. Occupational Safety and Health Act (OSHA), as applicable. Seller shall indemnify Buyer of any claims, damages, costs, expenses, fines and penalties of whatsoever nature that Buyer may incur related to any breach of the foregoing representation and warranty.

**Special Tooling-** Seller agrees that the items of equipment and manufacturing aids provided by Buyer, which are of a special nature and described in this PO, will be used exclusively under this PO. Such special tooling paid for by this PO becomes the property of CAE USA INC... However, Seller will be responsible to Buyer for the custody of all such special tooling until relieved thereof as provided below. While in its possession, Seller will be responsible for maintaining all such special tooling in good working condition and in for making necessary repairs and replacements thereof as its own expense.

Seller agrees that each tool will be marked as the property of CAE USA INC. and will have indicated thereon the tool number assigned by CAE USA INC. and the part number for which the tool is required. Upon completion or termination of this PO or other POs covering the work for which special tooling has been provided, Seller will hold all such tooling, without charge, pending instructions from CAE USA INC. and upon receipt of such instructions, Seller will ship the tooling as directed by Buyer. If a U.S. Government contract is referenced on the face of the Order, nothing in this clause shall be interpreted to restrict whatever rights the Government may have in special tooling.

**Utilization of Small Business Concerns-** Seller agrees to actively seek out and provide the maximum practicable opportunities for small businesses, small disadvantaged businesses, women-owned small businesses, minority business enterprises, historically black colleges and universities and minority institutions, Historically Underutilized Business Zone small business concerns and U.S. Veteran and Service-Disabled Veteran Owned small business concerns to participate in the subcontracts Seller awards to the fullest extent consistent with the efficient performance of this contract. Additionally, Seller shall include in each lower-tier subcontract the appropriate flow down clauses as required by the FAR and DFARS.

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**Indemnity/Insurance** - (A) In the event that Seller, its employees, agents or subcontractors, enter premises occupied or under the control of Buyer or the Buyer's customer, Seller will defend, indemnify and hold harmless Buyer and Buyer's customer from any claim, loss, suit, damage or expense due to property damage or personal injury to any person arising out of or in connection to Seller's Performance under this Order. (B) **Insurance** Without limiting the liability under this clause, Seller and its subcontractors and agents will maintain public liability, property damage and workers compensation insurance as is reasonable and required by law. Seller will provide Buyer evidence of this insurance at Buyer's request. Failure to maintain such insurance will be reason for termination for Cause of this Order. (C) **Patent Indemnity**- Seller warrants that the sale and use of the supplies delivered under this Order will not infringe any U.S. for foreign patents, trademarks or copyrights. Seller will defend, indemnify and hold Buyer and Buyer's customers harmless from any loss, expense or liabilities which may be incurred as a result of infringement or alleged infringement of these rights, and defends at its own expense any such action.

**Inspection of Records/Audit of Seller's Facility**- (A) Seller agrees that its books and records, as they pertain to performance under this Order, may at all reasonable times be subject to inspection and audit by Buyer. (B) Authorized personnel of the Buyer and its customer, whether the customer is the U.S. Government, regulatory authority or other organization, will have the right to visit Sellers' or its subcontractor's plant at all reasonable times during the performance of this PO for purposes connected with the PO. Visits by the Buyer and its customer will not unduly interfere with the performance of this PO. If a U.S. Government contract is referenced on the face of the Order, the rights accorded to the Buyer by this clause shall be also accorded to the Government.

**Notices**- All notices and requests required or authorized hereunder will be given in writing either by personal delivery, by registered or recorded mail, facsimile transmittal or E-mail correspondence. Provided, however, that correspondence by E-mail will not be acceptable for formal notices required by these terms. Buyer correspondence will be addressed to Seller at the address shown on the face of the PO. Seller correspondence will be addressed to CAE USA INC., Attention: Procurement Department, P.O. Box 15000, 4908 Tampa West Blvd. Tampa FL 33684-5000. Either party may change its notice address by written notification to the other party.

**Labor Disputes**- Whenever any actual or potential labor dispute develops or threatens to delay the timely performance of this Order, Seller shall give Buyer prompt notice of such dispute.

**Equal Opportunity**- To the extent applicable, this contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a), 60-741.5(a), 61-300.10, and 29 CFR Part 471. 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. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.

**Excusable Delay**- In relation to the performance by supplier of any obligations under this PO any cause, condition or event that is beyond the suppliers control including, without limitation: force majeure, acts of war or of public enemy, civil disturbances, insurrection, riot, revolution, terrorism, freight embargoes; fire, theft, explosion, earthquake, lightning, flood, or other major action of the elements, epidemic or quarantine restrictions, or other catastrophe; energy shortages; legislation, any act, law, order, regulation, direction or request of any governmental or other duly constituted authority; delay or failure of carriers, strike or other labor troubles.

Supplier shall not be in breach or in default of any of its obligations under this PO in the event of any delay in the performance of any of its obligations under this PO are due wholly or in part to an Excusable Delay. The delivery or performance schedule shall be extended for such period as is mutually agreed, having regard to all the circumstances, and as a minimum by the number of days equivalent to the days lost by reason of the Excusable Delay event.

In the event an Excusable Delay exceeds thirty (30) days, CAE USA may, by giving written notice to Supplier, terminate this PO for convenience.

**Compliance with Local, State and Federal Law/ Business Conduct**- In the performance of this Order, Seller agrees to comply with all applicable local state and federal laws, and agrees to indemnify Buyer against any loss, damages or liability as a result of Seller's failure to comply with such laws. Seller (or any agent or representative of Seller) shall not offer or provide gratuities to any employee of Buyer except as considered normal ethical business practices authorized by the Buyer's Code of Business Conduct which Seller acknowledges is available on the web at CAE.com and Seller agrees to comply with Buyer's Code of Business Conduct. Failure of Seller to comply with this clause may, at Buyer's option, result in immediate termination for cause hereunder.

**Remedies**- The rights and remedies of Buyer will be cumulative and in addition to any other rights and remedies provided by law or equity. Buyer shall have the right to set off against any amounts payable by Buyer to Seller under this Order or any other agreements between Buyer and Seller any amounts which Seller owes to Buyer under this Order or otherwise. Except as may be expressly set forth in this document with the Government Contracting Officer's express consent, the subcontractor shall not acquire any direct claim or direct course of action against the Government.

**Waiver**- The failure of Buyer in any instance to insist on performance with any provision of this Order will not constitute a waiver of such provisions in the future.

**New Materials**- The products or work to be delivered hereunder shall consist of new materials, not used, or reconditioned, remanufactured, or of such age as to impair its usefulness or safety.

**Conflict Minerals**- Seller shall support Buyer in its obligation to conform to Section 1502 (the Conflict Minerals Statutory Provision) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Act"). Seller shall not use Conflict Minerals originating from the Democratic Republic of Congo (DRC) or Covered Countries in, or to produce Goods delivered to Buyer, or in performing Services or Works in favor of Buyer. "Conflict Minerals" and "Covered Countries" have the meaning ascribed to such terms in the Act. In those limited circumstances where Buyer's product documentation or specifications specifically call for the use of a Conflict Mineral, or the PO is for the supply of solder containing tin, the following shall apply: (i) Seller whose goods or works contain Conflict Minerals that are necessary to the functionality or production of the goods or works manufactured or contracted to be manufactured shall adopt policies and establish systems to procure these minerals from sources that have been verified as "DRC conflict free", (ii) Seller of such Goods or Works shall provide supporting data on its supply chains for Conflict Minerals to Buyer on the EICC (Electronic Industry Citizen Coalition) Conflict Minerals Reporting Template. This report must be approved by Buyer. Traceability data shall be maintained for 5 years minimum, (iii) Seller shall perform "Reasonable Country of Origin Inquiries" (RCOI) to ensure it has traceability throughout its supply chain to establish the origin of Conflict Minerals to designate one of the following sources or exemption: (a) the smelter (tin, tantalum, tungsten), or refiner (gold); Seller shall ensure that purchased metals originate from smelters validated by Seller as "DRC Conflict Free", (b) scrap or recycled, or (c) the rule exempts any Conflict Minerals that are "outside the supply chain". Conflict Minerals are outside the supply chain if, by January 31, 2013, they have been fully smelted or refined; or they are located outside the Covered Countries, and (iv) if, based on its RCOI, the Seller determines that its Conflict Minerals did originate from a Covered Country or has reason to

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believe that such minerals may have originated in a Covered Country and are not from recycled or scrap sources, it is required to develop and report to Buyer what measures it will take to minimize the risk of purchasing “Not DRC Conflict Free” conflict minerals in the future. This report must be approved by Buyer.

**Combating Trafficking in Persons-** Seller shall support Buyer in its obligation to Combat Trafficking in Persons. (a) Definitions. As used in this clause— “Agent” means any individual, including a director, an officer, an employee, or an independent contractor, authorized to act on behalf of the organization. “Coercion” means—(1) Threats of serious harm to or physical restraint against any person; (2) Any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or (3) The abuse or threatened abuse of the legal process. “Commercially available off-the-shelf (COTS) item” means—(1) Any item of supply (including construction material) that is—(i) A commercial item (as defined in paragraph (1) of the definition at FAR 2.101); (ii) Sold in substantial quantities in the commercial marketplace; and (iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and (2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products. “Commercial sex act” means any sex act on account of which anything of value is given to or received by any person. “Debt bondage” means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined. “Employee” means an employee of the Contractor directly engaged in the performance of work under the contract who has other than a minimal impact or involvement in contract performance. “Forced Labor” means knowingly providing or obtaining the labor or services of a person—(1) By threats of serious harm to, or physical restraint against, that person or another person;(2) By means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or (3) By means of the abuse or threatened abuse of law or the legal process. “Involuntary servitude” includes a condition of servitude induced by means of—(1) Any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such conditions, that person or another person would suffer serious harm or physical restraint; or (2) The abuse or threatened abuse of the legal process. “Severe forms of trafficking in persons” means—(1) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or (2) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. “Sex trafficking” means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act. “Subcontract” means any contract entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. “Subcontractor” means any supplier, distributor, vendor, or firm that furnishes supplies or services to or for a prime contractor or another subcontractor. “United States” means the 50 States, the District of Columbia, and outlying areas. (b) Policy. The United States Government has adopted a policy prohibiting trafficking in persons including the trafficking-related activities of this clause. Contractors, contractor employees, and their agents shall not— (1) Engage in severe forms of trafficking in persons during the period of performance of the contract; (2) Procure commercial sex acts during the period of performance of the contract; (3) Use forced labor in the performance of the contract; (4) Destroy, conceal, confiscate, or otherwise deny access by an employee to the employee’s identity or immigration documents, such as passports or drivers’ licenses, regardless of issuing authority; (5)(i) Use misleading or fraudulent practices during the recruitment of employees or offering of employment, such as failing to disclose, in a format and language accessible to the worker, basic information or making material

misrepresentations during the recruitment of employees regarding the key terms and conditions of employment, including wages and fringe benefits, the location of work, the living conditions, housing and associated costs (if employer or agent provided or arranged), any significant cost to be charged to the employee, and, if applicable, the hazardous nature of the work; (ii) Use recruiters that do not comply with local labor laws of the country in which the recruiting takes place; (6) Charge employees recruitment fees; (7)(i) Fail to provide return transportation or pay for the cost of return transportation upon the end of employment—(A) For an employee who is not a national of the country in which the work is taking place and who was brought into that country for the purpose of working on a U.S. Government contract or subcontract (for portions of contracts performed outside the United States); or (B) For an employee who is not a United States national and who was brought into the United States for the purpose of working on a U.S. Government contract or subcontract, if the payment of such costs is required under existing temporary worker programs or pursuant to a written agreement with the employee (for portions of contracts performed inside the United States); except that—(ii) The requirements of paragraphs (b)(7)(i) of this clause shall not apply to an employee who is—(A) Legally permitted to remain in the country of employment and who chooses to do so; or (B) Exempted by an authorized official of the contracting agency from the requirement to provide return transportation or pay for the cost of return transportation; (iii) The requirements of paragraph (b)(7)(i) of this clause are modified for a victim of trafficking in persons who is seeking victim services or legal redress in the country of employment, or for a witness in an enforcement action related to trafficking in persons. The contractor shall provide the return transportation or pay the cost of return transportation in a way that does not obstruct the victim services, legal redress, or witness activity. For example, the contractor shall not only offer return transportation to a witness at a time when the witness is still needed to testify. This paragraph does not apply when the exemptions at paragraph (b)(7)(ii) of this clause apply. (8) Provide or arrange housing that fails to meet the host country housing and safety standards; or (9) If required by law or contract, fail to provide an employment contract, recruitment agreement, or other required work document in writing. Such written work document shall be in a language the employee understands. If the employee must relocate to perform the work, the work document shall be provided to the employee at least five days prior to the employee relocating. The employee’s work document shall include, but is not limited to, details about work description, wages, prohibition on charging recruitment fees, work location(s), living accommodations and associated costs, time off, roundtrip transportation arrangements, grievance process, and the content of applicable laws and regulations that prohibit trafficking in persons. (c) Contractor requirements. The Contractor shall— (1) Notify its employees and agents of—(i) The United States Government’s policy prohibiting trafficking in persons, described in paragraph (b) of this clause; and (ii) The actions that will be taken against employees or agents for violations of this policy. Such actions for employees may include, but are not limited to, removal from the contract, reduction in benefits, or termination of employment; and (2) Take appropriate action, up to and including termination, against employees, agents, or subcontractors that violate the policy in paragraph (b) of this clause. (d) Notification. (1) The Contractor shall inform the Contracting Officer and the agency Inspector General immediately of—(i) Any credible information it receives from any source (including host country law enforcement) that alleges a Contractor employee, subcontractor, subcontractor employee, or their agent has engaged in conduct that violates the policy in paragraph (b) of this clause (see also [18 U.S.C. 1351](#), Fraud in Foreign Labor Contracting, and [52.203-13\(b\)\(3\)\(i\)\(A\)](#), if that clause is included in the solicitation or contract, which requires disclosure to the agency Office of the Inspector General when the Contractor has credible evidence of fraud); and (ii) Any actions taken against a Contractor employee, subcontractor, subcontractor employee, or their agent pursuant to this clause. (2) If the allegation may be associated with more than one contract, the Contractor shall inform the contracting officer for the contract with the highest dollar value.(e) Remedies. In addition to other remedies available to the Government, the Contractor’s failure to comply with the requirements of paragraphs (c), (d), (g), (h), or (i) of this clause may result in— (1) Requiring the Contractor to remove a Contractor employee or employees from the

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performance of the contract; (2) Requiring the Contractor to terminate a subcontract; (3) Suspension of contract payments until the Contractor has taken appropriate remedial action; (4) Loss of award fee, consistent with the award fee plan, for the performance period in which the Government determined Contractor non-compliance; (5) Declining to exercise available options under the contract; (6) Termination of the contract for default or cause, in accordance with the termination clause of this contract; or (7) Suspension or debarment. (f) Mitigating and aggravating factors. When determining remedies, the Contracting Officer may consider the following: (1) Mitigating factors. The Contractor had a Trafficking in Persons compliance plan or an awareness program at the time of the violation, was in compliance with the plan, and has taken appropriate remedial actions for the violation, that may include reparation to victims for such violations. (2) Aggravating factors. The Contractor failed to abate an alleged violation or enforce the requirements of a compliance plan, when directed by the Contracting Officer to do so. (g) Full cooperation. (1) The Contractor shall, at a minimum—(i) Disclose to the agency Inspector General information sufficient to identify the nature and extent of an offense and the individuals responsible for the conduct; (ii) Provide timely and complete responses to Government auditors' and investigators' requests for documents (iii) Cooperate fully in providing reasonable access to its facilities and staff (both inside and outside the U.S.) to allow contracting agencies and other responsible Federal agencies to conduct audits, investigations, or other actions to ascertain compliance with the Trafficking Victims Protection Act of 2000 (22 U.S.C. chapter 78), E.O. 13627, or any other applicable law or regulation establishing restrictions on trafficking in persons, the procurement of commercial sex acts, or the use of forced labor; and (iv) Protect all employees suspected of being victims of or witnesses to prohibited activities, prior to returning to the country from which the employee was recruited, and shall not prevent or hinder the ability of these employees from cooperating fully with Government authorities. (2) The requirement for full cooperation does not foreclose any Contractor rights arising in law, the FAR, or the terms of the contract. It does not—(i) Require the Contractor to waive its attorney-client privilege or the protections afforded by the attorney work product doctrine; (ii) Require any officer, director, owner, employee, or agent of the Contractor, including a sole proprietor, to waive his or her attorney client privilege or Fifth Amendment rights; or (iii) Restrict the Contractor from—(A) Conducting an internal investigation; or (B) Defending a proceeding or dispute arising under the contract or related to a potential or disclosed violation. (h) Compliance plan. (1) This paragraph (h) 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. (2) The Contractor shall maintain a compliance plan during the performance of the contract that is appropriate—(i) To the size and complexity of the contract; and (ii) To the nature and scope of the activities to be performed for the Government, including the number of non-United States citizens expected to be employed and the risk that the contract or subcontract will involve services or supplies susceptible to trafficking in persons. (3) Minimum requirements. The compliance plan must include, at a minimum, the following: (i) An awareness program to inform contractor employees about the Government's policy prohibiting trafficking-related activities described in paragraph (b) of this clause, the activities prohibited, and the actions that will be taken against the employee for violations. Additional information about Trafficking in Persons and examples of awareness programs can be found at the website for the Department of State's Office to Monitor and Combat Trafficking in Persons at <http://www.state.gov/j/tip/>. (ii) A process for employees to report, without fear of retaliation, activity inconsistent with the policy prohibiting trafficking in persons, including a means to make available to all employees the hotline phone number of the Global Human Trafficking Hotline at 1-844-888-FREE and its email address at [help@befree.org](mailto:help@befree.org). (iii) A recruitment and wage plan that only permits the use of recruitment companies with trained employees, prohibits charging recruitment fees to the employee, and ensures that wages meet applicable host-country legal requirements or explains any variance. (iv) A housing plan, if the Contractor or subcontractor intends to provide or arrange housing, that ensures that the housing meets host-country housing and safety standards. (v) Procedures to prevent agents and subcontractors at any tier and

at any dollar value from engaging in trafficking in persons (including activities in paragraph (b) of this clause) and to monitor, detect, and terminate any agents, subcontracts, or subcontractor employees that have engaged in such activities. (4) Posting. (i) The Contractor shall post the relevant contents of the compliance plan, no later than the initiation of contract performance, at the workplace (unless the work is to be performed in the field or not in a fixed location) and on the Contractor's Web site (if one is maintained). If posting at the workplace or on the Web site is impracticable, the Contractor shall provide the relevant contents of the compliance plan to each worker in writing. (ii) The Contractor shall provide the compliance plan to the Contracting Officer upon request. (5) Certification. Annually after receiving an award, the Contractor shall submit a certification to the Contracting Officer that— (i) It has implemented a compliance plan to prevent any prohibited activities identified at paragraph (b) of this clause and to monitor, detect, and terminate any agent, subcontract or subcontractor employee engaging in prohibited activities; and (ii) After having conducted due diligence, either (A) To the best of the Contractor's knowledge and belief, neither it nor any of its agents, subcontractors, or their agents is engaged in any such activities; or (B) If abuses relating to any of the prohibited activities identified in paragraph (b) of this clause have been found, the Contractor or subcontractor has taken the appropriate remedial and referral actions. (i) Subcontracts. (1) The Contractor shall include the substance of this clause, including this paragraph (i), in all subcontracts and in all contracts with agents. The requirements in paragraph (h) of this clause apply only to any portion of the subcontract that—(A) 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 (B) Has an estimated value that exceeds \$500,000. (2) If any subcontractor is required by this clause to submit a certification, the Contractor shall require submission prior to the award of the subcontract and annually thereafter. The certification shall cover the items in paragraph (h)(5) of this clause.

**Counterfeit Deliverables-** Seller agrees and shall ensure that Counterfeit Parts or supporting counterfeit documentation is not delivered to Buyer. "Counterfeit Part" means a suspect part identified as a copy or substitute without the legal right or authority to do so or a part whose material, performance, or characteristics are knowingly misrepresented by a supplier in the supply chain. The intentional or unintentional use, incorporation, or delivery of Counterfeit Parts or counterfeit work is strictly prohibited. This includes it being provided either as an end item deliverable or as a component or subcomponent of an end item deliverable pursuant to these Terms and Conditions or under a PO. Seller shall maintain a documented system (policy, procedure, or other documented approach) that ensures traceability of all components, and shall provide copies of such documentation for its system to Buyer upon request. If Seller furnishes Buyer with any Counterfeit Part, Buyer shall have the right to impound such items, and Seller shall promptly replace such items with items acceptable to Buyer. In such case, Seller shall be liable to Buyer for all costs relating to impoundment, removal, replacement and proof of physical destruction. Buyer may withhold payment for any Counterfeit Part and may turn such items over to governmental authorities for investigation. This "Counterfeit Deliverables" clause applies whether Seller is a distributor that purchases parts with the intention to sell and redistribute them back into the market or not and whether the parts are obtained from original equipment manufacturers (OEM's) or contract manufacturers (typically from excess inventories), from other independent distributors or otherwise.

**FAR and DFARS Provisions Incorporated by Reference-** If a U.S. Government contract is referenced on the face of the Order, (when applicable) the following clauses are incorporated with the same effect as if contained in full text. Where necessary to make such clauses applicable and operable, the term "Contractor" will mean "Seller", the term "contract" will mean "PO" and the term "Contracting Officer" will mean "Buyer". **The clause dates in effect as of the date of the Order will prevail.** [FAR 52.301](#) provides guidance for the applicability of these clauses which is often based on the dollar value of the subcontract/ order.

FAR 52.202-1	Definitions
FAR 52.203-3	Gratuities

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FAR 52.203-5	Covenant Against Contingent Fees	FAR 52.224-2	Privacy Act
FAR 52.203-6	Restriction on Subcontractor Sales to the Government	FAR 52.225-8	Duty-Free Entry
FAR 52.203-7	Anti-Kickback Procedures	FAR 52.225-13	Restrictions on Certain Foreign Purchases
FAR 52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity	FAR 52.227-1	Authorization and Consent
FAR 52.203-10	Price or Fee Adjustment for Illegal or Improper Activity	FAR 52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement
FAR 52.203-11	Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions	FAR 52.227-11	Patent Rights – Ownership by Contractor
FAR 52.203-12	Limitation on Payments to Influence Certain Federal Transactions	FAR 52.227-13	Patent Rights – Ownership by the Government
FAR 52.203-13	Contractor Code of Business Ethics and Conduct	FAR 52.227-14	Rights in Data - General
FAR 52.203-14	Display of Hotline Posters	FAR 52.228-5	Insurance Work on a Government Installation
FAR 52.203-15	Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009	FAR 52.230-2	Cost Accounting Standards
FAR 52.203-16	Preventing Personal Conflicts of Interest	FAR 52.230-3	Disclosure and Consistency of Cost Accounting Practices
FAR 52.204-2	Security Requirements	FAR 52.230-6	Administration of Cost Accounting Standards
FAR 52.204-10	Reporting Executive Compensation and First-Tier Subcontract Awards	FAR 52.232-40	Providing Accelerated Payments to Small Business Contractors
FAR 52.209-5	Certification Responsibility Matters	FAR52.233-3	Protest After Award
FAR 52.209-6	Protecting the Government’s Interests When Subcontracting with Contractors Debarred, Suspended or Proposed for Debarment	FAR 52.237-2	Protection of Government Buildings, Equipment, and Vegetation
FAR 52.211-5	Material Requirements	FAR 52.242-15	Stop-Work Order
FAR 52.211-14	Notice of Priority Rating for National Defense, Emergency Preparedness, and Energy Program Use	FAR 52.243-1	Changes—Fixed-Price
FAR 52.211-15	Defense Priority and Allocation Requirements	FAR 52.244-6	Subcontracts for Commercial Items
FAR 52.214-26	Audit and Records -- Sealed Bidding	FAR 52.245-1	Government Property
FAR 52.214-28	Subcontractor Certified Cost or Pricing Data -- Modifications -- Sealed Bidding	FAR 52.246-2	Inspection of Supplies--Fixed-Price
FAR 52.215-2	Audit and Records – Negotiation	FAR 52.246-4	Inspection of Services--Fixed-Price
FAR 52.215-10	Price Reduction for Defective Certified Cost or Pricing Data	FAR 52.246-16	Responsibility for Supplies
FAR 52.215-11	Price Reduction for Defective Certified Cost or Pricing Data—Modifications	FAR 52.249-2	Termination for Convenience of the Government (Fixed-Price)
FAR 52.215-12	Subcontractor Certified Cost Or Pricing Data	FAR 52.249-8	Default (Fixed-Price Supply and Service)
FAR 52.215-13	Subcontractor certified Cost Or Pricing Data - Modifications	FAR 52.252-2	Clauses Incorporated by Reference
FAR 52.215-14	Integrity of Unit Prices	DFARS 252.203-7001	Prohibition on Persons Convicted Of Fraud or Other Defense-Contract-Related Felonies
FAR 52.215-15	Pension Adjustments and Asset Reversions	DFARS 252.204-7000	Disclosure of Information
FAR 52.215-18	Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions	DFARS 252.204-7012	Safeguarding Covered Defense Information and Cyber Incident Reporting
FAR 52.215-22	Limitations on Pass-Through Charges – Identification of Subcontract Effort	DFARS 252.209-7004	Subcontracting with Firms That Are Owned or Controlled by the Government of a Terrorist Country
FAR 52.215-23	Limitations on Pass-Through Charges	DFARS 252.211-7003	Item Unique Identification and Valuation
FAR 52.219-8	Utilization of Small Business Concerns	DFARS 252.219-7003	Small Business Subcontracting Plan (DoD Contracts)
FAR 52.219-9	Small Business Subcontracting Plan	DFARS 252.225-7004	Report of Intended Performance Outside the United States and Canada (Submission After Award)
FAR 52.222.4	Contract Work Hours and Safety Standards Act – Overtime Compensation	DFARS 252.225-7009	Restriction on Acquisition of Certain Articles Containing Specialty Metals.
FAR 52.222-6	Construction Wage Rate Requests	DFARS 252.225-7012	Preference for Certain Domestic Commodities
FAR 52.222-20	Contracts for Materials, Supplies, Articles and Equipment Exceeding \$15,000	DFARS 252.225-7013	Duty Free Entry
FAR 52.222.21	Prohibition of Segregated Facilities	DFARS 252.227-7013	Rights in Technical Data-Non Commercial Items
FAR 52.222-26	Equal Opportunity	DFARS 252.227-7014	Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation
FAR 52.222-35	Equal Opportunity for Veterans	DFARS 252.227-7015	Technical Data—Commercial Items
FAR 52.222-36	Equal Opportunity for Workers with Disabilities	DFARS 252.227-7016	Rights in Bid or Proposal Information
FAR 52.222-37	Employment Reports on Veterans	DFARS 252.227-7019	Validation of Asserted Restrictions--Computer Software
FAR 52.222-41	Service Contract for Labor Standards	DFARS 252.227-7028	Technical Data or Computer Software Previously Delivered to the Government
FAR 52.222-54	Employment Eligibility Verification	DFARS 252.227-7037	Validation of Restrictive Markings on Technical Data
FAR 52.223-3	Hazardous Material Identification and Material Safety Data	DFARS 252.244-7000	Subcontracts for Commercial Items
FAR 52.223-6	Drug-Free Workplace	DFARS 252.244-7001	Contractor Purchasing System Administration
FAR 52.223-11	Ozone-Depleting Substances	DFARS 252.246-7007	Contractor Counterfeit Electronic Part Detection and Avoidance System
FAR 52.223-18	Encouraging Contractor Policies to Ban Text Messaging While Driving	DFARS 252.247-7023	Transportation of Supplies by Sea
		DFARS 252.249-7002	Notification of Anticipated Contract Termination or Reduction