

**TERMS AND CONDITIONS – Fixed Price Under Commercial Contract**

1. **GENERAL/ACCEPTANCE** - The purchase order (which term shall be deemed to include plans, specifications, and other documents to the extent that any of the same are incorporated by reference) becomes the exclusive agreement between the parties for the supplies/services subject to the terms and conditions herein. Any of the following shall constitute seller's unqualified acceptance of this purchase order: (a) acknowledgment of this purchase order; (b) furnishing of any part of the supplies/services under this purchase order; (c) acceptance of any payment for the supplies/services or (d) commencement of performance under this purchase order. Unless otherwise stated in Buyer's specifications, the latest revision of applicable standards, specifications, or similar documents as of the date of this purchase order shall apply. Any additional or different terms proposed by the seller are objected to and are hereby rejected unless the same shall be accepted in writing by the buyer.

2. **ASSIGNMENT, SUBCONTRACTING, AND PLACE OF PERFORMANCE** – (a) Neither this order nor any payments hereunder are assignable or transferable, in whole or in part, without buyer's written approval, which approval will not be unreasonably withheld. Buyer shall be entitled to the right of set-off against any amounts payable under this purchase order.

(b) Neither the entirety nor any part of this Purchase Order may be further subcontracted without the prior written consent of Northrop Grumman. This provision shall not apply to purchases of standard commercial articles or raw materials including casting, forgings, and rough welded structures on which Seller will perform further work.

(c) Seller shall notify Buyer of any change in the place of performance with regard to the requirements of this purchase order. Such notification shall be made to the cognizant Northrop Grumman purchasing representative not less than 30 days prior to the change to the place of performance.

3. **BUYER'S AUTHORIZED REPRESENTATIVE** - (a) The Buyer's Authorized Purchasing Representative is the individual authorized by Buyer's cognizant procurement organization to administer and/or execute the purchase order. The Buyer's Authorized Purchasing Representative has sole authority to make contractual commitments on behalf of the Buyer, to provide contractual direction, and to change contractual requirements as defined in the purchase order.

(b) Buyer's engineering, technical personnel and other representatives may from time to time render assistance or give technical advice or discuss or effect an exchange of information with Seller's personnel concerning the supplies or services being provided under this purchase order. No such action shall be deemed to be a change under the "Changes" clause of this purchase order and shall not be the basis for an equitable adjustment.

4. **BUYER FURNISHED PROPERTY** - if in connection with the performance of this purchase order any property is furnished to seller by buyer, the seller shall assume the risk of, and be responsible for, any loss destruction or damage to the property while in the seller's possession or control, except to the extent that this purchase order, with the prior approval of the buyer, provides for relief of the seller from such liability. In the absence of such approval the seller shall return all such property in as good a condition as when received, except for reasonable wear and tear caused by the utilization of such property in accordance with the provisions of this purchase order. Buyer shall have the right to enter seller's premises during normal working hours to inspect its property. Seller shall maintain all buyer furnished property at seller's expense. Seller shall institute or have in place a property control system approved by buyer.

5. **CHANGES** – (a) Buyer's purchasing representatives may at any time, by written order, without notice to any surety, make changes or additions within the general scope of this purchase order in any one or more of the following: (1) drawings, designs, statement of work or specifications; (2) method of shipment or packing; (3) place of inspection, delivery, or acceptance; (4) quantities, where reasonable; (5) delivery schedule, where reasonable, and (6) the amount of Buyer furnished property.

(b) If any such change causes an increase or decrease in the cost of, or the time required for, performance of this purchase order,

whether changed or not changed by any such written order, Seller shall notify Buyer in writing immediately and an appropriate equitable adjustment will be made in the price or time of performance, or both, by written modification of this purchase order. Any claim by Seller for such adjustment must be asserted within fifteen (15) days, or such other period as may be agreed on in writing by all the parties, after seller's receipt of notice of the change. If Buyer and Seller are unable to agree upon an equitable adjustment in the event of any change directed by Buyer, the matter will be resolved in accordance with the "Disputes" provision of these terms and conditions. Pending resolution of any such adjustment, Seller will diligently pursue the performance of the order as changed.

6. **CHOICE OF LAW** - Irrespective of the place of performance, this purchase order will be construed and interpreted according to the laws of the state from which the buyer's purchase order is issued, not including its rules with respect to conflict of laws.

7. **COMPLIANCE WITH LAWS AND REGULATIONS** - (a) Seller shall comply with any applicable laws, Executive Orders, or regulations (including export administration regulations).

(b) Seller agrees to indemnify Buyer against any loss, cost, liability, or damage by reason of seller's violation of any applicable law, Executive Order or regulation.

8. **DEFAULT OF SELLER** - In the event that seller (i) becomes bankrupt or otherwise insolvent, (ii) commences or becomes the object of any proceeding involving Seller's insolvency, bankruptcy, reorganization, dissolution, liquidation, or any similar proceeding for the relief of financially distressed debtors, and such proceeding is not dismissed within sixty (60) days, or (iii) fails in any material way to perform any of Seller's obligations under this purchase order, or so fails to make progress as to endanger such performance and does not cure such failure within ten (10) days of receipt of Buyer's notice of such failure, then Buyer may, at its sole election, by notice to Seller, terminate this purchase order, in whole or in part, for default. Seller shall pay to Buyer any excess costs for Buyer's procurement of such supplies, goods, or services. The rights and remedies of Buyer in this clause are in addition to any other rights and remedies provided by law under this purchase order or otherwise.

9. **DEFECTIVE WORK** - Buyer, notwithstanding any prior acceptance, at its option, may reject, or require prompt correction (in place or elsewhere), of any supplies or services which are defective in material or workmanship or otherwise fail to meet the requirements of this purchase order. All supplies or services furnished under this purchase order shall be subject to inspection at destination notwithstanding any previous source inspection and seller shall be given notice of any defects, other than latent defects, within a reasonable time after receipt of the supplies or services and all records (such as affidavits, test reports, drawings, etc.) required to be furnished therewith. Buyer may, in addition to any rights it may have by law, prepare for shipment and ship the supplies to Seller, require seller to remove them, direct their correction in place or, with authorization by seller, correct them, and the expense of any such action, including any transportation, if any, shall be borne by Seller. Buyer may recover by offset or otherwise any and all costs, expenses and damages paid, incurred or suffered as a result of or relating to holding, returning, replacing, correcting or rejecting defective or nonconforming goods or services. If Seller fails promptly to remove such supplies or services and to proceed promptly to replace or correct them, Buyer may replace or correct such supplies or goods at the expense of seller, including any excess cost. Seller shall not again tender rejected or corrected supplies or goods unless Seller discloses the former tender and rejection or requirement of correction. Seller shall immediately notify Northrop Grumman upon discovery of actual or potential nonconformances affecting delivered product

10. **DELIVERY** - (a) The Parties expressly agree that time is and shall remain a material element of this purchase order and no acts of Buyer, including without limitation, modifications to this purchase order or acceptance of late deliveries, shall constitute a waiver of this clause.

(b) Seller will deliver acceptable supplies and services in strict

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conformity with any delivery schedule and shipping instructions set forth in the purchase order issued to Seller by Buyer. Unless otherwise provided in this purchase order, delivery in whole or in part shall not be made more than 10 days prior to required delivery dates. Buyer may return earlier deliveries at Seller's risk and expense. Seller shall comply with the delivery schedule but shall not make material or production commitments in advance of such time as the Seller reasonably believes necessary to meet the schedule without prior written approval by Buyer. Representatives of Buyer, the Government or both shall at all reasonable times have access to Seller's plant for the purpose of assuring delivery in accordance with the schedule.

(c) If Seller is unable to meet the required delivery schedules for any reason, other than a change directed by Buyer, Buyer shall have the option to (1) terminate this purchase order, or (2) fill such purchase order or any portion thereof, from sources other than Seller and to reduce Seller's purchase order quantities accordingly at no increase in unit price, without any penalty to Buyer. Alternatively, Buyer may require Seller to provide consideration for the late delivery. This condition shall not limit Buyer's rights or remedies under the Termination for Default clause contained herein

**11. DISPUTES** - Any dispute arising under this purchase order which is not settled by agreement of the parties will be litigated in the state or federal courts of the state from which the Buyer's purchase order is issued. Pending any decision, appeal or judgment in such proceedings, or the settlement of any dispute arising under this purchase order, Seller shall proceed diligently with the performance of this purchase order unless otherwise agreed between Buyer and Seller.

**12. FEDERAL, STATE AND LOCAL TAXES** - Except as may be otherwise provided in this purchase order, the price includes all applicable federal, state and local taxes and duties.

**13. FORCE MAJEURE** Neither party shall be liable for delays in manufacturing or delivery resulting from any circumstances beyond its reasonable control not occasioned by its fault or negligence, including but not limited to compliance with any sovereign decrees, orders, acts, instructions or priority requests of any federal, state, or municipal government or any department or agency thereof, civil or military, acts of god, fires, floods, strikes, lockouts, embargoes or wars. Upon the happening of any circumstances or causes aforesaid, the affected party shall notify the other party without delay and any relief shall be limited to an extension of delivery dates or times of performance to the extent caused thereby.

**14. INDEMNITY AND INSURANCE** - (a) Seller will defend, indemnify and hold harmless Northrop Grumman and its affiliates, and their officers, agents, employees, successors and assigns, against any claims, loss, damage or expense, including, without limitation, payment of direct, special, incidental and consequential damage, and expenses of defending claims, including attorneys' fees, for property loss and/or damage, and personal injury and/or death, which may be sustained by third parties and/or by Buyer, its agents, employees or subcontractors, at any tier, which results from Seller's performance or nonperformance of this purchase order except for claims resulting from the sole negligence of Northrop Grumman. Northrop Grumman will inform Seller of any claim, demand or suit asserted or instituted against it and, to the extent of Northrop Grumman's ability to do so, permit Seller to defend the same or make settlement in respect thereof.

(b) Northrop Grumman, at its option, may require Seller to furnish evidence of insurance reasonably satisfactory to Northrop Grumman covering the liabilities and indemnification provided above but no acceptance of such evidence by Northrop Grumman shall be deemed a waiver or release of such liabilities or duty to indemnify. Seller will at all times maintain with reputable insurance companies comprehensive general liability insurance (including coverage for any liability under any Northrop Grumman purchase order and these terms and conditions) in the minimum amount of \$2.0 million, or such other minimum amount specified in the relevant purchase order. At Northrop Grumman's request, Seller will name Northrop Grumman as an additional insured under such policy, and will provide to Northrop Grumman a certificate of such insurance

providing for 10 days' prior written notice to Northrop Grumman of cancellation or material change. Seller will maintain workers' compensation insurance sufficient to cover all of its general and special employees engaged in work pursuant to any Northrop Grumman purchase order and insurance against liability for personal injury or death or destruction to property arising out of work in fulfillment of any Northrop Grumman purchase order, and will provide prompt evidence to Northrop Grumman of such coverage upon Northrop Grumman's request.

**15. INSPECTION** - Buyer and its customer may inspect and test material, work in progress and supplies at all times and places, during manufacture and otherwise. Buyer's inspection may, in its sole discretion, include physical, visual and/or mechanical review, as well as any documentation necessary to substantiate the meeting of quality requirements or specific requirements set forth in the purchase order. If inspection and test are made on seller's premises, seller, without additional charge, shall provide reasonable facilities and assistance for the safety and convenience of the inspectors in performing their duties. Inspections and tests by buyer shall be performed in such manner as not to delay the work unduly. Buyer may charge to seller any additional cost of inspection and test when material, work or supplies are not ready at the time such inspection and test is requested by seller. In the case of rejection, buyer shall not be liable for any reduction in value of samples used in connection with such inspection or test.

(b) The inspection, review or approval by Northrop Grumman of any work, or of any drawing, design, or other document, will not be deemed to relieve Seller of any of its obligations under any purchase order, or to constitute a waiver of any defects or nonconformities. The acceptance by Northrop Grumman of any goods or services under any purchase order will not be deemed to limit or affect any warranty or right of indemnity granted by Seller under such purchase order, these terms and conditions or otherwise.

(c) Except as otherwise agreed in writing, all shipments and supplies furnished under this purchase order shall be subject to final inspection and acceptance by Buyer after receipt by Buyer at destination notwithstanding any previous source inspection or acceptance, the earlier passing of title to Buyer, any prior payment by Buyer, or any prior inspection of any type. Seller shall maintain an inspection and quality control system acceptable to Buyer and its customer.

**16. INTELLECTUAL PROPERTY INDEMNITY** - Seller shall indemnify Buyer, and/or Buyer's customer, and their respective officers, agents and employees against liability, including costs, for infringement of any patent, copyright, trademark or other intellectual property arising out of the manufacture or delivery of supplies or performance of services under this purchase order or out of the use or disposal by, or for the account of, Buyer, and/or Buyer's customer, of such supplies or services. The foregoing indemnity shall not apply unless Seller shall have been informed as soon as practicable by Buyer and/or Buyer's customer of the suit or action alleging such infringement and shall have been given such opportunity as is afforded by applicable laws, rules or regulations to participate in the defense thereof. Such indemnity also shall not apply if: (a) the infringement results from compliance with specific written instructions of Buyer directing a change in the supplies or services to be delivered or in the materials or equipment to be used, or directing a manner of performance of this purchase order not normally used by Seller, or (b) the infringement results from an addition to, or change in, the supplies or services furnished made subsequent to delivery or performance by Seller, or (c) the claimed infringement is settled without the consent of Seller, unless required by final decree of a court of competent jurisdiction.

**17. INVOICE AND PAYMENT** - When invoices are otherwise required, a separate invoice shall be issued for each shipment, and should include the relevant Buyer purchase order number. Unless otherwise specified in this purchase order, no invoice shall be issued prior to shipment of goods and no payment will be made prior to receipt of goods and correct invoice. Payment due dates, including Buyer's entitlement to take a discount, will be computed from the date of receipt of acceptable goods or the date of receipt of a correct

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invoice (whichever is later). Unless freight and other charges are itemized, any discount taken will be taken on the full amount of the invoice. Buyer may offset against any amounts due under Seller's invoices: (a) any damages resulting from Seller's default under or breach of any contract (including any purchase order and these terms and conditions); (b) any amount owing from Seller to Buyer; or (c) any adjustment for shortage or rejection and any costs occasioned thereby.

**18. LIENS** - Seller warrants that it has title to the goods to be delivered under this purchase order and shall deliver same free of all liens, claims and encumbrances.

**19. NEWS OR ADVERTISING RELEASE** – No news release in any way relating to Buyer or Seller concerning the purchase order shall be made by either party to any news media or to the general public without the prior approval of the other party. Seller will not, and will require its suppliers and subcontractors to not, advertise or publish the fact that Buyer has ordered supplies or services from Seller, or the terms or nature of such order. Seller will not, and will cause its employees and other representatives to not, disclose such information in company periodicals, press releases, public lectures, sales or other promotional literature, or otherwise. The parties agree that in the event a news release is so approved and made, such news will recognize Buyer and Seller.

**20. ORDER OF PRECEDENCE** - The various documents constituting this purchase shall, insofar as is possible, be interpreted so as to be consistent with one another. In the event that a conflict or ambiguity arises in the interpretation of this purchase order, said conflict or ambiguity shall be resolved in accordance with the following order of precedence, with the first listed item having a higher precedence than later listed items: (a) provisions required by statute, regulation; (b) typed Purchase Order form; (c) Statement of Work; (d) this Terms and Conditions document; (e) Specifications; and (f) Drawing(s).

**21. PROPERTY RIGHTS** - (a) Seller agrees to make prompt and complete disclosure to buyer of all inventions and disclosures made or conceived as a result of work performed under this purchase order. Seller agrees to keep necessary records supporting such inventions and discoveries and will furnish to buyer upon request all such records.

(b) Any invention, discovery, proprietary information, maskwork, software, system, data, or report resulting from the work performed under this purchase order shall be the sole property of Buyer. All patents, copyrights, trade secrets, trademarks, maskworks or other intellectual property resulting from work under this purchase order shall be the sole property of buyer. Buyer shall have the full right to use such property in any manner without any claim on the part of Seller and without any duty to account to Seller for such use. Seller agrees to assign to Buyer any patent or patent application resulting from work performed under this purchase order, and to provide reasonable support for the buyer's prosecution of such patent application. The parties agree that any original work of authorship created under this purchase order is a work made for hire for purposes of copyright ownership. To whatever extent Seller has any interest in any original work of authorship created under this purchase order, Seller agrees to assign and hereby assigns its entire interest in such work to Buyer, including all rights to derivative works.

(c) This purchase order does not confer or grant, in any manner whatsoever, any license or right under any patent, trademark, trade secret, maskwork, copyright or other intellectual property right held by Buyer, unless specifically set forth in the body of the purchase order.

**22. PROTECTION OF INFORMATION** - (a) If a separate confidentiality, nondisclosure, or proprietary information agreement exists between Buyer and Seller which relates to the subject matter of this purchase order, then confidential or proprietary information furnished by one party to the other party shall be protected pursuant to such agreement, and paragraphs (b) through (g) of this clause shall not apply.

(b) If no separate confidentiality, nondisclosure, or proprietary information agreement exists between Buyer and Seller, paragraphs

(c) through (g) of this clause apply.

(c) For purposes of this clause, "Information" shall mean information disclosed to Seller by Buyer in connection with this purchase order, which is either identified to Seller as being proprietary or which is information that a reasonable person would understand to be such information. Examples of Information include, but are not limited to, customer lists, pricing policies, market analyses, business plans or programs, software, specifications, manuals, print-outs, notes and annotations, performance data, designs, drawings, dimensions, processes, data, reports, photographs, and engineering, manufacturing or technical information related to Northrop Grumman's products, services, equipment or processes, as well as duplicates, copies or derivative works thereof. Information shall not mean any information previously known to Seller without obligation of confidence, or which becomes publicly disclosed, or which is rightfully received by Seller from a third party without obligation of confidence.

(d) Information furnished to Seller shall remain Buyer's proprietary property, shall be duplicated only as authorized in writing by Buyer, and shall be returned to Buyer upon request or when no longer required for the performance of this purchase order. Seller shall not disclose Information to any third party, and shall take all reasonable precautions to prevent the disclosure of Information to third parties, including any foreign national, firm or country, and foreign nationals employed by or associated with Seller's company except as specifically authorized by Buyer. Seller agrees not to use Information to develop any product, service or system, or to support any third party in the development of any product, service or system.

(e) Data and information provided by Seller shall be considered proprietary only when marked as proprietary. Seller's proprietary data and information will be used by Buyer only upon approval by Seller.

(f) Seller's obligations with respect to Information disclosed hereunder prior to the performance in full, termination or cancellation of this purchase order shall not, except as expressly set forth herein, be affected by such performance in full, termination, or cancellation.

(g) Buyer or its representatives may at any time audit all pertinent books, records and files of Seller in order to verify compliance with this clause. Seller will, in all of its contracts with its suppliers relating to any Buyer purchase order, include provisions which secure for Buyer all of the rights and protections provided for by this Paragraph.

**23. QUANTITY** - Buyer need not accept any variation in quantity except as specified in this purchase order. Overshipments may be returned to Seller at seller's expense, which shall include a reasonable cost for the Buyer's handling, or be retained by the buyer at no increase in price. To the extent that supplies covered by this purchase order are produced in accordance with drawings or specifications that are proprietary to Buyer or to Buyer's customer, Seller shall not manufacture or retain for the purpose of display, or otherwise, any more such supplies, or parts therefore, than are required to be delivered under this purchase order. Any such excess supplies, or parts therefor, shall be delivered free of charge to Buyer at the designated delivery point at seller's risk and expense, or destroyed and certified of same.

**24. SUBSTITUTIONS** - Seller shall not substitute materials or accessories without written consent of Buyer.

**25. TERMINATION** - This purchase order and any and all rights granted and obligations assumed hereby may be terminated in whole or part by Buyer giving written notice to the Seller. Upon receipt of a notice of termination and except as otherwise mutually agreed, Seller shall:

A. Stop work under this purchase order on the effective date of the notice of termination; and

B. Submit a termination claim within sixty (60) days after the effective date of the termination notice incorporating all claims of Seller. The amount to which Seller shall be entitled upon complete termination of this purchase order shall be determined as follows:

1. Any payments then due and owing to seller from Buyer for

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work performed and accepted by Buyer prior to the effective date of termination;

2. An allowance for any reasonable cancellation charges due to material commitments made by Seller with Seller's suppliers or subcontractors;

3. At Buyer's option, an allowance for any inventory held by Seller which is for Buyer's purchase order, in which case Seller shall transfer title and possession of said inventory to Buyer in accordance with Buyer's instructions;

4. Any other amounts that are mutually acceptable to Buyer and Seller as being fair and reasonable.

In the event payment has been made in excess of the amount determined as being the entitlement of seller under the provisions of this article, seller shall repay such excess costs immediately. Buyer may deduct as a setoff any excess amounts from other open subcontracts or purchase orders with seller, if any.

In the event payments made by buyer are less than the amount determined as being the entitlement of seller under the provisions of this article, buyer shall pay to seller such difference between the amount so paid and the total amount determined to be due seller in accordance with this article within thirty (30) days of buyer's receipt of seller's invoice for said amount.

Notwithstanding the foregoing, the parties hereto may mutually agree to a partial termination of the purchase order provided such agreement: (1) equitably revises the price for work remaining to be performed by seller thereafter; (2) equitably revises all such other rights, risks, obligations and/or responsibilities as may be affected by such partial termination; and (3) is evidenced by a formal modification to this purchase order signed by both parties.

Buyer's total liability to seller for any termination pursuant to this article shall not exceed the purchase price of the supplies, goods, or services to which such termination applies. Further, seller shall have no claim against buyer for loss of anticipated profits or consequential damages suffered by reason of such termination.

**26. WARRANTY** – (a) Seller warrants that the supplies covered by this purchase order will conform to the design, specifications, drawings, samples or other descriptions referred to in this purchase order, will be free from defects in material and workmanship, and, to the extent that Seller knows or has reason to know of the purpose for which the supplies are intended, will be fit and sufficient for such purpose. The warranties contained in this paragraph shall run to Buyer and its customers.

(b) Seller warrants that supplies/services provided under this purchase order shall not infringe upon the rights of any third party, and that Seller is subject to no agreement which in any manner would interfere with buyer's property rights as described in the provision herein entitled Property Rights.

**27. EXPORT RELATED REQUIREMENTS** – (a) Export Compliance. Performance of this Purchase Order may involve the use of or access to articles, technical data or software that is subject to export controls under 22 United States Code 2751-2796 (Arms Export Control Act) and 22 Code of Federal Regulations 120-130 (International Traffic in Arms Regulations) or 50 United States Code 2401-2420 (Export Administration Act) and 15 Code of Federal Regulations 768-799 (Export Administration Regulations) and their successor and supplemental laws and regulations (collectively hereinafter referred to as the "Export Laws and Regulations"). Seller represents that it is a U.S. Person as that term is defined in the Export Laws and Regulations. Seller shall comply with any and all Export Laws and Regulations, and any license(s) issued thereunder.

(b) Foreign Personnel. Seller shall not give any Foreign Person access to Technical Data or software as those terms are defined in the applicable Export Laws and Regulations without the prior written consent of Buyer. Any request for such consent must state the intended recipient's citizenship(s), and status under 8 U.S.C. 1101 and 8 U.S.C. 1324 (the "Immigration and Naturalization Act"), and such other information as Buyer may reasonably request. No consent granted by Buyer in response to Seller's request under this paragraph b shall relieve it if its obligations to comply with the

provisions of paragraph a or the Export Laws and Regulations, nor shall any such consent constitute a waiver of the requirements of paragraph a, nor constitute consent for Seller to violate any provision of the Export Laws and Regulations.

(c) Indemnification. Seller shall indemnify and save harmless Buyer from and against any and all damages, liabilities, penalties, fines, costs, and expenses, including attorneys' fees, arising out of claims, suit, allegations or charges of Seller's failure to comply with the provisions of the Export Laws and Regulations and breach of the warranty in paragraph a. Any failure of Seller to comply with the requirements or any breach of the warranty contained in paragraph a shall be a material breach of this agreement.

**28. NONWAIVER AND REMEDIES** - A Party's failure at any time to enforce any provision of any Order shall not constitute a waiver of the provision or prejudice a Party's right to enforce that provision at any subsequent time. The Parties' rights and remedies as provided in this Order are in addition to others provided by law; any failure to state a right or remedy herein does not constitute a waiver of such other rights and remedies.