

**LEVISON ENTERPRISES
STANDARD PURCHASE ORDER TERMS AND CONDITIONS**

1. **Definitions.** The term "Buyer" shall refer to **Levison Enterprises LLC ("dba EPI Global")**. The term "Seller" shall refer to the supplier of goods and services under the Order and shall also include its subcontractors and any other person or entity performing any type of work for or on behalf of such supplier. The term "Order" means the purchase order issued by Buyer and accepted by Seller to which these Terms and Conditions apply. The terms "good(s)" and "services" shall refer to the articles, materials, parts, supplies, items, equipment, work and/or services covered by the Order.
2. **Order Acceptance.** Unless otherwise provided in a separate agreement (if applicable) between Buyer and the Seller whose name appears on the Order, these Terms and Conditions govern the entire agreement between Seller and Buyer regarding good(s) and services covered by the Order. If for any reason Seller should fail to accept the Order, any conduct by Seller which recognizes the existence of a contract pertaining to the subject matter of the Order shall constitute an acceptance by Seller of the Order and all of its terms and conditions ("Agreement"). Any terms proposed in Seller's acceptance of Buyer's Order which add to, vary from, or conflict with the terms herein, unless expressly agreed to in writing by Buyer's authorized representative, are hereby rejected. To the extent that terms appearing on the face of the Order are inconsistent with those set forth herein, the terms on the face shall govern. Any reference on the face of the Order to Seller's proposal shall be exclusive of any terms and conditions attached to such proposal or referred to therein.
3. **Prices.** Seller agrees that the price(s) set forth on the face of the Order is (are) firm, and is (are) not subject to increase. The acceptance of the Order constitutes a warranty that the price(s) to be charged for goods or services ordered herein are not in excess of prices charged to other customers for the same or like goods and services in equal or less quantities.
4. **Invoices and Payment.** Invoices shall contain the following information: Order number, item number, description of goods and services, sizes, quantities, unit prices, and extended totals in addition to any other information specified elsewhere herein. Payment of an invoice shall not constitute acceptance of goods or services and shall be subject to adjustment for errors, shortages, defects in the goods or services, or other failure of Seller to meet the requirements of the Order. Payment due dates, including discount periods, will be computed from the date of receipt of all goods and services or date of receipt of correct invoice, whichever is later. Payment shall be Net sixty (60) days after receipt of correct invoice, unless otherwise stated on the face of the Order. Buyer may at any time set off any amount owed by Buyer to Seller against any amount owed by Seller to Buyer or any of its affiliated companies.
5. **Taxes.** Seller is responsible for and will pay all applicable taxes, charges, fees, levies, or other assessments imposed or collected by any governmental entity (or political subdivision thereof) worldwide on sales of goods or services, and sales, use, transfer, or value added tax or any other duties or fees related to any payment by Buyer to Seller for goods or services provided to Buyer under or pursuant to the Order. If Buyer provides a certification of an exemption from tax then Seller agrees not to invoice, nor pay, any such tax unless and until the applicable taxing authority assesses such tax, at which time Seller shall invoice and Buyer agrees to pay any such tax that is legally owed. Buyer shall withhold taxes as required under applicable law on payments made to Seller hereunder and shall be required to remit to Seller only the net amount after such withholdings.
6. **Packaging.** Goods shall be prepared for shipment in a manner that is in accordance with standard commercial practices and all Buyer specifications adequate to insure safe arrival of the goods at the designated destination, and so as to secure the lowest transportation rates. Goods shall be shipped in conformance with the terms on the Order. If applicable, ESD sensitive materials will be appropriately packaged. Seller shall mark all containers with necessary lifting, handling, and shipping information and also Order numbers and date of shipment. An itemized packaging sheet must accompany each shipment.
7. **Freight; Title and Risk of Loss.**
 - (a) Unless otherwise specifically provided on the face of the Order, the goods shall be delivered on a Delivered Duty Paid (DDP) basis, as defined in the International Chamber of Commerce's Incoterms 2010, to Buyer's destination specified on the Order. Any freight charges invoiced to Buyer, either by Seller or the carrier, will be charged back to or paid by Seller. If the face of the Order designates an ExWorks or FCA Incoterm, Buyer will be responsible for freight charges to the destination designated on the face of the Order. Any costs incurred by Buyer as a result of Seller's failure to comply with Buyer's routing instructions shall be borne by Seller.
 - (b) Notwithstanding any prior inspections, and irrespective of the Incoterm point named herein, Seller shall bear all risks of loss, damage and destruction to the goods until final acceptance by Buyer at the destination specified on the face of the Order. Further, Seller shall bear the same risks with respect to any goods rejected by Buyer or as to which Buyer has revoked its acceptance, from the time of such rejection or revocation. Title to and risk of loss of the goods shall pass to Buyer upon final acceptance.
8. **Delivery.** The parties agree that time is of the essence of each Order and deliveries must be received on the dates and at the destination(s) specified in the Order. If delivery is not completed within the time(s) specified, Buyer reserves the right, without liability, in addition to its other rights and remedies, to cancel the entire Order or that part of the Order not delivered, or to extend the time of delivery or payment. If timely delivery is not possible, through no fault of Buyer, Buyer shall have the right to direct Seller to make shipment by the most expeditious means and the total cost of such expedited shipment and handling shall be Seller's responsibility. No partial or complete delivery shall be made hereunder prior to the date or dates shown unless Buyer has given prior written consent. Buyer will pay only for maximum quantities ordered. Over shipments will be held at Seller's risk and expense for a reasonable time while Buyer awaits return shipping instructions from Seller.
9. **Right to Audit:** Buyer may, on reasonable notice to Seller, audit Seller's books, ledgers, supporting records, documentation and related procedures and controls, relating to any charges paid by Buyer in connection with the Order.
10. **Inspection.** Seller shall maintain an inspection system or method acceptable to Buyer covering all goods or services ordered hereunder and shall keep records applicable thereto available for review or inspection by Buyer during the performance of the Order or such longer period as may be specified in the Order or otherwise required by law. All goods ordered hereunder, and all components thereof (including raw materials and intermediate assemblies), shall be subject to inspection and test by Buyer prior to acceptance, at all times (including the period of manufacture) and places (including the premises of Seller), in which case Seller shall provide, without additional charge, all reasonable facilities and assistance for such inspection and test by Buyer. In any event all goods and/or services ordered hereunder are subject to final inspection and acceptance at Buyer's premises within a reasonable time (but not less than ninety (90) days) after receipt at destination, notwithstanding any prior payment or prior inspection at source or elsewhere. Acceptance of any goods or services by Buyer shall not be deemed to alter or affect the obligations of Seller or the rights of Buyer under Seller's warranties, or to waive any latent defect. Upon written request of Buyer, Buyer or its designees shall have the right to access applicable areas of all facilities involved in performance of the Order and to inspect all records related there to. This access and inspection shall be provided for the purposes of verifying quality of goods and to perform assessments/audits of Seller's facilities and records to determine or verify Seller's capabilities and compliance with Buyer's quality management system requirements.
11. **Notice of Delay.** Seller agrees to notify Buyer immediately of any actual or potential event or situation affecting Seller or its business (including but not limited to material or transportation shortages) which might adversely affect Seller's timely and full performance of the Order. No such notification shall, however, affect Seller's obligation of full performance of the Order.
12. **Order Changes.** Buyer shall have the right at any time, by written order, to suspend performance hereunder, increase or decrease the ordered quantities, or make changes within the general scope of the Order in any one or more of the following: (i) drawings, designs, or specifications; (ii) method of shipment or packing, and/or (iii) time and/or place of delivery. Any such change made at least thirty (30) days (or such other period as may be specified as "lead time" on the Order) prior to the scheduled delivery date of any affected goods shall be without any liability or penalty of any nature whatsoever to Buyer. Solely to the extent that any such change is made less than thirty (30) days (or such other period as may be specified as "lead time" on the Order) prior to the scheduled delivery date of any affected items (the "Claim Items"), Seller shall immediately take all steps necessary to minimize its costs with respect to such Claim Items. If any such change causes an increase or decrease in the cost of or the time required for performance of the Order, an equitable adjustment shall be made in the price or delivery schedule, or both, and the Order shall be modified in writing accordingly. No claim by Seller for adjustment shall be valid unless asserted within twenty (20) days from the date of receipt by Seller of the notification of change; provided, however, that such period may be extended upon the written approval of Buyer. Changes shall not be binding on Buyer unless evidenced by a writing signed by an authorized representative of Buyer. Nothing in this paragraph shall excuse Seller from proceeding with the Order as changed.
13. **Warranty – (a) Services.** Seller represents and warrants that all services shall be completed in a professional and workmanlike manner, with the degree of skill and care that is commensurate with competent professionals experienced in the relevant field. Further, Seller represents and warrants that the services shall be completed in accordance with applicable specifications and any statements of work signed by an authorized representative of Buyer and shall be correct and appropriate for the purposes stated therein. Seller represents and warrants that the performance of services under the Order will not conflict with, or be prohibited in any way by, any other agreement or statutory restriction to which Seller is bound.
 - (b) **Goods.** Seller warrants that it has good and transferable title to the goods and that all goods provided will be new and will not be used or refurbished unless purchase of used or refurbished goods is expressly stated in the Order. Seller warrants that all goods delivered shall be free from all defects and shall conform to all applicable specifications and any statements of work signed by an authorized representative of Buyer for a period of twelve (12) Months from the date of acceptance by Buyer or for the period provided in Seller's standard warranty covering the goods, whichever is longer. Seller hereby agrees that it will make spare parts available for a period of seven (7) years from the date of shipment at Seller's then current price, less applicable discounts. Additionally, goods purchased shall be subject to all written and oral express warranties made by Seller's agents and to all warranties and conditions implied by law. All warranties shall be construed as conditions as well as warranties and shall not be exclusive. Seller shall furnish to Buyer Seller's standard warranty and service guarantee applicable to the goods. All warranties shall run both to Buyer and to its customers. If Buyer identifies a warranty problem with the goods during the warranty period, Buyer will promptly notify Seller of such problems and will return the goods to Seller, at Seller's expense. Within five (5) business days of receipt of the returned goods, Seller shall, at Buyer's option, either repair or replace such goods or credit Buyer's account for the same. Replacement and repaired goods shall be warranted for the remainder of the warranty period or six (6) months whichever is longer.
14. **Tooling, Materials, Designs, Drawings, Equipment.** Title to all tooling and materials furnished or paid for by Buyer in connection with the Order shall at all times be and remain in Buyer. Seller agrees that it will follow reasonable industrial practice in the identification and maintenance of property control records on all such tooling and materials and will make such records available for inspection by Buyer at all reasonable times. After the termination or completion of the Order, and upon the request of Buyer, Seller shall make such tooling and materials available for disposition by Buyer. Seller agrees that it will use any tooling, materials, designs, drawings, specifications, information, or equipment furnished by Buyer only in the design, development, or production of the goods or services called for in the Order and will not use any such items for any other purpose or disclose any such information to any third party except with Buyer's prior written approval. Buyer does not warrant the accuracy of designs, drawings, specifications, or information that it furnishes. Upon completion or termination of the Order, all items furnished by Buyer shall be returned to Buyer in as good condition as when received ordinary wear and tear excepted.
15. **Indemnity and Insurance.** Seller shall indemnify, hold harmless, and at Buyer's request, defend Buyer, its officers, directors, customers, agents and employees, against all claims, liabilities, damages (including incidental damages), losses, and expenses, including legal costs arising out of or in any way connected with the goods or services provided pursuant to an Order, including, without limitation, (i) any claim based on the death or bodily injury to any person, destruction or damage to property (ii) Seller failing to satisfy any tax authority guidelines, applicable laws or regulations for an independent contractor, (iii) any claim based on the negligence, omissions, or willful misconduct of Seller or any of Seller's Agents, (iv) Seller failing to satisfy its obligations with regard to the protection of Confidential Data as described in Section 17 below, (v) Seller failing to comply with a requirement of applicable law, and (vi) any claim by a third party against Buyer alleging that the goods or services, the results of such services, or any other products or processes provided pursuant to an Order, infringe a patent, copyright, trademark, trade secret, or other proprietary right of a third party, whether such are provided alone or in combination with other products, software, or processes. Seller shall not settle any such claim without Buyer's prior written approval. Seller agrees to pay or reimburse all costs that may be incurred by Buyer in enforcing this indemnity, including legal costs. Should the use of any goods or services by Buyer, its distributors, subcontractors, or customers be enjoined, be threatened by injunction, or be the subject of any legal proceeding, Seller shall, at its sole cost and expense, either (a) substitute fully equivalent non-infringing goods or services; (b) modify the goods or services so that they no longer infringe but remain fully equivalent in functionality; (c) obtain for Buyer, its distributors, subcontractors, or customers the right to continue using the goods or services; or (d) if none of the foregoing is possible, refund all amounts paid for the infringing goods or services. Seller shall obtain and maintain at its expense, during the term of the Order and for one year after the last shipment thereunder, such product liability insurance as shall be reasonably necessary to support this indemnity provision and Seller shall provide Buyer with twenty (20) days prior written notice of any cancellation or reduction of such coverages. Satisfactory evidence of such insurance shall be provided to Buyer upon request.

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16. **Assignment and Subcontracting.** Seller shall not assign or transfer any of its rights, or delegate any of its duties or obligations under the Order, or subcontract any work to be performed hereunder, or any portion thereof, without the prior written approval of Buyer, provided, however, this restriction shall not apply to Seller's purchase of raw materials and standard commercial supplies in performing its obligation hereunder. Any attempted assignment or delegation in violation of this paragraph shall be null and void.
17. **Confidentiality.** In the course of performance under this Agreement, Seller may receive confidential information of Buyer, including, but not limited to trade secrets, know-how, inventions, software programs, applications, documentation, schematics, drawings, procedures, knowledge, data, processes, techniques, designs, specifications, drawings, programs, formulas, test data, work in progress and samples ("Confidential Information"), whether in oral, written, graphic or electronic form. Seller agrees to disclose such information only to its employees or agents on a need-to-know basis, who are bound by written non-disclosure agreements with Seller, and further agrees (a) not to disclose any Confidential Information to any third party without the written consent of Buyer, (b) not to use any Confidential Information for any other purpose inconsistent with this Agreement and (c) to otherwise keep confidential all Confidential Information. Without limiting the generality of the foregoing, Seller agrees to keep the existence and terms of any Order is strictly confidential.
18. **No Agency.** The Parties do not intend that any agency or partnership relationship be created between them by this Agreement.
19. **Waiver.** The invalidity in whole or in part of any provision hereof shall not affect the validity of any other provision. No waiver of any provision hereof or of an Order is effective unless in writing, or shall constitute a continuing waiver. All claims for monies due or to become due from Buyer shall be subject to deduction by Buyer for any set off or counterclaim arising out of the Order or any other purchase order that Buyer maintains with Seller. The Order shall not be modified, supplemented, qualified or interpreted by any trade usage or prior course of dealing not made part of the Order by its express terms.
20. **Termination**
Termination for Convenience
(a) Buyer may terminate the Order for convenience, in whole or in part, at any time by written or electronic notice. Upon any such termination Seller shall, to the extent specified by Buyer, stop all work on the Order, and cause its suppliers or subcontractors to stop work. Charges for any such termination of the Order shall be limited to actual non-recoverable costs incurred by Seller which Seller can demonstrate were properly incurred prior to the date of termination. In no event will Buyer reimburse Seller for goods, inventory or services in excess of those required to meet Buyer's delivery schedule for binding forecasts.
(b) Within thirty (30) days from such termination Seller may submit to Buyer its written claim for termination charges, in the form and with the certifications prescribed by Buyer. Failure to submit such claim within such time shall constitute a waiver of all claims and a release of all of Buyer's liability arising out of such termination.
(c) Buyer shall pay Seller the amount due for goods and services delivered prior to termination and, in addition thereto, but without duplication, shall pay the following amounts: (i) the contract price for all goods and services completed in accordance with the Order and not previously paid for; (ii) the cost of unique work in process no more than necessary to meet delivery schedules hereunder; and (iii) the costs of paying claims to Seller's suppliers for work directly allocable to the goods or services terminated. There shall be no charges for terminating the Order with respect to standard goods for which there are alternate customers. Buyer shall not be responsible for any commitments made by Seller in advance of those necessary to comply with the delivery schedules set forth in the Order. Payments made under this subparagraph shall not exceed the aggregate price specified in the Order, less payments otherwise made or to be made. Seller shall transfer title and to deliver to Buyer in the manner, time and to the extent reasonably directed by Buyer such completed goods, partially completed goods, materials, parts, tools, dies, jigs, fixtures, plans, drawings, information ("Manufacturing Materials") and contract rights as Seller has produced or acquired for the performance of its obligation hereunder and as specified by Buyer in its request therefor.
Termination for Default
(a) Buyer may, by written or electronic notice, terminate the Order, in whole or in part, if Seller: (i) fails to make delivery of the goods or perform the services within the time specified on the Order or as approved by Buyer; or (ii) fails to replace or correct defective goods or services in accordance with the "Warranty" and "Inspection," or (iii) fails to perform any of the other provisions of the Order or (iv) fails to make progress so as to endanger performance in accordance with its terms; or (v) becomes insolvent, files or has filed against it a petition in bankruptcy, or makes an assignment for the benefit of creditors.
(b) In the event of such termination, Seller shall transfer title and deliver to Buyer, to the extent directed by Buyer: (i) any completed goods and services, and (ii) such Manufacturing Materials and contract rights as Seller has produced or acquired for the performance of the Order. Prices for partially completed goods and manufacturing material shall be negotiated; however, such prices shall not exceed the Order price per type of goods and services.
21. **Compliance with Laws.** Seller agrees that its performance under the Order shall comply with all applicable laws, as heretofore or hereafter amended, including but not limited to the Fair Labor Standards Act of 1938 as amended and all applicable regulation, rulings, and interpretations issued there under. Seller shall comply with the policies, decrees, orders, laws, rules and regulations of the United States government and agencies and instrumentalities thereof presently in effect, or which may be in effect hereafter, which govern exports or otherwise pertain to export controls, including, without limitation, the Export Administration Regulations (EAR), International Traffic-in-Arms Regulations (ITAR) and Office of Foreign Assets Control (OFAC) regulations. Seller furthermore agrees to comply with all rules, regulations, and relevant orders of appropriate state and federal regulatory agencies, those related to restriction of certain hazardous substances (RoHS) and the Waste Electrical and Electronic Equipment (WEEE) Directives, or any other legal or regulatory requirements as defined on the face of the Order or otherwise required by law, regulation or standard. Seller also agrees to indemnify and hold Buyer harmless to the full extent of any cost, damage or other loss that may result by Seller's noncompliance with any applicable laws.
22. **Gratuities.** Seller further agrees not to offer or give any employee or independent contractor any gratuity, payment or other inducement with a view toward securing business from Buyer or influencing the terms, conditions or performance of this or any Order. Seller shall ensure that Seller and Seller's Agents providing goods or services to Buyer fully comply with the United States Foreign Corrupt Practices Act ("FCPA"), the principles of the Organization for Economic Co-operation and Development Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (the "OECD Convention") and all anti-corruption laws in all countries in which the goods are delivered or transported or services performed, and all rules, regulations, orders or directives promulgated thereunder.
23. **Ownership of work product.** For purposes of this Agreement, "Work Product" includes, without limitation, all designs, design rights, discoveries, creations, works, devices, masks, models, work in progress, service deliverables, inventions, products, computer programs, procedures, improvements, developments, drawings, notes, documents, information and materials made, conceived, or developed by Seller, alone or with others, which result from or relate to the services performed pursuant to the Order, and all copies thereof, are "works made for hire" as defined in the United States Copyright Act (17 U.S.C. Section 101). **Standard goods manufactured by Seller and sold to Buyer without having been designed, customized, or modified for Buyer does not constitute Work Product.** All Work Product shall at all times be and remain the sole and exclusive property of Buyer and Seller shall not be entitled to use or reverse engineer any Work Product without the prior written consent of Buyer. Seller hereby agrees to irrevocably assign and transfer to Buyer and does hereby assign and transfer to Buyer all of its worldwide right, title, and interest in and to the Work Product including all associated intellectual property rights. Buyer will have the sole right to determine the treatment of any Work Product, including the right to keep it as trade secret, execute and file patent applications on it, to use and disclose it without prior patent application, to file registrations for copyright or trademark in its own name, or to follow any other procedure that Buyer deems appropriate. Seller agrees: (a) to disclose promptly in writing to Buyer all Work Product in its possession; (b) to assist Buyer in every reasonable way, at Buyer's expense, to secure, perfect, register, apply for, maintain, and defend for Buyer's benefit all copyrights, patent rights, mask work rights, trade secret rights, trade marks and all other proprietary rights or statutory protections in and to the Work Product in Buyer's name as it deems appropriate; and (c) to otherwise treat all Work Product as Buyer Confidential Information as described above. These obligations to disclose, assist, execute, and keep confidential survive the, completion expiration or termination of the Order. Seller hereby waives and will ensure that Seller's Agents appropriately waive any and all rights (including where waiver is permissible by law moral rights, and rights in any country that are equivalent or similar to moral rights) and any and all claims and assign to Buyer any and all rights or any interests in any Work Product or original works created in connection with the Order. Seller agrees not to assert against Buyer or its direct or indirect customers, assignees, or licensees any claim of any intellectual property rights of Seller affecting the Work Product, and in the event that it does assert such rights, or challenges the ownership or validity of the intellectual property, Buyer shall be entitled to terminate the Order forthwith. Buyer will not have rights to any works conceived or reduced to practice by Seller which were developed entirely on Seller's own time without using equipment, supplies, facilities, or trade secret or Buyer Confidential Information, unless (i) such works relate to Buyer's business, or Buyer's actual or demonstrably anticipated research or development, or (ii) such works result from any services performed by Seller for Buyer.
24. **Conflict Minerals.** If the goods will remain in the Buyer's finished product and contain Tantalum, Tin, Tungsten or Gold, Seller is required to trace the supply chain back to the smelter. Seller should identify the smelter, including location, physical address, contact person at the smelter (with telephone and email) and disclose this information to Buyer using the CFSI Conflict Minerals Reporting Template ("CMRT") (request a copy of this form from Buyer if your goods contains Tin, Tantalum, Tungsten or Gold). Buyer does not need to know the identities of any sub-tier suppliers between Seller and the smelter. Buyer will not use this information to "reverse engineer" Seller's products. However, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 requires Buyer to determine if any of the above listed metals contributed to armed conflict in the Democratic Republic of the Congo (DRC) or adjoining countries. This reporting must be updated annually, using the then current CFSI CMRT.
25. **Applicable Law.** This Agreement shall be governed by, and construed according to the laws of the State of Ohio, U.S.A. without regard to laws concerning conflicts of laws. Buyer and Seller each submit itself to the exclusive jurisdiction and venue of the State or Federal courts in Ohio, U.S.A. for the purpose of any action in connection with this Agreement. Each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. The provisions of the United Nations Convention on Contracts for the International Sale of Goods shall not apply to the Order.
26. **Limitation on Buyer's Liability; Statute of Limitations.** Under no circumstances shall Buyer be liable to Seller for any consequential, incidental, indirect or special damages (including without limitation damages for anticipated or projected profits, costs of preparing claims, costs of tooling or equipment, sales or agents' commissions, or attorney's fees) arising from or in any way related to any termination of, or change to, an Order. Buyer's liability on any claim of any kind for any loss or damage arising out of or in connection with or resulting from the Order or from the performance or breach thereof shall in no case exceed the price allocable to the goods or services or unit thereof, which gives rise to the claim. Buyer shall not be liable for penalties of any description. Any action resulting from any breach on the part of Buyer as to the goods or services delivered hereunder must be commenced within one (1) year after the cause of action has occurred.
27. **Equal Employment Opportunity and Affirmative Action.** This Agreement incorporates by reference: (i) all provisions of 41 C.F.R. 60-1.4 and 60-2 as implemented by the Federal Acquisition Regulation (FAR) 52.222-26(b)(1)-(11) pertaining to the Equal Opportunity clause; (ii) all provisions of 41 C.F.R. 60-250 as implemented by FAR 52.222-34 to 52.222-37 pertaining to employment reports and affirmative action for disabled veterans and veterans of the Vietnam Era; and (iii) all provisions of 41 C.F.R. 60-741 as implemented by FAR 52.222-36 pertaining to affirmative action for handicapped/disabled workers. Seller agrees to comply with any and all applicable State and Local Government Equal Employment Opportunity and Affirmative Action laws including any and all applicable statutes, rules, regulations, ordinances and other guidelines.
28. **Force Majeure.** In the event of an actual or potential delay or failure of performance because of acts of God, war, civil commotion, acts of government, fire, theft, corrosion, floods, water damage, lightning, freeze-ups, strikes, lockouts, differences with workers, riots, terrorist activity, explosions, quarantine restrictions, delays in transportation, shortage of vehicles, fuel, labor or materials, or malicious mischief, or other causes beyond Seller's control, Seller shall immediately give notice thereof to Buyer. In the event of any of the foregoing, Buyer shall have the option of either (i) extending the time for performance; or (ii) terminating the uncompleted portion of the Order at no cost to Buyer.
29. **Survival of obligations.** Any obligations and duties that by their nature extend beyond the expiration or termination of this Agreement including but not limited to representations, warranties and indemnification rights shall survive the expiration or termination of this Agreement.
30. **Notice.** All notices to be given or served hereunder shall be in writing either in person, by U.S. Mail postage prepaid, return receipt requested or by recognized overnight air courier service. All such notices shall be effective upon receipt and addressed as follows: To Buyer and Seller at their respective addresses appearing on the Order or such other addresses the parties may advise from time to time in writing.
31. **Government Contracts.** If the Order is issued for any purpose which is either directly or indirectly connected with the performance of a prime contract with the U.S. Government or a subcontract thereunder, each of the named clauses, as set forth in the Federal Acquisition Regulations (FAR) and Defense Federal Acquisition Regulations Supplement (DFARS) in effect on the date of the Order, are incorporated herein by reference if such clause (or any earlier edition thereof) is in said prime contract or subcontract. In all such clauses, unless the context of the clause requires otherwise, the term "Contractor" shall respectively mean Seller, the term "Contract" shall mean the Order, and the terms "Government," "Contracting Officer" and equivalent phrases shall mean Buyer and Buyer's Purchasing Representative.

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It is intended that the referenced clauses shall apply to Seller in such manner as is necessary to reflect the position of Seller as a subcontractor to Buyer, to insure Seller's obligations to Buyer and to the U.S. Government, and to enable Buyer to meet its obligations under its contract.

32. **Certifications and Representations:** Seller acknowledges that Buyer will rely upon Seller certifications and representations contained in this clause and in any written offer, proposal or quote, or company profile submission, which results in award of a contract to Seller. By entering into such Contract, Seller makes the certifications and representations set forth below. Seller shall immediately notify Buyer of any change of status regarding any certification or representation.

33. **FAR 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (Applicable to solicitations and contracts exceeding \$150,000) (SEP 2007)**

(a) *Definitions.* As used in this provision -- "Lobbying contact" has the meaning provided at 2 U.S.C. 1602(8). The terms "agency," "influencing or attempting to influence," "officer or employee of an agency," "person," "reasonable compensation," and "regularly employed" are defined in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" (52.203-12).

(b) *Prohibition.* The prohibition and exceptions contained in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" (52.203-12) are hereby incorporated by reference in this provision.

(c) *Certification.* The Seller hereby certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on its behalf in connection with the awarding of a Contract.

(d) *Disclosure.* If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the Seller with respect to a Contract, the Seller shall complete and submit, with its offer to Buyer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The Seller need not report regularly employed officers or employees of the Seller to whom payments of reasonable compensation were made.

(e) *Penalty.* Submission of this certification and disclosure is a prerequisite for making or entering into a Contract imposed by 31 U.S.C. 1352. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure required to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

34. **FAR 52.209-5 Certification Regarding Responsibility Matters (APR 2010)**

(a) (1) The Seller certifies, to the best of its knowledge and belief, that -

(i) The Seller and/or any of its Principals - -

(A) Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(B) Have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property; and

(C) Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subdivision (a)(1)(i)(B) of this provision; and

(D) Have not, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds \$3,000 for which the liability remains unsatisfied.

(1) Federal taxes are considered delinquent if both of the following criteria apply:

(i) The tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted

(ii) The taxpayer is delinquent in making payment. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.

(2) Examples.

(i) The taxpayer has received a statutory notice of deficiency, under I.R.C. Sec. 6212, which entitles the taxpayer to seek Tax Court review of a proposed tax deficiency. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek Tax Court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(ii) The IRS has filed a notice of Federal tax lien with respect to an assessed tax liability, and the taxpayer has been issued a notice under I.R.C. Sec. 6320 entitling the taxpayer to request a hearing with the IRS Office of Appeals contesting the lien filing, and to further appeal to the Tax Court if the IRS determines to sustain the lien filing. In the course of the hearing, the taxpayer is entitled to contest the underlying tax liability because the taxpayer has had no prior opportunity to contest the liability. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek tax court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(iii) The taxpayer has entered into an installment agreement pursuant to I.R.C. Sec. 6159. The taxpayer is making timely payments and is in full compliance with the agreement terms. The taxpayer is not delinquent because the taxpayer is not currently required to make full payment.

(iv) The taxpayer has filed for bankruptcy protection. The taxpayer is not delinquent because enforced collection action is stayed under 11 U.S.C. 362 (the Bankruptcy Code).

(ii) Seller has not, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) "Principal," for the purposes of this certification, means an officer; director; owner; partner; or a person having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a division, or business segment; and similar positions).

(b) The Seller shall provide immediate written notice to Buyer if, at any time prior to contract award, Seller learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Seller knowingly rendered an erroneous certification, in addition to other remedies available, Buyer may terminate this contract for default.