

PURCHASE ORDER ATTACHMENT TERMS AND CONDITIONS OF PURCHASE

1. **DEFINITIONS:** As used throughout this Contract, the following terms shall have the meanings set forth below, unless the context otherwise requires:
 - a. This "Contract" means this Purchase Order in its entirety (this "Order"), including the Standard Terms and Conditions contained hereof, the supplemental sheets, schedules, specifications, exhibits, riders, regulations, laws, or other matters as stated herein, attached hereto or expressly incorporated herein by reference, together with the acceptance of this Order by the Contractor in accordance with the terms hereof;
 - b. "KETEMA" means Senior Aerospace Ketema, an incorporated Delaware company;
 - c. "Contractor" means the other party to this Contract;
 - d. "Government" refers to the United States Government or any department or agency thereof;
 - e. "Contracting Officer" refers to any duly appointed representative of the Government who, in accordance with prescribed procedures, is designated a Contracting Officer with authority to enter into and administer Government contracts, or his duly authorized representative;
 - f. "Prime Contract" refers to a specific contract, identified by a number printed hereon, in connection with the performance of which this Contract has arisen;
 - g. "Articles," "Supplier," "Services," or "Materials," as used either separately or severally, singularly or in the plural, refer to the articles, supplies, services, materials, products, parts, goods, assemblies, technical data, drawings, specification, or other items constituting the subject matter to be furnished by Contractor to KETEMA under this Contract. "Materials," unless otherwise states, shall include raw materials, purchased parts, work in process, and components;
 - h. "Secretary" means the Secretary, the Under Secretary or any Assistant head of the particular Government department or the head or any assistant head of the particular government agency, which is party to the Prime Contract; and the words "his duly authorized representative": means any person or persons or board other than the Contracting Officer authorized to act for the Secretary;
 - i. "Subcontracts" at any tier shall include purchase orders made with respect to this Contract, and "Subcontractor" means the other party to a Subcontract;
 - j. "Tools," unless otherwise stated, shall include tools, dies, machinery, jigs fixtures, molds, patterns, taps, gauges, and test equipment;
 - k. "Destination" shall mean the destination for delivery of the Articles, Supplies, Services, or Materials ordered under this Contract as specified on the face hereof;
 - l. "FAR" means Federal Acquisition Regulation. "DFARS" means Department of Defense FAR Supplement.
 - m. In the event of any conflict or inconsistency between any or each of the terms, conditions, or provisions set forth below in (1), (2), and (3) of this sub-clause (m), the following order of precedence, in descending order of authority, will govern: (1) the provisions typed or stamped in this Contract; (2) the printed provisions of this Contract including these Terms; and (3) the provisions of any applicable specifications or other documents referred to or incorporated in this Contract.
2. **ACCEPTANCE:** Any of the following acts by Contractor shall constitute acceptance of this Contract: (a) signing and returning to KETEMA a copy of this Contract; (b) returning to KETEMA Contractor's own form of acknowledgement; (c) delivery of rendering to KETEMA any of the Articles, Supplies, Service, or Materials which are the subject hereof; or (d) informing KETEMA in any manner of commencement of performance. Any act of acceptance must be made within thirty (30) days of the date of this Order or by such other date as specified herein. KETEMA hereby gives notice that it objects to any different additional terms included or proposed by Contractor in its acceptance or acknowledgment hereof, unless such additional or different terms are expressly agreed upon by KETEMA in writing. If any such additional or different terms are included in Contractor's acceptance or acknowledgment hereof, the resulting contract will be deemed not to contain such additional or different terms but to contain solely their terms and conditions set forth herein.
3. **APPLICABLE LAW:** This Contract shall be governed by and construed in accordance with the law of California. Nothing contained herein shall limit any additional rights, which KETEMA may have under applicable laws, including without limitation, the Uniform Commercial Code of the State of California.
4. **TECHNICAL REPRESENTATIVES:** The issuance of advice, approvals, or instructions by KETEMA's technical personnel or other representatives shall be deemed expressions of personal opinion of the maker thereof only and shall not affect KETEMA's or Contractor's rights and obligations hereunder. The Contractor shall not make any changes in the Materials or Services to be delivered or rendered, specifications thereof, or delivery requirements, or any other changes, unless authorized by a written amendment to this Contract.
5. **PACKING, DOCUMENTATION, AND SHIPMENT:** Shipment shall be in accordance with instructions specified in this Order or any other instructions by KETEMA; and all Materials shall be suitably packed to secure shipment by the courier; provided, however, that Contractor shall at all times meet stated delivery and shipment schedules, as set forth above. No charge shall be made for boxing, crating, packing, storage, damage, or other costs which shall be borne by Contractor unless otherwise stated on the face of this Order or agreed to, in writing, by KETEMA. KETEMA's order number, which relates to such box or package and a description of the materials enclosed therein. KETEMA's count or weight shall be final and conclusive on shipments not accompanied by packing lists. Articles shall be packed to protect against damage from weather or transportation. Invoices shall be mailed in triplicate to the attention of KETEMA's Accounting Department immediately after each shipment. Any shipment received without required certification or proper documentation shall be subject to return to Contractor at Contractor's cost.
6. **DELIVERY:** Deliveries are to be made in strict compliance with this Contract and schedules provided hereunder, both as to time and quantity. Time of delivery or shipment is, unless otherwise stated, of the essence under this Contract. KETEMA will not be liable for payment for Articles or Materials delivered in excess of quantities specified in delivery schedules. Contractor agrees to ship prepaid, via the fastest route at Contractor's expense, any Material delayed in delivery by fault of Contractor. Title to Articles covered by this Contract shall pass from Contractor to KETEMA upon delivery at the Destination, but such passage of title shall not constitute acceptance of such Material by KETEMA, or waiver of any of its rights hereunder or under applicable law. KETEMA may from time to time, upon written notice to Contractor, change delivery schedules or direct temporary suspension of scheduled shipments subject to Clause No. 10 hereof.
7. **PRICE WARRANTY:** Contractor by accepting this Contract represents that its prices as stated herein are no less favorable than those currently charged any other of its customers for the same or similar products or services in like quantities, and shall include all applicable Federal, State, and Local taxes, which taxes shall be paid by Contractor. In the event Contractor reduces its prices for such Articles prior to completion of performance under this Contract, Contractor agrees to reduce the price hereof correspondingly.
8. **WARRANTY:** Contractor warrants that regardless of inspection and acceptance by KETEMA of Articles furnished or supplied under this Contract, such Articles will (a) be free from defects in material and workmanship; (b) conform to all applicable specifications, standards, samples, and drawings; (c) be fit and sufficient for the purposes for which they are intended; (d) be produced in compliance with all applicable Federal and State laws and regulations and municipal ordinances and regulations; (e) be free from defects in title, security interests and liens; and (f) to the extent such Articles are not manufactured pursuant to detailed designs furnished by KETEMA, be free from defects in design, and KETEMA's approval of designs furnished by Contractor shall not relieve Contractor of its obligations under this warranty. The Contractor shall indemnify KETEMA against any loss, cost, damage, claim, or expense, including, without limitation, attorney's fees and disbursements arising out of any injury to person or property, including death, in connection with the handling, processing, integration, manufacture or other use of the

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Articles, Materials, and work covered by this Order. In addition to any other obligations imposed upon the Contractor by this Contract and the warranties made by the Contractor in this Contract, the Contractor agrees that the Articles delivered hereunder shall be covered by the same warranties as the Contractor customarily offers in connection with the sale of these Articles in the commercial market; and, in the event that differing warranties covering these Articles in the commercial market; and, in the event that differing warranties covering these Articles are customarily offered to other purchasers by the Contractor, it is agreed that the warranties applicable to this Contract or included herein, whichever is broader, shall be those given by the Contractor to its most favored purchasers. The acceptance of any shipment or payment of purchase price by KETEMA shall not constitute a waiver of any defect or failure of compliance with or breach of this warranty or any other provision hereof. All warranties and benefits under this Contract shall run to KETEMA, its successors, assigns, and customers.

9. QUALITY CONTROL AND INSPECTION: Contractor shall provide and maintain a quality control system acceptable to KETEMA. All Articles ordered hereunder shall be subject to (a) inspection by KETEMA and/or KETEMA's customer on the premises of Contractor at all reasonable times during the period of manufacture; (b) inspection prior to shipment; and (c) final inspection and acceptance at Destination notwithstanding any prior payment or inspection and acceptance. The Buyer reserves the right to conduct audits in the factories of the supplier and of his subcontractors, in all production departments concerned and in all quality-assuring areas. This shall not in any way limit the responsibility of the supplier for Quality. The supplier and any of his subcontractors shall therefore provide, to SENIOR AEROSPACE KETEMA customers, and regulatory agencies:

- a) Free access to their facilities and to all documents used for manufacture of the delivery in accordance with the order and with the documents cited therein;
- b) Every possibility to work to their justified interests. KETEMA may, at its option, reject and hold at Contractor's expense, subject to Contractor's disposal, all Articles, which are defective or fail to conform to applicable specifications, drawings, samples or descriptions, or to warranties and delivery schedules as specified herein. Rejected Articles may at the option of KETEMA be returned at Contractor's risk and expense and no replacement of defective Articles will be made by Contractor unless specified in writing by KETEMA. At its option of KETEMA be returned at Contractor's risk and expense and no replacement of defective Articles will be made by Contractor unless specified in writing by KETEMA. At its option, KETEMA may require Contractor to correct, repair, or replace any defective or nonconforming Articles with all possible speed at Contractor's cost, or to refund the entire price of such defective or nonconforming Articles, including shipping costs, to KETEMA unless written notification of that fact is submitted with the retender and KETEMA specifically agrees to acceptance thereof.

10. CHANGES: KETEMA may at any time and from time to time by written notice to Contractor and without notice to any sureties or assignees of Contractor, make changes in any one or more of the following: (a) the method of shipment, documentation or packing; (b) the drawings, designs, or specifications; and (c) the time and/or place of delivery. If any such change causes an increase or decrease in the cost of, or the time required for performance of, the work under this Contract, the parties to the Contract will cause an equitable adjustment to be made to the terms hereof and this Contract shall be modified in writing accordingly, provided that Contractor notifies KETEMA of its claim for such an adjustment within ten (10) days of the date Contractor receives notice of such change and provides KETEMA with written information sufficient to justify the claimed adjustment within thirty (30) days from the date Contractor receives notification of the change. Where the cost of property made obsolete as a result of any such change is included in Contractor's claim for an adjustment, schedules of termination inventory and other details of such obsolescence arising out of such change shall be submitted, and KETEMA shall have the right to prescribe the manner of disposition of such property and inventory. Neither failure to agree on an adjustment nor anything contained in this clause shall relieve

Contractor from proceeding without delay in the performance of this Contract as changed by KETEMA.

- 11. ASSIGNMENT:** Contractor may not assign this Contract or any interest therein except as expressly authorized in writing by KETEMA. Contractor may, however, with the prior written consent of KETEMA, assign claims for monies due or to become due hereunder to a single assignee; provided that in such event Contractor immediately shall provide KETEMA with two (2) copies of any such assignment, and provided further that payment to an assignee of claims hereunder shall be subject to set-off or recoupment for any present or future claims which KETEMA may have against Contractor.
- 12. EXTRAS:** Except as otherwise provided in this Contract, no payment for any extra services or materials rendered or deliverable hereunder but not specified herein shall be made unless such extra services or materials and the price therefore have been authorized in writing by KETEMA.
- 13. PROPERTY RESPONSIBILITY:** Unless otherwise agreed in writing, or unless subject to (FAR 52.245-2) all tools, dies, molds, fixtures, or other equipment or materials of every description furnished to Contractor by KETEMA or specifically paid for by KETEMA and any replacement thereof, shall be plainly marked or otherwise adequately identified by Contractor as "Property of KETEMA," and shall be safely stored separate and apart from Contractor's property. Contractor shall not substitute any property from KETEMA property and shall not use such property except in filling KETEMA's orders. Such property while in Contractor's custody or control shall be held at Contractor's risk and shall be kept insured by Contractor at Contractor's expense in the amount equal to the replacement cost with loss payable to KETEMA. Such property shall be subject to removal at KETEMA's written request, in which event Contractor shall prepare such property for shipment and shall redeliver it to KETEMA in the same condition as originally received by Contractor, reasonable wear and tear expected, all at the Contractor's expense.
- 14. INSURANCE INDEMNIFICATION:** In the event Contractor, its employees, agents, subcontractors, and/or lower-tier subcontractors enter premises owned, occupied or used by KETEMA either exclusively or jointly with others, in connection with the performance of this Contract, Contractor agrees that it will indemnify and hold harmless KETEMA, its officers, and employees from any loss, cost, damage, expense, or liability to Contractor, its agents, servants, or employees, or any other persons, firms, or corporations, by reason of property damage or personal injury of whatsoever nature or kind arising out of, or in connection with, such performance and occasioned in whole or in part, directly or indirectly by the actions or omissions of Contractor, its employees, agent, subcontractors and lower-tier subcontractors will maintain public liability, property damage, and workman's compensation insurance in reasonable limits covering the obligations as set forth above.
- 15. SUBCONTRACTS:** The Contractor shall give prior notification to KETEMA of any proposed Subcontract involving the procurement of other than regularly purchased materials and shall not, without KETEMA's prior written approval, enter into any such subcontract. In addition to and without limitation of the foregoing, the Contractor shall not, without KETEMA's prior written approval enter into subcontracts that differ in kind or amount from the Subcontracting indicated in the Contractor's quotation.
- 16. NON-WAIVER:** Failure of KETEMA to insist upon strict performance of any terms and conditions of this Contract shall not be deemed a waiver of any rights or remedies that KETEMA shall have and shall not be deemed a waiver of any subsequent default under this Contract. The shipping or receiving of any Article under this Contract shall not constitute a waiver of any defect or failure of compliance of Contractor with any provision hereof and shall not constitute a waiver of any right of KETEMA hereunder.
- 17. SET-OFF:** KETEMA shall be entitled at all times to set-off the amount of any claim which KETEMA may in good faith assert against Contractor hereunder, or any amount owing at any time from Contractor to KETEMA or any of KETEMA's affiliated companies against any amount payable at any time by KETEMA in connection with this Order.

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- 18. PATENT INDEMNITY:** (a) The Contractor warrants and represents that the sale or use of the Articles covered by this Order will not infringe any United States or foreign patent, trademark or copyright, or application therefore; (b) The Contractor shall report to KETEMA, promptly and in reasonable written detail, each notice of claim of patent infringement based upon the performance of this Contract of which the Contractor has knowledge; (c) Contractor agrees to indemnify and hold harmless KETEMA, its successors, assigns, customers, and the users of any of its products from and against all loss, damages, liability, claims, expenses (including attorney's fees and disbursements), demands and suits at law or in equity, for or by reason of any actual or alleged infringement of any patent, trademark, copyright, or corresponding right, arising out of the manufacture, use, sale, or disposal of Articles furnished under this Contract, except where such Articles would be normally non-infringing but are rendered infringing solely by Contractor's strict compliance with designs or specifications furnished by KETEMA; (d) in the event of any claim or suit against KETEMA, its successors, assigns, or customers on account of any claim or patent, trademark or copyright infringement arising out of the performance of this Contract, or out of the use of any Articles or Supplies furnished or Services performed hereunder; (i) the Contractor, upon request, shall furnish to KETEMA, or such other persons as KETEMA may direct, all evidence and information in possession of the Contractor pertaining to such litigation; and (ii) upon the direction of KETEMA, conduct all litigation pertaining to such claims at Contractor's cost and expense.
- 19. INVENTIONS AND DISCOVERIES:** Where payment is made hereunder for experimental, developmental, or research work as such, to be performed in accordance with special requirements of KETEMA, Contractor agrees to disclose and on KETEMA's request to irrevocably assign full and exclusive rights to any and all inventions or discoveries conceived or first reduced to practice either during performance of the work hereunder, or resulting therefore, by Contractor or any Subcontractor to KETEMA. KETEMA, in its sole discretion, may at any time require Contractor to submit a verified report of any inventions or discoveries made by Contractor or any Subcontractor, in the affirmative or negative if such be the case.
- 20. DATA:** Contractor agrees not to use, reproduce, or disclose any data, designs, drawings, patterns, standards, specifications, tools, equipment, or any other information or articles; (i) supplied to it by KETEMA hereunder; or (ii) generated by Contractor in the performance of work or services for KETEMA without express written permission by an authorized representative of KETEMA, except in; the performance of work or services to be performed for KETEMA. The Contractor shall keep all such data, designs, drawings, patterns, standards, specifications, tools, equipment, or other information strictly confidential. Contractor also agrees that any other data or material supplied by it to KETEMA need not be considered by KETEMA to be proprietary to Contractor or confidential unless expressly so agreed in writing by KETEMA. Contractor may produce items for direct sale to the Government where the Government has the right to use the equipment, tools, gauges, patterns, designs, drawings, engineering data, or other technical or proprietary information furnished by KETEMA, which are required to produce the items.
- 21. DEFAULT OR INSOLVENCY:** KETEMA reserves the right upon written, telex, or telegram notice to Contractor (a "Notice of Default" to cancel all or any part of this Contract and of any other Contract between KETEMA and the Contractor in the event Contractor; (a) breaches or fails fully to perform any provision of this Contract; (b) so fails to make progress as to endanger full performance of this Contract in accordance with its terms; or (c) fails to make deliveries within the specified time. KETEMA shall also have the right to cancel this Contract or any part thereof if Contractor becomes insolvent or a bankruptcy petition is filed; (i) by the Contractor; or (ii) against the Contractor which is if not vacated within thirty (30) days from the date of filing. Upon receipt of such notice, Contractor shall immediately discontinue all work related to this Contract or such part of this Contract which is the subject of such termination. In the event of termination pursuant to this clause, KETEMA may purchase articles similar to the Articles ordered hereunder elsewhere on such terms and in such manner as KETEMA may deem appropriate and the Contractor shall be liable to KETEMA for any excess costs occasioned KETEMA thereby. If, after service of a Notice of Default under the provisions above, Contractor proves that its failure to perform this Contract is due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor, said Notice of Default shall be deemed to have been issued pursuant to the clause hereof entitled "TERMINATION," and the rights and obligations of the parties hereto in respect of the termination of all or a part of this Contract shall be governed by that clause, provided, however that Contractor notified KETEMA in writing of the existence of such unforeseeable cause within ten (10) days from the beginning thereof. Termination under this clause shall not affect any of KETEMA's rights for damages arising from the default of Contractor, and the remedies herein reserved shall be cumulative and in addition to any further remedies provided in law or equity.
- 22. TERMINATION:** Without limitation upon any other rights of KETEMA under this Contract, the performance of work under this Contract may be terminated, in whole or from time to time in part, by KETEMA upon written, telex, or telegram notice in accordance with the procedures set forth in the termination clause provided in FEDERAL ACQUISITION REGULATION (FAR) 52.249-2, as in effect on the date of this Contract, and said clause is incorporated in this Contract, and said clause is incorporated in this Contract by reference, KETEMA being regarded as "the buyer" and the Contractor hereunder being regarded as "the seller" as those terms are used in said clause. Failure of Contractor to submit its termination claim within the period prescribed by paragraph (c) of said clause, unless such period is extended by KETEMA in writing, shall constitute a waiver of such claim, and KETEMA shall not be required to notify Contractor or make any determination thereof.
- 23. LABOR DISPUTES:** Contractor agrees that whenever any actual or potential labor dispute delays or threatens to delay the timely performance of this CONTRACT, Contractor will immediately notify KETEMA of such dispute.
- 24. WAIVER:** No waiver by KETEMA whether express or implied, of any of the terms or conditions of this Contract shall be or be construed to be a continuing waiver nor deprive KETEMA of the right to reassert or rely upon any such terms or conditions thereafter.
- 25. RELEASE OF INFORMATION AND ADVERTISING, CONFIDENTIALITY:** Contractor shall not without prior written consent of KETEMA, make any disclosure, news release, or public announcement, denial, or confirmation of same, of any part of the subject matter of this Contract. Contractor shall not in any manner advertise or publish the fact that Contractor has supplied or contracted to supply to KETEMA the items mentioned herein except as may be required to perform this Contract.
- 26. COMPLIANCE WITH LAWS:** Contractor shall comply with and, upon request of KETEMA or the Government, furnish Certificates of Compliance with all federal, state, and local laws, rules, and regulations that may be applicable to this ORDER, including the Fair Labor Standards Act and will indemnify KETEMA for any damages resulting from violation thereof.
- 27. STOP WORK:** This Contract may be placed on stop work in whole or from time to time in part by KETEMA in accordance with FAR 52.212-13 in effect on the date of this Contract.
- 28. HAZARDOUS MATERIAL PACKAGING, LABELING, AND SHIPPING:** Seller shall package, label, transport, and ship hazardous materials or items containing hazardous materials in accordance with all applicable federal, state, and local laws and regulations, including but not limited to current published issues of tariffs and regulations reflecting 49 Code of Federal Regulation Articles 100-199, DOD FAR Supplement 52.288-7007, the Explosive Safety Manual AFM 127-100, and Federal Aviation Regulation 103, as amended (e.g., the current Hazardous Materials Regulations of the Department of Transportation; the Official Air Transport Restricted Articles Tariff; Packaging and Handling of Dangerous Materials for Transportation by Military Aircraft, Joint Manual AFM 71-4; and subsequent reissues thereof) and furnish appropriate material safety data sheets in accordance with California Hazardous Substances Information and Training Act. Seller, prior to each hazardous material shipment, shall notify buyer of its nature and

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shipment data by such means of communication as will allow for proper preparation for acceptance of delivery by the carrier of the material and shall identify same on all shipping documents.

- 29. FORCE MAJEUR:** No liability shall be imposed upon KETEMA for failure to accept all or any part of the Articles ordered if such failure is the result of acts of God, acts of civil or military authority, fires, strikes, floods, epidemics, war, riot or any other causes beyond KETEMA's control (hereinafter "unforeseen events")> If requested by KETEMA, Contractor shall hold any Articles KETEMA does not accept due to any unforeseen event at the direction of KETEMA and shall deliver such Articles to KETEMA when KETEMA so directs in writing. In such event, KETEMA shall be responsible for Contractor's direct additional costs of holding such Articles
- 30. NON-DISCRIMINATION:** The provisions set forth in Section 202 of Executive Order 11246 of September 28, 1965, as amended by Executive Orders 11375 and 12086, and as such may be amended from time to time, and the rules and regulations issued pursuant to Section 201 thereof, and any amendments thereto, are hereby incorporated by reference and, in connection with the performance of work hereunder, Contractor agrees to comply with the non-discrimination provisions of the aforesaid executive orders, rules, and regulations. Contractor further agrees to include the above-mentioned provisions in all Subcontracts and/or purchase orders to which this Contract gives rise, unless exempted by rules, regulations, or orders of the Secretary of Labor under the above-mentioned Executive Orders.
- 31. WHOLE AGREEMENT:** The terms and conditions and other provisions of this Contract are intended by the parties as the entire and final expression of their agreement and as the complete and exclusive statement of this Contract, which shall not be modified or supplemented except in writing signed by the parties. If any provision of this Contract is modified by statute or declared illegal or unenforceable, the remaining provisions shall nevertheless continue in full force and effect.
- 32. SURVIVAL:** All of the covenants, warranties, and representations contained herein shall survive the performance of this Contract by KETEMA and Contractor including, and without limitation, delivery of the Articles or the rendering of the Services hereunder and the payment therefore.
- 33. LIMITATION ON LIABILITY:** Except as otherwise stated herein; (i) KETEMA shall not be liable for anticipated profits or for incidental or consequential damages; (ii) KETEMA's liability for any claim of any kind for any loss or damage arising out of or in connection with this Contract or the termination thereof shall in no case exceed the price of the Articles which are the subject of such claim and; (iii) any action resulting from any breach hereunder on the part of KETEMA must commence within one year after the cause of action has accrued.
- 34. CLAUSES INCORPORATED BY REFERENCE:** As listed below, the clauses from the Federal Acquisition Regulation, 48 C.R.F. 1 et seq., are incorporated by reference into this Order with the same effect as if they were printed in full. The designated language of a clause will be used unless the use of alternate language is indicated. Unless otherwise indicated in this Order, the clauses listed in this paragraph are modified as follows: Change "Contractor" to "Seller"; "Subcontractor" to "Seller's Subcontractor"; and "Contract" to this "Order". The version of the clauses in effect on the date of this order shall be used.
- 52.227-14 RIGHTS IN DATA – GENERAL
 - 52.243-6 CHANGE ORDER ACCOUNTING (Delete first sentence)
 - 52.244-5 COMPETITION IN SUBCONTRACTING
- In the following FAR clauses change: "Government" to "Government or Buyer"; "contracting officer" to "contracting officer or Buyer".
- 52.203-3 GRATUITIES (Change "agency head or designee" and "Government" to "Buyer"; but "Government" means "Government or Buyer" in (a)(1); delete a parenthetical in (c)(2); and change "contract" to "prime contract" in (c).
 - 52.242-13 BANKRUPTCY
 - 52.246-2 INSPECTION OF SUPPLIES-FIXED PRICE (Delete last sentence of (k) and replace the first thirteen words of (l)

with: "If the Articles are defective for any reason," replace the terms "the original point of delivery" and "the original point" in (1) with: "the location of the Articles at the time the defect or failure is discovered, wherever in the world."; and add as (m) "Records will be retained for three years.")

In the following FAR clauses change: "contracting officer" and "Government" to "Buyer".

- 52.210-5 NEW MATERIAL - ("Government" means "Government" in the first sentence)
 - 52.210-7 USED OR RECONDITIONED MATERIAL, RESIDUAL INVENTORY, AND FORMER GOVERNMENT SURPLUS PROPERTY ("Government" means "Government" in the first sentence)
 - 52.212-13 STOP WORK ORDER
 - 52.222-1 NOTICE TO THE GOVERNMENT OF LABOR DISPUTES
 - 52.232-17 INTEREST - (Delete the first parenthetical expression)
 - 52.243-1 CHANGES-FIXED PRICE (reduce "30" to "15" in (c))
 - 52.246-16 RESPONSIBILITY FOR SUPPLIES
 - 52.247-21 CONTRACTOR LIABILITY FOR PERSONAL INJURY AND/OR PROPERTY DAMAGE
 - 52.247-27 CONTRACT NOT AFFECTED BY ORAL AGREEMENT
 - 52.249-2 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED PRICE) ("Government" means "Government" in (m) and "45" is changed to "90" in (c), and "1 year" is changed to "6 months" in (d))
 - 52.249-8 DEFAULT FIXED PRICE SUPPLY - (Add at the end of (a)(1)(i), "or if Seller becomes insolvent, makes a general assignment for the benefit of creditors, files a petition in bankruptcy, has filed a petition to have Seller declared bankrupt, pursues any remedy under any law relating to relief for debtors or a receiver or trustee is appointed for Seller's property," and add at the end of (c) "Seller shall notify Buyer within 10 days of any excuse for non-performance or default")
- 35. GOVERNMENT CONTRACT CLAUSES.** In addition to the clauses listed in paragraph 34, the FAR clauses listed in this paragraph are incorporated into this order if the face of this Order contains a U.S. Government contract number or otherwise indicates that the Order is issued pursuant to a government contract. The clauses incorporated by reference have the same effect as if they were printed in full. The designated language of a clause will be used unless the use of alternate language is indicated. Unless otherwise indicated in this Order, the clauses are modified as follows: Change "Contractor" to "Seller," "Subcontractor" to "Seller's Subcontractor," and "Contract" to this "Order." The version of the clause in effect on the date of this Order shall be used.
- 52.203-1 OFFICIALS NOT TO BENEFIT
 - 52.203-5 COVENANT AGAINST CONTINGENT FEES (Change "contract" to "prime contract" in the first sentence of (a), and "Government" to "Buyer" in (a))
 - 52.203-6 RESTRICTIONS ON CONTRACTOR SALES TO THE GOVERNMENT
 - 52.204-2 SECURITY REQUIREMENTS
 - 52.208-1 REQUIRED SOURCES FOR JEWEL BEARINGS AND RELATED ITEMS (Change "contracting officer" to "Buyer" in (d))
 - 52.212-8 DEFENSE PRIORITIES AND ALLOCATION REQUIREMENTS
 - 52.215-1 EXAMINATION OF RECORDS BY COMPTROLLER GENERAL (Delete (c) and "was entered into by negotiation" in (a))
 - 52.215-22 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA (Add "in addition to any other remedies provided by law under this order, if Buyer is subject to any liability or expense, including government withholding of payments as the result of Seller's or its lower-tier subcontractors' submission and certification of alleged or actual defective cost or pricing data as set

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forth in (a)(1) and (a)(2) of this clause or their furnishing of data of any description; that is allegedly or actually inaccurate as set forth in (a)(3), then Seller agrees to indemnify and hold Buyer harmless to the full extent of any damage or expense, including lost profit, attorneys' fees and court costs, resulting from such action)

- 52.215-24 SUBCONTRACTOR COST OR PRICING DATA
- 52.215-39 REVERSION OR ADJUSTMENT OF PLANS FOR POST RETIREMENT BENEFITS OTHER THAN PENSIONS (but only if cost or pricing data is required to be furnished with this order)
- 52.217-27 TERMINATION OF DEFINED BENEFIT PENSION PLANS (Only if cost or pricing data is required to be furnished for this Order)
- 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS AND SMALL DISADVANTAGED BUSINESS CONCERNS
- 52.219-13 UTILIZATION OF WOMEN-OWNED SMALL BUSINESS
- 52.220-3 UTILIZATION OF LABOR SURPLUS AREA CONCERNS
- 52.220-4 LABOR SURPLUS AREA SUBCONTRACTING PROGRAM (Only if this order exceeds \$500,000.00)
- 52.222-4 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT OVERTIME COMPENSATION GENERAL (Delete (e) and add, Buyer may withhold or recover from Seller such sums as the contracting officer withholds or recovers from Buyer because of alleged or actual liabilities of Seller or its subcontractors under this clause)
- 52.222-20 WALSH-HEALEY PUBLIC CONTRACT ACT (Insert "the prime contract" between "and" and "is subject" in the first paragraph of the clause)
- 52.222-21 CERTIFICATION OF NONSEGREGATED FACILITIES
- 52.222-26 EQUAL OPPORTUNITY (OMIT (C))
- 52.222-35 AFFIRMATIVE ACTION FOR SPECIAL DISABLED AND VIETNAM -ERA VETERANS (Only if this Order exceeds \$10,000.00)
- 52.222-36 AFFIRMATIVE ACTION FOR HANDICAPPED WORKERS (Only if Order exceeds \$2,500.00)
- 52.222-37 EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM -ERA (Only if this Order exceeds \$10,000.00)
- 52.223-1 CLEAN AIR AND WATER CERTIFICATION (Modify (a) to read, "Any facility used in the performance of this proposed contract is not listed on the EPA List of Violating Facilities")
- 52.223-2 CLEAN AIR AND WATER (Only if this Order exceeds \$100,000.00, or if the facility to be used qualified under FAR 52.223-2)
- 52.223-3 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (Change "Government" to "Government and Buyer" in (c))
- 52.224-2 PRIVACY ACT
- 52.225-10 DUTY FREE ENTRY
- 52.225-11 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES
- 52.227-1 AUTHORIZATION AND CONSENT (Only if this Order exceeds \$25,000.00)
- 52.227-10 FILING OF PATENT APPLICATIONS - CLASSIFIED SUBJECT MATTER
- 52.227-12 PATENT-RIGHTS ACQUISITION BY THE GOVERNMENT (Only if Seller is not a small business or nonprofit organization, and work is performed outside the U.S.)
- 52.230-3 COST ACCOUNTING STANDARDS (Only if set forth on the face of this Order, and delete (b) and add: "Seller shall communicate and otherwise deal directly with the Contracting Officer to the extent practicable and permissible as to all matters relating to Cost Accounting Standards. Seller shall provide Buyer with copies of all communications between Seller and the Contracting

Officer respecting this clause and FAR 52.230-4, provided Seller. In addition to any other remedies provided by law or under this Order, Seller agrees to indemnify and hold Buyer harmless to the full extent of any loss, damage or expense, including profit and attorney's fees, if Buyer is subjected to any liability as the result of a failure of the Seller or its lower-tier subcontractors to comply with the requirements of this clause or clause 52.230-4)

- 52-230-4 ADMINISTRATION OF COST ACCOUNTING STANDARDS (Only if either FAR 52.230-3 or 52.230-5 is set forth on the face of this Order and add the first two sentences listed above in 52.230-3 to modify 52.230-3).
- 52.230-5 DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES (Only if set forth on the face of the Order, and delete (b) and add the same language listed above in clause 52.230-3 to modify 52.230-3)
- 52.245-2 GOVERNMENT PROPERTY (FIXED-PRICE CONTRACTS) (Only if Seller is furnished "Government property", and change "Contracting Officer" to mean "Buyer" and "Government" to mean "Buyer", except that "Government" means "Government" means "Government"; (1) in the terms "Government-furnished property"; (2) the second time it appears in paragraph (b)(1)(ii), and; (3) in paragraph (c)(1); and except that "Government" means "Government or Buyer": (1) in paragraph (f) and in the following phrase "its" becomes "their", and (2) in paragraph (j) and subparagraph (j)(1). The fourth sentence of paragraph (h) is changed to read: "Neither the Government nor the Buyer shall be liable...")
- 52.246-11 HIGH-LEVEL CONTRACT QUALITY REQUIREMENT (GOVERNMENT SPECIFICATION) (Insert "MIL-I-45208" unless otherwise specified in this Order)
- 52.246-23 LIMITATION OF LIABILITY
- 52.246-24 LIMITATION OF LIABILITY-HIGH VALUE ITEMS (Add "This clause shall apply only to those items identified in this Order as being subject to the clause)

In the following FAR clauses change: "Government" to mean "Government or Buyer" and "contracting officer" to mean "contracting officer or Buyer".

- 52.203-10 PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY
- 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (but only if this order exceeds \$100,000.00)
- 52.214-26 AUDIT-SEALED BIDDING (Only if this Order exceeds \$10,000.00)
- 52.215-2 AUDIT NEGOTIATION (Only if this Order exceeds \$10,000.00)
- 52.219-9 SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS SUBCONTRACTING PLAN (but only if this order exceeds \$500,000.00)
- 52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPY RIGHT INFRINGEMENT (Only if this Order exceeds \$25,000.00)
- 52.227-3 PATENT INDEMNITY
- 52.247-63 PREFERENCE FOR U.S. FLAG AIR CARRIERS
- 52.247-64 PREFERENCE FOR PRIVATELY OWNED U.S. FLAG COMMERCIAL VESSELS

In the following FAR clauses change: "contracting officer" and "Government" to "Buyer".

- 52.203-7 ANTI-KICKBACK PROCEDURES (Change "United States" to "Buyer" in (c)(4)(i))
- 52.215-26 INTEGRITY OF UNIT PRICES
- 52.203-9 REQUIREMENT FOR CERTIFICATE OF PROCUREMENT INTEGRITY-MODIFICATION
- 52.215-26 INTEGRITY OF UNIT PRICES

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- 52.223-7 NOTICE OF RADIOACTIVE MATERIALS (and insert 30 into blank in first sentence)
- 52.227-8 REPORTING OF ROYALTIES (FOREIGN)
- 52.227-9 REFUND OF ROYALTIES
- 52.232-16 PROGRESS PAYMENTS
- 52.236-7 PERMITS AND RESPONSIBILITIES
- 52.245-7 SPECIAL TOOLING (Only if this Order requires the use of Special Tooling, and change 90 days in (i) to 120 days, and change the terms "contracting officer" and "Government" in (e)91, (f), (i)(1) and (i)(4) to "Buyer and Government" and "Buyer and contracting officer")
- 52.245-18 SPECIAL TESTING EQUIPMENT (Only if this Order requires Special Test Equipment, and change "30" to "5" in (b) and (c), and "Government" means "Government and Buyer" in (b)(4)).

BUY AMERICAN CERTIFICATE: Seller certifies that, unless otherwise noted in the Order, all items delivered under this Order were mined, produced, or manufactured in the United States.

VALUE ENGINEERING: The Seller is encouraged to develop, prepare prescribed by FAR52.248-1. If the seller's VECP is accepted by the Buyer and the contracting officer and is incorporated into the prime contract, the Seller is entitled to its allowable development and implementation costs and one-half of the amount of net acquisition savings received by Buyer resulting from the Seller's VECP.

PRICING. When costs are a factor in any determination of the price to be paid hereunder, including price adjustments pursuant to the Changes clause or any other provision of this order, such costs shall be in accordance with FAR 31.2.

36. DOD SUPPLEMENTARY CLAUSES. In addition to the clauses listed in paragraphs 34, and 35, the following DOD FAR Supplement clauses, 48 C.F.R. Part 252, are incorporated into this Order if the face of this Order contains a Department of Defense contract number or the word "military" or otherwise indicates that the Order is issued pursuant to a Department of Defense contract. The clauses incorporated by reference have the same effect as if they were printed in full. The designated language of a clause will be used unless the use of alternate language is indicated. Unless otherwise indicated in this Order, the clauses are modified as follows: Change "Contractor" to "Seller", "Subcontractor" to "Seller's subcontractor," and "Contract" to this "Order." The version of the clause in effect on the date of this Order shall be used.

- 252.203-7001 SPECIAL PROHIBITIONS ON EMPLOYMENT
- 252.210-7003 ACQUISITION STREAMLINING (Only if this Order exceeds \$100,000.00)
- 252.215-7000 AGGREGATE PRICING ADJUSTMENT
- 252.215-7001 AVAILABILITY OF CONTRACTOR RECORDS
- 252.215-7003 INDUSTRIAL MODERNIZATION INCENTIVE PROGRAM
- 252.219-7003 SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS SUBCONTRACTING PLAN
- 252.223-7001 HAZARD WARNING LABELS
- 252.223-7003 CHANGE IN PLACE OF PERFORMANCE - AMMUNITION AND EXPLOSIVES
- 252.225-7002 QUALIFYING COUNTRY SOURCES AS SUBCONTRACTORS
- 252.225-7007 TRADE AGREEMENTS ACT
- 252.225-7009 DUTY FREE ENTRY QUALIFYING COUNTRY END PRODUCTS AND SUPPLIES (Only if this Order exceeds \$2,500.00, and change "contract" to "prime contract" in (h), and add "the Seller shall place the prime contract number on any shipping document submitted to Customs covering supplies for which duty-free entry is claimed.)
- 252.225-7011 PREFERENCE FOR DOMESTIC SPECIALTY METALS (MAJOR PROGRAMS)
- 252.225-7023 RESTRICTION ON ACQUISITION OF CARBONYL IRON POWDERS
- 252.225-7025 FOREIGN SOURCE RESTRICTIONS

- 252.225-7028 EXCLUSIONARY POLICIES AND PRACTICES OF FOREIGN GOVERNMENTS
- 252.225-7029 RESTRICTION ON ACQUISITION OF AIR CIRCUIT BREAKERS
- 252.227-7013 RIGHTS IN TECHNICAL DATA AND COMPUTER SOFTWARE
- 252.227-7018 RESTRICTIVE MARKINGS ON TECHNICAL DATA
- 252.227-7029 IDENTIFICATION OF TECHNICAL DATA
- 252..227-7037 VALIDATION OR RESTRICTIVE MARKINGS ON TECHNICAL DATA
- 252/231-7000 SUPPLEMENTAL COST PRINCIPLES
- 252.231-7001 PENALTIES FOR UNALLOWABLE COSTS
- 252.233-7000 CERTIFICATION OF REQUESTS FOR ADJUSTMENT OR RELIEF EXCEEDING \$100,000.00 (Delete "exceeding \$100,000.00" and change "Government" to "Buyer")
- 252.235-7003 FREQUENCY AUTHORIZATION
- 252.243-7001 PRICING OF ADJUSTMENTS
- 252.249-7001 NOTIFICATION OF SUBSTANTIAL IMPACT ON EMPLOYMENT

In the following DFARS clauses change: "Government" or "contracting officer" to "Buyer".

- 252.204-7000 DISCLOSURE OF INFORMATION
- 252.217-7026 IDENTIFICATION OF SOURCES OF SUPPLY
- 252.246-7001 WARRANTY OF DATA (Delete (d)(3), and replace the last sentence of (b) with, "The warranty period shall extend for four (4) years after delivery,"; change "contracting officer" in (c) to "contracting officer and Buyer"; and replace the language at (d)(3) with, "In addition to any other remedies provided by this Order or under law, Seller shall indemnify and hold Buyer harmless to the full extent of any loss, liability, damage or expense including lost profits, attorney fees and court costs resulting from any breach or alleged breach of this warranty.")

In the following DFARS clauses change: "Government" to "Government and Buyer" and "Contracting officer" to "contracting officer and Buyer".

- 252.223-7002 SAFETY PRECAUTIONS FOR AMMUNITION AND EXPLOSIVES
- 252.225-7010 DUTY FREE ENTRY-ADDITIONAL PROVISIONS
- 252.225-7022 RESTRICTION ON ACQUISITION OF POLYACRYLONITRILE BASED CARBON FIBER
- 252.228-7005 ACCIDENT REPORTING AND INVESTIGATION INVOLVING AIRCRAFT, MISSILES, AND SPACE LAUNCH VEHICLES.
- 252.247-7023 TRANSPORTATION OF SUPPLIES BY SEA
- 252.247-7024 NOTIFICATION OF TRANSPORTATION OF SUPPLIES BY SEA

37. DOE SUPPLEMENTARY CLAUSES. In addition to the clause listed in paragraphs 34 and 35, the following DOE FAR Supplement clauses, 48 C.F.R. Part 952, are incorporated into this Order if the face of this Order indicates that the Order is issued pursuant to a Department of Energy contract. The clauses incorporated by reference have the same effect as if they were printed in full. The designated language of a clause will be used unless the use of alternate language is indicated. Unless otherwise indicated in this Order, the clauses are modified as follows: Change "Contractor" to "Seller", "Subcontractor" to "Seller's Subcontractor", and "Contract" to this "Order". The version of the clause in effect on the date of this Order shall be used.

- 952.204-71 SENSITIVE FOREIGN NATIONS CONTROL
- 952.212-71 PRIORITIES AND ALLOCATIONS
- 952.219-9 SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS SUBCONTRACTING PLAN (Delete FAR 52.219-9 (d)(10))

38. NASA SUPPLEMENTARY CLAUSES. In addition to the clauses listed in paragraphs 34 and 35 the following NASA FAR Supplement clauses, 48 C.F.R. Part 1852 are incorporated into this Order if the

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face of this Order indicated that the Order is issued pursuant to NASA contract. The clauses incorporated by reference have the same effect as if they were printed in full. The designated language of a clause will be used unless use of alternate language is indicated. Unless otherwise indicated in this Order, the clause is modified as follows: Change "Contractor" to "Seller" and "Contract" to this "Order". The version of the clause in effect on the date of this Order shall be used.

1852.204-70 REPORT ON NASA SUBCONTRACTS (Only paragraphs (a), (b), (c), and (d))
1852.210-75 PACKAGING AND MARKING
1852.219-74 USE OF RURAL AREA SMALL BUSINESSES
1852.219-76 NASA SMALL DISADVANTAGED BUSINESS GOAL
1852.227-70 NEW TECHNOLOGY

40. DISPUTES. (A) This Order and the performance of the parties hereunder shall be controlled and governed by the law of federal government contracts and, where federal Government contract law is not applicable, the law of the State of California. Pending final resolution of any dispute under this Order, Seller shall proceed diligently with the performance of this Order.

(B) In the event (1) Seller's claim, or any portion thereof, against Buyer is the proper subject for a claim by Buyer against a higher-tiered contractor, including the U.S. Government, under the terms of the Buyer's contract with a higher-tiered contractor, ("Buyer's Contract) or (2) Buyer's claim against Seller, or any portion thereof, is based upon a corresponding claim against Buyer by a higher-tiered contractor, including the U.S. Government, under Buyer's Contract, then the dispute shall be litigated only pursuant to the Disputes clause of Buyer's Contract. Seller will cooperate fully with Buyer in drafting and documenting any claim to be presented to the higher-tiered contractor or in responding to any claim by a higher-tiered contractor. Seller agrees to certify that its claim or defense is made in good faith, all supporting data for its claim or defense are accurate, current and complete, and the amount of the claim accurately reflects the amount for which the Seller believes it is entitled.

Seller and Buyer agree that the claim of a higher-tiered contractor or the decision of the higher-tiered contractor on a claim presented by Buyer is final and binding on the parties unless the higher-tiered contractor's action is appealed pursuant to Buyer's Contract. Buyer shall notify Seller of the higher-tiered contractor's action within 10 days after Buyer's receipt thereof. Within 10 days of such notice, Seller shall advise buyer in writing whether Seller desires to appeal the action. If Seller desires the action appealed, Seller's notice to Buyer shall set forth in detail its reasons and shall specifically request Buyer to appeal such decision. Buyer shall have absolute discretion whether to appeal such decision.

If Buyer agrees to appeal a decision, Seller agrees to indemnify and hold harmless Buyer for the cost of said appeal and applicable attorney's fees incurred in prosecuting any such appeal initiated by Buyer at Seller's request. Seller may participate in any such appeal at its own expense. Buyer may require the Seller to prosecute the appeal in Buyer's name and at Seller's expense. Buyer and Seller will assist and cooperate in the prosecution of appeals. The outcome of the appeal shall be final and binding on the parties. Buyer agrees that it will take no action to settle or prejudice Seller's claim without Seller's consent. Seller's right to interest is limited to its apportioned share of interest recovered pursuant to the appeal.

(C) For all other disputes, the parties agree that only the courts located in San Diego County shall have jurisdiction to decide any dispute arising under or relating to this Order.