



## Ultra Electronics – 3 Phoenix General Purchase Order Terms and Conditions

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**1. DEFINITIONS** – As used throughout this document, the following terms shall have the meanings set forth below:

- a) “Affiliate” means associated business concerns or individuals if, directly or indirectly, either one controls or can control the other and/or a third party controls or can control both.
- b) “Customer” means any entity for which UE3P is providing products or services that are supported by the materials and/or services to be furnished under this Order.
- c) “Days” means calendar days unless otherwise expressly noted.
- d) “F.O.B. Destination, Freight Prepaid” means title and risk of loss pass to UE3P at the destination location, Seller bears and prepays freight charges and Seller must file claims for loss, damage or overcharges (if any) for items in transit.
- e) “Government” means the United States Government.
- f) “Items” means any goods (e.g., materials, equipment, products, hardware, software or information) to be delivered under this Order and any part thereof.
- g) “Order” means the fixed price purchase order which references these general terms and conditions, the Schedule identified therein, these general terms and conditions, any special terms and conditions agreed upon by the Parties, any Government prime contract provisions and clauses which flow down to the Seller, and any plans, specifications or other documents incorporated by reference or attached to the fixed price purchase order.
- h) “Party” means either UE3P or the Seller, both of whom may be collectively referred to as the “Parties”.
- i) “Prime contract” means the contract existing between UE3P and UE3P's Customer.
- j) “Seller” means the person, firm or corporation executing the Order with UE3P and who will deliver the Items or perform the Work provided for herein.
- k) “UE3P” means Ultra Electronics – 3 Phoenix, a wholly owned subsidiary of Ultra Electronics Defense, Inc.
- l) “Work” means the Items or Services contemplated by the Order and furnished by Seller to Buyer in performance of and pursuant to this Order

**2. ACCEPTANCE OF ORDER** - Seller shall accept this Order by signing the acceptance copy and returning it promptly to UE3P or by furnishing to UE3P any of the Work or Items specified herein. By Seller's acceptance of this Order, Seller agrees to the terms, conditions and specifications of this Order including but not limited to unit prices, total prices and delivery dates. UE3P HEREBY OBJECTS TO AND REJECTS ANY TERMS, CONDITIONS OR SPECIFICATIONS CONTAINED IN SELLER'S ACCEPTANCE OF THIS ORDER (OR ANY OTHER FORM OR PAPER SUBMITTED BY SELLER) WHICH DIFFER FROM OR ADD TO THE TERMS, CONDITIONS AND SPECIFICATIONS OF THE ORDER, UNLESS EXPRESSLY AGREED TO BY UE3P. SELLER AGREES THAT THE TERMS, CONDITIONS AND SPECIFICATIONS OF THE ORDER SHALL PREVAIL OVER ANY INCONSISTENT PROVISIONS IN ANY FORM OR OTHER PAPER SUBMITTED BY SELLER.

**3. ENTIRE AGREEMENT** - This Order constitutes the entire agreement between the parties, and supersedes all other communications, representations, negotiations or agreements, whether written or verbal, pertaining to the subject matter hereof. Seller represents that in entering the Order, Seller does not rely on any previous direct or implied representation, inducement or understanding of any kind. Seller further agrees that any estimates or forecasts provided by UE3P do not constitute a commitment. No modification or change to this Order shall be binding upon either Party, unless such modification or change is in writing and signed by both Parties.

**4. WAIVER** – UE3P's failure to enforce any provision of the Order or to protest any breach or default of the Order by Seller shall not be construed as evidence of (or evidence to interpret) the rights or obligations of the Parties, or as a waiver of any Seller obligation or UE3P right provided under the Order or by law. No right or remedy of UE3P shall be deemed waived or released unless such waiver or release is in writing and signed by an authorized representative of UE3P.

**5. DELIVERY** - (a) Transportation: Unless otherwise provided in this Order, transportation shall be F.O.B. Destination, Freight Prepaid. UE3P shall not be liable for insurance or premium transportation charges unless UE3P consents to such charges in writing. All items must be packaged in accord with the instructions specified by UE3P and shipped by route and carrier designated by UE3P. If UE3P does not specify the manner of packing, route or carrier, Seller will suitably pack and ship all items in accord with customs and practices prevailing in the industry, following wherever applicable the precedents of previous shipments to UE3P and, unless otherwise specified, in the most economical mode available. Seller shall mark on all packages handling and loading instructions, shipping information, order number, item and account number, shipping date and names and addresses of both Seller and UE3P. Seller shall be liable to UE3P for all damages incurred directly or indirectly by UE3P or UE3P's Customer as a result of Seller's failure to comply with the conditions set forth in this subparagraph.

(b) Risk of Loss: Seller shall bear the risk of any loss or damage to the items until they are delivered in conformity with this Order at the F.O.B. Destination point stated herein. Upon such delivery, Seller's responsibility for loss or damage shall cease, except for loss or damage resulting from Seller's negligence or fault. Notwithstanding the foregoing, Seller shall remain responsible for risk of loss of any nonconforming or rejected Work, unless such loss, destruction or damage results from gross negligence or fault of UE3P.

(c) Title: Except as otherwise expressly stated in this Order, title to all items furnished under this Order shall pass to UE3P upon final acceptance, regardless of when or where UE3P takes physical possession of the items.

(d) Delays: Seller understands that UE3P depends upon prompt delivery and/or performance by Seller at the time specified in the schedules furnished by UE3P in order to comply with UE3P's contractual obligations to third parties. Seller agrees to deliver all or perform Work identified in this Order by the delivery date specified herein. "Deliver" shall mean that services are complete and materials or products have arrived at the specified F.O.B. Destination point. Because time is of the essence, if delivery or performance of the Work is not made in the quantities and at the time and manner specified, UE3P shall have the right without liability, and in addition to its other rights and remedies under this Order and the law, to take any of the following actions: (1) direct expedited delivery of items for which Seller shall bear all premium transportation charges and risk of loss; (2) direct acceleration of Work for which Seller shall bear all premium labor costs and other acceleration costs; (3) delay payment for a period of time equal to the lateness of such delivery or performance; and/or (4) terminate this Order by written notice effective when received by Seller as to the Work not yet delivered, and purchase substitute Work elsewhere and charge Seller with any loss incurred. Seller shall, in the event of a delay or threat of delay, due to any cause, in the production, delivery, or performance of Work hereunder, immediately notify UE3P in writing of the delay. Seller's notice shall include all relevant information with respect to such delay or threatened delay. Seller shall be liable for any damages resulting from failure to make delivery or performance within the time called for by this Order or by any written instructions of UE3P, except where such delay in delivery or performance was due to causes beyond the reasonable control of Seller and Seller notifies UE3P as required by this paragraph. Seller agrees to add the substance of this subparagraph to each subcontract or purchase order issued by Seller hereunder.

(e) Advanced Shipments: If, without written authorization from UE3P, Seller ships items so as to arrive more than ten (10) business days in advance of schedule, UE3P may reject or return the items to Seller, in which case Seller shall be liable for transportation charges and risk of loss for the return of the items as well as for the shipment of the items. Seller shall not invoice UE3P for payment prior to the scheduled delivery date. Invoices covering items shipped in advance of the delivery schedule will not be paid until normal maturity after the specified date of delivery.

(f) Quantity: Seller shall comply with the delivery/performance schedules but shall not make material or production commitments in advance of such time as Seller reasonably believes is necessary to meet the schedules without UE3P's prior written authorization. Unless otherwise expressly provided in the Order, UE3P is not required to accept any variation in quantity of Work provided by Seller. UE3P may return excess quantities to Seller at Seller's sole expense and risk, or retain such excess quantities at no increase in price.

**6. INSPECTION AND FINAL ACCEPTANCE** - (a) UE3P and UE3P's Customer may at any time inspect the facilities of Seller or Seller's subcontractors which will or may be used in the performance of this Order. UE3P and UE3P's Customer also may inspect and test, at any time or place, before, during or after manufacture or completion, the Work (or any part thereof) delivered or performed by Seller or Seller's subcontractors. The inspection may, in the

discretion of UE3P or UE3P's Customer, include physical, visual, or mechanical review as well as a review of any documentation necessary to substantiate compliance with requirements (including, but not limited to, quality requirements and acceptance requirements) set forth in this Order. If inspection and test are made on Seller's premises (or the premises of Seller's subcontractors), Seller shall furnish, or cause to be furnished, at no additional cost to UE3P, all reasonable facilities, tools and assistance necessary for such inspection and the safety and convenience of the inspectors. Inspections and test by UE3P or UE3P's Customer shall be performed in such a manner as not to delay the Work unduly. UE3P may charge to Seller any additional cost of inspection and test when Work (or any part thereof) is not ready at the time UE3P or UE3P's Customer requests inspection and test under this paragraph. In the case of rejection, neither UE3P nor UE3P's Customer shall be liable for any reduction in value of samples used in connection with such inspection or test. No inspection or review or approval by UE3P or UE3P's Customer shall relieve Seller of any of its obligations under this Order, or constitute a waiver of any defects or nonconformities.

(b) The final acceptance by UE3P of any Work under this Order shall not limit or affect any warranty or right of indemnity granted by Seller herein. Except as otherwise agreed in writing, all delivery or performance under this Order shall be subject to final inspection and acceptance by UE3P. The parties expressly agree that any prior inspection or payment by UE3P or UE3P's Customer will not constitute final acceptance. UE3P's final acceptance of the Work shall take place only after complete delivery in accord with the schedule specified herein and after final inspection by UE3P. UE3P's final acceptance shall be contingent upon agreement by UE3P that the Work conforms to the applicable contract requirements. Final acceptance by UE3P shall be conclusive, except for latent defects, negligent or intentional misrepresentations by Seller that a nonconformity or defect would be or had been cured, acceptance induced by false or negligent assurances of Seller or as otherwise provided in this Order or applicable law.

(c) Seller shall provide and maintain an inspection and quality control system acceptable to UE3P covering the Work provided hereunder. Seller shall keep complete records of all inspection work and make such records available to UE3P and UE3P's Customer upon request.

(d) Work delivered or performed by Seller and rejected, in whole or in part, by UE3P may, at UE3P's option, be returned to Seller or held for disposition at Seller's sole risk and expense. If Seller fails promptly to remove such Work and to proceed promptly to replace or correct the Work, UE3P, without Seller's consent, may replace or correct such Work at the sole expense of Seller, including, without limitation, any excess cost. Seller shall not again tender rejected or corrected Work unless Seller discloses the former tender and rejection or requirement of correction.

**7. FACILITIES, TOOLS, ETC.** - Unless otherwise specified herein, Seller shall supply all necessary services, facilities, materials and equipment (including, but not limited to, tools, test apparatus, etc.). If, in connection with this Order, UE3P or UE3P's Customer furnishes any facilities, materials, equipment, drawings or other property to Seller, Seller accepts the property "as is, where is." Seller shall maintain such property in good condition and keep the property adequately insured. Seller shall use such property only in performance of work under this Order unless UE3P consents otherwise, in writing. Seller shall assume the risk of, and bear responsibility for, any loss, destruction of, or damage to the property while in Seller's possession or control, unless otherwise agreed in writing by UE3P. Seller shall return all such property in a condition as good as when received except for reasonable wear and tear upon completion of use of such property or at such earlier time as UE3P may request. Seller shall indemnify and hold harmless UE3P and UE3P's Customer from all claims which may be asserted against said property, including, without limitation, claims arising under the Worker's Compensation or occupational injury laws and from all claims for injury to persons or property arising out of or related to Seller's use of such property in performance of this Order.

**8. TERMINATION** - (a) For Cause/Default: UE3P may by written notice of default effective when received by Seller, terminate this Order in whole or in part for cause in the event of any default by Seller, or if Seller fails to comply with any terms and conditions herein, or fails to provide UE3P, upon request, adequate assurances of future performance. UE3P also may by written notice of default effective when received by Seller, terminate this Order in whole or in part for cause in the event of Seller's insolvency, Seller's filing of a voluntary petition in bankruptcy, the filing of any involuntary petition to have Seller declared bankrupt provided the petition is not vacated within thirty (30) days from the date of such filing, or the execution by Seller of an assignment for the benefit of creditors. **IN THE EVENT OF TERMINATION FOR CAUSE, UE3P SHALL BE LIABLE TO SELLER ONLY FOR THE AMOUNT OF ANY WORK ACCEPTED BUT NOT YET PAID FOR, AND SELLER SHALL BE LIABLE TO UE3P FOR ANY AND ALL RIGHTS AND**

REMEDIES PROVIDED BY THIS ORDER AND THE LAW, INCLUDING, BUT LIMITED TO, THE RIGHTS AND REMEDIES SET FORTH IN FEDERAL ACQUISITION REGULATION ("FAR") PART 49.4. Where necessary to make FAR Part 49.4 applicable to this Order, "Contractor" shall mean "Seller," "Contracting Officer" shall mean "UE3P," "Government" shall mean "UE3P" and/or "the Government," "Contract" shall mean "Order," and "Disputes clause" shall mean the Disputes clause set forth in Article 19 of these general terms and conditions. If it is determined that UE3P improperly terminated this Order for cause, such termination shall be deemed a termination for convenience.

(b) For Convenience: UE3P may, for its convenience, terminate this Order, in whole or in part, at any time, by written notice effective when received by Seller. The rights and obligations of the parties shall in such event be governed by FAR 52.249-2 (less paragraph (d)) in effect on the date of this Order. Where necessary to make FAR 52.249-2 applicable to this Order, "Contractor" shall mean "Seller," "Contracting Officer" shall mean "UE3P," "Government" shall mean "UE3P," and "Contract" shall mean "Order," and "Disputes clause" shall mean the Disputes clause set forth in article 19 of these general terms and conditions. The time period set forth in FAR 52.249-2(c) for submitting termination inventory schedules shall be reduced to sixty (60) calendar days, the time period in FAR 52.249-2(e) for submitting Seller's termination settlement proposal shall be reduced to three (3) months, the time for requesting an equitable adjustment in FAR 52.249-2(l) shall be reduced to forty-five (45) calendar days, and Seller's right to appeal UE3P's determination as set forth in FAR 52.249-2(j) shall exist only if Seller timely submitted the termination settlement proposal or the request for equitable adjustment and submitted an appeal within thirty (30) calendar days of UE3P's determination. If Seller fails to submit its termination settlement proposal or request for equitable adjustment within the deadlines provided herein, Seller's claim shall be deemed waived.

(c) Any payments by UE3P to Seller under this paragraph shall constitute UE3P's only liability in the event of a termination under this paragraph.

**9. REPRESENTATIONS AND WARRANTIES** - (a) Except as to any items or components thereof which the specifications contained herein specifically provide need not be new, Seller represents and warrants to UE3P and UE3P's Customer that the items and components provided are new (not used or reconditioned) and not of such age or so deteriorated as to impair their usefulness or safety. Seller also represents and warrants to UE3P and UE3P's Customer that all Work furnished under the Order will comply with the requirements of this Order; be free from defects in design (except to the extent of UE3P's design), material, manufacture and workmanship; will be free from liens and encumbrance; and, to the extent Seller knows such purpose, will be fit and sufficient for the purpose for which the Work was intended. If the items furnished contain any manufacturer's warranties, Seller hereby assigns such warranties to UE3P and UE3P's Customer. Seller also represents and warrants to UE3P and UE3P's Customer that all labor provided hereunder shall be performed by qualified personnel, with diligence, and shall conform to the terms, specifications, and description of Work specified by UE3P. Seller further represents and warrants to UE3P and UE3P's Customer that the Work provided under this Order will not infringe upon the rights of any third party. These representations and warranties extend to the future performance of the Work and shall continue for a period of twelve (12) months or such longer period of time as Seller may warrant similar Work to its most favored customer, following final acceptance by UE3P.

(b) UE3P shall not be deemed to waive any defects or nonconformity by reason or approval of samples or receipt of, or payment for Work. If UE3P finds through inspection and testing or through use and service that any Work performed or delivered by Seller is other than as warranted above, UE3P may, at its sole option and in addition to any other remedies available to UE3P by this Order or by law, (i) return the Work at Seller's sole risk and expense for credit or for replacement or correction; (ii) direct Seller to correct the Work in place; or (iii) retain the Work and receive an equitable reduction in price from Seller which shall include the cost of any repairs performed by UE3P or any third party to make such Work acceptable and any diminution in value. Seller shall promptly deliver repaired or replacement Work in accord with paragraph 4 hereto. Seller shall warrant repaired or replacement Work as set forth in this paragraph.

**(c) Seller warrants that any items supplied under the Order, including, without limitation, subassemblies and spare parts, shall be available to UE3P during the operation life of the items or five (5) years after the date of final acceptance of the last shipment under the Order, whichever is later.**

(d) Seller warrants that the prices, terms of payment, warranties and services extended under this Order are no less favorable to UE3P than those extended to any other Seller customer as in effect on the date of this Order for substantially

similar items/services and quantities. UE3P shall have the right to examine Seller records and other evidence sufficient to reflect that Seller's representations and warranties are correct and true.

**10. INTELLECTUAL PROPERTY RIGHTS, LICENSES, AND INDEMNIFICATION** - (a) Seller agrees that UE3P shall become entitled to, as UE3P's property, all improvements, inventions and discoveries, whether or not patentable, conceived of or made by Seller or Seller's agents, whether alone or with others, that relate to Seller's performance under this Order, whether or not such improvements, inventions, or discoveries are conceived of or made during regular working hours. Seller shall promptly disclose to UE3P in written detail any such improvements, inventions and discoveries and shall take all steps required to promptly vest title to such improvement, inventions and discoveries to UE3P. This subparagraph (a) shall not apply to Orders for the purchase of "Commercial Items" as defined in FAR 2.101.

(b) Seller hereby grants UE3P and UE3P's Customer the right, without payment of additional compensation, to use, duplicate, operate, process, disclose and sublicense all data, writings, reports or other information and items produced and delivered by Seller to UE3P in connection with this Order. To the extent any such data, writings, reports or other information and writings (1) are not considered "Commercial Items" as defined by FAR 2.101; (2) were first created by Seller or its agents under this Order; and (3) comprise works susceptible to protection under the copyright laws, Seller agrees that such information or works shall be deemed "works for hire" hereunder. In the event any such work is determined not to be a "work for hire" under the copyright laws, this provision shall operate as an irrevocable license assigned by Seller to UE3P of the copyright in the work, including, without limitation, all right, title and interest therein, in perpetuity.

(c) Seller shall indemnify, defend and hold harmless, UE3P and UE3P's Customer and their respective officers, directors, agents and employees against liability and losses including without limitation, defense costs and attorneys' fees, for any allegation of or suit or action for infringement of any United States or foreign patent, copyright, trademark or other intellectual property right arising out of the manufacture and delivery of Items or performance of Work under this Order or out of the use or disposal of such Items or Work by or for the account of UE3P. Seller shall, at its own expense, either procure for UE3P and/or UE3P's Customer the right to continue using the alleged infringing Items or Work, replace it with non-infringing Items or Work, or modify it so that it becomes non-infringing. The foregoing indemnity shall not apply unless UE3P or UE3P's Customer informs Seller of the suit or action or other proceeding alleging infringement and gives Seller the opportunity as is afforded by applicable laws, rules or regulations, to participate in the defense thereof. Notwithstanding the foregoing, Seller shall not be required to indemnify or hold harmless UE3P from infringement claims based on items solely of UE3P's design.

**11. ASSIGNMENT AND SUBCONTRACTING** - (a) Seller shall not assign the Order or any right or interest in the Order, or delegate any obligation under the Order, without a prior written authorization by UE3P. UE3P will not unreasonably withhold authorization for an assignment of any payment due or to become due to Seller. All claims by Seller for payment due or to become due from UE3P shall be subject to set-off as provided by article 21 of these general terms and conditions, whether such setoff arose before or after an assignment by the Seller.

(b) For purposes of this Order, any Work performed or items(s) delivered by Seller's agents or subcontractors at any tier, shall be deemed Work performed by Seller.

**12. CHANGES** - (a) UE3P may at any time by written notice make changes within the general scope of the Order including, but not limited to, changes in the (1) statement of work (including, without limitation, the description or quantity of Work to be provided by Seller); (2) the drawings, designs, specifications or other technical documents; (3) time (e.g., the hours of the day, days of the weeks, etc.) of performance, delivery, inspection, or acceptance; (4) place of performance, delivery, inspection or acceptance; (5) method of delivery, packaging or packing; and (6) terms and conditions of purchase of this Order. No conduct by UE3P other than a signed written change order will constitute a change to the Order.

(b) If any change made in compliance with subparagraph (a) affects the cost or schedules of this Order, UE3P may make an equitable adjustment in price or schedule or both. Any claim by Seller for an equitable adjustment of price or schedule must be in writing and submitted within ten (10) days from the date of UE3P's written notification of the change or such further time as UE3P may allow in writing. Seller's failure to adhere to the time deadlines in asserting its equitable

adjustment claim shall serve as a waiver of the claim.

**13. CONTROL OF UE3P INFORMATION, DATA, DESIGN, ARTICLES, SCRAP, ETC.** - (a) Publication: Seller shall not, without first obtaining UE3P's written permission, in any manner advertise or publish the fact that it has furnished or has contracted to furnish UE3P with the Work herein ordered, nor disclose any of the details connected with this Order to any third party.

(b) UE3P Information: As used herein, "UE3P Information" shall mean trade secret, confidential or proprietary information disclosed by UE3P to Seller in connection with this Order, which either is identified to Seller as trade secret, confidential or proprietary information or which is information that a reasonable person would understand to be trade secret, confidential or proprietary information, including, but not limited to, customer lists, pricing policies, market analyses, business plans or programs, software, specifications, manuals, print-outs, notes and annotations, performance data, designs, processes, data, reports, photographs, and engineering, manufacturing or technical information related to UE3P's products and services, as well as any duplicates or copies thereof. UE3P Information shall not include any information previously known to Seller without obligation of confidence, or which is in the public domain. Seller shall use UE3P Information only as necessary for Seller's performance under this Order. Seller shall duplicate the UE3P Information only as authorized in writing by UE3P. Seller shall hold the UE3P Information confidential and shall not disclose UE3P Information to any third party, without UE3P's written permission. Seller shall return to UE3P, or destroy and certify as destroyed, all UE3P Information upon completion of Seller's performance hereunder, UE3P's written request or termination of the Order, whichever is earliest.

(c) Licenses: This Order does not confer or grant, in any manner, any license or right under any patent, trademark, trade secret, Mask Work, copyright or other intellectual property right held by UE3P, unless specifically set forth in the body of the Order. Any intellectual property license or other authorization extended by express grant from UE3P to Seller as a result of this Order is limited by the necessities of Seller's performance hereunder. Any such license shall terminate upon completion of Seller's performance hereunder or termination of the Order, whichever is earlier.

(d) Surplus Items and Reproduction Rights: To the extent Seller produces items covered by this Order in accord with drawings or specifications that are proprietary to UE3P or UE3P's Customer, Seller shall not manufacture or retain any more such items than is required to be delivered under this Order. If any surplus of items exists, Seller will not, without UE3P's written permission, use or sells any such surplus, or reproduce the item for itself or a third party. Upon completion of Seller's performance or termination of this Order, whichever is earlier, Seller, at its sole expense and risk shall deliver any surplus items, or parts thereof, to UE3P at the designated destination, or destroy the excess items or parts thereof and certify the destruction to UE3P.

**14. NOTICE** - Any notices required or permitted to be given hereunder shall be in writing and shall be deemed to be duly given when received if sent by mail to each party's address as stated on this Order, or when delivered by hand or by facsimile transmission if the transmittal report indicates that the facsimile was sent successfully, or electronic mail if a read receipt is provided by the receiving Party.

**15. COMPLIANCE WITH LAWS** – (a) Seller shall at all times comply with all applicable Federal, State and local laws, rules and regulations including but not limited to, the applicable provisions of the Fair Labor Standards Act of 1938 as amended (29 USC 201-219), the Occupational Safety and Health Act of 1970 (29 USC 15), the McNamara-O'Hara Service Contract Act (41 USC 351-358), the Walsh-Healey Public Contracts Act (41 USC 35 et seq.), the Davis-Bacon Act (PL 71-798), the Fair Labor Standards Act of 1938 (PL 75-718), the Civil Rights Act of 1964 (PL 88-352) as amended, and all regulations and standards and any amendments issued pursuant thereto, including those related to the safety and conditions of each job site.

(b) Seller represents and warrants that it has not taken and will not take any action that would constitute a violation of any anti-corruption or anti-bribery law(s) or regulations(s) of any country or jurisdiction in which Work is furnished or items delivered, or applicable to either Party or any transaction(s) pursuant to this Order, including but not limited to the U.S. Foreign Corrupt Practices Act and the U.K. Bribery Act of 2010. Seller warrants that it shall not pay, offer, give or promise to pay or give, any monies or any other thing of value, directly or indirectly to: (i) any person, firm, corporation of any other entity with the intent to induce that person, firm, corporation, or entity to perform any public or business-

related function improperly; (ii) any officer or employee of any government, or any department, agency or instrumentality of any government; (iii) any other person acting for, or on behalf of, any government, or any department, agency or instrumentality of any government; (iv) any political party or any official of a political party; (v) any candidate for political office; (vi) any officer, employee or other person acting for, or on behalf of, any public international organization; or (vii) any other person, firm, corporation or other entity at the suggestion, request or direction of, or for the benefit of, any of the foregoing persons. Seller represents and warrants that: (i) it is not owned or controlled by, or otherwise affiliated with, any government, or any department, agency or instrumentality of any government; and (ii) none of its respective officers, directors, principal shareholders or owners is an official or employee of any government or any department, agency or instrumentality of any government. In addition to its other remedies provided by law or this Order, UE3P shall have the right to deduct from the Order price the full amount of any gift or contingent fee made by Seller in breach of these warranties and may terminate this Order for default for breach of these warranties by Seller. Seller also agrees to indemnify and hold harmless UE3P for any claims, loss, damage or expense (including, without limitation, attorneys' fees), resulting from a breach of these warranties by Seller.

(c) Seller shall fully abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability. This subparagraph (c) shall apply only to orders valued at \$100,000 or greater.

(d) Seller agrees to comply with any applicable provisions of the Rehabilitation Act of 1973, the Veteran's Readjustment Act of 1974, Executive Order 11246 and implementing regulations of the U.S. Department of Labor, which embody governmental policy on equal employment opportunity. This subparagraph (d) shall apply only to orders valued at \$100,000 or greater.

(e) Seller agrees to cooperate with auditors that, from time to time, may be appointed by the Government, or any country with jurisdiction over the Parties or transactions pursuant to this Order in furtherance of verification of compliance with such anti-corruption laws and regulations. Seller agrees to indemnify and hold harmless UE3P from and against any and all cost, expense, claims, damage or liability arising out of or resulting from or occurring in connection with a breach of this Article. Any such breach by Seller is grounds for immediate termination of this Order in accordance with article 8 of these general terms and conditions.

**16. INDEMNIFICATION BY SELLER - SELLER SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS UE3P, UE3P'S AFFILIATES AND THEIR OFFICERS, AGENTS, EMPLOYEES, SUCCESSORS, ASSIGNS AND CUSTOMERS, AGAINST ANY CLAIMS, LOSS, DAMAGE OR EXPENSE, INCLUDING, WITHOUT LIMITATION, PAYMENT OF EXPENSES OF DEFENDING CLAIMS AND ATTORNEYS' FEES, EXCEPT TO THE EXTENT CAUSED BY THE NEGLIGENCE OF UE3P, ITS EMPLOYEES OR OTHER INDEPENDENT CONTRACTORS. THIS DUTY TO DEFEND, INDEMNIFY AND HOLD HARMLESS EXTENDS TO ANY SUIT, CLAIM, JUDGMENT OR DEMAND THAT MAY ARISE OUT OF OR IN CONNECTION WITH THE PERFORMANCE OR NONPERFORMANCE OF THIS ORDER BY SELLER OR ITS AGENTS, BREACH OF WARRANTY BY SELLER OR ITS AGENTS, ANY DEFECTIVE WORK PERFORMED OR DELIVERED BY SELLER OR ITS AGENTS, ANY PATENT INFRINGEMENT OR MISAPPROPRIATION OF TRADE SECRETS BY SELLER OR ITS AGENTS, ANY FAILURE OF SELLER OR ITS AGENTS TO PAY ROYALTIES, ANY ASSERTION UNDER WORKERS' COMPENSATION OR SIMILAR ACTS BY PERSONS FURNISHED BY SELLER OR ITS AGENTS OR ANY OTHER BREACH OF SELLER'S OBLIGATIONS HEREUNDER, WHETHER SUCH SUIT, CLAIM, JUDGMENT OR DEMAND IS BASED UPON CONTRACT, WARRANTY, STRICT LIABILITY IN TORT, NEGLIGENCE OR OTHER LEGAL THEORY, AND EXTENDS NOT ONLY TO "THIRD PARTY CLAIMS" BUT ALSO TO ANY DIRECT LOSS SUFFERED BY UE3P. UE3P WILL INFORM SELLER OF ANY CLAIM, DEMAND, JUDGMENT, OR SUIT ASSERTED OR INSTITUTED AGAINST IT TO WHICH THIS PROVISION MAY APPLY. "AGENTS" AS USED HEREIN INCLUDES, BUT IS NOT LIMITED TO, SELLER'S EMPLOYEES, SUBCONTRACTORS AND SUPPLIERS.**

**17. INSURANCE** - Unless otherwise specified by UE3P in writing, Seller shall maintain and cause Seller's subcontractors to maintain during the term of this Order (a) workers' compensation insurance as prescribed by the law of the state or nation in which the Work is performed; (b) employer's liability insurance with limits of at least \$500,000 for each occurrence; (c) automobile liability insurance if the use of motor vehicles is required hereunder, with limits of at least \$1,000,000 combined single limit for bodily injury and property damage per occurrence; and (d) Commercial General Liability (CGL) insurance, ISO 1988 or later occurrence form of insurance, including, without limitation, Blanket Contractual Liability and Broad Form Property Damage, with limits of at least \$1,000,000 combined single limit for bodily injury and property damage per occurrence. All CGL and automobile liability insurance shall designate UE3P, its affiliates, directors, officers and employees (all referred to as "UE3P") as additional insured's. All such insurance must be primary and non-contributory and required to respond and pay prior to any other insurance or self-insurance available. If specifically requested by UE3P, Seller and Seller's subcontractors shall furnish, prior to the start of Work, certificates or adequate proof of the foregoing insurance, including, without limitation, endorsements and policies. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting the interest of UE3P or UE3P's Customer shall not be effective (1) for such period as the laws of the State in which this Order is to be performed prescribe or (2) until thirty calendar (30) days after the insurer or Seller gives written notice to UE3P, whichever period is longer. Any other coverage available to UE3P shall apply on an excess basis. Seller agrees that Seller, Seller's insurer(s) and anyone claiming by, through, under or in Seller's behalf shall have no claim, right of action or right of subrogation against UE3P and UE3P's Customer based on any loss or liability insured against under the foregoing insurance. Insurance companies providing coverage under this Order must be rated by A. M. Best with at least an A-rating. Seller's obligation to obtain the foregoing insurance does not waive or release Seller's liabilities or duties to indemnify under this Order.

**18. DISPUTES** - (a) The Parties shall make a good-faith effort to amicably settle by mutual agreement any dispute that may arise between them under this Order. Except with respect to issues Prime Contract Disputes as defined in article 19 below, any claim, controversy or dispute arising out of or related to this Order, or the breach thereof, that cannot be settled through direct discussions, shall be settled by arbitration in accordance with the Commercial Rules of the American Arbitration Association then in effect, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Any such arbitration shall be conducted in the Washington, DC metropolitan area by a mutually selected, impartial arbitrator who has experience with and knowledge of Federal Government procurement matters related to the types of services and supplies provided pursuant to this Order.

(b) Each Party shall bear its own costs and expenses and an equal share of the arbitrator's and administrative fees of arbitration. Neither Party shall institute a proceeding hereunder unless at least thirty (30) calendar days prior thereto such Party shall have furnished to the other written notice describing the claim and the amount at issue.

(c) The arbitrator shall have no authority to award punitive damages nor any other damages not measured by the prevailing Party's actual damages, and may not, in any event, make any ruling, finding or award that does not strictly conform to the terms and conditions of this Subcontract. The decision of the arbitrator shall be final and conclusive upon both Parties.

(d) Either Party, before or during any arbitration, may apply to a court having jurisdiction for a temporary restraining order or preliminary injunction where such relief is necessary to protect its interests pending completion of the arbitration proceedings.

(e) Neither Party nor the arbitrator shall disclose the existence or results of any arbitration hereunder without the prior written consent of both Parties. Notwithstanding the foregoing, UE3P may keep its Customer fully apprised of the status and disposition of any claims, disputes or controversies cognizable under this article.

(f) Pending the final disposition of any arbitration proceeding instituted pursuant to this article, Seller shall proceed diligently with the performance of this Subcontract unless otherwise directed by UE3P.

**19. DISPUTES UNDER PRIME CONTRACT PROVISION** – (a) The Prime Contract includes a Disputes clause which has been incorporated by reference herein, pursuant to which UE3P may pursue certain procedures in the event of a dispute between the Government and UE3P with respect to questions of law or fact relating to the Prime Contract. Any



dispute which UE3P could include in a claim or other demand under the Dispute clause of the Prime Contract (“Prime Contract Dispute”) shall be resolved at UE3P’s sole discretion. Seller shall provide UE3P with a fully supported written claim, properly certified, within fourteen (14) calendar days after the claim accrues. Seller shall cooperate with UE3P in prosecuting the portion of any Prime Contract Dispute pertaining to this Order and will be bound by the resulting Customer or Government decision. If Seller fails to provide UE3P with a written claim for any Prime Contract Dispute within 14 calendar days after the claim arises, Seller is deemed to have waived the claim and may not bring the claim under this Order.

(b) If Seller submits a timely request to UE3P to appeal the Customer Government decision, UE3P shall file an appeal at Seller’s sole cost. If UE3P appeals such decision, whether or not at Seller’s request, any decision regarding such appeal shall be binding on UE3P and Seller as it relates to this Order. UE3P has the right to review, prior to submission, any pleading or other papers Seller wishes to file in such appeal. Seller agrees to delete any admissions or statements in the pleadings or papers to which UE3P reasonably objects.

(c) Until final resolution of any Prime Contract Dispute under this paragraph, Seller shall continue performance of this Order in accordance with the terms and conditions established herein, unless otherwise directed in writing by UE3P.

(d) Each Party shall be responsible for all costs they incur as a result of preparing the claim and pursuing resolution of such dispute. UE3P’s entire liability to Seller with respect to any Prime Contract Dispute shall be limited to the recovery obtained against the Customer or Government for Seller’s claims, less markups specifically allowed UE3P.

(e) Nothing in this article shall be interpreted to provide Seller the ability or authority to directly file a claim or other legal suit against the Customer or Government relative to this Order.

**20. LIMITATION OF LIABILITY** - IN ADDITION TO ANY OTHER LIMITATIONS ON UE3P'S LIABILITY SET FORTH HEREIN, IN NO EVENT SHALL UE3P, ITS EMPLOYEES, AGENTS OR REPRESENTATIVES BE LIABLE BY REASON OF UE3P'S BREACH OR TERMINATION OF THIS ORDER OR FOR ANY UE3P ACTS OR OMISSIONS IN CONNECTION WITH THIS ORDER FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, HOWEVER CAUSED, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUE, LOSS OF DATA, WORK INTERRUPTION, OR ANY CLAIMS OR DEMANDS AGAINST SELLER BY ANY OTHER ENTITY, WHETHER SUCH REMEDY IS SOUGHT IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE. IN NO EVENT SHALL UE3P'S LIABILITY FOR DAMAGES IN ANY CIRCUMSTANCES SET FORTH IN THIS CLAUSE EXCEED THE PRICE PAYABLE FOR THE WORK TO BE PERFORMED BY SELLER UNDER THE ORDER. THIS ORDER SHALL NEITHER CREATE FOR NOR GIVE TO ANY THIRD PARTY ANY CLAIM OR RIGHT OF ACTION AGAINST SELLER OR UE3P WHICH WOULD NOT OTHERWISE ARISE WITHOUT THIS ORDER.

**21. SET-OFF AND WITHHOLDING** - (a) Set-off: UE3P may offset against any amounts due under Seller's invoices: (i) any damages resulting from Seller's default under or breach of this Order; (ii) any amount owed to UE3P from Seller, whether or not, arising from this Order; (iii) any adjustment for non-conforming delivery or performance and any costs occasioned thereby. UE3P's rights to set-off remain even if Seller assigns it right to payment to a third party.

(b) Withholding: In addition to all other remedies provided by the law and stated in this Order, UE3P may withhold payment of an invoice if Seller has not complied with any of its obligations under this Order and UE3P shall not be required to make the payment until Seller completely satisfies the obligation(s) in issue. Seller is not entitled to interest on any withheld payments.

**22. CHOICE OF LAW** – Where a FAR or DFARS provision or clause, or any other Federal statute, regulation or clause is cited, incorporated or involved in this Order, Federal law shall govern the interpretation and application thereof. Where no Federal law is applicable, this subcontract shall be governed by and interpreted under the law of the Commonwealth of Virginia without giving effect to any conflict of law provisions.

**23. SEVERABILITY** - In the event any provision or clause of the Order conflicts with governing law or if any arbitration panel or court of competent jurisdiction holds invalid any provision or clause of the Order, such provision or

clause shall be deemed to be modified to reflect as nearly as possible the parties' intent. The remainder of the Order shall remain in full force and effect.

**24. SURVIVAL** - The provisions of the Order, which by their very nature would continue beyond the termination, cancellation or expiration of the Order, including, without limitation, articles 9, 10, 13, 15, 16, 18, 19, 20, 21 and 22 of these general terms and conditions, shall continue as valid and enforceable rights and obligations of the Parties and survive termination, cancellation or expiration of the Order.

**25. ORDER OF PRECEDENCE** - The rights and obligations of the Parties shall be subject to and governed by the Order. In the event of an inconsistency between the provisions of the Order, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order from the highest to lowest degree of precedence: (1) applicable Federal Regulations including but not limited to those FAR and DFARS clauses incorporated herein; (2) typed provisions in the Schedule of this Order; (3) special provisions or terms and conditions, if any; (4) these General Terms and Conditions; and (5) Specifications, drawings, statement of work, or other attachments or documents incorporated by reference.

**26. PRICE**- The prices set forth in this Order cover all Work delivered or performed by Seller to satisfy the requirements of this Order. UE3P will not be liable for extra charges of any kind unless specifically agreed to in writing by UE3P.

**27. TAXES**- The prices in this order include, and Seller shall pay, all taxes, impositions, charges and exactions imposed on or measured by this Order, except for applicable sales and use taxes that are separately stated on Seller's invoice. Prices shall not include any taxes, impositions, charges or exactions for which UE3P has furnished a valid exemption certificate or other evidence of exemption.

**28. PAYMENT** - (a) Invoicing: Seller shall deliver an invoice to UE3P upon delivery and acceptance of Work furnished under this agreement (unless otherwise directed by UE3P). Each invoice shall be submitted to UE3P's Accounts Payable department (by mail at 14585 Avion Parkway, Suite 200, Chantilly, VA 20151 ATTN: Accounts Payable or by electronic mail at [accountspayable@ultra-3pi.com](mailto:accountspayable@ultra-3pi.com)), with a copy to UE3P's designated Buyer. Except as otherwise provided in this Order, each such invoice shall contain: (i) the Order number; (ii) the original Order price and any mutually agreed change thereto accompanied by copies of authorized Change Orders; (iii) sufficient detail to identify the Work furnished; (iv) supporting documentation for the amount invoiced; (v) a waiver of liens in accordance with subparagraph 28 below; and (vi) any other documents UE3P may reasonable require. UE3P shall not be responsible for and Seller shall not invoice UE3P for interest or carrying charges.

(b) Certificate of Compliance: A signed certificate of compliance, signed by an authorized representative of Seller's Quality Department, must be submitted with each invoice certifying that the Work delivered is of the quality specified and conforms in all respects with the Order requirements.

(c) Payment: Payment of each properly submitted invoice shall be made by UE3P within forty-five (45) calendar days following receipt of each invoice (NET 45), subject to the following: (i) UE3P may withhold an appropriate portion of the payment until any disputed items are resolved and/or defects in the Work are corrected and (ii) UE3P may exercise its rights set forth in article 21 of these general terms and conditions to offset any amounts due UE3P from Seller against amounts payable under this Order or any agreements between UE3P and Seller. Payment by UE3P shall be deemed to have been made for the purpose of meeting the forty-five (45) day requirement on the date UE3P deposited the payment in the mail or made the electronic funds payment.

Seller acknowledges that progress payments to Seller shall not constitute final acceptance by UE3P of the Work or any portion of the Work. Unless Seller receives UE3P's consent in writing, UE3P shall not be responsible for payment of any invoices submitted by Seller to UE3P in excess of thirty (30) days after the final acceptance of the Work.

(d) Records: Seller shall maintain, for a period of three (3) years following the expiration or termination of this Order, accurate records of all matters that relate to its performance of the Work, including, without limitation, all records and backup associated with invoices that have been submitted to UE3P, and shall make such records available to UE3P, UE3P's Customer or the Government for audit and inspection.

**29. INDEPENDENT CONTRACTOR** - Nothing in this Order shall be deemed to represent that Seller, or any of Seller's employees or agents, are the agents, representatives or employees of UE3P. Seller assumes full and sole responsibility for the payment of all compensation, expenses, benefits (including, but not limited to, workers' compensation and medical benefits) of its employees and for all state and United States income tax, unemployment insurance, social security, disability insurance and other applicable withholdings or taxes. Seller and its agents are independent contractors for all purposes and at all times.

**30. SUSPENSION/STOP WORK**– UE3P may at any time by written order to Seller require the Seller to stop all, or any part of the Work called for by this Order for a period of up to 90 calendar days. After receipt of UE3P's notice, Seller shall stop Work in accord with the terms thereof, taking all reasonable steps to minimize the incurrence of costs allocable to the Work covered by the Order during the period of Work stoppage. Within said 90-day period, or a longer period if agreed to by the parties in writing, UE3P shall either terminate the Order under article 8 of these general terms and conditions or cancel the stop work order by written direction to Seller to continue the Work. If Seller believes that any such suspension or withdrawal of suspension justifies modification of the Order price or time for performance, Seller shall comply with the provisions (including, without limitation, the time deadlines and liability limitations) set forth in articles 12 and 20 of these general terms and conditions.

**31. WORK PERFORMED ON UE3P PREMISES OR ON PREMISES OF UE3P'S CUSTOMER(S) OR ACCESS TO UE3P'S INFORMATION SYSTEMS** – (a) If this Agreement involves work by Seller on the premises of UE3P or UE3P's Customer, Seller shall comply with and take all precautions required by any safety and security regulations and UE3P internal policies or procedures to prevent the occurrence of any injury to person or property during the performance and progress of such Work. Seller shall promptly notify UE3P of any such injury or damage. In addition to any other indemnification obligations in this Agreement, Seller hereby assumes entire responsibility and liability for any and all damage or injury of any kind or nature whatsoever to all persons, whether employees of Seller, or otherwise, and to all property, caused by, resulting from, or arising out of Seller's negligence or that of its agents or employees when performing work on the premises of UE3P or UE3P's Customer.

(b) Seller shall at all times enforce strict discipline and good conduct among its employees, and shall not employ in connection with the services covered by this Agreement any unqualified or unfit person or anyone not skilled in the work assigned to him or her. Seller also agrees that any employee, subcontractor or agent provided under this Agreement to UE3P will abide by and perform in accordance with the employment policies of UE3P, which address mandatory internal dispute resolution of all covered claims, sexual and other unlawful harassment, drug and alcohol abuse and equal employment opportunity. Seller shall indemnify and hold UE3P harmless against any liability arising from a violation of such policies by Seller's employee, subcontractor or agent. In addition to any other remedies available to UE3P, UE3P may, without notice and an opportunity to cure, expel from its property/worksites or the property/worksites of UE3P's Customer, any employee, subcontractor or agent of Seller found violating any UE3P policy.

(c) Seller must receive written permission from UE3P or UE3P's Customer before storing any materials upon the premises or constructing any temporary workshop or other apparatus on the premises. Seller agrees to keep the premises free from accumulations of waste material or rubbish caused by its employees, subcontractors or agents during performance. At the completion of performance Seller shall remove from the premises all rubbish, implements and surplus materials and leave the premises broom clean, unless otherwise instructed by UE3P or UE3P's Customer. Seller shall properly store all loose tools and materials.

(d) Prior to UE3P issuing any "No-Escort" badges to Seller's employees performing work in the operating areas of UE3P's premises or facilities for a period of 45 calendar days or more within a 365 calendar day period, or having any access to UE3P computer information systems for any period of time, Seller, shall, at its own expense, obtain a background investigation on the Seller's employee in accordance with standards established by UE3P's Security Organization.

**32. FORCE MAJEURE** – UE3P shall not be liable for delay or failure of performance occasioned by causes beyond its control, including, but not limited to, acts of God or the public enemy, actions or decrees of governmental entities, civil unrest, riots, acts of terrorism, organized labor strikes, declared or undeclared war, fire, floods, unusually severe weather, earthquakes or volcanoes ("Force Majeure Event"). If UE3P is affected by a Force Majeure Event, UE3P shall give

written notice to Seller, which shall cause, without penalty to UE3P, all obligations under this Order to be immediately suspended for a period of sixty (60) calendar days. If the period of suspension caused by the Force Majeure Event exceeds that first sixty-day period, UE3P either may terminate the Order for convenience in accord with article 7 paragraph (b) of these general terms and conditions or suspend the Order for an additional period under article 30 of these general terms and conditions. Any termination settlement or equitable adjustment sought by Seller following the termination for convenience or suspension may not include any costs incurred during the first sixty-day suspension.

**33. SUBSTITUTION** - Seller agrees not to substitute materials or other components of Work without written consent by UE3P.

**34. COMPLIANCE WITH EXPORT CONTROL LAWS AND REGULATIONS** - (a) Seller, at its sole expense, shall comply with all applicable U.S. export control laws and regulations in the performance of this Order, including, but not limited to, the International Traffic in Arms Regulations (ITAR), 22 CFR Parts 120 to 130, the Export Administration Regulations (EAR) 15 CFR Parts 730 through 799, and with all other laws, regulations, or executive orders of the United States related to the import, export, or delivery of goods or services contemplated by this Order such as customs laws and regulations, immigration laws and regulations, etc.

(b) Seller, at its sole expense, agrees to determine and comply with all export license requirements, to obtain any export license or other official authorization, and to carry out any customs or immigration formalities or similar requirements for the export of any goods or services covered by this Order. Seller also hereby expressly agrees to bear sole responsibility for obtaining export licenses, if required, before utilizing foreign persons (as defined in 22 CFR § 120.16) in the performance of this Order, including instances where the work is to be performed on-site at any Government installation, where the foreign person will have access to export-controlled technical data, equipment or software. Seller also agrees to bear sole responsibility for all regulatory record keeping associated with the use of licenses and license exemptions/exceptions.

(c) Seller shall insert the substance of this clause in any lower-tier subcontracts it enters into in connection with this Order.

**35. RESERVED**

**36. RESERVED**

**37. COMPLIANCE WITH INTERNATIONAL LAWS-** If Seller is located outside the United States or any Work ordered hereunder will be produced or performed outside the United States, the following provisions also shall apply:

(a) Compliance with Foreign Laws and Regulations – In addition to complying with all applicable federal, state and local laws, regulations and rules as set forth in articles 15 and 34 of these general terms and conditions, Seller, at its sole expense, shall comply with all applicable foreign laws, regulations and rules or agreements governing or applicable to Seller's Work under this Order.

(b) Hazardous Activities, Waiver, and Insurance – Seller acknowledges that the international nature of the Work required under this Order may subject Seller and its employees and lower-tier subcontractors to increased personal safety and property risks and other risks, hazards and potential liabilities. Seller knowingly and voluntarily accepts sole responsibility, financially, and otherwise, for all risks, hazards and liabilities associated with any international performance under this Order. Seller also hereby releases and waives all claims of any sort that it may have in the future against UE3P or its successors, assigns, affiliates, parents, subsidiaries or agents arising from or related to risks, hazards or liabilities associated with any international performance under this Order. In addition to its other indemnification obligations under this Order, Seller agrees that it shall indemnify and hold harmless UE3P from and against any and all liability, damages, costs and expenses (including defense costs and attorneys' fees) arising from or related to any suit, action, claim or proceeding filed against UE3P by one or more of Seller's employees or lower-tier subcontractors related to any risk, hazard or liability addressed in this subparagraph. Seller also agrees that, in addition to the foregoing indemnification agreement and any insurance required elsewhere in this Order, Seller, at its sole expense, shall, during the term of this Order, provide and maintain at reasonably adequate levels, workmen's compensation, comprehensive general liability, bodily injury and any other insurance necessary to fully and adequately cover all reasonably foreseeable risks,

hazards and potential liabilities of any kind related to Seller's performance of this Order wherever performed. All such insurance must be primary and non-contributory and required to respond and pay prior to any other insurance or self-insurance available. If specifically requested by UE3P, Seller and Seller's subcontractors shall furnish, prior to the start of Work, certificates or adequate proof of the foregoing insurance, including, without limitation, endorsements and policies. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting the interest of UE3P or UE3P's Customer shall not be effective until thirty calendar (30) days after the insurer or Seller gives written notice to UE3P, whichever period is longer. Insurance companies providing coverage under this Order must be rated by A. M. Best with at least an A-rating. Seller's obligation to obtain the foregoing insurance does not waive or release Seller's liabilities or duties to indemnify under this Order.

(c) Taxes and Fees – Seller shall have sole responsibility for, and pay without reimbursement from UE3P, all foreign sales, value added, employment, transportation, business, income and any other taxes, duties, levies, tariffs, fees and assessments of any sort applicable or related to any Work delivered under this Order unless this Order specifically states otherwise.

(d) Effect on Other Provisions – Nothing in this paragraph shall relieve Seller from complying with any other paragraph of this Order.

(e) Use in Lower-Tiered Subcontracts – Seller shall include the substance of this paragraph in any lower-tier subcontracts it enters in connection with this Order.

**38. COUNTERFEIT PARTS PREVENTION** - (a) For the purposes of this article, the following terms shall have the meanings set forth below:

(1) “Counterfeit electronic part” means an unlawful or unauthorized reproduction, substitution or alteration that has been knowingly mismarked, misidentified, or otherwise represented to be an authentic, unmodified electronic part from the original manufacturer, or a source with the express written authority of the original manufacturer or current design activity, including an authorized aftermarket manufacturer. Unlawful or unauthorized substitution includes used electronic parts represented as new, or the false identification of grade, serial number, lot number, date code or performance characteristics.

(2) “Electronic part” means an integrated circuit, a discrete electronic component (including, but not limited to, a transistor, capacitor, resistor, or diode), or a circuit assembly; includes embedded software and firmware.

(3) “Suspect counterfeit electronic part” means an electronic part for which credible evidence (including, but not limited to, visual inspection or testing) provides reasonable doubt that the electronic part is authentic.

(b) Seller represents and warrants that, unless expressly authorized by the Order, only new and authentic materials are used in products required to be delivered to UE3P and that the Work delivered contains no counterfeit electronic parts. No material, part or component other than a new and authentic part is to be used unless approved in advance in writing by UE3P. To further mitigate the possibility of the inadvertent use of counterfeit electronic parts, Seller shall only purchase authentic electronic parts directly from the original manufacturer or through the original manufacturer’s authorized/franchised distributors. Seller represents and warrants to UE3P that all parts/components delivered under this contract are authentic and traceable back to the original manufacturer and Seller shall delivery traceability documentation to UE3P with each shipment of materials. Purchase of electronic parts from non-authorized and non-franchised sources is not authorized unless first approved in writing by UE3P. Seller must present complete and compelling support for its request and include in its request all actions to ensure the parts or components thus procured are legitimate parts.

(c) Seller shall maintain a counterfeit detection process that complies with DFARS 252.246-7007, Contractor Counterfeit Electronic Part Detection and Avoidance System.

(d) If it is determined that suspect counterfeit electronic parts were delivered to UE3P by Seller, the suspect counterfeit electronic parts will not be returned to the Seller. UE3P reserves the right to quarantine any and all suspect counterfeit electronic parts it receives and to notify the Government Industry Data Exchange Program (GIDEP) and other relevant Government agencies. Seller shall promptly reimburse UE3P for the full cost of the suspect counterfeit electronic parts and Seller assumes responsibility and liability for all costs associated with the delivery of suspect counterfeit electronic parts, including, but not limited to, costs for identification, testing and any corrective action required to remove and

replace the suspect counterfeit electronic parts. The remedies in this section shall apply regardless of whether the warranty period or guarantee period has ended and are in addition to any remedies available at law or in equity. Seller agrees to cooperate fully with UE3P and any cognizant Government official during investigation into any suspect counterfeit electronic part delivered to UE3P by Seller.

(e) Seller shall flow the requirements of this article to its subcontractors and suppliers at any tier for the performance of this Order.

**39. CONFLICT MINERALS** - (a) Seller shall deliver to UE3P under this Order only products that are Democratic Republic of the Congo (DRC) Conflict Free, as defined by and consistent with the US Securities and Exchange Commission’s final rule on Conflict Minerals, 17 CFR Parts 240-249(b), promulgated pursuant to Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Rule).

(b) Seller certifies and warrants that all products that have been or will be delivered to UE3P by Seller under this Order are DRC Conflict Free, as defined by and consistent with the Rule.

(c) Seller agrees that, if required by the Rule, it has made and will continue to make, good faith inquiries reasonably designed to determine whether any Conflict Mineral that is included in any product delivered to UE3P pursuant to this Order originated in the DRC or an adjoining country, or is from recycled or scrap sources, as defined in the Rule. Seller further agrees that, if required by the Rule, it has performed, and will continue to perform, due diligence on the source and chain of custody of any Conflict Mineral that is included in any product delivered to UE3P pursuant to this Order, and that such due diligence conforms to a nationally or internationally recognized due diligence framework, if such a framework is available for the Conflict Mineral. Seller agrees that all inquiries and diligence performed shall be consistent with the requirements of the Rule.

(d) Seller shall require its own subcontractors and suppliers (at any tier in the supply chain for a product delivered to UE3P under this Order) to furnish information to Seller necessary to support Seller’s obligations under Section 1502 U S Securities and Exchange Commission Rule.

(e) Seller shall submit, at UE3P’s request, reports and/or certifications to UE3P to demonstrate compliance with the above Conflict Minerals terms.

**40. EXCLUSION OF MERCURY** – Seller shall ensure that Items delivered under any Order for submarine application, installation or utilization shall be free from mercury. Seller shall take necessary measures to ensure that mercury and mercury-containing compounds are not be intentionally added or come in direct contact with Items delivered under this Orders for submarine application, installation or utilization.

**41. FAR AND DFARS CLAUSES APPLICABLE TO THIS ORDER** - (a) For commercial item(s) acquired in support of a Government prime contract, the following FAR and DFARS clauses are incorporated by reference:

52.203-13 Contractor Code of Business Ethics and Conduct – *Applies if the Order exceeds \$5,000,000 and the performance period is 120 days or more. All disclosures of violation of the civil False Claims Act or of the Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.*

52.219-8 Utilization of Small Business Concerns – *Applies if the Order exceeds \$650,000.*

52.222-26 Equal Opportunity

52.222-35 Equal Opportunity for Veterans – *Applies if the Order exceeds \$100,000.*

52.222-36 Equal Opportunity for Workers with Disabilities – *Applies if the Order exceeds \$15,000.*

52.222-37 Employment Reports on Veterans – *Applies if the Order exceeds \$100,000.*

52.222-40 Notification of Employee Rights under the National Labor Relations Act – *Applies if the Order exceeds \$150,000.*

52.222-50 Combating Trafficking in Persons

52.222-54 Employment Eligibility Verification

52.247-64 Preference for Privately-Owned U. S. Flag Commercial Vessels

52.244-6 Subcontracts for Commercial Items

252.223-7008 Prohibition of Hexavalent Chromium

252.225-7009 Restriction on Acquisition of Certain Articles Containing Specialty Metals

(b) For materials and services procured in support of a Government prime contract, which do not qualify as commercial item(s), the following FAR and DFARS clauses are incorporated by reference:

- 52.203-10 Price or Fee Adjustment for Illegal or Improper Activity
- 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions
- 52.203-3 Gratuities
- 52.203-5 Covenant Against Contingent Fees
- 52.204-10 Reporting Executive Compensation and First-Tier Subcontract Awards
- 52.209-5 Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters
- 52.211-11 Liquidated Damages – Supplies, Services, or Research and Development
- 52.211-5 Material Requirements
- 52.215-23 "Limitation on Pass-Through Charges - *Contracting Officer, Contractor, and subcontractor retain their original meanings*
- 52.215-23 Alt I Limitation on Pass-Through Charges - Alternate I - *Contracting Officer, Contractor, and subcontractor retain their original meanings*
- 52.219-8 Utilization of Small Business Concerns
- 52.219-9 Small Business Subcontracting Plan
- 52.222-1 Notice to the Government of Labor Disputes
- 52.222-21 Prohibition of Segregated Facilities
- 52.222-22 Previous Contracts and Compliance Reports
- 52.222-26 Equal Opportunity
- 52.222-3 Convict Labor
- 52.222-50 Combating Trafficking in Persons
- 52.223-3 "Hazardous Material Identification and Material Safety Data - *Contracting Officer and Contractor retain their original meanings. Upon request, Seller shall provide UE3P with sufficient information / certification required for UE3P to maintain compliance with this clause.*
- 52.223-9 "Estimate of Percentage of Recovered Material Content for EPA-designated Products - *Contracting Officer and Contractor retain their original meanings. Upon request, Seller shall provide UE3P with sufficient information / certification required for UE3P to maintain compliance with this clause.*
- 52.223-11 Ozone-Depleting Substances
- 52.223-12 Refrigeration Equipment and Air Conditioners
- 52.223-15 Energy Efficiency in Energy-Consuming Products
- 52.224-2 Privacy Act
- 52.225-1 Buy America Act – Supplies - *Contracting Officer and Contractor retain their original meanings. Upon request, Seller shall provide UE3P with sufficient information / certification required for UE3P to maintain compliance with this clause.*
- 52.225-13 Restrictions on Certain Foreign Purchases
- 52.225-5 Trade Agreements - *Contracting Officer and Contractor retain their original meanings. Upon request, Seller shall provide UE3P with sufficient information / certification required for UE3P to maintain compliance with this clause.*
- 52.225-8 Duty-Free Entry
- 52.227-14 Rights in Data – General - *Government and Contracting Officer retain their original meanings. Seller has all rights and obligations of the Contractor in this clause.*
- 52.227-19 Commercial Computer Software License - *Government, Contracting Officer, Contractor, and subcontractor retain their original meanings.*
- 52.227-9 Refund of Royalties
- 52.232-16 Progress Payments
- 52.232-17 Interest
- 52.233-1 Disputes
- 52.233-1 Alt I Disputes - Alternate I
- 52.233-3 Protest After Award
- 52.233-3 Alt I Protest After Award - Alternate I
- 52.234-1 Industrial Resources Developed Under Defense Production Act Title III
- 52.237-3 Continuity of Services
- 52.239-1 Privacy or Security Safeguards

- 52.242-15 Stop-Work Order  
 52.242-15 Alt I Stop-Work Order - Alternate I  
 52.242-17 Government Delay of Work  
 52.244-6 Subcontracts for Commercial Items  
 52.246-16 Responsibility for Supplies  
 52.247-52 Clearance and Documents Requirements – Shipments to DOD Air or Water Terminal Transshipment Points  
 52.247-58 Loading, Blocking, and Bracing of Freight Car Shipment  
 52.247-63 Preference for US-Flag Air Carriers  
 52.247-64 Preference for Privately Owned US-Flag Commercial Vessels  
 52.247-67 Submission of Transportation Documents for Audit - *Government, Contractor and subcontractor retain their original meanings. Upon request, Seller shall provide UE3P with sufficient documentation required for UE3P to maintain compliance with this clause.*  
 52.249-1 Termination for Convenience of the Government (Fixed Price) (Short Form)

(c) For materials and services procured in support of a Department of Defense prime contract, which do not qualify as commercial item(s), the following FAR and DFARS clauses are incorporated by reference:

- 252.203-7002 Display of DOD Hotline Poster  
 252.204-7000 Disclosure of Information - *Government, Contracting Officer, Contractor and subcontractor retain their original meanings.*  
 252.204-7008 Export-Controlled Items  
 252.211-7003 Item Identification and Valuation  
 252.211-7008 Use of Government-Assigned Serial Numbers - *Government, Contracting Officer, Contractor and subcontractor retain their original meanings.*  
 252.215-7004 Excessive Pass-Through Charges  
 252.222-7006 Combatting Trafficking in Persons  
 252.223-7001 Hazard Warning Labels  
 252.223-7002 Safety Precautions for Ammunition and Explosives  
 252.223-7003 Change in Place of Performance – Ammunition and Explosives  
 252.223-7006 Alt I Prohibition on Storage and Disposal of Toxic and Hazardous Material - Alternate I  
 252.223-7007 Safeguarding Conventional Arms, Ammunition and Explosives  
 252.223-7008 Prohibition of Hexavalent Chromium  
 252.225-7001 Buy American Act and Balance Of Payments Program - *Contracting Officer, and Contractor retain their original meanings. Upon request, Subcontractor shall provide UE3P with sufficient information and certification required for UE3P to maintain compliance with this clause.*  
 252.225-7007 Prohibition on Acquisition of United States Munitions List Items from Communist Chinese Military Companies  
 252.225-7008 Restriction on Acquisition of Specialty Metals  
 252.225-7009 Restriction on Acquisition of Certain Articles Containing Specialty Metals - *excluding Paragraph (d)*  
 252.225-7012 Preference for Certain Domestic Commodities  
 252.225-7013 Duty-Free Entry  
 252.225-7014 Preference for Domestic Specialty Metals  
 252.225-7014 Alt I Preference for Domestic Specialty Metals - Alternate I  
 252.225-7015 Restriction on Acquisition of Hand or Measuring Tools  
 252.225-7016 Restriction on Acquisition of Ball and Roller Bearings  
 252.225-7021 Trade Agreements  
 252.225-7022 Restrictions on Acquisition of Polyacrylonitrile (PAN) Carbon Fiber  
 252.225-7025 Restriction on Acquisition of Forgings  
 252.225-7028 Exclusionary Policies and Practices of Foreign Government  
 252.225-7043 Anti-Terrorism / Force Protection for Defense Contractors Outside of the United States - *Government, Contracting Officer, Contractor, and subcontractor retain their original meanings.*  
 252.227-7013 Rights in Technical Data – Non-Commercial Items - *Government, Contracting Officer, Contractor, and subcontractor retain their original meanings*  
 252.227-7014 Rights in non-Commercial Computer Software and non-Commercial Computer Software Documentation - *Government, Contracting Officer, Contractor, and subcontractor retain their original meanings*



- 252.227-7015 Technical Data – Commercial Items - *Government, Contracting Officer, Contractor, and subcontractor retain their original meanings.*
- 252.227-7016 Rights in Bid or Proposal Information
- 252.227-7019 Validation of Asserted Restrictions – Computer Software
- 252.227-7026 Deferred Delivery of Technical Data or Computer Software
- 252.227-7027 Deferred Ordering Of Technical Data or Computer Software
- 252.227-7030 Technical Data--Withholding Of Payment
- 252.227-7034 Patents – Subcontracts
- 252.227-7037 Validation of Restrictive Markings on Technical Data
- 252.227-7038 Patent Rights - Ownership by the Contractor (Large Business)
- 252.228-7005 Accident Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles
- 252.236-7013 Requirement for Competition Opportunity for American Steel Producers, Fabricators and Manufacturers
- 252.237-7023 Continuation of Mission Essential Functions
- 252.243-7001 Pricing Of Contract Modifications
- 252.244-7000 Subcontracts for Commercial Items and Commercial Components (DOD Contracts)
- 252.246-7001 Warranty of Data
- 252.246-7001 Alt I Warranty of Data – Alternate I
- 252.246-7003 Notification of Potential Safety Issues
- 252.247-7023 Transportation of Supplies by Sea - *paragraphs (a) – (e) and (h).*
- 252.247-7024 Notification of Transportation of Supplies by Sea
- 5252.223-9114 Management and Disposal of Hazardous Waste
- 5252.227-9113 Government-Industry Data Exchange Program - *Paragraph (a) only.*

(c) For materials and services procured in support of a Government prime contract, which do not qualify as commercial item(s), the following FAR and DFARS clauses are incorporated by reference when the specified conditions are met:

(i) *Procurements over \$2,500 in value:*

- 52.222-41 Service Contract Act of 1965

(ii) *Procurements over \$3,000 in value:*

- 52.222-54 Employment Eligibility Verification
- 52.223-18 Encouraging Contractor Policies to Ban Text Messaging While Driving

(iii) *Procurements over \$10,000 in value:*

- 52.222-40 Notification of Employee Rights under the National Labor Relations Act

(iv) *Procurements over \$15,000 in value:*

- 52.222-36 Equal Opportunity for Workers with Disabilities

(v) *Procurements over \$25,000 in value:*

- 52.226-6 Promoting Excess Food Donation to Nonprofit Organizations

(vi) *Procurements over \$30,000 in value:*

- 52.209-6 Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment

(vii) *Procurements over \$100,000 in value:*

- 52.223-14 Toxic Chemical Release Reporting *[excluding paragraph (e)]*
- 52.222-35 Equal Opportunity for Veterans
- 52.222-37 Employment Reports for Veterans

(viii) *Procurements over \$150,000 in value:*

- 52.223-6 Drug-Free Workplace
- 52.203-12 Limitation on Payments to Influence Certain Federal Transactions
- 52.203-6 Restrictions on Subcontractor Sales to the Government

- 52.203-7 Anti-Kickback Procedures *[except (c) (1)]*
- 52.215-14 Integrity of Unit Prices *[except (b)]*
- 52.215-14 Alt 1 Integrity of Unit Prices *[except (b)]*
- 52.222-39 Notification of Employee Rights Concerning Payment of Union Dues or Fees
- 52.227-1 Authorization and Consent *[Government, Contracting Officer, Contractor and Subcontractor retain their original meanings.]*
- 52.227-1 Alt I Authorization and Consent (Dec 2007) - Alternate I *[Government, Contracting Officer, Contractor and Subcontractor retain their original meanings.]*
- 52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement
- 52.243-1 Changes – Fixed Price
- 52.246-2 Inspection of Supplies - Fixed Price *[Government, Contractor, and subcontractor retain their original meanings]*
- 52.246-4 Inspection of Services Fixed Price *[Government, Contractor, and subcontractor retain their original meanings]*
- 52.248-1 Value Engineering
- 52.249-2 Termination for Convenience of the Government (Fixed Price)
- 52.249-8 Default (Fixed-Price Supply and Service)
- 252.203-7001 Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies
- 252.247-7023 Transportation of Supplies by Sea
- 252.249-7002 Notification of Anticipated Contract Termination or Reduction

*(ix) Procurements over \$500,000 in value:*

- 252.226-7001 Utilization of Indian Organizations and Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns

*(x) Procurements over \$650,000 in value:*

- 252.225-7004 Report of Contract Performance Outside the United States and Canada--Submission after Award *[Government, Contracting Officer, Contractor, and subcontractor retain their original meanings]*
- 252.225-7006 Quarterly Reporting of Actual Contract Performance Outside the United States

*(xi) Procurements over \$700,000 in value:*

- 252.215-7000 Price Adjustments
- 52.230-6 Administration of Cost Accounting Standards
- 52.230-2 Cost Accounting Standards
- 52.230-3 Disclosure and Consistency of Cost Accounting Practices *[except paragraph (b)]*
- 52.215-10 Price Reduction for Defective Cost or Pricing Data *[Contracting Officer, Contractor, and subcontractor retain their original meanings]*
- 52.215-11 Price Reduction for Defective Cost or Pricing Data—Modifications *[Contracting Officer, Contractor, and subcontractor retain their original meanings]*
- 52.215-12 Subcontractor Cost or Pricing Data *[Contracting Officer, Contractor, and subcontractor retain their original meanings]*
- 52.215-13 Subcontractor Cost or Pricing Data—Modifications *[Contracting Officer, Contractor, and subcontractor retain their original meanings]*
- 52.215-15 Pension Adjustments and Asset Reversions
- 52.215-18 Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other than Pensions
- 52.215-19 Notification of Ownership Changes

*(xii) Procurements over \$1,000,000 in value:*

- 252.222-7006 Restrictions on the Use of Mandatory Arbitration Agreements

*(xiii) Procurements over \$1,500,000 in value:*

- 252.211-7000 Acquisition Streamlining

*(xiv) Procurements over \$5,000,000 in value:*

- 52.203-14 Display of Hotline Poster(s)
- 52.203-13 Contractor Code of Business Ethics and Conduct
- 252.203-7004 Display of Fraud Hotline Poster(s)

*(xv) Procurements in support of a Small Business Innovation Research (SBIR) Prime Contract:*

- 252.227-7018 Rights in Noncommercial Technical Data and Computer Software--Small Business Innovation Research (SBIR) Program [Government, Contracting Officer, Contractor, and subcontractor retain their original meanings]
- 252.227-7018 Alt I Rights in Noncommercial Technical Data and Computer Software--Small Business Innovation Research (SBIR) Program - Alternative I [Government, Contracting Officer, Contractor, and subcontractor retain their original meanings]
- 52.227-20 Rights in Data - SBIR Program [Government, Contracting Officer, Contractor, and subcontractor retain their original meanings]

*(xvi) Procurements which require access to Government Furnished Property:*

- 52.245-1 Government Property [Government, Contracting Officer, Contractor, and subcontractor retain their original meanings]
- 52.245-1 Alt I Government Property - Alternate I [Government, Contracting Officer, Contractor, and subcontractor retain their original meanings]
- 52.245-2 Government Property (Fixed Price Contracts) [Government, Contracting Officer, Contractor, and subcontractor retain their original meanings]
- 52.245-9 Use and Charges [Government, Contracting Officer, Contractor, and subcontractor retain their original meanings]

*(xvii) Research and Development Procurements:*

- 52.227-11 Patent Rights - Ownership by the Contractor [Government and Contracting Officer retain their original meanings. Subcontractor has all rights and obligations of the Contractor in this clause.]
- 52.249-9 Default (Fixed-Price Research and Development)
- 52.227-13 Patent Rights - Ownership of the Government [Government and Contracting Officer retain their original meanings. Subcontractor has all rights and obligations of the Contractor in this clause.]
- 52.246-9 Inspection of Research and Development (Short Form) [Government, Contractor, and subcontractor retain their original meanings]

*(xviii) Procurements Requiring Access to Classified Information:*

- 52.204-2 Security Requirements [except reference to Changes clause]
- 52.227-10 Filing of Patent Applications - Classified Subject Matter
- 252.245-7001 Reports of Government Property [Government, Contractor, and subcontractor retain their original meanings. Upon request, Seller shall provide UE3P with sufficient information for UE3P to maintain compliance with this requirement.]

*(xix) Procurements which may Contain or Produce Radioactive Materials:*

- 52.223-7 Notice of Radioactive Materials

*(xx) Procurement of Items for which Radio Frequency Authorization is Required:*

- 252.235-7003 Frequency Authorization

(d) If UE3P's contract price is reduced because of a non-commercial item determination for Work furnished by the Seller then UE3P reserves the right to make a corresponding reduction, excluding UE3P allowable rates, profit or fee, in the price of the Order or may demand payment of the corresponding amounts. Seller shall promptly pay amounts so demanded.