



PURCHASE ORDER STANDARD TERMS AND CONDITIONS REV 08/05/2019.

NATIONAL PATENT ANALYTICAL SYSTEMS, INC. ("NPAS")

These Purchase Order Standard Terms and Conditions apply to all purchase orders from NPAS to any supplier or vendor. The articles, supplies, material and/or services covered by this Purchase Order are intended to be used directly or indirectly in the performance of a contract with the United States Government, or with a prime or subcontractor of the said Government. This order shall be deemed to include, in addition to all the terms and conditions set forth herein, all applicable provisions of such contracts, laws, executive orders and regulations of the United States. The Purchase Order terms, if in conflict with these general terms and conditions shall govern. The following terms and conditions apply:

1. **PRICE.** This is a firm price order. Unless otherwise expressly specified, the prices are stated in U.S. dollars. NPAS shall not be bound to any prices or delivery to which it has not specifically agreed to in writing.
2. **TERMS OF PAYMENT.** Invoices shall be dated no earlier than date of shipment or delivery of service. The discount period begins upon receipt of invoice, required delivery date, or date of any applicable discrepancy is resolved, whichever date is later. NPAS's payment of an invoice shall not constitute acceptance of the goods and/or services and shall be subject to appropriate adjustment for Vendor's failure to meet the requirements of this Purchase Order.
3. **RATED ORDERS -HIGH PRIORITY.** This is a rated order certified for national defense use, and Vendor is required to follow all the provisions of the Defense Priorities and Allocations System regulation (15 CFR Part 700). **Contractor is required also to flow down the following requirements to its subcontractors, giving identical priority to such orders.**
 - a. **PRIORITY LEVELS:** There are two levels of priority established by the DPAS regulation, identified by the rating symbol "DO" and "DX".
 - i. **DO.** All DO rated orders have equal priority status with each other and take preference over unrated orders.
 - ii. **DX.** All DX rated orders have equal status and take preference over DO rated orders and unrated orders. "DX" rated orders are of the highest national industrial priority and "DO" rated orders are critical to the national defense.
 - b. **PRODUCTION PRIORITY.** This Purchase order is for products or services used to fulfill requirements of a critical application product for a high priority U.S. Government Contract as defined in 15 CFR Part 700. As such, vendor is required to assign this Purchase Order its **highest priority**, with on-time delivery and no quality deficiencies. Vendor is therefore required to schedule its production or operations, including the acquisition of all needed production items, to satisfy the delivery requirements of each rated order vendor receives from NPAS. The delivery date given to Vendor by NPAS is the date required for NPAS to be able to satisfy the priority requirements of a rated order, however, we request that in the event of a mistake or change, that Vendor adjust its schedule to meet the changed requirements, and NPAS reserves the right to change the due date on all rated orders.
4. **CERTIFICATES.** As an integral part of this contract, NPAS requires that all vendors supply, at no additional charge and with the products shipped to NPAS, the following certificates:
 - a. **ORIGIN.** Vendors shall provide a signed certification as to the country origin of the product and its components supplied to NPAS.
 - b. **COMPLIANCE.** Vendors shall provide written certification, signed by the company or corporate official who has management responsibility for the production of the products that the product being supplied has been manufactured and tested to verify that it meets the specifications for manufacturer's part number or the Purchase Order and conforms to all of its requirements.

- c. **CHEMICAL COMPOSITION.** Vendors shall provide a written certification as to the chemical composition of metals subject of the Purchase Order. The Vendor shall also certify that any metals incorporated in items delivered under this Purchase Order are melted or produced in the United States, its outlying areas, or a qualifying country. Qualifying countries include Australia, Denmark, Germany, Luxembourg, Austria, Greece, Egypt Netherlands, Belgium, Finland, Norway, Israel, Canada, France, Italy and Portugal.
 - d. **MERCURY.** The Vendor shall provide certification that the material shipped under this Purchase Order does not contain functional mercury in any form and that no mercury-bearing instruments and/or equipment that might cause contamination have been used in the manufacture, fabrication, assembly or testing of any material shipped under this Purchase Order.
5. **ATTACHMENTS.** Documents designated by NPAS in the body of the Purchase Order, including supplemental terms and conditions, if any, are incorporated by reference the same as if set out in full therein.
6. **CHANGES.** The NPAS reserves the right at any time to issue a written change order or amendment to the Purchase Order concerning any of the following: (a) specifications, drawings, and data incorporated in the Purchase Order where the item to be furnished are to be specially manufactured for the NPAS; (b) quantity; (c) methods of shipment or packaging, (d) place of delivery, (e) time of delivery; or (f) any other matters affecting the Purchase Order.
7. **TERMINATION.** NPAS may terminate the Purchase Order for its convenience, in whole or in part, at any time prior to shipment by (written or electronic) notice to Vendor. Upon receipt of such termination notice, Vendor shall promptly comply with the directions contained in such notice and shall, as required, (a) take action necessary to terminate the work as provided in the notice, minimizing cost and liabilities for the terminated work, and (b) continue the performance of any part of the work not terminated by NPAS.
8. **ASSIGNMENT.** Vendor may not assign, transfer or subcontract this Purchase Order or any right or obligation hereunder without NPAS's written consent.
9. **EXCUSABLE DELAY.** Fires, floods, strikes, accidents, shortages, or other causes beyond the reasonable control of the parties, which prevent Vendor from delivering, or NPAS from receiving, any of the goods and services covered by this Purchase Order, shall suspend deliveries until the cause is removed, subject, however, to NPAS's right of termination hereinabove.
10. **PACKAGING AND SHIPPING INSTRUCTIONS.** All goods shall be suitably packed and properly marked (including notice of hazardous substances) or otherwise prepared for shipment so as to secure the lowest transportation rates and to meet carrier's requirements. No charge will be allowed for packing, crating or carriage unless stated herein. Unless otherwise directed by Buyer, all surface shipments shall be declared at the lowest release valuation allowed by the carrier. If this purchase order states that Buyer is responsible for freight charges, NPAS shall ship per instructions on the purchase order, unless directed otherwise on a separate document from the Buyer. Data on Packing List delivered with the goods must include: NPAS name and address, Buyer ship to address, Buyer purchase order number and purchase order line number, Part Number for all goods, no pricing or cost information, item description, quantity shipped, serial number if applicable, shelf life, date of manufacture and expiration date, manufacture batch or LOT number and hazardous UN number if applicable. Manufacturer's certification must be provided. This information will certify that the product was manufactured in accordance with the drawings & specifications approved by the manufacturer. If the product being purchased is FAA approved, the certificate should state that the part was manufactured in accordance with applicable FAR's (FAR 21.1 -Commercial, FAR 21.121 -PC, FAR 21.303 -PMA, FAR 21.601 -TSOA). If the product being purchased is a MIL Spec item, the MIL Spec should be referenced. If commercial type item, the certification will state that the product being furnished is being supplied in accordance with the manufacturer's procedures. The certification statement must be signed and may be at the bottom of the packing list. A standard certification can be on a separate page that is referenced back to the packing list. All handwritten data must be initialed and dated by the person doing the writing.
11. **GENERAL INSPECTION AND AUDIT.** All goods and services furnished hereunder will be subject to inspection and test by NPAS, its customers, higher tier contractors, and (in the case of goods and/or services purchased for a U.S. Government contract or subcontract) the U.S. Government at all reasonable times and places, but not limited to the facilities of Vendor and the Vendor's subcontractors and will be subject to NPAS's final inspection and approval within a reasonable time after delivery. The Requirements of contractors for contracts subject to Higher Level Contract Requirements under FAR 52.246-11 or related provisions are described in a subsequent provision of these terms and conditions. NPAS may reject goods and services not in accordance with NPAS's instructions, specifications, drawings, data, or Vendor's warranty (expressed or implied), or for untimely delivery or failure to allow inspection. NPAS may

return rejected goods to Vendor at Vendor's expense and NPAS shall have no further obligation for such goods. Payment for any goods or services shall not be deemed acceptance and in no event shall NPAS incur any liability for payment for rejected goods for service. NPAS continues to reserve all of its rights and remedies as to defects in the product found after acceptance.

12. FLOW DOWN OF NOTED REQUIREMENTS. NPAS shall pass on to its subcontractors and agents any specific requirements for the goods or services ordered hereunder that are noted on the front of this purchase order or contained in these terms and conditions.
13. FAR CLAUSES INCORPORATED BY REFERENCE: CONDITIONS APPLICABLE ONLY IF THIS ORDER IS PLACED UNDER GOVERNMENT CONTRACTS OR SUBCONTRACTS. If this order is placed pursuant to a Government prime contract or subcontract referenced by a number or otherwise in this purchase order, the following causes set forth in the FAR and DFARS as in effect on the date hereof are incorporated herein by reference with the same force and effect as if set forth in full in Section 6 below. If so identified, this Order is a "rated order" certified for national defense use, and NPAS shall follow all the requirements of the Defense Priorities and Allocation System Regulation (15 C.F.R. Part 700).
 - a. FAR 52.246-2 (FEB 1998), **Inspection of Supplies - Fixed-Price**. Vendor agrees that its facility must be subject to inspection at any reasonable time by Government Inspectors. NPAS also agrees to include in any contract with any of its subcontractors a similar clause, causing its subcontractor to facility must be subject to inspection at any reasonable time by Government Inspectors. This requirement shall flow down to all levels of subcontractors and it shall be the responsibility of the subcontractor to ensure the proper provisions are enforced. Pursuant to the requirements of 48 CFR 46.302, the following terms shall apply and flow down to this purchase order:
 1. Inspection of Supplies -- Fixed-Price (Aug. 1996)
 - (a) Definition. "Supplies," as used in this clause, includes but is not limited to raw materials, components, intermediate assemblies, end products, and lots of supplies.
 - (b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering supplies under this contract and shall tender to the Government for acceptance only supplies that have been inspected in accordance with the inspection system and have been found by the Contractor to be in conformity with contract requirements. As part of the system, the Contractor shall prepare records evidencing all inspections made under the system and the outcome. These records shall be kept complete and made available to the Government during contract performance and for as long afterwards as the contract requires. The Government may perform reviews and evaluations as reasonably necessary to ascertain compliance with this paragraph. These reviews and evaluations shall be conducted in a manner that will not unduly delay the contract work. The right of review, whether exercised or not, does not relieve the Contractor of the obligations under the contract.
 - (c) The Government has the right to inspect and test all supplies called for by the contract, to the extent practicable, at all places and times, including the period of manufacture, and in any event before acceptance. The Government shall perform inspections and tests in a manner that will not unduly delay the work. The Government assumes no contractual obligation to perform any inspection and test for the benefit of the Contractor unless specifically set forth elsewhere in this contract.
 - (d) If the Government performs inspection or test on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties. Except as otherwise provided in the contract, the Government shall bear the expense of Government inspections or tests made at other than the Contractor's or subcontractor's premises; provided, that in case of rejection, the Government shall not be liable for any reduction in the value of inspection or test samples.

(e)

(1) When supplies are not ready at the time specified by the Contractor for inspection or test, the Contracting Officer may charge to the Contractor the additional cost of inspection or test.

(2) The Contracting Officer may also charge the Contractor for any additional cost of inspection or test when prior rejection makes reinspection or retest necessary.

(f) The Government has the right either to reject or to require correction of nonconforming supplies. Supplies are nonconforming when they are defective in material or workmanship or are otherwise not in conformity with contract requirements. The Government may reject nonconforming supplies with or without disposition instructions.

(g) The Contractor shall remove supplies rejected or required to be corrected. However, the Contracting Officer may require or permit correction in place, promptly after notice, by and at the expense of the Contractor. The Contractor shall not tender for acceptance corrected or rejected supplies without disclosing the former rejection or requirement for correction, and, when required, shall disclose the corrective action taken.

(h) If the Contractor fails to promptly remove, replace, or correct rejected supplies that are required to be removed or to be replaced or corrected, the Government may either

(1) by contract or otherwise, remove, replace, or correct the supplies and charge the cost to the Contractor or

(2) terminate the contract for default.

Unless the Contractor corrects or replaces the supplies within the delivery schedule, the Contracting Officer may require their delivery and make an equitable price reduction. Failure to agree to a price reduction shall be a dispute.

(i)

(1) If this contract provides for the performance of Government quality assurance at source, and if requested by the Government, the Contractor shall furnish advance notification of the time --

(i) When Contractor inspection or tests will be performed in accordance with the terms and conditions of the contract; and

(ii) When the supplies will be ready for Government inspection.

(2) The Government's request shall specify the period and method of the advance notification and the Government representative to whom it shall be furnished. Requests shall not require more than 2 workdays of advance notification if the Government representative is in residence in the Contractor's plant, nor more than 7 workdays in other instances.

(j) The Government shall accept or reject supplies as promptly as practicable after delivery, unless otherwise provided in the contract. Government failure to inspect and accept or reject the supplies shall not relieve the Contractor from responsibility, nor impose liability on the Government, for nonconforming supplies.

(k) Inspections and tests by the Government do not relieve the Contractor of responsibility for defects or other failures to meet contract requirements discovered before acceptance. Acceptance shall be conclusive, except for latent defects, fraud,

gross mistakes amounting to fraud, or as otherwise provided in the contract.

(l) If acceptance is not conclusive for any of the reasons in paragraph (k) hereof, the Government, in addition to any other rights and remedies provided by law, or under other provisions of this contract, shall have the right to require the Contractor

(1) at no increase in contract price, to correct or replace the defective or nonconforming supplies at the original point of delivery or at the Contractor's plant at the Contracting Officer's election, and in accordance with a reasonable delivery schedule as may be agreed upon between the Contractor and the Contracting Officer; provided, that the Contracting Officer may require a reduction in contract price if the Contractor fails to meet such delivery schedule, or

(2) within a reasonable time after receipt by the Contractor of notice of defects or nonconformance, to repay such portion of the contract as is equitable under the circumstances if the Contracting Officer elects not to require correction or replacement. When supplies are returned to the Contractor, the Contractor shall bear the transportation cost from the original point of delivery to the Contractor's plant and return to the original point when that point is not the Contractor's plant. If the Contractor fails to perform or act as required in (1) or (2) above and does not cure such failure within a period of 10 days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure, the Government shall have the right by contract or otherwise to replace or correct such supplies and charge to the Contractor the cost occasioned the Government thereby.

2. If a fixed-price incentive contract is contemplated, the following paragraphs shall replace paragraphs (g), (h), and (l) below for paragraphs (g), (h), and (l) of the basic clause.

(g) The Contractor shall remove supplies rejected or required to be corrected. However, the Contracting Officer may require or permit correction in place, promptly after notice. The Contractor shall not tender for acceptance corrected or rejected supplies without disclosing the former rejection or requirement for correction, and when required shall disclose the corrective action taken. Cost of removal, replacement, or correction shall be considered a cost incurred, or to be incurred, in the total final negotiated cost fixed under the incentive price revision clause. However, replacements or corrections by the Contractor after the establishment of the total final price shall be at no increase in the total final price.

(h) If the Contractor fails to promptly remove, replace, or correct rejected supplies that are required to be removed or to be replaced or corrected, the Government may either

(1) by contract or otherwise, remove, replace, or correct the supplies and equitably reduce the target price or, if established, the total final price or

(2) may terminate the contract for default.

Unless the Contractor corrects or replaces the nonconforming supplies within the delivery schedule, the Contracting Officer may require their delivery and equitably reduce any target price or, if it is established, the total final contract price. Failure to agree upon an equitable price reduction shall be a dispute.

(l) If acceptance is not conclusive for any of the reasons in paragraph (k) hereof, the Government, in addition to any other rights and remedies provided by law, or under other provisions of this contract, shall have the right to require the Contractor

(1) at no increase in any target price or, if it is established, the total final price

of this contract, to correct or replace the defective or nonconforming supplies at the original point of delivery or at the Contractor's plant at the Contracting Officer's election, and in accordance with a reasonable delivery schedule as may be agreed upon between the Contractor and the Contracting Officer; provided, that the Contracting Officer may require a reduction in any target price, or, if it is established, the total final price of this contract, if the Contractor fails to meet such delivery schedule; or

(2) within a reasonable time after receipt by the Contractor of notice of defects or nonconformance, to repay such portion of the total final price as is equitable under the circumstances if the Contracting Officer elects not to require correction or replacement. When supplies are returned to the Contractor, the Contractor shall bear the transportation costs from the original point of delivery to the Contractor's plant and return to the original point when that point is not the Contractor's plant. If the Contractor fails to perform or act as required in (1) or (2) above and does not cure such failure within a period of 10 days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure, the Government shall have the right by contract or otherwise to replace or correct such supplies and equitably reduce any target price or, if it is established, the total final price of this contract.

3. If a fixed-ceiling-price contract with retroactive price redetermination is contemplated, the following paragraphs (g), (h), and (l) shall replace paragraphs (g), (h), and (l) of the basic clause:

(g) The Contractor shall remove supplies rejected or required to be corrected. However, the Contracting Officer may require or permit correction in place, promptly after notice. The Contractor shall not tender for acceptance corrected or rejected supplies without disclosing the former rejection or requirement for correction, and when required shall disclose the corrective action taken. Cost of removal, replacement, or correction shall be considered a cost incurred, or to be incurred, when redetermining the prices under the price redetermination clause. However, replacements or corrections by the Contractor after the establishment of the redetermined prices shall be at no increase in the redetermined price.

(h) If the Contractor fails to promptly remove, replace, or correct rejected supplies that are required to be removed or to be replaced or corrected, the Government may either

(1) by contract or otherwise, remove, replace, or correct the supplies and equitably reduce the initial contract prices or, if established, the redetermined contract prices or

(2) terminate the contract for default.

Unless the Contractor corrects or replaces the nonconforming supplies within the delivery schedule, the Contracting Officer may require their delivery and equitably reduce the initial contract price or, if it is established, the redetermined contract prices. Failure to agree upon an equitable price reduction shall be a dispute.

(l) If acceptance is not conclusive for any of the reasons in paragraph (k) hereof, the Government, in addition to any other rights and remedies provided by law, or under other provisions of this contract, shall have the right to require the Contractor

(1) at no increase in the initial contract prices, or, if it is established, the redetermined prices of this contract, to correct or replace the defective or nonconforming supplies at the original point of delivery or at the Contractor's plant at the Contracting Officer's election, and in accordance with a reasonable delivery schedule as may be agreed upon between the Contractor and the

Contracting Officer; provided, that the Contracting Officer may require a reduction in the initial contract prices, or, if it is established, the redetermined prices of this contract, if the Contractor fails to meet such delivery schedule; or

(2) within a reasonable time after receipt by the Contractor of notice of defects or nonconformance, to repay such portion of the initial contract prices, or, if it is established, the redetermined prices of this contract, as is equitable under the circumstances if the Contracting Officer elects not to require correction or replacement. When supplies are returned to the Contractor, the Contractor shall bear the transportation costs from the original point of delivery to the Contractor's plant and return to the original point when that point is not the Contractor's plant. If the Contractor fails to perform or act as required in (1) or (2) above and does not cure such failure within a period of 10 days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure, the Government shall have the right by contract or otherwise to replace or correct such supplies and equitably reduce the initial contract prices, or, if it is established, the redetermined prices of this contract.

- b. FAR 52.246-11 (NOV 2014). **Higher-Level Contract Quality Requirement.** Federal Acquisition Regulations require that Contractors comply with the higher-level quality standard(s) and the requirement to flow down such standards, as applicable, to lower-tier subcontracts, as found in this section. This regulation applies to NPAS contracts for critical and complex items (see FAR 46.203(b) and (c)); or when the technical requirements of a subcontract require control of such things as design, work operations, in-process control, testing, and inspection; or attention to such factors as organization, planning, work instructions, documentation control, and advanced metrology. Please be advised that this contract may be subject to this FAR as follows:
- i. GOVERNMENT SOURCE INSPECTION. This section applies to contracts subject to the Higher-Level Contract Requirements of FAR 52.246-11.
 1. GOVERNMENT INSPECTION PRIOR TO SHIPMENT. Government inspection(s) may be required prior to shipment from contractor's facility. Upon receipt of this Contract, NPAS shall notify and furnish a copy of this Contract and all subsequent change orders to the government representative who normally services NPAS's facility prior to beginning the product realization process so that appropriate planning for government inspection can be accomplished. In the event the government representative or DCMA office near Vendor's facility cannot be located, Vendor agrees to notify NPAS immediately.
 2. QUALITY PROCESSES REVIEW. During performance of this Contract, Vendor agrees that Vendor's quality and manufacturing processes are subject to review, verification, and analysis by authorized government representatives. Vendor agrees to make available to the government representative all applicable drawings, specifications, and changes thereto, related inspection and/or test.
 3. EVIDENCE OF INSPECTION. In the event that a Government inspection is required, Vendor is required to ensure evidence of government inspection is included with shipment of Goods. Government inspection of goods or services provided hereunder shall be performed at the manufacturer address listed on this purchase order or change order. If government inspection will be performed at a different location Vendor agrees to notify NPAS and/or the Government inspector or representative.
 4. GOVERNMENT RIGHT OF ENTRY. During performance on the purchase order/contract, the contractor, and contractor's sub-tier suppliers Quality and Manufacturing processes are subject to review, verification, and analysis by authorized Government Representatives. Contractor shall provide a copy of this purchase order/contract to the Government representative upon request.

- 14. CORRECTIVE ACTION.** Acceptance of this Purchase Order obligates the Vendor to perform, upon request, a corrective action investigation when discrepant material is received by NPAS. A written report shall be furnished, within a reasonable time period, which is specific and conclusive to prevent a reoccurrence of the discrepancy.
- 15. COUNTERFEIT PARTS.** Only new and authentic materials are to be used in products delivered to National Patent Analytical Systems, Inc. (NPAS). No counterfeit or suspected counterfeit parts are to be contained within the delivered product. Parts shall be purchased directly from the OCMS/OEMS, or through the OCMS/OEMS franchised distributor. Documentation must be available that authenticates traceability to the applicable OCM/OEM. If suspect/counterfeit parts are furnished under NPAS's purchase order or any other written agreement between the NPAS and Vendor, and found in any of the goods delivered hereunder, such items will be impounded by NPAS. The Vendor shall promptly replace such suspect/counterfeit parts with parts acceptable to the NPAS and Vendor shall be liable for all costs relating to the removal and replacement of said parts. Vendor shall be liable for all costs related to the removal and replacement of said parts. The remedies contained in this paragraph are in addition to any remedies Buyer may have at law, equity or under other provisions of this purchase order.
- 16. CONFLICT MINERALS.** In accordance with Section 1502 of the Dodd-Frank Wall Street Reform Act, Vendor agrees to provide "conflict free" minerals and disclose whether products they manufacture or contract to manufacture contain "conflict minerals" that are "necessary to the functionality or production" of those products. "Conflict minerals" refer to gold, as well as tin, tantalum, and tungsten, the derivatives of cassiterite, columbite-tantalite, and wolframite, regardless of where they are sourced, processed or sold. Vendors must provide certification on CFS smelter compliance and a completed EICCGeSIDD survey if requested, at no additional charge to NPAS.
- 17. RECORD RETENTION.** Vendor shall create an internal production order based on NPAS Purchase Orders. Vendor's tools and/or methods of manufacture shall be added to its internal production order to provide a record of manufacture. Vendor's internal production order shall be traceable to the NPAS Purchase Order and shall be retained at Vendor's facility for a period of ten years from the date of Product shipment. Vendor's internal production order is the record of manufacture for NPAS. It also serves as Vendor's record of manufacture and Product acceptance.
- 18. WARRANTIES.** By accepting this Purchase Order, Vendor warrants:
- a. that the goods and services furnished will be free from defects in materials and workmanship, merchantable and in full conformity with NPAS's specifications, drawings, and data and Vendor's descriptions, promises, or samples, and that such goods will be fit for the NPAS's intended use, and that Vendor will convey good title to the goods, free and clear from all liens, claims, and encumbrances. Upon NPAS's request, Vendor shall furnish NPAS with a formal waiver or release of all liens by NPAS and/or NPAS's suppliers.
 - b. that goods or services covered by this Purchase Order shall not infringe any patent, design, mast work, copyright or trademark, of any third party, either directly or contributory. Vendor agrees to indemnify NPAS and hold NPAS harmless from and against all liability, loss, damage and expense, including reasonable counsel fees and cost of litigation, resulting from any claim of infringement and ay litigation relating thereto. In the case where goods or a part thereof are held to constitute infringement and the use of the goods or a part thereof is enjoyed, Vendor shall, at the expense of Vendor, either (a) procure for the NPAS the rights to continue to using the goods, (b) replace the goods so that the goods become non-infringing, or (c) retake the goods and refund the purchase price and transportation and installation cost of the goods to NPAS. Such obligations shall survive acceptance of the goods or services and payment therefore by NPAS.
 - c. that the goods covered by this Purchase Order are in compliance with all laws, regulations, rules, and orders relating to the importation of goods into the United States, the exportation of goods out of the country of origin, the transit of goods through intermediate countries and the sale and use of foreign made goods in the United States. Vendor further warrants that it has obtained all permits, licenses, and certifications necessary for the goods to be exported out of the country of origin, imported in the United States, delivered to NPAS and used or sold within the United Stated.
 - d. that only new and authentic materials (OEM and OCM) are used in products to be delivered to NPAS.
- 19. TITLE; RISK OF LOSS.** Title shall pass to NPAS upon NPAS's receipt of goods at destination. Risk of loss of all goods shall remain in Vendor until receipt by NPAS at destination, unless otherwise specified in this Purchase Order, except for

loss occasioned by gross negligence or willful neglect of NPAS or its customer. All goods shall be shipped prepaid, insured for the NPAS's full price and F.O.B to the NPAS's main address.

- 20. CONFIDENTIALITY; LIMITED USE.** Unless otherwise agreed by NPAS in writing, Vendor shall keep confidential and not disclose to any third party, any confidential and/or proprietary materials provided by NPAS to Vendor in connection with Vendor's performance of this Purchase Order or prepared by Vendor specifically for NPAS pursuant to this Purchase Order. Confidential materials include, without limitation all drawings, bills of materials, masters, software, specifications, raw materials, components, data, business information or plans, customer list or other customer information, contracts or customer identity ("Confidential Information"). Vendor shall not make any copies of Confidential information except as specifically authorized by NPAS in writing. At the completion of this Purchase Order, or upon NPAS's request, Vendor shall promptly return to NPAS all Confidential Information not consumed in the performance of this Purchase Order, together with any copies in Vendor's possession. Vendor shall use Confidential Information solely for Vendors performance of this Purchase Order for NPAS, and Vendor shall not, without NPAS's written consent, directly or indirectly use Confidential Information or information derived therefrom in performing services or providing goods for any other customer of Vendor, or any other person or entity, or disclose such confidential information in any form or medium.
- 21. RESOLUTION OF CONFLICTS OR INCONSISTENCIES OCCURING IN THE ORDER.** It is Vendor's responsibility to comply with this Purchase Order and all referenced documents, and to clarify with NPAS any inconsistencies or conflicts in any parts of the Purchase Order or referenced documents. Should Vendor fail to contact NPAS to resolve conflicts or inconsistencies, Vendor will be solely responsible for errors resulting from said conflicts or inconsistencies. Where documents are referenced, the version in effect at the time of order placement shall apply.
- 22. NPAS'S TERMS AND CONDITIONS APPLY.** Acknowledgment of the Purchase Order, shipment of any goods, or commencement of work pursuant to the Purchase Order shall be deemed an acceptance of these General Terms and Conditions. No modification of or release from this Purchase Order shall be binding unless agreed to in writing by the parties and specifically labeled as a modification or release. Unless specifically agreed to otherwise by NPAS and Vendor, these terms and conditions supersede any submitted by Vendor in any proposal or acknowledgment.
- 23. EXTRA CHARGES.** No charges for extras or for cartage or boxing or storage will be allowed unless the same has been agreed upon in writing by NPAS. All goods must be forwarded in accordance with NPAS's shipping instructions, otherwise the difference in freight rate will be charged to Vendor.
- 24. SUBSTITUTIONS.** No substitutions of materials or accessories may be made without written permission from NPAS.
- 25. PROHIBITION ON ACQUISITION OF UNITED STATES MUNITIONS LIST ITEMS FROM COMMUNIST CHINESE MILITARY COMPANIES.** Any supplies or services covered by the United States Munitions List that are delivered under this contract may not be acquired, directly or indirectly, from a Communist Chinese military company. Communist Chinese military company means any entity that is (1) A part of the commercial or defense industrial base of the People's Republic of China; or (2) Owned or controlled by, or affiliated with, an element of the Government or armed forces of the People's Republic of China. United States Munitions List means the munitions list of the International Traffic in Arms Regulation in 22 CFR Part 121.
- 26. TRACEABILITY.** The Vendor shall maintain a method of item supply chain traceability that ensures tracking of the supply chain back to the manufacturer and origin of all raw materials, products and components provided to NPAS. This supply chain traceability method shall clearly identify the name and location of all the supply chain intermediaries from the manufacturer to the direct source of the product for the Source and shall include the manufacturer's batch identification for the items such as the date codes and lot codes, serial numbers or other batch identifications. Proof of traceability and copies of such documentation may be required by NPAS at any time, and Vendor agrees to provide same at no additional charge to NPAS.
- 27. ORIGINAL EQUIPMENT.** The Vendor may only purchase parts directly from the Original Equipment Manufacturer (OEM) or Original Component Manufacturer (OCM), OCM or OEM authorized distributors or authorized aftermarket manufacturers. Use of product that was not provided by these sources is not authorized unless first approved in writing by NPAS. The vendor must present compelling support for such a substitution, and demonstrate extraordinary effort and action to ensure that the parts thus procured are authentic and conforming parts.
- 28. IDEMNIFICATION.** Vendor agrees to indemnify, defend, and hold NPAS harmless from and against all losses, damages, liability, actions, judgments, cost, and expenses (including, but not limited to, reasonable attorneys' fees and other

expenses of litigation), suffered incurred, or asserted by or against NPAS (a) by reason of Vendor's breach of a warranty, (b) by reason of Vendor's breach of any term of the Purchase Order, or (c) by reason of personal injury, including death, or property damage sustained by a third party, resulting from or arising out of an act or omission of Vendor, or Vendor's agents employees, or contractors in fulfillment of this Purchase Order.

- 29. CUMULATIVE REMEDIES; WAIVERS; SURVIVAL OF WARRANTIES.** The remedies herein reserved to NPAS shall be cumulative, and additional to any other or further remedies provided in law or equity. No waiver by NPAS of any term or condition of this Purchase Order shall be construed as permanent waiver of such term or condition or of any other term or condition. Vendor's warranties shall survive the completion or cancellation of this Purchase Order.
- 30. GOVERNING LAW.** This Purchase Order shall be governed by the laws of the State of Ohio, U.S.A., except for its provisions regarding principles of conflicts of laws, and except to the extent that federal communications law shall apply. Any court action arising under this order shall be under the exclusive jurisdiction of the courts of Richland County, Ohio, U.S.A. or in the Southern District of Ohio federal court, as is appropriate.
- 31. "GOODS" AND "SERVICES".** The term "goods" as used herein means any and all materials, parts, products, machines, tooling, test equipment, technical data, computer software, computer software documentation, and other tangible items or documentary information furnished or required to be furnished by Vendor under this order. The term "services" means any and all technical assistance, support, maintenance, consultation, construction work, and other effort furnished or required to be furnished by Vendor under this order other than labor furnished in connection with the production of goods.
- 32. REPRESENTATION REGARDING STATUS.** NPAS represents and warrants that it is not, and will not be at any time during the performance of this purchase order, listed or named on, or affiliated with a party listed or named on, <https://www.sam.gov>, as described in the Federal Acquisition Regulations (currently Section 9.404). In the event of a violation of this representation, without limiting its other rights and remedies, Buyer reserves the right to terminate this purchase order without penalty. As of the date of sale to Buyer, NPAS shall immediately advise Buyer's purchasing representative in writing if NPAS is unable to make any warranty or representative set forth above for any item covered by this order. Do not ship such to Buyer unless instructed to do so in writing by Buyer's purchasing representative.
- 33. ENTIRE AGREEMENT.** Unless superseded by a specific signed agreement between NPAS and Vendor, this agreement shall include the Purchase Order, these General Terms and Conditions, and all attachments referred to in the Purchase Order or in the General Terms and Conditions, and it shall constitute the entire agreement of the parties with regard to the subject matter contained herein. All other prior or contemporaneous representations, warranties, covenants, or agreements between Vendor and NPAS, or their representative, with respect to the subject matter are hereby superseded. This agreement may not be modified except by mutual written agreement of the parties. These terms and conditions supersede any contrary terms asserted by Vendor in Vendor's acceptance of the purchase order.