

NTS TECHNICAL SYSTEMS, LLC and its Affiliates
General Terms & Conditions of Purchase
Rev. 2022 07 29

1. **CONTRACT FORMATION:** This Purchase Order ("PO") is an offer by NTS TECHNICAL SYSTEMS, LLC or an Affiliate (NTS Technical Systems, LLC and its Affiliates are each referred to herein as "Buyer") for the purchase of goods ("Goods") and/or services ("Services") to be provided by the party to whom this PO is addressed ("Seller") in accordance with, and subject to, these terms and conditions, together with any additional terms and conditions that may be set out on the face of this PO ("Terms"). Any Seller terms and conditions that are in addition to, or different from, those contained herein, unless separately accepted in writing by Buyer's Supply Chain, are rejected and are of no force or effect. If any part of the Goods and/or Services have been shipped, delivered, and/or provided, Seller shall be deemed to have assented to these Terms. These Terms will apply to any repaired, replaced, or re-performed Goods and/or Services supplied by Seller under this PO.
 - (a) **"Affiliate" means, with respect to NTS TECHNICAL SYSTEMS, LLC, any entity that is directly, or indirectly through one or more intermediaries under common ownership with NTS TECHNICAL SYSTEMS, LLC**
2. **SELLER'S OBLIGATIONS:** The Seller agrees to perform Services and/or deliver Goods in compliance with the specifications and procedures in Buyer's Purchase Order, Seller's Quotation, and these NTS TECHNICAL SYSTEMS, LLC and its Affiliates General Terms & Conditions of Purchase in a workman-like and professional manner, and with promptness. Time is of the essence. Seller shall strive to perform Services in a manner which minimizes the impact on the Buyer's on-going business operations. Undue delays beyond the promised Due Date will result in liquidated damages assessed against Seller at the rate set forth in the Purchase Order. Seller shall not be responsible for errors or omissions due to Buyer's supplied or approved procedures, specifications, materials, or other Buyer supplied information.
3. **QUALITY CONTROL:**
 - (a) Seller shall provide and maintain a quality control system to an industry recognized Quality Standard and in compliance with any other specific quality requirements identified on the face of the Purchase Order or incorporated by reference on the Purchase Order.
 - (b) Records of all quality control inspection work by Seller shall be kept complete and available to Buyer and its Customer.
4. **COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS:**
 - (a) Seller agrees to comply with all applicable laws, orders, rules, regulations, and ordinances in force and as amended from time to time.
 - (b) Seller represents that each chemical substance constituting or contained in the Work sold or otherwise transferred to Buyer is on the list of chemical substances compiled and published by the Administrator of the Environmental Protection Agency pursuant to the Toxic Substances Control Act (15 U.S.C. Sec 2601, et. seq.), as amended from time to time.
 - (c) Seller shall provide to Buyer, with each delivery, any Material Safety Data Sheet applicable to the Work in conformance with and containing such information as required by the Occupational Safety and Health Act of 1970 and regulations promulgated thereunder, or its State approved counterpart.
 - (d) The Parties recognize that some or all of the Work may be used to satisfy requirements of Buyer's performance under a United States (U.S.) Federal Government prime or sub-contract. Accordingly, Seller agrees, that under such circumstances, and to extent permissible by law, Seller shall be bound by all applicable Federal Acquisition Regulations (FAR) and Department of Labor clauses in Buyer's contract with the Federal Government or higher tier subcontractor. In all such Regulations and clauses, the Seller shall be construed to be the "Contractor", and the Buyer shall be construed to be the "Government".
 - (e) The Seller certifies that to the best of its knowledge and belief, the Seller and any of its Principals (as defined in FAR 52.209-5) are not presently debarred, suspended, proposed for debarment or declared ineligible for the award of contracts by any U.S. Federal Government Agency. Seller shall provide immediate written notice to Buyer if at any time it learns that its certification was erroneous or has become erroneous by reason of change of circumstances.

- (f) Seller agrees to comply with all applicable export and import control laws and regulations of Seller and Buyer's country as amended from time to time, including, *inter alia*, the International Traffic in Arms Regulations and 22 C.F.R. §§ 120.27, 120.6, 120.0, and the U.S. Export Administration Regulations.
 - (g) Seller agrees to comply with all applicable rules and regulations of Section 889 (a)(1)(B), Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment, of the 2019 National Defense Authorization Act prohibiting the Federal Government from obtaining or extending a contract to obtain "any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system."
 - (h) Seller agrees to comply with all applicable rules and regulations of NIST Special Publication 800-171 Revision 2, and future revisions, Protecting Controlled Unclassified Information in Nonfederal Systems and Organizations. The recommended security requirements contained in this publication are only applicable to a nonfederal system or organization when mandated by a federal agency in a contract, grant, or other agreement. The security requirements apply to the components of nonfederal systems that process, store, or transmit CUI, or that provide security protection for such components.
 - (i) Equal Employment Opportunity: Specific to Equal Employment Opportunity, this PO is subject, as applicable, to the provisions of (i) Executive Order 11246, (41 CFR Section 60-1.4 (a)); (ii) section 503 of the Rehabilitation Act of 1973, (41 CFR 60-741.5(a)), and (iii) section 4212 of the Vietnam Era Veterans Readjustment Act of 1974, (41 CFR 60-300.5 (a)); This contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-741.5(a), and 60-300.5(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, sexual orientation, gender identity/expression 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, sexual orientation, gender identity/expression, national origin, protected veteran status or disability. This PO is also subject to Executive Order 13496 (29 CFR Part 471, 29 CFR Part 471 – Appendix A to Subpart A), relating to the notice of employee rights under federal labor laws.
 - (j) No gratuities (in the form of entertainment, gifts or otherwise) or kickbacks shall be offered or given by Seller, to any employee of Buyer with a view toward securing favorable treatment as a Seller. Seller shall also comply with the Foreign Corrupt Practices Act.
5. **INDEPENDENT CONTRACTORS:** Seller is an independent contractor in all its operations and activities hereunder. The employees of Seller performing the Work under the Purchase Order shall be Seller's employees or subcontractors exclusively and shall have no relationship to Buyer. Nothing in the Purchase Order and no action taken by the Parties pursuant to the Purchase Order shall constitute or be deemed to constitute a partnership between the Parties or shall be deemed to make either party the agent, employee or representative of the other.
6. **ASSIGNMENT AND SUBCONTRACTING:** Any purported assignment or subcontracting of Seller's contractual rights or obligations, or a delegation of Seller's duties shall be void, unless prior written consent is given by Buyer. Seller shall provide notarized proof of payment of all subcontractors and the release of any and all liens against the Work or Buyer. However, Seller may assign rights to amounts to be paid, amounts due, or amounts to become due, to a financing institution, if Buyer is promptly furnished a signed copy of such assignment reasonably in advance of the due date for payment of any such amounts. Amounts assigned to an assignee shall be subject to offsets or recoupment for any present or future claims of Buyer against Seller. Buyer shall have the right to make settlements and/or adjustments in price without notice to assignee. Assignees shall be duly informed of these provisions, in writing, by Seller.
7. **PURCHASE ORDER TECHNICAL OR ADMINISTRATIVE DIRECTION:**
- (a) Only the Buyer's Procurement Representative has the authority to change the Purchase Order. Such changes must be in writing.
 - (b) Buyer's engineering and technical personnel may from time-to-time render assistance, or give technical advice, or effect an exchange of information with Seller's personnel concerning the Work. Such actions shall not be deemed to be a change under Clause 8 CHANGES and shall not be the basis for an equitable adjustment.
 - (c) Except as otherwise provided herein, all notices furnished by Seller shall be sent to the person designated by Buyer to receive notices in accordance with Clause 22 NOTICES.

8. CHANGES:

- (a) The Buyer's Procurement Representative may at any time, by written notice, and without notice to sureties or assignees, make "Changes" within the general scope of the Purchase Order in any one or more of the following: (i) drawings, designs or specifications; (ii) method of shipping or packing; (iii) place of inspection, acceptance, performance, or point of delivery; (iv) delivery schedule; (v) description of services to be performed; and (vi) time of performance of the Work (e.g., hours of the day, days of the week, etc.). Changes may only be made in writing by the Buyer's Procurement Representative.
- (b) If any such change causes an increase or decrease in the cost of, or the time required for performance of any part of the Purchase Order, Buyer shall make an equitable adjustment in the price and/or delivery schedule and modify the Purchase Order accordingly.
- (c) Any claim for an equitable adjustment by Seller must be submitted in writing to Buyer within thirty (30) days from the date of notice of the change, unless the Parties agree in writing to a longer period. Buyer may request an independent audit (at Seller's sole expense) of any of Seller's books or records related directly or indirectly to the Purchase Order in connection with any equitable adjustment proposal, if Seller fails to provide information adequate to determine that the change is fair and reasonable. Seller shall provide Buyer's representatives with access to such premises, documents, personnel and facilities as may reasonably be necessary to allow Buyer, or its representatives (including the Defense Contract Audit Agency or other authorized Government agencies), to carry out such audits.
- (d) Failure to reach agreement to any adjustment shall be resolved in accordance with Clause 15 DISPUTES, of these terms and conditions. However, nothing contained in this CHANGES clause shall excuse the Seller from proceeding without delay in the performance of the unchanged portion of the Purchase Order.

9. STOP WORK ORDER:

- (a) Seller shall stop Work for up to ninety (90) days in accordance with the terms of any written notice from Buyer, or for longer periods of time as the Parties may agree and shall take all reasonable steps to minimize the incurrence of costs allocable to the Work covered by the Purchase Order during the period of Work stoppage.
- (b) Within such period, Buyer shall either terminate or continue the Work by written notice to Seller. In the event of a continuation, an equitable adjustment in accordance with the principles of Clause 8 CHANGES, hereof, shall be made to the price, delivery schedule or other provision affected by the Work stoppage, if applicable, provided that the claim for equitable adjustment is made within thirty (30) days after such continuation.

10. TERMINATION:

- (a) Buyer may terminate part or all of the Purchase Order for its convenience by giving written notice to Seller. Buyer's only obligation shall be to pay Seller a percentage of the Work performed and accepted prior to the notice of termination, plus reasonable charges that Seller can demonstrate to the satisfaction of Buyer, using Generally Accepted Accounting Principles, have resulted from the termination. Seller shall not be paid for any Work performed or costs incurred which reasonably could have been avoided. Buyer may request an independent audit, of any of Seller's books or records related directly or indirectly to the Purchase Order in connection with any termination. Seller shall provide Buyer with access to such premises, documents, personnel, and facilities as may reasonably be necessary to allow Buyer, or its representatives (including the Defense Contract Audit Agency or other authorized Government agency), to carry out such audits.
- (b) In no event shall Buyer be liable for lost or anticipated profits, unabsorbed indirect costs, overhead, or non-economic losses, or for any amount in excess of the total Purchase Order amount. Seller's termination claim shall be submitted within ninety (90) days from the effective date of the termination.
- (c) Seller shall continue all Work not terminated.

11. PACKING, PACKAGEING AND TITLE:

- (a) Unless otherwise specified, all Work shall be packed and packaged in accordance with good commercial practice.
- (b) A complete packing list shall be enclosed with all shipments. Seller shall mark all containers or packages with necessary lifting, loading and shipping information, including the Buyer's Purchase Order Number, Item Number, dates of shipment and the names and addresses of consignor and consignee. Bills of lading shall include the Purchase Order Number.

- (c) Title to the Work shall pass on Delivery at Buyer's site (Incoterms DDP) and must be accepted in writing by the Buyer. Seller shall be responsible and liable for the Work until Delivery.

12. INSPECTION AND ACCEPTANCE:

- (a) Notwithstanding: (i) payment; (ii) passage of title; (iii) prior inspection or test; (iv) execution of acceptance documents, Buyer and its Customer may inspect all Work prior to acceptance or rejection at reasonable times and places, including, when practicable, during manufacturing and before shipment. Seller shall provide all information, facilities, and assistance necessary for safe and convenient inspection, or demonstration of fulfillment of the final inspection or acceptance test criteria without additional charge.
- (b) No such inspection shall relieve Seller of its obligations to furnish all Work in accordance with the requirements of the Purchase Order. Buyer's final inspection and/or acceptance test shall be at the delivery location specified by Buyer unless otherwise designated by Buyer. Acceptance is not final/complete until the Work is accepted by the Buyer in writing.
- (c) Seller shall provide and maintain a test and inspection system acceptable to Buyer and its Customers, including independent third-party testing, if required by Buyer, at Seller's expense. Final inspection and/or acceptance testing, when required by Buyer, are the sole responsibility of Seller and at Seller's sole expense. Buyer will be provided reasonable opportunity to witness the final inspection or acceptance test, or to conduct the final inspection or acceptance test with Seller bearing all reasonable costs thereof.
- (d) If Seller delivers non-conforming Work, the Parties shall agree to remedy the non-conforming Work by: (i) accepting all or part of the non-conforming Work (through written waivers); (ii) rejecting such Work with Seller re-performing the Work (See Clause 19 WARRANTY).
- (e) Seller shall not re-tender rejected Work without disclosing the corrective action taken.

13. DEFAULT:

- (a) Buyer, by written notice, which indicates details of default, may terminate the Purchase Order for default, in whole or in part, if Seller fails to comply with any of the terms of the Purchase Order, fails to make progress as to endanger performance of the Purchase Order, or fails to provide adequate assurance of future performance. Seller shall have ten (10) days (or such longer period as Buyer may authorize in writing) after receipt of notice from Buyer to cure any such failure. Default involving delivery schedule delays shall not be subject to this cure provision but shall be subject to charges for liquidated damages (as stated on the Purchase Order) or cancellation for default. Only *Force Majeure* and Buyer induced events shall constitute excusable delays. In the event of an uncured default, Buyer shall have the right to re-procure the Work, and Seller shall pay any costs so incurred which exceed the value of the original Purchase Order, if the cure requirements are not completed within the cure period. Buyer shall also be entitled to re-procurement costs and expenses, if so incurred.
- (b) Buyer shall not be liable for any Work not accepted. However, Buyer may require Seller to deliver to Buyer any supplies and materials, manufacturing materials, and manufacturing drawings that Seller has specifically produced or acquired for the terminated portion of the Purchase Order. Buyer and Seller shall agree on the amount of payments for these other deliverables as defined in the CHANGES clause hereof.
- (c) Seller shall continue all Work not terminated.
- (d) If a termination in accordance with Clause 14(a) hereof is later determined not be caused by a default of Seller, the termination shall be deemed to be a Termination for Convenience.

14. PAYMENTS AND TAXES:

- (a) Buyer shall have no obligation for payment until Buyer's receipt of the Goods and/or Services and any required documentation (including shipping documentation and an accurate and complete invoice in English). Buyer's payment is based upon the receipt of Seller's verified invoice.
- (b) Terms of Payment are net forty-five (45) calendar days following Buyer's receipt of Seller's proper invoice in accordance with any payment milestones, line items or schedule in Buyer's Purchase Order, or any milestone or line item designated for payment in an alternate manner

within the Purchase Order. Buyer shall have the right of offset against payments due or at issue under the Purchase Order or any other agreement or Purchase Order between the Parties.

- (c) Payment shall have been deemed to be made as of the date of mailing of Buyer's payment or electronic funds transfer.
- (d) Unless otherwise specified in the Purchase Order, prices shall include all applicable federal, state and local taxes, duties, tariffs and similar fees imposed by any governmental authority, all of which shall be separately listed on the invoice.
- (e) Invoices must clearly show Seller's shipper or packing list number and Buyer's Purchase Order number. Packing lists must state clearly the Purchase Order Number, Line-Item Number, applicable serial, part, drawing, release or advice numbers, descriptions, quantities and weights. All invoices must be sent to apinvoices@nts.com. The following naming convention must be used in the subject line: **SUBJECT: Initial Invoice 'Number' 'Supplier Name'** (Please note items inside apostrophes are the actual invoice number and vendor name). The format must be PDF and only one invoice per PDF is permitted.

15. **DISPUTES:**

- (a) Buyer's Purchase Order shall have the highest precedence in all matters, including disputes, followed by, in descending order of precedence, (i) These NTS TECHNICAL SYSTEMS, LLC and its Affiliates General Terms & Conditions of Purchase, (ii) Seller's proposal, (iii) Seller's Terms and Conditions (where applicable). All disputes under this Purchase Order (including any question regarding its existence, validity and termination) which are not disposed of by mutual agreement following good faith negotiations within a period of thirty (30) days from the notification of a dispute shall be finally resolved at Buyer's sole discretion either by submitting the claim to (i) a court of competent jurisdiction in the State of California, County of Los Angeles or (ii) binding arbitration, before a mutually acceptable arbitrator in the State of California, in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The Seller agrees to submit to the exclusive jurisdiction of the court or arbitrator (as the case may be), and nothing herein shall affect the Buyer's right to apply to an appropriate court for interim relief or to prevent irreparable harm to Buyer. Until final resolution of any dispute, Seller shall diligently proceed with the performance of the undisputed portion of the Purchase Order as directed by Buyer.
- (b) In any dispute under the jurisdiction of a court, the prevailing party shall be entitled to all reasonable attorney's fees and costs.
- (c) Seller acknowledges that it has read the Purchase Order, these terms and conditions and other documents forming the contract and has had the opportunity to clarify all of these with the Buyer and is satisfied that it reflects the intent of the parties. Accordingly, the rule of *contra preferendum* shall not apply to the Purchase Order, and Buyer agrees and acknowledges that any ambiguity, inconsistency or conflict that remains in the Purchase Order after its execution by both Parties shall not be construed for or against either Party.

16. **PROPERTY:**

- (a) Buyer may provide to Seller property owned by either Buyer or its Customer ("Furnished Property"). Furnished Property shall be used only for the performance of the Purchase Order.
- (b) Title to Furnished Property shall remain in Buyer or its Customer. Seller shall clearly mark (if not so marked) all Furnished Property to show its ownership.
- (c) Except for reasonable wear and tear, Seller shall be responsible for, and shall promptly notify Buyer of, any loss, damage, destruction or theft of Furnished Property. Without additional charge, Seller shall manage, maintain, and preserve Furnished Property in accordance with good commercial practice.
- (d) Where Work is manufactured from material supplied by Buyer, unless agreed otherwise, replacements for any spoiled or lost material shall be ordered from Buyer at Seller's liability and expense and any value added by Buyer to material shall also be at Seller's liability and expense.
- (e) If the Work is performed pursuant to a prime or sub-tier contract issued by any Department or Agency of the US Government, Seller's liability for damage, loss or injury to Furnished Property shall be governed by the provisions of FAR 52.245-1. For purposes hereof, the term "Contactor" shall be construed to mean Seller and "Government" shall be construed to mean Buyer.

17. PROPRIETARY DATA, RIGHTS IN DATA, LICENSES AND RELEASE OF INFORMATION:

- (a) The respective proprietary know-how of Seller and Buyer, as well as all other confidential commercial and operational information of Seller and Buyer, including the contents of Contracts, (hereinafter called "Information") shall be treated as confidential information by both Parties. Both Parties shall take all necessary measures to protect the Information from unauthorized access, unauthorized release, copying, transmission or unauthorized use of the Information of the other Party using the same care as they would for their own confidential information, but not less than a reasonable degree of care. Information that is already publicly available prior to or following its transmission to either Party shall not be subject to these provisions.
- (b) Both Parties shall use reasonable care to ensure that employees and third parties receiving access to the Information are subject to the same requirements of confidentiality as identified above. Both Parties shall, at the request of the other Party, ensure that employees and third parties sign a separate confidentiality agreement before being permitted access to the Information.
- (c) Buyer and Seller shall, without delay, notify the other Party in the event that either Party receives any court, government or other official and binding demand for the release of Information.
- (d) Clauses 17(a), 17(b) and 17(c) shall continue in effect for a period of three (3) years after the termination or expiration of the Purchase Order.
- (e) Seller assigns, conveys and transfers to Buyer without any further consideration each and every invention, discovery, improvement, mask works, and patent relating to the Work, conceived, developed, or generated in performance of the Purchase Order, and upon request shall execute any required papers and furnish all reasonable assistance to Buyer to vest all right, title and interest in such inventions, discoveries, improvements, mask works, and patents in Buyer.
- (f) All data, copyrights, reports, and works of authorship developed in performance of the Purchase Order shall be the sole property of Buyer and shall be used by Seller solely in work for Buyer under the Purchase Order. To the extent that any of the Work may not, by operation of law, be works made for hire, Seller hereby assigns to Buyer the ownership of copyright in the Work and Buyer shall have the right to obtain and hold in its own name copyrights, registrations, and similar protection which may be available in the Work. Seller shall give Buyer or its designees all assistance reasonably required to perfect such rights.
- (g) To the extent that any pre-existing inventions, technology, designs, works of authorship, mask works, technical information, computer software, and other information or materials are used, included, or contained in the Work or deliverable items and not owned by Buyer pursuant to this or a previous agreement with Seller, Seller grants to Buyer an irrevocable, nonexclusive, world-wide, royalty-free license to: (i) make, have made, sell, offer for sale, use, execute, reproduce, display, perform, distribute (internally or externally) copies of, and prepare derivative works based upon such pre-existing inventions, technology, designs, works of authorship, mask works, technical information, computer software, and other information or materials and derivative works thereof; and (ii) authorize others to do any, some or all of the foregoing.
- (h) Items delivered under the Purchase Order such as operation and maintenance manuals shall be delivered with the right to copy for internal use and/or copy and deliver with the right to use to Buyer's customers.
- (i) The tangible medium storing all reports, memoranda or other materials in written form including machine readable form, prepared by Seller and furnished to Buyer pursuant to the Purchase Order shall become the sole property of Buyer.
- (j) Where Seller provides computer software or firmware programming under this Purchase Order, Seller shall deliver to Buyer an unrestricted and unlocked copy, on electronic media, of all source code, documentation and installation instructions provided under the Purchase Order, unless such computer software or firmware instructions are licensed from a third party which prohibits such transfer. For licensed software or firmware instructions which are obtained from a third party, Seller shall provide appropriate licenses.

18. INSURANCE / INDEMNIFICATION AND LIMITATION OF LIABILITY:

- (a) Except as specifically set forth herein, Seller agrees to indemnify, hold harmless and defend Buyer and its directors, officers, employees, agents, guests, Customers, successors and assigns from and against any and all liabilities, claims, losses, damages, fines, penalties, forfeitures, and the costs and expenses incidental thereto (including costs of defense, settlement and reasonable attorney's fees) which it or they may hereafter incur, become responsible for, or pay

as a result of, or arising out of Seller, its officers, employees, agents, Sellers, or subcontractors at any tier, breaching of any of their duties or obligations, under the Purchase Order. Seller shall include this clause in all subcontracts at any tier, involving performance of the Purchase Order.

- (b) The Seller shall not be liable for any damages arising from delay in the performance of the Work if such delay is due to a cause beyond the reasonable control of the Seller. In the event such a delay arises, Seller shall immediately notify Buyer and provide a reasonable date of completion of the Work. Any event beyond Seller's reasonable control shall not constitute a cause for cancellation of the Purchase Order but shall extend the Seller's time to perform the Work on a business-day for business-day basis for a period not to exceed the duration of the delay, but in no event longer than thirty (30) days. In the event the delay exceeds thirty (30) days, Buyer may, at its sole discretion: (i) negotiate a new date for completion of the Work, or (ii) terminate the Purchase Order pursuant to Clause 10, TERMINATION.
- (c) Seller and its subcontractors shall comply with all Buyer site safety and security requirements. Seller shall indemnify and hold harmless Buyer, its officers, employees and agents from any losses, costs, claims, causes of action, damages, liabilities, and expenses, including attorneys' fees, all expenses of litigation and/or settlement and court costs by reason of property damage or loss or personal injury or death to any person caused in whole or in part by the actions, errors or omissions of Seller, its officers, employees, agents, suppliers or subcontractors.
- (d) In the event that Seller, its employees, agents or subcontractors enter the site of Buyer or its Customers for any reason in connection with the Purchase Order, then Seller and its subcontractors shall procure and maintain worker's compensation, comprehensive general liability, bodily injury and property damage insurance in amounts as specified herein, or in amounts as Buyer may require and separately specify in the Purchase Order. Seller shall provide Buyer with Certificates of Insurance evidencing Seller's insurance coverage and naming Buyer as an additional insured, in a form acceptable to Buyer, prior to commencing performance of the Purchase Order. Seller shall provide Buyer thirty (30) days written notice of the cancellation or change in the term or coverage of any of Seller's required insurance.
 - i. Commercial General Liability and Commercial Catastrophe or "Umbrella" Excess Liability Insurance: If Seller or any subcontractor thereof will be performing work on Buyer's premises, Seller shall carry and maintain, and ensure that all subcontractors thereof carry and maintain, throughout the period when work is performed and until final acceptance by Buyer, Commercial General Liability and Excess Liability Insurance with available limits of not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) in aggregate for bodily injury and property damage combined. Such insurance shall contain coverage for all premises and operations, broad form property damage, broad form contractual liability and goods and completed-operations insurance with limits of not less than one million dollars (\$1,000,000) per occurrence for a minimum of 24 months after final acceptance of the work by Buyer. For construction efforts, there shall be no provision limiting coverage for explosion, collapse or underground property damage.
 - ii. Automobile Liability: If Seller or any subcontractor thereof will be performing work on Buyer's premises, and if licensed vehicles will be used in connection with the performance of the work, Seller shall carry and maintain, and ensure that any subcontractor thereof who uses a licensed vehicle in connection with the performance of the Work carries and maintains, throughout the period when Work is performed and until final acceptance by Buyer, Business Automobile Liability insurance covering all vehicles, whether owned, hired, rented, borrowed, leased or otherwise, with available limits of not less than one million dollars (\$1,000,000) per occurrence for bodily injury and property damage. "Scheduled autos" insurance is not acceptable.
 - iii. Workers' Compensation: If Seller or any subcontractor thereof will be performing work on Buyer's premises, throughout the period when work is performed and until final acceptance by Buyer, Seller shall, and ensure that any subcontractor thereof shall, cover or maintain insurance in accordance with the applicable laws relating to Workers' Compensation with respect to all of their respective employees working on or about Buyer's premises. Coverage shall be a minimum of one million dollars (\$1,000,000) for each accident, and one million dollars (\$1,000,000) for disease. If Buyer is required by any applicable law to pay any Workers' Compensation premiums with respect to an employee of Seller or any subcontractor thereof, Seller shall reimburse Buyer for such payment.
 - iv. The Parties agrees to a mutual waiver of subrogation for all insurances identified herein. Buyer shall not be exempt from and in no way liable for any amount of money which may represent a deductible of any insurance policy carried by Seller. Payment of any deductible shall be the sole responsibility of the Seller.

- (e) Seller shall without limitation as to time, indemnify and hold Buyer harmless from all claims which may be asserted against property covered hereunder, including without limitation mechanic's liens or claims arising under Workers' compensation or Occupational Disease laws and from all claims from injury to persons or property arising out of or related to such property unless same are caused solely and directly by Buyer's negligence.
- (f) Evidence of Citizenship or Immigrant Status: (i) Buyer may be required to obtain information concerning citizenship or immigrant status of Seller's personnel or Seller's subcontractor personnel entering the premises of Buyer. Seller agrees to furnish this information before commencement of work and at any time thereafter before substituting or adding new personnel to work on Buyer's premises. Information submitted by Seller shall be certified by an authorized representative of Seller as being true and correct. (ii) With respect to Seller personnel or Seller's subcontractor personnel entering the premises of Buyer to perform work under the Purchase Order, Seller specifically agrees that it is, and will remain, in compliance with all applicable immigration and guest worker laws and regulations, and will permit Buyer, upon reasonable notice, to inspect and audit Seller's records documenting such compliance with respect to said personnel. Seller subcontracts for work under the Purchase Order shall suitably modify the parties in this paragraph and include the substance of this paragraph in subcontracts such that the subcontractor has the same obligation as Seller.

19. **WARRANTY:**

- (a) **Design, Manufacture and Fitness for Purpose Warranties:** Seller warrants that all Work furnished pursuant to the Purchase Order shall: (i) strictly conform to the applicable specifications, drawings, samples, descriptions and other requirements of the Purchase Order; (ii) be free from defects in design, material and workmanship; (iii) be fit for Buyer's intended purpose as stated in the Purchase Order. Seller warrants that the Work delivered pursuant to the Purchase Order is not unnecessarily dangerous, and does not exhibit excessive leakage (fluids, radiation, etc.), instability of any form, insufficient safety interlocks, excessive flammability or inadequate electrical grounding and bonding, where any of these are reasonably required in conformance with industry and Government safety standards and practices. Without limitation of any kind, Seller shall promptly correct any such deficiencies in the Work prior to Delivery, and at Seller's sole and complete expense, including all labor, materials and freight charges. Seller also warrants that the Work to be delivered hereunder shall consist of new materials (as defined in FAR 52.211-5), unless a specific exemption to this requirement appears in the Purchase Order. Seller warrants that it shall provide Buyer a minimum of twelve (12) months' notice of any intent to discontinue the manufacture of any Work purchased hereunder, and provide the Buyer the opportunity to purchase spare parts and/or will identify sources of spare parts, in advance of the date Seller plans to discontinue manufacturing.
- (b) **Continuing Warranties:** The Continuing Warranty shall commence upon the Delivery Date (as defined in Article 1(i)) and extend for a period of not less than twelve (12) months. Without limitation of any kind, if any non-conformity of the Work shall appear within the warranty period, Seller shall, at Buyer's option, promptly repair, replace or re-perform the Work at Seller's complete and sole expense providing all parts, materials and labor. Warranty work by Seller shall occur promptly within a commercially reasonable time period; and in a manner which minimizes the impact on the Buyer's on-going business operations. Time is of the essence. Buyer shall pay freight to Seller's facility and Seller shall pay return freight for items to be repaired under the Continuing Warranty at Seller's facility. Following Delivery to Buyer of the repaired, replaced or re-performed work (in accordance with Article 1(h) hereof), the warranty on all repaired, replaced or re-performed Work shall be for the same period as the initial work, but shall commence on the Delivery Date of the repaired, replaced or re-performed work. Without limitation of any kind, in the case of latent defects, the Buyer's rights to corrective action by Seller shall commence upon Buyer's discovery of the latent defect and notification of Seller thereof. All warranties shall be for the benefit of Buyer and its Customers.
- (c) Seller warrants that the Work performed or delivered under this Contract will not infringe or otherwise violate the intellectual property rights of any third party in the United States or any foreign country. Seller shall defend, indemnify, and hold harmless Buyer and its customers from and against any claims, damages, losses, costs, and expenses, including reasonable attorneys' fees, arising out of any action by a third party that is based upon a claim that the Work performed or delivered under the Purchase Order infringes or otherwise violates the intellectual property rights of any person or entity.
- (d) Seller warrants that any software or firmware programming delivered under this Purchase Order contains no viruses, Trojan horses, malware or other detrimental software, and no mechanisms causing the source code to be inaccessible or unusable at any date in the future.

20. **FORCE MAJEURE:**

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- (a) Neither party shall be liable for failure or delay in performance under this PO due to causes beyond the reasonable control of the party affected ("Force Majeure Event") such as acts of nature, civil unrest and violence, acts of government, labor disputes, or any other such causes. The affected party shall provide prompt notice if a Force Majeure Event causes it to be unable to perform any obligation. Performance shall be promptly resumed after the Force Majeure Event has been remedied; otherwise, this PO may be terminated as provided in Section 10.

21. RECORDS:

- (a) Seller will maintain its documents, books, and records in connection with this PO in accordance with generally accepted accounting principles during the term of this PO and for seven (7) years after expiration or earlier termination of this PO. Seller also agrees to make such documents, books and records available pursuant to and as specified in 42 U.S.C. 420.302 et seq. Within five (5) business days after receipt of notice by Seller, Buyer (or its designated representative) shall be allowed access in which to examine, audit and copy, any records or manufacturing processes to determine compliance with applicable laws, the PO or to respond to any government inquiry.

22. NOTICES:

- (a) Except as required by law, no public release of any information, or confirmation or denial of same, with respect to the Purchase Order or the subject matter hereof, will be made by Seller without prior written approval of Buyer.
- (b) Notice shall be deemed effective when received or refused, if sent prepaid to the other Party. For Seller, notices shall be sent to the address in the "Seller:" or "Supplier" block on the face of Buyer's Purchase Order. For Buyer, notices shall be sent to the address in the "Invoice To:" block on the face of the Purchase Order.

23. **ENTIRE AGREEMENT:** These NTS TECHNICAL SYSTEMS, LLC and its Affiliates General Terms & Conditions of Purchase contain all the terms and conditions of the sale and purchase of the Work and supersede any and all previous instruments or agreements which are hereby made null and void. No modification or waiver of these terms and conditions shall bind Seller or Buyer unless written, signed, and accepted by Authorized Representatives of both Seller and Buyer. These terms and conditions, any associated Quotation and any attachments, exhibits or addenda hereto are valid only if in writing and bilaterally executed by Authorized Representatives of Seller and Buyer. For Seller, an Authorized Representative shall be any employee, consultant, or representative of the Seller a person identified as an Authorized Representative by Seller. For Buyer, an Authorized Representative shall be the Buyer's Procurement Representative, or any NTS TECHNICAL SYSTEMS, LLC and its Affiliates approval signatory to the Purchase Order.

24. **APPLICABLE LAW:** The Purchase Order shall be governed under the laws of the State of California without regard to conflict of law's provisions. This is a private contract between Buyer and Seller. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to orders issued under the instant Purchase Order.

25. **SEVERABILITY:** If any provision of these terms and conditions are held invalid by any law and/or regulation, all other provisions hereof shall continue in full force and effect. Any provision of these terms and conditions which shall be ruled by a court of competent jurisdiction to be overly broad shall be limited to be consistent with such court's findings.

26. **WAIVER:** A waiver of any provision of the Purchase Order by Buyer shall not constitute a waiver of any other provision of the Purchase Order. Failure by Buyer to enforce any of the provisions of the Purchase Order shall not be construed as a waiver of that provision, or as a waiver of the right of Buyer to enforce each and every provision of the Purchase Order.

27. **HEADINGS:** The headings contained herein are for the convenience of the reader and they are not intended to be all inclusive nor shall they be considered for any other purpose in construing these terms and conditions.

28. **ELECTRONIC SIGNATURE VALID:** The Parties agree that the Purchase Order may be executed (i) pursuant to the process set forth in the Electronic Signatures in Global and National Commerce Act (15 U.S.C. § 7001, et. seq.), or (ii) in as many counterparts as may be required to reflect all Parties' assent; all counterparts shall collectively constitute a single agreement. A legible facsimile signature or certified digital signature that can be authenticated will constitute an original and binding signature of a Party.