

BAE SYSTEMS NON-US GOVERNMENT SERVICES & GOODS & CONSTRUCTION

BAEDOC NONUSGOV SERVICES & GOODS & CONSTRUCTION

GENERAL CLAUSES FOR PROCUREMENT OF COMBINATION CONSTRUCTION AND FACILITIES REPAIR SERVICES; NOT INTENDED FOR GREENFIELD, DESIGN/BUILD, OR LARGE-SCALE PROJECTS

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Section A: General/Administrative Provisions

1. DEFINITIONS

The following terms shall have the meanings set forth below:

- a) "Affiliate" means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity; and "control" for the purposes of this definition means direct or indirect ownership or control of more than 50% of the voting interest of the subject entity, provided that any such Affiliate shall be deemed an Affiliate only for so long as such control lasts.
- b) "BAE Systems" means the BAE Systems legal entity as identified on the face of this Contract.
- c) "BAE Systems' Information" means proprietary information which may include but is not limited to, trade secrets, specifications, drawings, sketches, models, samples, computer programs, Software, reports, data, techniques, designs, codes, documentation, Personal Information, and financial, statistical or other technical information, technical data, materials, or know-how related to BAE Systems' business, its plans or strategies, potential business and methods of operation, products, services, discoveries, inventions, ideas, techniques, know-how, products and technologies whether or not patentable, designs, drawings, specifications, techniques, formulations, standards, equipment, or finance, in each case of BAE Systems or its Affiliates; BAE Systems' employees' Sensitive Personal Data, Personal Information (as defined below), Technical Data (as defined in 22 CFR § 120.10), Personal Data (as defined below), and any other regulated data.
- d) "BAE Systems Procurement Representative" means the person authorized by BAE Systems' cognizant procurement organization to administer and/or execute this Contract.
- e) "Change Order" means a formal written order describing the change to be made to this Contract, mutually agreed upon and signed by BAE Systems' Procurement Representative and Vendor.
- f) "Cloud" means an on-demand network with access to a shared pool of configurable computing resources (e.g., networks, servers, storage, applications, and services) that can be rapidly provisioned and released with minimal management effort or service provider interaction. This includes other commercial terms, such as on-demand self-service, broad network access, resource pooling, rapid elasticity, and measured service. It also includes commercial offerings for software-as-a-service, infrastructure-as-a-service, and platform-as-a-service.
- g) "Contract" or "Agreement" means the instrument of contracting, such as master services agreement, purchase order, or statement of work or other such type of agreement, including these General Provisions, all referenced documents, exhibits and attachments, and any releases against the Contract.
- h) "Customer" means the entity that BAE Systems has or anticipates having a contractual relationship with which is either supported directly or indirectly by the Work provided under this Contract. For purposes of the "Furnished Property" and "Independent Supplier Relationship" provisions of this Contract, "Customer" includes both any higher tier Supplier(s).
- i) "Day" means calendar day unless specifically designated otherwise.
- j) "Electronic Signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.
- k) "Malicious Technology" means any software, electronic, mechanical or other means, device or function, e.g. (key, node, lock, time-out, "back door," "trapdoor," "booby trap," "drop dead device," "data scrambling device," "Trojan Horse,") that would allow Supplier or a third party to: (i) monitor or gain unauthorized access to any BAE Systems system, (ii) use any electronic self-help mechanism or (iii) restrict, disable, limit or impair the performance of a BAE Systems system.
- l) "Open Source" means with respect to Software and any licenses of same, that Software provided under a license which permits the user to run, copy, distribute, study, change, modify or improve the Software but which

prohibits the user from: (i) withholding improvements and/or modifications made by the user to the source code when and/if user thereafter distributes the Software; or (ii) adding restrictions on use when redistributing or transferring the Software to third parties. For purposes of this Contract, "Open Source" Software shall also include "Free Software" as defined by the Free Software Foundation Inc.

- m) "Personal Information" means information that identifies, relates to, describes, is capable of being associated with, or could reasonably be linked, directly or indirectly, with any BAE Systems' employees located in the United States, such as a real name, alias, postal address, unique personal identifier, online identifier Internet Protocol address, email address, account name, social security number, driver's license number, passport number, financial account number, credit/debit card number, credit report information, security and access codes, personal identification number or password, biometric data, or other similar identifiers as further defined under the California Consumer Privacy Act, California Privacy Rights Act, Virginia Consumer Data Protection Act, Colorado Privacy Act, and the Massachusetts Data Privacy Law, or other applicable laws. BAE Systems' business contact information is not by itself deemed Personal Information.
- n) "Personal Data" means information relating to an identified or identifiable natural person physically located in the European Union (without regard to citizenship), who can be identified directly or indirectly, in particular by reference to an identifier such as a name, identification number, location data, online identifier or one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person and as further defined under the European Union's General Data Protection Regulations ("GDPR") or other applicable data protection laws worldwide.
- o) "Supplier" means the party identified on the face of this Contract with whom BAE Systems is contracting. For the purposes of the "Customer Communication" and "Independent Supplier Relationship" provisions only, "Supplier" shall also include Supplier's agents, representatives, subSuppliers, and suppliers at any tier.
- p) "Sensitive Personal Data" means information that reveals racial or ethnic origin, political opinions, criminal record, religious or philosophical beliefs, trade union membership, genetic data or biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation for a person physically located in the European Union (without regard to citizenship).
- q) "Software" means: (i) computer programs, source code, source code listings, executable code, machine readable code, object code listings, design details, algorithms, processes, flow charts, formulae, firmware, and related material that would enable software to be read, reproduced, recreated, or recompiled; (ii) associated documentation such as operating manuals, application manuals, and installation and operating instructions that explain the capabilities of software and provide instructions on using the software; and (iii) derivative works, enhancements, modifications, and copies of those items identified in (i) and (ii) above.
- r) "Work" means the required deliverables, articles, materials, suppliers, goods, and the time and effort of Supplier in performing identifiable labor tasks or services, which are themselves a deliverable under this Contract. Work covers activities performed both by professional and non-professional personnel of Supplier. All services, functions, or responsibilities not specifically described in this Contract, but are required for the performance or provision of the Work, are included within the scope of the Work to the same extent as if specifically described in this Contract.

2. SUPPLIER PORTAL REGISTRATION

In order to conduct business with BAE Systems, Supplier shall register (or update its registration) as a supplier to BAE Systems via <https://baesystems.hicx.net> ("HICX"). Supplier is required to fill out all information requested by BAE Systems in the HICX portal completely and accurately. Supplier shall keep all information in HICX current and shall not allow the registration to expire during the term of this Agreement. Should information entered into HICX by Supplier change or expire prior to completion of Supplier's obligations under this Agreement, Supplier shall immediately correct/update such information. Should Supplier fail to correct/update such information, BAE Systems may withhold payment until such time as the registration is corrected/updated.

3. INDEPENDENT SUPPLIER RELATIONSHIP; SUPPLIER EMPLOYEES

- a) Supplier's relationship to BAE Systems shall be that of an independent Supplier and this Contract does not create an agency, partnership, or joint venture relationship between BAE Systems and Supplier or BAE Systems and Supplier personnel. Supplier personnel engaged in performing Work under this Contract are employees of Supplier and not employees or agents of BAE Systems. Supplier assumes full responsibility for the actions and supervision of such personnel while engaged in Work under this Contract. BAE Systems assumes no liability for Supplier personnel.
- b) The Supplier acknowledges that neither Supplier, nor any personnel of Supplier, has rights under any BAE Systems benefit plan. Supplier shall provide and maintain all insurance and benefits required by law, including but not limited to workers' compensation insurance.
- c) Supplier shall inform BAE Systems if it assigns a former employee of BAE Systems or its parent, subsidiary, or Affiliate to perform Work under this Contract, and any such assignment shall be subject to BAE Systems approval.
- d) Supplier shall provide BAE Systems with any information about Supplier's personnel that BAE Systems is required by law to obtain, including, but not limited to, information on "leased employees" and the "service organization" as these terms are used in Sections 414(m), (n) and (o) of the Internal Revenue Code (26 U.S. Code § 414).

4. ACCEPTANCE OF CONTRACT/TERMS AND CONDITIONS

- a) This Contract supersedes any contemporaneous and prior offers, understandings, negotiations, and agreements concerning the subject matter hereof and constitutes the entire agreement between the parties. The parties acknowledge the headings used in this Contract are for convenience only, and will not use them to interpret the scope or intent of that section.
- b) Supplier's execution and delivery of the Contract or Supplier's acknowledgment of the Contract, acceptance of payment, or commencement of performance, constitutes Supplier's unqualified acceptance of this Contract.
- c) ADDITIONAL OR DIFFERING TERMS OR CONDITIONS PROPOSED BY EITHER PARTY IN WHATEVER FORMAT OR INCLUDED IN EITHER PARTY'S FORMS SUCH AS BAE SYSTEMS' PURCHASE ORDER OR SUPPLIER'S ACKNOWLEDGMENT THEREOF OR SUPPLIER'S INVOICE ARE HEREBY REJECTED AND HAVE NO EFFECT UNLESS EXPRESSLY ACCEPTED AND EXECUTED IN WRITING BY AUTHORIZED REPRESENTATIVES OF BOTH PARTIES.

5. ORDER OF PRECEDENCE

Any inconsistencies in this Contract shall be resolved in accordance with the following descending order of precedence: (1) face of the Contract, release document or Schedule, (which shall include continuation sheets), as applicable, to include any special provisions; (2) representations and certifications; (3) any supplemental terms and conditions incorporated by reference; (4) these terms and conditions; (5) statement of work; and (6) specifications (7) drawings (8) any master-type agreement (such as corporate, operating group, or blanket agreements).

6. CONTRACT DIRECTION/COORDINATION/CHANGES

- a) Supplier acknowledges that only the BAE Systems Procurement Representative has authority to make changes in, to amend, or to modify this Contract on behalf of BAE Systems. Supplier shall not implement any changes or modifications to this Contract without first having received written authorization to do so from BAE Systems' Procurement Representative. Supplier shall compensate BAE Systems for any costs incurred by BAE Systems that result from Supplier's implementation of any unapproved changes or modifications.

- b) Parties may, at any time by Change Order and without notice to sureties, if any, make changes within the general scope of this Contract in any one or more of the following:
- i. Description of services to be performed;
 - ii. Time of performance (i.e., hours of the day, days of the week, etc.);
 - iii. Place of performance of the services;
 - iv. Drawings, designs, or specifications when the supplies being furnished are to be specially manufactured for BAE Systems in accordance with same;
 - v. Method of shipment or packing;
 - vi. Place of inspection, delivery, or acceptance;
 - vii. Delivery schedules; and
 - viii. Any other matters materially affecting this Contract.
- c) BAE Systems shall appoint a Technical Representative(s) and Supplier shall appoint a Lead Supervisor. BAE Systems' Technical Representative is responsible for liaising with Supplier's Lead Supervisor. Supplier's Lead Supervisor is responsible for supervising and directing the work of Supplier's personnel. Neither the BAE Systems' Technical Representative, nor any program management or engineering personnel, has the authority to make changes in, to amend, or to modify this Contract.
- d) Except as otherwise provided herein, the Supplier shall send all notices related to this Contract or the Work, to the BAE Systems Procurement Representative with a copy to the Technical Representative.
- e) BAE Systems program, operations, engineering, technical, or other personnel may from time-to-time render assistance, give technical advice, discuss, or exchange information with Supplier's personnel concerning the Work hereunder. Such actions are not a change under this clause of this Contract and shall not be the basis for equitable adjustment. If Supplier believes the foregoing creates an actual or constructive change, Supplier shall notify the BAE Systems Procurement Representative and shall not accept such direction or perform said action unless authorized by BAE Systems Procurement Representative in writing.
- f) If a Change Order causes an increase or decrease in the cost of or the time required for performance of this Contract, an equitable adjustment shall be made in the Contract price, the performance schedule, or both, and the Contract will be modified in writing accordingly. The Supplier must assert any claim for adjustment under this section in writing to BAE Systems' Procurement Representative no later than ten (10) business days after the date of receipt by Supplier of the Change Order or within such extension as BAE Systems may grant in writing. BAE Systems may consider, in its sole discretion, any such claim regardless of when asserted. Supplier's claim shall be in the form of a complete change proposal fully supported by information necessary to validate the claim. Pending any such adjustment, Supplier will diligently proceed with the Contract as modified. BAE Systems shall have the right to request additional information for verifying Supplier's claim.

7. SUPPLEMENTAL TERMS AND CONDITIONS

Any additional or supplemental terms and conditions that are required to be flowed down from BAE Systems' Customer contract(s) will be provided in the statement of work, or as special or additional provisions to the Contract.

8. CUSTOMER COMMUNICATION

BAE Systems is solely responsible for all liaison and coordination with the Customer, any higher tier Supplier(s), or the U.S. Government, as it affects any applicable Customer contract, this Contract, and any other contract. Supplier shall not communicate with the Customer or any higher tier Supplier(s) with respect to this Contract or any related

contract without prior written approval from the BAE Systems Procurement Representative, except as required by law. Supplier shall promptly notify the BAE Systems Procurement Representative of any communications initiated by the Customer or any higher tier Supplier(s) that affects this Contract or any other contract.

9. PAYMENTS, TAXES, AND EXPENSES; INVOICING

a) Payments.

- i. Payment terms are net forty-five (45) Days from BAE Systems' receipt of Supplier's accurate invoice in accordance with proper invoicing instructions as identified in this Contract. Supplier shall invoice BAE System for goods upon shipment and for services upon completion. BAE Systems will record invoices received on a non-scheduled workday as received on the next business day (a "non-scheduled workday" means a weekend day or U.S. federal holiday as established by the U.S. Office of Personnel Management or during BAE Systems' Year-End shutdown in December). BAE Systems shall have a right of setoff against payments due or in dispute under this Contract between BAE Systems and Supplier. BAE Systems will pay any payments owed under this Contract in United States dollars. Suppliers electing to be paid via check acknowledge and agree that payments may be delayed up to ten (10) Days from the net forty-five (45) payment date, and that such payment is not a late payment.
- ii. Each payment made is subject to reduction to the extent of amounts are determined not to have been properly payable and for overpayments.
- iii. Payments due to net terms on non-scheduled workdays for BAE Systems are due on the next business day. Payment shall be deemed to have been made as of the date of mailing BAE Systems' payment or electronic funds transfer.
- iv. Unless otherwise specified, Supplier's prices exclude all applicable federal, state and local taxes, duties, tariffs, and similar fees imposed by any government, all of which shall be listed separately on the invoice.
- v. BAE Systems reserves the right to withhold payment and dispute invoices that are inaccurate or incomplete. BAE Systems' dispute of an invoice does not constitute a breach of this Contract. BAE Systems will not pay incomplete or inaccurate invoices until corrected.

b) Tax ID. Supplier will provide BAE Systems either with a W-9 Form (Request for Taxpayer Identification Number and Certification) or W-8 form (Certificate of Foreign Status), as applicable, in accordance with IRS regulations. An updated form is required for any name or address change. If Supplier fails to provide a complete and proper W-9 or W-8 Form, BAE Systems is required to subject payments to backup withholdings.

c) Expenses. BAE Systems shall pay all reasonable travel and living expenses (coach class airfare, no alcohol, per diem rates) incurred by Supplier's personnel in performing or providing the Work for BAE Systems, as directed and approved in advance by BAE Systems and as supported with receipts for all expenses greater than \$50.00. BAE Systems will not reimburse Supplier or its personnel for alcoholic beverages. BAE Systems will reimburse all travel costs at cost and in accordance with the Federal Travel Regulations available at <http://www.gsa.gov>.

d) Invoicing. Supplier shall prepare and submit to BAE Systems' an invoice(s) which includes, where applicable: (i) purchase order number and line item number; (ii) agreement and statement of work name or number; (iii) invoice number; (iv) description of services performed in sufficient detail to enable an evaluation of the services performed; (v) time period over which services were performed; and (vi) time spent in performance of the services and the labor rate (if applicable); and (vii) itemized amounts actually paid for travel, if any.

10. BAE SYSTEMS INFORMATION

a) Non-Disclosure and Return/Destruction. Except as permitted in this Contract, for a period of five (5) years from the expiration or termination of this Contract, Supplier and Supplier's employees shall maintain in confidence and shall not use, display, reproduce or disclose to third parties without the prior written consent of BAE

Systems, any BAE Systems Information which Supplier may receive from BAE Systems or come in contact with, including but not limited to, proprietary information of others when in BAE Systems' possession. Within thirty (30) days of the expiration or termination of this Contract or upon the request of BAE Systems, Supplier shall return or certify the destruction of all BAE Systems Information and any reproductions, and Supplier shall promptly surrender all information or proprietary data developed by Supplier in performance of this Contract, unless its retention is authorized in writing by BAE Systems. This section shall take precedence over any conflicting obligations that may be contained in a proprietary information agreement between BAE Systems or a BAE Systems Affiliate and Supplier as necessary to cover the information exchanged under this Contract.

- b) Ownership and Use. BAE Systems Information provided to the Supplier remains the property of BAE Systems (or its Affiliates or third parties as applicable). Supplier shall comply with all proprietary information markings and restrictive legends apply by BAE Systems to anything provided hereunder to Supplier, and Supplier shall not remove any such proprietary markings or restrictive legends. Supplier shall not use any BAE Systems Information for any purpose except performance under this Contract. Subject to this Contract and to any specific terms in the relevant statement of work, BAE Systems grants to Supplier a non-exclusive, non-transferable, royalty free, fully paid license to use BAE Systems Information only and strictly in connection with Supplier's performance of its obligations and exercise of its rights under this Contract.
- c) Information Security. Supplier agrees to implement, maintain, monitor and update a reasonable, written security program incorporating administrative, technical, organizational and physical safeguards, security measures and security awareness, and install and implement security hardware and software, in each case, designed to (i) protect the security, availability and integrity of Supplier's network, systems and operations, and the BAE Systems Information from unauthorized access and use; and (ii) guard against security incidents. Upon BAE Systems' request, Supplier shall complete the cyber security verification questionnaire ("CSV") and comply with any agreed actions at its own expense.
- d) Hosting and Storage; BAE Systems Network Access.
 - i. Supplier may not transfer, store, manage, process or otherwise place any BAE Systems' Information on a Cloud or on any system external to any BAE Systems or Supplier premises, or outside the U.S. in the course of its ordinary business operations subject to confidentiality obligations.
 - ii. If BAE Systems gives Supplier, or Supplier personnel access to BAE Systems' networks, neither Supplier nor Supplier personnel may access such networks from anywhere other than the U.S. The Supplier may not access a BAE Systems network remotely, unless authorized in advance by BAE Systems. Such authorization is at BAE Systems' sole discretion and Supplier shall: A) notify BAE Systems in advance of the intended use; B) complete a BAE Systems-provided business security-screening questionnaire, which will be incorporated into this Contract by reference; and (C) comply with any agreed security protocols that are set by BAE Systems.
- e) Incident Notification and Response. Supplier shall notify BAE Systems within seventy-two (72) hours of the following:
 - i. Unauthorized disclosure or alteration of any BAE Systems Information; and
 - ii. Cyber-attacks or information system breaches which may have compromised BAE Systems Information.
- f) Records. Supplier will maintain records of any known or suspected incidents that compromised BAE System Information in accordance with all applicable laws, regulations, and this Contract. Supplier will make such records pertaining specifically to BAE Systems Information reasonably available to BAE Systems upon request. Except as required by applicable law or regulation, Supplier agrees that it will not inform any third party of any such security incident or breach affecting BAE Systems Information without BAE Systems' prior written consent. If such disclosure is required by law or regulation, it shall be disclosed only to the extent required by law or regulation and, if permitted, after a five (5) business day prior written notification to BAE Systems of the

requirement for such disclosure. Supplier will bear the cost of remedial steps necessary to address any incidents that occurred due to Supplier's negligence or willful misconduct.

- g) Compliance. If during the performance of this Contract, Supplier becomes unable to make and comply with the obligations in this section, Supplier shall promptly notify BAE Systems. A breach of this section is a material breach of this Contract.

11. MAINTENANCE OF RECORDS

- a) Unless the parties expressly specify a longer period in this Contract or by law or regulation, Supplier shall retain all records related to this Contract for five (5) years from the date of final payment received by Supplier. Records related to this Contract include, but are not limited to, financial, proposal, procurement, specifications, inspection, test, certifications, time records, expense reports, travel receipts, job summaries, employee license, permit, and clearance, and receipt records.
- b) BAE Systems shall be provided reasonable access to such records for the purpose of audit during normal business hours, upon reasonable notice for as long as such records are required to be retained. BAE Systems may accomplish any audit through a mutually agreeable third-party auditor from a nationally recognized firm of certified public accountants.

12. ACCESS TO BAE SYSTEMS AND/OR CUSTOMER SYSTEMS OR PREMISES

- a) Supplier's personnel/agents may be granted access to BAE Systems or BAEs Customer systems or facilities. Any such access is subject to full compliance of BAE Systems and BAE Systems Customer's standard administrative and security requirements and policies applicable to such access.
- b) Supplier Staff or representatives accessing BAE Systems or BAE Customers' Facilities with unescorted access, are required to have been subject to preemployment background screenings at no charge to BAE Systems. BAE will not allow Supplier personnel access to BAE Systems facilities until written confirmation from Supplier stating that it has cleared Supplier's personnel to report to work is received by the BAE Systems Procurement Representative. If Supplier personnel in question holds a U.S. Government-granted security clearance or BAE Systems validates access through Defense Information System for Security (DISS) or via a visit certification, then a pre-employment background screening is not required. For the avoidance of doubt, the Pre-employment background screenings must include the following: (i) Identity and Right to Work Verification (Criteria: A successful I-9 / E-Verify System Check); (ii) Criminal Conviction Check, to the extent permitted by applicable law, for a minimum of previous seven years for each county lived in (Criteria: No record or if misdemeanors, occurrence greater than seven years prior, then the Supplier may choose to provide an explanation of the event to BAE Systems. BAE Systems will review the explanation against security requirements); (iii) Education Verification for degreed positions only; and (iv) Minimum of three years of employment history (Criteria: Employment history is confirmed as presented).
- c) BAE Systems and/or its Customer may, at its sole reasonable discretion, remove or require Supplier to remove any specified personnel of Supplier from BAE Systems' or Customer's premises, worksite or system and request that such personnel not be reassigned to any BAE Systems premises under this Contract or any other contract. Any costs arising from or relating to removal of Supplier's employee shall be borne solely by Supplier and not charged to this Contract. Exclusion from the worksite under the circumstances described in this clause shall not relieve Supplier from full performance of the Contract, nor will it provide the basis for an excusable delay or any claims against BAE Systems or its Customer.

13. STOP WORK ORDER

- a) Supplier shall stop work in accordance with the terms of any written notice received from BAE Systems and Supplier shall take all reasonable steps to minimize the incurrence of costs allocable to the Work during the period of work stoppage.

- b) After the issuance of a stop work order, BAE Systems shall provide written notice to Supplier either terminating the Contract completely or in part, or instructing the Supplier to continue provision of the Work. Such termination will be considered for convenience and be subject to Section 16.a. (iii). In the event of a continuation, Supplier shall be granted an equitable adjustment in schedule, pricing or both covering all required extension of time and/or additional costs for Vendor to continue provision of Work. Supplier shall have the right to terminate the work and require compensation if stop work order continues for longer than 30 days or occurs more than once.

14. DISPUTES/JURY WAIVER

- a) BAE Systems and Supplier agree to timely notify each other of any claim, dispute, or cause of action arising from or relating to this Contract, and to negotiate in good faith to resolve any such claim, dispute, or cause of action. To the extent that such negotiations fail, BAE SYSTEMS AND SUPPLIER AGREE THAT ANY LAWSUIT OR CAUSE OF ACTION ARISING FROM OR RELATING TO THIS CONTRACT SHALL BE FILED WITH AND LITIGATED ONLY IN STATE OF NEW YORK. IN ADDITION, BAE SYSTEMS AND SUPPLIER EACH HEREBY CONSENT AND AGREE TO THE PERSONAL JURISDICTION AND VENUE OF ANY STATE OR FEDERAL COURT OF COMPETENT JURISDICTION LOCATED IN MANHATTAN, NEW YORK. Notwithstanding the above, patent actions can be initiated at the U.S. Patent and Trademark Office or the International Trade Commission. Until final resolution of any dispute hereunder, Supplier shall diligently proceed with the performance of this Contract.
- b) TO THE EXTENT PERMITTED BY APPLICABLE LAWS, BAE SYSTEMS AND SUPPLIER EACH WAIVE THEIR RIGHTS TO TRIAL BEFORE A JURY.
- c) In addition to providing timely contemporaneous notice as required by other terms herein, Supplier must provide BAE Systems notice of any and all disputes/claims arising under this Agreement no later than the earlier of one year from the accrual of such dispute/claim or within six months of close out of this Agreement, or such claim shall be deemed waived.

15. TERMINATION

- a) Termination for Convenience.
 - i. At any time from and after thirty (30) Days from the effective date of this Contract, by written notice to Supplier, BAE Systems may terminate this Contract for its convenience with immediate effect, in whole or in part including any statement of work, if the BAE Systems' Procurement Representative determines that it is in BAE Systems' best interest. BAE Systems' notice of termination will specify the extent of termination and the effective date.
 - ii. Upon receipt of notice of termination for convenience under subsection (i) above, Supplier shall immediately: (A) cease performing the Work; (B) prepare and submit to BAE Systems an itemization of all completed and partially completed deliverables and Work in accordance with subsection (iii) below (a "Termination Claim"); and (C) deliver to BAE Systems deliverables satisfactorily completed up to the date of termination at the agreed upon prices in this Contract. If Supplier does not submit a Termination Claim within ninety (90) days of the effective date of the termination, BAE Systems has no liability to Supplier for any termination claims.
 - iii. The Termination Claim will set forth, and BAE Systems' obligation shall be to pay Supplier shall be limited to the following: (A) a percentage of the price reflecting the percentage of the Work performed in accordance with the Contract prior to the notice of termination, plus (B) reasonable charges that Supplier can demonstrate including, not limited to amounts for all material furnished or manufactured, labor performed and services provided, and any reasonable and customary out-of-pocket costs (including, but not limited to, any restocking or other charges from Supplier or its suppliers) incurred by Supplier up to the date of termination, including a reasonable profit which is tied to the percentage of work completed.. BAE Systems is not liable for lost or anticipated profits, or any sum in excess of the total Contract price. Supplier shall use reasonable efforts to mitigate the costs resulting from

termination. Supplier shall not be paid for any Work performed or costs incurred which reasonably could have been avoided.

iv. Supplier shall continue Work not terminated.

b) Termination for Default. (1) BAE Systems may terminate this Contract for default, completely or in part, by written notice to Supplier in any of the following circumstances:

- i. If Supplier fails to perform the Work required by this Contract within the time specified herein, or any extension thereof granted by BAE Systems in writing;
- ii. If Supplier fails to perform any material provision of this Contract or fails to make progress so as to endanger performance of this Contract, and if in either of these two circumstances, Supplier does not cure such failure within a period of thirty (30) Days (unless otherwise specifically set forth in an applicable SOW) after receipt of written notice from BAE Systems specifying such failure;
- iii. If Supplier fails to perform any material provision of other contracts issued by BAE Systems and such default causes BAE Systems to terminate those other contracts;
- iv. Supplier files or declares bankruptcy; or
- v. In the event of suspension of Supplier's business, insolvency, liquidation proceedings by or against Supplier, appointment of a trustee or receiver for Supplier's property or business, or any assignment, reorganization or arrangement by Supplier for the benefit of creditors.

(2) Supplier may terminate this Contract and/or the applicable statement of work completely or in part or discontinue Work without prejudice to any other available remedies in any of the following circumstances:

- (i) If BAE Systems fail to make payment in accordance with the terms of the Agreement or otherwise breach any terms and such failure continues without a cure for a period of fifteen (15) business days following BAE Systems' receipt of written notice of such non-payment or other breach,
- (ii) BAE Systems files or declares bankruptcy; or
- (iii) In the event of suspension of BAE Systems' business, insolvency, liquidation proceedings by or against BAE Systems, appointment of a trustee or receiver for BAE Systems' property or business, or any assignment, reorganization or arrangement by BAE System for the benefit of creditors.

c) If after receiving written notice of termination for default, completely or in part, it is determined for any reason that Supplier was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the notice of termination had been issued for convenience pursuant to the Termination for Convenience subsection hereof.

d) Intentionally deleted.

e) If BAE Systems terminates this Contract for default, it may require Supplier to transfer title and deliver to BAE Systems in the manner and to the extent directed by BAE Systems any materials, parts, tools, plans, drawings, information, and contract rights that Supplier has produced or acquired and for which the Supplier has been compensated in full by BAE Systems for the performance of this Contract, including the assignment to BAE Systems of Supplier's subcontracts supporting this Contract. Furthermore, Supplier shall protect and preserve any property in Supplier's possession in which BAE Systems or its Customer has an interest.

f) Payment for Work performed and accepted by BAE Systems prior to termination shall be at the Contract price. Payment for transactions indicated in above subsection (e) and the protection and preservation of property will be at a price determined in the same manner as provided in the Termination for Convenience subsection hereof except that Supplier shall not be entitled to profit. Failure to agree is a dispute under the "Disputes/Jury Waiver" section in this Contract.

16. OFFSET CREDIT/COOPERATION

All offset or countertrade credit value resulting from this Contract, and any lower tier subcontracts, shall accrue solely to the benefit of BAE Systems. Supplier shall cooperate with BAE Systems in the fulfillment of any foreign offset/countertrade obligations.

17. BUSINESS CONTINUITY PLANNING

- a) Supplier shall establish and maintain a disaster recovery and business continuity plan ("BCP"), which includes protection of vital records, and ensures, Supplier can continue to deliver the required Work to BAE Systems, if necessary.
- b) BAE Systems may review the BCP on a periodic basis to ensure its adequacy and completeness.
- c) Supplier shall activate the BCP as determined therein to mitigate any impacts on the performance of its obligations under this Contract. If Supplier is unable to perform its obligations under this Contract for a period of more than ten (10) consecutive Days as a result of such an event, such event shall be considered Force Majeure Event.

18. NON-SOLICITATION AGREEMENT

- a) During the Contract and for one (1) year after expiration or termination of this Contract, Supplier agrees that neither it, nor its employees directly supporting this Contract or the BAE Systems' prime contract shall recruit, solicit, or assist in the recruiting or soliciting for employment, including as a consultant, any technical or professional employees of BAE Systems who are supporting this Contract or BAE Systems' higher-tier contract, without prior written approval from BAE Systems. Notwithstanding the foregoing, Supplier may utilize non-targeted recruiting efforts without violating this section.
- b) Supplier acknowledges and agrees that in the event of a violation of this section, there are no adequate remedies at law and BAE Systems will suffer irreparable harm entitling it to seek immediate injunctive relief in addition to any and all other available legal remedies it may have.

19. SUBSUPPLIERS; SUB-TIER SUPPLIER INFORMATION

- a) Supplier shall not subcontract an amount of the work/services equal to or greater than seventy percent (70%) of the work/services to be provided under this Subcontract without BAE Systems' prior written consent. This limitation does not apply to Supplier's purchase of standard commercial supplies or raw material.
- b) By written agreement, Supplier shall make commercially reasonable efforts to require each of its lower-tier subSuppliers which perform work which supports this Contract to be bound by terms substantially similar to those of this Contract, and to assume toward the Supplier all the obligations and responsibilities which the Supplier pursuant to this Contract assumes toward BAE Systems or others as specified therein. Each such subSupplier agreement shall preserve and protect the rights of BAE Systems or others as specified under this Contract with respect to the work to be performed by the subSupplier so the subcontracting thereof will not prejudice such rights, and shall allow the subSupplier, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against the Supplier that the Supplier, under this Contract, has against BAE Systems. Supplier expressly assumes liability for the acts and omissions of its subSuppliers arising out of performance of the Work.

20. ASSIGNMENT

Any assignment of Supplier's contract rights or delegation of duties shall be void, unless BAE Systems gives its prior written consent. A change of control of Supplier shall constitute an impermissible assignment. However, Supplier may assign rights to be paid amounts due, or to become due, to a financing institution only after furnishing 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 setoffs or recoupment for any present or future claims of BAE Systems against

Supplier. BAE Systems shall have the right to make settlements or adjustments in price without notice to the assignee. BAE Systems may assign this Contract only with Supplier's prior written consent.

21. APPLICABLE LAWS

Unless specifically identified otherwise on a statement of work, purchase order or under a master-type agreement that constitutes part of this Contract, all matters arising from or related to it shall be governed by and construed in accordance with the laws of the state of New York, excluding its choice of law rules.

22. ELECTRONIC CONTRACTING

BAE Systems and Supplier agree that if this Contract, or any statement of work, purchase order, other contract document, or correspondence is transmitted electronically neither BAE Systems nor Supplier shall contest the validity thereof, on the basis that this Contract, or the statement of work, purchase order, other contract document, or correspondence exists only in electronic form, an electronic record was used in its creation or formation, or it contains only an Electronic Signature or it was generated automatically, without human intervention by a system intended for the purposes of generating same.

23. WAIVER AND APPROVAL

- a) Failure by either Party to enforce any provision(s) of this Contract is not a waiver of the requirement(s) of such provision(s), or as a waiver of the right of such Party thereafter to enforce such provision(s).
- b) BAE Systems' approval of technical specifications, drawings, plans, procedures, reports, and other submissions shall not relieve Supplier from complying with any requirements of this Contract.

24. REMEDIES

The rights and remedies of BAE Systems in this Contract are cumulative and in addition to any other rights and remedies provided by law or in equity.

25. SURVIVAL

If this Contract expires, is completed or terminated, Supplier shall not be relieved of those obligations contained in the following provisions:

- a) Applicable Laws
- b) Definitions
- c) Disputes/Jury Waiver
- d) Export Control
- e) Furnished/Acquired/Fabricated Property
- f) Independent Supplier Relationship
- g) Indemnification
- h) Limitation of Liability
- i) Information of BAE Systems
- j) Intellectual Property
- k) Entry on BAE Systems or Customer Property
- l) Maintenance of Records
- m) Non-Solicitation Agreement
- n) Warranty/Representations/Non-Conforming Work
- o) Corresponding provisions to above, as incorporated through Supplemental Terms and Conditions provision.

26. ENGLISH LANGUAGE

All reports, correspondence, drawings, notices, marking, documentation, and other communications shall be in the English language. In the event of any inconsistency with any translation into another language, the American Standard English meaning of this Contract shall prevail. Unless otherwise provided in writing, all documentation and Work shall employ the units of United States standard weights and measures as published by the United States National Institute of Standards and Technology.

27. SEVERABILITY

Each paragraph and provision of this Contract is severable, and if a court or recognized governmental authority declares one or more paragraphs or provisions invalid, the remaining provisions of this Contract will remain in full force and effect.

Section B: Laws and Regulations

28. COMPLIANCE WITH ALL APPLICABLE LAWS AND REGULATIONS

- a) Compliance with Laws. Supplier, its directors, officers, employees, agents, suppliers, and subSuppliers shall comply with all applicable laws, orders, rules, regulations, and ordinances.
- b) Licenses and Permits. At its own expense, Supplier shall procure all licenses and permits and pay all fees and other required charges necessary to conduct its business and perform this Contract. Supplier also shall ensure that all personnel it assigns to this Contract have all required work permits, appropriate licenses, and security clearances necessary to perform the Work.
- c) Supplier's Employer Obligations. Supplier is responsible for compliance with all requirements and obligations relating to its employees under all applicable local, state, and federal statutes, ordinances, rules, and obligations including, but not limited to, employer's obligations under laws relating to: payroll, income tax withholding and reporting; civil rights; equal employment opportunity; discrimination on the basis of age, sex, race, color, religion, disability, national origin, or veteran status; overtime; minimum wage; social security contribution and withholding; unemployment insurance; employer's liability insurance; worker's compensation; veteran's rights; and all other employment, labor, or benefits related laws.
- d) Human Trafficking and Modern Slavery. Supplier certifies compliance with all applicable laws regarding slavery and human trafficking of the state, province, and country/countries in which they are performing the Work and doing business, including, but not limited to, the California Transparency in Supply Chains Act and the United Kingdom Modern Slavery Act. Supplier shall require its lower-tiered Suppliers to comply with the California Transparency in Supply Chains Act, when applicable.
- e) Equal Employment. Supplier shall ensure full compliance with all applicable equal employment, non-discrimination, and affirmative action laws and regulations, on its behalf and throughout its subcontracting chain, including but not limited to:
 - i. To the extent applicable, the equal employment opportunity and affirmative action requirements set forth in 41 C.F.R. Part 60-1.4(a) (women and minorities) (if > \$10,000), 41 C.F.R. Part 60-250.5(a) (if > \$25,000) and Part 60-300.5(a) (covered veterans), and the employee notice requirements set forth in 29 C.F.R. Part 471, Appendix A to Subpart A, which are hereby incorporated by reference into this Contract.
 - ii. The requirements of 41 CFR 60 741.5(a) (if > \$15,000). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime Suppliers and subSuppliers to employ and advance in employment qualified individuals with disabilities (If this procurement is =>\$10,000.)

- iii. The requirements of 41 CFR 60–300.5(a). This regulation prohibits discrimination against qualified protected veterans and requires affirmative action by covered prime Suppliers and subSuppliers to employ and advance in employment qualified protected veterans (if this procurement is $\geq$ \$150,000).
- f) Hazardous Materials. Supplier represents and warrants that each chemical substance constituting or contained in any material or part incorporated into performance of the Work or otherwise transferred to BAE Systems hereunder 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. Supplier shall not incorporate any goods that contain any asbestos mineral fibers into its performance of the Work, or any other chemical substance prohibited by the EPA in a TSCA Risk Management action, which can be accessed at “Risk Management for Existing Chemicals under TSCA.” Supplier shall follow the procedures set forth in Section 40(d) Shipment of Non-Conforming Work, if Supplier desires to provide Work that contains any chemical substances which fall under proposed bans or phase-outs under the TSCA as of the agreed upon date of shipment. Any notices required must include the chemical Abstract Services Number which can be found here: How to Access the TSCA Inventory | US EPA, and the concentration.
- g) Data Privacy: If as a consequence of this Contract, the Supplier collects, stores or processes Personal Information, Supplier agrees to comply and be bound by the BAE Systems’ Privacy and Data Security Addendum located at <https://www.baesystems.com/en-us/what-we-do/suppliers/united-states/us-terms-and-conditions> and all applicable data privacy laws, including but not limited to the California Consumer Privacy Act, California Privacy Rights Act, Virginia Consumer Data Protection Act, Colorado Privacy Act, and the Massachusetts Data Privacy Law.
- h) European Union’s General Data Protection Regulations (“GDPR”) and United Kingdom’s Data Protection Act (“UK DPA”): If because of this Contract, the Supplier collects, stores, or processes Personal Data, Supplier agrees to comply with such laws and the BAE Systems Appendix 1 GDPR Standard Contractual Clauses or Appendix 2 UK International Data Transfer Agreement, as applicable and attached hereto. If Supplier receives Sensitive Personal Data or is a Controller (as defined under the GDPR and/or UK DPA), Supplier shall immediately notify BAE Systems prior to collecting, storing, and/or processing such data, and agrees to enter into a separate agreement with BAE Systems for the protection of that data as required by the GDPR, UK DPA, or both.
- i) Conflict Minerals: If Supplier is providing products to BAE Systems in the performance of the Work, upon request, Supplier shall provide BAE Systems with a completed Conflict Minerals Reporting Template (a copy of which can be found at www.responsiblemineralsinitiative.org) within thirty (30) Days of acceptance of this Contract. Supplier also shall provide BAE Systems with an updated Conflict Minerals Reporting Template within thirty (30) Days of the end of each calendar year in which Supplier provides products to BAE Systems.
- j) Covered Telecommunications and Video Equipment. Supplier represents and warrants that it does not and will not provide equipment, systems, or services that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system supplied to BAE Systems in the performance of this Contract. Supplier further represents and warrants that it does not use any such covered telecommunications equipment or services, or use any equipment, system or service that uses covered telecommunications equipment or services in supplying any systems, products, or services to BAE Systems. Covered telecommunications equipment or services includes equipment, products, or services produced by Huawei Technologies Company, Hytera Communications Company, Hangzhou Hikvision Digital Technology Company, Dahua Technology Company, ZTE Corporation, or any subsidiary or affiliate of the aforementioned entities, or a company owned or controlled by The People’s Republic of China. If Supplier is unable to make and comply with the above representations, Supplier shall immediately notify BAE Systems and must undergo a BAE Systems’ cyber-security review to determine whether BAE Systems can proceed with this Agreement.
- k) Federal Supply Chain Acquisition Security Act Orders (“FASCSA Order”).
 - a. Prohibition. Supplier represents and warrants that it does not and will not provide or use as part of the performance of this Contract any covered articles (as defined in FAR 52.204-30), or any products or

services produced or provided by a source, if the covered article or the source is prohibited by an applicable FASCSA Order.

- b. Notice. If, during Contract performance, the Supplier identifies, including through any notification by a supplier or subSupplier at any tier, that a covered article or product or service produced or provided by a source was provided to BAE Systems or used during Contract performance and is subject to a FASCSA order, Supplier shall submit a report within twenty-four (24) hours to BAE Systems containing the following information: (A) BAE Systems PO or Contract number, as applicable; (B) name of the product or services provided to BAE Systems or used during the performance of the Contract; (C) name of the covered article or source subject to a FASCSA Order; (D) if applicable, name of the supplier or subSupplier, including the Commercial and Government Entity code (CAGE Code) and unique identifier (if known), that supplied the covered article or the product or service to Supplier; (E) brand; (F) model number (original equipment manufacturer number, manufacturer part number, or wholesaler number; (G) item description; and (H) any information about mitigation actions undertaken or recommended. Within five (5) days of submitting such report, Supplier shall submit a written report to BAE Systems containing the following information: (I) any further information about mitigation actions undertaken or recommended; (II) a description of the efforts Supplier undertook to prevent submission or use of the covered article or the product or service produced or provided by a source subject to an applicable FASCSA Order, and any additional efforts that will be incorporated to prevent future submission or use of the covered article or the product or service produced or provided by a source that is subject to an applicable FASCSA Order.

29. GRATUITIES/KICKBACKS/ETHICAL CONDUCT

- a) Supplier, its directors, officers, agents, and employees, or anyone acting on Supplier's behalf, is prohibited from offering or giving a gratuity (in the form of entertainment, gifts or otherwise) or kickback to any employee of BAE Systems with a view toward securing favorable treatment as a supplier.
- b) By accepting this Contract and if this Contract exceeds \$150,000, Supplier certifies and represents that it has not made or solicited and will not make or solicit kickbacks in violation of the Anti-Kickback Act of 1986 (41 U.S.C. Sec. 51-58), which is incorporated herein by this specific reference.
- c) BAE Systems maintains an ethics program that includes a written code of conduct, training as well as awareness for all employees, the details of which can be found at <http://www.baesystems.com/en/our-company/corporate-responsibility/find-out-more/code-of-conduct>. Failure to comply with the BAE Systems Code of Conduct or Supplier's comparable ethics program and standards is a material breach and is grounds for termination of this Contract.
- d) Certification Regarding Political Contributions, Fees, and Commissions Paid In Connection with Sales Subject to the Provisions of the Arms Export Control Act: Supplier represents that in accordance with 22 C.F.R. 130, neither Supplier nor its subSuppliers at any tier have paid, offered or agreed to pay, or will pay or offer or agree to pay, in respect to the Work which are to be performed under any contract awarded, political contributions, fees, or commissions in amounts as specified in 22 C.F.R. 130.6.
- e) Responsible behavior is fundamental to how we do business at BAE Systems. Regular assessments of BAE Systems' supply base are a critical part of this commitment. Our best practice expectations of all current and proposed suppliers are contained in our Supplier Principles, available on our website at <https://www.baesystems.com/en/sustainability/responsible-supply-chain/suppliers/supplier-principles>. Supplier, its employees, directors, officers, and representatives agree to review and familiarize themselves with the Supplier Principles document.

30. EXPORT CONTROL

- a) Supplier shall comply with all applicable United States export and import control laws and regulations, including, but not limited to, the requirements of the Arms Export Control Act, the International Traffic in Arms Regulation (ITAR), the Export Control Reform Act of 2018, the Export Administration Regulations, and the regulations of the Office of Foreign Assets Control. Supplier shall obtain all required export licenses and agreements necessary to perform the Work, as applicable.
- b) Supplier shall comply with all applicable United States anti-boycott laws and regulations, including but not limited to, the requirements of the Export Administration Regulations, 15 C.F.R. 760, and the Internal Revenue Code, 26 U.S.C. 999, including the requirements on reporting anti-boycott requests to the U.S. Government. Within 30 Days of submittal of any anti-boycott report made to the U.S. Government that involves this Contract, Supplier shall provide a copy to BAE Systems.

31. OCCUPATIONAL SAFETY AND HEALTH

Supplier shall promptly notify BAE Systems in writing of any charge of noncompliance filed with the Occupational Safety and Health Act of 1970, as amended, against Supplier arising from or related to the Work performed hereunder on premises owned, leased, or operated by BAE Systems or its Customer.

32. ANTICORRUPTION

- a) Supplier shall comply with all applicable laws and regulations relating to anti-corruption or anti-bribery including as applicable any U.S. Federal or State law governing public corruption, and the Foreign Corrupt Practices Act, as amended ("FCPA") (15 U.S.C. §§ 78dd-1, et. seq.), regardless of whether the Supplier is within the jurisdiction of the U.S. Supplier shall immediately notify BAE Systems in writing if it or any of its owners, directors, officers, employees, or agents commits a violation of any such law or regulation.
- b) Supplier certifies and represents that it has not made or solicited and will not make or solicit any offer, payment, promise to pay, or authorization to pay any money, gift, or anything of value to any governmental official or any political party, party official or candidate, or any other person, either directly or through an intermediary, corruptly for the purpose of influencing any act, omission, or exercise of influence by the recipient, to assist BAE Systems or Supplier in obtaining or retaining business or obtaining any business advantage.
- c) Except as otherwise disclosed, none of Supplier's owners, directors, officers, or employees is a government official or is closely related to a government official. Supplier will notify BAE Systems in writing if any of its owners, directors, officers or employees subsequently becomes a government official.
- d) Supplier shall ensure that all lower tier subcontracts include this Anticorruption provision.

Section C: Quality/Performance Control Provisions

33. QUALITY CONTROL SYSTEM

- a) Supplier agrees to provide and maintain a quality control system for the Work to an industry recognized quality standard.

34. COUNTERFEIT PARTS: PREVENTION AND NOTIFICATION

- a) Definitions for purposes of this Contract:
 - i. "Counterfeit Part" means a part that is (1) an unauthorized copy or substitute that has been identified, marked, and/or altered by a source other than the item's legally authorized source and has been

- misrepresented to be an authorized item of the legally authorized source and/or (2) a previously used part provided as “new.”
- ii. “Counterfeit Electronic Part” means an unlawful or unauthorized reproduction, substitution, or alteration that has been knowingly mismarked, misidentified, or otherwise misrepresented 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.
 - iii. As used herein, “authentic” means (A) from the legitimate source claimed or implied by the marking and design of the product offered; and (B) manufactured by, or at the behest and to the standards of, the manufacturer that has lawfully applied its name and trademark for that model/version of the material.
 - iv. “Independent Distributors” are persons and businesses that are not part of an original component manufacturer’s authorized distribution chain. These also known as non-franchised distributors, unauthorized distributors or brokers.
 - v. “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 (section 818(f)(2) of Pub. L. 112-81.)
 - vi. “Original Component Manufacturer” or “OCM” means an organization that designs and/or engineers a part and is pursuing or has obtained the intellectual property rights to that part.
 - vii. “Original Equipment Manufacturer” or “OEM” means an organization that designs, manufactures and/or engineers an end product comprised of various parts and is pursuing or has obtained the intellectual property rights to that end product.
 - viii. “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) Supplier represents and warrants that it uses or will use only new and authentic materials in items delivered to BAE Systems and that the Work delivered contains no Counterfeit Parts. Supplier will not use any material, part, or component that is not a new and authentic, unless approved in advance in writing by the BAE Systems Procurement Representative. To further mitigate the possibility of the inadvertent use of Counterfeit Parts, Supplier shall only purchase and use authentic parts/components directly from the OEMs/OCMs or through the OEM’s/OCM’s authorized distribution chain. At BAE Systems’ request, Supplier must make available all manufacturing source of origin documentation that authenticates traceability for each electronic part, subpart, component, and/or subcomponent included in the Goods down to the OEM/OCM of such electronic part, subpart, component, and/or subcomponent. This Contract does not authorize Supplier to purchase or use parts/components from Independent Distributors. BAE Systems, at its sole discretion, may approve Supplier’s use of an Independent Distributor. Supplier’s request to use an Independent Distributor must include manufacturing source of origin documentation that authenticates traceability as required by BAE Systems, complete and compelling support for its request, and all actions needed to ensure that the parts/components thus procured and used are new and authentic parts. Supplier shall not deliver any items procured from an Independent Distributor unless it has received written approval from BAE Systems’ Procurement Representative. Where BAE Systems must obtain its customer’s approval of Supplier’s request to purchase from an Independent Distributor, any time attributed to the processing of such requests does not constitute a basis for excusable delay on part of the Supplier. BAE Systems’ approval of a Supplier request(s) does not relieve Supplier of its responsibility to comply with all Contract requirements, including the representations and warranties in this provision.
- c) Supplier shall maintain a documented system (policy, procedure, or other documented approach) that provides for prior notification to and approval from the BAE Systems Procurement Representative before parts/components are procured and used from sources other than OEMs/OCMs or through the OEM’s/OCM’s authorized distribution chain. Upon BAE Systems’ request, Supplier shall provide copies of

such documentation for its system for BAE Systems' inspection. Supplier's system shall be consistent with applicable industry standards, AS5553 at a minimum, for the detection and avoidance of Counterfeit Electronic Parts and Suspect Counterfeit Electronic Parts, including policies and procedures for training personnel, designing and maintaining systems to mitigate risks associated with parts obsolescence, making sourcing decisions, prioritizing mission critical and sensitive components, ensuring traceability of parts, developing lists of trusted and non-trusted suppliers, flowing down requirements to subcontractors, inspecting and testing parts, reporting and quarantining Suspect Counterfeit Electronic Parts and Counterfeit Electronic Parts, and taking corrective action.

- d) If the Supplier is providing electronic components/devices only, or value-added services that include the acquisition of components/devices in conjunction with these services, it certifies as follows:
- e) Certification of Origin of Product:
Acceptance of this Contract constitutes confirmation by the Supplier that it is the Original Equipment Manufacturer (OEM)/Original Component Manufacturer (OCM), or a franchised or authorized distributor of the OEM/OCM for the product herein procured. Supplier further warrants that OEM/OCM acquisition documentation that authenticates traceability of the components to that applicable OEM/OCM is available upon request. If the Supplier is not the OEM/OCM or a franchised or authorized distributor, the Supplier confirms by acceptance of this Contract that it has been authorized in writing by BAE Systems to act on BAE Systems behalf to procure from the OCM or a franchised or authorized distributor of the OEM/OCM. The Supplier further warrants that OEM/OCM acquisition traceability documentation is accurate and available to BAE Systems upon BAE Systems' request and Supplier will retain such information as a quality record in accordance with the "Maintenance of Records" provision contained herein.
- f) Supplier shall flow the requirements of this provision to its subcontractors and suppliers at any tier for the performance of this Contract.
- g) Notifications: Supplier shall notify BAE Systems promptly, but in no event later than seven (7) days of discovery in the event that Supplier becomes aware of a Counterfeit Part or Suspect Counterfeit Part that, by any means, has been delivered to BAE Systems, or acquired for this Contract whether or not delivered to BAE Systems. Supplier will request verification of receipt of this notification from BAE Systems. This requirement will survive this Contract.
- h) Supplier shall be liable for the cost of Counterfeit Parts and Suspect Counterfeit Electronic Parts and the cost of rework or corrective action that may be required to remedy the use or inclusion of such parts.
- i) Supplier shall quarantine Suspect Counterfeit Electronic Parts and Counterfeit Electronic Parts, and make them available for investigation by appropriate government authorities. Supplier shall not return Suspect Counterfeit Electronic Parts and Counterfeit Electronic Parts to the supply chain unless and until such time the parts are determined to be authentic.

35. PACKING AND SHIPMENT

- a) Unless otherwise agreed upon, Supplier shall pack all Work in accordance with good commercial practice.
- b) Supplier shall enclose a complete packing list with all shipments. Supplier shall mark containers or packages with necessary lifting, loading, and shipping information, including the BAE Systems Contract number, item number, dates of shipment, and the names and addresses of consignor and consignee. Bills of lading shall include this Contract number.
- c) Unless otherwise agreed upon, delivery shall be in accordance with EXW (Supplier's shipping point) INCOTERMS 2020.
- d) Supplier shall not supply Work in excess of quantities specified in this Contract. Supplier shall be liable for handling charges and return shipment costs for any excess quantities.

36. TIMELY PERFORMANCE

Supplier's timely performance is a critical element of this Contract and time is of the essence. If Supplier becomes aware of difficulty in performing the Work, Supplier shall timely notify BAE Systems in writing, giving pertinent details. This notification does not change the performance schedule.

37. INSPECTION, ACCEPTANCE, AND CORRECTIVE ACTION

- a) Inspection or Observation. BAE Systems may inspect and observe the performance of Work ongoing on BAE System premises at all reasonable times. Supplier shall provide all information and assistance necessary for safe and convenient inspection or observation without additional charge.
- b) Acceptance.
 - i. BAE Systems shall accept the Work or give Supplier notice of rejection within twenty (20) Days after the date of delivery of goods or written notice of completion of the work, whichever is later, notwithstanding any payment or prior test or inspection. No payment, inspection, test, delay, approval, failure to inspect/test, or failure to discover any defect or other nonconformance shall relieve Supplier of any obligations under this Contract or any order or impair any rights or remedies of BAE Systems or BAE Systems' Customers, including revocation of acceptance. Acceptance by BAE Systems of any Work shall not limit or affect any warranty or right of indemnity.
- c) Shipment of Non-Conforming Work. Supplier shall notify BAE Systems Procurement Representative of non-conforming items which cannot be reworked to meet the requirements of this Contract. Supplier shall obtain prior written authorization from BAE Systems Procurement Representative prior to Supplier's shipment of such non-conforming items to BAE Systems. Supplier also shall notify BAE Systems Procurement Representative of any previously delivered items which do not meet the requirements of this Contract immediately upon discovery of such non-conformance by Supplier.

38. WARRANTY/REPRESENTATIONS

- a) Work. Supplier represents and warrants that:
 - i. it and each of its personnel assigned to perform the Work hereunder have the proper skill, training, and background to be able to perform in a competent and professional manner with the highest degree of professional skill and all Work will be performed in accordance with the applicable statement of work and this Contract; it is and shall remain free of any obligation or restriction which would interfere or be inconsistent with, or present a conflict of interest concerning the Work to be furnished by Supplier under this Contract;
 - ii. BAE Systems will receive free, good, and clear title to all deliverables developed under this Contract;
 - iii. If the any items or any part of the items provided under this Contract are a commercial item, the commercial warranty will be transferred to BAE Systems; and
 - iv. all Work performed pursuant to this Contract shall strictly conform to all specifications, and descriptions, and other requirements of this Contract.
- b) Additional Warranties. In addition to the foregoing warranties, statements of work may contain additional warranties that specifically apply to such statement of work.
- c) Warranty Period. Supplier warrants that all equipment manufactured by Supplier and all Supplier equipment, parts or components supplied hereunder will be free from defects in material and workmanship. Supplier shall at its option repair or replace, EXW point of sale, any equipment, part or component sold by Supplier and determined to be defective within one (1) year from the date of initial operation or eighteen (18) months from date of shipment, whichever is earlier. Supplier does not warrant products not manufactured by Supplier, but it does pass on to BAE Systems any transferrable manufacturer warranties for those products. Supplier warrants

that all service provided by Supplier hereunder shall be performed in a workmanlike manner. In the event any such service is determined to be defective within ninety (90) days of completion of that service, Seller shall at its option re-perform or issue a credit for such service. Seller's obligation to repair or replace any defective equipment, parts or components during the warranty period shall be BAE Systems' exclusive remedy for repair or replacement for the subject equipment. Supplier shall not be responsible for labor charges for removal or reinstallation of defective equipment, parts or components, for charges for transportation, handling and shipping or refrigerant loss, or for repairs or replacement of such equipment, parts or components, required as a consequence of faulty installation, misapplication, vandalism, abuse, exposure to chemicals, improper servicing, unauthorized alteration or improper operation by persons other than Supplier. EXCEPT FOR WARRANTIES SET FORTH IN THIS AGREEMENT OR AN APPLICABLE STATEMENT OF WORK THIS WARRANTY IS GIVEN IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. BAE SYSTEMS ACKNOWLEDGES THAT SUPPLIER MAKES NO REPRESENTATION OR WARRANTY THAT THE IRON, STEEL, MANUFACTURED PRODUCTS AND/OR CONSTRUCTION MATERIALS USED BY SELLER IN CONNECTION WITH MEETING ITS OBLIGATIONS UNDER THE WARRANTY WITH RESPECT TO REPAIR OR REPLACEMENT WILL COMPLY WITH THE REQUIREMENTS OF THE INFRASTRUCTURE INVESTMENT AND JOBS ACT, THE BUY AMERICAN ACT OR ANY SIMILAR LAWS OR REGULATIONS.

- d) Malicious Technology. Supplier warrants that the Work will not: (A) contain any Malicious Technology, (B) monitor BAE Systems' use of the Work; (C) replicate, transmit or activate itself without control of a person operating the computing equipment on which it resides; or (D) alter, damage or erase any data or computer programs resident on BAE Systems computers or hardware without control of a person operating the computing equipment on which it resides. If Supplier is in breach of this subsection, no "right to cure" period will apply. BAE Systems reserves the right to pursue any available civil or criminal action against Supplier for violation of this provision. Supplier will not install, use, or execute any software on any BAE Systems central processing unit without BAE Systems' written approval. Supplier acknowledges that it does not have any right to electronically repossess or use any self-help related to the Work.

39. SITE INVESTIGATIONS AND REPRESENTATIONS

- a) The SUPPLIER represents that it has investigated and satisfied itself as to the nature and location of the work, the general and local conditions, including but not limited to those bearing upon transportation, disposal, handling and storage of materials; the availability of labor, water, electric power, and roads; the uncertainties of weather, river stages, tides, or similar physical conditions at the site; the conformation and conditions of the ground; the character of equipment and facilities needed preliminary to and during the prosecution of the Work and all other matters upon which information is reasonably obtainable and which can in any way affect the Work or the cost thereof under this Contract.
- b) Failure by the SUPPLIER to acquaint itself with all available information shall not relieve it of responsibility for successfully performing the Work. BAE SYSTEMS assumes no responsibility for any conclusions or interpretations made by the SUPPLIER based on the information made available by BAE SYSTEMS or for any understandings reached or representations made by any of its officers, employees or agents prior to the execution of this Contract, unless (1) such understanding or representations are expressly stated in this Contract and (2) this Contract expressly provides that the responsibility therefor is assumed by BAE SYSTEMS.
- c) The parties acknowledge and agree that SUPPLIER has represented that it has the requisite expertise to undertake the performance of the work contemplated by this Contract, and that BAE Systems, in reliance on such representation, has entered into this Contract.

40. MATERIAL AND WORKMANSHIP

- a) Unless otherwise specifically provided in this Contract, all equipment, material, and articles incorporated in the Work covered by this Contract are to be new and of the most suitable grade for the purpose intended. SUPPLIER shall provide and pay for all labor, tools, construction means, construction equipment materials, supplies, scaffolding, appliances, facilities, services, water, heat, air conditioning, utilities, transportation, and everything reasonably necessary and/or proper to complete the design and construction of the Project, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.
- b) SUPPLIER will acknowledge receipt of materials and equipment purchased or provided by BAE SYSTEMS for installation under the Contract Documents and will provide storage and protection for such materials and equipment.
- c) All work under this Contract shall be performed in a skillful and workmanlike manner consistent with the level of care and skill ordinarily exercised by industry-standard SUPPLIERS under similar circumstances. SUPPLIER shall be totally responsible for the professional quality, technical accuracy, feasibility, and coordination of all designs, drawings, specifications, and other services furnished by or for SUPPLIER hereunder.

41. OPERATIONS, STORAGE AREAS AND TEMPORARY CONSTRUCTION FACILITIES

- a) All operations of the SUPPLIER (including storage of materials) upon BAE SYSTEMS premises shall be confined to areas authorized or approved by BAE SYSTEMS. No unauthorized or unwarranted entry upon or passage through, or storage or disposal of materials shall be made upon BAE SYSTEMS premises. Premises adjacent to the work area will be made available for use by the SUPPLIER without cost whenever such use will not interfere with other SUPPLIERS' uses or purposes. The SUPPLIER shall be liable for damage caused by it to BAE SYSTEMS premises. The SUPPLIER shall hold and save BAE SYSTEMS, its officers and agents, free and harmless from liability of any nature or kind arising from any use, trespass or damages occasioned by its operations on premises of third persons directed by or performed for Supplier.
- b) SUPPLIER shall confine operations at the Project Site to geographic areas permitted by law, ordinances, permits and the Contract Documents and shall not unreasonably encumber area adjacent to the work area with any materials or equipment. No use will be made of the work area by SUPPLIER unless directly related to the work being performed under this Contract.
- c) SUPPLIER shall afford BAE SYSTEMS and separate SUPPLIERS reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work and shall connect and coordinate SUPPLIER's Work with BAE SYSTEMS and separate SUPPLIERS as required by the Contract Documents.
- d) If any part of SUPPLIER's Work depends, for proper execution or results, upon the work of BAE SYSTEMS, or any separate Supplier, SUPPLIER shall, prior to proceeding with the Work, promptly report to BAE SYSTEMS any apparent discrepancies or defects in such other work that render the Work unsuitable for such proper execution and results. Failure of SUPPLIER to report shall constitute an acceptance of BAE SYSTEMS' or separate Supplier's work as fit and proper to receive SUPPLIER's Work.
- e) Any costs caused by defective or ill-timed SUPPLIER's Work shall be borne by the party responsible, therefore.
- f) Should SUPPLIER cause damage to the Work, equipment or property of BAE, SUPPLIER shall promptly remedy such damage.

- g) Should SUPPLIER cause damage to the work or property of any separate Supplier, SUPPLIER shall, upon due notice, promptly attempt to settle with such other Supplier by agreement or otherwise to resolve the dispute. If such separate Supplier sues or initiates legal action or proceedings against BAE SYSTEMS on account of any damage alleged to have been caused by SUPPLIER, BAE SYSTEMS shall notify SUPPLIER who shall defend such proceedings at the SUPPLIER's expense and if any judgment or award against BAE SYSTEMS arises from damage caused by the SUPPLIER, SUPPLIER shall pay or satisfy such judgment or award in addition to BAE SYSTEMS' cost and attorney's fees to defend such action. Should SUPPLIER's Work or property be damaged by any separate Supplier or BAE SYSTEMS, SUPPLIER will be reimbursed for the reasonable cost to repair the damaged Work or for the actual damages to SUPPLIER's property.
- h) Temporary buildings (storage sheds, shops, offices, etc.) may be erected by the SUPPLIER only with the prior approval of BAE SYSTEMS and shall be built with labor and materials furnished by the SUPPLIER without expense to BAE SYSTEMS. Such temporary buildings and/or utilities shall remain the property of the SUPPLIER and will be removed by the SUPPLIER at its sole expense upon the completion of the Work.
- i) The SUPPLIER shall use only established roadways or construct and use such temporary roadways as may be authorized by BAE SYSTEMS. Where materials are transported in the prosecution of the work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any federal, state or local law or regulation. When it is necessary to cross curbing or sidewalks, protection against damage shall be provided by the SUPPLIER and any damaged roads, curbs, or sidewalks shall be repaired by, and at the expense of the SUPPLIER, to BAE SYSTEMS's satisfaction.
- j) The Work shall be done without interference with the ordinary use of streets, easements and passages and the SUPPLIER shall cooperate with other SUPPLIERS of BAE SYSTEMS and BAE SYSTEMS employees as may be required by the circumstances or directed by BAE SYSTEMS. The SUPPLIER shall not commit or permit any act which will interfere with the performance of work by any other SUPPLIERS or BAE SYSTEMS employees whether at the site or not.
- k) Should the Project or any portion thereof not be completed within the Contract Schedule (as adjusted under the terms of the Contract Documents), BAE SYSTEMS or BAE SYSTEMS' lessees or assigns shall have the right to occupy any portion of the Project not so completed. In such event, SUPPLIER shall not be entitled to any extra compensation on account of said occupancy by BAE SYSTEMS, or BAE SYSTEMS' lessees or assigns or normal full use of the Project, nor shall SUPPLIER by BAE SYSTEMS', or BAE SYSTEMS' lessees or assigns interfere in any way with said use of the Project, or be relieved of any of SUPPLIER's responsibilities under the Contract Documents, including, without limitation, SUPPLIER's obligation to complete the Project in accordance with the Contract Documents and the Project Schedule.
- l) If a dispute arises between SUPPLIER and separate SUPPLIERS as to their respective responsibility for cleaning up as required, BAE SYSTEMS may clean up and BAE SYSTEMS may charge the cost thereof to the SUPPLIER or separate Supplier as BAE SYSTEMS shall determine to be just.
- m) BAE SYSTEMS shall at all times have access to the Work and Project Site.

42. PRESERVATION OF EXISTING VEGETATION

- a) The SUPPLIER will preserve and protect all existing vegetation such as trees, shrubs, and grass on or adjacent to the site which do not unreasonably interfere with the SUPPLIERS work as may be determined by BAE SYSTEMS. The SUPPLIER will be responsible for all unauthorized cutting or damaging of trees and shrubs, including damage due to careless operation of equipment, stockpiling of materials or tracking of grass areas by equipment.

- b) Care shall be taken by the SUPPLIER in felling trees, authorized for removal, to avoid any unnecessary damage to vegetation that is to remain in place. Any limbs or branches of trees broken during such operations, shall be trimmed with a clean cut and painted with an approved tree pruning compound. The SUPPLIER may be required to replace or restore at its own expense all vegetation not protected and preserved as required herein that may be destroyed or damaged.

43. PROTECTION OF MATERIALS AND WORK PERFORMED

- a) The SUPPLIER shall at all times protect and preserve all materials, supplies and equipment of every description (including property which may be BAE SYSTEMS furnished or owned) and all Work performed. All reasonable requests of BAE SYSTEMS to enclose or specially protect such property shall be complied with. If as determined by BAE SYSTEMS, material, equipment, supplies and Work performed are not adequately protected by the SUPPLIER, such property may be protected by BAE SYSTEMS and the cost thereof may be charged to the SUPPLIER or deducted from any payments due the SUPPLIER.
- b) SUPPLIER is responsible for and required to remedy all damage or loss to any property, including property of BAE Systems or interruption of a utility service, caused in whole or in part by SUPPLIER, SUPPLIER's SUBSUPPLIER or anyone employed, directed or supervised by SUPPLIER.
- c) The SUPPLIER shall protect the materials and Work from deterioration and damage during construction and shall store and secure flammable material from fire, remove oily rags, waste, and refuse from buildings each night and during cold weather furnish all heat necessary for the proper conduct of the work.
- d) SUPPLIER is responsible for reporting and correcting all violations observed, to take all safety precautions, and implement all necessary safety programs in connection with the Work.

44. REMOVAL OF EQUIPMENT AND CLEANUP

- a) The SUPPLIER shall at all times keep the work area, including storage areas, free from accumulations of waste material and rubbish; and prior to completion of the Work remove any rubbish from and about the premises and all tools, scaffolding equipment, and materials not the property of BAE SYSTEMS. Outside cleanup work shall be completed prior to time of seasonal landscaping work whether or not included as part of the Work. Upon completion of the construction, the SUPPLIER shall leave the site in a clean, neat and workmanlike condition satisfactory to BAE SYSTEMS.
- b) Upon the completion of Work, the SUPPLIER shall remove its equipment, tools, materials, and other articles from the work area. Should the SUPPLIER fail to take prompt action to this end, BAE SYSTEMS (at its option and without waiver of such other rights as it may have) may after thirty (30) days' notice to SUPPLIER treat them as abandoned property and thereby dispose or use them as it deems appropriate.
- c) If SUPPLIER fails to clean up at the completion of the Work, BAE SYSTEMS or BAE SYSTEMS' lessees or assigns may do so, and the cost thereof shall be charged to the SUPPLIER and may be deducted from the final payment.

45. USE OF STRUCTURE BEFORE ACCEPTANCE

- a) BAE SYSTEMS or others may, during the performance of the Work, enter the structure for the purpose of performing any necessary Work. In doing so BAE SYSTEMS shall endeavor not to interfere with the SUPPLIER and the SUPPLIER shall not interfere with other work being done by or on behalf of BAE SYSTEMS.

- b) If, prior to completion and final acceptance of all the Work, BAE SYSTEMS takes possession of any structure (whether completed or otherwise) comprising a portion of the work with the intent of retaining possession thereof (as distinguished from temporary possession contemplating return to the SUPPLIER), then, while BAE SYSTEMS is in possession, the SUPPLIER, notwithstanding any other provision herein, shall be relieved of the responsibility for loss or damage to structure other than that resulting from the SUPPLIER's fault or negligence. Such taking of possession by BAE SYSTEMS shall not relieve the SUPPLIER from any provisions of this Contract respecting such structure, other than to the extent specified in the preceding sentence, nor constitute a final acceptance of such structure.

46. OPEN-SOURCE SOFTWARE; ARTIFICIAL INTELLIGENCE

- a. Open-Source Software. Without the prior written approval of BAE Systems, which BAE Systems may withhold in its sole discretion, Supplier shall not incorporate any Open-Source Software or any source code governed by an Open-Source license that is subject to copyleft licenses.
- b. Use of Artificial Intelligence. Supplier is prohibited from using, directly or indirectly, any artificial intelligence tools (e.g., Generative AI, including large language models) in providing the Work under this Contract without prior written authorization from BAE Systems. Such use includes inputting BAE Systems Data (whether as a prompt or files) into any artificial intelligence tools. If and to the extent expressly authorized by BAE Systems pursuant to this paragraph, Supplier agrees that it is wholly responsible for the accuracy and completeness of any output generated by artificial intelligence tools, and that BAE Systems' rights in the Work otherwise granted under this Contract are unchanged by the use of any artificial intelligence tools. Supplier further agrees to identify the portion(s) of any work generated by artificial intelligence upon request from BAE Systems.

47. INTELLECTUAL PROPERTY

- a) Warranty. Supplier warrants that the Work and deliverables performed and 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 and are free and clear of all liens, licenses, claims, and encumbrances. If an injunction is obtained against BAE Systems' use of and deliverables provided in the performance of the Work as a result of infringement or misappropriation of the intellectual property of any third party, Supplier shall either (A) procure for BAE Systems and Customer the right to continue using the deliverable or (B) re-perform or modify the Work so the deliverable becomes non-infringing.
- b) Intellectual Property. Each party retains ownership of its intellectual property and no license to intellectual property is granted, except as necessary for BAE Systems to use the deliverables and/or services provided under the Agreement.

Section D: Indemnification and Liability

48. INDEMNIFICATION

- a) SUPPLIER SHALL INDEMNIFY, HOLD HARMLESS AND AT BAE SYSTEMS' ELECTION, DEFEND BAE SYSTEMS, ITS AFFILIATES, AND ITS AND THEIR DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES, AND AGENTS FROM AND AGAINST ALL THIRD PARTY LOSSES, COSTS, CLAIMS, PENALTIES, CAUSES OF ACTION, DAMAGES, LIABILITIES, FEES, AND EXPENSES, INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEYS' FEES, ALL EXPENSES OF LITIGATION AND/OR SETTLEMENT, AND COURT COSTS (HEREINAFTER COLLECTIVELY REFERRED TO AS "CLAIMS"), ARISING FROM OR RELATED TO:
 - i. ANY ACT OR OMISSION OF SUPPLIER, ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, SUPPLIERS, OR SUBSUPPLIERS AT ANY TIER, RELATED TO OR AS PART OF THE EXECUTION OF WORK TO BE PERFORMED OR OTHERWISE IN THE PERFORMANCE OF ANY OF ITS OBLIGATIONS UNDER THIS CONTRACT;

- ii. THE ACTUAL OR ALLEGED INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHT OR MISAPPROPRIATION OR WRONGFUL USE OF INFORMATION OR DOCUMENTS, OR THE USE, REPRODUCTION, SALE, IMPORT, OR ANY OTHER DISTRIBUTION OF THE WORK OR DELIVERABLES BY BAE SYSTEMS OR ITS CUSTOMER;
 - iii. ANY INJURY, INCLUDING BUT NOT LIMITED TO DEATH, TO ANY PERSON(S), OR DAMAGE TO PROPERTY, ARISING FROM OR RELATED TO OR CAUSED OR CLAIMED TO HAVE BEEN CAUSED BY NEGLIGENT OR WILLFUL ACTS OR OMISSIONS OF SUPPLIER, ITS DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS, OR ANY OTHER PERSON OR ENTITY DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, WITH RESPECT TO OR IN CONNECTION WITH WORK UNDER THIS CONTRACT;
 - iv. ANY CLAIMS MADE BY SUPPLIER'S DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS (EXCEPT CLAIMS FOR PERSONAL INJURY OR DEATH ARISING FROM NEGLIGENCE OR INTENTIONAL TORTS ON THE PART OF BAE SYSTEMS) AGAINST BAE SYSTEMS, ITS AFFILIATES AND ITS OR THEIR DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS IN EITHER THEIR OFFICIAL OR INDIVIDUAL CAPACITIES;
 - v. ALLEGED IMPROPER CONDUCT OF ANY NATURE OR TYPE, INCLUDING, BUT NOT LIMITED TO, PHYSICAL, MENTAL OR SEXUAL ABUSE OR HARASSMENT, INVASION OF BODILY INTEGRITY, VIOLATION OF CIVIL RIGHTS, AND/OR DISCRIMINATION, BY OR ATTRIBUTABLE TO ANY OF SUPPLIER'S DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, SUPPLIERS OR SUBSUPPLIERS; AND
 - vi. SUPPLIER'S FAILURE TO PAY ANY OF SUPPLIER'S EMPLOYEES, AGENTS, SUPPLIERS, OR SUBSUPPLIERS, FOR WORK RENDERED UNDER THIS CONTRACT, AND SUCH OBLIGATION IS PERFORMED BY BAE SYSTEMS.
- b) NOTWITHSTANDING ANYTHING TO THE CONTRARY, IN THE EVENT OF A FINDING OF JOINT, COMPARATIVE, CONTRIBUTORY, OR CONCURRENT FAULT, THE PARTIES AGREE THAT SUPPLIER SHALL ONLY BEAR THE LOSS IN PROPORTION TO ITS SHARE OF FAULT. BAE Systems shall notify Supplier as soon as is practicable of any Claims arising under this section. Supplier shall not settle, adjust, or compromise any such claim or any action or proceeding arising therefrom without the written approval of BAE SYSTEMS, which shall not be unreasonably withheld. BAE Systems further agrees to cooperate with any investigation of such Claims and to provide Supplier any information reasonably available to BAE Systems (not of a classified, confidential or privileged nature), and reasonably necessary for the investigation or defense of such Claims, at the cost of the Supplier.
- c) Liquidated Damages: No liquidated damages apply unless parties specifically agree upon in writing under a SOW.
- d) Supplier acknowledges that the indemnity and hold harmless provision of this Contract is not an allowable cost under any provisions of this Contract, except with regard to allowable insurance costs.

49. LIMITATION OF LIABILITY

- a) IN ADDITION TO ANY OTHER LIMITATIONS ON BAE SYSTEMS' LIABILITY SET FORTH HEREIN, IN NO EVENT SHALL BAE SYSTEMS, ITS AFFILIATES, AND ITS AND THEIR DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES, AND AGENTS BE LIABLE BY REASON OF BAE SYSTEMS' BREACH OR TERMINATION OF THIS CONTRACT OR FOR ANY BAE SYSTEMS' ACTS OR OMISSIONS IN CONNECTION WITH THIS CONTRACT FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES OF ANY KIND, HOWEVER CAUSED, INCLUDING LOSS OF PROFITS OR REVENUE, WHETHER SUCH REMEDY IS SOUGHT IN CONTRACT, TORT, OR OTHERWISE.
- b) BAE SYSTEMS SHALL NOT BE LIABLE FOR ANY OF SUPPLIER'S INCREASED COSTS OF PERFORMANCE RESULTING FROM THE SUPPLIER'S IMPLEMENTATION OF ANY CHANGES OR MODIFICATIONS IT PERFORMS OR HAS PERFORMED WITHOUT FIRST OBTAINING THE APPROVAL OF BAE SYSTEMS PROCUREMENT REPRESENTATIVE.
- c) NOTWITHSTANDING ANYTHING ELSE IN THIS AGREEMENT, EXCEPT AS RELATED TO SUPPLIERS' CONFIDENTIALITY OBLIGATIONS, IN NO EVENT SHALL SUPPLIER BE LIABLE FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES OF ANY KIND, HOWEVER CAUSED, INCLUDING LOSS OF PROFITS OR REVENUE, WHETHER SUCH REMEDY IS SOUGHT IN CONTRACT, TORT, OR OTHERWISE.

- d) NOTWITHSTANDING ANYTHING TO THE CONTRARY AND TO THE EXTENT PERMITTED BY LAW, THE AGGREGATE LIABILITY OF EACH PARTY, WHETHER IN CONTRACT, TORT, OR OTHERWISE UNDER A PURCHASE ORDER SHALL NOT EXCEED THE GREATER OF (I) FOUR TIMES THE VALUE OF THE PURCHASE ORDER (INCLUDING ANY CHANGE ORDERS TO THAT PURCHASE ORDER) OR THE AGGREGATE AMOUNT RECEIVED BY SUPPLIER DURING THE TWELVE (12) MONTHS PRECEDING THE EVENT FORMING THE BASIS OF THE CLAIM. NOTWITHSTANDING THE LIMITATION OF LIABILITY SET FORTH IN THIS SECTION 45d THE PARTIES MUTUALLY AGREE THAT NO LIMITATION OF LIABILITY SHALL APPLY TO ACTS OF WILLFUL MALFEASANCE, FRAUD, INTELLECTUAL PROPERTY MISAPPROPRIATION OR VIOLATIONS OF LAW.

50. INSURANCE

- a) In the event that Supplier, its employees, agents, or subSuppliers enter the site(s) of BAE Systems or its Customer for any reason in connection with this Contract, then Supplier and its subSuppliers shall at each of their sole cost and expense obtain and maintain in force throughout the original term, and any extension, of this Contract (to include the warranty period), the following limits of insurance placed with a company reasonably acceptable to BAE Systems, each of which shall be primary to any insurance of BAE Systems:

Automobile General Liability: For Owned, Hired & Non-Owned (bodily injury) (property damage)	\$1,000,000 Combined Single Limits each accident
Commercial General Liability (CGL): Public Liability (bodily injury)	\$1,000,000 each occurrence \$2,000,000 aggregate
Public Liability (property damage)	\$1,000,000 each occurrence \$2,000,000 aggregate
Employer's Liability:	\$1,000,000 each accident/disease each employee/ disease policy limit
Errors & Omissions:	\$1,000,000 each claim \$2,000,000 aggregate
Products Liability:	\$1,000,000 each occurrence \$2,000,000 aggregate
Worker's Compensation:	Statutory
Umbrella/Excess Liability:	\$10,000,000 per occurrence and in the aggregate.
Property and Supplier's Equipment Insurance	Sufficient to cover all Supplier's Equipment Insurance and Supplier's employee owned tools and equipment brought onto BAE Systems/Customer Property

- b) The insurance coverage and limits required of the Supplier under this Contract are neither a limit of the Supplier's liability under this Contract, nor a recommended insurance program for Supplier. The Supplier alone should seek professional assistance if the Supplier has any question concerning its exposure to loss under this Contract or the applicable insurance coverage that may be necessary to address such exposure.
- c) Supplier shall include BAE Systems as an additional insured under each of the insurance policies required by this Contract, except Workers Compensation Insurance and Professional Liability/Errors & Omissions insurance. Such additional insured coverage applies with respect to loss to the extent arising out of Supplier's ongoing work for the additional insured. The Supplier acknowledges that each policy maintained pursuant to this paragraph is primary as with respect to the interest of BAE Systems and is not contributory with any insurance that BAE Systems may carry.

- d) All policies, including Workers Compensation, shall contain a Waiver of Subrogation in favor of BAE Systems excluding any loss, action or claim is caused by the negligence of an additional insured or others.
- e) Before commencing Work under this Contract, Supplier shall deliver a Certificate of Insurance required by this Contract. Any Certificate of Insurance shall contain a provision that the coverage provided under the policies, as well as the policies themselves, will not be canceled unless the insurers provide BAE Systems with thirty (30) Days' written notice of the intent to cancel a policy.

51. MECHANICS AND OTHER LIENS

- a) TO THE EXTENT PERMITTED BY LAW AND EXCEPT IN THE EVENT OF A VALID LIEN FILED DUE TO BAE SYSTEMS' DEFAULT IN ITS PAYMENT OBLIGATIONS TO SUPPLIER, SUPPLIER AGREES THAT IT WILL NOT ASSERT ANY MECHANICS LIEN, OR ANY OTHER LABOR OR MATERIAL LIEN, AGAINST ANY PROPERTY OWNED BY OR IN THE CARE, CUSTODY OR CONTROL OF BAE SYSTEMS TO SECURE PAYMENT OF ANY AMOUNTS THAT MAY BECOME DUE TO SUPPLIER FOR FURNISHING ANY LABOR OR MATERIAL IN PERFORMANCE OF THIS CONTRACT OR FOR PERFORMING ANY WORK ASSOCIATED THEREWITH. SUPPLIER ACKNOWLEDGES THAT BY ACCEPTING THIS CONTRACT IT WAIVES ITS RIGHTS (IF ANY) TO ASSERT A LIEN AND IS PRECLUDED FROM EXERCISING ANY MECHANICS LIEN RIGHTS IT MAY OTHERWISE BE AFFORDED UNDER APPLICABLE STATE LAW. SUPPLIER SHALL COOPERATE IN PROVIDING AND FILING ANY WAIVER(S) OR RELEASE(S) OF LIEN BAE SYSTEMS MAY REQUIRE. IN THE EVENT THAT APPLICABLE LAW DOES NOT PERMIT THE SUPPLIER'S WAIVER OF LIENS IN ADVANCE, SUPPLIER AGREES THAT IT SHALL NOT FILE A LIEN UNTIL IT COMPLETES THE WORK REQUIRED BY THE CONTRACT AND WILL PROVIDE A RELEASE AND WAIVER SIMULTANEOUS WITH FINAL PAYMENT UNDER THE CONTRACT.
- b) Supplier agrees to secure releases and waivers of lien in favor of BAE Systems from Supplier's suppliers and subSuppliers coincident with Supplier's final payments to them. In the event any of Supplier's suppliers or subSuppliers assert a mechanics lien, or any other labor or material lien, against any property owned by or in the care, custody or control of BAE Systems, BAE Systems at its election may immediately satisfy such lien and charge all amounts (including reasonable attorney's fees) associated with satisfying such lien to Supplier and/or offset such amounts against payments owed to Supplier.

52. FAILURE TO PERFORM

Neither Party shall be liable for delays in manufacturing, shipping, receipt, installation or delivery by causes beyond the control and without the fault or negligence of that Party, including but not restricted to acts of God, acts of a public enemy, acts of government, acts of terrorism, fires, floods, epidemics, quarantine restrictions, freight embargoes, supplier delays, strikes, or labor difficulties (collectively "Force Majeure Events"). The non-performing Party shall provide notification to the other Party in writing as soon as practicable of the causes of such delay and shall further be entitled to an extension of the time equivalent to the duration of any such delay and a reasonable time in which to recover from said delay to resume performance.