1. Definitions/Acceptance
1.1. BAE Systems is the entity specified on the Purchase Order (PO). Contract means together, in the following order of precedence: (1) the PO and the mandatory flow down clauses included in any attached U.S. Government Flow Down Exhibit(s) as modified by BAE Systems, (2) these Terms and Conditions, and (3) any other incorporated, attached, or referenced exhibit, or other document. Seller is the independent contractor specified on the PO that is contracting with BAE Systems. Work means all deliverables, materials, and related labor necessary for deliverables under the Contract. Party means BAE Systems or Seller. Parties means BAE Systems and Seller. Authorized Representatives (AR) means the Parties’ authorized representatives specified on the PO. Customer(s) means any higher tier contractor and/or the U.S. Government.
1.2. Seller’s acknowledgment, commencement of performance, or acceptance of any payment shall constitute Seller’s unqualified acceptance of the Contract.

2. Warranty of Work
2.1. Seller represents, warrants and agrees that:
2.1.1. The Work is new and not used or aged unless so specified on the PO.
2.1.2. The Work strictly complies with the requirements of the Contract, including all specifications set forth or referenced in any PO. Seller will timely notify BAE Systems of changes to the manufacturing process or location, supply base, or other change that affects compliance of the Work.
2.1.3. The Work is free from defects in design, material, manufacture, and workmanship.
2.1.4. The Work is free from liens, licenses, claims, and encumbrances.
2.1.5. The Work is performed by qualified personnel, with diligence, and in accordance with applicable industry quality standards.
2.1.6. The Work is a COTS item as defined by Federal Acquisition Regulation (FAR) § 2.101.
2.1.7. The Work strictly complies with all laws applicable to the Work.
2.1.8. The Work does not infringe, violate or misappropriate the rights of any third party.
2.1.9. The Work does not include any open source software or any code governed by an open source software license, except with advance written consent of BAE Systems.
2.1.10. The Work is free from any unauthorized chemical substance pursuant to the Toxic Substances Control Act.
2.1.11. The Work is free of any asbestos mineral fibers.
2.1.12. The Work is free of any known conflict minerals as defined by the Dodd–Frank Wall Street Reform and Consumer Protection Act of 2010 and its implementing regulations.

2.2. The warranties above shall begin upon BAE Systems’ delivery of the Work to BAE Systems Customer(s) and shall extend for a period of one year.
2.3. All warranties shall run to the benefit of BAE Systems, its successors, and Customer(s).
2.4. If the Work contains any manufacturer’s or commercial warranties, Seller hereby grants and assigns such warranties to BAE Systems.
2.5. If Seller delivers nonconforming Work, or a non-conformity appears within the warranty period, BAE Systems shall return the nonconforming Work to Seller, and Seller shall reimburse BAE Systems for such shipping costs and, at BAE Systems’ direction, promptly repair, replace, re-perform and deliver the Work at no cost to BAE Systems. If repair, replacement or re-performance of Work is not available to meet BAE Systems’ schedule, BAE Systems may elect to repair or have a third party repair the Work at Seller’s expense, or procure substitute Work from a third party at Seller’s expense.
2.6. Seller shall not re-tender rejected Work (or Work returned from another Seller customer) without disclosing in writing the corrective action taken, and receiving written approval from BAE Systems to deliver the Work.
2.7. If the deliverable under this Contract is or contains Electronic Parts, the Counterfeit Electronic Parts Exhibit shall apply to this Contract.
2.8. Seller shall flow down the requirements of Section 2 of this Contract, including any applicable Exhibits, to all subcontractors supporting the Contract, and require that all subcontractors supporting the contract incorporate such requirements in all lower tier subcontracts. Breach of this Section 2 is a material breach of the Contract and Seller shall notify BAE Systems immediately upon becoming aware of any possible breach.

3. Delivery/Timely Performance
3.1. Delivery and Risk of Loss is FOB Destination. Seller shall pack all Work and include in all shipments any applicable Safety Data Sheets (SDSs) and a complete packing list that specifies the BAE Systems’ Contract number and the date of shipment.
3.2. Seller’s timely performance is a critical element of the Contract and time is of the essence. Seller shall notify Buyer of any delay, provide a written recovery schedule, and expedite shipping at Seller’s expense. Seller shall not deliver Work early, unless authorized in writing by BAE Systems’ AR.

4. Prices/Payment
4.1. Seller shall be responsible for, and Seller’s prices shall be inclusive of, all applicable federal, state, local, and international taxes, duties, tariffs, licenses, export/import authorizations, permits, and similar fees imposed by any government; such charges shall be identified on Seller’s invoice.
4.2. BAE Systems shall pay Seller using electronic funds transfer within 45 days of the receipt of Seller’s proper invoice, or receipt of the Work (whichever is later). BAE Systems has the right to offset any amount, or reduce overpayments or amounts not properly payable to Seller.
4.3. Seller shall provide a W-9 if requested by BAE Systems.

5. Confidentiality
5.1. Seller shall protect and keep confidential BAE Systems’ proprietary information, including but not limited to specifications, drawings, computer programs, designs, and other technical information which BAE Systems protects from public disclosure. BAE Systems’ advance written consent is required prior to Seller’s disclosure, public release, or any comment on BAE Systems’ proprietary information, the Contract or its existence generally, or the contents of any terms and conditions in the Contract. The terms of the Contract do not alter any valid nondisclosure or proprietary information agreement between the Parties, which shall apply to any exchange of proprietary or confidential information made under the Contract.
5.2. Seller shall not communicate with BAE Systems’ Customer with respect to the Contract, and unless to the extent, required by law or as specifically directed by BAE Systems.

6. Compliance/Representations
6.1. Seller shall comply with all laws applicable to its performance of the Contract.
6.2. In addition to the above, Seller represents, warrants and agrees that:
6.2.1. Seller and Work complies with all applicable laws worldwide preventing slavery and human trafficking.
6.2.2. Seller complies with all United States export control laws and regulations applicable to the Work and performance of the Contract, BAE Systems’ or its Customer’s export controlled data. Seller shall identify any Work that is subject to U.S. export regulations and provide BAE Systems with the country of origin of the Work, the export classification of Work, and notice of any classification change.
6.2.4. Seller complies with the equal employment opportunity requirements of Title 41 of the Code of Federal Regulations (C.F.R.) and the employee notice requirements of Title 29 of the C.F.R.
11. **Term and Termination**

11.1 **Notices:** All notices must be sent to the applicable Party’s AR. Email constitutes notice only if receipt is confirmed by a reply email (not a read receipt or automatic reply).

11.2 **Survival:** If the Contract expires or is terminated, Seller shall not be relieved of the obligations contained in (1) U.S. Government Flow Down Exhibit(s), (2) Counterfeit Parts Exhibit, (3) Furnished/Acquired/Fabricated Property Exhibit, (4) Cyber Security Supplier Questionnaire, (5) Cloud Security Exhibit and/or (6) Ship Repair, Inc. Addendum.

12. **Law/Disputes, and General Clauses; (3) any obligation arising out of termination or expiration; and (4) any Exhibits attached hereto.

12.3 **General Clauses**

12.3.1 **Unabsorbed Indirect Costs:** In no event shall BAE Systems, its employees, agents or representatives be liable for any special, incidental, indirect, punitive, or consequential damages of any kind, or any lost or anticipated profits or unabsorbed indirect costs or overhead, whether such remedy is sought in contract, tort, or otherwise.

13. **Insurance/Entry onto Premises**

13.1. **Assignment:** BAE Systems may freely assign the Contract. Seller shall not assign rights or delegate duties under the Contract without advance written consent of BAE Systems. A change of control of Seller, by operation of law or otherwise, shall constitute an impermissible assignment.

13.2. **Entire Agreement:** The Contract is the entire agreement of the Parties and supersedes all other discussions or agreements on this subject. BAE Systems expressly rejects any additional or different terms proposed by Seller. Amendments or changes to the Contract shall be in writing and must reference the Contract and be signed by each Party’s AR. Nothing in these Terms and Conditions amends or supersedes any master agreement, long term supply agreement, proprietary information agreement or indemnity agreement between the Parties.

13.3. **Notices:** All notices must be sent to the applicable Party’s AR. Email constitutes notice only if receipt is confirmed by a reply email (not a read receipt or automatic reply).

13.4. **Records:** Seller shall retain all records related to the Contract for five years from the date of final payment receipt (or such longer period as required by law).

13.5. **Severability:** In the event any provision or clause of the Contract conflicts with governing law, or a court of competent jurisdiction holds invalid any such provision or clause of the Contract, such provision or clause shall be deemed to be modified to reflect as nearly as possible the Parties’ intent. The remainder of the Contract shall remain in full force and effect.

13.6. **Survival:** If the Contract expires or is terminated, Seller shall not be relieved of the obligations contained in (1) U.S. Government Flow Downs; (2) the following Sections: Warranty of Work, Confidentiality, Compliance/Representations, Intellectual Property, Liability/Indemnification, Insurance, Governing Law/Disputes, and General Clauses; (3) any obligation arising out of termination or expiration; and (4) any Exhibits attached hereto.

13.7. **Disputes:** Seller shall provide BAE Systems and its Customer(s) (if authorized by BAE Systems) reasonable access to such records.

13.8. **Waiver:** BAE Systems’ failure to enforce any provision(s) of the Contract shall not be construed as a waiver of the requirement or a waiver of the right to enforce each and every such provision(s).