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General Terms and Conditions for Commercial Purchase Orders and Subcontracts

1) **ACCEPTANCE** – This order is not an acceptance of any offer to sell but is an offer to purchase. It may be accepted within five (5) days of the order's date only by Buyer receiving Seller's written acknowledgement or by commencement of performance by Seller. Acceptance is expressly limited to the terms and conditions of this offer. By acceptance in either manner described hereinabove, Seller expressly assents to the terms and conditions contained herein to the exclusion of all other terms and conditions, including any contained in any acknowledgement, acceptance, letter, quote, or other writing of Seller prior to, simultaneously with, or after acceptance.

Any proposal for additional or different terms or any attempt by Seller to vary, in any degree, any of terms in this offer in Seller's acceptance or acknowledgement shall not operate as a rejection of this offer, and this offer shall be deemed accepted by the Seller without said additional or different terms.

2) **ADDITIONAL OR DIFFERENT TERMS** –The terms contained in this order, with any attachments, will constitute the entire and only agreement of the parties and will supersede all prior discussions, representations, writings, oral agreements, and understandings or any language in the acknowledgement or acceptance of Seller to the contrary. Buyer objects to addition to, change, modification of, revision of, deletion, or waiver of any of the terms and conditions of this order. Irrespective of whether such different or additional terms and conditions materially alter this order, such different of additional terms and conditions will be invalid and rejected unless specifically agreed to in writing by Buyer.

3) **PACKING and DELIVERY** – Time is of the essence in this order, and substitutions outside of or overruns above normal accepted standards will not be accepted unless agreed upon by Buyer in writing. Goods shipped shall be at Seller's risk until no longer in possession of Seller and title has passed to Buyer. Unless otherwise specified in writing, place for delivery of goods is Buyer's business. Buyer may invoke and Seller shall pay a late delivery penalty if Seller is delinquent in meeting the delivery as agreed to on this Purchase Order. Seller shall be charged at the rate of one percent (1%) of the price of delayed item(s) per day, to a maximum of five percent (5%) of the total Purchase Order value. Any applicable Late Delivery Penalty will be deducted from future invoice payments.

Unless otherwise specified, all Work is to be packed in accordance with good commercial practice to prevent damage and deterioration during shipping, handling, and storage.

A complete packing list shall be enclosed with all shipments. Seller shall mark containers or packages with necessary lifting, loading, and shipping information, including the AFHC Purchase Order number, item number, dates of shipment, and the names and addresses of consignor and consignee. Bills of lading shall include this Purchase Order number.

4) **WARRANTY** – In addition to Seller's standard warranty, Seller warrants that all Work furnished pursuant to this Contract shall strictly conform to applicable specifications, drawings, samples, descriptions, and other requirements of this Contract and be free from defects in design, material, and workmanship. All warranties shall survive inspection, test and acceptance of, and payment for, the Work. All warranties shall run to Buyer and its successors, assigns, and customers. The warranty shall extend for a period of one (1) year after Buyer's final acceptance unless a different period is set forth elsewhere in this Contract. If any nonconformity of the Work appears within that time, Seller shall promptly repair, replace, or reperform the Work at Buyer's option. Transportation of replacement Work, return of nonconforming Work, and repeat performance of Work shall be at Seller's expense. Work required to be corrected or replaced shall be subject to this provision and the Inspection and Acceptance provision of this Contract in the same manner and to the same extent as Work originally delivered under this Contract. If repair, replacement, or reperformance of Work is not timely, Buyer may elect to return the nonconforming Work or repair, replace Work, or reprocur the Work at Seller's expense.

5) **INSPECTION and TESTS** – All goods ordered hereunder will be subject to inspection and testing by Buyer at all reasonable times and places, including Seller's facilities. It is expressly agreed that inspections and/or payments prior to, at the time of, or after delivery will not constitute a final acceptance of the goods or services.

No such inspection shall relieve Seller of its obligations to furnish all Work in accordance with the requirements of this Contract. Buyer's final inspection and acceptance shall be at destination unless otherwise specified in this Contract.

6) **CONFIDENTIALITY** – All information, drawings, specifications, or data furnished by Buyer to Seller shall be considered proprietary, and Seller shall keep confidential all such information, drawings, specifications, or data unless this requirement is waived expressly in writing by Buyer and will return the same, including copies made by or for Seller, upon request. Seller shall not in any manner advertise or publish the fact that it has furnished or contracted to furnish to Buyer the goods or services herein mentioned without prior written consent of Buyer.

7) **CHANGES** - Buyer may at any time, by written notice and without notice to sureties or assignees, make Changes within the general scope of this Contract in any one or more of the following: (i) drawings, designs, or specifications; (ii) method of shipping or packing; (iii) place of inspection, acceptance, or point of delivery; (iv) reasonable adjustments in quantities or delivery schedules or both; (v) amount of Buyer-furnished property; and, if this Contract includes services, (vi) description of services to be performed; (vii) quantity of services (i.e., hours to be worked); (viii) time of performance (e.g., hours of the day, days of the week); and (ix) place of performance. Seller shall comply immediately with such direction.

If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of this Contract, Buyer shall make an equitable adjustment in the Contract price or delivery schedule or both and modify the Contract accordingly. Changes to the delivery schedule will be subject to a price adjustment.

Any claim for an equitable adjustment by Seller must be submitted in writing to the Buyer Procurement Representative within thirty (30) days from the date of notice of the change unless the Parties agree in writing to a longer period.

Failure to agree to any adjustment shall be resolved in accordance with the *Disputes* clause of this Contract. However, nothing contained in this *Changes* clause shall excuse Seller from proceeding without delay in the performance of this Contract as changed.

8) **USE OF INFORMATION** – The Seller agrees that all information furnished or disclosed to Buyer by Seller in connection with this order is furnished or disclosed as part of the consideration of this order. Notwithstanding the foregoing, if Seller clearly identifies in writing information which Seller considers to be confidential or proprietary, Buyer will protect and not disclose such information except for information: (a) which is already known to Buyer through Buyer's own development prior to Buyer's first receipt of information relating to Seller's development from Seller, or (b) which is or generally becomes available to the public through no fault of Buyer, or (c) which is properly obtained from a third party who has the right to make such disclosure.

9) **CONTRACT DIRECTION** - Only the Buyer Procurement Representative has authority to amend this Contract. Such amendments must be submitted in writing.

Buyer engineering and technical personnel may render assistance or give technical advice or discuss or affect an exchange of information with Seller's personnel concerning the Work hereunder. Such actions shall not be deemed to be a change under the **Changes** clause of this Contract and shall not be the basis for equitable adjustment.

Action or direction by any Buyer customer shall not be deemed to be a change under the **Changes** clause of this Contract and shall not be the basis for equitable adjustment.

Except as otherwise provided herein, all notices to be furnished by the Seller shall be sent to the Buyer Procurement Representative.

10) **EQUIPMENT, BUYER'S PROPERTY** – All equipment, tools, materials, vehicles, and/or other articles required for Seller's performance of this order shall be furnished by Seller, maintained in good condition, and replaced when necessary at Seller's expense. Title to and a right of immediate possession of any property of any nature whatsoever furnished or paid for by Buyer shall remain in Buyer's possession.

11) **FURNISHED PROPERTY** – Buyer may provide to Seller property owned by either Buyer or its customer (Furnished Property). Furnished Property shall be used only for the performance of this Contract.

Buyer or its customer shall retain title to Furnished Property. Seller shall clearly mark (if not already marked) all Furnished Property to show ownership.

Except for reasonable wear and tear, Seller assumes all risk of loss, destruction, or damage of Furnished Property while in Seller's possession, custody, or control. Upon request, Seller shall provide Buyer with adequate proof of insurance against such risk of loss. Seller shall promptly notify Buyer of any loss or damage. Without additional charge, Seller shall manage, maintain, and preserve Furnished Property in accordance with good commercial practice.

12) **FORCE MAJEURE** – In the event of fire, accidents, abnormal weather conditions, governmental acts, strikes or other labor disputes, Acts of God, war, riots, and other civil disturbances, or any other conditions beyond either party's reasonable control which prevent manufacture, transportation, delivery, acceptance, or Buyer's prompt utilization of the goods or services covered by this order, the affected party may, without any liability or penalty, delay delivery, manufacture, transportation, acceptance, or utilization by written notice effective when received by the other party until such event and the consequences of such event of force majeure have terminated. Said notice of an event of force majeure shall contain the reason for any delay which the notifying party considers to be an event of force majeure under the provisions of this paragraph. An event of force majeure shall not include events within the total or partial control of the party giving notice, including, but not limited to, poor business judgment or estimates, material or labor shortages, or unanticipated engineering or technical difficulties.

13) **TERMINATION** – Buyer may terminate performance of the work under this order, in whole or in part, by written notice to Seller. Upon receipt of such notice, Seller shall immediately discontinue all work and the placing of all orders for materials, facilities, and supplies pursuant to this order. Upon termination by Buyer under this paragraph for reasons other than force majeure (as set out in 9) or certain remedies of (as set out in 11), Buyer shall negotiate payment to Seller based on Seller's non-recoverable, reasonable, and actual documented costs and expenses; in no case, however, shall payments made under this paragraph exceed the aggregate price specified in this purchase order, less payments otherwise made or to be made. Nothing contained in this paragraph shall be construed to limit or affect any remedies, which Buyer may have as provided in paragraphs 12 and 14.

14) **DEFAULT-CANCELLATION** – If Seller's financial condition, based on reasonable and objective criteria, is found to be or becomes unsatisfactory to Buyer during the term of this contract, or if Seller fails to make reasonable progress in its performance of this contract, Buyer reserves the right, without incurring any liability to Seller, to cancel this order by written notice and terminate this contract and receive a refund of any deposits, down payments, or other advance payment (except for goods or services already delivered). Buyer also reserves the right similarly to terminate all other contracts covering purchases by Buyer of Seller's products of services whether or not Seller may otherwise be in default, and no rights shall accrue to Seller against Buyer on account of such termination. The foregoing rights of Buyer are in addition to, and not in lieu of, any rights Buyer may possess under provisions of the Uniform Commercial Code or other provisions of the law. If Seller fails to perform as specified in this order or breaches any of the terms hereof, Buyer reserves the right, without incurring any liability to Seller and, upon giving Seller written notice, to: (a) Cancel this order in whole or in part, and Seller shall be liable to Buyer for all damages, losses and liability incurred by Buyer directly or indirectly resulting from Seller's breach; or (b) obtain the goods or services ordered herein from another source, with any excess cost resulting therefore chargeable to Seller; or (c) setoff or reduce all claims for money due or to become due to Buyer from Seller to the extent Buyer is damaged by Seller's failure to perform. The remedies herein provided shall be cumulative and in addition to any other remedies provided at law or in equity. Buyer's failure to insist on performance of any of the terms and conditions herein or to exercise any right or privilege, or Buyer's waiver of any breach hereunder, shall not thereafter waive any other terms, conditions, or privileges, whether of the same or similar type.

15) **COMPLIANCE WITH LAWS** – Seller agrees to comply fully with all applicable laws, ordinances, rules, regulations, and orders of all foreign nations (or governmental subdivision thereof) and all applicable domestic (United States of America) federal, state, and local laws, ordinances, rules, regulations, and orders pertaining to the production and sale of the goods or services ordered, and, upon request, Seller shall furnish Buyer with certificates of compliance. These laws shall include, without limitation, the following: The Fair Labor Standards Act of 1938, as amended; Federal and State OSHA requirements; the equal opportunity clause in §202 of Executive Order #11246 as amended; Veterans Employment and Readjustment Act of 1972 (amending the Vietnam Era Veterans Readjustment Assistance Act of 1972); the rules and regulations of the Office of Federal Contract Compliance; §503 of the Rehabilitation Act, Toxic Substances Control, and The Federal Hazardous Substances Act. With specific references to the Toxic Substances Control Act, Seller warrants that each chemical substance delivered under this order shall be on the list of chemical substances compiled and published by the Administrator of the Environmental Protection Agency pursuant to §8 of the Toxic Substances Act. If this order is placed, directly or indirectly, under a contract to which the United States or any state or other governmental authority is a party, then all terms and conditions required by law or regulation or contained in the government contract with respect to this order are incorporated herein by reference. Seller expressly agrees to indemnify and hold harmless

Buyer, its successors, assigns, customers, and users of its products from any costs, losses, expenses, damages, claims, suits, fines, penalties, or any liability whatsoever, including attorney's fees, resulting from the failure of Seller to comply in the furnishing of goods or services under this order, with all applicable foreign or domestic federal, state, or local laws, ordinances, rules, regulations, or orders as set out hereinabove.

16) **INDEMNIFICATION** – Except to the extent that any injury or damage is due solely and directly to Buyer's negligence, Seller agrees to indemnify and hold harmless Buyer, its successors, assigns, customers and users of its products against all suits at law or in equity and from all damages, claims and demands arising out of death of or injury to any person or damage to any property alleged to have resulted from the goods or services hereby ordered and, upon the tendering of any suit or claim to Seller, to defend the same at Seller's expense as to all costs, losses, expenses, damages, claims, suits, or any liability whatsoever, including attorney's fees. The foregoing indemnification shall apply whether the death, injury, or property damage is caused by the sole or concurrent negligence of Seller. To the extent that Seller's agents, employees, or subcontractors enter upon the premises of Buyer, Seller shall take all necessary precautions to prevent injury or death to any persons or damage to property arising out of acts or omissions of such agents, employees, or subcontractor and, except to the extent that any such injury or damage is due solely and directly to Buyer's negligence, shall indemnify, defend, and hold Buyer, its officers, employees, and agents, harmless from any and all costs, losses, expenses, damages, claims, suits, or any liability whatsoever, including attorney's fees, arising out of any act or omission of Seller, its agents, employees or subcontractors. Seller shall maintain and require its subcontractors to maintain: (a) Public liability and property damage insurance (including contractual liability), both general and vehicle, in amounts sufficient to cover obligations set forth above, and (b) worker's compensation and employer's liability insurance covering all employees engaged in the performance of this order. Seller shall furnish, upon Buyer's request, certificates evidencing such insurance.

17) **PATENT AND INTELLECTUAL PROPERTY RIGHT INDEMNIFICATION** – Seller shall indemnify and save harmless Buyer, its successors, assigns, customers or users of its products, or Buyer's officers, employees, and agents, from and against all costs, losses, expenses, damages, claims, suits, or any liability whatsoever, including attorney's fees, resulting from any claim that the manufacture, use, sale, or resale of any goods or services supplied under this order infringe any patent, copyright, trademark, or other intellectual property rights; and Seller, when notified, shall, at Buyer's sole option, either defend any action or claim of such infringement at its own expense or reimburse Buyer's expenses, attorney's fees, and other costs defending such action or claim.

18) **ASSIGNMENT** – This order may not be assigned by Seller, nor may Seller delegate the performance of any of its duties hereunder without Buyer's prior written consent.

19) **APPLICABLE LAW** - The laws of the State of Maryland shall govern Applicable Law – the validity, interpretation, and performance of these terms and conditions.

20) **EXPORT CONTROL** - Seller agrees to comply fully with all applicable U.S. export control laws and regulations as they may apply to any hardware, software, information, or the direct product of such information, furnished to Seller under this Contract. Seller agrees that it will not permit the re-export of any the above—including to foreign nationals employed by, associated with, or under contract to Seller or Seller's lower-tier suppliers—without the authority of an Export License or applicable License Exception.

Seller agrees to notify Buyer if export control laws or regulations restrict any deliverable Work under this Contract.

Seller shall immediately notify the Buyer Procurement Representative if Seller is listed in any Denied Parties List or if Seller's export privileges are otherwise denied, suspended, or revoked in whole or in part by any U.S. Government entity or agency. At Buyer's request, Seller will provide Buyer with all data Buyer may need to apply for and obtain an Export License or applicable License Exception.

21) **PAYMENTS, TAXES and DUTIES** - Unless otherwise provided, terms of payment shall be net thirty (30) days from the latest of the following: (i) Buyer's receipt of the Seller's proper invoice, (ii) Scheduled delivery date of the Work, or (iii) Actual delivery of the Work. Buyer shall have a right of setoff against payments due or at issue under this Contract or any other Contract between the Parties.

Unless otherwise specified, prices include all applicable federal, state, and local taxes, as well as duties, tariffs, and similar fees imposed by any government, all of which shall be listed separately on the invoice. Prices shall not include any taxes, impositions, or charges.

22) **CAPTIONS** – The captions appearing at the beginning of each paragraph of these terms and conditions are for convenience only and are not to be construed as a substantive part of said terms and conditions.

23) **SEVERABILITY** – The terms and conditions of this order are severable and if any terms and conditions or portions of any terms and conditions herein are stricken or declared illegal, invalid, or unenforceable for any reason whatsoever, the legality, validity, or enforceability of the remaining terms and conditions shall not be affected thereby.