



1. **ORDER ACCEPTANCE** – This Purchase Order constitutes Buyer’s offer. It becomes a binding contract on the terms provided herein when it is accepted either by acknowledgement or by performance. Written acknowledgment must be by fax, mail or email. Acceptance of this Purchase Order is hereby expressly limited to the terms hereof. Any terms in any acknowledgement or other document of Seller which is in addition to or different from any term hereof is hereby objected to and shall not become a part of this Purchase Order unless agreed to in writing by Buyer. All exhibits, attachments, technical specifications, drawings, notes, instructions, and information referenced in this Purchase Order are incorporated herein by reference.

2. **PRICE** – This Purchase Order shall not be filled at prices higher than those shown on this Purchase Order. Seller warrants that the prices to be charged for articles or services ordered herein are not in excess of prices charged to other customers for the same or similar goods for similar quantities of like quality. Payment will be in U.S. Dollars unless otherwise agreed to by specific reference in the Purchase Order. Except as may be otherwise provided in this Purchase Order, the contract price shall include all applicable Federal, State and local taxes of any kind in effect on the contract date.

3. **INVOICES/CASH DISCOUNT** – Unless agreed to in writing Seller shall issue a separate invoice for each delivery and shall not issue any invoice prior to the Order schedule date or actual delivery date, whichever is later. Invoices must reference this Purchase Order number, Work Order number when provided, part number if applicable, description of services performed, and applicable quantities. Buyer may deduct from any payment due to Seller or set-off against any claim by Seller any amount which is due to Buyer by Seller for any reason, including, among other reasons, any excess transportation charges caused by deviations from Buyer’s shipping instructions or the shipping of partial shipments. Payment due date, including discount periods, will be computed from the date of receipt of Goods or correct invoice, whichever is later, to the date Buyer’s check is mailed or payment is otherwise transmitted. Buyer’s production schedules are based upon materials being delivered to Buyer at the agreed time. Shipments or deliveries as specified in this Purchase Order shall be strictly in accordance with the quantities and schedule specified. Buyer will be liable for payment only for quantities ordered and delivered. Over shipments or materials delivered early shall be held solely at Seller’s risk and expense for a reasonable time awaiting return shipping instructions or disposition and will be returned at Seller’s expense. If requested by Buyer, Seller shall, at Seller’s expense, ship via air or other expedited transportation to avoid or minimize the delay to the maximum extent possible due to late shipments.

4. **DELIVERY**- Time is of the essence. Delivery shall be strictly in accordance with the schedule, quantity, and any other terms set forth in this Purchase Order. Purchase order dates are in-house (Buyer’s dock) delivery dates unless otherwise specified on the Purchase Order. This Purchase Order may be rated according to Defense Priorities and Allocation System Regulation (15 C.F.R. 700).



Seller must adhere to such requirements. Seller shall indemnify Buyer for any damages resulting from Seller's delivery breach. Delays in shipment shall be reported immediately by the Seller to the Buyer. Buyer reserves the right to cancel, without liability, this Purchase Order in whole or in part if Seller should fail to make deliveries in accordance with the terms of this Purchase Order.

5. **INFRINGEMENT** – Seller warrants that all work, materials, services, equipment, parts and other items provided by Seller pursuant to this Purchase Order, which are not of Buyer's design, shall be free from claims of infringement (including misappropriation) of third-party intellectual property rights and that any use or sale of such items by Buyer or any of Buyer's customers shall be free from any claims of infringement. Seller shall indemnify and save Buyer, and its customers, harmless from any and all expenses, liability, and loss of any kind (including all costs and expenses including attorneys' fees) arising out of claims, suits, or actions alleging such infringement, or wrongful use of any proprietary or confidential information, which claims, suits, or actions Seller, hereby, agrees to defend, at Seller's expense, if requested to do so by Buyer. Seller may replace or modify infringing items with comparable goods acceptable to Buyer of substantially the same form, fit, and function so as to remove the source of infringement, and Seller's obligations under this Purchase Order including those contained in Section 6 and in this Section 5 shall apply to the replacement and modified items. If the use or sale of any of the above items is enjoined as a result of such claim, suit or action, Seller, at no expense to Buyer, shall obtain for Buyer and its customers the right to use and sell said item.

6. **WARRANTY** – The Seller warrants that all materials or services delivered hereunder shall be new and will conform to the design and specifications and to drawings, samples, or other descriptions referred to in this Purchase Order and will be free from defects in material or workmanship. Such warranties shall survive any inspection, delivery, acceptance, or payment by the Buyer of the design, material or service for a period of one (1) year following the date of Buyer acceptance unless otherwise specified herein. All warranties shall run to Buyer and its customers during the warranty period. Remedies shall be at Buyer's election, including repair, replacement or reimbursement of the purchase price of nonconforming materials and, in the case of services either correction of the defective services at no cost or reimbursement of the amounts paid for such services.

7. **BUYER'S PROPERTY** – (a) All drawings, tools, jigs, dies, fixtures, materials, and other items supplied or paid for by Buyer shall be and remain the property of Buyer; and Buyer shall have the right to enter Seller's premises and remove any such property at any time without being liable for trespass or damages of any sort. (b) All such items shall be used only in the performance of work under this Purchase Order unless Buyer consents otherwise in writing. (c) Material made in accordance with Buyer's specifications and drawings shall not be furnished or quoted by Seller to any other person or concern without Buyer's prior written consent. (d) Seller shall have the obligation to maintain any and all property furnished by Buyer to Seller and shall be responsible for all loss or damage to said property except for normal wear and tear.

8. **TAXES** – Prices shall not include any taxes, impositions, charges or exactions for which Buyer has furnished a valid exemption certificate or other evidence of exemption. To the extent that Buyer is required to do so under applicable United States law or regulations, Buyer may deduct from any payments due to Seller pursuant to this Purchase Order such taxes as Buyer is required to withhold from such payments and pay such taxes to the relevant tax authorities; provided, however, that Buyer provides Seller with relevant tax receipts or other suitable documentation evidencing the payment of such taxes promptly after such taxes are paid.

9. **ASSIGNMENT OF RIGHTS** – Seller shall not delegate any duties nor assign any rights or claims under this Purchase Order without the written consent of Buyer and no such attempted delegation or assignment shall be binding on Buyer. All claims for monies due or to become due from Buyer shall be subject to deduction by Buyer for any setoff or counterclaim arising out of this or any other of Buyer's transactions with Seller whether such setoff or counterclaim arose before or after such assignment by Seller. No goods to be delivered under this Purchase Order shall be procured by Seller from a third party in completed or substantially completed form without Buyer's prior written consent. No assignment, delegation or subcontracting by Seller with or without Buyer's consent shall relieve Seller of any of its obligations under this Purchase Order.

10. **CHANGES** – (a) Buyer shall have the right by written order to suspend work, or to make changes it deems necessary, including but not limited to, changes in drawings, specifications, design, delivery, testing, methods, packing or destination. If such suspension or changes cause an increase or decrease in the cost of performance of this Purchase Order or in the time required for its performance, an equitable adjustment shall be negotiated promptly, and the Purchase Order shall be modified in writing accordingly. (b) Any claim by Seller for adjustment under this Section 10 must be asserted in writing within twenty (20) days from the date of receipt by Seller of notification of the change or suspension and shall be followed as soon as practicable with specification of the amount claimed and supporting cost figures. However, nothing herein shall excuse the Seller from proceeding with this Purchase Order as changed pending resolution of the claim. (c) Seller shall notify Buyer not less than three (3) months in advance of any design; material process changes; capital equipment changes; business ownership or location changes that may materially impact the performance of Buyer's orders. Seller shall notify Buyer not less than six (6) months in advance of Seller's intent to discontinue products or services as specified under this Purchase Order.

11. **TERMINATION FOR DEFAULT** – (a) Buyer may, by notice in writing, terminate this Purchase Order in whole or in part at any time for breach of any one or more of its terms, for failure to make progress so as to endanger performance of this Purchase Order, or failure to provide adequate assurance of future performance. In the event of partial termination, Seller is not excused from performance of the non-terminated balance of work under the Purchase Order. (b) In the event of Seller's default hereunder, the Buyer may exercise any or all rights accruing to it, both at law,



including without limitation, those set forth in Article 2 of the Uniform Commercial Code, or in equity. (c) Seller's obligations, including but not limited to obligations under the Warranty, Proprietary Rights, Infringement, and Indemnity Against Claims provisions of this Purchase Order, shall survive such termination.

12. TERMINATION FOR CONVENIENCE – (a) Buyer may, by notice in writing, terminate this Purchase Order or work under this Purchase Order for convenience and without cause, in whole or in part, at any time, and such termination shall not constitute default. In the event of partial termination, Seller is not excused from performance of the non-terminated balance of work under the Purchase Order. (b) In the event of termination for convenience by Buyer, Seller shall be reimbursed for actual, reasonable, substantiated and allowable costs, plus a reasonable profit for work performed to date of termination. Buyer may take immediate possession of all work so performed upon written notice of termination to Seller. (c) Seller's obligations, including but not limited to obligations under the Warranty, Proprietary Rights, Infringement, and Indemnity Against Claims provisions of this Purchase Order, shall survive such termination.

13. PROPRIETARY RIGHTS – (a) Unless otherwise expressly agreed in writing to the contrary, all specifications, information, data, drawings, software and other items supplied to Buyer by Seller shall be disclosed to Buyer on a non-proprietary basis and may be used and/or disclosed by Buyer without restriction, unless (i) otherwise required by the U.S. Government Regulations referred to below, or (ii) the Buyer has executed a separate agreement restricting the use and disclosure of such information, data, software and the like. (b) Unless otherwise expressly agreed in writing to the contrary and subject to Section 13(d) below, all specifications, information, data, drawings, software and other items which are (i) supplied to Seller by Buyer or (ii) obtained or developed by Seller in the performance of this Purchase Order or paid for by Buyer shall be proprietary to Buyer, shall be used only for purposes of providing goods or services to Buyer pursuant to this Purchase Order, and shall not be disclosed to any third party without Buyer's express written consent. All such items supplied by Buyer or obtained by Seller in performance of this Purchase Order or paid for by Buyer shall be promptly provided to Buyer on request or upon completion of this Purchase Order. (c) Unless otherwise expressly agreed in writing to the contrary and subject to Section 13(d) below, any invention or intellectual property first made or conceived by Seller in the performance of this Purchase Order or which is derived from or based on the use of information supplied by Buyer shall be considered to be the property of Buyer, and Seller shall execute such documents necessary to perfect Buyer's title thereto. Unless otherwise expressly agreed in writing to the contrary and subject to Section 13(d) below, any work performed pursuant to this Purchase Order which includes any copyright interest shall be considered a "work made for hire." (d) Government Procurement Regulations incorporated into this Purchase Order shall, when applicable, take precedence over any conflicting provision of this Section 13 to the extent that such Regulations so require. The incorporation by reference of such Government Procurement Regulations dealing with subcontractor's rights in Technical Data, subject inventions, copyrights, software and similar intellectual property are not



intended to, and shall not, unless otherwise required by applicable law, obviate or modify any greater rights which Seller may have previously granted to Buyer pursuant to prior agreements between the parties.

14. **INSOLVENCY** – In the event of any proceedings, voluntary or involuntary, in bankruptcy or insolvency by or against Seller, including any proceedings under the applicable Federal or State Bankruptcy law currently in effect, or in the event or the appointment, with or without the Seller's consent, of an assignee for the benefit of creditors or of a receiver, the Buyer shall be entitled to elect to cancel any unfilled part of this Purchase Order without liability whatsoever.

15. **SHIPPING/PACKAGING/LABELING** – (a) All Material purchased hereunder must be packed and packaged to ensure its safe delivery in accordance with good commercial practice and, where incorporated, the Buyer's packaging specification. (b) The Seller shall mark on all containers handling and loading instructions, shipping information, part number, purchase order number and item number, quantity in box, shipment date, and names and addresses of the Seller and the Buyer. An itemized packing list must accompany each shipment. Each packing slip shall include: this Purchase Order number, quantity, item description, order date, shipping date and delivery address, but shall not include pricing information. (c) All shipments of hazardous materials under this Purchase Order shall comply with current U.S. Department of Transportation (DOT) regulations as published in 49 C.F.R. 100-199, and the labeling shall meet the current U.S. Occupational Safety and Health Administration (OSHA) Regulations as published in 29 C.F.R. 1910.1200, for the transporting and labeling of hazardous materials. (d) Material Safety Data Sheets (MSDS) shall be supplied with the first shipment of all hazardous materials, and these sheets shall be resubmitted if any changes or updates, as required, are made. A second copy must be sent to API Technologies Corp. Office of Environmental Health and Safety.

16. **TITLE AND RISK OF LOSS** – Title and risk of loss shall pass to Buyer at the FOB or Incoterm point provided on face of Purchase Order, however the risk of loss shall remain with the Seller as to goods which are not accepted by Buyer or which are rejected by Buyer.

17. **INSPECTION AND ACCEPTANCE** – (a) The Seller shall inspect all material prior to shipment to the Buyer. All articles covered by this Purchase Order may be inspected and tested by the Buyer or its designee. If the Buyer so elects to inspect or test, successful completion of such inspection or testing shall be a prerequisite to the Buyer's acceptance of the material. If deemed necessary by the Buyer, the Seller shall provide without charge, all reasonable facilities and assistance for such inspection and test. (b) Any inspection records relating to material covered by this Purchase Order shall be available to the Buyer during the performance of this Purchase Order and for such longer periods as specified by the Buyer. (c) If any material covered by this Purchase Order is defective or otherwise not conforming to the requirements of this Purchase Order, the Buyer may, by written notice to the Seller: (i) rescind this Purchase Order as to such non-conforming material; (ii) accept such material at an equitable reduction in



price; (iii) reject such non-conforming material and require the delivery of suitable replacements. If the Seller fails to deliver suitable replacements promptly, the Buyer, with notice of five business days, may replace or correct such material and charge the Seller the additional cost occasioned the Buyer thereby, or terminate this Purchase Order for default. (d) No inspection (including source inspection) test, approval (including design approval) or acceptance of material shall relieve the Seller from responsibility for defects or other failures to meet the requirements of this Purchase Order. Rights granted to the Buyer in this section entitled INSPECTION AND ACCEPTANCE is in addition to any other rights or remedies provided elsewhere in this Purchase Order or in law. (e) Buyer's failure to inspect does not relieve Seller of any responsibility to perform according to the terms of this Purchase Order.

18. TARIFF AVOIDANCE – Seller shall undertake commercially reasonable steps as necessary to ensure that , to the extent possible, products it sells to Buyer are not subject to tariffs, and that, regardless of the applicability of DFARS 252.225-7013, Duty Free Entry, to this Purchase Order, duties are not passed on to Buyer.

19. GOVERNMENT CLAUSES – To the extent required by applicable laws, rules and regulations, the following clauses of the Federal Acquisition Regulation (FAR) and Defense Federal Acquisition Regulation Supplement (DFARS) are incorporated herein by reference. Where necessary to make the context of such clauses applicable to this Purchase Order, the term “Contractor” shall mean Seller, the term “Contract” shall mean the Purchase Order, and the terms “Government,” “Contracting Officer,” “Head of the Agency or Secretary,” and equivalent phrases shall mean Buyer or the Government.

FAR Clauses

52.203-6 Restrictions on Subcontractors Sales to the Government

52.203-7 Anti-Kickback Procedures

52.203-12 Limitation on Payments to Influence Certain Federal Transactions

52.203-13 Contractor Code of Business Ethics and Conduct

52.203-14 Display of Hotline Poster(s)

52.211-5 Material Requirements

52.215-2 Audit-Negotiations

52.219-8 Utilization of Small Business Concerns

52.219-9 Small Business Subcontracting Plan



52.222-26 Equal Opportunity

52.222-35 Equal Opportunity for Veterans

52.222-36 Equal Opportunity for Workers with Disabilities

52.223-18 Encouraging Contractor Policies to Ban Text Messaging While Driving

52.227-1 Authorization and Consent

52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement

52.247-64 Preference for Privately Owned U.S.-Flag Commercial Vessels

DFARS Clauses

252.225-7013 Duty-Free Entry (applicable to sales of qualifying country components, as defined in this clause, and nonqualifying country components for which any duty will exceed \$200 per unit)

252.244-7000 Subcontracts for Commercial Items

252.247-7023 Transportation of Supplies by Sea

20. **EXPORT/IMPORT CONTROLS** – (a) Seller shall control the disclosure of and access to technical data, information and other items received under this Purchase Order in accordance with U.S. export control laws and regulations, including but not limited to the International Traffic in Arms Regulations (ITAR). Seller agrees that no technical data, information or other items provided by the Buyer in connection with this Purchase Order shall be provided to any foreign persons or to a foreign entity, including without limitation, a foreign subsidiary of Seller, without the express written authorization of the Buyer and the Seller's obtaining of the appropriate export license, technical assistance agreement or other requisite documentation for ITAR-controlled technical data or items. Seller shall indemnify Buyer for all liabilities, penalties, losses, damages, costs or expenses that may be imposed on or incurred by Buyer in connection with any violations of such laws and regulations by Seller. (b) Seller shall immediately notify Buyer if it is or becomes listed on any Excluded or Denied Party List of an agency of the U.S. Government or its export privileges are denied, suspended or revoked.

21. **REMEDIES** – The rights and remedies provided to Buyer herein shall be cumulative and in addition to any other rights and remedies provided by law or equity or provided under the Uniform Commercial Code.

22. **WAIVER** – Waiver of a breach of any provision of this Purchase Order shall not constitute waiver of full compliance with such provision nor shall it be construed as a waiver of any other breach.

23. **FORCE MAJEURE** – Except for defaults of Seller’s subcontractors at any tier, neither Buyer nor Seller shall be liable for any failure to perform due to any cause beyond their reasonable control and without their fault or negligence. Such causes include, but are not limited to, acts of God or of the public enemy, acts of the Government in its sovereign or contractual capacity, fires, floods, epidemics, terrorism, quarantine restrictions, strikes, freight embargoes, and unusually severe weather. In the event that performance of this Purchase Order is hindered, delayed or adversely affected by causes of the type described above (“Force Majeure”), then the party whose performance is so affected shall so notify the other party’s authorized representative in writing and, at Buyer’s option, this Purchase Order shall be completed with such adjustments as are reasonably required by the existence of Force Majeure or this Purchase Order may be terminated for convenience.

24. **DISPUTES** – (a) Any controversy or claim that may arise out of or in connection with this Purchase Order that after good faith negotiations cannot be resolved to both Parties’ mutual satisfaction may be resolved by submitting the claim to a court of competent jurisdiction. (b) Pending resolution or settlement of any dispute arising under this Purchase Order, Seller will proceed diligently as directed by Buyer with the performance of this Purchase Order. Irrespective of the place of performance, this Purchase Order will be construed and interpreted according to the laws of the State from which the Purchase Order is issued, without resort to said State’s Conflicts of Law Rules.

25. **SEVERABILITY** – If any provision of this Purchase Order or application thereof is found invalid, illegal or unenforceable by law, the remainder of this Purchase Order will remain valid, enforceable and in full force and effect, and the parties will negotiate in good faith to substitute a provision of like economic intent and effect.

26. **RESPONSIBILITY AND INSURANCE** – Seller shall be responsible for the actions and failure to act of all parties retained by, through, or under Seller in connection with the performance of this Purchase Order. Seller shall also maintain and cause its subcontractors to maintain such General Liability, Property Damage, Employer’s Liability, and Workers’ Compensation Insurance, Professional Errors and Omissions Insurance, and Motor Vehicle Liability (Personal Injury and Property Damage) Insurance as are specified in this Purchase Order of, if none are specified, such amount as will protect Seller (and its subcontractors) and Buyer from said risks and from any claims under any applicable Workers’ Compensation, Occupational Disease, and Occupational Safety and Health statutes or regulations. Seller shall provide Buyer with certificates evidencing required insurance upon Buyer’s request.

27. **INDEMNITY AGAINST CLAIMS** – (a) The Seller agrees to indemnify, hold harmless and defend the Buyer, its employees, directors, officers, Agents and



students with respect to all claims, suits, actions and proceedings of actual or alleged infringements of any Letter Patent, Registered or Industrial Design, Trademark or Trade Name, Trade Secret, Copyright or other protected right in any country resulting from any sale, use or manufacture of any Material delivered hereunder and to pay and discharge all judgments, decrees, and awards rendered therein or by reason thereof and bear all expenses and legal fees (including the Buyer's) associated herewith. The Buyer reserves the right to be represented in any such action by its own counsel at its own expense. (b) The Seller will indemnify, defend and hold the Buyer, its directors, officers, employees, agents and students harmless from any loss, expense, claim or damage including reasonable defense costs, arising from any claim or action based on any acts or omissions of the Seller, its employees, servants, agents or subcontractors. The Buyer reserves the right to be represented in any such action by its own counsel at its own expense.

28. **ENTIRE AGREEMENT** – This Purchase Order is a complete and exclusive statement of terms and supersedes any and all prior agreements, understandings or communications between Buyer and Seller related to the subject matter of this Purchase Order. No amendment or modification of this Purchase Order shall be binding upon Buyer unless set forth in writing and signed by Buyer.

29. **RIGHT TO INSPECT**

- a. At no additional cost to APITech, goods purchased pursuant to this Contract shall be subject to inspection, surveillance and test at reasonable times and places, including Seller's subcontractors' locations. Furthermore, APITech has the right to visit Seller's and Seller's subcontractors' locations during regular operating hours to inspect, review and assess progress and performance under this Contract, including, but not limited to, production, schedule, quality, employee health and safety, labor code compliance, environmental compliance and social responsibility. Any APITech representative shall be allowed access to all areas used for the performance of the Contract.
- b. Seller shall maintain an inspection system acceptable to APITech for the goods purchased under this Contract.
- c. If APITech performs an inspection, surveillance, review or test on the premises of Seller or its subcontractors, Seller shall furnish, and require its subcontractors to furnish, without additional charge, reasonable facilities and assistance for the safe and convenient performance of these duties.
- d. APITech's rights to perform inspections, surveillance and tests and to review procedures, practices, processes and related documents related to quality assurance, quality control, flight safety and configuration control shall extend to customers of APITech that are departments, agencies or instrumentalities of the United States Government, including the United States Government Federal Aviation Administration and any successor agency or instrumentality of the United



States Government and their foreign counterparts. Seller shall cooperate with any such United States Government-directed or APITech-directed inspection, surveillance, test or review without additional charge to APITech. Nothing in this Contract shall be interpreted to limit United States Government access to Seller's facilities pursuant to law or regulation.