



## General Terms & Conditions - Supplier

The following, together with the attachments appended hereto constitutes the Terms and Conditions for the contract between the Supplier and WB Industries ("Buyer"), and acceptance is strictly limited to the terms and conditions contained herein. Additional or differing terms, conditions, or limitations of liability proposed by Supplier, whether in a quote, acceptance, or delivery document shall have no effect unless accepted in writing by Buyer. Any limitation of liability or disclaimer of warranty is expressly rejected. Agreement by Supplier to furnish the goods or services to these terms and conditions, or Supplier's commencement of such performance, or acceptance of payment shall constitute acceptance by Supplier of these Terms and Conditions.

1. **PAYMENT:** Buyer will make timely payments on undisputed amounts after the later of (i) Buyer's receipt of a valid invoice, or (ii) Buyer's acceptance of the Goods and Services. Supplier will not invoice Buyer until the Goods have been delivered or the Services rendered, unless prior arrangements have been made with Buyer in writing. Unless otherwise stated on the order, the prices for the Goods and Services on the order are complete and include purchase price, taxes, shipping (for international shipments, to port of entry), packaging, labeling, storage, and insurance, but do not include, for international shipments, customs duties or shipping from port of entry to destination.
2. **DELIVERY & ACCEPTANCE:** All shipping, completion, and delivery dates are firm. Shipment of Goods will be FOB Destination, or as otherwise specified on the order. Supplier must suitably pack or otherwise prepare for shipment all Goods to prevent damage in transit. Supplier will ensure that all packaging and labeling complies with the laws of the destination jurisdiction. Supplier must comply with all carrier requirements. Goods must be classified to secure the lowest possible shipment, insurance, and duty rates. Buyer may test or inspect all Goods or Services delivered, but Buyer's inspection, testing, or payment (or lack of inspection, testing, or payment) is not an acceptance of Goods or Services or a waiver of any right or warranty and does not preclude Buyer from rejecting defective Goods or Services.
3. **CONFIDENTIALITY:** All information relating to this order is "Buyer Confidential Information." Supplier may only use and copy the Buyer Confidential Information to perform its obligations under this order. Supplier will not disclose Buyer Confidential Information to any third party without the prior written consent of Buyer. Upon cessation of work, or upon request, Supplier must return all documents and other materials that contain or relate to Buyer Confidential Information. Buyer Confidential Information does not include information that is: (i) rightfully known by Supplier prior to negotiations leading to this order; (ii) independently developed by Supplier without reliance by Supplier on the Buyer Confidential Information; or (iii) part of the public domain or is lawfully obtained by Supplier from a third party without any confidentiality violation.
4. **RETENTION OF RECORDS:** Unless a longer period is specified in this Subcontract or by law or regulation, Supplier shall retain all records related to these terms and conditions for ten (10) years from the date of final payment or as agreed upon by all Parties. Records related to this Subcontract include, but are not limited to: financial, proposal, procurement, specifications, production, inspection, test, quality, shipping and export, and certification records. At no additional cost and upon request, Supplier shall timely provide access to such records to Buyer and/or Buyer's Customer. WB Industries shall have the right of access to WB records and facilities as appropriate. When a Supplier makes changes to their processes, products or services, or manufacturing location, WB Industries shall be notified of such changes. WB Industries reserves the right to re-evaluate the Supplier at any time. Any Supplier shall include the substance of this clause to all subcontractors as required.

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5. **INFORMATION SECURITY:** If Suppliers performance involves the transmission, storage, processing, or development of proprietary information, confidential or personal information, over a network, the Supplier shall apply the following basic safeguarding requirements and procedures to protect covered Supplier information systems. The Supplier shall maintain a cybersecurity policy based on industry recognize standards (e.g. ISO 27000, NIST 800-53).
6. **WARRANTIES AND CERTAIN COVENANTS:**
  - a. Supplier warrants and covenants that all Goods and Services delivered: (i) do and will conform with the Buyer order and all specifications; (ii) are and will be free from defects in materials, workmanship and design; (iii) are and will be free from liens, restrictions, reservations, security interests or encumbrances; (iv) are and will be suitable for, and perform in accordance with, the particular purposes (A) for which they were purchased by Buyer and (B) for which they were designed, manufactured or constructed; (v) do and will, to the extent the Goods will be or are used in combination with other Buyer software, hardware or firmware, property interoperate with Buyer's software, hardware or firmware; and (vi) with respect to Services only, will be provided by individuals who have the expertise, skills, training, and professional education to perform the Services in a professional manner.
  - b. Supplier will, at Buyer's request and without additional expense to Buyer, promptly correct defects or replace non-conforming Goods or Services, at Buyer's sole discretion. If Supplier does not promptly correct defects or replace non-conforming Goods or Services when so requested, Buyer, after written notice to Supplier, may make corrections or replace Goods and Services and charge Supplier for the cost incurred.
  - c. Supplier warrants that neither the Goods nor Services, nor Buyer's use of the Goods or Services, will constitute an infringement of any patent, copyright, trademark, service mark, intellectual property right, or the misappropriation of any trade secret or the violation of a right of publicity or a nondisclosure obligation.
  - d. Supplier warrants that the Goods and Services requiring the use of any software or data provided on a network or stand-alone desktop computer will not contain any software viruses or other malicious computer instructions, devices or techniques that can or were designed to threaten, infect, damage, disable, or shut down a computer system or any component of a computer system, including its security or user data. At Buyer's request, Supplier will provide a master copy of any software necessary to operate the Goods or Services in object code format for comparison and correction.
7. **INDEMNIFICATION AND INSURANCE:**
  - a. Supplier agrees to indemnify and defend Buyer, Buyer's affiliates, and their respective customers, officers, employees, and agents against any third party claim, demand, suit, cause of action, liability, loss, or expense (including reasonable attorneys' fees) brought against any Buyer indemnitee resulting from (i) any act or omission of Supplier under this order (including injury to persons and loss of, or damage to, tangible and intangible property, (ii) the inaccuracy of any warranty or representation made by Supplier, or (iii) the infringement of any patent, copyright, trademark, service marks, intellectual property right, or Supplier's misappropriation of any trade secret or violation of any right of publicity or nondisclosure obligation.
  - b. If the purchase or Buyer's use of the Goods or Services is enjoined, Supplier must, at its own expense and at Buyer's sole option, (i) replace the Goods or Services with non-infringing goods or services, (ii) modify the infringing Goods or Services so the infringement is removed, or (iii) refund the purchase price of the infringing Goods or Services.
  - c. Throughout its performance under this order, Supplier agrees to maintain policies of insurance that include, but are not limited to, general commercial liability insurance covering its performance under this order with a limit of at least \$1,000,000 per occurrence, worker's compensation insurance sufficient to comply with applicable law, and automobile insurance with bodily injury and property damage combined single limited of at least \$1,000,000.

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### 8. OWNERSHIP:

- a. Supplier must promptly disclose and assign to Buyer all intellectual property generated, conceived, or developed under this order, including but not limited to: proprietary information, inventions conceived or reduced to practice because of this order, and any resulting patents. Any works of authorship in any form of expression, including, but not limited to, manuals and software developed under this order, are works for hire and belong exclusively to Buyer, if, by operation of law, the ownership of works for hire does not automatically vest in Buyer, Supplier hereby assigns and agrees to assign ownership to Buyer. Supplier will provide reasonable assistance to Buyer to secure intellectual property protection, including, but not limited to, assistance in the preparation and filing of any patent applications, copyright registrations, and the execution of all applications, assignments or other instruments for perfection or protection of title. Supplier will pay its employees any compensation due relating to the assignment of any intellectual property or invention. Supplier warrants to Buyer that Supplier's employees are subject to agreements that will secure Buyer's rights under this section.
- b. For intellectual property, including software, provided under this order, but not owned by Buyer under Section 6 a), Supplier grants to Buyer a fully paid-up, worldwide, perpetual license to install, execute, use, copy, test, display, perform and distribute such intellectual property for Buyer's business purposes, including the provision of managed services, webhosting services and application service provider and application infrastructure provider services.

9. **TERMINATION:** Buyer may at any time terminate for convenience further performance of all or part of this order by giving written notice to Supplier. If Supplier, for any reason, fails to ship or deliver Goods or perform Services within the times specified in this order, Buyer may, without liability (except for Goods or Services previously delivered and accepted), terminate this order in whole or in part, by written notice to Supplier, and Supplier will be liable to Buyer for damages that Buyer incurs due to non-performance, including the excess cost for substitute Goods or Services.

10. **LIMITATION OF LIABILITY:** Buyer will not be liable for special, indirect, consequential (including, but not limited to, lost profits), special, exemplary, or punitive damages arising out of or relating to this order. Buyer's liability for any claim of any kind arising out of or relating to this order will not exceed the price of the Goods or Services giving rise to the claim.

11. **CHOICE OF LAW:** This order and the rights and obligations of the parties are governed by the laws of the State of Missouri (USA) without regard to its conflict of laws, but this order and the rights and obligations of the parties will not be governed or interpreted in any way by referring to any law based upon or similar to the Uniform Computer Information Transactions Act (UCITA) or the United Nations Convention on Contracts for the International Sale of Goods (UNCISG).

### 12. WAIVER OF JURY TRIAL; VENUE:

- a. Each party waives its right to a jury trial in any court action arising among the parties, whether under this agreement or otherwise related to this agreement, and whether made by claim, counterclaim, third party claim, or otherwise.
- b. Except to the extent necessary for Buyer to enforce indemnity or defense obligations under this Agreement, any court proceeding brought by either party must be brought, as appropriate, in state court located in St. Charles County, Missouri, or in the United States District Court for the Eastern District of Missouri in St. Louis, Missouri. Each party agrees to personal jurisdiction in either court. The prevailing party in any formal dispute will be entitled to reasonable attorney's fees and costs, including reasonable expert fees and costs.

13. **COMPLIANCE WITH LAWS:** Supplier will comply with all applicable laws and regulations. Supplier will take all precautions to prevent injury to persons or property damage and adhere to Buyer's security procedures.

14. **GOVERNMENT CONTRACTS:** For each Subcontract awarded in support of and charged to a U.S. Government Contract, the provisions found in Government Contract Flowdown Provisions shall apply along with any other applicable and mandatory flow-downs required by the FAR or DFARS or any other federally published Supplement. All such appended

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FAR, DFARS, or other clauses are incorporated by reference as if set forth at length herein. Supplier agrees that all such clauses that under applicable law must flow-down to lower tier subcontractors of Buyer shall so flow-down to Supplier's subcontractors.

15. **CONFLICT MINERALS:** All materials provided under this order must be free of conflict minerals from Covered Countries in accordance with Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. For all Suppliers who provide product to Buyer containing Tantalum (and all its derivatives), Tin, Tungsten, or Gold, Supplier shall complete EICC Conflict Minerals Reporting Template (common survey) found at <http://www.conflictreesmelter.org> and perform due diligence on its supply chain in order to fulfill the reporting obligations of this article.

16. **EXPORT LICENSING INFORMATION:**

- a. This contract, including any attachments or exhibits hereto, may contain information which is subject to the International Traffic in Arms Regulations (ITAR) or Export Administration Regulations (EAR) which may not be released to foreign concerns or foreign persons either inside or outside the United States without first obtaining the proper export authority. Supplier shall obtain an export license pursuant to the requirements set forth herein for any items that Supplier either manufactures or subcontracts outside the U.S. or before allowing access to any technical data by a foreign person in the United States. If Supplier is a "Foreign Person" (as defined by the International Traffic in Arms Regulations [ITAR] reference 22 CFR Subchapter M) the Supplier shall, upon request of Buyer's Procurement Agent and without additional cost, provide such information as may be necessary to support Buyer's application for export license(s) covering any items ordered from Supplier hereunder.
- b. This Contract may contain defense related technical data. Buyer or Suppliers customer has obtained or will obtain the approval of the U.S. Government to furnish to Supplier the data, and any other items hereunder requiring such approval, which are necessary from Supplier to perform this Contract. U.S. Government approval is based upon the following ITAR requirements with which Supplier agrees to comply: (i) Supplier shall use the technical data furnished by Buyer or Buyer's customer only in the manufacture of defense articles in accordance with this contract. (ii) Supplier shall not disclose or provide technical data furnished by Buyer or Buyer's customer to any person except authorized U.S. citizen, protected person, permanent resident alien (immigrant alien). If Supplier is a "Foreign Person," it may also disclose or provide technical data furnished by Buyer or Buyer's customer to its employees who are citizens of the same country and qualified subcontractors in the same country which require the data in performance of the subcontract. (iii) Supplier shall not disclose or provide technical data furnished by Buyer or Buyer's customer to any foreign person either in the U.S. or abroad without obtaining prior authorization directly from the U.S. Department of State Office of Defense Trade Controls (ODTC). ITAR defines a "foreign Person" as any person who is not a U.S. citizen, permanent resident alien, or a protected individual as defined by 8 USC 1324B(a)(3). Foreign person also means a foreign corporation (corporation not incorporated in the U.S.), foreign Government, and any agency or subdivision of foreign governments (i.e. diplomatic mission). (iv) Supplier shall not acquire any rights in the data furnished by Buyer or Buyer's customer except to use it in the performance of this contract. Supplier also shall not convey to its qualified subcontractors any greater rights in the data than Supplier has. Supplier's qualified subcontractors shall only have the right to use the data as required in the performance of their subcontracts. (v) Supplier shall deliver the defense articles manufactured in accordance with this Contract only to Buyer, Buyer's customer or to the U.S. Government. (vi) Upon completion or termination of this Contract, Supplier shall destroy or return to Buyer or Buyer's customer all technical data furnished to Supplier by Buyer or Buyer's customer pursuant to this Contract. At Buyer or Buyer's customer's election. Buyer or Buyer's customer may direct Supplier to return or destroy the data and may require Supplier to certify in writing that Supplier has complied. (vii) Supplier shall impose these requirements, (i) through (viii), suitably revised to identify the parties properly, on all its subcontractors to which Supplier intends to furnish technical data provided by Buyer for use by the subcontractor in performance of the subcontracts.

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### 17. COUNTERFEIT PARTS PREVENTION:

- a. For purposes of this clause, Work consists of those parts delivered under this Contract that are the lowest level of separately identifiable items (e.g., articles, components, goods, and assemblies). "Counterfeit Work" means Work that is or contains items misrepresented as having been designed and/or produced under an approved system or other acceptable method. The term also includes approved Work that has reached a design life limit or has been damaged beyond possible repair but is altered and misrepresented as acceptable.
- b. Supplier agrees and shall ensure that Counterfeit Work is not delivered to Buyer.
- c. Supplier shall only purchase products to be delivered or incorporated as Work to Buyer directly from the Original Component Manufacturer (OCM)/Original Equipment Manufacturer (OEM), or through an OCM/OEM authorized distributor chain. Work shall not be acquired from independent distributors or brokers unless approved in advance in writing by Buyer.
- d. Supplier shall immediately notify Buyer with the pertinent facts if Supplier becomes aware or suspects that it has furnished Counterfeit Work. When requested by Buyer, Supplier shall provide OCM/OEM documentation that authenticates traceability of the affected items to the applicable OCM/OEM.

### 18. GENERAL:

- a. Supplier will not, without Buyer's prior written consent, make any news release, public announcement, denial, or confirmation of this order, its value, or its terms. Nothing in this order grants Supplier the right to use any trademarks, service marks, tradenames, or logos proprietary to Buyer. If Supplier is granted a right to use Buyer marks, Supplier will do so only in strict compliance with Buyer's guidelines.
- b. No change, amendment, or modification of this order will be effective unless in writing and signed by authorized representatives of Buyer and Supplier.
- c. Supplier will not, without Buyer's prior written consent, assign all or any part of this order.
- d. Failure by Buyer to insist upon strict performance by Supplier of any of its obligations under this order will not waive any subsequent or other default or failure to perform by Supplier.
- e. Buyer's rights and remedies in law or equity are cumulative and may be exercised concurrently or separately.
- f. The invalidity, in whole or in part, of any provision of this order will not affect the validity of any other provision.
- g. Time is of the essence in Supplier's performance.
- h. Supplier is an independent contractor and not an agent or employee of Buyer or any of Buyer's affiliates. Supplier is solely responsible for paying wages, salaries, fringe benefits, and any other compensation to or claims by Supplier's employees.
- i. Supplier will not subcontract any portion of this order without Buyer's prior written consent.
- j. Buyer has the right to offset any amount owed by Supplier to Buyer against any amount owed by Buyer to Supplier under this order.
- k. Supplier must provide product change notices to Buyer. All documents related to this order must be sent to Buyer at Procurement Dept., 1270 West Terra Lane, O Fallon, Missouri (USA) 63366 or faxed to 636-272-2368.

19. **ENTIRE AGREEMENT; CONFLICTS:** This order and any attachment constitute the entire agreement between the parties as to Goods or Services and supersede all previous representations, statements, negotiations, commitments, and writings relating to the Goods and Services. If there is a conflict between this order and any other document related to the Goods or Services, the terms of the documents will control in the following order: (a) master or other written agreement between Buyer and Supplier signed by an authorized representative of Buyer; (b) printed order terms; (c) supplemental terms set forth on the front and (d) other documents incorporated into this order by reference.