

**System, Inc.**  
**Terms and Conditions for Purchase Orders**

General Terms and Conditions

**1. Applicability.**

- a. These terms and conditions for purchase orders ("Terms") are the only terms which govern the sale of the goods ("Order") by you ("Seller") to Systel, the Buyer ("Buyer"). Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sale of the Goods covered hereby, the terms and conditions of said contract shall prevail to the extent they are inconsistent with these Terms.
- b. No terms and conditions other than the Terms set forth here, including any terms and conditions in any document attached to or incorporated by reference, shall be binding upon Buyer unless accepted by it in writing signed by the Buyer's Purchasing Agent or President. Notwithstanding any other provision of this Order, Buyer reserves expressly the right to revoke this Order at any time prior to receipt of notice of acceptance by Seller. Acceptance is limited to the terms stated herein. All terms and conditions contained in any prior proposal or acknowledgment of this Order which are different from or in addition to the terms and conditions of this Order are hereby rejected and shall not be binding on Buyer, whether they would materially alter this Order, and Buyer hereby objects thereto. Seller will be deemed without qualification to have assented to all terms and conditions contained herein if any part of the goods and/or service covered by this Order is shipped or an invoice is presented in connection with the said goods and/or services.

**2. Acceptance of the Order**

- a. Unless pursuant to a Long-Term Agreement where acceptance will be in accordance with said Agreement, Seller shall be deemed to have accepted this Order upon the earliest of:
  - i. written acknowledgment by Seller,
  - ii. commencement of performance by Seller, or
  - iii. Seller's receipt of any payment, partial or full, from Buyer under this Order
- b. By acceptance of this Order, Seller agrees to strictly comply with all its terms and conditions and specifications, including those contained in all documents incorporated into this Order by reference. Buyer hereby rejects any different or additional terms in Seller's acceptance of this Order or in any Seller provided documentation (e.g., any preprinted terms on the back of Seller's invoice, or Seller's acknowledgement).

**3. Compliance with the Law.** Seller warrants that all goods provided hereunder have been produced and all services performed are in compliance with applicable federal, state and local laws, ordinances, codes, rules, regulations or standards, including without limitation, the Fair Labor Standards Act, and those pertaining to the manufacture, labeling, invoicing and sale of such goods or services, environmental protection, immigration, employment and occupational safety and health. Sellers located within the United States also warrant that they shall at all times comply with applicable provisions relating to government contractors and subcontractors, which provisions, and any contract clauses required there under, are incorporated in this

Order by reference as if set forth in full, including 41 CFR 60-1, et seq., with the reporting, record keeping and affirmative action program requirements set forth therein; incorporation of the Equal Opportunity Clause of EO 11246 pursuant to 41 CFR 60-1.4; the maintenance of non-segregated facilities as required by 41 CFR 60-1.8; the provisions of 41 CFR 60-250.4 relating to disabled and Vietnam era veterans; and the provisions of 41 CFR 60-741 relating to handicapped workers. Where legally required, Seller shall include these clauses in its purchase orders supporting this Order and shall at Buyer's request certify to all the foregoing.

4. **State Law.** This Order shall be governed in all respects by the laws of the State of Texas and all actions commenced pursuant hereto shall be brought in a court situated in Fort Bend, Texas.
5. **Fair Labor Standards Act.** In accepting this Order, Seller represents and warrants that the goods/services to be furnished hereunder were or will be produced in compliance with the requirements of the Fair Labor Standards Act of 1938, as amended, the Orders, and the regulations issued pursuant thereto.
6. **Title and Risk of Loss.** Unless otherwise stipulated on the face of this Order or as modified by routing letter from Buyer's Purchasing Agent, goods covered by this Order shall be shipped "FOB destination". Risk of loss and title to said goods to pass to Buyer only upon delivery to Buyer's specified end destination; however, passing of title shall not relieve Seller of any other obligations under this Order. Delivery in advance of the specified Buyer's shipping date, will not cause passage of title, transfer of risk of loss and/or establish FOB point. Risk of loss or damage shall remain with Seller until delivery to Buyer at Buyer's designated facility, except that risk of loss or damage to products that do not conform with the requirements of this Order shall remain with Seller until cured and/or until final acceptance by Buyer. Transportation charges on goods delivered FOB destination must be prepaid. No charges for unauthorized transportation will be allowed. Any unauthorized shipment, which will result in excess transportation charges, must be fully prepaid by the Seller. Unauthorized transportation charges not prepaid will be offset by Buyer.
7. **Delivery Schedule.** Time is of the essence in fulfillment of this Order. This Order is subject to cancellation, if not shipped at the specified time. Buyer reserves the right to refuse deliveries made in advance of the delivery schedule or pay in accordance with original due date. Merchandise shipped after the time specified may be returned at the Seller's expense for full credit. Retention of all or any part of such merchandise shall not be considered acceptance of same. Acceptance of such merchandise shall not be deemed a waiver of the Buyer's right to hold the Seller liable for any loss or damage resulting there from, nor shall it act as a modification of the Seller's obligation to make future deliveries in accordance with the delivery schedule. Buyer shall be reimbursed in full for all merchandise returned. In addition, thereto, Buyer shall have the privilege, if shipment is not made on time, to purchase similar merchandise in the open market in such quantities as they may find necessary not exceeding the amount called for in this Order and hold Seller responsible for the difference, if any, between the price so paid and the Order price.
8. **Packaging and Shipment.** Seller shall make deliveries of all Products as specified in this Order without charge for packaging, invoicing, crating or storage, unless otherwise provided for in this Order. Unless otherwise specified on the face of this Order, all Products are to be packed in accordance with good commercial practices.

All shipments of Products shall meet the shipping requirements found in Department of Transportation Regulations 49 CFR, Occupational Safety and Health Administration's Hazardous Communication Standard found in 29 CFR and the Dangerous Goods Regulation of the International Air Transport Association. Any loss or damage, whenever occurring, which results from Seller's improper packaging or crating shall be borne by Seller. All items shall be properly identified with Buyer's Order number releasing shipments against this Order and the Order item number or other identification number shown. A complete packing list must be enclosed with all shipments. The packing list shall reference, at a minimum, the order number, order line item, applicable part numbers, description of the product, and quantities. Buyer's count and weight shall prevail relative to any shipment discrepancies. Seller shall mark containers or packages with any necessary lifting, loading or other handling instructions. Bill of lading shall include this Order number. If delays caused by Seller result in the need for premium transportation, the additional costs for the premium transportation shall be the sole responsibility of the Seller. Systel requires a Certificate of Conformance (CofC) with every shipment. If the Packing Slip does not serve as CofC, please provide a separate copy of the official CofC.

## 9. Inspection

- a. All Products, including raw materials and components, and Seller's and its subcontractors' manufacturing facilities shall be subject to inspection and test by Buyer, Buyer's Customer, and/or the Government, if this Order is issued under a U.S. Government prime contract, to the extent practicable at all times and places. The exercise of the right of inspection and test, however, shall in no way relieve Seller of its obligation to furnish all Products in strict accordance with this Order. If inspection and test are made on the premises of Seller or any subcontractor of Seller, Seller or such subcontractor shall furnish, without additional charge, all reasonable facilities and assistance for the safe and convenient inspection and test required. All inspection tests will be conducted in such a manner as not to cause an unreasonable delay.
- b. All Products shall be subject to final inspection and acceptance by Buyer after delivery, notwithstanding prior payment. It is expressly agreed that payment does not constitute final acceptance. Buyer, at its option, may either reject any Products not in conformity with the requirements and terms of this Order or rework the same at Seller's expense. In the event sampling techniques are utilized by Buyer to ascertain Product acceptability, entire lots may be returned when acceptable quality levels indicate rejection. Buyer may return rejected Products at Seller's risk and expense at the full invoice price plus transportation charges and Buyer's handling charges. No replacement of rejected Products shall be made unless specified by Buyer. All Products delivered under this Order shall strictly comply with the technical requirements defined in this Order, absent Buyer's prior written consent. Final acceptance shall not be conclusive with respect to latent defects, fraud, or such gross mistakes as amount to fraud.
- c. Nonconforming parts. In addition to all other remedies available to Buyer, Buyer may return any nonconforming parts to Seller for correction or replacement, at Buyer's election, with all transportation charges and Buyer's handling charges for return and redelivery to be borne by Seller. If Seller fails to accept return of nonconforming Products or fails promptly to correct or replace same, Buyer, without limiting its other rights, may, at Seller's expense, correct or replace the nonconforming Products. All repaired and replaced

products are subject to the same warranties as original products under this Order.

10. **Default.** In the sole event that the Buyer incurs damages as a result of the Seller's delay in delivering goods subject to this Order, Seller shall be liable for such damages notwithstanding those due to causes beyond Seller's control or result without fault or negligence of Seller. Buyer may by written notice of default to Seller
- a. Terminate the whole or any part of this Order in any one of the following circumstances:
    - i. If Seller fails to perform within the time specified herein or any extension thereof, or
    - ii. If Seller fails to perform any of the other provisions of this Order, or so fails to make progress as to endanger performance of this Order in accordance with its terms, or
    - iii. If the Seller shall become insolvent or make a general assignment for the benefit of creditors or if a petition under any bankruptcy act or similar statute is filed by or against the Seller, and in any of these circumstances does not cure such failure within a period of ten (10) days or such longer period as Buyer may authorize in writing;
  - b. And upon such termination Buyer may procure, upon such terms as it shall deem appropriate, supplies or services similar to those so terminated, in which case Seller shall continue performance of this Order to the extent not terminated and shall be liable to Buyer for any excess costs for such similar supplies or services. As an alternate remedy, and in lieu of termination for default, Buyer, at its sole discretion, may elect
    - i. To extend the delivery schedule, and/or
    - ii. To waive other deficiencies in Seller's performance, in which case an equitable reduction in the Order price shall be granted.
  - c. Buyer shall have the right at any time to require assurance from Seller. In the event Seller for any reason anticipates difficulty in complying with the required delivery date or performance schedule, or in meeting any of the other requirements of this Order, Seller shall promptly notify Buyer in writing. If Seller does not comply with Buyer's delivery schedule or performance schedule, Buyer may require delivery by fastest means and charges resulting from the premium transportation must be fully prepaid and absorbed by the Seller. The rights and remedies of the Buyer provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Order. Time is of the essence.

11. **Set-Off**

Buyer shall be entitled at all times to set-off any amount owing at any time from Seller to Buyer or any of its affiliates against any amount payable at any time by Buyer in connection with this Order.

12. **Pricing and Payment Terms**

- a. The Order price shall not be increased, nor the terms hereof changed without the Buyer's written consent. The Seller warrants that the prices of the items covered by this Order are not in excess of the Seller's lowest lawful prices in effect on the date of this Order for comparable quantities of similar items. If on or before the date of delivery of any materials ordered hereunder, Seller shall sell or offer to sell the same or like materials at net prices lower than herein provided, Seller agrees to give Buyer the benefit of such lower prices with respect to any undelivered materials and this order shall be deemed so

modified. If cash discounts for early payment are offered by Seller, the period of time agreed upon as constituting "early payment" shall begin with the later of the invoice date or receipt of merchandise. All shipments received or invoices dated after the twenty-fifth (25th) will be considered first of the following month dating. All accounts subject to cash discount will be paid on the tenth (10th) of the following month, provided such invoices are received no later than the third (3rd) of the month. "Net invoices" will be paid on the last day of the following month. Unless freight or other charges are itemized, the discount will be taken on the full amount of the invoice.

- b. Upon submission of proper invoices, Buyer shall pay the Order price set forth herein for material and supplies delivered and accepted or services rendered and accepted; however, payment may be withheld, or portions thereof deducted or set offs made against Seller if the Seller is not performing work in accordance with the provisions of this Order. There will be no minimum charges honored unless specifically agreed to prior to shipment. Shipments consigned directly to Buyer's customers that are shipped after the twentieth (20th) shall be considered as invoiced for the following month. Delays in receiving invoices shall be considered just cause for withholding payment without losing any discount privilege. c) Except as otherwise provided in this Order, no payment for extra parts shall be made unless such extras and the price have been authorized by Buyer's Purchasing Representative.
13. **Hazcom Reporting.** If any of the items ordered herein constitute or contain "hazardous or toxic chemicals" as defined by any applicable Federal, State, or local law, rule, or regulation, including those definitions found in the Federal Acquisition Regulations ("FAR") or Defense Federal Acquisition Regulations Supplement ("DFARS"), Seller shall provide at the time of delivery all required notices and information, including, but not limited to, all Material Safety Data Sheets ("MSDS") in the approved Occupational Safety & Health Administration ("OSHA") format. Seller agrees to maintain such information current and shall provide Buyer with any amended, altered, or revised information on a timely basis. When this Order requires documentation or certification, this requirement is a material requirement of this Order. Seller's failure to provide this information prior to or at the time of delivery may result in withholding of payment until such is provided.
14. **Indemnification.** Seller represents and warrants that neither the merchandise nor the sale thereof covered by this Order will infringe upon or violate any trademarks, patents, copyright, or other legal rights of third parties. Seller agrees to indemnify and save Buyer harmless from and against any and all claims, liability, loss, costs, attorneys' fees, expenses, and damages due to or arising from any such alleged infringement or violation. Seller furthermore agrees:
- a. To indemnify, save harmless, and defend Buyer and its affiliated companies, their customers, directors, officers, employees and agents, from and against any loss, liability, cost, expenses, suits, actions, claims and all other obligations and proceedings whatsoever, including without limitation, all judgments rendered against, and all fines and penalties imposed upon Buyer and any reasonable attorney's fees and any other cost of litigation (hereinafter collectively referred to as "liabilities") arising out of injuries to persons, including death, or damage to property, caused by Seller, its employees, agents, subcontractors, or in any way attributable to the performance and prosecution of the work herein contracted for, including without limitation breach of warranty or product liability except that Seller's obligation herein to indemnify Buyer shall not apply to any liabilities arising from Buyer's sole negligence. Seller agrees to expressly waive its immunity, if any, under the

- applicable workers' compensation law if such immunity may affect this indemnification obligation,
- b. That Buyer and subcontractors and direct/indirect customers have the worldwide irrevocable right to repair, reconstruct, or rebuild, and to have repaired, reconstructed, or rebuilt Products delivered under this Order without payment of any royalty or other compensation to Seller,
  - c. That any manufactured parts based on Buyer's design, drawings, or specifications may not be used in any manner for Seller's or Seller's affiliates and suppliers own use or sold to third parties without Buyer's express written consent, and
  - d. To give Buyer or its designees all assistance reasonably required to perfect any such rights.

#### **15. Protection of Buyer's Proprietary Information**

- a. Any information of Buyer's identified as confidential or proprietary that is provided by Buyer to Seller shall remain the property of the Buyer. Seller agrees to comply with all proprietary information markings and restrictive legends applied by Buyer to such Buyer Proprietary Information. Seller further agrees to use Buyer's Proprietary Information only for the purpose of performing under this Order and agrees not to disclose such information to third parties or Seller's affiliates and suppliers without prior written consent of Buyer. The Seller shall ensure that all employees are aware of this clause and abide by its provisions. Seller agrees that it will protect and maintain the confidence of Buyer Proprietary Information using the same degree of care it uses to protect its own proprietary information, but in no event less than a reasonable degree of care.
- b. If Seller becomes aware of any compromise of information provided by Buyer to Seller, its officers, employees, agents, suppliers, or subcontractors (an "Incident"), Seller will take appropriate immediate action to investigate and contain the Incident and any associated risks, including prompt notification to Buyer as soon as possible after learning of the Incident. Seller will additionally provide its reasonable cooperation to Buyer in any investigation it may conduct regarding the nature and scope of any Incident. Any costs that may be incurred for remedial actions caused by an Incident shall be borne by Seller.

#### **16. Parts Obsolescence**

- a. Buyer may desire to place additional orders for any Products purchased hereunder. Accordingly, Seller shall provide Buyer with a "Last-Time-Buy-Notice" at least twelve (12) months prior to any action to discontinue any products purchased hereunder.
- b. The price of this Order shall not be subject to adjustment due to any Seller claim of parts obsolescence. Seller certifies that Seller has taken parts obsolescence into account as it relates to the price of this Order.
- c. In the event the Seller determines that one or more parts involved in the production of any of the requirements contained in this contract are either obsolete or non-procurable, the Seller shall provide written notice to Buyer's Purchasing Representative as soon as possible. The notice will include the Seller's recommendation to correct the problem either through alternative sources in the industry or via hardware re-design. Upon receipt of the notification, Buyer will determine the appropriate course of action, and will give written direction to the Seller. Seller must have written approval of Buyer before implementation of any plan.

17. **Waiver.** The Buyer's failure to insist upon strict compliance shall not be deemed to be a waiver of any right granted Buyer herein. Buyer shall not be deemed to waive such right unless such waiver is in writing, signed by Buyer's President. Any such waiver shall not constitute a waiver of any other default under this Order.

**18. Dispute Resolution**

- a. All disputes under this Order that are not disposed of by mutual agreement may be decided by recourse to an action at law or in equity. In the event of a dispute arising out of this Order, Buyer and Seller agree to timely notify each other in writing of each position and shall first negotiate in good faith to resolve the dispute by mutual agreement. If the parties cannot resolve such dispute, then the dispute may be filed in proper court for disposition. Any litigation under this Order shall be brought in a court of competent jurisdiction in Texas, and the parties hereby submit to the exclusive jurisdiction and venue of such court(s). The parties hereby waive any defense or objection to the exercise of personal jurisdiction and/or venue by such court(s). Seller and Buyer hereby irrevocably waive, to the fullest extent permitted by applicable law, any right each may have to a trial by jury in respect to any litigation, directly or indirectly arising out of under or in connection with this Order.
- b. Until final resolution of the dispute, or appeal hereunder, the Seller shall diligently proceed with the performance of this Order as directed by Buyer, even if the dispute is in connection with a difference in interpretation between the parties as to the performance requirements under the Order.

19. **Taxes.** Unless prohibited by law, the Seller shall pay all federal, state, or local tax, transportation tax, or other tax which is required to be imposed on the items ordered, or by reason of their sale or delivery. Order price will be deemed to include such taxes.

**20. Warranty**

- a. Seller warrants that it has clear title to all items furnished subject hereto and that they are being delivered free and clear of any encumbrances. The Seller further warrants that all such items shall conform to the Seller's specifications, the requirements of this Order and approved sample or samples, if any, and further, that such shall be merchantable and fit for the Buyer's or its customer's intended use, that such items shall be free from defects in design, material and workmanship, that all work to be delivered hereunder shall consist of new materials, as defined in FAR 52.211-5, not used, or reconditioned, remanufactured, or of such age as to impair its usefulness or safety, and that no conflict of interest exists between the services and Products to be provided under this Order and Seller's other activities (collectively, the "Seller's Warranty"). Seller's Warranty shall remain in effect for a one (1) year period after acceptance of the items by the Buyer's customers, or for such longer period of time as the item is normally warranted. Neither approval by the Buyer of the Seller's design nor acceptance of the goods shall release or discharge Seller from liability for damages resulting from a breach of Seller's Warranty.
- b. If any defect, failure, or other non-conformity appears, Buyer will have the right to take any or all of the following actions:
  - i. retain such defective items and an equitable adjustment will be made in the Order price for such defective terms,

- ii. require Seller to repair or replace such defective items, at Seller's sole expense, including shipping, transportation, and installation costs, and/or
  - iii. correct or replace such defective items with similar items and recover the total cost from Seller.
- c. These warranties are in addition to all other warranties specified herein or implied by law and shall survive acceptance and payment. All warranties shall run to Buyer, its successors, assigns, customers, and the users of the Products.

## 21. Export Control Compliance

- a. Seller agrees to comply with all applicable U.S. export control laws and regulations, including the requirements under the Arms Export Control Act, 22 U.S.C. 2751-2794, the International Traffic in Arms Regulation (ITAR), 22 C.F.R. 230 et seq., the Export Administration Act of 1979, 50 U.S.C. 24012420, and the Export Administration Regulations, 15 C.F.R. 730-774; including any and all requirements for obtaining export licenses or agreements. Seller agrees that it will not transfer any export-controlled item, technical data, or services, including any deemed exports, as defined in 15 C.F.R. 734.2(b) to Seller or Seller's suppliers / subcontractors without the authority of an export license, agreement, or applicable exemption/exception. If any Products under this Order are restricted by export control laws or regulations, Seller must notify Buyer immediately. If Seller becomes listed in any Denied Persons List or if Seller's export privileges are denied, suspended, or revoked, in whole or part, by any U.S. Government entity or agency, Seller shall immediately notify Buyer's Purchasing Agent.
- b. If any of Seller's Products are considered to be defense articles or if Seller is considered to be furnishing defense services, Seller certifies that it is currently registered with the Directorate of Defense Trade Controls, as required by ITAR, and has an effective export compliance program, including a technology control plan, in place in accordance with ITAR.
- c. As applicable, Seller shall furnish the USML Category or Export Control Classification Number of any and all Products or Services under this Order.
- d. Seller shall indemnify and hold Buyer harmless to the full extent of any loss, damage, or expense, including lost profit, attorney's fees, and court costs, for any failure or alleged failure of Seller to comply with any applicable laws, statutes, rules, regulations or orders, including, without limitation, the export/import laws of the United States. Any failure of Seller to comply with the provisions of this clause shall be a material breach of this Order.
- e. Seller must flow down this clause into any lower-tire subcontract or purchase order entered into Seller for the performance of any part of the work of this Order.

**22. Assignment.** Seller shall not assign any of its rights or interest in this Order or all or substantially all of its performance of this Order without Buyer's prior written consent. Seller shall not delegate any of its duties or obligations under this Order. No assignment, delegation or subcontracting by Seller, with or without Buyer's written consent, shall relieve Seller of any of its obligations under this Order or prejudice any of Buyer's rights against Seller. An assignment without Buyer's written consent is ineffective and void. Seller may, however, assign rights to be paid amounts due, or to become due, to a financing institution if Buyer is promptly furnished a signed copy of such assignment reasonably in advance of the due date for payment of any such amounts. Amounts assigned shall be subject to set-off or recoupment for any



present or future claims of Buyer against Seller. Notwithstanding this clause, Buyer may assign this Order to an affiliate or successor in interest to Buyer, at any time, after providing Seller with written notice of such assignment.

**23. Termination for Convenience**

- a. Buyer shall have the right for and at its convenience to terminate this Order in whole or in part at any time, and from time to time, by written notice effective upon receipt by Seller, even though the Seller is not in breach of any obligation hereunder. Upon receipt of notice of termination, Seller must immediately discontinue performance, and immediately cause any and all of its suppliers and subcontractors to cease work and comply with Buyer's instructions concerning disposition and completed and partially completed items, work in progress, and materials acquired pursuant to this Order.
- b. In such event, Seller shall be paid a percentage of the Contract price reflecting the percentage of the Work performed prior to notice of termination plus reasonable charges Seller can demonstrate to the satisfaction of the Buyer using its standard record keeping system that have resulted from the termination. However, said payment will not exceed the price specified herein for such items. In no event shall the Seller be entitled to recover incidental or consequential damages. Seller must advise Buyer, in writing, of Seller's claim(s) for termination costs within twenty-one (21) days after receipt of notice of termination.
- c. Seller must continue all Work that was not terminated.

**24. Insurance.** Seller shall obtain and maintain comprehensive commercial general liability insurance (including products and completed operations insurance) with a company rated "A- VII" or better by A. M. Best. Such policy shall have minimum coverage of \$2,000,000 (\$2 million) per occurrence, which can be met through an umbrella or standard policy or any combination thereof. All insurance policies shall expressly waive any right of subrogation against Buyer and its employees, officers, directors, and agents. The required insurance policy shall be endorsed to require the insurance company to provide Buyer with at least thirty (30) days prior written notice of the effective date of cancellation or material change of any insurance policy. Prior to commencing work hereunder, Seller shall provide Buyer with a certificate of insurance evidencing the insurance coverage as set forth above. Such a certificate shall contain the policy number, effective date, expiration date, and a statement noting SYSTEL, INC. as additional insured.

**25. Force Majeure.** Neither party shall be liable for delays in delivery caused by circumstances beyond its reasonable control and without its fault or negligence, including strikes, lockouts, riots, epidemics, war, fire, flood, explosion, acts of God, or acts of terrorism. In no event shall shipping delays, Product shortages, or lack of finances or cash flow shortages be considered as a cause beyond the control of a party. The party affected by the Force Majeure shall give prompt written notice thereof and, upon cessation of the Force Majeure, take all reasonable steps to resume compliance with its obligations. If Seller's failure is caused by the failure of a subcontractor of Seller and if such failure arises out of causes beyond the reasonable control of both, and if such failure is without the fault or negligence of either, Seller shall not be liable for excess re-procurement costs unless the Products or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit Seller to meet the required delivery schedules. Notwithstanding the above, if such delays extend Seller's delivery or performance date by more than thirty (30) days, Buyer may terminate such part of this Order remaining to be performed. In the event of such termination, the rights and obligations of the parties

shall be determined in accordance with Clause 20, "Termination for Convenience" herein.

26. **Limited Liability.** In no event shall Buyer be liable for anticipated profits, or for incidental or consequential damages. Buyer's liability on any claim of any kind for any loss or damage arising out of or connected with or resulting from this agreement or from the performance or breach thereof shall, in no case exceed the price allocable to the goods or services or unit thereof which gives rise to the claim. Buyer shall not be liable for penalties of any description.
27. **Severability.** Each paragraph and provision of this Order is severable, and if one or more paragraphs or provisions are declared invalid, the remaining provisions of this Order will remain in full force and effect.
28. **Attorneys' Fees.** In the event shall it become necessary for Buyer to retain the service of an attorney for the purpose of enforcing any of the provisions of this agreement, Seller shall pay the court costs and a reasonable attorneys' fee of the Buyer, as awarded by the Court.
29. **Survivability**
- a. This term and the following terms shall survive the completion or termination of this Order:
    - i. Clause 6: Counterfeit Parts,
    - ii. Clause 15: Indemnification,
    - iii. Clause 16: Protection of Buyer's Proprietary Information,
    - iv. Clause 17: Parts Obsolescence,
    - v. Clause 19: Dispute Resolution,
    - vi. Clause 20: Taxes,
    - vii. Clause 21: Warranty,
    - viii. Clause 22: Export Control Compliance,
    - ix. Clause 25: Insurance, and
  - b. Any U.S. Government flow down provisions that by their nature should survive.
30. **Entire Agreement.** This Order constitutes the entire agreement between the parties and contains all the agreements and conditions of sale; no course of dealing or usage of trade shall be applicable unless expressly incorporated into this Order. The terms and conditions contained in this Order may not be added to, modified, suspended, or otherwise altered, except by a written modification signed by Buyer's Purchasing Representative or General Manager. Each delivery shall be deemed to be only upon the terms and conditions contained in this Order, which shall supersede all inconsistent provisions included in the Seller's proposal and in any subsequent acknowledgment by Seller, notwithstanding the Buyer's act of accepting or paying for any delivery or similar act of Buyer.
31. **Quality Clauses**
- a. Buyer shall communicate the relevant requirements for the processes, products, and services to be provided including the identification of relevant technical data (e.g., specifications, drawings, process requirements, work instructions) via our purchase orders, documentation and terms and conditions. Documentation provided by Buyer must be controlled and cannot be shared unless properly authorized by Buyer.
  - b. Buyer retains final approval of, as appropriate:

- i. products and services;
      - ii. methods, processes, and equipment;
      - iii. the release of products and services;
    - c. The external providers' interactions with Buyer shall be via email (preferred) or verbal;
    - d. Control and monitoring of the supplier's external providers' performance to be applied by the organization shall be retained. At a minimum, quality and on time delivery shall reviewed for those providers deemed critical to the performance of the external provider;
    - e. Verification or validation activities that Buyer, or its customer, intends to perform at the external providers' premises.
    - f. Non-COT's (Commercial Off The shelf) design and development approval shall be retained by Buyer if specified in our purchase order.
    - g. Special requirements, critical items, or key characteristics shall be noted on Buyer documentation including the test, inspection, and verification (including production process verification) requirements.
    - h. The use of statistical techniques for product acceptance and related instructions for acceptance by the organization where appropriate.
    - i. The Supplier shall:
      - i. Implement a quality management system;
      - ii. Buyer must approve special process sub-suppliers;
      - iii. If required, use customer-designated or approved external providers, including process sources (e.g., special processes). Buyer must approve special process sub-suppliers;
      - iv. Notify Buyer of nonconforming processes, products, or services and obtain approval for their disposition – specifically rework or use as is;
      - v. Implement a process to prevent the use of counterfeit parts. If counterfeit parts are detected, Buyer must be notified within 24 hours;
      - vi. Notify Buyer of changes to processes, products, or services, including changes of their external providers or location of manufacture;
      - vii. Flow down to external providers applicable requirements including Buyer's customer requirements;
      - viii. Provide test specimens for design approval, inspection/verification, investigation, or auditing if requested;
      - ix. Retain documented information for minimum of 7 years. After the retention period, documented information can be disposed of. If disposed of, the documented information shall be shredded (paper) or deleted (electronic);
    - j. Grant the right of access to Buyer, Buyer's Representative(s), Buyer's customer, and regulatory authorities to the applicable areas of facilities and to applicable documented information, at any level of the supply chain;
    - k. Ensure that all personnel are aware of their contribution to product or service conformity, their contribution to product safety and the importance of ethical behavior.
- 32. Lot Code/Serialization.** Buyer requires lot code / serialization traceability on all shipments for product used in assembly.
- 33. Electrostatic Discharge (ESD).** Electro Static Discharge (ESD) control is required in the Supplier's designated areas if handling parts that can be damaged by ESD. Shielded ESD packaging is required for shipping or storing ESD sensitive items outside your ESD Protected Area.

**34. Counterfeit Parts**

- a. **Definition:** For purposes of this Order, Counterfeit Product means a product produced, or altered to resemble or imitate an original or genuine product or new item without the right to do so, or a product misrepresented as having been designed or produced under an approved system or acceptable method.
- b. **Seller's Warranty:** Seller warrants that only new and authentic materials are used in Product(s) to be delivered to Buyer under this Order and that no Product(s) delivered contain Counterfeit Parts.
- c. Seller shall only purchase products to be delivered or incorporated as Products to Buyer directly from the Original Component Manufacturer (OCM)/Original Equipment Manufacturer (OEM), or through an OCM/OEM authorized distributor chain. Products shall not be acquired from independent distributors or brokers unless approved in advance in writing by Buyer.
- d. Seller shall immediately notify Buyer with pertinent facts, if Seller becomes aware that it has furnished Counterfeit Parts or suspected Counterfeit Parts to Buyer. When requested by Buyer, Seller shall provide OCM/OEM documentation that authenticates traceability of the affected items to the applicable OCM/OEM. Additionally, if this Order is issued under a U.S. Government contract, for confirmed counterfeit electronic parts, notification must also be made not later than 60 days after discovery to the Government – Industry Data Exchange Program (GIDEP). Seller shall cooperate with Buyer in any investigation relating to such Counterfeit Parts or suspect Counterfeit Parts, including the impounding by Buyer or government agencies of the Counterfeit Parts or suspect Counterfeit Parts for purposes of investigation.
- e. If any Products delivered under this Order constitute or include Counterfeit Parts, Seller shall, at its expense, promptly replace such nonconforming Products with genuine Products conforming to the requirements under this Order. Notwithstanding any other provision in this Order, Seller shall be liable for all costs relating to Counterfeit Parts or suspect Counterfeit Parts and the cost of rework or corrective action that may be required to remedy the use or inclusion of such parts, including without limitation Buyer's and Buyer's Customer's costs of removing Counterfeit Parts, of installing replacement Products and of any testing necessitated by the reinstallation of the Products after Counterfeit Parts have been exchanged. All such costs shall be deemed direct damages. The remedies contained in this paragraph are in addition to any remedies Buyer may have at law, equity or under other provisions of this Order.
- f. Seller shall flow down the provisions on this clause to any lower-tier subcontractors for delivery of items that will be included in or furnished as Products to Buyer.

**35. Conflict Minerals.** Seller represents, warrants, and covenants that, to Seller's knowledge after reasonable investigation, the goods are, and upon delivery will be, DRC Conflict Free (as such term is defined in the US Securities Exchange Act of 1934, as amended by Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the related rules and regulations of the US Securities and Exchange Commission). Seller shall promptly notify Buyer in writing in the event that Seller is or becomes aware of any reason to believe that the goods are not DRC Conflict Free. To the extent Seller procures gold, tin, tantalum and/or tungsten from a smelter or refiner for incorporation into the goods, Seller represents, warrants and covenants that such materials shall be procured solely from one or more of the

smelters or refiners appearing on the applicable compliant smelter and refinery list available at [www.conflictreesmelter.org](http://www.conflictreesmelter.org).

### Supplemental Terms and Conditions for Order Under U.S. Government Contracts

- 36. Incorporation of FAR and DFAR Clauses.** When the Products are for use in connection with a U.S. Government prime contract or subcontract, in addition to the above General Terms and Conditions, the following Supplemental Terms and Conditions shall apply as required by the terms of the prime contract or by operation of law or regulation. Buyer is flowing down to Seller certain provisions and clauses from the Federal Acquisition Regulations (FAR), Department of Defense FAR Supplement (DFAR). The FAR and DFAR clauses referenced below are incorporated herein by reference, with the same force and effect as if they were given in full text, and are applicable, including any notes following the clause citation, to this Contract. If the date or substance of any of the clauses listed below is different from the date or substance of the clause actually incorporated in the Prime Contract referenced by number herein, the date or substance of the clause incorporated by said Prime Contract shall apply instead. The Contracts Disputes Act shall have no application to this Contract. Any reference to a "Disputes" clause shall mean the "Disputes" clause of this Contract.
- 37. Definitions.** As used in the FAR and DFAR clauses referenced below, the following definitions apply:
- a. "Commercial Item" means a commercial item as defined in FAR 2.101
  - b. "Contracting Officer" means the U.S. Government Contracting Office for Buyer's government prime contract, under which this Order is entered.
  - c. "Order" means this Purchase Order
  - d. "Prime Contract" means the contract between SYSTEL, INC. and the U.S. Government or between SYSTEL, INC. and its higher-tier contractor who has a contract with the Government.
  - e. "Subcontract" means any contract placed by Seller under this Order.
- 38. The following FAR clauses will apply to this Order**
- a. FAR 52.203-3 – GRATUITIES.
  - b. FAR 52.203-5 – COVENANT AGAINST CONTINGENT FEES.
  - c. FAR 52.203-6 – RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT Applies to Orders equal to or greater than \$150,000).
  - d. FAR 52.203-7 – ANTI-KICKBACK PROCEDURES (Reports made under paragraph c (2) must also be made to BUYER. If as a result of Seller's violation of this clause the Contracting Office of the Federal Government directs Buyer to withhold from Seller certain amounts or directly withholds certain amounts based on Seller's violation from Buyer, then Buyer will have the right to withhold the same amount from Seller).
  - e. FAR 52.203-8 – CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY.
  - f. FAR 52.203-10 – PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (Applies to orders equal to or greater than \$150,000).
  - g. FAR 52.203-11 – CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS.
  - h. FAR 52.203-12 – LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (Applies to orders equal to or greater than \$100,000)

- i. FAR 52.203-13 – CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (Applies if Order exceeds \$5,000,000 and the period of performance is more than 120 days)
- j. FAR 52.203-15 – WHISTLEBLOWER PROTECTIONS UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009
- k. FAR 52.203-16 – PREVENTING PERSONAL CONFLICTS OF INTEREST
- l. FAR 52.203-17 – CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENTS TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS
- m. FAR 52.215-10 – PRICE REDUCTION FOR DEFECTIVE CERTIFIED COST OR PRICING DATA (Applies to Orders equal to or greater than \$700,000)
- n. FAR 52.215-11 – PRICE REDUCTION FOR DEFECTIVE CERTIFIED COST OR PRICING –MODIFICATIONS (Applies to Orders equal to or greater than \$700,000)
- o. FAR 52.215-12 – SUBCONTRACTOR CERTIFIED COST OR PRICING DATA (Applies to Orders equal to or greater than \$700,000)
- p. FAR 52.215-13 – SUBCONTRACTOR CERTIFIED COST OR PRICING DATA – MODIFICATIONS (Applies to Orders equal to or greater than \$700,000 and if Order is not otherwise exempt under FAR 15.403)
- q. FAR 52.215-14 – INTEGRITY OF UNIT PRICING (Exclude paragraph (b))
- r. FAR 52.215-15 – PENSION ADJUSTMENTS AND ASSET REVISIONS (Applicable to Orders equal to or greater than \$700,000 and if Order meets the applicability requirements of FAR 15.408(g))
- s. FAR 52.215-18 – REVERSION OR ADJUSTMENT OF PLANS FOR POST-RETIREMENT BENEFITS (PRB) OTHER THAN PENSIONS (Applicable to Orders equal to or greater than \$700,000 and if Order meets the applicability requirements of FAR 15.408(j))
- t. FAR 52.219-8 – UTILIZATION OF SMALL BUSINESS CONCERNS
- u. FAR 52.215-19 – NOTIFICATION OF OWNERSHIP CHANGES (Applicable to Orders equal to or greater than \$700,000 and if Order meets the applicability requirements of FAR 15.408(k))
- v. FAR 52.215-23 – LIMITATIONS ON PASS-THROUGH CHARGES (Applicable to Orders equal to or greater than \$700,000)
- w. FAR 52.219-16 – LIQUIDATED DAMAGES – SUBCONTRACTING PLAN
- x. FAR 52.222-4 – CONTRACT WORK HOURS AND SAFETY STANDARDS ACT – OVERTIME COMPENSATION (Applicable to Orders equal to or greater than \$150,000. If Seller is liable under this clause, Buyer may withhold or recover such sums as the Contracting Officer for the Government withholds or recover from Buyer).
- y. FAR 52.222-18 – CERTIFICATION REGARDING KNOWLEDGE OF CHILD LABOR FOR LISTED END PRODUCTS.
- z. FAR 52.222-21 – PROHIBITION ON SEGREGATED FACILITIES
- aa. FAR 52.222-22 – PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (Applicable to Orders equal to or greater than \$50,000 and companies with 50 or more employees)
- bb. FAR 52.222-3 – CONVICT LABOR Contractor does not employ any person undergoing a sentence of imprisonment imposed by any court of a State, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, or the U.S. Virgin Islands.
- cc. FAR 52.222-19 – CHILD LABOR
- dd. FAR 52.222-25 – AFFIRMATIVE ACTION COMPLIANCE (Applicable to Orders equal to or greater than \$50,000 and companies with 50 or more employees)
- ee. • FAR 52.222-26 – EQUAL OPPORTUNITY

- ff. FAR 52.222-35 – EQUAL OPPORTUNITY FOR VETERANS (Applicable to Orders equal to or greater than \$100,000)
- gg. FAR 52.222-36 – AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (Applicable to Orders equal to or greater than \$15,000)
- hh. FAR 52.222-37 – EMPLOYMENT REPORTS ON VETERANS (Applicable to Orders equal to or greater than \$100,000)
- ii. FAR 52.222-40 – NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT (Applicable to Orders equal to or greater than \$10,000)
- jj. FAR 52.222-50 – COMBATING TRAFFICKING IN PERSONS
- kk. FAR 52.222-54 – EMPLOYMENT ELIGIBILITY VERIFICATION (Applicable if this Order (1) is for commercial or noncommercial services (except for commercial services that are part of the purchase of a COTS item (or an item that would be a COTS item, but for minor modifications), performed by the COTS provider, and are normally provided for that COTS item) or construction; (2) has a value of more than \$3,000; and (3) includes work performed in the United States)
- ll. FAR 52.223-15 – ENERGY EFFICIENCY IN ENERGY-CONSUMING PRODUCTS
- mm. FAR 52.223-16 – IEEE 1680 STANDARD FOR THE ENVIRONMENTAL ASSESSMENT OF PERSONAL COMPUTER PRODUCTS
- nn. FAR 52.223-18 – ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING
- oo. FAR 52.224-2 – PRIVACY ACT
- pp. FAR 52.225-13 – RESTRICTIONS ON CERTAIN FOREIGN PURCHASES
- qq. FAR 52.227-1 – AUTHORIZATION AND CONSENT (Only applicable if the prime contract contains this clause. Buyer will advise)
- rr. FAR 52.227-9 – REFUND OF ROYALTIES (Applicable with Fixed Price Orders whose royalties exceed \$250)
- ss. FAR 52.227-10 – FILING OF PATENT APPLICATIONS – CLASSIFIED SUBJECT MATTER (Applicable if Seller's product or patent contains classified subject matter)
- tt. FAR 52.227-14 – RIGHTS IN DATA—GENERAL (Applicable if data will be produced, acquired, or furnished in connection with this Order)
- uu. FAR 52.228-5 – INSURANCE – WORK ON A GOVERNMENT INSTALLATION (Applicable for all Orders equal to or greater than \$150,000 that include work on a government installation)
- vv. FAR 52.232-39 – UNENFORCEABILITY OF UNAUTHORIZED OBLIGATIONS
- ww. FAR 52.232-40 – PROVIDING ACCELERATED PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS
- xx. FAR 52.234-1 – INDUSTRIAL RESOURCES DEVELOPED UNDER DEFENSE PRODUCTION ACT TITLE III
- yy. FAR 52.236-13 – ACCIDENT PREVENTION
- zz. FAR 52.244-6 – SUBCONTRACTS FOR COMMERCIAL ITEMS
- aaa. FAR 52.245-1 – GOVERNMENT PROPERTY (Applicable to Seller if Seller acquires or furnishes government property as part of performance under this Order. Insert the following language to subparagraph (n): "Seller shall provide to Buyer immediate notice of any disapproval, withdrawal of approval, or non-acceptance by the Government of its property control system.")
- bbb. FAR 52.247-64 – PREFERENCE FOR PRIVATELY OWNED U.S.-FLAG COMMERCIAL VESSELS
- ccc. FAR 52.248-1 – VALUE ENGINEERING (Applicable for Orders equal to or greater than \$150,000) PROVISIONS ON THE DEFENSE FEDERAL ACQUISITION REGULATIONS SUPPLEMENT INCORPORATED BY REFERENCE

**39. The following DFAR clauses will apply to this Order**

- a. DFAR 252.203-7002 – REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS
- b. DFAR 252.204-7000 – DISCLOSURE OF INFORMATION
- c. DFAR 252.204-7015 – NOTICE OF AUTHORIZED DISCLOSURE OF INFORMATION FOR LITIGATION SUPPORT
- d. DFAR 252.209-7004 – SUBCONTRACTING WITH FIRMS THAT ARE OWNED OR CONTROLLED BY THE GOVERNMENT OF A TERRORIST COUNTRY (Applicable to Orders equal to or greater than \$30,000)
- e. DFAR 252.211-7003 – ITEM IDENTIFICATION AND VALUE
- f. DFAR 252.223-7001 – HAZARD WARNING LABELS
- g. DFAR 252.225-7003 – REPORT OF INTENDED PERFORMANCE OUTSIDE THE UNITED STATES AND CANADA—SUBMISSION WITH OFFER (Applicable to Orders equal to or greater than \$650,000)
- h. DFAR 252.225-7007 – PROHIBITION ON ACQUISITION OF UNITED STATES MUNITIONS LIST ITEMS FROM COMMUNIST CHINA MILITARY COMPANIES (Applicable to Seller if Seller is supplying items characterized as on the U.S. Munitions List)
- i. DFAR 252.225-7008 – RESTRICTION ON ACQUISITION OF SPECIALTY METALS (Applicable to Orders equal to or greater than \$150,000 and if Seller is supplying items that contain specialty metals)
- j. DFAR 252.225-7013 – DUTY-FREE ENTRY
- k. DFAR 252.225-7030 – RESTRICTION ON ACQUISITION OF CARBON, ALLOY, AND ARMOR STEEL PLATE
- l. DFAR 252.225-7035 – BUY AMERICAN -- FREE TRADE AGREEMENTS – BALANCE OF PAYMENTS PROGRAM CERTIFICATE  
DFAR 252.225-7036 – BUY AMERICAN – FREE TRADE AGREEMENTS – BALANCE OF PAYMENTS PROGRAM (Applicable to Orders equal to or greater than \$25,000)
- m. DFAR 252.225-7046 – EXPORTS BY APPROVED COMMUNITY MEMBERS IN RESPONSE TO THE SOLICITATION
- n. DFAR 252.225-7047 – EXPORTS BY APPROVED COMMUNITY MEMBERS IN PERFORMANCE OF THE CONTRACT
- o. DFAR 252.225-7048 – EXPORT CONTROLLED ITEMS
- p. DFAR 252.227-7013 – RIGHTS IN TECHNICAL DATA – NONCOMMERCIAL ITEMS
- q. DFAR 252.227-7014 – RIGHTS IN NONCOMMERCIAL COMPUTER SOFTWARE AND NONCOMMERCIAL COMPUTER SOFTWARE DOCUMENTATION
- r. DFAR 252.227-7015 – TECHNICAL DATA – COMMERCIAL ITEMS
- s. DFAR 252.227-7016 – RIGHTS IN BID OR PROPOSAL INFORMATION
- t. DFAR 252.227-7017 – IDENTIFICATION AND ASSERTION OF USE, RELEASE, OR DISCLOSURE RESTRICTIONS
- u. DFAR 252.227-7019 – VALIDATION OF ASSERTED RESTRICTIONS – COMPUTER SOFTWARE  
DFAR 252.227-7026 DEFERRED DELIVERY OF TECHNICAL DATA OR COMPUTER SOFTWARE
- v. DFAR 252.227-7037 – VALIDATION OF RESTRICTIVE MARKINGS ON TECHNICAL DATA (Applicable on Orders when DFARS 252.227-7013, 252.227-7014, or 252.227-7015 are listed/referenced in prime contract)
- w. DFAR 252.229-7011 – REPORTING OF FOREIGN TAXES – U.S. ASSISTANCE PROGRAMS (Applicable for Orders that contain funds from the U.S. assistance appropriations as provided for in the annual Foreign Operations Appropriations Act)
- x. DFAR 252.235-7003 – FREQUENCY AUTHORIZATION (Applicable to Orders whose performance requires use of radio frequency)



- y. DFAR 252.236-7013 – DUTY FREE ENTRY
- z. DFAR 252.239-7000 – PROTECTION AGAINST EMANATIONS
- aa. DFAR 252.239-7001 – INFORMATION ASSURANCE CONTRACTOR TRAINING AND CERTIFICATION
- bb. DFAR 252.239-7018 – SUPPLY CHAIN RISK
- cc. DFAR 252.239-7016 – TELECOMMUNICATIONS SECURITY EQUIPMENT, DEVICES, TECHNIQUES, AND SERVICES
- dd. DFAR 252.244-7000 – SUBCONTRACTS FOR COMMERCIAL ITEMS
- ee. DFAR 252.246-7001 – WARRANTY OF DATA
- ff. DFAR 252.246-7003 – NOTIFICATION OF POTENTIAL SAFETY ISSUES
- gg. DFAR 252.246-7007 – CONTRACTOR COUNTERFEIT PART DETECTION AND AVOIDANCE SYSTEM
- hh. DFAR 252-246.7008 – SOURCES IF ELECTRONIC PARTS
- ii. DFAR 252.247-7023 – TRANSPORTATION OF SUPPLIES BY SEA