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1. SHIPMENT: Partial shipments must be accompanied by identifying documents, but such shipments shall not be construed as making the obligations of Seller severable. No charge will be allowed for packing, shipment or handling unless stated in this Purchase Order. Seller shall pay for damaged goods resulting from improper packing or marking. Itemized packing lists must accompany each shipment. Buyer's count will be accepted as final and conclusive on shipments not accompanied by Seller's itemized packing list. If applicable, shipments shall be palletized to the maximum extent of palletization. Costs for palletizing are included in the purchase price. All goods received in excess of Purchase Order requirements will be subject to return for credit at Seller's expense.

2. COMPLETE AGREEMENT: This Purchase Order shall become a binding agreement of Seller and Buyer upon Seller signing and returning an acceptance copy of this Purchase Order, or upon Seller otherwise acknowledging acceptance of this Purchase Order or commencing performance of this Purchase Order, whichever occurs first. This Purchase Order, together with the specifications, drawings and documents referred to herein and the other documents referred to therein, which by this reference are all made a part hereof, constitute the entire agreement between the parties, and all prior negotiations, proposals, and writing pertaining to this Purchase Order, or the subject matter hereof, are superseded hereby. Any reference to Seller's quotation, bid, or proposal does not imply acceptance of any terms, conditions, or instruction contained in such document.

Any invoice, acknowledgment or other communication issued by Seller in connection with this Purchase Order shall be construed to be for record and accounting purposes only. Any terms and conditions stated in such communication shall not be applicable to this Purchase Order and shall not be considered to be Seller's exceptions to the provisions of this Purchase Order. Trade custom and/or trade usage is superseded by this Purchase Order and shall not be applicable in the interpretation of this Purchase Order.

Anything that may be called for in the specifications and not shown on the drawings, or shown on the drawings and not called for in the specifications, shall be of like effect as if called for and shown in both. In the event of any ambiguities, express conflicts or discrepancies in the specifications, drawings or other documents which are a part of this Purchase Order, Seller shall immediately submit the matter to Buyer for its determination and shall comply with the determination of Buyer in such matter.

All headings and numbering in this Purchase Order are for convenience of reference only and shall in no way be used in interpretation of any of the provision in this Purchase Order.

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3. TITLE: Seller warrants full and unrestricted title to Buyer for all goods, services and documents furnished by Seller under this Purchase Order free and clear of any and all liens, restrictions, reservations, security interests, and encumbrances.

If Buyer makes progress payments to Seller under this Purchase Order, title to the goods ordered hereunder shall pass to Buyer at the time that Seller identifies the goods to this Purchase Order. Seller shall clearly identify the goods as property of Buyer by visible marking or tagging, and Buyer shall have the right, at Buyer's option, to inspect and verify that said goods have been identified as Buyer's property. Care, custody, and control of such goods remain with the Seller until such time as Buyer takes physical possession or otherwise agrees in writing by change order to this Purchase Order.

Seller shall properly store and ensure maintenance, custody and control of any and all goods in accordance with the requirements of this Purchase Order and the best professional practices and shall protect the same against weather hazards, water, humidity, dirt, fire, theft, vandalism and the like. Seller shall use every means to prevent at all times any damage or loss whatsoever to the goods in its custody.

4. RESERVATION OF RIGHTS: The making or failure to make any inspection of, or payment for, the goods or services covered by this Purchase Order shall in no way impair Buyer's right to reject nonconforming or defective goods or services, nor be deemed to constitute acceptance by Buyer of the goods or services, nor affect in any way Seller's obligations under this Purchase Order notwithstanding Buyer's opportunity to inspect the goods or services, Buyer's knowledge of the non-conformity or defect, its substantiality or the ease of its discovery, nor Buyer's earlier failure to reject the goods or services.

5. WAIVER: Buyer's failure to insist on performance of any term, condition, or instruction, or failure to exercise any right or privilege, or its waiver of any breach, shall not thereafter waive any such term, condition, instruction, right or privilege.

Buyer's acceptance of any goods shall not operate as a waiver of rights hereunder or otherwise relieve Seller from its responsibility for supplying and delivering goods in accordance with the requirements of this Purchase Order or any other obligation of Seller under this Purchase Order.

6. WARRANTY: Seller warrants to Buyer and Owner that all goods and services covered by this Purchase Order will conform with the specifications, drawings, and other descriptions supplied or adopted by Buyer and will be new, of good quality, fit and sufficient for the purposes for which they are intended as evidenced in this Purchase Order and in the drawings and specifications referred to herein, of good materials, design and workmanship, free from defects, and will fulfill satisfactorily the operating conditions specified herein.

These warranties shall extend to Buyer, Owner, their successors and assigns.

Seller, at its expense, (including without limitation costs of removal, packing, transportation and reinstallation) shall promptly either repair or replace any goods and services furnished to Buyer which within twelve (12) months after operational start-up or within eighteen (18) months after shipment, whichever occurs first, shall fail to conform to the requirements of this Purchase Order. Goods or services that are repaired or replaced by Seller pursuant to this Warranty shall be warranted, according to the terms hereof, for an additional twelve (12) months from the date of such repair or replacement. Seller will at any time be chargeable for repairs made by Buyer to correct such a failure to meet the warranty herein when Seller has been given notice of such failure and thereafter has failed to take prompt and effective action to correct the failure in accordance with the foregoing.

The above warranties are in addition to all other warranties as may be express or implied at law or equity.

7. SUPPLIER QUALITY SURVEILLANCE (SQS) INSPECTION AND EXPEDITING: Seller shall be responsible for the performance of all activities affecting quality and schedule including those of its suppliers. Buyer shall have the right to reject any and all goods which fail to conform to the specifications under which they were purchased or to proper standards of workmanship. Buyer reserves the right to review Seller's Quality Assurance and Quality Control Procedures. Seller's Quality Plan submittal requirements, if applicable, are defined in the "Supplier Drawing and Data Commitment Form" section of this Purchase Order.

The goods provided by Seller under this Purchase Order are subject to SQS inspection, expediting, audit of Quality Plan implementation and witnessing of Seller testing by the Buyer's representative and/or the Owner, who shall be granted access to all parts of the Seller's plant(s) or Seller's supplier's plant(s) engaged in the manufacturing or processing of this Purchase Order. The representative's inspection and witnessing of testing, or lack of inspection, witnessing of testing or response, shall in no way release the Seller from any obligations related to this Purchase Order. Seller shall further ensure that these terms and conditions become a part of its purchase orders to its suppliers for all goods or services which are used in the products purchased under this Purchase Order. Seller is further responsible for obtaining and submitting Quality Plans as required from its suppliers.

Seller and/or Seller's suppliers will notify Buyer at least five (5) calendar days in advance of the date inspection or test can be made. If for any reason the date should be set back, Seller shall telephone, wire or facsimile Buyer immediately. NOTE: THE SELLER SHALL NOT SHIP THE GOODS ON THIS PURCHASE ORDER WITHOUT EITHER BUYER'S FINAL INSPECTION OR A WRITTEN WAIVER OF INSPECTION FROM BUYER. VIOLATION OF THIS REQUIREMENT SHALL CONSTITUTE A REJECTION OF THE GOODS, WITH SUBSEQUENT RETURN OR OTHER ACTION AT SELLER'S COST.

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Complete and accurate information is required to maintain the overall schedule. Unless otherwise stated, Seller shall at a minimum furnish every fourteen (14) days, status of engineering, material procurement, production and shipping information.

8. INDEMNITY:

Seller agrees their primary insurance coverage shall defend, indemnify and hold harmless Buyer and Owner, the affiliated companies of each, and their members, managers, directors, officers, employees, agents and representatives, from and against all claims, demands, causes of action, liability, loss or expense arising from or relating to any actual or asserted:

Failure by Seller to comply with any law, ordinance, regulation, rule or order, or with this Purchase Order. This Section includes, but is not limited to, fines or penalties by government authorities and claims arising from Seller's actual or asserted failure to pay taxes.

Violation or infringement of rights in any patent, copyright, proprietary information, trade secret or other property right caused or alleged to be caused by the use or sale of goods, materials, equipment, methods, processes, designs or information furnished by Seller or its suppliers. Should any goods or services provided by Seller become, or appear likely to become, the subject of a claim of infringement of a patent, copyright or other property right, Seller shall, at Buyer's option, either procure for Buyer and Owner the right to continue using such goods or services, replace same with equivalent, non-infringing goods or services, or modify the goods or services so that the use thereof becomes non-infringing, provided that any such modification or replacement is of equal quality and provides equal performance to the infringing goods or services.

The preceding paragraph shall not apply to any goods, or any part thereof, manufactured to designs furnished and required by Buyer, nor shall it apply to claims that the sale or use of a process or use of a combination of the goods supplied by Seller hereunder with other goods infringes a patent, if such process or other goods were not supplied by Seller and Seller's supplying of the goods hereunder does not constitute contributory patent infringement.

Injury to or death of persons (including employees of Buyer, Owner, Seller and Seller's suppliers) or from damage to or loss of property (including the property of Buyer or Owner) arising directly or indirectly out of this Purchase Order or out of any acts or omissions of Seller or its suppliers. Seller's defense and indemnity obligations hereunder include claims and damages arising from non-delegable duties of Buyer or Owner or arising from use by Seller of construction equipment, tools, scaffolding or facilities furnished to Seller by Buyer or Owner.

Contamination, pollution, or public or private nuisance, arising directly or indirectly out of this Purchase Order or out of any acts or omissions by Seller, its suppliers or sub suppliers.

Seller's defense and indemnity obligations shall apply regardless of whether the party to be indemnified was concurrently negligent, whether actively or passively, excepting only where the injury, loss or damage was caused solely by the negligence or willful misconduct of, or by defects in design furnished by, the party to be indemnified. Seller's defense and indemnity obligations shall include the duty to reimburse any attorneys' fees and expenses incurred by Buyer or Owner for legal action to enforce Seller's indemnity obligations.

In the event that any indemnity provisions in this Purchase Order are contrary to the law governing this Purchase Order, then the indemnity obligations applicable hereunder shall be construed to apply to the fullest extent allowed by applicable law.

With respect to claims by employees of Seller or its suppliers, the indemnity obligations under this Purchase Order shall not be limited by the fact of, amount, or type of benefits or compensation payable by or for Seller, its suppliers or sub suppliers under any workers' compensation, disability benefits, or other employee benefits acts or regulations, and Seller waives any limitations of liability arising from workers' compensation or such other acts or regulations.

Seller acknowledges specific payment of \$10.00 incorporated into the Purchase Order Price as legal consideration for Seller's indemnities as may be provided in this Purchase Order.

9. DELAYS: TIME OF DELIVERY IS OF THE ESSENCE FOR THIS PURCHASE ORDER. Seller shall promptly notify Buyer of any actual or anticipated delay in delivery and take all reasonable steps to avoid or end delays without additional cost to Buyer. Where the delay is caused by acts of God, acts of civil or military authority, epidemics, war, riot, or other similar causes beyond Seller's control and which Seller could not have reasonably foreseen or provided against, Buyer shall have the right to either: (i) terminate by written notice to Seller all or part of this Purchase Order in accordance with its terms or (ii) extend the date of delivery or performance for a period equal to the durations of the delay, but Seller shall not be entitled to any extra compensation for such delay. Seller shall not be excused from performance hereunder where alternate sources of supply of materials, goods or services are available.

10. ASSIGNMENT: Neither this Purchase Order nor any portion hereof shall be assigned or delegated without Buyer's prior written consent and any such assignment or delegations shall be void. Buyer reserves the right to assign this Purchase Order to the Owner or Owner's successors or assigns or to Buyer's affiliates and Seller hereby consents to any such assignment.

11. CHANGES: No substitutions shall be made in this Purchase Order without the prior written consent of Buyer. Buyer

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shall have the right by written direction to make changes in the specification and drawings for goods or services covered by this Purchase Order. If Seller believes that such change affects the price or delivery date for such goods or services, Seller shall so notify Buyer in writing (with adequate supporting documentation) within five (5) working days after receipt of said written direction. Seller shall suspend performance of the change unless thereafter released in writing by Buyer to perform said change, and Buyer and Seller shall mutually agree in writing upon an equitable adjustment in the price and/or delivery date to reflect the effect of such change.

Seller's request for any adjustments shall be deemed waived unless submitted in writing within such five (5) working days after Seller receives direction to make such changes. Seller shall not suspend performance of the unaffected portion of this Purchase Order while Buyer and Seller are in the process of making such changes and any related adjustments or at any time thereafter unless so instructed in writing by Buyer. If released in writing by Buyer, Seller shall comply with and perform such change in accordance with the terms of this Purchase Order during the time Seller and Buyer require to mutually agree upon an equitable adjustment. No agreement or understanding modifying the conditions of terms of this Purchase Order shall be binding upon Buyer nor will extra compensation be paid by Buyer unless the agreement or understanding is made in writing.

12. CANCELLATION FOR DEFAULT: In the event Seller shall be adjudged bankrupt, make a general assignment for the benefit of its creditors, or if a receiver shall be appointed on account of Seller's insolvency, or in the event Seller is in default of any material provisions or requirement of this Purchase Order, Buyer may, by written notice to Seller, without prejudice to any other rights or remedies which Buyer may have, cancel further performance by Seller under this Purchase Order, in whole or in part. In the event of such cancellation, Buyer may complete the performance of the terminated portions of this Purchase Order by such means as Buyer selects, and Seller shall be responsible for any additional costs incurred by Buyer in so doing.

Seller shall deliver or assign to Buyer any work in progress as Buyer may request. Any amounts due Seller for goods and services completed by Seller in full compliance with the terms of this Purchase Order prior to such cancellation, as verified by Buyer, shall be subject to set off of Buyer's additional costs of completing the Purchase Order and other damages incurred by Buyer as a result of Seller's default. Waiver by Buyer of any default of Seller shall not be considered to be a waiver by Buyer of any provision of this Purchase Order or of any subsequent default by Seller. If Seller's contract is terminated by virtue of default, and it is later determined by the final judgment or order of a court of competent jurisdiction, arbitration entity or administrative proceeding of any type whatsoever that the Seller was not in default, the parties agree that the termination shall then be considered a termination for convenience.

13. TERMINATION FOR CONVENIENCE: Buyer shall have the right to terminate for its convenience further performance of all or any separable part of this Purchase Order at any time by written notice to Seller. On the date of such termination stated in the notice, Seller shall discontinue all work pertaining to this Purchase Order, shall place no additional orders, and shall preserve and protect materials on hand purchased for or committed to this Purchase Order, work in progress, and completed work both in Seller's and in its supplier's plants pending Buyer's instructions, and shall dispose of same in accordance with Buyer's instructions. Termination payment to Seller or refund to Buyer, if any, shall be promptly and mutually agreed to by Buyer and Seller, based on that portion of the work satisfactorily performed to the date of cancellation, including reimbursement for actual costs, reasonable overhead and profit on such work, plus reasonable and necessary expenses resulting from the termination, disposition of work and material on hand, and amounts previously paid by Buyer, all as substantiated by documentation satisfactory to and verified by Buyer. Seller shall not be entitled to any loss of prospective profits, contribution to overhead or incidental, consequential or other damages because of such termination.

Seller shall deliver or assign all goods with all applicable warranties or dispose of goods as directed by Buyer prior to final payment.

14. LAWS AND REGULATIONS: Seller warrants that all goods and services supplied pursuant to this Purchase Order will comply with all applicable laws, ordinances and regulations, and further Seller shall provide all permits, certificates and licenses which may be required for the performance of the Purchase Order. This Purchase Order shall be subject to the law and jurisdiction of the State of Ohio unless expressly designated otherwise in the Purchase Order.

The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Purchase Order and shall be disclaimed and excluded from any contracts placed by Seller with its suppliers.

Seller further warrants that all goods furnished by Seller in performance of this Purchase Order will comply fully with the Occupational Safety and Health Act of 1970 (84 U.S. Stat 1590), as amended and the State plans approved under such Act, and the regulations there under, to the extent applicable to such equipment, and in addition to any other rights or remedies which Buyer may have, Seller shall indemnify, defend and hold harmless Buyer and its Owner from and against any and all claims, loss, or liability arising from failure of such goods to comply therewith.

Seller certifies that it has an affirmative action policy ensuring equal employment opportunity without regard to race, color, national origin, sex, age, religion or handicap, that it maintains no employee facilities segregated on the basis of race, color, religion or national origin and that it is not debarred or suspended from being awarded Federal or Federally assisted contracts.

If applicable to this Purchase Order, the following laws, orders and regulations, as amended, are hereby incorporated by reference:

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Executive Order 11246; Vietnam Era Veterans Readjustment Act; Rehabilitation Act of 1973; Veterans Compensation, Education and Employment Act; 41 CFR 60-1.4 (Equal Employment Opportunity); 41 CFR 60-250.4 (Veterans Affirmative Action); 41 CFR 60-741.4 (Handicap Affirmative Action); 41 CFR 601.40 (Affirmative Action Plans); 41 CFR 601.7 (EE01 Reports); 41 CFR 61650 (Veterans Employment Reports).

Seller hereby certifies that the goods and services provided hereunder shall be produced in compliance with all applicable requirements of Sections 6, 7, and 12 of the Fair Labor Standards Act of 1938, as amended, and the regulations and orders of the U.S. Department of Labor issued under Section 14 thereof, and that each invoice submitted hereunder shall be correct and authentic and the only one issued for the goods and services mentioned.

Seller certifies that it is in compliance, and shall at all times remain in compliance, with all applicable anti-corruption and anti-bribery laws, including but not limited to the U.S. Foreign Corrupt Practices Act of 1977, as amended.

This contractor and subcontractor shall abide by the requirements of 41 CFR 60-741.5 (a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

This contractor and subcontractor shall abide by the requirements of 41 CFR 60-300.5 (a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.

14.a DISPUTES: Any dispute arising out of or related to this purchase order shall be resolved by litigation in The Courts of Hamilton County, Ohio. Prior to and/or during litigation the Seller and Buyer may attempt to settle any dispute by negotiation and/or by mediation and/or by arbitration as they may agree.

15. LIENS: Seller agrees to indemnify, hold harmless and defend Buyer and Owner from and against all laborers', material men, mechanics, or other liens arising from the performance of Seller's obligations under this Purchase Order and shall keep the premises of Buyer and Owner free from all such claims, liens, and encumbrances. To the full extent permitted by applicable law, Seller, for itself and all of its suppliers of any tier, waives all rights of lien against the property and premises of Buyer and Owner for labor performed or for goods furnished for the Work.

16. SUSPENSION OF PERFORMANCE: Buyer may at any time, and from time to time, by written notice to Seller, suspend further performance of all or any portion of this Purchase Order by Seller. Such suspensions shall not exceed more than one hundred eighty (180) consecutive calendar days each nor aggregate more than two hundred seventy (270) calendar days. Upon receiving any such notice of suspension, Seller shall promptly suspend further performance of the Purchase Order to the extent specified, and during the period of such suspension shall properly care for and protect all work in progress and materials, supplies, and equipment Seller has on hand for performance of the Purchase Order. Seller shall use its best efforts to utilize its material, labor and equipment in such a manner as to mitigate costs associated with suspension. Buyer may at any time withdraw the suspension as to all or part of the suspended performance by written notice to Seller specifying the effective date and scope of withdrawal and Seller shall, on the specified date of withdrawal, resume diligent performance of the work for which the suspension is withdrawn.

If Seller believes that any such suspension or withdrawal of suspension justifies modification of the Purchase Order price or time for performance, Seller shall comply with the provisions set forth in Article 11, entitled CHANGES. In no event shall Seller be entitled to any loss of prospective profits, contributions to overhead or any incidental, consequential or other damages because of such suspensions or withdrawals of suspension.

17. INDEPENDENT CONTRACTOR: Seller shall act as an independent contractor and not as an agent or employee of Buyer or Owner and shall not subcontract any portion of the work without the written consent of Buyer.

18. BUSINESS CONDUCT AND ETHICS EXPECTATIONS: Buyer's "Code of Business Conduct and Ethics Expectation for Suppliers and Contractors" publication is available at <http://www.fbportsmouth.com/working-with-us/documents/index.htm>. FBP expects its suppliers and contractors to maintain and enforce policies consistent with the requirements of the "Code of Business Conduct and Ethics Expectation for Suppliers and Contractors" while also adhering to lawful business practices that encompass FBP's own ethical expectations. FBP's ethical expectations are reflected in the FBP "Code of Business Conduct" also available at <http://www.fbportsmouth.com/working-with-us/documents>. Seller shall access and review Buyer's requirements for business conduct and ethics and agrees that it and its suppliers and contractors, and the employees, agents and representatives of each shall at all times comply with Buyer's Expectations, and where more stringent, comply with applicable laws and Seller's own business conduct guidelines and policies. Violation of this Article may be deemed by Buyer to be a material breach of this Order and in such event, Buyer may, without prejudice to any other rights or remedies Buyer may have, cancel further performance by Seller under this Purchase Order, in whole or in part, pursuant to Article 12, Cancellation for Default. The most current version of the "Code of Business Conduct and Ethics Expectation for Suppliers and Contractors" and FBP "Code of Business Conduct" will be maintained at <http://www.fbportsmouth.com/working-with-us/documents>.

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- 19. CONFIDENTIAL INFORMATION:** The documents and all other information designated as confidential or proprietary and contents thereof are referred to as "Information". Seller agrees to retain the Information in confidence and not to disclose it to any third party or use such Information for any other purpose, except as authorized by Buyer for the performance of this Purchase Order. Seller shall not publicize the existence or scope of this Purchase Order without Buyer's written consent. Seller shall require these same agreements on the part of any supplier of Seller's to whom the Information is disclosed. Seller shall return all Information and copies thereof to Buyer upon written request.
- 20. HAZARDOUS MATERIALS:** Seller shall notify Buyer in writing if goods furnished are subject to laws or regulations relating to hazardous or toxic substances, or when disposed of, to regulations governing hazardous wastes, or to any other health, safety and/or environmental regulations. Seller shall furnish: all appropriate shipping certification; labeling in compliance with the Workplace Hazardous Materials Information System; Material Safety Data Sheets in compliance with the Workplace Hazardous Materials Information System; and instructions for shipping, safety, handling, exposure and disposal in a form sufficiently clear for use by Buyer's non-technical personnel and sufficiently specific to identify all action which the user must take concerning the material. The following certification must be made on the bill of lading: "This is to certify that the above named articles are properly classified, described, packaged, marked and labeled and are in proper condition for transportation according to any applicable transportation regulations."
- 21. VALIDITY OF PROVISIONS:** In the event any Provision, or any part or portion of any Provision of this Purchase Order shall be held to be invalid, void or otherwise unenforceable, such holding shall not affect the remaining part or portions of that Provision, or any other Provision hereof.
- 22. ARBITRATION:** In the event that Buyer is required to arbitrate a dispute with a third party, which dispute arises out of this Purchase Order or is in any way connected with Seller, Seller agrees to join in such arbitration proceeding as Buyer may direct and shall submit to such jurisdiction and be finally bound by the judgment rendered in accordance with the arbitration rules as may be established therein.
- 23. RIGHT TO OFFSET:** Buyer, without waiver or limitation of any rights or remedies of Buyer or Owner, shall be entitled from time to time to deduct from any amounts due or owing by Buyer to Seller in connection with this Purchase Order, any and all amounts owed by Seller to Buyer or Owner.
- 24. SECURITY:** If Buyer makes any advance or progress payment to Seller under the Purchase Order, upon Buyer's request, Seller agrees to execute a Security Agreement and Financing Statement (both in form satisfactory to Buyer) granting a Security interest to Buyer effective in all states of fabrication or manufacture in the proceeds, raw materials and goods which are purchased, manufactured, or otherwise obtained pursuant to the Purchase Order.
- 25. SURVIVAL:** The provisions of this Purchase Order which by their nature are intended to survive the termination, cancellation, completion or expiration of this Purchase Order shall continue as valid and enforceable obligations of the parties notwithstanding any such termination, cancellation, completion or expiration.
- 26. TRIAL:** Seller hereby knowingly, voluntarily and intentionally waives (to the extent permitted by applicable law) any right it may have to a trial by jury of any dispute arising under or relating in any way to this Purchase Order and agrees that any such dispute may, at Buyer's option, be tried before a judge sitting without a jury.
- 27. EXPORT AUTHORIZATIONS:** Seller agrees to comply with all applicable export and re-export control laws and regulations, including but not limited to United States Export Administration Regulations (EAR) administered by the Bureau of Industry and Security, U.S. Department of Commerce, trade and economic sanctions regulations administered by the Office of Foreign Assets Control (OFAC), U.S. Department of Treasury, the International Traffic in Arms Regulations (ITAR), Arms Control Export Act, and United States Munitions List (USML) administered by Directorate of Defense Trade Controls, Bureau of Political-Military Affairs of the U. S. Department of State, and any other export authorities identified in Supplement 3 to Part 730 of the EAR.

Seller shall accurately identify in writing to Buyer, within thirty (30) days after issuance of this purchase order, those goods, services and technologies for which an export license or other regulatory approval is required and shall provide accurate export classification and licensing information necessary for supporting export documents, including but not limited to (as applicable) the appropriate Export Control Classification Numbers (ECCN), an indication of the applicability or availability of license exceptions or exemptions, and all pertinent technical data, drawings, brochures, technical expertise, or other relevant information as deemed necessary by Buyer. Seller acknowledges that Buyer shall undertake to obtain any required license or other regulatory approval required, and shall rely upon the information provided by Seller. Accordingly, Seller agrees to indemnify Buyer for any fines, penalties, claims, losses, damages, costs (including legal costs), expenses and liabilities that may arise as a result of Seller's breach of this provision.

Buyer agrees that no good or technology received from the Seller is intended to be shipped, either directly or indirectly, to any country, company or Person or for any end-use that is prohibited under applicable laws and regulations, such as the EAR, OFAC regulations or ITAR.

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28. Suspect/Counterfeit items (C/SI): Notwithstanding any other provisions of this agreement, the Seller warrants that all items provided to the Buyer shall be genuine, new and unused unless otherwise specified in writing by the Buyer. Seller further warrants that all items used by the Seller during the performance of work under this purchase order, include all genuine, original, and new components, or are otherwise suitable for the intended purpose. Furthermore, the Seller shall indemnify the Buyer, its agents, and third parties for any financial loss, injury, or property damage resulting directly or indirectly from material, components, or parts that are not genuine, original, and unused, or not otherwise suitable for the intended purpose. This includes, but is not limited to, materials that are defective, suspect, or counterfeit; materials that have been provided under false pretenses; and materials or items that are materially altered, damaged, deteriorated, degraded, or result in product failure as indicated in the S/CI Awareness Training Manual (PDF) <http://energy.gov/ehss/downloads/suspectcounterfeit-items-awareness-training-manual>

If it is determined that a suspect/counterfeit part has been supplied, Buyer will impound the items pending a decision on disposition. The Seller may be required to replace such items with items acceptable under the terms of the Purchase Order and shall be liable for all costs relating to the impoundment, removal, and replacement. Buyer may also notify the cognizant Department of Energy Contracting Officer and Office of Inspector General and reserves the right to withhold payment for the items pending results of the investigation.

Electrical material, components, and material shall have a mark indicating acceptance by a UL or other Nationally Recognized Testing Laboratory (NRTL) as recognized by OSHA.

29. TECHNICAL DIRECTION

- (a) Performance of the work under this contract may be subject to the technical direction of the cognizant Buyer's Contract Technical Representative (CTR), if identified in the purchase order or otherwise in writing by the Buyer. The term "technical direction" is defined to include, without limitation:
- (1) Directions to the Seller that redirect the contract effort, shift work emphasis between work areas or tasks, require pursuit of certain lines of inquiry, fill in details or otherwise serve to accomplish the Statement of Work (SOW).
 - (2) Provision of written information to the Seller, which assists in the interpretations of drawings, specifications, or technical portions of the work description.
 - (3) Review and, where required by the contract, approval of technical reports, drawings, specifications and technical information to be delivered by the Seller to Fluor-B&W Portsmouth LLC under this contract.
- (b) Technical direction must be within the scope of the SOW stated in this contract. The cognizant CTR does not have the authority to, and shall not, issue any technical directions which:
- (1) Constitute an assignment of additional work outside the scope of the SOW of this contract;
 - (2) Constitute a change as defined in the Article entitled "**Changes**";
 - (3) In any manner causes an increase or decrease in the total estimated contract price or the time required for the contract and/or performance;
 - (4) Changes any of the expressed terms, conditions or specifications of this contract;
 - (5) Interferes with the Seller's right to perform the terms and conditions of this contract.
- (c) All technical direction shall be issued in writing by the cognizant CTR.
- (d) The Seller shall proceed promptly with the performance of technical directions duly issued by the CTR in the manner prescribed by this article and within the CTR's authority under the provisions of this Article. If, in the opinion of the Seller, any instruction or direction by the CTR falls within one of the categories defined in (b)(1) through (b)(5) above, the Seller shall not proceed but shall notify the cognizant Buyer in writing within five (5) working days of any such instruction or direction and shall request the Buyer to modify the contract. Upon receiving the written notification from the Seller, the Buyer shall:
- (1) Advise the Seller in writing within seven (7) working days after receipt of the Seller's letter that the technical direction is within the scope of this purchase order and does not constitute a change under the article entitled "**Changes**" of this purchase order;
 - (2) Advise the Seller in writing within seven (7) working days after receipt of the Seller's letter not to perform under the direction and to cancel the direction; or
 - (3) Advise the Seller in writing within a reasonable time that Buyer will issue a written change order.
- (e) Failure of the Seller and the Fluor-B&W Portsmouth LLC Buyer to agree that the technical direction is within the scope of the contract, or failure to agree upon the contract action to be taken with respect thereto shall be subject to the Fluor-B&W Portsmouth LLC General Provision entitled "**Disputes**."



TERMS AND CONDITIONS OF PURCHASE

When the Service Contract Act is applicable to the performance of this contract, the contractor shall comply with the requirements of U.S. Department of Labor Wage Determination for covered employees in effect at the time of performance of the work. U.S. Department of Labor Wage Determinations can be found at <https://sam.gov/content/wage-determinations>.

- WORK SITE TERMS -

WHEN THIS ORDER COVERS THE SUPPLYING OF SERVICES OR SERVICES AND MATERIALS ON THE PREMISES OF BUYER OR OWNER, IT IS SUBJECT TO ADDITIONAL TERMS AND CONDITIONS FOUND IN SPECIAL PROVISIONS FOR ON SITE SERVICES

THIS PAGE ENDS TERMS AND CONDITIONS OF PURCHASE