



**COMMUNICATIONS & POWER INDUSTRIES**  
**(“CPI”)**  
**TERMS AND CONDITIONS OF PURCHASE**  
**GENERAL PROVISIONS**

**1. TERMS AND CONDITIONS OF PURCHASE**

Subject only to any applicable written override agreement, these CPI Terms and Conditions of Purchase (“CPI Purchase Terms”) of the CPI Purchase Order (“Purchase Order”) on which they are attached, appended, included, or referenced, apply to all purchases by **Communications & Power Industries LLC, Communications & Power Industries Canada Inc., their affiliates, divisions, and subsidiaries (collectively “CPI” or “Buyer”)** of any items, materials, goods, or products, including hardware, software, specially manufactured items (“Products”) and services (“Services”) furnished by any supplier (“Seller”) to CPI and supersede any prior offers, negotiations, agreements, and representations concerning the Products or Services of this Purchase Order and constitutes the entire agreement between the parties. The Purchase Order is expressly conditional on Seller's acceptance of these CPI Purchase Terms. Unless expressly accepted in writing by CPI, additional or different terms and conditions proposed by Seller or included in Seller's quotation, acknowledgement, or other documentation are objected to by CPI and shall have no effect despite any usage of trade or course of performance. Seller's acknowledgement, acceptance of payment, or commencement of performance shall constitute Seller's unqualified acceptance of the Purchase Terms. CPI's receipt of Products or Services is not acceptance by CPI of Seller's terms and conditions, is not a waiver of CPI Purchase Terms, and does not create any contractual obligation to purchase Products or Services from Seller. As used in these CPI Purchase Terms, “Government” shall mean the Government of the United States or Canada or any of their agencies.

**2. PRICES AND INVOICES**

Seller shall invoice at the prices on the face of the Purchase Order (“Prices”). Unless otherwise agreed by CPI in writing, all Prices are Firm Fixed Prices, and all Prices must be in U.S. or Canadian Dollars, converted, if necessary, at the date this contract is formed, when a Purchase Order is signed, or the Products or Services are delivered, whichever reflects a lesser Dollar to local currency exchange rate. Unless otherwise stated in the Purchase Order or other writing signed by an authorized representative of CPI, Prices include and Seller shall pay all applicable taxes (sales, use, excise, value-added, service, or other similar taxes), license fees, customs fees, duties, whether or not separately stated. Seller shall hold CPI harmless from all these taxes and duties. Seller shall mail (facsimile or email) invoices covering orders, shipping notices, bills of lading, and receipts promptly after shipment. Seller is responsible for requesting from CPI any required certification that any transaction is tax exempt. Seller's invoice must state the order number (including letters) and ordering location and must identify the country of origin and export control jurisdiction and classification, in accordance with the applicable regulations of each Product sold to CPI. Discounts apply to payments sent within the stated period, starting from the later of receipt of a proper invoice or delivery at destination. Except as otherwise specified on the face of the Purchase Order, payment is due forty-five (45) calendar days from the later of (a) acceptance of Products or Services, (b) the date CPI receives a correct invoice, or (c) the date when CPI receives conforming Products or Services but not earlier than the scheduled date of delivery specified on the Purchase Order. CPI may withhold payment for shortages or nonconforming Products or Services. In no event may Seller quote prices to CPI that would be unlawfully discriminatory.

**3. PACKAGING, SHIPMENT, DELIVERY**

Seller shall comply with CPI's shipping instructions and shall suitably wrap, box, and/or crate all Products to protect against all hazards of shipment, storage, and exposure. Unless otherwise agreed by CPI in writing, Seller shall be responsible for insurance and other charges and

costs related to transportation and any special packaging requested by CPI. Seller shall be responsible for ensuring that all packages containing hazardous materials or dangerous goods comply with all applicable regulations regarding the labeling and shipment of the specific materials, and shall provide hazardous material data sheets on all these orders. Seller shall ensure that all packages are marked to show the Purchase Order number and that itemized packing slips that accompany each delivery show the Purchase Order number, part number, order quantity, and Product description. Seller shall mark each item or the container with the English name of the country of origin and provide a completed certificate that certifies country of origin sufficient to satisfy customs authorities for duty drawback or any other purposes. In the absence of a proper packing slip, CPI's count as to the quantity delivered is conclusive. Unless otherwise agreed by CPI in writing, Seller shall not charge and CPI shall not pay any separate charge for cartons, wrapping, packing, boxing, crating, delivery, drayage, or similar costs. If CPI agrees to pay transportation charges and Seller prepays and bills these charges to CPI, Seller shall state the amount separately on the invoice and support it with billing receipts. CPI may cancel this order without liability to Seller if deliveries are not made as promised. Despite any inspection or any shipping terms to the contrary in Seller's quotation, acknowledgment, or other Seller documentation, unless otherwise agreed by CPI in writing, Seller bears all risk of loss, damage, or destruction of Products until final acceptance by CPI.

**4. DELAY**

Seller shall immediately notify CPI of any matter which may delay Seller's performance under this Purchase Order and the anticipated duration of the delay. Seller agrees to insert the substance of this provision in all subcontracts and purchase order hereunder. Excusable delays are those which arise out of causes beyond the control and without the fault or neglect of Seller, including, but not limited to, threatened or actual labor disputes, acts of God or of any government, fires, floods, strikes, embargoes, unusually severe weather, or delays of Seller's subcontractor(s) or supplier(s) arising from causes beyond the control and without the fault or neglect of both Seller and such supplier(s) or subcontractor(s) provided Seller could not have obtained the suppliers or services from other sources in sufficient time to permit Seller to meet the delivery schedule. Despite any other provision of this Purchase Order, CPI may terminate this Purchase Order, in whole or in part, without cost to CPI, where any actual or projected excusable delay is material or indefinite, would result in frustration of purpose of this Purchase Order, or where CPI reasonably believes that it is required to repurchase products similar to Products under CPI's contractual obligations.

**5. PROPERTY FURNISHED BY BUYER**

Unless otherwise agreed to in writing, CPI retains all title and intellectual property rights in and to property furnished by CPI, or the cost of which is or will be charged to CPI, including, but not limited to, specifications, drawings, samples, tooling, tools, equipment, materials, or information furnished to or made available to Seller, its replacements, and the property described in these CPI Purchase Terms as CPI Confidential Information (“CPI Property”) and are provided “as is.” While CPI Property is in Seller's possession or control, Seller shall keep it in safe and good condition and covered, at its expense, by property insurance acceptable to CPI with loss payable to CPI. Seller shall return the Property in the same condition as received, reasonable wear and tear excepted. Seller shall not use CPI Property except to manufacture Products and perform Services for CPI under Purchase Orders or as authorized in writing by CPI. Seller shall plainly mark or adequately identify all CPI Property with the name “CPI” and as applicable the CPI drawing or tool number. Seller shall not copy, modify, furnish, quote, sell, or advertise any CPI Property, in whole or in

part, nor goods made using CPI Property, in whole or in part, without CPI's express prior written consent. Upon CPI's written request, Seller shall provide an inventory of and return CPI Property promptly to CPI. Despite any defect in CPI Property, or any fault or neglect of CPI, Seller shall indemnify, defend, and hold CPI harmless from and against all loss of and damage to CPI Property, any claims that may be asserted against CPI Property, and any claims relating in any way or arising from any use by Seller of CPI Property or products produced from CPI Property.

## 6. INSPECTION, ACCEPTANCE, REJECTION

- A. Seller shall establish and maintain a quality control and inspection program and testing system acceptable to CPI adequate to ensure that all Services performed and Products delivered conform to all applicable specifications and other contract requirements.
- B. CPI and its customer may inspect all Products or Services at reasonable times and places, including, when practicable, during manufacture and before shipment. Seller shall provide all information, facilities, and assistance necessary for safe and convenient inspection without additional charge.
- C. No such inspection shall relieve Seller of its obligation to furnish and warrant all Products or Services in accordance with the requirements of this Purchase Order. CPI's final inspection and acceptance shall be at destination. Payment shall not constitute acceptance.
- D. If Seller delivers nonconforming Products or Services, CPI may, in addition to any other remedies available at law or at equity, (i) accept all or part of such Products or Services at an equitable price reduction; (ii) reject such Products or Services; (iii) return nonconforming Products for refund or credit; or (iv) require Seller, at Seller's cost, to make all repairs, corrections, modifications, or replacements at the direction of CPI necessary to enable such Products or Services to comply in all respects with the contract requirements. Seller shall not re-tender rejected Products or Services without disclosing the corrective action taken.

## 7. WARRANTY

- A. **Products.** Seller warrants all Products to be of new material, be and only contain materials obtained directly from the Original Equipment Manufacturer ("OEM") or an authorized OEM reseller or distributor, be of merchantable quality, be free from defects in material, workmanship, and design, free from unreasonable hazards in design and performance, be fit for CPI's purposes as described in the Purchase Order or as described or relayed by CPI to Seller, conform to all applicable instructions, specifications, drawings, data, quantity, quality, and other requirements of CPI, conform to all representations, affirmations, promises, descriptions, samples, or models forming the basis of the contract, and not be or contain Counterfeit Items. For purposes of this Warranty, a Counterfeit Item is defined to include, but is not limited to, (i) an item that is an illegal or unauthorized copy or substitute of an OEM item; (ii) an item that does not contain its proper external or internal materials or components required by the OEM or that is not constructed in accordance with OEM design; (iii) an item or component that is used, refurbished, or reclaimed but the Seller represents as being a new item; (iv) an item that has not successfully passed all OEM required testing, verification, screening, and quality control but that Seller represents as having met or passed such requirements; or (v) an item with a label or other marking intended, or reasonably likely, to mislead a reasonable person into believing a non-OEM item is a genuine OEM item when it is not.
- B. **Services.** Seller further warrants that it will take all proper and necessary precautions for the safety and protection of persons and property, and will provide proper warnings for hazards that cannot be eliminated. For all efforts by Seller to supply design, engineering, installation, repair, maintenance, technical, construction, consulting,

professional, and other Services with respect to the Products, Seller warrants that it has and will maintain sufficiently trained, experienced, and appropriately licensed personnel to promptly and efficiently perform Services in a competent, workmanlike manner that is free from faults and defects and that meets or exceeds the standard of performance reasonably expected of similar providers of Services.

- C. **Periods and Remedies.** For both Products (including components and parts thereof) and Services, unless otherwise specified on the face of the Purchase Order, these warranties extend for the Seller's standard warranty periods, or for a period of one (1) year following acceptance by CPI, whichever is longer. If any nonconforming Product or Services ("the Work") is identified within the Warranty period, Seller, at Buyer's option, shall promptly repair, replace, or re-perform the Work. All transportation charges of replacement Work, return of nonconforming Work, and re-performance of Work shall be at Seller's expense. If repair or replacement of Work is not timely, Buyer may elect to return, re-perform, repair, replace, or re-procure the nonconforming Work at Seller's expense.
- D. **General.** All the above warranties are in addition to warranties of additional scope given by Seller to CPI and are not limited by Seller's standard warranties. These warranties and all implied warranties survive inspection, tests, acceptance, and payment, and run to CPI, its employees, or agents and subsequent owners and users. None of these warranties and no other implied or express warranties are considered disclaimed, limited, or excluded unless in writing and signed by CPI's authorized representative. All warranties shall run to Buyer and its customer. If Seller breaches any warranty, CPI shall be entitled to all additional remedies under applicable law arising from the breach. Furthermore, Seller shall indemnify, defend, and hold CPI harmless from and against any loss, damage, or expense whatsoever that CPI may suffer from breach of any of these warranties.

## 8. CHANGES

CPI may at any time, by written Purchase Order amendment signed by CPI ("Change Order"), and without notice to sureties or assignees, (i) suspend all or any portion of Seller's work, and/or (ii) make changes within the general scope of this Purchase Order that affect any one or more of the following, including, but not limited to, the following:

- specifications, drawings, designs, statement of work, or description of services;
- method of shipment or packing;
- quantities of Products or Services;
- place, date, and manner of delivery; or
- place and date of inspection or acceptance

If any such suspension or change directed by CPI causes an increase or decrease in the cost of or the time required for performance, Seller may claim an equitable adjustment in the Price accompanied by written evidence of related direct costs, or an adjustment to the delivery schedule, or both. Seller must assert any claim for adjustment in writing within ten (10) days from the date of receipt of the written Change Order in a format specified by CPI. Any claim by Seller for adjustment must be approved by CPI in writing before Seller implements the claimed adjustment. Price increases, including any proposed surcharges or markups, are not binding on CPI unless evidenced by an amendment to the Purchase Order signed by CPI. Where the cost of property made obsolete or excess as a result of a change is included in an equitable adjustment, Buyer shall have the right to prescribe its disposition. Failure to agree to any adjustment is a Dispute to which the Disputes provisions apply. However, nothing in this section, including any Dispute, excuses Seller from diligently proceeding with performance of this Purchase Order as changed.

## 9. TERMINATION/SUSPENSION/INDEMNITY

**A. For Default.** By written notice to Seller, CPI may terminate this Purchase Order, in whole or in part, or cancel all or any part of the undelivered portion of the Purchase Order for breach or default of Seller if Seller:

- does not make deliveries of Products or perform Services as specified in the Purchase Order or its delivery schedule;
- breaches, defaults, or fails to perform under any provision of this Purchase Order, including Seller warranties, or fails to make reasonable progress towards completion of the Purchase Order at the times specified so as to endanger scheduled performance, and does not cure or provide assurances in writing how it intends to cure Seller's default within a period of ten (10) business days (or longer as authorized in writing) after receiving written notice from CPI specifying the breach, default, or failure;
- fails promptly to provide adequate written assurances of future performances satisfactory to CPI when requested by CPI;
- becomes insolvent, generally does not pay its debts as they become due, becomes subject to a voluntary or involuntary petition under any bankruptcy or insolvency law, makes an assignment for the benefit of creditors, dissolves or has a material adverse change in its business, properties, prospects, operations, or condition (financial or otherwise); or
- attempts to cancel, terminate, modify, or change any contract of sale unless made by mutual agreement in writing and signed by CPI's authorized representatives.

If CPI terminates part of this Purchase Order, Seller shall diligently continue performance of the remainder. Seller is liable to CPI, and CPI may deduct from, or set-off against, any part of the price still due under this or any other outstanding Purchase Order for any excess costs for purchasing similar products or services from other suppliers and other damages incurred. The rights and remedies of CPI set forth in this section are in addition to, and not in lieu of, any other remedies which CPI may have in law or equity or pursuant to other sections of CPI Purchase Terms. If the parties or a court of competent jurisdiction determine that Seller was not in breach or default, or that the breach or default was excusable, the rights and obligations of the parties are the same as under TERMINATION FOR CONVENIENCE. Seller waives and is not entitled to receive profit on Products not received or unperformed services terminated for default or for convenience.

**B. For Convenience.** CPI for its convenience may, at any time by written notice to Seller, with or without cause and with or without explanation, suspend performance or terminate this Purchase Order, in whole or in part, without liability for default. Seller shall stop production on the date and to the extent specified in the notice and shall terminate all orders and subcontracts to the extent they relate to terminated Products or Services. Within thirty (30) calendar days after receiving notice of suspension or termination, Seller shall submit to CPI in writing the costs and expenses Seller incurs resulting from suspended or terminated Purchase Orders in the format specified by CPI. Costs and expenses not received within this period are waived. Upon CPI audit or other verification, the sole obligations of CPI are limited to (i) the unpaid Prices for all Products completed, delivered, and accepted by CPI or Services performed to the reasonable satisfaction of CPI by the effective date of suspension or termination; (ii) the percentage of Purchase Order Prices reflecting the percentage of work performed on unfinished Products ordered by CPI by the effective date of suspension or termination; and (iii) the reasonable costs established by Seller to the satisfaction of CPI, without duplication in the Prices of Products or Services under (i) or (ii), that are directly related to Products or Services scheduled for delivery within thirty (30) days of receiving the notice of suspension or termination. Instead of paying any amount to Seller, CPI may, at its option, direct Seller to delay delivery for an additional ninety (90) days. Seller shall pay CPI directly or CPI may deduct from or set-off

against any part of the price still due under this or any other outstanding Purchase Order for additional costs and expenses of CPI to correct or complete any unsatisfactory performance, or CPI may procure substitute Products or Services from another Supplier. Seller shall have the right to appeal under the Disputes section any determination under this section unless Seller fails to submit its termination claim within the time provided. CPI payments under this section are its sole and exclusive liability for suspension or termination for convenience by CPI under this Purchase Order.

**C. Transfer Title.** If CPI terminates this Purchase Order for default of or breach by Seller, or for CPI's convenience, CPI may require Seller to transfer title and deliver to CPI (i) any completed Products, and (ii) partially completed Products and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights that Seller has specifically produced or acquired for the terminated portion of this Purchase Order.

**D. Indemnity.** Despite any defenses of Seller, CPI may set-off, withhold, or recover from Seller sums that may be claimed or withheld by the Government or CPI's customer, and in addition to other indemnities in these CPI Purchase Terms, Seller shall indemnify, defend, and hold harmless CPI and any higher-tier contractor to which CPI owes a similar obligation from and against any and all actions, claims, costs, damages, expenses, and liabilities, including administrative expenses and attorneys' fees or other professional fees and costs for physical damage to or loss of tangible property, for injury or death of any person, and for any product recall or retrofit, arising from, related to, or caused by (i) acts or omissions of Seller, its employees, agents, or subcontractors or suppliers at any tier, including, but not limited to, any representations, certifications, or obligations under this Purchase Order or applicable laws, regulations, or orders of government agencies; (ii) Seller's failure to discharge or release any claim of lien or other encumbrances arising out of services, labor, equipment, or materials furnished by Seller, its contractors or vendors; or (iii) in addition to Seller's warranty obligations, any defect in design, workmanship, or materials carried out or employed by Seller or its employees, agents, or subcontractors or suppliers at any tier under this Purchase Order.

## 10. DISPUTES, APPLICABLE LAW, ARBITRATION

**A. Disputes.** In the event of a claim or controversy between the parties under this Purchase Order, including, without limitation, all transactions it contemplates, its validity, interpretation, construction, performance, and enforcement, or its negotiation, breach, termination, or invalidity, or the Products, Services, software, or documentation provided or to be provided ("Dispute"), the parties shall first attempt to resolve the Dispute through negotiations by each party's representatives authorized to settle Disputes. Any claim or controversy relating in any way to this contract or its performance which is not settled by agreement within twenty (20) days following the earlier of the date of the claim or commencement of negotiations shall be decided by CPI, which shall furnish a written decision to Seller. CPI's decision shall be final and conclusive unless, within fifteen (15) days of receipt of such decision, Seller gives CPI written notice that it desires to contest CPI's decision. Such contest shall be considered a "Dispute" which shall, at the election of CPI, be disposed of either by binding arbitration or shall be adjudicated by a court of competent jurisdiction for CPI's place of business on the face of the Purchase Order, or if the dispute is based upon alleged fault of the Government or a decision of the Government's contracting officer, by appeal to the Government under the Disputes article of the applicable prime contract with the Government. Each party consents to the exclusive personal jurisdiction and venue of the courts specified in this section and waives, to the fullest extent permitted by law, any objection it may now have or later have to the jurisdiction of any such courts, and each party waives any claim that any action or proceeding brought in either court has been brought in

an inconvenient forum. Exclusive choice of forum does not prohibit enforcement of any judgment obtained from that forum in any other appropriate forum. In order to resolve any issues or related matters in one action, CPI may require any dispute to be resolved in a court of competent jurisdiction in a place designated by CPI to obtain jurisdiction over and service on third parties.

**B. Applicable Law.** All Disputes arising out of or relating to this Purchase Order, whether resolved in a court of competent jurisdiction or by arbitration, are governed by the laws of CPI's place of business on the face of the Purchase Order, excluding its choice of law rules, and excluding the Uniform Computer Information Transactions Act or similar federal or state laws or regulations. If this is a Government subcontract, it shall be construed under and governed by applicable statutes and regulations of federal government contracts as applied by federal courts and boards of contract appeals. The United Nations Convention for the International Sale of Goods (CISG) is excluded and will not apply unless expressly agreed.

**C. Arbitration.** If CPI elects to resolve a dispute by arbitration, such dispute shall be settled only by binding arbitration pursuant to the Commercial Arbitration Rules ("Rules") of the American Arbitration Association ("AAA") as the appointing authority subject to the following:

1. The arbitration shall be conducted and comply with the procedural law of the Federal Arbitration Act, to the extent not inconsistent with the Rules or this section. The arbitration shall take place at the location of CPI's place of business on the face of the Purchase Order and may be conducted in the English language before a single arbitrator appointed by the AAA. If the parties agree to three arbitrators, at least one arbitrator must be a member of the American Board of Trial Advocates or the American College of Trial Lawyers. Subject to legal privileges, each party shall be entitled to discovery in accordance with the Federal Rules of Civil Procedure.
2. The arbitrator(s) shall have no power to award attorney's fees or punitive or exemplary damages or other damages not measured by the prevailing party's actual damages. In reaching its decision, the arbitrators shall apply the provisions of the Purchase Order, including these standard Terms and Conditions of Purchase and the substantive law specified in Subsection B above and applicable statutes of limitation. The arbitrator(s) shall issue a decision with written findings and the bases for decision and such decision shall be final, binding, and enforceable at any court of competent jurisdiction. The parties shall share equally fees and expenses of the AAA and the arbitrator(s) but not its own attorneys' fees.
3. Either party may seek in any court of competent jurisdiction any interim or provisional relief that is necessary to protect the rights or property of that party, including injunctive or other relief to prevent any unauthorized copying, disclosure, use, retention, or distribution of its intellectual property. Interim or provisional relief shall remain in effect until the arbitration award is rendered or the controversy is resolved. The party seeking this relief does not waive any other right or remedy hereunder.

## 11. TRADE SECRETS AND CONFIDENTIAL INFORMATION

**A. Trade Secrets.** "Protectable Technical Data" means (i) all data required by the Government, regardless of the Government's rights therein, that would otherwise be protectable as proprietary or under the law of trade secrets; and (ii) all disclosures of CPI's and Seller's scientific or technical information, all specifications, schematics, drawings, designs, processes, procedures, formulas, data-processing techniques, improvements, components, computer software, mask

works, compositions of material, performance data, or other technical information and processes acquired through access to CPI facilities, records, and studies or through observations of activities, or in connection with the negotiation, performance, or enforcement of this Purchase Order, and other information that is valuable and secret (not generally known to competitors and customers), which are protectable as proprietary or under the law of trade secrets, whether or not recorded (regardless of the form or method of the recording), relating to supplies procured by CPI or an agency of the Government. Recorded data means data that is contained in drawings, writings, films, sound recordings, magnetic or semiconductor memory-storage apparatus, or similar media. Notwithstanding any other provisions of this Purchase Order or the rights of the Government, neither party will disclose or use Protectable Technical Data provided by the other, or otherwise acquired through access to facilities, records, and studies or through observations of activities of the other, except such use as is necessary to the fulfillment of obligations under CPI's contract with its customer or this Purchase Order, unless the recipient can show that such Protectable Technical Data was already in the possession of recipient or was subsequently received from another party under no obligation to maintain such Protectable Technical Data in confidence. If recorded data which would otherwise be Protectable Technical Data is furnished to the Government under this Purchase Order with unlimited rights, either party may use such data if the Government furnishes it to others with unlimited rights or if it has otherwise lost its protection. CPI shall not be obligated to protect recorded Protectable Technical Data provided by Seller unless there is notification in writing or by suitable legend that such data is proprietary or is submitted for limited use only. No publicity releases or other public disclosure shall be made regarding this contract without CPI's express written permission.

**B. Confidential Information.** "CPI Confidential Information" means all information that is proprietary and material to CPI or its customers and not generally known by the public, including, but not limited to, (i) Protectable Technical Data of CPI as defined above; (ii) price, cost, and sales data; (iii) the identities and locations of vendors and consultants furnishing materials and services to CPI or its customers and the terms of these arrangements; (iv) CPI customer lists; (v) past, present, and future financial information that has not been released to the public, commercial, marketing, and customer information, financial forecasts and projections plans, strategies, and advertising campaigns; or (vi) information and technology embodied in computer programs (regardless of whether in source or object code form), system and user documentation, program designs not otherwise considered Trade Secrets, and Intellectual Property related to any of the foregoing, all of which is the sole and exclusive property of CPI.

1. Seller shall protect and keep confidential all CPI Confidential Information and shall observe the terms and conditions of any and all Nondisclosure Agreements (NDA) in effect now or in the future by Seller with or for the benefit of CPI. In addition, except for use necessary to the fulfillment of obligations under CPI's contract with its customer or this contract, or unless Seller can show that specific information was already in the possession of Seller or was subsequently received from another party without any obligation to maintain it in confidence, Seller *shall not* without the express written permission of CPI in each instance:

- disclose CPI Confidential Information to third parties;
- use, nor assist any third party to use, CPI Confidential Information, directly or indirectly, for any purpose other than supplying Products to CPI, including, without limitation, develop, design, manufacture, engineer, reverse engineer, reconstruct or decompile, refurbish, sell, or offer for sale Products or other products or services; or
- reproduce or distribute CPI Confidential Information

except to Seller's employees who have a need to know and use it to fulfill Seller's obligations under CPI's contract with its customer or this contract.

2. Seller shall protect CPI Confidential Information with the same degree of care it uses to protect its own confidential information but not less than due care, shall return to CPI or destroy all copies of CPI Confidential Information upon request of CPI, shall segregate CPI Confidential Information when not in use and shall not remove, alter, or obscure any copyright, trademark, trade secret, or other proprietary or confidentiality notices or legends from any CPI Confidential Information. Seller shall timely notify CPI of any third party attempts to violate CPI rights as protected by any NDA or these provisions. CPI may in a proper case assert that it would suffer immediate and irreparable harm for which monetary damages would be an inadequate remedy if Seller were to breach or threaten to breach its obligations under any NDA or these provisions, so that CPI may apply to a court having proper jurisdiction for equitable relief, including injunctive relief.
3. Seller has not disclosed and shall not disclose to CPI any trade secret, proprietary or confidential information, or other intellectual property of Seller or any third party that is subject to restrictive rights of any kind unless it is the subject of a separate written NDA made by the parties before its receipt by or disclosure to CPI. Before disclosure and agreement to protect any Seller information, Seller must specifically identify the nature of the information, documents, or materials to be disclosed, the purposes for which it is to be disclosed, and include notification in writing or suitable legend that it is proprietary or confidential or is submitted for limited use. Seller may not make publicity releases or other public disclosures about this Purchase Order without the express written permission of CPI. Seller agrees not to assert any claim against CPI with respect to any information that Seller has disclosed or may disclose to CPI.

## 12. INTELLECTUAL PROPERTY RIGHTS

- A. **Intellectual Property.** "Intellectual Property" means technology, including, but not limited to, technical information and Inventions (where "Inventions" means discoveries, improvements, developments, ideas, and designs, whether or not patentable), by Seller, or any of its subcontractors or suppliers at any tier, conceived or first reduced to practice during or in the performance of work performed in contemplation of an order from CPI by Seller, or any of its subcontractors or sub-tier suppliers, or which are related to Products or Services purchased under a Purchase Order or in contemplation of a Purchase Order, or which are derived from the use of or based on CPI Property or other information supplied by CPI.
- B. **Intellectual Property Rights.** "Intellectual Property Rights" means all rights in and to or arising from Intellectual Property, including, but not limited to, patents, copyrights, work made for hire, Trade Secrets, Confidential Information, and all business or contract rights or goodwill in, related to, or used to develop any Intellectual Property, and all other intellectual and industrial proprietary rights in any jurisdiction, any "Innovations" which means all inventions, discoveries, works of authorship, know-how, and technical information that are improvements, enhancements, modifications, or discoveries by Seller or CPI with respect to Intellectual Property, and to the extent allowed by law, all rights referred to as Moral Rights to Intellectual Property.
- C. **CPI Ownership of Intellectual Property Rights.** As part of the consideration for the Purchase Order, CPI owns free from any

restriction (i) all rights, title, and interest throughout the world in and to Intellectual Property Rights from the date of their creation, and (ii) all documents, including copyrights, which incorporate, relate to, or concern any Intellectual Property Rights.

- D. **Assignment to CPI.** To the extent any Intellectual Property Rights are not owned by CPI under applicable law, and without further cost to CPI, Seller shall assign and transfer to CPI all right, title, and interest in Intellectual Property Rights of Seller or on behalf of any person employed by or working for or with Seller or any of its subcontractors or sub-tier suppliers. Seller shall cause the employee, consultant, developer, or other person who contributes to or owns any Intellectual Property Rights to promptly disclose in writing and assign ownership to CPI, either solely or jointly with others, all Intellectual Property Rights not already owned by CPI, and shall require the execution and delivery of all instruments of transfer and other documents necessary to file, perfect, or protect title to Intellectual Property Rights in CPI. Seller shall include provisions in its contracts to require that each person and their employers at every tier cooperate fully and comply with all actions, including the execution of documents and oaths, which in CPI's opinion may be necessary or desirable to obtain, sustain, or reissue patents or copyrights on any Intellectual Property, assure the transfer or assignment of Intellectual Property Rights to CPI, maintain CPI's title to Intellectual Property Rights, treat as confidential all information received or developed by them in connection with this contract, not publish or otherwise disclose this information to others at any time without the express written consent of CPI, and obtain and deliver promptly to CPI full written descriptions of all Intellectual Property Rights. To the extent any person has any Moral Rights, Seller must obtain all consents or waivers from individual creators necessary to ensure that CPI may do or authorize any acts or omissions without infringing any Moral Rights. Seller ratifies and consents to any action that CPI may take with respect to Moral Rights, and will confirm any ratification, consents, and agreements with respect to Moral Rights as requested by CPI.
- E. **License of Intellectual Property Rights.** To the extent Seller or any of its subcontractors or sub-tier suppliers retain any ownership or rights in or to any Intellectual Property Rights to be transferred to CPI, Seller grants, and shall require any of its subcontractors or sub-tier suppliers to grant, to CPI and CPI's subcontractors and customers, an irrevocable, nonexclusive, fully paid-up worldwide license (i) to use any patents, copyrights, industrial designs, or other Intellectual Property Rights owned or controlled by Seller or its subcontractors or sub-tier suppliers at any time in connection with Products or Services, and (ii) to reproduce, distribute copies of, perform publicly, display publicly, or make derivative works from any software included in or provided with Products or Services in connection with this Purchase Order. If Seller is unable to secure any signature to any document to which CPI is entitled under this section, Seller irrevocably designates and appoints CPI and its duly authorized officers and agents as its agents and attorneys-in-fact with full power of substitution to act for and on behalf of Seller to execute and file any documents described in this section. The obligations of this Section survive termination or completion of the Purchase Order.
- F. **Open Source Software.** Seller shall not use or include in any deliverables to CPI, without the prior written consent of CPI, any open source, publicly available, or free software, i.e., Free Open Source Software ("FOSS") or Free/Libre Open Source Software ("FLOSS"), furnished under a license that permits modification and redistribution of such software but which may be required to be sold, loaned, distributed, disclosed, or otherwise made available to any third party at no charge, or which contains a "copyleft" provision which requires any software incorporating or based on the FOSS or FLOSS code to be made available or released or redistributed to others in object or source code form under the same license

provisions as the original FOSS or FLOSS code used (i.e., open source).

### 13. INTELLECTUAL PROPERTY INDEMNITY

- A. Seller shall, at its expense, indemnify, defend, and hold CPI and subsequent owners harmless from and against any and all claims, demands, losses, suits, actions, or proceedings (each a "Claim") and liabilities for damages (including, but not limited to, direct damages and damages for infringement), judgments, settlements, or awards against CPI, and shall pay all associated costs and expenses (including, but not limited to, attorneys' fees, settlement costs, expert fees and other professional fees, and costs related to any appeal, such as a bond), as they are incurred ("Costs and Expenses"), resulting from or in any way related to any actual or alleged direct or contributory infringement of or inducement to infringe, intellectual property rights of a third party (including, but not limited to, patents, copyright, trade secret, trademark, mask work, or other proprietary rights) arising from the manufacture, use, sale, or disposal of Products or software furnished under this Purchase Order, including infringement arising out of compliance with specifications furnished by CPI, delivery of any FOSS or FLOSS as described above, or for actual or alleged misuse or misappropriation of a trade secret resulting directly or indirectly from Seller's actions. Seller waives any claim against CPI under the Uniform Commercial Code, United Nations Convention on Contracts for the International Sales of Goods or otherwise, including any hold harmless or similar claim, in any way related to a Claim arising out of compliance with specifications furnished by CPI.
- B. Seller shall give CPI prompt written notice of any Claim. Seller shall conduct its defense at all times in a manner that is not adverse to the interests of CPI. CPI may, at its option and expense, monitor the lawsuit or proceeding, participate in its defense, and be represented by its own counsel. In no event may Seller enter into any settlement that would involve payment by CPI. If CPI determines in its sole discretion that Seller does not or is not able to protect the interests of CPI with respect to any Claim, CPI may take control of the lawsuit or proceeding and charge Seller its Costs and Expenses. If the Products, including any software, are held infringing or if either Seller or CPI reasonably believes the Products or software may infringe third-party rights, and their use is or may be enjoined as a result of any lawsuit or proceeding, Seller shall, at its own expense (i) procure the right to continue using the Products or software; (ii) replace the infringing Products or software with a non-infringing product; (iii) change the infringing Products or software to be non-infringing; or (iv) accept return of the infringing Products or software, refund the Price paid by CPI for the Products or software, and pay CPI for the costs of cover as provided by Section 2-712 of the Uniform Commercial Code.

### 14. WORK ON BUYER PREMISES

Seller shall perform work in accordance with CPI's safety rules and safety laws and regulations and shall indemnify, defend, and hold CPI harmless from and against any losses or damages to property or injuries to persons, including death or latent illness such as asbestos exposure, caused by, or in connection with, work contracted for by this contract on or at CPI's premises (including claims of Seller's employees and third-party claims) despite any fault or neglect of CPI. Before commencing work, Seller shall furnish to CPI satisfactory evidence of public liability, property damage, and Workers' Compensation Insurance if requested by CPI.

### 15. ASSIGNMENT AND SUBCONTRACTING

Any assignment of Seller's Contract rights or delegation of Seller's duties shall be void, unless prior written consent is given by CPI. Nevertheless, Seller may assign rights to be paid amounts due, or to become due, to a financing institution if CPI 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 CPI against Seller. CPI shall have the right to make settlements and/or adjustments in price without notice to any assignee financing institution.

### 16. LIMITATIONS AND EXCLUSIONS OF LIABILITY

SELLER WAIVES AND SHALL NOT BE ENTITLED TO DAMAGES IN EXCESS OF THE PRICE ALLOCABLE TO THE UNIT OF PRODUCT, PARTS, OR SOFTWARE FURNISHED OR TO BE FURNISHED, OR THE SERVICE RENDERED OR TO BE RENDERED, RESULTING IN THE LOSS OR DAMAGE CLAIMED. SELLER WAIVES AND IN NO EVENT SHALL CPI BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, SPECIAL OR EXEMPLARY LOSS, DAMAGES, OR PENALTIES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, LOST BUSINESS REVENUE, LOST PROFITS, LOST PRODUCTION, DOWNTIME, LOST SAVINGS, LOSS OF GOODWILL, OR ANY OTHER FORM OF DAMAGES, HOWEVER CAUSED, WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER LEGAL THEORY, FORESEEABLE OR NOT, EVEN IF CPI IS ADVISED OF THE POSSIBILITY OF THESE TYPES OF DAMAGES.

### 17. NO WAIVER

The rights and remedies of CPI provided in this Purchase Order and by law are cumulative. No term or provision of this Purchase Order may be waived by either party, and no breach excused by either party, unless the waiver or consent is in writing signed by an authorized representative of the party granting the waiver or consent. Waiver by either party of any performance is not considered waiver of future compliance with the waived provision or any other provision of this Purchase Order.

### 18. SEVERABILITY

Whenever possible, each provision of these CPI Purchase Terms is to be interpreted in a manner so as to be effective and valid under applicable law, but if and to the extent a court or arbitrator holds any part of this Purchase Order to be illegal, unenforceable, or invalid, in whole or in part, for any reason, the invalid term is to be considered severable and not to affect the validity or enforceability of the remainder of this Purchase Order. The parties shall interpret the remaining provisions, or portions of them, to best accomplish the objectives of the parties within the limits of applicable law.

### 19. NOTICES

Each party giving notices required or permitted pursuant to this Purchase Order shall give notice in writing and deliver notice (i) in person, (ii) by courier, (iii) by first-class mail, postage prepaid, or its international equivalent, (iv) by commercial delivery such as Federal Express or equivalent, or (v) by facsimile or email with confirmation of delivery and an extra copy mailed. Seller shall send all notices to CPI at CPI's place of business on the face of the Purchase Order, and CPI shall send notices to Seller at the address set forth in the Purchase Order. Each party may send notices to another address communicated from time to time by notice in writing to the other. Notice is effective if the party giving notice has complied with this Section and the notice has been received.

## 20. COMPLIANCE WITH LAWS

Seller shall comply with applicable federal, state, and local law and regulations, and orders of Seller's country and agencies of the United States or Canada Government. Seller represents that no law, rule, or ordinance of the United States, Canadian Governments, any State or Province, or any other applicable governmental agency of any country, has been or will be violated in manufacturing or supplying the Products or Services. Seller shall comply with all such laws, regulations, and orders, including without limitation the U.S. Foreign Corrupt Practices Act ("FCPA"), the International Traffic in Arms Regulations ("ITAR") and its registration requirements, the Export Administration Regulations ("EAR") of the U.S. Arms Export Control Act, and non-U.S. export laws and regulations. The FCPA, similar statutes in other countries, United Nations Convention against Corruption, and other treaties broadly prohibit the offering, giving, or promising, directly or indirectly, of money or anything of value to any official or government or political party official or instrumentality to assist in obtaining or retaining business or securing improper advantage. The ITAR and EAR govern the release or export or re-export, directly or indirectly, of any hardware, software, technology, information, or technical data to any foreign governments, corporations, businesses, or associations, or any individual or country for which the Government requires an export license or other government approval, without first obtaining such license or approval. CPI is a defense contractor under certain security obligations with regard to access to its facilities and technology, including Intellectual Property. Accordingly, disclosure of certain information under this Purchase Order may be deemed an export, and Seller will not assign any personnel to perform services at CPI facilities who are not licensed to receive the export at issue. Any breach of these requirements is material or fundamental to the contract of supply, and Seller shall indemnify, defend, and hold CPI harmless from and against all claims, demands, damages, costs, fines, penalties, attorneys' fees, and other expenses arising from failure to comply.

## 21. GRATUITIES

Seller warrants that it has not offered or given and will not offer or give any gratuity to induce any person or entity to enter into, execute, or perform the Purchase Order or any other agreement. Upon CPI's written request, an officer of Seller shall certify in writing that Seller has complied with and continues to comply with this section. Any breach of this warranty shall be a material breach of this and any other agreement between CPI and Seller.

## 22. PUBLIC DISCLOSURE

Seller shall not disclose to any third party, including any governmental authority, or publicly release the terms of the Purchase Order without the prior written approval of CPI; provided, however, that Seller may make any public disclosure it believes in good faith that it is required to make by applicable law, rule, or regulation and in that event shall notify CPI and exert reasonable efforts to protect from public disclosure the confidentiality of the financial terms of the contract. Without the prior written approval of CPI, Seller shall not issue any press release, advertising, publicity, or public statement or engage in any other form of public disclosure that implies any endorsement by CPI of Seller or Seller's products or services.

## 23. INSURANCE

Seller will obtain and maintain comprehensive general liability insurance or a self-insurance retention program that covers its liability to third parties in connection with the sale of products, property damage, contractual liability, products liability and completed operations, workers' compensation, and employer's liability for all employees engaged in performing the work. Seller will notify CPI at least thirty (30) days before cancellation or implementation of any material change in the foregoing policies, and upon request, shall furnish to CPI a certificate of insurance as evidence of required coverage.

## 24. CONFLICT MINERALS LAW

- A. Supplier acknowledges and understands that CPI, as a company that files reports with the United States Securities and Exchange Commission ("SEC"), is subject to Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 and the rules and regulations of the SEC thereunder (together, the "Conflict Minerals Law"). Under the Conflict Minerals Law, among other things, CPI is required to submit reports and disclose on its website (i) whether any Conflict Minerals necessary to the functionality or production of CPI's products originated from the Democratic Republic of the Congo ("DRC") or any adjoining country; and (ii) the due diligence measures taken by CPI to identify the source of the Conflict Minerals used in its products.
- B. Supplier shall assist and cooperate with CPI from time to time, at no additional cost to CPI, in CPI's performing a reasonable due diligence investigation (and, if necessary, any audit) on the origin of Conflict Minerals contained in the Products delivered to CPI under any Purchase Order, to enable CPI to comply with its disclosure and reporting obligations under the Conflict Minerals Law. Such assistance and cooperation may include, but shall not be limited to, (i) completing and submitting to CPI such questionnaires or templates relating to the origin of Conflict Minerals contained in the Products, as CPI shall request; (ii) requiring Supplier's vendors or suppliers of products, parts, or materials contained in the Products to complete and submit to CPI such questionnaires or templates, and to require their direct and indirect vendors of products, parts, or materials contained in the Products to complete such questionnaires or templates; and (iii) providing CPI with such written representations or certifications as CPI shall request related to the facility at which such Conflict Minerals were processed; whether such Conflict Minerals originated in the DRC or adjoining countries or were obtained from recycled or scrap sources; the efforts used to determine the mine or location of origin of the Conflict Minerals; and Supplier's reasonable belief as to whether any such Conflict Minerals directly or indirectly finance or benefit "armed groups" (as defined in the Conflict Minerals Law) in the DRC or adjoining countries and the basis of such belief. In addition, Supplier shall provide to CPI such independent private-sector audits, conducted in accordance with standards established by the Comptroller General of the United States, of any information submitted to CPI pursuant to this provision, as CPI shall request.
- C. As used in this section and in the Conflict Minerals Law, the term "Conflict Minerals" means (i) columbite-tantalite (coltan), cassiterite, gold, wolframite, and their derivatives (which derivatives are currently limited to tantalum, tin, and tungsten); and (ii) any other mineral or its derivatives, the exploitation and trade of which is determined by the U.S. Secretary of State to be financing conflict in the DRC or an adjoining country.

## 25. MISCELLANEOUS

- A. **Amendment.** These CPI Purchase Terms and related contract documents may not be amended, varied, modified, or rescinded, unless expressly agreed to in writing and signed by CPI.
- B. **Retention of Records.** Unless a longer period is specified in this Purchase Order or by law or regulation, Seller shall retain all records related to this Purchase Order for three (3) years from the date or final payment received by Seller. Records related to this Purchase Order include, but are not limited to, financial, proposal, procurement, specifications, production, inspection, test quality, shipping, export, and certification records. At no additional cost, Seller shall timely provide access to such records to the U.S. Government and/or CPI upon request.

- C. Precedence.** Any inconsistencies in this Purchase Order shall be resolved in accordance with the following descending order: (1) Terms on the face of the Purchase Order and/or Task Order and related CPI documents, drawings, schedules, or special terms and conditions; (2) CPI Purchase Terms; (3) CPI Supplements as defined below; (4) Statement of Work; and (5) Specifications attached hereto or incorporated by reference. CPI's specifications shall prevail over those of the U. S. Government and both of the foregoing shall prevail over specifications of the Seller.

With respect to any industry standards, requirements, regulations, or specifications, drawings, statements of work, or other documents specified or referenced on this Purchase Order (collectively "the documents"), unless otherwise indicated, the revision in place of the documents at the date of this Purchase Order shall be the required revision as applied to this Purchase Order.

- D. Electronic Contracting.** The parties agree that if this Purchase Order is transmitted electronically, neither party shall contest the validity of this Purchase Order, or any acknowledgment thereof, on the basis that this Purchase Order or acknowledgment contains an electronic signature.

## 26 U.S. GOVERNMENT CONTRACTS/SUBCONTRACTS

When Products or Services are for use in connection with a Government prime contract or subcontract, in addition to these General Provisions, the provisions below, the provisions of Supplement 1 and Supplement 2 ("CPI Supplements"), and the referenced Federal Acquisition Regulation (FAR) or Defense Federal Acquisition Regulation Supplement (DFARS) shall apply and are incorporated by reference, as required by the terms of CPI's prime contract, or higher-tier subcontract under which this Purchase Order is a subcontract, or by operation of law or regulation. In the event of a conflict between CPI Supplements, including its FAR or DFARS provisions, and these General Provisions, CPI Supplements shall control.

- A. Equal Employment Opportunity.** During the performance hereof, Seller will not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, or national origin. If the Purchase Order is a Government subcontract, Seller shall comply with FAR 52.222-26 to the extent applicable.

- B. Nonsegregated Facilities.** Seller certifies that it fully complies with FAR 52.222-21, or foreign equivalents, which requires Seller not to permit its employees to work at any location under its control that has segregated facilities, and agrees it will continue to comply during performance hereof.

- C. Safeguarding Covered Defense Information and Cyber Incident Reporting.** As a condition of the Purchase Order regardless of value, end customer, or intended end use, Seller shall have and maintain an adequate system for Safeguarding Covered Defense Information and Cyber Incident Reporting pursuant to the requirements set forth in the current version of DFARS 252.204-7012. Seller shall implement NIST SP 800-171 as soon as practical, but not later than December 31, 2017. Seller shall notify CPI via email within ten (10) days of order placement of any security requirements specified by NIST SP 800-171 not implemented at the time of the order placement.

- D. Seller's Express Certifications.** Seller certifies that (i) no facility to be used in the performance of this order is listed on the Environmental Protection Agency List of Violating Facilities; (ii) neither it nor any of its principals is debarred, suspended, proposed for debarment, or declared ineligible for the award of any Government contract; (iii) it has not paid, nor will it pay, any consideration to any employee of the Government, or of Buyer or any higher-tier contractor, to influence improperly the award of the Government prime contract, the Purchase Order, or any higher-tier contract, or engaged in any other illegal or improper activities in connection with the solicitation, negotiation, or award thereof; (iv) no officer or employees of Buyer will materially benefit from the Purchase Order; or (v) it has not obtained improperly any confidential information of the Buyer, the Government, or any higher-tier contractor; and (vi) it has not communicated with any of its competitors with respect to pricing or any other aspect of its proposal relating hereto.

- E. Clauses Incorporated as Required.** The current version(s) of the clauses set forth in Supplement 1 and Supplement 2 attached to the CPI Purchase Terms (including alternates) are hereby incorporated by reference, and unless otherwise notified in writing, Seller shall incorporate the current version of such clauses (and alternates) in its own orders and subcontracts (and require incorporation at lower-tiers), which clauses shall be applicable to the extent required by Government statutes and regulations and to comply with Buyer's own contractual obligations.