

**PACIFIC SCIENTIFIC**  
**GENERAL PROVISIONS FOR COMMERCIAL PURCHASE ORDERS**

**1. ACCEPTANCE OF CONTRACT/TERMS AND CONDITIONS**

(a) This Contract integrates, merges, and supersedes any prior offers, negotiations, and agreements concerning the subject matter hereof and constitutes the entire agreement between the parties.

(b) SELLER's acknowledgment, acceptance of payment, or commencement of performance, shall constitute SELLER's unqualified acceptance of this Contract.

(c) Unless expressly accepted in writing by PACIFIC SCIENTIFIC, additional or differing terms or conditions proposed by SELLER or included in SELLER's acknowledgment are objected to by PACIFIC SCIENTIFIC and have no effect.

(d) The headings used in this Contract are inserted for the convenience of the parties and shall not define, limit, or describe the scope or the intent of the provisions of this Contract.

**2. APPLICABLE LAWS**

(a) This Contract and any matter arising out of or related to this Contract shall be governed by the laws of the State from which this Contract is issued by PACIFIC SCIENTIFIC, without regard to its conflicts of law's provisions. SELLER, in the performance of this Contract, shall comply with all applicable local, state, and federal laws, orders, rules, regulations, and ordinances. SELLER shall procure all licenses/permits, pay all fees, and other required charges and shall comply with all applicable guidelines and directives of any local, state, and/or federal governmental authority. SELLER, at its expense, shall provide reasonable cooperation to PACIFIC SCIENTIFIC in conducting any investigation regarding the nature and scope of any failure by SELLER or its personnel to comply with applicable local, state, and federal laws, orders, rules, regulations, and ordinances that may affect the performance of SELLER's obligations under this Contract.

(b) SELLER represents that each chemical substance constituting or contained in Work sold or otherwise transferred to PACIFIC SCIENTIFIC hereunder is on the list of chemical substances compiled and published by the Administrator of the Environmental Protection Administration pursuant to the Toxic Substances Control Act (15 U.S.C. Sec. 2601 et seq.) as amended.

(c) SELLER shall make available to PACIFIC SCIENTIFIC all Safety Data Sheets for any material provided to PACIFIC SCIENTIFIC, or brought or delivered to PACIFIC SCIENTIFIC or its customer's premises in the performance of this Contract as required by applicable law, such as the Occupational Safety and Health Act of 1970 and regulations promulgated thereunder.

**3. ASSIGNMENT**

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

**4. CHANGES**

(a) The PACIFIC SCIENTIFIC Procurement Representative may at any time, by written notice, and without notice to sureties or assignees, make changes within the general scope of this Contract in any one or more of the following: (i) drawings, designs, or specifications; (ii) method of shipping or packing; (iii) place of inspection, acceptance, or point of delivery; and (iv) delivery schedule.

(b) If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of this Contract, PACIFIC SCIENTIFIC shall make an equitable adjustment in the Contract price and/or delivery schedule, and modify this Contract accordingly. Changes to the delivery schedule will be subject to a price adjustment only.

(c) SELLER must assert its right to an equitable adjustment under this clause within thirty (30) days from the date of receipt of the written change order from PACIFIC SCIENTIFIC. If SELLER's proposed equitable adjustment includes the cost of property made obsolete or excess by the change, PACIFIC SCIENTIFIC shall have the right to prescribe the manner of disposition of the property.

(d) Failure to agree to any adjustment shall be resolved in accordance with the "Disputes" clause of this Contract. However, nothing contained in this "Changes" clause shall excuse SELLER from proceeding without delay in the performance of this Contract as changed.

**5. CONTRACT DIRECTION**

(a) Only the PACIFIC SCIENTIFIC Procurement Representative has authority on behalf of PACIFIC SCIENTIFIC to make changes to this Contract. All amendments must be identified as such in writing and executed by the parties.

(b) PACIFIC SCIENTIFIC engineering and technical personnel may from time to time render assistance or give technical advice or discuss or effect an exchange of information with SELLER's personnel concerning the Work

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hereunder. No such action shall be deemed to be a change under the "Changes" clause of this Contract and shall not be the basis for equitable adjustment.

(c) Except as otherwise provided herein, all notices to be furnished by SELLER shall be in writing and sent to the PACIFIC SCIENTIFIC Procurement Representative.

**6. COUNTERFEIT WORK**

(a) The following definitions apply to this clause:

"Counterfeit Work" means Work that is or contains unlawful or unauthorized reproductions, substitutions, or alterations that have been knowingly mismarked, misidentified, or otherwise misrepresented to be an authentic, unmodified part from the original manufacturer, or a source with the express written authority of the original manufacturer or current design activity, including an authorized aftermarket manufacturer. Unlawful or unauthorized substitution includes used Work represented as new, or the false identification of grade, serial number, lot number, date code, or performance characteristics.

"Suspect Counterfeit Work" means Work for which credible evidence (including, but not limited to, visual inspection or testing) provides reasonable doubt that the Work part is authentic.

(b) SELLER shall not deliver Counterfeit Work or Suspect Counterfeit Work to PACIFIC SCIENTIFIC under this Contract.

(c) SELLER shall only purchase products to be delivered or incorporated as Work to PACIFIC SCIENTIFIC directly from the Original Component Manufacturer (OCM)/Original Equipment Manufacturer (OEM), or through an OCM/OEM authorized distributor chain. SELLER may use another source only if (i) the foregoing sources are unavailable, (ii) SELLER's inspection and other counterfeit risk mitigation processes will be employed to ensure the authenticity of the Work, and (iii) SELLER obtains the advance written approval of PACIFIC SCIENTIFIC.

(d) SELLER shall maintain counterfeit risk mitigation processes in accordance with industry recognized standards and with any other specific requirements identified in this Contract.

(e) SELLER shall immediately notify PACIFIC SCIENTIFIC with the pertinent facts if SELLER becomes aware that it has delivered Counterfeit Work or Suspect Counterfeit Work. When requested by PACIFIC SCIENTIFIC, SELLER shall provide OCM/OEM documentation that authenticates traceability of the affected items to the applicable OCM/OEM. SELLER, at its expense, shall provide reasonable cooperation to PACIFIC SCIENTIFIC in conducting any investigation regarding the delivery of Counterfeit Work or Suspect Counterfeit Work under this Contract.

(f) This clause applies in addition to and is not altered, changed, or superseded by any quality provision, specification, statement of work, regulatory flow-down, or other provision included in this Contract addressing the authenticity of Work.

(g) In the event that Work delivered under this Contract constitutes or includes Counterfeit Work, SELLER shall, at its expense, promptly replace such Counterfeit Work with genuine Work conforming to the requirements of this Contract. Notwithstanding any other provision in this Contract, SELLER shall be liable for all costs relating to the removal and replacement of Counterfeit Work, including without limitation PACIFIC SCIENTIFIC's costs of removing Counterfeit Work, of installing replacement Work and of any testing necessitated by the reinstallation of Work after Counterfeit Work has been exchanged. The remedies contained in this paragraph are in addition to any remedies PACIFIC SCIENTIFIC may have at law, equity or under other provisions of this Contract.

(h) SELLER shall include paragraphs (a) through (f) and this paragraph (h) of this clause or equivalent provisions in lower tier subcontracts for the delivery of items that will be included in or furnished as Work to PACIFIC SCIENTIFIC.

**7. DEFAULT**

(a) PACIFIC SCIENTIFIC, by written notice, may terminate this Contract for default, in whole or in part, if SELLER (j) fails to comply with any of the terms of this Contract; (ii) fails to make progress so as to endanger performance of this Contract; (iii) fails to provide adequate assurance of future performance; (iv) files or has filed against it a petition in bankruptcy; or (v) becomes insolvent or suffers a material adverse change in financial condition. SELLER shall have ten (10) days (or such longer period as PACIFIC SCIENTIFIC may authorize in writing) to cure any such failure after receipt of notice from PACIFIC SCIENTIFIC. Default involving delivery schedule delays, bankruptcy or adverse change in financial condition shall not be subject to the cure provision.

(b) Following a termination for default of this Contract, SELLER shall be compensated only for Work actually delivered and accepted. PACIFIC SCIENTIFIC may require SELLER to deliver to PACIFIC SCIENTIFIC any supplies and materials, manufacturing materials, and manufacturing drawings that SELLER has specifically produced or acquired for the terminated portion of this Contract. PACIFIC SCIENTIFIC and SELLER shall agree on the amount of payment for these other deliverables.

(c) Upon the occurrence and during the continuation of a default, PACIFIC SCIENTIFIC may exercise any and all rights and remedies available to it under applicable law and equity, including without limitation, cancellation of this Contract. If after termination for default under this Contract, it is determined that SELLER was not in default, such

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termination shall be deemed a termination for convenience.

(d) SELLER shall continue all Work not terminated or cancelled.

**8. DEFINITIONS**

The following terms shall have the meanings set forth below:

(a) "Contract" means the instrument of contracting, such as "Purchase Order", "PO", "Subcontract", or other such type designation, including these General Provisions, all referenced documents, exhibits, and attachments. If these terms and conditions are incorporated into a "master" agreement that provides for releases, (in the form of a Purchase Order or other such document) the term "Contract" shall also mean the release document for the Work to be performed.

(b) "PACIFIC SCIENTIFIC" means PACIFIC SCIENTIFIC ENERGETIC MATERIALS CORPORATION, (CALIFORNIA), LLC acting through its companies or business units, as identified on the face of this Contract. If a subsidiary or affiliate of PACIFIC SCIENTIFIC ENERGETIC MATERIALS CORPORATION (CALIFORNIA), LLC is identified on the face of this Contract, then "PACIFIC SCIENTIFIC" means that subsidiary or affiliate.

(c) "PACIFIC SCIENTIFIC Procurement Representative" means a person authorized by PACIFIC SCIENTIFIC's cognizant procurement organization to administer and/or execute this Contract.

(d) "SELLER" means the party identified on the face of this Contract with whom PACIFIC SCIENTIFIC is contracting.

(e) "Work" means all required labor, articles, materials, supplies, goods, and services constituting the subject matter of this Contract.

**9. DISPUTE RESOLUTION**

(a) All disputes under this Contract that are not disposed of by mutual agreement may be decided by recourse to an action at law or in equity. **Each party hereby irrevocably waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect to any litigation directly or indirectly arising out of under or in connection with this Contract.**

(b) Until final resolution of any dispute hereunder, SELLER shall diligently proceed with the performance of this Contract as directed by PACIFIC SCIENTIFIC.

**10. ELECTRONIC CONTRACTING**

The parties agree that if this Contract is transmitted electronically neither party shall contest the validity of this Contract, or any acknowledgement thereof, on the basis that this Contract or acknowledgement contains an

electronic signature.

**11. EXPORT CONTROL**

(a) SELLER shall comply with all applicable U.S. export control laws and economic sanctions laws and regulations, specifically including but not limited to the International Traffic in Arms Regulations (ITAR), 22 C.F.R. 120 et seq.; the Export Administration Regulations, 15 C.F.R. 730-774; and the Foreign Assets Control Regulations, 31 C.F.R. 500-598 (collectively, "Trade Control Laws"). Without limiting the foregoing, SELLER shall not transfer any export controlled item, technical data, technology, or service, including transfers to foreign persons employed by or associated with, or under contract to SELLER or SELLER's lower tier suppliers, unless authorized in advance by an export license (such as Technical Assistance Agreement (TAA) or Manufacturing License Agreement (MLA), license exception or license exemption, collectively, "Export Authorization"), as required.

(b) SELLER shall notify PACIFIC SCIENTIFIC if any deliverable under this Contract is restricted by applicable Trade Control Laws. Before providing PACIFIC SCIENTIFIC any item or data controlled under any of the Trade Control Laws, SELLER shall provide in writing to the PACIFIC SCIENTIFIC Procurement Representative the export classification of any such item or controlled data (i.e. the export classification under the EAR, ITAR, EU List of Dual Use Items and Technology, Wassenaar Arrangement's List of Dual-Use Goods and Technologies or other applicable export control list) and shall notify the PACIFIC SCIENTIFIC Procurement Representative in writing of any changes to the export classification information of the item or controlled data. SELLER represents that an official authorized to bind the SELLER has determined that the SELLER or the designer, manufacturer, supplier or other source of the Work has properly determined their export classification.

(c) SELLER hereby represents that neither SELLER nor any parent, subsidiary or affiliate of SELLER is included on any of the restricted party lists maintained by the U.S. Government, including the Specially Designated Nationals List administered by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC"), Denied Parties List, Unverified List or Entity List maintained by the U.S. Commerce Department's Bureau of Industry and Security ("BIS"), or the List of Statutorily Debarred Parties maintained by the U.S. State Department's Directorate of Defense Trade Controls, or the consolidated list of asset freeze targets designated by the United Nations, European Union, and United Kingdom (collectively, "Restricted Party Lists"). SELLER shall immediately notify the PACIFIC SCIENTIFIC Procurement Representative if SELLER, or any parent, subsidiary or affiliate of SELLER becomes

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listed on any Restricted Party List or if SELLER's export privileges are otherwise denied, suspended or revoked in whole or in part by any U.S. or non-U.S. government entity or agency.

(d) If SELLER is engaged in the business of exporting manufacturing (whether exporting or not) or brokering defense articles or furnishing defense services, SELLER represents that it is and will continue to be registered with the Directorate of Defense Trade Controls, as required by the ITAR, and it maintains an effective export/import compliance program in accordance with the ITAR.

(e) Where SELLER is a party to or signatory under a PACIFIC SCIENTIFIC Export Authorization, SELLER shall provide prompt notification to the PACIFIC SCIENTIFIC Procurement Representative in the event of (1) changed circumstances including, but not limited to, ineligibility, a violation or potential violation of the ITAR or other applicable governmental restrictions, and the initiation or existence of a U.S. Government investigation, that could affect SELLER's performance under this Contract, or (2) any change by SELLER that might require PACIFIC SCIENTIFIC to submit an amendment to an existing Export Authorization or request a new or replacement Export Authorization. SELLER shall provide to PACIFIC SCIENTIFIC all information and documentation as may reasonably be required for PACIFIC SCIENTIFIC to prepare and submit any required export license applications. Delays on SELLER's part to submit the relevant information for export licenses shall not constitute an excusable delay under this Contract.

(f) SELLER shall include paragraphs (a) through (d) and this paragraph (f) of this clause or equivalent provisions in lower tier subcontracts for the delivery of items that will be included in or delivered as Work to PACIFIC SCIENTIFIC. SELLER shall immediately notify PACIFIC SCIENTIFIC upon learning that any lower tier subcontractor with which it engages has become listed on the Restricted Parties List.

(g) SELLER shall be responsible for all losses, costs, claims, causes of action, damages, liabilities and expense, including attorney's fees, all expense of litigation and/or settlement, and court costs, arising from any act or omission of SELLER, its officers, employees, agents, suppliers, or subcontractors at any tier, in the performance of any of its obligations under this clause.

**12. EXTRAS**

Work shall not be supplied in excess of quantities specified in this Contract. SELLER shall be liable for handling charges and return shipment costs for any excess quantities.

**13. FURNISHED PROPERTY**

(a) PACIFIC SCIENTIFIC may, by written authorization, provide to SELLER property owned by either PACIFIC

SCIENTIFIC or its customer (Furnished Property). Furnished Property shall be used only for the performance of this Contract.

(b) Title to Furnished Property shall remain in PACIFIC SCIENTIFIC or its customer. SELLER shall clearly mark (if not so marked) all Furnished Property to show its ownership.

(c) Except for reasonable wear and tear, SELLER shall be responsible for, and shall promptly notify PACIFIC SCIENTIFIC of, any loss or damage to Furnished Property. Without additional charge, SELLER shall manage, maintain, and preserve Furnished Property in accordance with applicable law, the requirements of this Contract and good commercial practice.

(d) At PACIFIC SCIENTIFIC's request, and/or upon completion of this Contract, SELLER shall submit, in an acceptable form, inventory lists of Furnished Property and shall deliver or make such other disposal as may be directed by PACIFIC SCIENTIFIC.

**14. COMPLIANCE**

(a) Gratuities / Kickbacks. Seller represents, warrants and covenants that all of the Products sold or otherwise provided pursuant to this Contract (including without limitation pursuant to any Order) will be produced and/or provided in compliance with, and that Seller and its business and performance hereunder do and will comply with, all applicable laws, rules and regulations (including without limitation the U.S. Foreign Corrupt Practices Act, the UK Anti-Bribery Act, the OECD Anti-Bribery Convention and all other applicable anti-bribery and anti-corruption laws, rules and regulations) and with the Fortive Corporation Supplier Code of Conduct (available at <http://www.fortive.com>). Seller shall, at its sole cost, secure and maintain all necessary licenses, permits, authorizations or other approvals required for the operation of Seller's business or any property used therein, or as necessary for Seller's performance hereunder. Seller will complete and sign all declarations requested by Buyer in connection with Buyer's compliance with applicable laws and regulations, use appropriate systems and processes to ensure the accuracy of such declarations and maintain appropriate records to allow traceability of all Products and parts of Products.

(b) Conflict Minerals. Without limiting the foregoing, Seller acknowledges that Buyer is required to comply with Section 1502 of the United States Dodd-Frank Wall Street Reform and Consumer Protection Act ("the Dodd-Frank Act") and inter alia must file disclosures and reports with the United States Securities and Exchange Commission related to the use of tin, tantalum, tungsten and gold ("Conflict Minerals"). Seller represents and warrants that it will source, and track the chain of custody of, all Conflict Minerals contained in any products or materials provided

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by Seller to Buyer in accordance with the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (or such other internationally recognized due diligence standard as Buyer and Seller may jointly agree upon). At Buyer's request (which may be as frequently as quarterly at Buyer's discretion), Seller must execute and deliver to Buyer declarations in the form of the EICC-GESI Conflict Minerals Reporting Template as adopted by EICC-GESI from time to time, or (at Buyer's discretion) in any other form that Buyer reasonably requests. Seller agrees and represents that all products and materials provided by Seller to Buyer after December 31, 2014 shall be "Conflict Free" (as defined in the Dodd-Frank Act) and at Buyer's request from time to time Seller shall execute and deliver to Buyer a written declaration to the same effect.

**15. INDEMNIFICATION**

Seller shall indemnify, defend and hold harmless Buyer, its Affiliates, and their respective officers, directors, employees, agents and direct and indirect customers (collectively, "Indemnitees"), from and against all claims, liabilities, damages, judgments, penalties, losses and expenses (including without limitation reasonable attorneys' fees and expenses) ("Damages"), arising out of or in any way connected with or related to the goods and services provided under this Contract or Seller's performance hereunder, including, without limitation, any Damages arising out of or in any way connected with or related to any of the following or any claim alleging any of the following: (i) the death or bodily injury to any person or destruction of or damage to property relating to or arising out of any products or services provided under this Contract, (ii) the negligence, gross negligence, omissions, intentional or willful misconduct or fraud of Seller, its employees, agents, contractors or anyone else for whose acts Seller is responsible ("Seller Entities"), (iii) the failure of any of the Seller Entities to comply with any obligations under the Contract or any Order (including without limitation the obligation to comply with all applicable laws), and/or (iv) the infringement or misappropriation of any intellectual property or other proprietary right by, by the use of or otherwise related to any of the products or services provided under this Contract or by Seller's manufacturing processes used to manufacture such products. Buyer will have the right, not the obligation, to participate, as it deems necessary, in the handling, adjustment or defense of any such matter at its expense; provided that if Seller fails to notify Buyer that it will assume all obligations for such matter within ten (10) business days of the earlier of its receipt of Buyer's notice of an indemnifiable claim or Seller's becoming aware of the need to indemnify Buyer, or if the claim seeks injunctive or other non-monetary relief from Buyer, Buyer will have the right, but not the obligation, to defend itself and to require from Seller reimbursement and indemnification for any and all costs, expenses and

other damages in connection with such matter. Any settlement will be subject to prior written approval by the applicable Indemnitee(s).

**16. INDEPENDENT CONTRACTOR RELATIONSHIP**

None of the provisions of this Contract are intended to create, nor shall be deemed or construed to create, any relationship between Buyer and Seller other than that of independent entities contracting with each other solely for the purpose of effecting the provisions of this Contract. Neither of the Parties hereto, nor any of their respective employees shall be construed to be the agent, employer or representative of the other.

**17. CONFIDENTIAL INFORMATION**

(a) Definition. The following terms shall apply in addition to any other confidentiality obligations between the Parties that may be covered under separate agreement, which such obligations shall be incorporated herein by reference. "Confidential Information" shall include all information or materials related to either Party's (or any of their respective Affiliates', customers' or business partners') business, trade secrets, customers (including identities, characteristics and activities), business plans, strategies, forecasts or forecast assumptions, operations, methods of doing business, records, finances, assets, technology (including software, databases, data processing or communications networking systems), data or information or materials that reveal research, technology, practices, procedures, product formulations and specifications, processes, methodologies, know how, including all proprietary rights and information, or other systems or controls by which either Party's products, services, applications and methods of operations or doing business are developed, conducted or operated, and all information or materials derived therefrom or based thereon, including all intellectual property, which is not: (a) generally available to the public other than as a result of a disclosure by the receiving Party; (b) available to the receiving Party on a non-confidential basis from a source that is not prohibited from disclosing such information by a legal, contractual or fiduciary obligation to the disclosing Party; (c) demonstrably developed by or on behalf of the receiving Party independently of any disclosure by the disclosing Party; or (d) in the receiving Party's possession or known to the receiving Party prior to its receipt from the disclosing Party.

(b) Confidentiality Obligations. In the course of its performance under this Contract, each Party may have access to, or otherwise become aware of, certain Confidential Information of the other Party. As between the Parties, the Confidential Information of a disclosing Party is the sole property of the disclosing Party. Each Party will (1) use the Confidential Information of the other Party solely for the purposes of fulfilling its obligations under this Contract and the Orders, (2) refrain from using the

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Confidential Information of the other Party for its own benefit or for the benefit of any third party, and (3) hold all Confidential Information of the other Party in strict confidence and not disclose any such Confidential Information to any third party (including any governmental authority) without the express written consent of the disclosing Party, unless otherwise required by law. Seller shall not publicly disclose its relationship with Buyer or the existence or terms of this Contract without the prior written consent of PSEMC. Each Party agrees that it will disclose the Confidential Information provided by or on behalf of the other Party only to the receiving Party's employees, officers, directors, agents and advisors (and in the case of Buyer, to the employees, officers, directors, agents and advisors of Buyer's Affiliates) who (i) are legally bound by an obligation of confidentiality, (ii) have been advised of the confidential nature of the information, and (iii) have a need to know the information; provided that the Party disclosing any Confidential Information to any such persons shall be liable for any acts by any such persons in violation of any of the terms hereof. Further, each Party shall take all commercially reasonable technical, organizational, and legal steps to protect the Confidential Information from accidental or unauthorized disclosure, use, loss, damage, or destruction, and in no event will a Party use less than the degree of care and means that it uses to protect its own information of like kind. The obligations in this Section shall survive the termination of this Contract for five (5) years, except that such obligations shall never expire with respect to trade secrets of the other Party. Upon written request or the termination of this Contract, the receiving Party shall promptly return all Confidential Information of the disclosing Party.

**18. INSPECTION AND ACCEPTANCE**

(a) Buyer's acceptance of the Goods is subject to Buyer's inspection within sixty (60) days after receipt at Buyer's facility or such other place as may be designated by Buyer, notwithstanding any payment or prior test or inspection. No inspection performed by Buyer (and/or Buyer's customer, if applicable) shall in any way relieve Seller or its suppliers of their obligation to furnish all Goods or Services in strict accordance with the Contract.

(b) Seller and its suppliers shall establish and maintain a quality control and inspection program. Any specific requirements are contained Attachment A to this contract. Subject to applicable national security regulations, Buyer and Buyer's representatives shall have the right of access, on a non-interference basis, to any area of Seller's or Seller's supplier's premises where any part of the work is being performed. Seller shall, without additional costs to Buyer, provide all reasonable in-plant accommodations, facilities, and assistance for the safety and convenience of the Buyer and the Buyer's representatives in the performance of their duties.

(c) Seller shall keep and maintain proper and adequate inspection, test and related records, which shall be available for inspection by the Buyer or Buyer's representative and shall allow copies to be made and extracts to be taken and shall furnish all information which may be reasonably required by Buyer or Buyer's representative.

(d) Acceptance shall be conclusive, except for latent defects, fraud, or gross mistakes amounting to fraud.

(e) If Seller delivers nonconforming Goods or Services, Buyer may, at its option and Seller's expense: (i) return the Goods for refund or credit; (ii) require Seller to promptly correct or replace the Goods or Services; (iii) correct the nonconformance; or (iv) obtain conforming Goods or Services from another source. Buyer shall specify the reason for any return or rejection of nonconforming Goods or Services. Seller shall be liable for any increase in costs, including excess re-procurement costs, attributable to Buyer's rejection of the nonconforming Goods or Services.

**19. INSURANCE**

Seller shall at all times during the Term, at its cost and expense, maintain (and cause each of its subcontractors to maintain): (i) Statutory Worker's Compensation insurance (including occupational disease) as required in accordance with applicable law, (ii) Employer's Liability insurance in an amount not less than \$1,000,000 per occurrence, (iii) Commercial General Liability, Property and Casualty insurance (including products/completed operations, advertising liability and contractual liability insurance) providing coverage on an occurrence basis for bodily injury, personal injury and property damage liability with combined single limits of not less than \$5,000,000 per occurrence, (iv) Commercial Business Automobile Liability Insurance including coverage for all owned, non-owned, leased and hired vehicles providing coverage for bodily injury and property damage liability with combined single limits of not less than \$2,000,000 per occurrence, (v) if Seller provides software or other professional services to Buyer, Professional Liability/Errors and Omissions Liability Insurance covering Seller's acts, errors and omissions with combined single limits not less than \$5,000,000 per occurrence, and (vi) Employee Dishonesty and Computer Fraud Insurance covering losses arising out of or in connection with any fraudulent or dishonest acts committed by Seller's personnel or agents in an amount not less than \$5,000,000 per occurrence. Each of the foregoing insurance coverages shall (1) include a broad form endorsement naming Buyer and its Affiliates as additional insureds and extending the coverage thereunder to include the contractual liability of Seller arising by reason of this Contract or any Order, (2) be primary and non-contributory to any other insurance available to Buyer or its Affiliates, and (3) provide that the insurance company waives all rights of subrogation against Buyer and its Affiliates and

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their respective customers, officers, directors, employees and agents. On an annual basis, Seller will provide Buyer an ACORD certificate of insurance evidencing the insurance coverages required under this Contract and naming Buyer and its Affiliates as additional insureds under each such policy. Seller will notify Buyer at least 45 days prior to expiration or termination of any insurance coverages that Seller is required to maintain under this Contract.

**20. INTELLECTUAL PROPERTY**

Paragraph (a) is NOT applicable for commercial off-the-shelf Work unless such Work is modified or redesigned pursuant to this Contract.

(a) SELLER agrees that PACIFIC SCIENTIFIC shall be the owner of all inventions, technology, designs, works of authorship, mask works, technical information, computer software, business information and other information conceived, developed or otherwise generated in the performance of this Contract by or on behalf of SELLER. SELLER hereby assigns and agrees to assign all right, title, and interest in the foregoing to PACIFIC SCIENTIFIC, including without limitation all copyrights, patent rights and other intellectual property rights therein and further agrees to execute, at PACIFIC SCIENTIFIC's request and expense, all documentation necessary to perfect title therein in PACIFIC SCIENTIFIC. SELLER shall maintain and disclose to PACIFIC SCIENTIFIC written records of, and otherwise provide PACIFIC SCIENTIFIC with full access to, the subject matter covered by this clause and that all such subject matter will be deemed information of PACIFIC SCIENTIFIC and subject to the protection provisions of the clause entitled "Information of Pacific Scientific". SELLER shall assist PACIFIC SCIENTIFIC, at PACIFIC SCIENTIFIC's request and expense, in every reasonable way, in obtaining, maintaining, and enforcing patent and other intellectual property protection on the subject matter covered by this clause.

(b) SELLER warrants that the Work performed or delivered under this Contract will not infringe or otherwise violate the intellectual property rights of any third party in the United States or any foreign country. SELLER shall defend, indemnify, and hold harmless PACIFIC SCIENTIFIC, its officers, directors, employees, consultants, agents, affiliates, successors, permitted assigns and customers from and against all losses, costs, claims, causes of action, damages, liabilities, and expenses, including attorney's fees, all expenses of litigation and/or settlement, and court costs, arising out of any action by a third party that is based upon a claim that the Work performed or delivered under this Contract infringes or otherwise violates the intellectual property rights of any person or entity.

(c) To the extent that any pre-existing inventions, technology, designs, works of authorship, mask works,

technical information, computer software, and other information or materials are used, included, or contained in the Work or deliverable items and not owned by PACIFIC SCIENTIFIC pursuant to this or a previous agreement with SELLER, SELLER grants to PACIFIC SCIENTIFIC an irrevocable, nonexclusive, world-wide, royalty-free license to: (i) make, have made, sell, offer for sale, use, execute, reproduce, display, perform, distribute (internally or externally) copies of, and prepare derivative works based upon, such pre-existing inventions, technology, designs, works of authorship, mask works, technical information, computer software, and other information or materials and derivative works thereof; and (ii) authorize others to do any, some or all of the foregoing.

(d) The tangible medium storing copies of all reports, memoranda or other materials in written form including machine readable form, prepared by SELLER and furnished to PACIFIC SCIENTIFIC pursuant to this Contract shall become the sole property of PACIFIC SCIENTIFIC.

(e) No other provision in this Contract, including but not limited to the Indemnity clause, shall be construed to limit the liabilities or remedies of the parties under this clause.

**21. NEW MATERIALS**

The Work to be delivered hereunder shall consist of new materials, not used, or reconditioned, remanufactured, or of such age as to impair its usefulness or safety.

**22. PACKING AND SHIPMENT**

(a) Unless otherwise specified, all Work is to be packed in accordance with good commercial practice.

(b) A complete packing list shall be enclosed with all shipments. SELLER shall mark containers or packages with necessary lifting, loading, and shipping information, including the PACIFIC SCIENTIFIC Contract number, item number, dates of shipment, and the names and addresses of consignor and consignee. Bills of lading shall include this Contract number.

(c) Unless otherwise specified, delivery shall be FOB Place of Shipment.

**23. PAYMENTS, TAXES, AND DUTIES**

(a) Unless otherwise provided, terms of payment shall be net ninety (90) days or credit card (P60) from the latest of the following: (1) PACIFIC SCIENTIFIC's receipt of SELLER's proper invoice; (2) scheduled delivery date of the Work; or (3) actual delivery of the Work.

(b) Each payment made shall be subject to reduction to the extent of amounts which are found by PACIFIC SCIENTIFIC or SELLER not to have been properly payable, and shall also be subject to reduction for overpayments. SELLER shall promptly notify PACIFIC

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SCIENTIFIC of any such overpayments and remit the amount of the overpayment except as otherwise directed by PACIFIC SCIENTIFIC.

(c) PACIFIC SCIENTIFIC shall have a right to recoup or setoff, as the case may be, against payments due or at issue under this Contract or any other contract between the parties.

(d) Payment shall be deemed to have been made as of the date of mailing PACIFIC SCIENTIFIC's payment or electronic funds transfer.

(e) Unless otherwise specified, prices include all applicable federal, state and local taxes, duties, tariffs, and similar fees imposed by any government, all of which shall be listed separately on the invoice.

**24. PRECEDENCE**

Any inconsistencies in this Contract shall be resolved in accordance with the following descending order of precedence: (1) Face of the Purchase Order and/or Task Order, release document, or schedule, (including any continuation sheets), as applicable, including any special terms and conditions; (2) these General Provisions for Commercial Purchase Orders; and (3) the Statement of Work.

**25. QUALITY CONTROL SYSTEM**

(a) SELLER shall provide and maintain a quality control system to an industry recognized Quality Standard and in compliance with any other specific quality requirements identified in this Contract.

(b) Records of all quality control inspection work by SELLER shall be kept complete and available to PACIFIC SCIENTIFIC and its customers.

**26. PUBLICITY**

Seller shall not, without the prior written consent of Buyer, use the name or trademark of Buyer or any of its Affiliates in any press release, marketing or advertising materials or in any other public disclosure.

**27. RETENTION OF RECORDS**

Unless a longer period is specified in this Contract or by law or regulation, SELLER shall retain all records related to this Contract for three (3) years from the date of final payment received by SELLER. Records related to this Contract include, but are not limited to, financial, proposal, procurement, specifications, production, inspection, test, quality, shipping and export, and certification records. At no additional cost, SELLER shall timely provide access to such records to the US Government and/or PACIFIC SCIENTIFIC upon request.

**28. SEVERABILITY**

In the event that any term or provision of this Contract shall be held to be invalid, void or unenforceable, then the remainder of this Contract shall not be affected, impaired or invalidated, and each such term and provision of this Contract shall be valid and enforceable to the fullest extent permitted by law.

**29. STOP WORK**

(a) SELLER shall stop Work for up to ninety (90) days in accordance with any written notice received from PACIFIC SCIENTIFIC, or for such longer period of time as the parties may agree and shall take all reasonable steps to minimize the incurrence of costs allocable to the Work during the period of Work stoppage.

(b) Within such period, PACIFIC SCIENTIFIC shall either terminate in accordance with the provisions of this Contract or continue the Work by written notice to SELLER. In the event of a continuation, an equitable adjustment in accordance with the principles of the "Changes" clause shall be made to the price, delivery schedule, or other provision(s) affected by the Work stoppage, if applicable, provided that the claim for equitable adjustment is made within thirty (30) days after date of notice to continue.

**30. SURVIVABILITY**

All provisions of this Contract which by their nature are intended to survive any expiration or termination of this Contract or of any Order shall so survive. Any termination of this Contract shall not relieve either Party of any obligation accrued prior to the date of termination or relieve the Party in default from liability for damage for breach of this Contract.

**31. TERMINATIONS**

(a) Termination for cause. (i) With respect to any nonconforming Products or any Products that are not customized, Buyer may terminate any Order relating thereto in whole or in part at any time upon written notice to Seller. Either Buyer or Seller may terminate an Order (1) upon fifteen (15) days' prior written notice to the other party in the event of a material breach by the other Party, provided that the other Party has failed to cure the alleged violation within such fifteen (15) day period; or (2) immediately if the other Party becomes insolvent or makes any assignment for the benefit of creditors or if there has been instituted by or against the other Party or its properties any proceeding under any bankruptcy or insolvency law. Each of the termination rights set forth above is cumulative and nonexclusive. In each event of termination as set forth above, the terminating Party (A) shall have no liability for or relating to any such termination, and (B) shall also have the right to pursue any other remedy that such Party may have under this Contract, at law, at equity or otherwise.

(b) Termination for convenience. With respect to any conforming Products that are customized for Buyer, Buyer



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may terminate any Order relating thereto in whole or in part at any time and for any reason upon written notice to Seller, and Buyer shall have no liability for or relating to any such canceled Order except as follows: unless the termination is due to Seller's breach of this Contract, Seller may claim (a) the agreed price for finished Products not yet shipped; and (b) Seller's actual cost for work-in-process and raw materials, which in no case may exceed the agreed price for such Products. Notwithstanding the foregoing, in no event will Buyer be responsible to pay for any Products, work-in-process or raw materials upon a change or cancellation unless an Order for such Products, work-in-process or raw materials, as applicable, has been issued by Buyer. Buyer will own, and will provide disposition instructions for, Product and work-in-process it pays for. Seller shall use its best efforts to minimize Buyer's losses and expenses in the event of any Order termination. Any claim for charges due to termination of an Order must be submitted to Buyer in writing within fifteen (15) days after receipt of Buyer's notice thereof. PSEMC may at any time by written notice terminate all or any part of this Contract (including without limitation all or any part of any Order) for its convenience and neither PSEMC, any Buyer nor any of their respective Affiliates shall have any liability except as follows: if in exercising its termination rights under this sentence PSEMC terminates all or part of any Order (whether as a result of termination of the Contract or by terminating all or part of any specific Order), PSEMC shall have no liability and the sole liability of Buyer with respect to such Order will be governed as set forth above.

(c) Transition assistance. In connection with the expiration or termination of this Contract Seller shall provide, at no cost to Buyer, reasonable transition services to Buyer to transition production from Seller's facility to another facility of Buyer's choice.

(d) General. In no event shall PSEMC, any Buyer or any of their respective Affiliates be liable under this Contract or any Order for loss of expected profits, or for any consequential, special or incidental damages.

**32. TIMELY PERFORMANCE**

(a) SELLER's timely performance is a critical element of this Contract.

(b) Unless advance shipment has been authorized in writing by PACIFIC SCIENTIFIC, PACIFIC SCIENTIFIC may store at SELLER's expense, or return, shipping charges collect, all Work received in advance of the scheduled delivery date.

(c) If SELLER becomes aware of an impending labor dispute involving SELLER or any lower tier subcontractor, or any other difficulty in performing the Work, SELLER shall timely notify PACIFIC SCIENTIFIC, in writing, giving pertinent details. This notification shall not change any delivery schedule.

(d) In the event of a termination for convenience or change, no claim will be allowed for any manufacture or procurement in advance of SELLER's normal flow time unless there has been prior written consent by PACIFIC SCIENTIFIC.

**33. TRAVEL COSTS**

(a) All travel incurred by SELLER in the performance of this Contract is included within the Contract price and shall not be separately reimbursed by PACIFIC SCIENTIFIC unless such travel is expressly authorized in writing in advance by PACIFIC SCIENTIFIC's Procurement Representative.

(b) When travel is authorized under this Contract, SELLER shall be reimbursed only for necessary, reasonable, and actual travel expenses for transportation, lodging, meals and incidental expenses only to the extent that they do not exceed the maximum per diem rate in effect at the time of travel, as set forth in the United States Federal Travel Regulations for the area of travel authorized under this Contract. Air travel shall be reimbursed for coach class only. Lodging expenses are reimbursable only where incurred from establishments serving the general public.

(c) SELLER shall provide a detailed summary of all such costs by category of expense with each invoice. SELLER shall provide a legible receipt for each claimed individual expense exceeding \$75.00.

**34. WAIVERS, APPROVALS, AND REMEDIES**

(a) Failure by either party to enforce any of the provisions of this Contract or applicable law shall not constitute a waiver of the requirements of such provisions or law, or as a waiver of the right of a party thereafter to enforce such provision or law.

(b) PACIFIC SCIENTIFIC's approval of documents shall not relieve SELLER of its obligation to comply with the requirements of this Contract.

(c) The rights and remedies of either party in this Contract are cumulative and in addition to any other rights and remedies provided by law or in equity.

**35. WARRANTY**

SELLER warrants that all Work furnished pursuant to this Contract shall strictly conform to applicable specifications, drawings, samples, descriptions, and other requirements of this Contract and be free from defects in design, material, and workmanship. This warranty shall begin upon final acceptance and extend for a period of one (1) year. If any nonconforming Work is identified within the warranty period, SELLER, at PACIFIC SCIENTIFIC's option, shall promptly repair, replace, or re-perform the Work. Transportation of replacement Work, return of nonconforming Work, and re-performance of Work shall be at SELLER's expense. If repair, or replacement, or re-performance of Work is not timely, PACIFIC SCIENTIFIC

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may elect to return, re-perform, repair, replace, or re-procure the non-conforming Work at SELLER's expense. All warranties shall run to PACIFIC SCIENTIFIC and its customers.

**36. FORCE MAJEURE**

Neither PACIFIC SCIENTIFIC or SELLER shall be liable for delay or failure of performance due to changes in government priorities or control of materials or other necessary compliance with changes in government regulations, or strikes, fires, accidents, acts of God, or other causes beyond such party's control and affecting its operations. Notwithstanding the foregoing, PACIFIC SCIENTIFIC may terminate all or any portion of this order without liability to SELLER if such delay or failure to perform by SELLER or on the part of SELLER extends beyond thirty (30) days after PACIFIC SCIENTIFIC's requested delivery date. Whenever an actual or potential labor dispute is delaying or threatens to delay the timely performance of this order, SELLER shall immediately give notice thereof to PACIFIC SCIENTIFIC.

**37. WORK ON PACIFIC SCIENTIFIC AND THIRD PARTY PREMISES**

(a) "Premises" as used in this clause means premises of PACIFIC SCIENTIFIC, its customers, or other third parties where Work is being performed.

(b) SELLER shall ensure that SELLER personnel working on Premises comply with any on-premises policies and: (i) do not bring weapons of any kind onto Premises; (ii) do not manufacture, sell, distribute, possess, use or be under the influence of controlled substances or alcoholic beverages while on Premises; (iii) do not possess hazardous materials of any kind on Premises without PACIFIC SCIENTIFIC's authorization; (iv) remain in authorized areas only; (v) do not conduct any non-PACIFIC SCIENTIFIC related business activities (such as interviews, hiring's, dismissals or personal solicitations) on Premises, (vi) do not send or receive non-PACIFIC SCIENTIFIC related mail through PACIFIC SCIENTIFIC's or third party's mail systems; (vii) do not sell, advertise or market any products or memberships, distribute printed, written or graphic materials on Premises without PACIFIC SCIENTIFIC's written permission or as permitted by law; and (viii) follow instruction from PACIFIC SCIENTIFIC in the event of an actual or imminent safety or environmental hazard on Premises.

(c) All persons, property, and vehicles entering or leaving Premises are subject to search.

(d) SELLER shall promptly notify PACIFIC SCIENTIFIC and provide a report of any accidents or security incidents involving loss of or misuse or damage to PACIFIC SCIENTIFIC, customer, or third party intellectual or physical assets, and all physical altercations, assaults, or

harassment.

(e)(1) Prior to entry on Premises, SELLER shall coordinate with PACIFIC SCIENTIFIC to gain access. SELLER shall provide information reasonably required by PACIFIC SCIENTIFIC to ensure proper identification of personnel, including, but not limited to verification of citizenship, lawful permanent resident status, protected individual or other status.

(e)(2) SELLER personnel requiring unescorted access to Premises shall, prior to entry, be screened by SELLER at no charge to PACIFIC SCIENTIFIC through the PACIFIC SCIENTIFIC Contractor Screen Program, or otherwise screened by SELLER in a manner satisfactory to PACIFIC SCIENTIFIC.

(f) SELLER shall ensure that SELLER personnel: (i) do not remove PACIFIC SCIENTIFIC, customer, or third party assets from Premises without PACIFIC SCIENTIFIC authorization; (ii) use PACIFIC SCIENTIFIC, customer, or third party assets only for purposes of this Contract; (iii) only connect with, interact with or use computer resources, networks, programs, tools or routines authorized by PACIFIC SCIENTIFIC; and (iv) do not share or disclose user identifiers, passwords, cipher keys or computer dial port telephone numbers. PACIFIC SCIENTIFIC may periodically audit SELLER's data residing on PACIFIC SCIENTIFIC, customer, or third party assets on Premises.

(g) PACIFIC SCIENTIFIC may, at its sole discretion, have SELLER remove any specified employee of SELLER from Premises and require that such employee not be reassigned to any Premises under this Contract.

(h) Violation of this clause may result in termination of this Contract in addition to any other remedy available to PACIFIC SCIENTIFIC at law or in equity. SELLER shall reimburse PACIFIC SCIENTIFIC, customer, or third party for any unauthorized use of PACIFIC SCIENTIFIC, customer, or third party assets.

(i) SELLER shall advise the PACIFIC SCIENTIFIC Procurement Representative of any unauthorized direction or course of conduct.

(j) SELLER shall immediately report to PACIFIC SCIENTIFIC all emergencies (e.g., medical, fire, spills or release of any hazardous material) and non-emergency incidents (e.g., job-related injuries or illnesses) affecting the Work. SELLER shall provide PACIFIC SCIENTIFIC with a copy of any reports of such incidents SELLER makes to governmental authorities.