

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

TABLE OF CONTENTS

1. ACCEPTANCE OF PURCHASE ORDER	33. RELAINCE
2. DEFINITIONS	34. COMPLAINEE WITH LAWS
3. ADMINISTRATIVE MATTERS	35. CONFLICT MINERALS
4. SPECIFICATIONS	36. CUSTOM TRADE PARTNERSHIP AGAINST TERRORISM (C-TPAT) PROGRAM
5. PACKAGING AND SHIPPING	37. DISASTER RECOVERY
6. DELIVERY	38. EXPORT CONTROL
7. INSPECTION, ACCEPTANCE AND REJECTION	39. OZONE DEPLETING SUBSTANCES
8. RESPONSIBILITY OF GOODS	40. TOXIC, HAZARDOUS OR CARCINOGENIC SUBSTANCES
9. INVOICES AND PAYMENTS	41. NOTIFICATION OF CHANGE
10. PRICE WARRANTY	42. APPLICABILITY OF DOCUMENTS
11. WARRANTY	43. INTERPRETATION
12. MATERIAL FURNISHED	44. PARTIAL INVALIDITY
13. CHANGES	45. WAIVER
14. STOP WORK ORDER	46. ATTORNEY'S FEES
15. FORCE MAJEURE	47. CAPTIONS
16. TERMINATION	48. CUMULATIVE REMEDIES
17. PROPERTY LIABILITY	49. ETHICS AND PRODUCT SAFETY
18. ASSIGNMENT	50. NO DIRECT CLAIM
19. LABOR DISPUTES	51. FAR AND DFARS FLOWDOWNS
20. TAXES	52. NO RESTRICTION OF RIGHTS
21. RELEASE OF NEWS INFORMATION	
22. CONFIDENTIAL INFORMATION	
23. COPYRIGHTS	
24. COST OR PRICING DATA	
25. INDEMNIFICATION OF BUYER	
26. ORDER OF PRECEDENCE	
27. NOTICES	
28. DISPUTES	
29. SUBCONTRACTING	
30. INFRINGEMENT INDEMNITY	
31. PERFORMANCE SURVEILLANCE	
32. GRATUITIES, SUPPLIER CODE OF CONDUCT	

Additional Terms and Conditions:

Form # 2772 – U.S. GOVERNMENT  
PROVISIONS AND CLAUSES UNDER U.S.  
GOVERNMENT CONTRACTS.

FORM #2198 – PROPERTY CUSTODY  
AGREEMENT PROVISIONS

# **PACIFIC SCIENTIFIC**

## **GENERAL PROVISIONS FOR GOVERNMENT PURCHASE ORDERS**

### **1. ACCEPTANCE OF PURCHASE ORDER.**

The Purchase Order incorporating these terms and conditions becomes a binding contract on the terms set forth herein, when it is accepted by acknowledgment or commencement of such performance, or acceptance of any payment, shall constitute Supplier's unqualified acceptance of this Purchase Order subject to these terms and conditions. Any terms or conditions proposed by Supplier inconsistent with or in addition to the terms and conditions contained shall be void and of no effect unless specifically agreed by Buyer in writing. Modifications hereof or additions hereto, to be effective, must be made in writing and signed by Buyer's purchasing representative. These terms and conditions, together with any referenced exhibits, attachments or other documents, shall constitute the entire agreement between the Parties with respect to the subject matter of this Purchase Order, and supersede any prior or contemporaneous written or oral agreements pertaining hereto.

### **2. DEFINITIONS.**

Except as otherwise specified in this Purchase Order, the following terms shall have the meaning set forth below:

- a. "Government" means the Government of the United States of America.
- b. "Buyer" unless otherwise defined shall mean the Pacific Scientific Energetic Materials Company (California), LLC that issues the purchase order.
- c. "Prime Contract" means Buyer's contract with its customer(s) to which the work hereunder relates.
- d. "Agreement", and "Purchase Order" mean this contractual instrument, including changes, supplements, amendments and modifications hereto.
- e. "Supplier" means the legal entity providing Goods and Services or otherwise performing work pursuant to a Purchase Order.
- f. "Buyer's Customer" means the person or entity with whom Buyer has a contract under which this Purchase Order is issued
- g. Except as otherwise provided in this contract, the term "subcontract" includes Purchase Orders placed by the Supplier under this contract.
- h. The term "Goods" means Goods, parts, supplies, software, drawings, data, reports manuals, other specified documentation, or items that are required to be delivered pursuant to, or in connection with, a Purchase Order, and where the context requires such Services as necessary and incidental to the delivery of Goods under any Purchase Order. For clarity, changes made by Buyer to the part numbers and/or other description of the Goods as a result of

a change under the Changes clause of these Terms and Conditions will continue to be Goods.

i. The term "Services" means any effort incidental to the sale of Goods by Supplier under this Purchase Order including, without limitation, installation, repair and maintenance Services. It shall also include, without limitation, any effort specifically required by this Purchase Order, including all associated efforts such as design, engineering, repair, maintenance, technical, construction, consulting, professional or other Services.

j. "Terms and Conditions" means this document, the Pacific Scientific Energetic Materials Company (California) LLC, ("PSEMC") General Provisions for Government Purchase Orders, regardless of whether modified or unmodified by the Parties.

### **3. ADMINISTRATIVE MATTERS**

a. All matters pertaining to the administration of this Purchase Order shall be referred to the attention of the authorized representative of the Buyer's Procurement Department identified on the face page of the Purchase Order at the Buyer's address as shown thereon.

b. The headings used herein are for reference purposes only and shall not affect the meaning or interpretation of this Purchase Order and its provisions.

### **4. SPECIFICATIONS.**

Supplier shall comply with all specifications stated in this Purchase Order and (unless the Goods called for by this Purchase Order are standard commercial Goods not intended as component parts or as equipment or as accessories for Buyer's Goods) with all applicable U.S. Government specifications.

### **5. PACKAGING AND SHIPPING**

a. Unless otherwise stated in this Purchase Order, all Goods shall be delivered without charge for containers, crating, boxing, bundling, dunnage, draying or storage. Supplier shall mark, pack, and ship all Goods in conformity with good commercial practice, or and if Government specifications are applicable, in accordance with such specifications, and in compliance with requirements of common carriers. Any highly polished, highly finished or precision parts are to be properly preserved and packed in containers which will afford protection against atmospheric deterioration.

b. All parts and materials intended for Buyer shall be protected against the potential damage from shipping, ESD (Electrostatic Discharge), FOD (Foreign Object Debris or Damage), corrosion, moisture, contamination, deterioration or damage by processing, handling, storage at the Supplier, or in transit to Buyer or any sub-tier supplier.

## PACIFIC SCIENTIFIC

### GENERAL PROVISIONS FOR GOVERNMENT PURCHASE ORDERS

- i. **Packaging.** All packaging must be designed with considerations given to ergonomics and ease of part removal. Appropriate consideration must be given to carton height, width weight, and disassembly which may affect ergonomics and worker safety. Staples and paperclips are not allowed for any item packaging. The only exception is industrialized staples used to hold cardboard to wood. The large staples are in the same class as nails and screws that hold the crate together and do not pose a FOD danger to the area.
- ii. **Recycle packaging.** Supplier is encouraged to determine where and how much recycling materials can be incorporated into packaging design while also providing adequate performance. Consideration should be given to eliminating all unnecessary packaging materials wherever possible. A priority should be placed on reducing material by weight and volume.
- iii. **FOD Control.** When bags are used they should be sufficient size to be sealed with the item inside. Bags shall be heat sealed, or zip locked. Staples, tape or paperclips shall not be used. Trays holding parts shall not be paperboard (egg crates). Part trays should be plastic or non-debris producing material. Trays should have covers to prevent parts from falling out or FOD getting in. Goods requiring bubble wrap should use an antistatic or conductive material
- iv. **ESD Control.** Static sensitive parts shall be delivered to Buyer in ESD protective packaging, and identified on the external packaging as Static Sensitive. In case of conflict between this procedure and Buyer drawing or PO the drawing or PO shall take precedence.
- c. Buyer's Purchase Order number and line item number shall be plainly marked on all packages, individual items, bills of lading, packing sheets, shipping orders, and invoices. Shipping orders or packing sheets shall accompany delivery of all Goods. Each container of a multiple container shipment shall be identified (i) to show the number of the container and the total number of containers in the shipment and (ii) the number of the container in which the packing sheet has been enclosed. Material for different Purchase Orders shall be listed on separate packing sheets. Goods shall be routed in accordance with instructions provided on the face page of the Purchase Order at the lowest transportation costs or as may be directed by Buyer. Buyer's count and weight shall be conclusive if shipment is not accompanied by shipping order or packing sheet. Originals of all Government bills of lading, commercial bills of lading, air bills, and rail and air express receipts shall be mailed to the traffic department of Buyer.
- d. Insurance for loss or damage in transit shall not be purchased unless specifically directed. Excess costs resulting from Supplier's failure to comply herewith will be debited to Supplier.
- e. Unless otherwise specified in this Purchase Order, shipments will be made via United Parcel Service uninsured collect on Buyer's account. If shipment is prepaid and transportation charges are to be billed to Buyer, a copy of the prepaid transportation bill shall accompany Supplier's invoice. Shipments consigned to Buyer and made the same day via the same carrier shall be consolidated on a single bill of lading. Supplier's failure to comply herewith will result in Supplier being debited for excess cost incurred.
- f. Supplier shall notify Buyer of all shipments.
6. **DELIVERY**
- a. Time is expressly made of the essence herein. Buyer's production schedules and warranties to its customers are dependent on Supplier making delivery of Goods as ordered and in accordance with the delivery or performance schedule as shown on the face of this Purchase Order. Supplier shall immediately notify Buyer if, at any time, it appears Supplier may not meet the agreed schedule. Such notification shall include the cause for delay, actual or proposed steps taken to remedy the delay, and the revised schedule Supplier believes it will be able to meet. Buyer's receipt of such notification shall not constitute approval of the delay or of any proposed schedule or be deemed to be a waiver to the delivery schedule. Any assistance provided by Buyer to Supplier to overcome delays shall not be deemed to be waiver of any of the Buyer's rights hereunder including termination for default.
- b. If Supplier's delivery fails to meet the schedule set forth herein such that Buyer calls upon Supplier for expedited shipment, Supplier, unless excused under the provisions of "Force Majeure" of this Purchase Order, shall pay the difference between the method of shipment specified in the Purchase Order and the expedited method directed by the Buyer.
- c. Supplier shall deliver the Products on the date set forth in Buyer's Order. If a Product is not delivered by such date, Supplier shall: (a) reimburse Buyer for any costs it incurs from its own customers due to Buyer's inability to satisfy its obligations to those customers, and (b) for each day that conforming Product is late, discount the price for such Product by one percent (1%).
- d. If Supplier makes delivery of any item in excess of the quantity specified herein (after considering any authorized variation in quantity), the excess quantities shall be treated as being delivered for the convenience of the Supplier. Buyer shall not accept over-shipments except those resulting in good faith from conditions of loading, shipping, packing or allowances in manufacturing processes and in no case exceeding 5% of the quantity called for or a total value of \$250.00, whichever is the lesser. Supplier shall not ship

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

ahead of schedule unless authorized in writing in advance by Buyer. Buyer may return unauthorized advance shipments at Supplier's expense.

**7. INSPECTION, ACCEPTANCE AND REJECTION**

a. The Supplier shall, at no additional cost to Buyer, provide and maintain a quality and inspection system which complies with all specifications and acceptable to Buyer and the Government covering the Goods hereunder. Records of all inspection work by the Supplier shall be kept complete and available to Buyer and Buyer's Customer during the performance of this Purchase Order, including any period for final resolution of any dispute involving or related to the Goods delivered under this Purchase Order and for such longer period as may be specified elsewhere in this Purchase Order. Supplier shall tender to Buyer only Goods that have been inspected in accordance with the inspection system and shall have been found by Supplier to be in conformity with all requirements of this Purchase Order.

b. All Goods (which term throughout this article includes without limitation raw material, components, intermediate assemblies, end products and quality related records) may be subject to inspection and test by Buyer and Buyer's Customer, or either of them, to the extent practicable at all reasonable times and places, including the facilities of Supplier's subcontractors and, in any event, prior to final acceptance.

c. If any inspection or test is made by Buyer or Buyer's Customer on the premises of the Supplier, or a subcontractor, the Supplier without additional charge shall provide all reasonable facilities and assistance, including any requested copies of this Purchase Order or any drawings, specifications and technical or other data applicable to the ordered Goods, for the safety and convenience of inspectors in the performance of their duties. If the Buyer's or Buyer's Customer's inspection or test is made at a point other than the premises of the Supplier, or a subcontractor, it shall be at the expense of Buyer except as otherwise provided in this Purchase Order, provided that, in case of rejection, neither Buyer or Buyer's Customer shall be liable for any reduction in value of samples used in such inspection or test. Buyer reserves the right to charge to the Supplier any additional cost of inspection or test when Goods are not ready at the time such inspection or test is requested by the Supplier or when re-inspection or re-test is necessitated by a prior rejection. Final acceptance or rejection of the Goods shall be made at destination except as otherwise provided in this Purchase Order, but failure to inspect and accept or reject Goods shall neither relieve the Supplier from responsibility for such Goods as are not in accordance with the contract requirements nor impose liability to Buyer or Buyer's Customer for the Goods.

d. In case any Goods or lots of Goods are defective in

material or workmanship or otherwise not in conformity with the requirements of this Purchase Order, Buyer shall have the right either to reject them (with or without instructions as to their disposition) or to require their correction. Goods or lots of Goods which have been rejected or required to be corrected shall be removed or, if permitted or required by Buyer, corrected in place by and at the expense of the Supplier promptly after notice, and shall not thereafter be tendered for acceptance unless the former rejection or requirement for correction is disclosed. If the Supplier fails promptly to remove such Goods or lots of Goods which are required to be removed or promptly to replace or correct such Goods or lots of Goods, Buyer (i) may, by contract or otherwise, replace or correct such Goods and charge to the Supplier the cost occasioned to Buyer or the Government thereby, or (ii) may terminate this Purchase Order for default as provided in the article of this Purchase Order entitled "Termination." Unless the Supplier corrects or replaces such Goods within the delivery schedule, Buyer may require the delivery of such Goods at a reduction in price which is equitable under the circumstances.

e. The inspection and test by Buyer or Buyer's Customer of any Goods or lots thereof does not relieve the Supplier from any responsibility regarding defects or other failures to meet the contract requirements which may be discovered prior to acceptance. Unless otherwise provided in this Purchase Order, acceptance shall not be conclusive with respect to latent defects or the Supplier's warranty obligations.

f. Supplier hereby certifies that all Goods will conform to all requirements, specifications, drawings, and related documents referenced by and/or in this Purchase Order. Supplier shall maintain on file all test and/or inspection reports relating to the Goods or from compliance with this Purchase Order and be made available for review by Buyer or Buyer's Customer, if applicable, at any reasonable time.

g. Buyer, Buyer's Customer, Government representatives, and/or representatives from regulatory agencies shall have the right of entry to any place necessary to determine and verify the quality of contracted work, records, and material.

**8. RESPONSIBILITY OF GOODS**

a. Unless this Purchase Order specifically provides for earlier passage of title, title to Goods covered by this Purchase Order shall pass to Buyer upon formal acceptance by Buyer or Buyer's Customer, whichever is later, regardless of when Buyer or Buyer's Customer, takes physical possession.

b. Except as otherwise provided in this Purchase Order, (i) all risk of loss of or damage to the Goods covered by this Purchase Order shall remain with the Supplier until they are delivered to the designated delivery point regardless of any points of inspection; (ii) after delivery to the designated

## **PACIFIC SCIENTIFIC**

### **GENERAL PROVISIONS FOR GOVERNMENT PURCHASE ORDERS**

delivery point and prior to acceptance or rejection and the giving of notice thereof by Buyer, Buyer shall be responsible for the loss or destruction of or damage to the Goods only if such loss, destruction or damage results from the negligence of officers, agents or employees of Buyer acting within the scope of their employment; and (iii) the Supplier shall bear all risks as to rejected Goods after notice of rejection, except that Buyer shall be responsible for the loss or damage to the Goods only if such loss or damage results from the gross negligence of officers, agents, or employees of Buyer acting within the scope of their employment.

#### **9. INVOICES AND PAYMENTS**

a. Payments shall be made upon the submission by Supplier of proper invoices to Buyer's Accounts Payable Department, at the address shown on the face page of this Purchase Order, for all Goods delivered and accepted.

b. Deferred Payment. With respect to any deferred prompt payment discount, time shall be computed from the date of delivery, date of acceptance, or from the date a proper invoice is received by Buyer, whichever is later. Payment is deemed to be made for the purpose of earning a discount; on the date Buyer's check is mailed.

c. Cash Discounts. The date for calculation of any cash discount offered by the Supplier and provided for on the face of this Purchase Order is (i) the date the material is received, (ii) the date material is scheduled to be received under the Purchase Order, or (iii) the date an acceptable invoice is received, whichever is later.

d. Supplier's invoices or vouchers shall contain all certifications required by Buyer and shall include the invoice data, the Purchase Order number, as well as a complete breakout of the prices by line item for the Goods encompassed by the invoice or voucher.

e. The price for all Goods provided by Supplier is all-inclusive and encompasses any and all federal, state, local or foreign taxes and duties that may be applicable, and all installation, testing, debugging, warranty charges, and all license or use fees, and any other cost of every kind and description with Supplier's work.

f. With respect to any purchase of Products hereunder, Supplier shall invoice Buyer directly for any such purchases at Buyer's address set forth in the applicable Order. Buyer shall not be obligated to pay invoices that are not delivered to Buyer within ninety (90) days after the date that acceptable Products are received and accepted by the Buyer. If Supplier fails to provide an invoice within such 90-period, Supplier waives any claim it has to the amounts otherwise due under such invoice. All invoices shall comply with and will be submitted in accordance with Buyer's reasonable invoicing requirements and procedures. Any additional terms and conditions contained on any Supplier invoice or packing slip shall not

be binding on Buyer, and no action by Buyer (including the payment of any such invoice in whole or in part) shall be construed as binding Buyer with respect thereto.

g. Buyer shall pay Supplier after receipt of Supplier's proper invoices or vouchers for Goods delivered and accepted, less deductions provided for in this Purchase Order. Unless otherwise mutually agreed in writing and stated on the face of the Purchase Order, payment terms are net 90 days (N90) from receipt of invoice. Credit card payment terms are net 60 days (P60).

#### **10. PRICE WARRANTY.**

Supplier warrants that prices of the Goods set forth herein charged to the Buyer do not differ from the prices charged to any other purchasers of Goods of like grade and quality in similar or lesser quantities, and under similar conditions of purchase. Supplier further warrants that during the performance of this Purchase Order, should it elect to reduce the prices charged to any other purchases of Goods of like grade and quality, it will reduce the prices charged to Buyer accordingly.

#### **11. WARRANTY.**

All warranties of Supplier, whether created by law or otherwise, are incorporated herein by reference and shall include the following express warranties:

a. Supplier warrants to Buyer that all Goods provided under the Purchase Order shall be: (i) Merchantable and fit for the purpose intended; (ii) new; (iii) free from defects in material and workmanship; (iv) free from defects in design if the design is not provided by Buyer; (v) manufactured in strict accordance with the Specifications; and (vi) free from any liens or encumbrances on title (collectively, for this section 11, "Warrant").

b. Buyer may require Supplier to promptly repair or replace, at Buyer's option, any Goods which breach the Warranty. Buyer may return ship the Goods on the fastest available commercial carrier at Supplier's expense and risk of loss. Goods returned to Buyer hereunder shall be shipped at Supplier's expense and risk of loss and shall be accompanied by notice stating whether they are new replacements or repaired originals, and shall continue to be covered under this Warranty. Supplier shall conduct intake, review, analysis and any other activity required to evaluate whether the returned Goods are covered by the Warranty at no expense to Buyer.

c. Notwithstanding any other provision, in addition to the foregoing, Supplier shall be liable for Buyer's actual costs, expenses and damages related to or arising from Goods not conforming to the Warranty, including but not limited to labor and other costs related to the transportation of Goods, expediting, removal, disassembly, failure analysis, fault isolation, assembly, reinstallation, re-inspection, retrofit, and any and all other such corrective action costs incurred by

## PACIFIC SCIENTIFIC

### GENERAL PROVISIONS FOR GOVERNMENT PURCHASE ORDERS

Buyer.

All warranties survive acceptance and shall run to Buyer, its successors and assigns, Buyer's Customer and to the users of its Goods. Delivery, inspection, test, acceptance or use of or payment for the Goods furnished hereunder shall not affect Supplier's obligation under this warranty, and such warranties, and all other warranties, express or implied, shall survive delivery, inspection, test, acceptance, payment, and use.

#### 12. MATERIAL FURNISHED

a. If Buyer furnishes any material or fabrication hereunder, Supplier, (i) agrees not to substitute any other material in such fabrication without Buyer's written consent, (ii) agrees that title to such material shall not be affected by incorporation in or attachment to any other property and (iii) agrees to state and warrant on its shipper and invoice for final parts: "All material furnished by Buyer on this Purchase Order (except that which becomes normal industrial waste) has been returned in the form of parts and unused material". Proceeds of scrap salvage shall accrue to Supplier and are reflected in the prices stated herein.

b. Supplier agrees that it will use any designs, tools, patterns, drawings, information and equipment, title to which is with Buyer only in the performance of this Purchase Order and not otherwise unless Buyer's prior written consent has been obtained. The foregoing shall not be construed as limiting the right of the Supplier to use designs, tools, patterns, drawings, information and equipment in the manufacture of Goods for direct sale to the United States Government to the extent that the Government has the right under its prime contract with Buyer or otherwise to authorize such use by Supplier, and further, to the extent that such use will not interfere with Supplier's performance of this or other Purchase Orders from Buyer relating to Government contracts in effect at the time Supplier enters into direct sale to the Government; provided further, that Supplier furnishes prior written notice to Buyer of such intended use and to the extent practicable Supplier prominently identifies each such item as being manufactured by the Supplier for direct sale to the United States Government. Supplier agrees that no inaccuracy in tools or fixtures which Buyer furnishes, shall excuse performance not in strict accordance with specifications. Upon completion or termination of this Purchase Order, Supplier shall obtain from Buyer shipping instructions or other authorized disposal instructions prior to the return of any Goods furnished by Buyer under this Purchase Order. Unless otherwise specified in this Purchase Order, the price includes the cost of gauges, jigs, fixtures, dies, molds, tools, patterns, and similar property that may be obtained or required by Supplier for use in the manufacture, fabrication, or assembly of the articles called for herein, and unless otherwise specified, title to such property will remain with Buyer.

c. In the event (i) there are any new features of design

conceived in the performance of the work hereunder or incorporated in any material, article or machine made under this Purchase Order, (ii) a substantial portion of the development cost thereof is being charged by Supplier directly or indirectly to Buyer and (iii) the material, article, or machine with respect to which Supplier already possesses patent or proprietary rights, then Supplier grants to Buyer the right of reproduction of such material, article, or machine together with a royalty-free, worldwide, non-exclusive, irrevocable license under any patent covering such new features of design. Supplier agrees to disclose, and on request assign to Buyer and at no expense thereto, any invention or discovery conceived or first reduced to practice arising from designs, sketches, specifications, drawings, computer programs and software, or from tools and test equipment, or any other item of equipment, data or information furnished by Buyer or from Goods specially developed for Buyer under this Purchase Order.

13. CHANGES. Buyer may at any time, in the manner described hereinafter, make changes within the general scope of this Purchase Order in any one or more of the following (i) drawings, designs, statements of work or specifications of Goods being specifically manufactured to Buyer, (ii) method of shipment or packaging, (iii) the method or manner of performance of the work, (iv) place of delivery, (v) Buyer or Government furnished property, facilities, equipment, materials or Services, (vi) Supplier's obligation to comply with any provision of the Federal Acquisition Regulation or any supplement thereto, whether or not incorporated into this Purchase Order, and (vii) delivery schedules. If any such change causes an increase or decrease in the cost of, or the time required for, performance of this Purchase Order, an equitable adjustment shall be made in the Purchase Order price or delivery schedule or both, and the Purchase Order shall be modified in writing accordingly. Buyer shall promptly comply with such changes. Buyer employees have no authority (a) to direct any change affecting (i) above which increases the Purchase Order price, except by a change order issued by a duly authorized purchasing representative, or (b) to direct any other change affecting (i) through (iv) above except by a change advice or other writing issued or signed by Buyer. Any claim by Supplier for adjustment under this clause, and any claim by Supplier for adjustment predicated upon the contention that Buyer has directed a change by means other than those stated above, must be asserted in writing to Buyer's Purchasing Department not later than fifteen (15) days after the date of receipt by Supplier of the change advice or other writing referred to above or allegedly equivalent direction or within such extension of that fifteen (15) day period as Buyer, in its sole discretion, may grant at Supplier's request prior to the expiration of said period or any extension thereof. Nothing in this clause shall excuse Supplier from proceeding with the Purchase Order as changed.

# PACIFIC SCIENTIFIC

## GENERAL PROVISIONS FOR GOVERNMENT PURCHASE ORDERS

### 14. STOP WORK ORDER

Buyer may, from time to time, require Supplier to stop all or any portion of the work called for by the Purchase Order for a period of up to 120 days ("Stop Work Period") at each such time. Upon receipt of written notice detailing the length and scope of the Stop Work Period, Buyer shall either: (i) cancel the stop-work order and Supplier shall resume work; or (ii) terminate the work covered by the stop-work order, for default or convenience.

### 15. FORCE MAJEURE

a. Supplier shall be liable for any failure or delay in performance in connection with the Purchase Order, except where failure or delay results from causes that are, at one and the same time, foreseeable, unavoidable, outside of its control and without its fault or negligence, provided Supplier give Buyer, within three (3) days of Supplier's learning of such cause, written notice to the effect that a failure or delay by Supplier will occur or has occurred (an "Excusable Delay"). If a failure or delay in performance is caused by an event affecting any of Supplier's suppliers, such failure or delay shall not be excusable unless such event is an Excusable Delay as defined above and the Goods or service to be provided by such Supplier is not obtainable by Supplier from other sources in time for timely delivery of the Goods to Buyer. Buyer may cancel without liability to Supplier its purchase of any Goods affected by Supplier's failure or delay in performance and, if the delay is expected to last for a period that could impact deliveries to Buyer's Customers, Buyer may cancel, without liability, any portion of or the entire Purchase Order.

b. Buyer shall be excused for any failure or delay in performance due to any cause beyond its reasonable control, including any cause attributable to Buyer's Customers.

### 16. TERMINATION

#### a. **Termination for Convenience**

i. Buyer may, at any time, terminate all or part of the Purchase Order (which, for the avoidance of doubt, includes the Purchase Order), for its convenience upon written notice to Supplier.

ii. Upon Termination, in accordance with Buyer's written direction, Supplier will immediately: (i) cease work and place no further subcontracts or Purchase Orders for materials, Services, or facilities, except as necessary to complete the continued portion of the Purchase Order; (ii) prepare and submit to Buyer an itemization of all completed and partially completed Goods and/or Services; (iii) deliver to Buyer any and all Goods completed up to the date of termination at the pre-termination Purchase Order price; and (iv) if requested by Buyer, deliver any work-in-process.

iii. In the event Buyer terminates for its convenience after performance has commenced, Buyer will compensate Supplier only for the actual and reasonable work-in-process costs incurred by Supplier on Goods required to be delivered within the Lead Time period, calculated from the Buyer's issuance of the notice of termination. If the Purchase Order does not specify Lead Time, Lead Time shall be the reasonable average lead time for the Goods in accordance with Buyer's data. Supplier shall use reasonable efforts to mitigate its own and Buyer's liability under this Section. In order to receive compensation, Supplier's termination claim must be submitted within ninety (90) days from the effective date of the termination.

iv. Buyer shall not be liable to Supplier for costs or damages other than as described above, and in no event for lost or anticipated profits, or unabsorbed indirect costs or overhead, or for any sum in excess of the price allocated to the portion of the Purchase Order terminated.

b. **Termination for default.** In addition to the rights conferred in (a) above and under applicable law, Buyer reserves the right to terminate without charge all or any part of the undelivered portion of this Purchase Order if Supplier does not make deliveries or otherwise perform as specified, or so fails to make progress as to endanger performance of this Purchase Order as specified. In the event of such termination, in whole or in part, Buyer may procure the Goods elsewhere and on such terms as Buyer deems appropriate and Supplier shall be liable for Buyer's re-procurement costs. Supplier shall continue performance of this Purchase Order to the extent not terminated.

i. Except with respect to defaults of vendors or subcontractors, Supplier shall not be liable for any excess costs if the failure to perform this Purchase Order arises out of causes beyond the control and without the fault or negligence of Supplier. Such causes may include, but are not restricted to an excusable delay as defined in the Section "Force Majeure"; and in every case the failure to perform must be beyond the control and without the fault or negligence of Supplier. If failure to perform is caused by the default of a vendor or subcontractor to Supplier, and if such default arises out of causes beyond the control of both the Supplier and the vendor or subcontractor, and without the fault or negligence of either of them, Supplier shall not be liable for any excess costs for failure to perform, unless the Goods to be furnished by the vendor or subcontractor were obtainable from other sources in sufficient time to permit Supplier to meet the required delivery schedule. No cause shall constitute a basis for excusable delay unless Supplier has notified Buyer in writing of the existence of such cause within ten (10) days from the beginning thereof.

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

ii. If this Purchase Order is terminated under this clause, Buyer, in addition to any other rights provided in this section, may require Supplier to transfer title and deliver to Buyer in the manner and to the extent directed by Buyer (i) any completed Goods, and (ii) any partially completed Goods and materials, parts, components, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "contract materials") as the Supplier has specifically produced or specifically acquired for the performance of such part of this Purchase Order as has been terminated; and the Supplier shall upon direction of Buyer, protect and preserve property in the possession of Supplier in which Buyer has an interest. Payment for completed Goods delivered or rendered to and accepted by Buyer shall be at the Purchase Order price. Payment for contract materials delivered to and accepted by Buyer, and for the protection and preservation of property, shall be in an amount agreed upon by Supplier and Buyer. Buyer may withhold from amounts otherwise due Supplier for such completed Goods or contract materials such sums as Buyer determines to be necessary to protect Buyer against loss because of outstanding liens or claims of former lien holders.

iii. If, after notice of termination of this Purchase Order under this provision it is determined for any reason that Supplier was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Paragraph 16 entitled "Termination for Convenience".

c. Buyer also reserves the right to terminate all or any part of this Purchase Order without charge in the event of the insolvency of Supplier, filing of a voluntary or involuntary petition of bankruptcy by the Supplier, appointment of a receiver or trustee for Supplier, or the execution by Supplier of an assignment for the benefit of creditors.

The provisions of (a), (b) and (c) shall not limit the rights or remedies of Buyer in event of breach by Supplier in other provisions of this Purchase Order or as provided by law.

**17. PROPERTY LIABILITY.**

Supplier shall (i) immediately notify Buyer of and (ii) be liable for the loss of or damage to Buyer or Buyer's Customer property while such property is in Supplier's possession. Supplier shall maintain in serviceable condition, preserve and account for all property furnished hereunder, and shall not use or dispose of same except in acceptance with Buyer's written instructions. Supplier shall also be liable for all losses to Buyer occasioned by Supplier's failure to furnish timely written notice to Buyer of loss or damage to Buyer and/or Government furnished property suffered in transit or prior to receipt by Supplier. Supplier agrees that Buyer and/or Government representative shall, at all reasonable

times, have access to any premises upon which Buyer and/or Government property is located for the purpose of inspecting such property.

**18. ASSIGNMENT.**

Neither this Purchase Order nor any interest herein may be assigned, novated, delegated or otherwise transferred by Supplier in any manner without the prior written consent of Buyer, which consent may be withheld for any or no reason.

**19. LABOR DISPUTES.**

Wherever Supplier has knowledge that any present or potential labor dispute is delaying or threatens to delay the timely performance of this Purchase Order, Supplier shall immediately give notice thereof, including all information relevant thereto, to Buyer Purchasing Department. Supplier agrees to insert the substance of this Article 19, including this sentence, in any subcontract hereunder where a labor dispute might delay timely performance of this Purchase Order, except that each such subcontract shall provide that in the event its timely performance is delayed or threatened by any actual or potential labor dispute, the subcontractor shall immediately give Supplier notice thereof, including all information relevant thereto.

**20. TAXES.**

Except as otherwise provided in this Purchase Order or as prohibited by law, the Supplier represents that the prices stated shall include any and all applicable federal, state and local taxes which cannot be excluded by action of the Supplier or operation of law. Supplier shall pay all federal state and local sales, use, excise or other taxes that may be levied or assessed for any reason or purpose as a result of this Purchase Order. The Supplier represents that the prices stated exclude all such taxes which can be excluded by action of the Supplier or by action of law. Any tax not so excluded shall be entered on invoices as a separate line item. If any tax or portion thereof which is included or added to the price paid to Supplier hereunder is subsequently refunded to Supplier, Supplier shall promptly pay to Buyer the amount of such refund, including any interest to the extent it was earned after payment by Buyer.

**21. RELEASE OF NEWS INFORMATION.**

No news release, public announcement, denial or confirmation of same or any part of the subject matter of this Purchase Order or any phase of any program hereunder shall be made without written approval of Buyer.

**22. CONFIDENTIAL INFORMATION.**

All information, including but not limited to writings, drawings, tools, models, and oral disclosures, not in the public domain, received by Supplier from Buyer or learned of, or produced by Supplier in connection with the performance of work under this Purchase Order is the sole property of Buyer and will be held by Supplier in confidence



## PACIFIC SCIENTIFIC

### GENERAL PROVISIONS FOR GOVERNMENT PURCHASE ORDERS

at all times hereafter, and will not be used by Supplier or disclosed by Supplier to any person, firm, or corporation without prior written consent of Buyer. The foregoing shall not be construed as limiting the right of the Supplier to use such writings, drawings, tools, models, and disclosures in the manufacture of end items for direct sale to the United States Government to the extent that the Government has the right under its prime contract with Buyer, or otherwise, to authorize such use by Supplier, and further, to the extent that such use will not interfere with Supplier's performance of this or others from Buyer relating to Government contracts in effect at the time Supplier enters into direct sale to the Government, provided further, that Supplier furnishes prior written notice to Buyer of such intended use and to the extent practicable Supplier prominently identifies each such end item as being manufactured by the Supplier for direct sale to the Government. If this Purchase Order is issued under a Government prime contract or subcontract, this Article 22 shall be deemed deleted to the extent inconsistent with the clauses incorporated by reference on **Form 2772, "U.S. Government Provisions and Clauses under U.S. Government Contracts"**. Provisions for applicable terms and conditions applicable to all special tooling, special test equipment, and all other property of any nature are as set forth in **Form 2198, "Property Custody Agreement Provisions"**.

#### 23. **COPYRIGHTS.**

Supplier agrees that, for any works of authorship created by Supplier or any of its employees or subcontractors of Supplier in the course of this Purchase Order, those works that come under one of the categories of "Works Made For Hire" in 17 U.S.C. § 101 shall be considered Works Made For Hire. For any works of authorship that do not come under such categories, Supplier, warranting that it has the right to do so, hereby assigns and agrees to assign to Buyer all right, title and interest it has to any copyright in such works and will execute or cause to be executed any documents required to establish Buyer's ownership of such copyright.

#### 24. **COST OR PRICING DATA**

a. Supplier shall submit cost or pricing data prior to the execution of this Purchase Order and the pricing of any Purchase Order change or other modification which involves aggregate increases or decreases, or both, in costs plus applicable profits expected to exceed the threshold for submission of cost or pricing data, except where the price adjustment is based on adequate price competition, established catalog or market prices of commercial Goods sold in substantial quantities to the general public, or prices set by law or regulation.

b. Supplier shall certify, in the same form as that used in the certificate by Buyer to the Government, that, to the best of its knowledge and belief, the cost or pricing data

submitted under (a) above is accurate, complete and current as of the date prescribed by the Truth in Negotiations Act, 10 U.S.C. 2306a ("TINA" and FAR Subpart 15.4).

c. Supplier agrees to indemnify and hold harmless Buyer for damages, as defined herein, resulting from any failure or alleged failure of Supplier, or Supplier's lower tier subcontractors, to supply current, accurate and complete cost or pricing data to Buyer as prescribed by the Truth in Negotiations Act, 10 U.S.C. Section 2306a ("TINA"), and FAR Subpart 15.4. As used herein, "damages" shall mean the dollar amount by which the total price of the prime contract is reduced, or the amount of Buyer's cost that is disallowed, plus interest and penalties prescribed in TINA, and incidental costs and expenses, including attorney's fees and costs.

d. The price of this Purchase Order shall be equitably reduced by the amount of damages as defined herein, at such time as the Contracting Officer of the prime contract reduces the price of the prime contract disallows Buyer's costs, or demands payment from Buyer's Customer for damages in a final decision, whichever occurs first, based on findings that Supplier or any lower tier subcontractor failed to supply current, accurate and complete cost or pricing data. In the event Supplier has been paid the entire Purchase Order price, then, upon written notice by Buyer, Supplier immediately shall remit to Buyer the amount of damages.

e. The Supplier shall require subcontractors hereunder to submit and certify cost or pricing data in accordance with and under the circumstances described in the clauses entitled "Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data" or "Requirements for Cost or Pricing Data or Other Information Other Than Cost or Pricing Data -Modifications" which is presently set forth in FAR clauses 52.215-20 or 52.215-21" and paragraph (a) above, as applicable.

f. Supplier acknowledges that Buyer is relying on Supplier's compliance with its obligations to submit current, complete and accurate cost or pricing data and to update its cost or pricing data as required in applicable regulations and agrees that, notwithstanding the other provisions of this Purchase Order, it will certify its cost or pricing data as of the date Buyer enters into the contract with its customer.

#### 25. **INDEMNIFICATION OF BUYER**

a. Supplier shall indemnify and hold harmless Buyer against and from any liability, claims, obligations, losses, cost and expenses, including attorney's fees (hereafter collectively referred to in this provision as "damages") resulting from any failure or alleged failure of Supplier, or Supplier's lower tier subcontractors to comply with any federal or state law, statute, regulation, ruling, order or directive, including, but not limited to: the Cost Accounting Standards, 48 CFR Chapter 99, Public Law 100-679 (41

## **PACIFIC SCIENTIFIC**

### **GENERAL PROVISIONS FOR GOVERNMENT PURCHASE ORDERS**

U.S.C. § 422) and FAR Part 30; the Procurement Integrity Act (41 U.S.C. §423 as amended and FAR 3.104; FAR 52.203-10; FAR 22.302; and DFARS 223.70), the Anti-Kickback Act (41 USC §§ 51-58) and the False Claims Act (41 U.S.C. 3729 et seq.)

b. Supplier shall take all precautions it deems necessary, and such additional precautions as Buyer or Buyer's Customer may prescribe, to prevent injury or death to persons, including customer, or loss of or damage to property. Supplier shall indemnify, hold harmless and defend, Buyer and Buyer's Customer against any and all claims, liabilities, losses and expenses, including attorney's fees, which may result in any manner from an act or omission on the part of Supplier, its employees, agents, suppliers or subcontractors, except to the extent that such loss or damage is due solely and directly to the negligence on the part of Buyer or Buyer's Customer. Supplier shall procure and maintain appropriate insurance to indemnify and protect Buyer and Buyer's customer from such actual or claimed loss, damage or injury resulting from acts by the Supplier, its employees, agents, suppliers or subcontractors, or from the use of Supplier's Goods.

c. Supplier shall hold harmless and indemnify Buyer from and against all claims and liabilities (including attorney's fees), however arising and whether based on contract, tort, strict liability, negligence, statute, or any other theory, arising from, based upon, or connected with the performance of this Purchase Order by Supplier's agents and subcontractors. Supplier's covenant of indemnity herein shall continue in full force and effect notwithstanding the termination of this Purchase Order.

#### **26. ORDER OF PRECEDENCE.**

The rights and obligations of the parties to this Purchase Order shall be subject to and governed by the Statement of Work, if any, these Terms and Conditions, Additional Terms and Conditions, if any, and any proposals, specifications or other documents or provisions which are made a part of this contract by reference or otherwise. To the extent of any inconsistency between (i) the Statement of Work and Terms and Conditions and Additional Terms and Conditions and (ii) proposals, specifications or other documents or provisions which are made a part of this contract by reference or otherwise, the Statement of Work and Terms and Conditions and Additional Terms and Conditions shall control. To the extent of any inconsistency between (i) the Statement of Work and (ii) the Terms and Conditions and Additional Terms and Conditions, Terms and Conditions and Additional Terms and Conditions shall control. To the extent of any inconsistency between (i) the Terms and Conditions and (ii) the Additional Terms and Conditions, the Additional Terms and Conditions shall control.

#### **27. NOTICES.**

All notices required or permitted to be sent by either party

hereto shall be deemed sufficiently given if sent by prepaid mail or overnight delivery to the address shown on the first page of this Purchase Order for each party and to the attention of the individual who executes this contract on behalf of the party to whom the notice is sent. All notices shall be deemed given when they are sent by mail or overnight delivery and deposited in the mail addressed in the aforesaid manner or deposited with the overnight delivery service. Either party may designate, in writing, a different manner of address for notices under this Purchase Order.

#### **28. DISPUTES**

a. Except as otherwise specifically provided in this Purchase Order, all disputes concerning questions of fact under this contract which are not promptly disposed of by mutual agreement may be decided by recourse to any available legal or equitable remedy. Buyer may, but is not obligated to, bring any action or claim relating to or arising out of this Purchase Order in the appropriate state or federal court in the state in which the Buyer's facility which issued this Purchase Order is located, and Supplier hereby irrevocably consents to personal jurisdiction and venue in any such court, hereby appointing the Secretary of State as agent for receiving service of process. Any action or claim by Supplier with respect hereto shall also be brought in such appropriate state or federal court in the state in which the Buyer's facility which issued this Purchase Order is located, if Buyer so elects. Accordingly, Supplier shall give written notice to Buyer of any such intended action or claim, including the intended venue thereof, and shall not commence such action or claim outside of the state in which the Buyer's facility which issued this Purchase Order is located if Buyer, within thirty (30) days from receipt thereof, makes its election.

b. The applicable law is the law of the state of Buyer's facility which issued this Purchase Order, without recourse to its choice of law rules.

c. Pending decision of any disputes hereunder, the Supplier shall diligently proceed with performance of this Purchase Order as directed by Buyer. Supplier further agrees that injunctive relief for specific performance is appropriate in event Supplier fails to perform as ordered during the pending dispute and Supplier performing in accordance with written instructions shall provide such relief by Buyer.

#### **29. SUBCONTRACTING.**

Supplier agrees to obtain the prior written consent of Buyer before subcontracting this Purchase Order or any substantial portion thereof, provided, however, that this provision shall not apply to Supplier's purchase of commercial Goods or materials or Services required by Supplier in performance hereof. Supplier further agrees to select subcontractors and suppliers on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the Purchase Order.

## **PACIFIC SCIENTIFIC**

### **GENERAL PROVISIONS FOR GOVERNMENT PURCHASE ORDERS**

#### **30. INFRINGEMENT INDEMNITY.**

Supplier, at its own expense, shall hold harmless and defend Buyer and Buyer's customers against any claim or legal proceeding brought against Buyer or its customers which is based upon a claim, whether rightful or otherwise, that any item, or part thereof, delivered to Buyer under this Purchase Order, for Buyer's use or resale thereof, constitutes an infringement of any patent, trade secret, copyright, semiconductor chip mask, work right or other proprietary right. Supplier shall reimburse Buyer and Buyer's Customers for all damages and costs awarded against Buyer and Buyer's Customers and all reasonable expenses Buyer and Buyer's Customers may have incurred in connection with such a claim or proceeding. In the event Buyer's and Buyer's Customers use of such item or part thereof is held to constitute an infringement and Buyer or Buyer's Customer's use thereof, is enjoined, Supplier, at its own expense and option, shall either purchase for the Buyer all necessary rights to continued use of the enjoined Goods, Services or part thereof; or in a manner acceptable to Buyer and acceptable to Buyer make replacement or modification to the Goods or Services as may be needed to avoid infringement.

#### **31. PERFORMANCE SURVEILLANCE.**

Supplier agrees that Buyer's and Buyer's Customer's authorized representatives have the right to observe all aspects of Supplier's performance of work under this Purchase Order. Buyer agrees such authorized representatives will comply with Supplier's reasonable precautions and procedures relating to observance of health and safety regulations, safeguarding of proprietary information and avoidance of interference with orderly process or normal business operations.

#### **32. GRATUITIES; SUPPLIER CODE OF CONDUCT**

a. This Purchase Order may be terminated at no cost to Buyer for Supplier's breach if Supplier, or any of its officers, employees or agents either offered or gave a gratuity to any officer, employee or agent of Buyer and intended, by that gratuity, to obtain any Purchase Order for Goods or Services or to obtain favorable treatment from Buyer or its officers, employees or agents. For purposes of this provision, the term "gratuity" means any benefit extended to, or on behalf of the recipient for which fair market value is not paid by the recipient.

b. Supplier agrees to comply with Buyer's Supplier Code of Conduct (the "Code"), a copy of which may be found at <http://www.psemc.com/suppliers/>. Supplier understands that if it violates the Code in any respect, Buyer may terminate this Purchase Order at any time upon written notice and without any liability of any kind whatsoever.

#### **33. RELIANCE.**

Supplier, by its acceptance of this Purchase Order, acknowledges that Supplier is an expert fully competent in

all phases of the work involved in developing, producing and supporting the Goods and Services delivered and performed hereunder. Supplier agrees that Buyer and Buyer's Customer are entitled to, and have relied upon Supplier as an expert and Supplier shall not in any manner or by any act deny responsibility or obligation hereunder to Buyer or Buyer's Customers on the basis that Supplier relied on recommendations or assistance or approval provided by Buyer or Buyer's Customer in any phase of the work involved in developing, producing and supporting the Goods and Services delivered or performed.

#### **34. COMPLIANCE WITH LAWS**

a. Supplier warrants that all Goods or Services delivered or performed hereunder are in compliance with all federal, state and local statutes, laws, orders, ordinances, and regulations applicable to the developing, producing, testing and delivery of such Goods or performance of such Services. Supplier further agrees that in the event that such Goods delivered or Services performed do not conform to any aforesaid legal requirement and Buyer is penalized for such non-conformance, Supplier shall indemnify Buyer for all penalties, costs and expenses, including interest and attorney's fees, levied against or incurred by Buyer.

b. Supplier shall, at the earliest practicable time, notify in writing Buyer if Supplier is (i) suspended, debarred, or proposed for suspension or debarment from doing business with the U.S. Government, or (ii) listed or is proposed to be listed by the U.S. Government in any "denial orders", as a "blocked person," as a "special designated national," or as a "specially designated terrorist" for U.S. export administration purposes (collectively, "Debarment"). Any such Debarment shall act as a cause for the Buyer to terminate the Purchase Order under the Section entitled Termination for Default. As set forth in FAR 52.209-6.

c. **FCPA AND OTHER APPLICABLE LAWS:** Supplier shall comply fully with all applicable laws, rules and regulations, including those of the United States, all laws in Supplier's home country (if not the United States), and any and all other jurisdictions globally, which apply to Supplier's business activities in connection with this Purchase Order. Without limiting any provision in this Purchase Order, Supplier specifically agrees to the following:

i. Supplier represents and warrants to Buyer that Supplier shall comply with all local, national, and other laws of all jurisdictions globally relating to human trafficking and slavery, anti-corruption, bribery, extortion, kickbacks, import, export or matters which are applicable to Supplier's business activities in connection with this Purchase Order, and that Supplier will take no action that will cause Supplier or Buyer to violate any such laws.

ii. Supplier specifically represents and warrants to Buyer that Supplier is familiar with the U.S. Foreign Corrupt

## PACIFIC SCIENTIFIC

### GENERAL PROVISIONS FOR GOVERNMENT PURCHASE ORDERS

Practices Act of 1977, as amended (the "FCPA"), and that Supplier shall comply with the FCPA and will take no action that will cause Supplier or Buyer to violate the FCPA.

- iii. Supplier represents and warrants to Buyer, that no payment of money or provision of anything of value will be offered, promised, paid or transferred, directly or indirectly, by any person or entity, to any government official, government employee, or employee of any company owned in part by a government, political party, political party official, or candidate for any government office or political party office to induce such organizations or persons to use their authority or influence to obtain or retain an improper business advantage for Supplier or for Buyer, or which otherwise constitute or have the purpose or effect of public or commercial bribery, acceptance of or acquiescence in extortion, kickbacks or other unlawful or improper means of obtaining business or any improper advantage, with respect to any of Supplier's activities related in any way to this Purchase Order, including without limitation any payment of money or provision of anything of value to any employee of any customer in order to secure a sale.
- iv. Supplier has not and shall not offer anything of value (in the form of entertainment, gifts, or otherwise) to Buyer's employees or relatives for the purpose of obtaining the Purchase Order or favorable treatment under the Purchase Order.
- v. **Unless exempt, Supplier and its subcontractors shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.** If applicable, Supplier and its subcontractors shall also abide by the requirements 41 CFR § 61-300.10 regarding veterans' employment reports and 29 CFR Part 471, Appendix A to Subpart A regarding posting a notice of employee rights.
- d. Buyer may withhold payments under this Purchase Order, or terminate this Purchase Order immediately, if it believes, in good faith, that Supplier has breached the foregoing compliance with law provisions of this Purchase Order or caused Buyer to violate the FCPA or other applicable laws. Buyer shall not be liable to Supplier for any

claim, losses, or damages related to Buyer's decision to exercise its rights under this provision. Supplier may request annual certifications of compliance with the FCPA and all other laws applicable to Supplier's activities related to this Purchase Order in the form provided from time to time by Buyer. Supplier shall participate in anti-corruption training if offered by Buyer from time to time.

#### 35. CONFLICT MINERALS

a. Supplier 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 among other requirements 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"). At Buyer's reasonable request, Supplier 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 in any other form that Buyer reasonably requests. Unless the declarations provided by Supplier pursuant to the prior sentence document to Buyer's reasonable satisfaction that Supplier is "Conflict Free" (as defined in the Dodd-Frank Act) with respect to all items supplied to Buyer, Supplier agrees that it will source, and track the chain of custody of, all Conflict Minerals contained in any items provided by Supplier 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 Supplier may jointly agree upon).

#### 36. CUSTOMS TRADE PARTNERSHIP AGAINST TERRORISM (C-TPAT) PROGRAM

**This section is applicable to Orders in which Goods will be shipped into the United States.**

- a. Supplier agrees that, during the period in which it ships Goods to Buyer, it and its subcontractors who either ship directly or package Goods for shipment will either (i) be certified under the Customs Trade Partnership Against Terrorism ("C-TPAT") program by the U.S. Customs and Border protection, or (ii) demonstrate to Buyer's satisfaction that it meets the security requirements of C-TPAT. Accordingly, Supplier must either provide Buyer with documentation that it and its subcontractors are certified (e.g. C-TPAT certification or Status Verification Interface (SVI) number), or provide documentation and evidence satisfactory to Buyer to demonstrate compliance with C-TPAT security requirements, available at [www.cbp.gov](http://www.cbp.gov).
- b. Upon five (5) days prior written notice, Buyer, or its designee, may audit all pertinent books and records of Supplier and its subcontractors, and make reasonable inspection of Supplier's and its subcontractors' premises, in order to verify compliance with the requirements of this

## **PACIFIC SCIENTIFIC**

### **GENERAL PROVISIONS FOR GOVERNMENT PURCHASE ORDERS**

Section.

c. Any delay in delivery due to Supplier's failure to comply with this provision shall not relieve Supplier of its obligations and shall not constitute a force majeure or give rise to an Excusable Delay (as defined in the section hereunder entitled "Force Majeure").

#### **37. DISASTER RECOVERY**

a. If Supplier is (i) a sole source of supply; or (ii) providing Goods whose Lead Time exceeds one hundred twenty (120) days; or as otherwise directed by Buyer, Supplier shall develop and maintain a Disaster Recovery Plan acceptable to Buyer for the recovery and continuation of business related to the design, development, certification, manufacture, sale, use and/or support of the Goods furnished hereunder, in the event of a disaster or emergency. The Disaster Recovery Plan shall, among other things, prevent or limit the interruption of the supply of Goods in conformity with the requirements set forth herein. Supplier shall furnish a copy of Disaster Recovery Plan to Buyer upon request.

#### **38. EXPORT CONTROL**

a. Supplier shall comply with the most current export control and sanctions laws, regulations, and orders applicable at the time of the export, re-export, transfer, disclosure or provision of Goods, software, technology or Services including, without limitation, the (i) Export Administration Regulations ("EAR") administered by the Bureau of Industry and Security, U.S. Department of Commerce, 15 C.F.R. parts 730-774; (ii) International Traffic in Arms Regulations ("ITAR") administered by the Directorate of Defense Trade Controls, U.S. Department of State, 22 C.F.R. parts 120-130; (iii) Foreign Assets Control Regulations and associated Executive Orders administered by the Office of Foreign Assets Control, U.S. Department of the Treasury, 31 C.F.R. parts 500-598; and (iv) laws and regulations of other countries (collectively, "Export Control Laws").

b. Unless the Purchase Order is for Goods to be supplied on a "build to print" basis by Supplier, Supplier shall provide Buyer with (i) the applicable Harmonized Tariff Schedule Number, and (ii) either (a) the United States Munitions List ("USML") category of such Goods, software, technology or Services that are controlled by the ITAR, or (b) the Export controlled by the EAR, to include the ECCN of parts and components if such classification differs from the ECCN of the Goods or software and (iii) any analogous classification under any other applicable law. If Supplier is in the business of manufacturing, exporting or brokering USML Goods, Supplier represents that it maintains registration with the Directorate of Defense Trade Controls as may be required by 22 C.F.R. §§ 122.1 and/or 129.3 of the ITAR.

c. Supplier shall not export, re-export, transfer, disclose or

otherwise provide Buyer's technical data controlled by Export Control Laws ("Technical Data") to any foreign persons or foreign commercial entities, or modify or divert such Technical Data to any military application, unless Supplier receives advance, written authorization from Buyer. Any subcontracts between foreign persons in the approved country for manufacture of Goods or provisions of Services shall contain all the limitations of this Section and shall comply with all applicable export licenses or authorizations. Upon Buyer's request, Supplier shall demonstrate to Buyer, to Buyer's reasonable satisfaction, Supplier's subcontractors' compliance with this Section and all Export Control Laws. Upon completion of its performance under the Purchase Order, Supplier and its subcontractors shall destroy and return to the Buyer all Technical Data.

#### **39. OZONE DEPLETING SUBSTANCE**

Supplier agrees that the Goods delivered hereunder shall be accurately labeled in accordance with the requirements of Section 611 of the 1990 Clean Air Act Amendments and the regulations promulgated hereunder, including but not limited to requirements contained in 40 C.F.R. Part 82.114 and 82.116. At Buyer's request, Supplier shall certify in a form satisfactory to Buyer whether the Goods were manufactured with a controlled substance, as defined in 40 C.F.R. Part 82.104.

#### **40. TOXIC, HAZARDOUS OR CARCINOGENIC SUBSTANCES**

Supplier warrants that each chemical substance delivered under this Purchase Order is on the Inventory List (see 40 C.F.R. §710) published by the Environmental Protection Agency pursuant to the Toxic Substances Control Act (15 U.S.C. § 2601 et seq) at the time of such delivery. If Supplier provides a product under this Purchase Order which contains a toxic or hazardous substance as identified under Occupational Safety and Health Standards, 29 C.F.R. §1910.20 or 29 C.F.R. §1910.1000 et seq. (subpart Z), or a carcinogenic substance, or requires a Material Safety Data Sheet, then Supplier shall provide Buyer with a Material Safety Data Sheet (meeting the requirements of 29 C.F.R. §1910.1200(g) and the latest revision of Federal Standard No. 313), and any other information required by applicable law with the initial shipment of the product and when a change in formulation occurs. Supplier shall label each container of such Goods in a clearly legible and conspicuous form, stating that a toxic or hazardous substance is contained therein, and providing Buyer with a copy of any restrictions on handling or use.

#### **41. NOTIFICATION OF CHANGE**

Supplier agrees to notify Buyer in the event that one of the following situations may occur during the performance of the contract:

a. Supplier shall notify the Buyer of any proposed

## **PACIFIC SCIENTIFIC**

### **GENERAL PROVISIONS FOR GOVERNMENT PURCHASE ORDERS**

changes to Buyer approved designs, parts, materials, fabrication methods and or processes, by contract and shall obtain Buyers approval prior to change incorporation.

b. Supplier shall notify Buyer of changes to the designs, parts, materials or fabrication methods or processes for functionally disclosed Goods.

c. Supplier shall immediately notify the Buyer of a change to facilities location and or name of organization, in which Supplier is operating under.

#### **42. APPLICABLE DOCUMENTS.**

Military specifications, standards and documents referenced shall be to the latest revision level in effect on the date of this contract being awarded, unless specified otherwise.

#### **43. INTERPRETATION.**

It shall be the obligation of Supplier to exercise due diligence to discover and to bring to the attention of Buyer at the earliest possible time any ambiguities, discrepancies, inconsistencies, or conflicts herein or in or between any specifications, drawings, or other documents attached hereto or incorporated by reference herein. Ambiguities, inconsistencies, or conflicts in this Purchase Order will not be strictly construed against the drafter of the contract language; rather, they shall be resolved by applying the most reasonable interpretation under the circumstances, giving full consideration to the intentions of the parties at the time of contracting.

#### **44. PARTIAL INVALIDITY.**

If in any instance any provision of this Purchase Order shall be determined to be invalid or unenforceable under any applicable law, such provision shall not apply in such instance, but the remaining provisions shall be given effect in accordance with their terms.

#### **45. WAIVER.**

Buyer's failure to insist on performance of any of the terms or conditions herein or to exercise any right or privilege or Buyer's waiver of any breach hereunder shall not thereafter waive any such terms, conditions, or privileges or any other terms, conditions, or privileges, whether of the same or similar type.

#### **46. ATTORNEY'S FEES.**

In the event Buyer should bring an action for enforcement of the terms and conditions of this Purchase Order, Supplier agrees that Buyer shall be entitled to award of its reasonable attorney's fees and court costs associated with such enforcement proceedings.

#### **47. CAPTIONS.**

Captions, as used herein, are for convenience of reference only and shall not be construed to limit or extend the language of the provisions to which such captions may refer.

#### **48. CUMULATIVE REMEDIES.**

The rights and remedies herein reserved to Buyer shall be cumulative and additional to any other or further rights and remedies provided in law or equity.

#### **49. ETHICS AND PRODUCT SAFETY**

The supplier shall communicate the importance of ethical behavior throughout their organization and ensure product conformity and product safety are achieved ethically IAW contract requirements.

#### **50. NO DIRECT CLAIM**

Except as may be expressly set forth in these Terms and Conditions and with the U.S. Government Contracting Officer's express consent, the subcontractor shall not acquire any direct claim or direct course of action against the U.S. Government.

#### **51. FAR AND DFARS FLOWDOWNS**

Seller shall include in each lower-tier subcontract the appropriate flow down clauses as required by FAR and DFARS.

#### **52. NO RESTRICTION OF RIGHTS**

Nothing in these Terms and Conditions shall be construed or interpreted to limit or in any way restrict the rights of the Government in regard to data, tooling and other information it owns or has a right to use, including the right to authorize the supplier's use of such data, tooling or other information in direct contacts between the supplier and the Government.

#### **ADDITIONAL TERMS AND CONDITIONS:**

Form #2772 – U.S. Government Provisions and Clauses under U.S. Government Contracts

Form #2198 – Property Custody Agreement Provisions