

**BAE Systems Imaging Solutions Inc.  
TERMS AND CONDITIONS OF SALE**

**1 General.**

- 1.1 "BAE Systems" shall mean BAE Systems Imaging Solutions Inc. "Buyer" shall mean the Party placing the Order with BAE Systems. BAE Systems and Buyer may individually be referred to as a "Party" and collectively as the "Parties."
- 1.2 BAE Systems shall not be deemed to have any commitment or liability to Buyer until Buyer has placed a written purchase order ("Order") and has acknowledged these terms and conditions of sale ("Terms and Conditions"), and such Order has been accepted by BAE Systems in writing at its principal office ("Acceptance"). No statements or representations by any employee or agent of BAE Systems shall constitute an Acceptance or a binding commitment on BAE Systems' behalf.
- 1.3 All Orders and deliveries hereunder are subject to all the terms and conditions printed herein unless modified in writing by a duly authorized representative of BAE Systems.

**2 Scope.**

- 2.1 Precedence. These Terms and Conditions apply to all quotations / offers, Orders, and Acceptances entered into by BAE Systems. To the extent any such terms may conflict with any other terms of Buyer or any other party, these Terms and Conditions shall take precedence and all others are specifically rejected unless BAE Systems expressly agrees in writing. BAE Systems' failure to object to provisions contained in any communication from Buyer shall not be deemed an acceptance of such provisions or a waiver of any items within these Terms and Conditions. In the absence of written acceptance of these Terms and Conditions, acceptance of and/or payment for the products covered herein ("Products") implies the Buyer accepts these Terms and Conditions and, by the same, waives its own terms and conditions of purchase, if any, even if such purchase order explicitly states otherwise.
- 2.2 Entire Agreement. These Terms and Conditions, together with any and all other terms and conditions on the quotation / offer, Acceptance, and any and all attachments, and any language on Buyer's Order which is not in conflict with the preceding documents, constitute the entire agreement between the Parties relating to the sale of Products described on said Order and no addition or modification of any provision hereof shall be binding on either Party unless made in writing by a duly authorized representative of both Parties.
- 2.3 Prices. The prices are firm and not subject to audit, price revisions, or price redeterminations.
- 2.4 Specifications. BAE Systems will supply a Product pursuant to BAE Systems' published specifications and these Terms and Conditions to Buyer at prices in

accordance with BAE Systems' quotation or published prices. BAE Systems reserves the right to make corrections, modifications, enhancements, improvements, and other changes to the specifications, at any time, and/or to discontinue any Product or service without notice. In the event BAE Systems modifies a Product, BAE Systems has no obligation to modify, change, or replace any other Products previously delivered or to supply new Products without such modifications. Buyer should obtain the latest relevant specification before placing orders and should verify that such information is current and complete.

3 **Delivery and Shipment.** BAE Systems will deliver the Products within the delivery times stated under the Acceptance unless otherwise agreed to. Delivery dates stated are BAE Systems' best estimate of the delivery schedule. In the event of a force majeure event pursuant to Section 16 (Force Majeure), BAE Systems reserves the right to substitute reasonable alternative delivery dates without such substitution being considered a breach of the Order. All shipments of Product shall be Ex Works (EXW) BAE Systems' shipping facility pursuant to INCOTERMS 2010. All Products will be shipped in accordance with shipping instructions provided by Buyer. If Buyer fails to specify a carrier, BAE Systems will deliver to a carrier it deems most appropriate.

4 **Price.** All prices are exclusive of any present or future sales, use, value added, revenue, excise, or other taxes, customs or import duties (including brokerage fees), or any other government charges applicable to the Products covered by the Order or the Product's manufacture or sale, however designated, levied upon, or measured by the sale, the sales price, or use of the Products, material, or services required in the performance of the Order. BAE Systems will list separately on its invoice ("Invoice") any such applicable taxes, and payable by Buyer, unless Buyer furnishes to BAE Systems evidence of exemption (e.g., a Resale Certificate, Tax Exempt Certificate, or Direct Pay Certificate) acceptable to the taxing authority. Prices do not include any taxes, however characterized, transportation charges, or insurance costs, all of which, where applicable, shall be paid by Buyer. The total price includes packaging in accordance with BAE Systems' standard commercial practice. Special packaging will be at Buyer's expense.

5 **Payment.**

5.1 BAE Systems shall provide Invoices to Buyer showing the Order number, Product description, quantity, delivery dates, and price, and the shipping, taxes, insurance, and other charges initially paid by BAE Systems but to be borne by Buyer. Payment amounts shall be made pursuant to the Acceptance and Invoice.

5.2 All Invoices are due and payable as of the date of Invoice. Late payments may be charged interest of nine percent (9%) per annum pro rata. Payment shall be made in full in immediately available U.S. Dollars, to BAE Systems, by check, bank wire transfer, or other form of electronic payment, or as otherwise determined by Buyer and BAE Systems. The terms of payment may be changed or credit withdrawn at any time and BAE Systems may require full or partial payment in advance. Payments are unconditional and are without recourse, set off, or discount. If Buyer shall fail to make any payment in accordance with the Acceptance and Invoice, BAE Systems, in

addition to its other rights and remedies, may, at its option, defer shipments or deliveries under this or under any other contract with Buyer. Buyer will execute and furnish to BAE Systems any security interests and documents necessary to protect BAE Systems' interest in the Products until full payment of the total price is made. In the event any proceeding is brought by or against Buyer under the bankruptcy, insolvency, or similar laws, BAE Systems shall be entitled to ship any Order C.O.D. or to cancel any Order then outstanding and shall receive reimbursements for reasonable cancellation charges.

- 5.3 Each shipment shall be considered a separate and independent transaction, and payment shall be made accordingly. If BAE Systems' performance is delayed by Buyer, BAE Systems shall invoice and Buyer shall pay (i) for Products ready for shipment at the purchase price and (ii) for the work in process at the time of delay based upon the percentage of completion. Work in process will be held for a reasonable time at Buyer's sole risk and expense and shall be completed only at Buyer's request during such time and at Buyer's cost. Delivery of a quantity that varies from the quantity specified in the Order shall not relieve Buyer of its obligation to accept delivery and pay for the Products delivered.
- 5.4 Government Contracts. Unless otherwise agreed to in writing by authorized personnel between BAE Systems and Buyer, no term or condition required in any U.S. Government contract or related subcontract shall be part of this Agreement or binding upon BAE Systems. This Agreement and its terms and conditions are intended strictly for application to Products for sale to and use by commercial end-users, and not by local, state, or federal governmental end-users. Any BAE Systems products destined for sale to or use by governmental purchasers and/or end users shall be governed by separate terms and conditions. Therefore, BAE Systems rejects any government provisions included in, or referred to, by Buyer's request for quotation, order, or any other document. Unless otherwise agreed upon in writing, certified cost or pricing data will not be provided and Cost Accounting Standards, Defective Pricing, and Audit requirements will not apply.

## 6 **Warranty.**

- 6.1 BAE Systems warrants that title to Products conveyed shall be good and that the Products are free of any security interest or lien except that BAE Systems shall have a security interest in the Products until the purchase price is paid in full.
- 6.2 BAE Systems warrants that any of its Products furnished under these Terms and Conditions: (i) will at the time of shipment be free from defects in material and workmanship under normal use and service; and (ii) will conform to the specifications. BAE Systems' sole obligation shall be limited to, at BAE Systems' option, either crediting Buyer the purchase price of, repairing, or replacing, any Products for which: (i) written notice of nonconformance is received within one (1) year after original shipment; and (ii) after BAE Systems' authorization, are returned to BAE Systems' factory of origin, freight charges prepaid; and (iii) after examination, are determined solely by BAE Systems to be nonconforming. Any

replacement under this Section 6 shall not extend the period within which this warranty may be asserted.

- 6.3 This warranty shall not apply to Products which BAE Systems determines have, by Buyer or any third party, (a) not been properly maintained or have been subjected to operating and/or environmental conditions greater than the maximum values in the applicable specifications; (b) otherwise have been subjected to misuse, neglect, abuse, repair unauthorized by BAE Systems, alteration, modification, damage, or improper installation; or (c) Products acquired through unauthorized sales channels.
- 6.4 Use of Products in Life Support, Nuclear, and Other High Risk Applications. The Products are not designed, intended, authorized, or warranted for use in life support, life sustaining, aviation, aeronautic, nuclear, or other applications, including, but not limited to, public transportation operating systems, in which the failure of such Products could reasonably be expected to result in personal injury, death, severe property damage, or environmental damage. The Buyer acknowledges that use of the Products in such applications is fully at the risk of the Buyer and that the Buyer is responsible for verification and validation of the suitability of the Products in such applications. The Buyer agrees that BAE Systems is not and shall not be liable for any claim or damage arising from the use in or with such application. The Buyer agrees to indemnify, defend, and hold BAE Systems harmless from and against any and all claims, damages, losses, costs, expenses, and liabilities arising out of or in connection with such use. The Buyer shall not sell, transfer, export, or re-export any BAE Systems Products or technology for use in activities which involve the design, development, production, use or stockpiling of nuclear, chemical or biological weapons or missiles, nor use BAE Systems Products or technology in any facility which engages in activities relating to such weapons, unless BAE Systems has given its prior written approval of such sale, transfer export or re-export.
- 6.5 It is Buyer's sole responsibility to ensure the Product is suitable and fit for the application planned by Buyer and to do the necessary testing for the application in order to avoid a default of the application or the product. Weaknesses in Buyer's product designs may affect the quality and reliability of the BAE Systems Product and may result in additional or different conditions and/or requirements beyond those contained in the specification.
- 6.6 Any documentation, such as physical or electronic websites, data sheets, catalogues, price lists, specifications, illustrations, drawings, and measurements, shall be considered as approximations only unless they are expressly declared to be binding. The warranty provided by BAE Systems shall not be expanded, and no obligation or liability will arise, due to technical advice or assistance, computerized data, facilities, or services BAE Systems may provide in connection with Buyer's purchase of Products.
- 6.7 **DEVELOPMENT PRODUCT(S), PROTOTYPE(S), OR OTHER NON-PRODUCTION PRODUCT(S), SAMPLES OF PRODUCTION PRODUCT(S), AND SOFTWARE ARE NOT WARRANTED AND ARE PROVIDED ON AN "AS IS" BASIS ONLY.**

- 6.8 **BAE SYSTEMS DOES NOT GUARANTEE THAT THE OPERATION OF THE WARRANTED PRODUCT WILL BE UNINTERRUPTED OR ERROR FREE. BAE SYSTEMS DOES NOT WARRANT ANY SOFTWARE PRODUCTS UNDER THESE TERMS AND CONDITIONS. BAE SYSTEMS DOES NOT WARRANT THE PRODUCT FOR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE. THIS WARRANTY MAY BE ASSERTED BY BUYER ONLY AND NOT BY BUYER'S CUSTOMERS OR USERS OF BUYER'S PRODUCTS.**
- 6.9 **THIS SECTION 6 CONSTITUTES BAE SYSTEMS' ENTIRE WARRANTY AND BUYER'S SOLE REMEDY WITH RESPECT TO ANY DEFECT OR NONCONFORMANCE IN PRODUCTS PROVIDED BY BAE SYSTEMS. THESE WARRANTIES AND REMEDIES ARE EXCLUSIVE AND IN PLACE OF ALL OTHER WARRANTIES, EXPRESSED, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE, SATISFACTORY QUALITY, NON-INFRINGEMENT, OR THOSE ARISING FROM COURSE OF DEALING, USAGE, OR IN TRADE PRACTICE.**
- 7 **Ownership and License.**
- 7.1 Buyer acknowledges and agrees that BAE Systems has invested substantial resources in the Intellectual Property of the Products provided under the Order both before the placement of the Order and during the performance period. The total price set forth does not reflect the cost to BAE Systems of such Intellectual Property. BAE Systems will retain all right, title, and interest, including all Intellectual Property Rights, in and to the Technical Manufacturing Information developed under the Order including any Pre-Existing Intellectual Property with respect to the Product, performance concepts provided by Buyer that may have influenced the final design of the Product, or any image sensor or camera product developed during the period of performance of the Order.
- 7.2 For the purposes of these Terms and Conditions: (a) "Intellectual Property" shall mean, but not be limited to, patents, registered designs or other design rights, trademarks, domain names, copyright, database rights, moral rights, utility models, and any other intellectual or industrial property rights of any similar or equivalent nature or forms of protection (whether registered or unregistered and whether or not such rights are capable of registration), including without limitation those subsisting in inventions, know-how, technical information, mask works, topography information, designs, drawings, computer programs, business names, goodwill, and trade dress; (b) "Intellectual Property Rights" shall mean all ownership and other rights to Intellectual Property, however configured or construed, including but not limited to all applications (or rights to apply) for and renewals or extensions of such rights and any rights existing or arising in law or equity in relation to the same which may exist before, on or after the date of the Agreement in any part of the world together with any and all rights (including rights of use) pertaining to proprietary (confidential) information, trade secrets, technical information, and commercial

information; (c) "Pre-Existing Intellectual Property" means any Intellectual Property that has been conceived or developed before performance of the Order; and (d) "Technical Manufacturing Information" means any manufacturing or fabrication information, process, and/or technology used by BAE Systems or third parties under its control to design, develop, test, fabricate, or manufacture the Product including, but not limited to: (i) specifications, software, schematics, designs, patterns, processes, drawings, or other materials pertinent to the most current revision level of manufacturing of the Product, including any mask work and topography information; (ii) copies of all inspection, manufacturing, testing procedures, and quality control procedures, and any other work processes; (iii) jig, fixture, and tooling designs; (iv) BAE Systems history files; and (v) support documentation.

- 7.3 Buyer's acquisition of the Products under these Terms and Conditions shall not be construed to confer any rights upon Buyer by implication, estoppel, license, or otherwise as to any BAE Systems Intellectual Property. Buyer shall not copy, reproduce, reverse engineer, decompile, or disassemble Products and/or their designs. Buyer shall not use, either directly or indirectly, in whole or in part, any trademark, service mark, trade name, corporate name, or other mark, name, title, or term that is now or subsequently owned, created, used, or licensed by BAE Systems, (collectively, "Trade Names"), or remove or alter any proprietary notice concerning copyrights, Trade Names, or other intellectual and industrial property rights from the Products, except in the manner and to the extent that BAE Systems may specifically authorize in writing before any such use. Except as provided in these Terms and Conditions, BAE Systems does not grant to Buyer any right, title, or interest in or to any software, trade secret, copyright, patent, or Trade Names, all of which are exclusively owned by and reserved to BAE Systems.
- 7.4 BAE Systems grants to Buyer, under its Intellectual Property Rights in its Intellectual Property, Pre-Existing Intellectual Property, and Technical Manufacturing Information, a limited, non-exclusive, nontransferable, indivisible, royalty-free license only to use, display, distribute, import, offer to sell, and sell the Product worldwide, except as restricted by Section 17 (Export Law Compliance).

## 8 **Limitation of Liability.**

- 8.1 **IN NO EVENT SHALL BAE SYSTEMS BE LIABLE TO BUYER OR BUYER'S CUSTOMERS FOR ANY PRODUCT LIABILITY CLAIMS.**
- 8.2 **IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY PUNITIVE, EXEMPLARY, SPECIAL, CONSEQUENTIAL, COLLATERAL, INDIRECT, OR INCIDENTAL DAMAGES (ALLEGED TO ARISE FROM, OR RELATE TO THE PRODUCTS AND/OR THE ORDER OR ACCEPTANCE, HOWEVER OR WHENEVER CAUSED).**
- 8.3 **EXCLUDED DAMAGES INCLUDE, BUT ARE NOT LIMITED TO, LOSS OF PROFIT OR REVENUE, LOSS OF DATA, LOSS OF USE OF THE PRODUCTS OR ANY**

**ASSOCIATED EQUIPMENT, DAMAGE TO ASSOCIATED EQUIPMENT, COST OF CAPITAL, COST OF SUBSTITUTE PRODUCTS OR SUBSTITUTE FACILITIES, DOWN TIME COSTS, BUSINESS INTERRUPTION, OR CLAIMS OF THE OTHER PARTY'S CUSTOMERS FOR SUCH DAMAGES, REGARDLESS OF WHETHER SUCH DAMAGES ARISE OUT OF BREACH OF ORDER, WARRANTY, CONTRACT, OR TORT (INCLUDING NEGLIGENCE), OR ANY OTHER LEGAL THEORY, EVEN IF A PARTY HAS BEEN ADVISED OF, KNEW OF, OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.**

8.4 **EACH PARTY'S CUMULATIVE LIABILITY (IF ANY) TO THE OTHER FOR ALL CLAIMS OF DIRECT DAMAGE OF ANY KIND RESULTING FROM EACH PARTY'S PERFORMANCE OR BREACH OF THE ORDER OR ACCEPTANCE, OR FROM THE PRODUCTS SUPPLIED TO BUYER, SHALL NOT EXCEED A FORMULA THAT EQUATES TO THE EQUIVALENT OF THE PRICE OF THE PRODUCT(S) WHICH IS (ARE) THE SUBJECT OF A CLAIM.**

9 **Indemnification.**

9.1 BAE Systems will defend Buyer against any claim of infringement of a United States patent brought against Buyer to the extent that such claim pertains to the Products supplied to Buyer, provided that Buyer gives BAE Systems prompt written notice of such claim and the right to maintain sole control of the defense and all negotiations for settlement or compromise of such claim. If a final injunction is obtained against Buyer's use of the Products or a portion of the Products as a result of infringement of a United States patent, BAE Systems will, at its option and expense, procure for Buyer the right to continue using the Products, replace the Products, modify the Products so they become non-infringing, or grant Buyer credit for the then current value of the Products, or portion thereof, as agreed upon and accept the Products' return. Under the terms of these Terms and Conditions, BAE Systems will not accept any liability nor hold any person harmless from infringement claims relating to: (i) Products supplied by BAE Systems which have been manufactured or produced by others and which carry the original manufacturer's or producer's patent indemnification; (ii) Products purchased hereunder but altered by Buyer or others; (iii) a combination of the Products hereunder and other equipment; or (iv) any claim of infringement of a non-United States patent. The foregoing states the entire liability of BAE Systems with respect to infringement of patents by the Products or any part thereof or by their use.

9.2 Buyer shall defend, indemnify, and hold harmless BAE Systems, together with its affiliated companies, and the officers, directors, employees, and agents of each, from and against any and all losses, damages, liabilities, claims, demands, and causes of action arising out of (i) an allegation that the use of the Products, either in connection with other material or equipment, or in the operation of any process, or as used in any Altered Goods infringes any patent or other intellectual property right, (ii) any allegation that the Products infringe any patent or other intellectual property right, when such Products were manufactured / modified pursuant to Buyer's

designs, specifications, and/or formulae and were not normally offered for sale by BAE Systems, (iii) Buyer's failure to comply with any of the following: Section 17 (Export Law Compliance), Section 18 (Corrupt Practices Prohibition), or Section 20 (Compliance With Laws), (iv) allegations of personal injury or death to Buyer's employees, agents, servants, and subcontractors or third parties, either arising from or relating to the Products delivered under this Agreement or from said person's presence on BAE Systems' premises, and/or (v) damage to property of Buyer, Buyer's employees, agents, servants, and subcontractors or third parties arising from the Products.

- 9.3 If either Party receives notice of a claim or lawsuit relating to the manufacture, use or sale of the Products, such Party shall promptly notify the other Party in writing of such claim or lawsuit. The indemnifying Party shall have the right to select the counsel, assume full control of the defense and settlement of any such claim, including without limitation any reasonable modification of the Products which may be appropriate to be used in fulfilling its defense and indemnification obligations. The indemnifying Party shall not be responsible for any compromise made without its consent. The Parties agree that the provisions of this Section 9 will survive the termination of the Order.

## 10 **Termination.**

- 10.1 The Order may be terminated by either Party for cause in the event: (i) of a breach or default by the other Party of a material obligation under the Order and/or Acceptance which is not remedied within ninety (90) days after written notice, (ii) a Party becomes insolvent, makes an assignment for the benefit of creditors, files a petition in bankruptcy, be adjudged bankrupt, becomes an involuntary participant in a bankruptcy proceeding, if such proceedings are not dismissed within sixty (60) days after commencement, or (iii) a Party is placed in the hands of a receiver, or otherwise be involuntarily placed into bankruptcy, or otherwise have its charter of incorporation relinquished or cancelled. The equivalent of any of the proceedings or acts referred to in this paragraph, though known and/or designated by some other name or term, shall likewise constitute a ground for termination of the Order. Notwithstanding anything else in these Terms and Conditions, BAE Systems may suspend or terminate the Order without liability and without notice at any time upon learning information giving it a reasonable belief that Buyer may have violated, or may have caused BAE Systems to violate, any of the following: Section 17 (Export Law Compliance), Section 18 (Corrupt Practices Prohibition), Section 19 (No Distribution or Representation), or Section 20 (Compliance With Laws).
- 10.2 Either Party may terminate the Order for convenience with thirty (30) days advanced written notice. In the event Buyer terminates for convenience, the Products ordered by Buyer in the possession or control of BAE Systems which have been completed and scheduled to be shipped within the thirty (30) day period, but not yet shipped ("Deemed Delivered"), shall be delivered to Buyer as part of this termination. Buyer shall pay for the quantity of Products delivered and Deemed Delivered at the negotiated price between the Parties. For ordered Products which are work in process



but not completed, Buyer shall pay to BAE Systems all incurred direct and indirect costs including reasonable fees. BAE Systems will use commercially reasonable efforts to return unused material items in inventory and to cancel pending orders for such materials and to otherwise mitigate the impact of such termination. Any Order that is cancelled by Buyer is subject to a price change. The final determination on the reasonable efforts from the preceding sentence shall be solely determined by BAE Systems.

11 **Proprietary (Confidential) Information.** It hereby acknowledged and agreed that any proprietary information exchanged under the Order, and all Intellectual Property Rights under the Order or otherwise, including Pre-Existing Intellectual Property and Technical Manufacturing Information, shall fall subject to the protections provided by the Non-Disclosure Agreement or Proprietary Information Agreement previously executed between the Parties. If the Parties have not executed a Non-Disclosure Agreement or Proprietary Information Agreement, then the following shall control:

11.1 All materials and Product(s) furnished by BAE Systems and identified as containing proprietary information must be held in confidence by the recipient using at least the degree of care the recipient uses for its own proprietary information, but no less than reasonable care. Except as required by law, the recipient may not disclose such materials or proprietary information except to its own employees who require use of the materials in the performance of their duties and who are bound by a duty of confidentiality under terms no less restrictive than contained herein concerning the use of proprietary information. All proprietary information shall be held in confidence by the recipient for five (5) years after receipt.

11.2 Buyer acknowledges that BAE Systems' proprietary information is unique property of extreme value to BAE Systems, and that the unauthorized use or disclosure would cause BAE Systems irreparable harm that could not be compensated by any monetary damages. Accordingly, Buyer agrees that BAE Systems will be entitled to injunctive and preliminary relief to remedy any actual or threatened unauthorized use or disclosure of BAE Systems' proprietary information.

12 **Independent Contractor / Exclusivity.** Each Party is as an independent contractor hereunder. No agency, partnership, joint venture, employment, franchise, or other joint relationship is created by the Order. Any Products sold to Buyer are sold on a non-exclusive basis, and either party shall be free to procure or sell products and services identical or similar to those covered by these Terms and Conditions from or to other parties.

13 **Successors and Assigns.** Except as expressly provided in the Acceptance, the provisions of these Terms and Conditions are binding upon, and inure to the benefit of, the Parties and their respective successors and assigns; provided, however, that no Party may assign, delegate, or otherwise transfer any of its rights or obligations under the Order or these Terms and Conditions without the written consent of the other Party (except to a legally recognized successor in interest to all or substantially all of the Party's assets). Such consent shall not be unreasonably withheld.

14 **Governing Law/Forum.** The Order, these Terms and Conditions, and all matters arising from or related to them shall be interpreted, construed and governed under the laws of the State of New York, U.S.A., excluding its choice of law rules. Forum for any dispute shall be any court of competent jurisdiction within the City and State of New York, New York, U.S.A., and Buyer consents to such jurisdiction. Any dispute, controversy, or claim arising out of or relating to the Order and these Terms and Conditions, or the breach, termination, or invalidity of one or both of these documents, which remains unresolved after a reasonable time, shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules then in force. The appointing authority will be the American Arbitration Association. The case will be administered by the American Arbitration Association in accordance with its procedures for cases under the UNCITRAL Arbitration Rules. The place of arbitration will be New York, New York, U.S.A., and shall be subject to New York convention enforceability. The arbitration panel shall consist of three (3) arbitrators. The arbitrators shall be fully qualified lawyers. The arbitrators' decision will be final and binding upon, and will be the sole and exclusive remedy of, the Parties who, by conducting transactions under these Terms and Conditions, hereby expressly waive any and all right to judicial review of the arbitrators' decision. The arbitrators' award will be enforceable in the courts of the United States and in the courts of any nation in accordance with its laws.

15 **Waivers.** No release, discharge, or waiver of any provision of these Terms and Conditions shall be enforceable against or binding upon either Party hereto unless in writing and executed by both Parties. Neither the failure to insist upon strict performance of any of the agreements, terms, covenants, or conditions, nor the acceptance of moneys due hereunder with knowledge of a breach of the Acceptance, shall be deemed a waiver of any rights or remedies that either Party may have, or a waiver of any subsequent breach or default, in any such agreements, terms, covenants, and conditions. Further, no waiver by either Party of any breach or default by the other Party shall constitute a waiver of any other breach or default of the same or any other provisions of the Acceptance.

16 **Force Majeure.** The obligations of the Parties shall be suspended by the occurrence of any unforeseeable event beyond the control of the Parties which renders performance impossible or onerous, such as acts of God, quarantines, regional medical crises, war, armed conflict, insurrection, civil unrest, terrorist act, riot, strife, civil disobedience, sabotage, fire, explosion, flood, earthquake, casualty, inability to obtain suitable and sufficient labor or materials due to labor strikes or difficulties, or law or regulation restricting performance. When performance is excused, BAE Systems will allocate its services or its supplies of materials and Products in any manner that is fair and reasonable.

17 **Export Law Compliance.**

17.1 Products sold to Buyer may be controlled by U.S. export laws. Buyer agrees to comply with all rules and regulations mandated by the U.S. Government that govern exports or otherwise pertain to export controls, including, without limitation, the International Traffic-In-Arms Regulations (ITAR) and the Export Administration Regulations (EAR). When asked by BAE Systems, the final destination and intended use of all Products purchased under an Order (when known by Buyer) shall be identified to BAE Systems before acceptance of the Order.

17.2 In the event any of the Products under the Order or these Terms and Conditions are restricted for export under the ITAR or EAR (excluding EAR99) rules and regulations, the export of the Products purchased under the Order shall be contingent upon obtaining an export license or other authorization, as required, from either the U.S. Department of State or U.S. Department of Commerce as appropriate. Buyer will cooperate with BAE Systems as reasonably necessary to comply with the U.S. export authorization, including agreeing to any additional mandatory U.S. Government clauses required for the license or other authorization, and providing end-user certification. BAE Systems will not be liable for failure of the U.S. Government to issue an export license or other authorization, or for any withdrawal of such license or other authorization by the U.S. Government. The rights and obligations of the Parties are subject to such license or other authorization, any future or revised licenses, or other authorizations, and the laws and regulations of the U.S. Government. If any required U.S. export license or other authorization is not issued or is withdrawn, the Order may be terminated by either Party on thirty (30) days written notice, and Buyer will pay BAE Systems' costs of performance through the effective date of termination of the Order.

18 **Corrupt Practices Prohibition.** Buyer certifies and represents that it has not made or solicited, and will not make or solicit, any offer, payment, promise to pay, or authorization to pay any money, gift, or anything of value to any governmental official or any political party, party official, or candidate, either directly or through an intermediary, to illegally influence any official act, omission, or exercise of influence by the recipient, in order to assist BAE Systems or Buyer in obtaining or retaining business that includes a BAE Systems Product.

19 **No Distribution or Representation.**

19.1 Buyer agrees and certifies that it will not represent BAE Systems and therefore shall not act as a manufacturer's representative.

19.2 Buyer agrees and certifies that it (i) is an Original Equipment Manufacturer ("OEM") or Value Added Reseller ("VAR") and (ii) will not purchase the Products from BAE Systems for distribution of any kind without the prior expressed written consent of BAE Systems. For these Terms and Conditions, (i) to be considered an OEM, a Buyer must install the Product into a next assembly product, and said next assembly product must add a minimum of 25% value to the BAE Systems' Product, and (ii) to be considered a VAR, a Buyer must pair the Product with another product, and said paired product must be a minimum of 25% greater value than the BAE Systems' Product.

20 **Compliance with Laws.** Buyer agrees to comply with all applicable laws, codes, and regulations of the United States and of the country of destination (including export laws and regulations) and assumes the responsibility for providing and installing any and all devices for the protection of safety and health relative to the Products.

21 **Titles and Headings.** The headings to the sections of this Terms and Conditions are inserted for convenient reference only and will not be considered a part of this Terms and Conditions.

22 **Notices.** Any notice or other communication required or permitted by these Terms and Conditions must be in writing and will be deemed given and effective (a) when delivered personally, (b) one business day following confirmed transmission by fax, email, or delivery by overnight courier service, or (c) three business days after the postmark date if mailed by certified or registered mail, postage prepaid, return receipt requested, addressed to the recipient at its respective address first stated above, or to such other address as such Party may designate from time to time in a written notice to the other Party in accordance with the provisions of this Section 22.

23 **Severability.** If a court of competent jurisdiction declares or determines that any provision of these Terms and Conditions is invalid, illegal, or unenforceable, the invalid, illegal or unenforceable provision(s) shall be deemed not a part of the Terms and Conditions, but the remaining provisions shall continue in full force and effect.

24 **Survival.** The Parties agree that those Sections that should survive, shall survive after termination of these Terms and Conditions.

25 **Counterfeit Product Notice.** Counterfeit products may be improperly offered by others complete with counterfeit exterior packaging, part numbers, and other auxiliary materials. These counterfeit products are of an inferior quality or performance. There is a high risk that the use of these counterfeit products can lead to a reduction of product life and reliability, including product failure. BAE Systems will not be liable to any party for any claim, liability, or damage resulting directly or indirectly from the use of any counterfeit product. To avoid the inadvertent purchase of counterfeit products, please be sure to purchase directly from BAE Systems or through our authorized distributors and sales representatives.

**Issued June 1, 2016**

End of Terms and Conditions