

The Seller shall include in each lower-tier subcontract the appropriate flow-down clauses below.

1. **Definitions:** The following definitions apply unless otherwise specified in a Butler National Corporation document: (a) "PO" or "Purchase Order" or "Order" or "Contract" — means the Purchase Order along with these Terms and Conditions of Purchase, and any referenced special or supplemental provisions, drawings, technical data, specifications, any statement of work, quality provisions (in all cases including any changes), and all other documents incorporated herein; (b) "Buyer" or "BUTLER NATIONAL CORPORATION" — means the legal entity issuing this PO to include and its parent company or any affiliate company; (c) "Procurement Representative" — the individual authorized to issue the PO as the Buyer's authorized representative; (d) "Seller" or "Contractor" or "Offeror" — means the legal entity contracting with the Buyer for the purposes of this PO; (e) "Work" — means all required labor, articles, materials, products, supplies, parts, assemblies, data, documents, drawings, goods, items, and services constituting the subject matter of this PO; (f) "Promise Date" or "Scheduled Delivery Date" — means the scheduled date of receipt at destination (not the ship date) irrespective of FOB point; (g) "Subcontractor" — means any legal entity contracting with the Seller or Seller's subcontractors under this PO; (h) "Seller Engaged Personnel" — means any of Seller's employees, Seller's contingent, contract or temporary workers, or Seller's agents or Subcontractors (and their employees) engaged, directed, or allowed by Seller to provide Work, directly or indirectly, to Buyer under this PO.

2. **Entirety of Agreement:** (a) Seller agrees to provide and sell to Buyer the Work, per the requirements and the Scheduled Delivery Dates described in the PO. (b) The PO constitutes the complete and entire agreement between the parties hereto and unless agreed otherwise in writing, and the PO supersedes all previous negotiations, discussions, communications, representations, course of dealing, usage of trade, or agreements, whether oral or written, between the parties hereto with respect to the subject matter hereof except for any written non-disclosure or confidentiality agreements. No agreement or understanding varying, contradicting or extending the terms or conditions of this PO, including but not limited to Seller provided terms and conditions included within a quote, proposal, order acknowledgement or like document, will be binding unless in writing, expressly incorporated in the PO, and signed by duly authorized representatives of both Buyer and Seller. Acceptance of this PO by the Seller will be by any one of the following: (1) acknowledgment in writing, (2) commencement of performance by the Seller; or (3) delivery in whole or in part of the Work called for hereunder.

(c) Any inconsistencies in the PO shall be resolved in accordance with the following descending order of precedence: (1) these Terms and Conditions of Purchase; (2) the face of the Purchase Order and/or task order, release document, or schedule (including any continuation sheets), as applicable; (3) any supplementary terms, conditions or provisions referenced in the PO; and (4) the statement of work and other documents included with or incorporated into the PO by reference.

3. **Changes:** Buyer may at any time by a written order issued by its Procurement Representative, suspend performance of this PO in whole or in part, and make changes to this PO, including changes to the following: drawings, designs, specifications, provisions and instructions of this PO, method of shipment and/or packing, delivery schedule, place of delivery, quantity of Work, scope of Work, Buyer furnished material and property, and inspection and acceptance requirements. Seller shall proceed immediately to perform this PO as changed. If any such change causes an increase or decrease in the cost of or the time required for performance of this PO, or otherwise affects any other provisions of this PO, an equitable adjustment shall be made in the purchase price and/or delivery schedule as agreed to in writing by Buyer, and the PO modified in writing accordingly. Any claim by the Seller for adjustment under this Clause must be asserted in writing within twenty (20) days from the date of receipt by the Seller of the notification of change. Nothing in this Clause 3 shall excuse the Seller from proceeding with the PO as changed.

4. **Product Changes/ Part Obsolescence:** Seller shall provide written notification to Buyer prior to making any changes to Seller's tooling, facilities, materials, or processes, and/or provide written notification to Buyer upon becoming aware of any such changes by Seller's Subcontractors at any tier, that could affect the Work in this PO. This includes but is not limited to changes to fabrication, assembly, handling, inspection, acceptance, testing, manufacturing location, parts, materials, or suppliers. Seller shall notify Buyer of any pending or contemplated future action to discontinue Work purchased pursuant to this PO and shall allow Buyer to submit a forecast of expected annual usage prior to Seller finalizing its decision to discontinue the Work. Seller shall provide Buyer with a "Last Time Buy Notice" at least twelve (12) months prior to the actual discontinuance. Seller shall extend opportunities to Buyer to place last time buys of such Work with deliveries not to exceed one hundred eighty (180) days after the last time buy date.

5. **Superseding Specifications:** The specifications incorporated herein may include references to other Buyer, Buyer customer, or US Government

specifications. Such referenced specifications shall include all revisions and supplements thereto which have been released prior to the issuance of Seller's last quotation.

6. **Delivery and Notifications:** (a) Time is of the essence and Seller shall furnish the Work covered by this PO in accordance with the delivery schedule stated on the face of this PO. Unless otherwise agreed to in writing by Buyer, Seller shall not make material commitments or production arrangements in excess of the amount or in advance of the time reasonably required to meet Buyer's delivery schedule. Seller shall strictly adhere to this PO Scheduled Delivery Date(s) and completion schedule(s). If the Seller fails to deliver in accordance with the schedule, Buyer will be entitled, at its election and its sole discretion, to either a price reduction for late deliveries, or the right to terminate this PO for default for late deliveries. Any expenses, costs or damages incurred by Buyer as a result of this default or any other non-compliance with the terms of this PO may, at the discretion of Buyer, be offset against any sum owing under this or any other PO between Buyer and Seller, or charged back to Seller.

(b) In the event of any anticipated or actual delay in the performance of this PO, Seller will immediately notify the Buyer in writing of the reasons for the delay and the actions being taken to overcome or minimize the delay along with a written recovery schedule. If Buyer requests, Seller shall, at Seller's expense, ship via air or other expedited routing to avoid or minimize any delay.

7. **Disputes:** In the event of any dispute arising under or relating to this PO ("Dispute"), the parties agree to use commercial good faith efforts to resolve informally any controversy, claim or dispute through negotiations within 60 days of written notice of a Dispute, unless otherwise extended by written agreement.

In the event such efforts fail, the parties agree to forsake litigation and shall thereafter submit such Dispute to final, exclusive and binding arbitration administered by the American Arbitration Association pursuant to its Commercial Rules in effect as of the date hereof, and judgment upon the award rendered by the arbitral tribunal may be entered in any court having jurisdiction thereof. The arbitration proceedings shall be conducted before a panel of three neutral arbitrators (unless the parties agree to one arbitrator), all of whom shall be members of the Bar of the State of Arizona, actively engaged in the practice of law for at least five years. The place of the arbitration shall be Maricopa County, Arizona and shall be conducted in the English language. The arbitrators will have no authority to award punitive damages or any other damages not measured by the prevailing party's actual damages, and may not, in any event, make any ruling, finding or award that does not conform to the terms and conditions of the PO. The award shall be in writing, and the tribunal shall state the basis for the award. All fees and expenses of the arbitration shall be borne by the parties equally. However, each party shall bear the expense of its own counsel, experts, witnesses, and preparation and presentation of proofs. The arbitration and all proceedings shall be confidential and neither executing party nor the arbitrators may disclose to any third party the existence, content (including communications, documents and pleadings), or results of any arbitration hereunder without the prior written consent of each executing parties.

Notwithstanding the foregoing, any executing party may resort to any court of competent jurisdiction to the extent reasonably necessary to (i) avoid expiration of a claim that might eventually be permitted, (ii) obtain interim relief, including injunctive relief, to preserve the status quo or prevent irreparable harm, or (iii) vindicate a party's intellectual property rights, including, without limitation, the recovery of money damages for infringement or other misappropriation. For purposes of this Agreement, the parties consent to the exclusive jurisdiction of the State of Arizona and federal courts or state courts located in Maricopa County.

8. **Waivers/Approvals:** (a) Failure of Buyer to enforce at any time any provision of this PO, or any rights in respect thereto, or to exercise any election therein provided, shall in no way be considered to be a waiver or relinquishment of the right to thereafter enforce such provisions or rights or exercise any subsequent elections. Any and all of the rights and remedies conferred upon Buyer under this PO shall be cumulative and in addition to, and not in lieu of, the rights and remedies granted by law. If any provision of this PO becomes void or unenforceable by law, the remaining shall be valid and enforceable.

(b) No waiver, alteration, or modification of any of the provisions of this PO shall be binding on Buyer unless evidenced by a written change or modification to this PO signed by the Procurement Representative. Buyer's approval of Seller's design or Work shall not relieve Seller of the warranties or any other requirements of this PO. Waivers by Buyer of any drawings or specification requirements for one or more Work items shall not constitute a waiver of such requirements for the remaining Work unless so stated in writing by Buyer.

9. **Technical Direction and Seller Responsibilities:** (a) All communication between Seller and Buyer affecting the Work to be furnished shall be through the Procurement Representative. Buyer technical personnel may provide written technical direction. However, technical direction and management surveillance shall not impose tasks and requirements upon the Seller that are additional to or different from the general tasks and requirements established in the PO. The technical direction, to be valid: (1) must be issued in writing consistent with the general scope of the Work as set forth in this PO; and (2) shall not commit Buyer to any adjustment of the price, schedule or other PO provisions.

(b) If any technical direction is interpreted by the Seller to fall within the Clause entitled "Changes", the Seller shall notify Buyer Procurement Representative immediately in writing or via fax of such interpretation. Such notice shall include the Seller's best estimate as to revision in estimated price, performance time, delivery schedules and any other issues that would result from implementing the technical direction.

(c) If, after reviewing the information, the Buyer is of the opinion that such direction is within the purview of the "Changes" Clause and considers such changes desirable, Buyer will issue unilateral direction to proceed pursuant to the authority granted under this Clause. In the event the Buyer determines that it is necessary to avoid a delay in performance of the PO, Buyer may, in writing, direct the Seller to proceed with the implementation of the technical direction pending receipt of the information to be submitted under paragraph (b) above. Should Buyer later determine that change direction is appropriate; the written direction issued hereunder shall constitute the required change direction.

(d) Failure of the Seller and the Buyer to agree on whether direction is technical direction or a change within the purview of the "Changes" Clause shall be a dispute under the "Disputes" Clause. Any action taken by the Seller in response to any direction which falls within the purview of the "Changes" Clause given by any person other than the Procurement Representative shall be at the Sellers own risk.

10. **Counterfeit Parts:** (a) For purposes of this Clause, the term "Parts" consists of those parts delivered under this PO that are the lowest level of separately identifiable items (e.g., articles, components, goods, and assemblies). The term "Counterfeit Part" means a Part that fulfills any or all of the following: 1) is or contains items misrepresented as having been designed, produced and/or tested under an approved system or other acceptable method; 2) is an item altered to resemble a product without authority or right to do so, or is an imitation of another product, with the intent to mislead or defraud by presenting the imitation as original or genuine; 3) is an approved Part that has reached a design life limit or has been damaged beyond possible repair, but is altered and misrepresented as acceptable; or 4) is a used, refurbished, sample, or reclaimed item passed off as a new one.

(b) Seller agrees and shall ensure that Seller and Seller Engaged Personnel shall deliver no Counterfeit Parts to Buyer. Seller shall only purchase items to be delivered or incorporated as Parts directly from the original component manufacturer /original equipment manufacturer, or through an authorized distributor. Parts shall not be acquired from independent distributors or brokers unless approved in advance in writing by Buyer. Seller shall, at its expense, promptly replace any delivered Counterfeit Part with a genuine Part conforming to the requirements of this PO. Notwithstanding any other provision herein, Seller shall be liable for all costs relating to the removal and replacement of Counterfeit Parts, including without limitation costs borne by Buyer, its customer or subcontractor associated with removing Counterfeit Parts, of reinserting replacement Parts and of any testing necessitated by the need to identify the Counterfeit Parts and the reinstallation of Parts after Counterfeit Parts have been exchanged. The remedies contained in this Clause are in addition to any remedies Buyer may have at law, equity or under other provisions of this PO.

11. **Unidentified, Suspect, and Non-Conforming Parts:** The Buyer uses its reasonable efforts to: identify and control all unidentified, suspect, and non-conforming Work (product) to prevent it unintended use or delivery, have a documented procedure to define the controls and related responsibilities and authorities to deal with non-conforming product. All unidentified, suspect, and non-conforming Work (product) must be resolved by Seller by at least:

- a) Take action to eliminate the nonconformity;
 - b) Authorize its use, release, acceptance (under concession) by a relevant authority or where applicable by Buyer or Buyer's customer; and/or
 - c) Take action to preclude its original intended use or application.
- Seller shall document and maintain records of the nature of all non-conforming Work and any subsequent actions to resolve non-conforming Work.

When unidentified, suspect, and/or nonconforming Work is detected after delivery, Seller shall immediately take action appropriate to the effects (or potential effects) of the nonconformity including, but not limited to: 1) Notify the Buyer promptly if the non-conforming Work has been shipped; and 2) Cease shipping said Work until written correspondence is received from the Buyer as to disposition of the Work.

12. **Intellectual Property:** (a) This Clause is subject to any US Government rights. All technical work product, including, but not limited to, ideas, information, data, documents, drawings, software, software documentation, designs, specifications, and processes produced by or for Seller, either alone or with others, in the course of or as a result of any Work performed by or for Seller under this PO shall be the exclusive property of Buyer and be delivered to Buyer promptly upon request.

(b) All inventions conceived, developed, or first reduced to practice by or for Seller, either alone or with others, in the course of or as a result of any Work performed by or for Seller under this PO, and any patent application and patents based on or relating to any such inventions (both domestic and foreign), shall be the exclusive property of Buyer. Seller shall promptly disclose all such inventions to Buyer in written detail, and execute all papers, cooperate with Buyer, and perform all acts necessary or appropriate in connection with the filing, prosecution, maintenance, or assignment of related patents or patent applications to Buyer.

(c) All works of authorship, including, but not limited to, documents, drawings, software, software documentation, photographs, video tapes, sound recordings, and images, created by or for Seller, either alone or with others, in the course of or as a result of any work performed by or for Seller under this PO, together with all copyrights subsisting therein, shall be the sole property of Buyer. To the extent permitted under United States copyright law, all such works shall be works made for hire, with the copyrights therein vesting in Buyer. The copyrights of all other such works, including all of the exclusive rights therein, shall be promptly transferred and formally assigned free of charge to Buyer. Buyer shall have the right, at no additional charge, to use and/or reproduce Seller's and/or Seller's Subcontractors applicable literature, such as operating and maintenance manuals, technical publications, prints, drawings, training manuals, and other similar supporting documentation and sales literature.

(d) Buyer shall have an unlimited, irrevocable, paid-up, perpetual royalty-free right and license to make, have made, sell, offer for sale, import, use, execute, reproduce, display, perform, distribute (internally or externally) copies of, and prepare derivatives of, and authorize others to do any, some or all of the foregoing, any and all technical work product, and works of authorship, conceived, developed, generated, or delivered in performance of or in connection with this PO. In the event of any inconsistency between this Clause and any US Government clause incorporated by reference into this PO, the incorporated US Government clause shall govern.

13. **Title to Drawings Specifications and Work Product:** (a) This Clause is subject to any US Government rights. Buyer and/or Buyer's customers shall at all times have title to:

(a) all drawings and specifications furnished by Buyer to Seller, and (2) all documents (including, without limitation, all drawings and specifications) and work product, in any form, generated by, for or on behalf of Seller in connection with this PO. The Seller shall, upon Buyer's request or upon completion of this PO, promptly return or deliver all documents and work product, including all copies, to Buyer.

(b) The Seller hereby assigns and agrees to assign to Buyer the Seller's entire right, title and interest in and to (1) any and all documents and work product referred to above, any and all applications for patent, domestic and foreign, that may be filed on said documents and work product, (3) any and all patents that may issue or be granted on such applications, and (4) any and all trademarks and copyrights in material related to said documents and work product. Seller shall, upon request by Buyer, immediately sign or have signed and deliver to Buyer, without further consideration, any and all documents necessary to perfect the assignments granted in this Clause.

14. **Rights in Computer Software:** This Clause is subject to any US Government rights. Seller hereby assigns to Buyer all rights, title and interest in computer software, including computer programs, databases and documentation thereof (individually and collectively, "Software"), developed in the performance of this PO, including the right to apply for and register copyrights and patents in the U.S. and any other country, the right to all extensions and renewals thereof, unrestricted and complete rights of publication or reproduction, the right to use and license others to use said Software, and right to exclude others from reproducing the Software. Seller shall obtain from its Subcontractors all rights necessary to fulfill the Seller's obligation to Buyer under this PO. Seller agrees to execute any and all documents Buyer may require to perfect the above assignment. Buyer shall have an unlimited, irrevocable, paid-up, perpetual royalty-free right and license to make, have made, sell, offer for sale, import, use, execute, reproduce, display, perform, distribute (internally or externally) copies of, and prepare derivatives of, and authorize others to do any, some or all of the foregoing, any and all Software conceived, developed, generated, or delivered in performance of or in connection with this PO.

15. **Confidential or Proprietary Information/Property:** Seller shall keep confidential and protect from disclosure all information and property obtained from Buyer related to this PO and identified as confidential or proprietary, or which reasonably would be considered to be confidential or proprietary, as well as all documents and work product generated by Seller under this PO. Unless authorized by Buyer in writing, Seller shall use such information and property only in the performance of and for the purpose of this PO. Seller shall not, at any time during or after performance of this PO, disclose to others (except those Seller Engaged Personnel with a need to know) the terms of this PO or any other information, knowledge, or data (including business, technical, financial, or other confidential information) that Seller: (a) receives from Buyer; or (b) conceives, develops or acquires in the performance of this PO. Nothing in the foregoing shall affect compliance with US Government requirements. Upon Buyer's request, and in any event upon the completion, termination or cancellation of this PO, Seller shall return all such information and property to Buyer or make such other disposition as directed by Buyer. The confidentiality provisions of this Clause 14 of the PO shall supplement and NOT supersede any prior Non-Disclosure or confidentiality agreement between the parties. Seller shall not, without written consent of Buyer, release any information regarding the subject matter of this PO or the fact that Seller is involved in any type of transaction with Buyer.

16. **Seller's Compliance with Applicable Laws:** Seller warrants and certifies it has complied and will comply with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, programs, plans, and orders (collectively referred to as "Laws") in its performance of this PO and that all Work delivered hereunder complies with all applicable Laws. Access to Work on this PO by persons under the age of 18 will be in compliance with the laws of the State where the Work is being performed. Seller agrees to defend, indemnify, and hold harmless Buyer from and against any Damages relating to any actual or alleged non-compliance by Seller or Seller's Subcontractors of any Laws. Buyer's approval of Seller's facilities, processes, or Work does not nullify or modify Seller's obligation for compliance to all applicable Laws.

17. **Hazardous Material Identification And Material Safety Data/Conflict Mineral Compliance:** Prior to shipment of any hazardous material or chemical (as determined by OSHA regulation at 29 CFR § 1910.1200(d) or Federal Standard No. 313) onto Buyer property or work sites, Seller shall provide to Buyer one copy of OSHA Form 20 or 174, Material Safety Data Sheet or equivalent, for each such material or chemical. The form shall include the Buyer stock number or the material specification number as defined in this PO and all of the information required by 29 CFR §1910.1200(g). The packaging, labeling, handling, and shipping of all hazardous items must conform to all Laws, including carrier regulations. In addition to application of proper shipping labels on the outside container, each container of hazardous items shall be marked with the appropriate precautionary label according to the Code of Federal Regulations. Any failure to comply with the above submission requirement shall be grounds for withholding payments due the Seller hereunder. Seller shall also comply with the requirements of federal law related to the sourcing of tin, tantalum, tungsten and gold used in products manufactured or assembled by Seller and Seller shall notify Buyer if Seller learns of any material sourcing in the prohibited countries.

18. **Indemnification:** Seller agrees to defend, indemnify and hold harmless Buyer, its officers, directors, employees, agents, representatives, dealers, distributors, customers, and their subcontractors from any and all lawsuits, claims, fines, penalties, offsets, liabilities, judgments, losses, damages, costs and profit disallowed, or expenses (including reasonable attorneys' fees) (collectively, "Damages") for: (a) property damage or personal injury including death, of whatever kind or nature arising out of, as a result of, or in connection with Seller or Seller Engaged Personnel's performance or failure to perform pursuant to this PO; (b) any liability which arises as the result of failure of Seller or Seller Engaged Personnel to comply with any Law or Clause of this PO; (c) claims from any person and for whatever reason, including but not limited to negligence and first aid or ambulance services provided or not provided by Buyer; (d) liability from any actual or alleged patent, copyright, trademark, or trade secret infringement by reason of any manufacture, use, or sale of any Work delivered by Seller under this PO, or for any items manufactured from reports, drawings, blueprints, data, or technical information delivered by Seller under this PO; and (e) any breach of Seller's obligations, warranties, representations, certifications, or guarantees provided under this PO.

19. **Inspection:** (a) Upon request of the Buyer, Seller agrees to allow Buyer, its customer representatives (at any tier), a cognizant regulatory authority, and (in the case of Work purchased for a US Government contract or subcontract) the US Government to visit at all reasonable times the Seller's and Seller's Subcontractors' production facility(ies) where this PO is to be performed, in whole or in part, to inspect and test the Work pertaining to the requirements of this PO. Buyer may, at its option, assign representatives from Buyer and/or Buyer's customer as resident or itinerant representatives to be located at Seller's plant. Seller shall inform Buyer when the Work is ready for

inspection. If such inspection or testing is made on Seller's premises, Seller shall provide, without additional charge, all reasonable facilities, equipment and assistance for such inspections and tests, and provide for the inspectors' safety while at Seller's plant. No inspection (including source inspection), test, approval (including design approval), or acceptance of the Work shall relieve Seller from responsibility for any defects in the Work or other failure to meet the requirements of this PO, or for latent defects, fraud, such gross mistakes that amount to fraud, or Seller's warranty obligations.

(b) Seller shall, in its inspection and testing of the Work, provide and maintain an inspection system in accordance with sound business practices, or, if required by Buyer, use an inspection system accepted by Buyer in writing. All inspection records relating to the Work shall be kept complete and made available to Buyer during performance of this PO and for one (1) year after final payment unless otherwise directed by Buyer in its acceptance of Seller's inspection system. Seller's quality control, inspection system, and manufacturing process are subject to review, analysis and verification by Buyer's Quality Assurance representative.

(c) Final inspection and acceptance by Buyer shall be at point of delivery unless otherwise specified in this PO. Such inspection shall be in accordance with the customary established inspection procedures of the location of Buyer where the Work is received.

20. **Acceptance:** Buyer shall accept Work or give Seller notice of rejection within a reasonable time, notwithstanding any payment or prior test or inspection. No inspection, test, delay or failure to inspect or test, or failure to discover any defect or other nonconformance shall relieve Seller of any obligations under this PO or impair any rights or remedies of Buyer or its customer. In case any Work is defective or otherwise not in strict conformance with the requirements of this PO, Buyer shall have the right either to reject it, require its correction, or accept it with an equitable adjustment in price or other consideration. Buyer acceptance of nonconforming Work does not release Seller from its warranty or latent defect obligations. Any Work that has been rejected or requires correction shall promptly be replaced or corrected at Seller's expense, including transportation charges. If Seller fails to promptly replace or correct any Work within the PO delivery schedule, Buyer may: (a) return, re-perform, repair, replace, or re-procure the non-conforming Work at Seller's expense; and (b) terminate this PO in accordance with the Termination for Default Clause established herein.

21. **F.O.B., Title, and Risk of Loss:** Unless this PO specifically provides otherwise, the FOB point shall be the Buyer's location designated on the face of this PO. Title to Work delivered under this PO shall pass to Buyer upon formal acceptance, regardless of when or where Buyer takes physical possession, unless the PO specifically provides for earlier passage of title. Risk of loss or damage to the Work shall remain with the Seller until, and shall pass to Buyer, upon the latter of acceptance or delivery to the FOB point. The risk of loss of nonconforming Work remains with the Seller until cure and acceptance of conforming Work. A reference on the PO to "FOB Origin" shall be considered FOB Shipping Point-Freight Allowed (SPFA), and the total amount paid by Buyer for the freight shipment(s) of the Work shall be deducted from the Seller's invoice(s) when payment is made by Buyer.

22. **Invoices and Payment:** (a) Seller shall prepare at time of shipment (or delivery at F.O.B. Origin) full and complete invoices for the Work performed and shall deliver one (1) legible copy of invoices by mail or email as directed in the PO. Seller shall verify email address accuracy to avoid payment delays. Seller shall be paid the prices stipulated herein for Work delivered and accepted, less applicable deductions, if any. Buyer has no obligation to pay for items not included in the PO. Buyer may, at its option, make payment to the Seller prior to the delivery and/or acceptance of Work.

23. **Packing, Marking, and Shipping:** All Work shall be packed, marked, and shipped strictly in accordance with the requirements specified in the PO. If no specific instructions are provided, utilize good commercial practices to ensure protection in shipment and storage and compliance with applicable Laws. Each shipment of Work shall also include a separate packing list in a waterproof envelope or wrapper. Each shipment shall also contain a certificate of conformity or certification that the Work is completed pursuant to the PO.

24. **Representations, Warranties and Guarantees:** By acceptance of this PO, Seller warrants for at least twelve (12) months from the date of acceptance or twelve (12) months from re-sale by Buyer, whichever is later ("Warranty Period"), that all Work: (a) shall be new, suitable for the uses intended, of the grade and quality specified and free from all defects in design, material and workmanship; (b) shall strictly conform to all applicable specifications, drawings, descriptions, samples furnished and other requirements of the PO; (c) shall be adequately

packaged and labeled; (d) shall not infringe any patent, trademark, trade secret or copyright, or any other intellectual property, contract or other third party right; (e) shall be of good and merchantable title, free of liens and encumbrances; and (f) are not in violation of any Laws. The foregoing warranties are in addition to all other warranties, expressed or implied, and shall survive delivery, inspection, acceptance and payment by Buyer. If the Work is found not to meet the warranties and guarantees specified herein, Buyer may, within its sole discretion, return such Work to Seller at Seller's expense, for correction, replacement, re-performance or credit, plus transportation charges. Any Work corrected, replaced, or re-performed shall be subject to the provisions of this Clause to the same extent as the Work initially furnished hereunder for the remaining Warranty Period or for six (6) months from acceptance of the corrected, replaced or re-performed Work, whichever is longer. This warranty shall run to Buyer, its successors, assigns, customers, and users of its products. These rights granted to Buyer under this Clause are in addition to any rights or remedies provided elsewhere in this PO or in law and equity and shall not be deemed to be exclusive.

25. **EEO and Affirmative Action Obligations:** BUTLER NATIONAL CORPORATION is an equal opportunity and affirmative action employer. Seller will assign Seller Engaged Personnel without regard to race, color, creed, religion, sex, national origin, disability, age, status as a covered veteran, or any other legally protected characteristic. Seller and its Subcontractors may be subject to the provisions of 41 CFR §§ 60-1.40, 60-250.4, and 60-741.4 with respect to affirmative action program requirements.

26. **Liens:** Seller agrees that no liens, security interests, encumbrances or property rights of any kind ("Liens") shall lie or attach upon or against the Work or any Buyer Property, or any part thereof, for or on account of any work performed, provided, or service furnished by Seller pursuant to this PO.

27. **Applicable Laws:** Irrespective of the place of performance, this PO shall be governed by and construed according to the laws of the State of Arizona, without regard to the State's conflict of laws provisions, except that when Federal law of US Government contracts exists on substantive matters requiring construction under the PO, such federal law shall apply in lieu of State law. The parties expressly reject the application of the United Nations Convention of Contracts for the International Sale of Goods to this PO.

28. **Records:** Unless otherwise specified in this PO, Seller shall retain all documents related to this PO for at least five years after last payment on this PO.

29. **Termination for Default:** (a) Buyer may by written notice of default to the Seller, terminate this PO in whole or in part if the Seller: (1) Fails to deliver the Work within the time specified in this PO or any extension;

(2) Fails to make progress, so as to endanger performance of any Work and/or this PO;

(3) Fails to perform or breaches any of the provisions of this PO; or (4) Files a petition of any type as to its bankruptcy, is declared bankrupt, becomes insolvent, makes an assignment for the benefit of creditors or goes into liquidation or receivership.

(b) Buyer's may terminate this PO under subparagraphs (a) (2) and (a) (3) of this Clause if the Seller does not cure such failure within ten (10) days (or more if authorized in writing by Buyer) after receipt of the notice from Buyer specifying the failure.

(c) If Buyer terminates this PO in whole or in part, it may acquire, under the terms and in the manner Buyer considers appropriate, Work similar to those terminated, and the Seller will be liable to Buyer for any excess costs of such Work. However, the Seller shall continue the Work not terminated.

(d) If this PO is terminated for default, Buyer may require the Seller to transfer title and deliver to Buyer, as directed by Buyer, any completed Work and partially completed Work that the Seller has specifically produced or acquired for the terminated portion of this PO. Upon direction of Buyer, the Seller shall also protect and preserve property in its possession in which Buyer has an interest.

(e) Buyer shall pay the PO price for completed Work delivered and accepted.

30. **Buyer Property:** (a) Buyer may provide or make available to Seller certain real or personal property or material owned by either Buyer or its customer, including without limitation, tooling and raw material inventories ("Buyer Property"). Buyer Property also includes items Buyer or its customer may take title to in accordance with the terms of this PO. Buyer Property shall be used only for the performance of this PO. Buyer shall at all times retain title to Buyer Property, which title shall not be affected by the incorporation or attachment thereof to any other property; nor shall such Buyer Property or any other part thereof be or become a fixture or lose its identity as Buyer Property by reason or affixation to any realty. Seller shall manage, maintain, and preserve Buyer Property in accordance with good commercial practice. Seller shall dispose of

Buyer Property (including scrap) only in accordance with Buyer's direction. Seller shall not substitute any property for Buyer Property. Seller shall immediately notify the Buyer if Buyer Property is lost, damaged, or destroyed.

(b) In the event that Buyer provides to Seller property or material owned by the US Government, or if Buyer otherwise acquires property to which title is held by the US Government (collectively "Government Property"), Seller shall establish and maintain a property system in accordance with FAR Part 45. If Seller acquires Government Property from a source other than the Buyer, Seller promptly shall furnish to Buyer copies of purchase orders, work orders, receiving reports or other pertinent data reasonably needed to facilitate Buyer's addition of these items to its own Government Property records. If the Seller has a US Government-approved Property Control System ("System"), Seller shall keep Buyer informed of the Government approval status of that System. In the event that the US Government determines Seller's System to be "unsatisfactory", or that three or more separate categories of the System are "unsatisfactory", Seller shall notify Buyer immediately and provide a copy of the US Government's findings and the Seller's corrective action plan.

(c) In addition to this Clause, the Government Property clause incorporated by reference into this PO shall apply to Government Property.

31. **Export Compliance:** (a) Seller understands its obligations to comply with the International Traffic in Arms Regulations ("ITAR") and the Export Administration Regulations ("EAR"). If Seller is a US company that engages in the business of either manufacturing or exporting Defense Articles or furnishing Defense Services, the Seller certifies by acceptance of this PO that it shall maintain an active registration with the US Department of State Directorate of Defense Trade Controls throughout the performance of Work under this PO.

(b) Seller shall immediately notify Buyer if it is or becomes listed on any Excluded or Denied Party List of an agency of the US Government or its export privileges are denied, suspended, or revoked. Should the Seller's Work originate from a foreign location, such Work may also be subject to the export control laws/regulations of the country in which the Work originates. Seller agrees to comply with all applicable export control laws/regulations of that originating country.

32. **Insurance:** Seller shall secure and keep in force during the term of this PO, and Seller shall require all Subcontractors, prior to commencement of an agreement between Seller and the Subcontractor, to secure and keep in force during the term of this PO, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in the relevant state(s) of operation under this PO, the following insurance coverages:

(a) Worker's compensation as required by the state in which Seller operates.

(b) General Commercial Liability insurance with limits of at least one million dollars per occurrence.

33. **Miscellaneous:** If any part, term, or provision of this PO shall be held void, illegal, unenforceable, or in conflict with any Laws having jurisdiction over this PO, the validity of the remaining portions of provisions shall not be affected thereby. The parties agree, to the extent possible, to include a replacement provision, construed to accomplish its originally intended effect, that does not violate such Laws. Upon termination of this PO for any reason, Clauses 7, 11 through 17, 26, 27, 28 and 32 shall survive.