



ARINC Incorporated
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General Provisions for Commercial Subcontracts and Purchase Orders

https://rockwellcollins.com/Resources/Information_Management_Resources/Procurement.aspx

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1. Formation of Contract and Terms and Conditions

- (a) This Contract is ARINC's offer to SELLER. SELLER's signature on the Contract, acknowledgment, acceptance of payment, or commencement of performance, shall constitute SELLER's unqualified acceptance of this Contract. SELLER's acceptance of this Contract creates a binding Contract between ARINC and SELLER, which shall be governed by the provisions of this Contract.
- (b) This Contract integrates, merges, and supersedes any prior offers, negotiations, and agreements concerning the subject matter hereof and constitutes the entire agreement between the Parties.
- (c) Additional or differing terms or conditions proposed by SELLER or included in SELLER's acknowledgment hereof are hereby objected to by ARINC and have no effect unless accepted in writing by ARINC.

2. Applicable Laws

- (a) This Contract shall be governed by the laws of the state of Maryland, excluding its choice of laws rules.
- (b) SELLER agrees to comply with all applicable laws, orders, rules, regulations, and ordinances of the United States and the country where SELLER will be performing the Contract. The provisions of the *United Nations Convention on Contracts for International Sale of Goods* shall not apply to this Contract.
- (c) In particular, if the Work is to be shipped to, or performed in the United States:
 - (1) SELLER represents that each chemical substance constituting or contained in Work sold or otherwise transferred to ARINC hereunder is on the list of

chemical substances compiled and published by the Administrator of the Environmental Protection Administration pursuant to the Toxic Substances Control Act (15 U.S.C. Sec. 2601 et seq.) as amended.

- (2) SELLER shall provide to ARINC with each delivery any Material Safety Data Sheet applicable to the Work in conformance with and containing such information as required by the Occupational Safety and Health Act of 1970 and regulations promulgated thereunder, or its state-approved counterpart.

3. Assignment and Subcontracting

- (a) Any assignment of SELLER's Contract rights or delegation of duties shall be void, unless prior written consent is given by ARINC. However, SELLER may assign rights to be paid amounts due, or to become due, to a financing institution if ARINC is promptly furnished a signed copy of such assignment reasonably in advance of the due date for payment of any such amounts. ARINC shall have the right to make settlements and adjustments in price with SELLER without notice to the assignee.
- (b) Without ARINC's written consent, SELLER will not subcontract for the design, development, or procurement of any substantial portion of goods or services under this Contract. This limitation does not apply to SELLER's purchases of standard commercial supplies or raw materials.

4. Changes

- (a) ARINC may at any time, by written notice, and without notice to sureties or assignees, make changes within the general scope of this Contract in any one or more of the following: (i) drawings, designs, or specifications; (ii)

method of shipping or packing; (iii) place of inspection, acceptance, or point of delivery; (iv) reasonable adjustments in quantities or delivery schedules or both; (v) amount of ARINC-furnished property; and, if this Contract includes services, (vi) description of services to be performed; (vii) quantity of services (i.e., hours to be worked); (viii) time of performance (e.g., hours of the day, days of the week); and (ix) place of performance. SELLER shall comply immediately with such direction.

- (b) If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of this Contract, ARINC shall make an equitable adjustment in the Contract price or delivery schedule or both, and modify the Contract accordingly. Changes to the delivery schedule will be subject to a price adjustment.
- (c) Any claim for an equitable adjustment by SELLER must be submitted in writing to the ARINC Procurement Representative within thirty (30) days from the date of notice of the change, unless the Parties agree in writing to a longer period.
- (d) Failure to agree to any adjustment shall be resolved in accordance with the **Disputes** clause of this Contract. However, nothing contained in this **Changes** clause shall excuse SELLER from proceeding without delay in the performance of this Contract as changed.

5. Communication with ARINC Customer

- (a) ARINC shall be solely responsible for all liaison and coordination with the ARINC customer, including the U.S. Government, as it affects the applicable Prime Contract, this Contract, and any related contract.
- (b) Unless otherwise directed in writing by the authorized ARINC Procurement Representative, all documentation requiring submittal to, or action by, the ARINC customer shall be routed to, or through, the ARINC Procurement Representative, or as otherwise permitted by this Contract.

6. Confidentiality

- (a) Unless otherwise addressed by a separate Confidentiality Agreement between the parties, ARINC and SELLER shall each keep confidential and protect from unauthorized use and disclosure for a period of three (3) years after receipt all (a) confidential, proprietary and/or trade secret information; (b) tangible items containing, conveying or embodying such information; and (c) tooling identified as being subject to this article and obtained, directly or indirectly, from the other in connection with this contract (collectively referred to as a "Proprietary Information and Materials").
- (b) ARINC and SELLER shall each use Proprietary Information and Materials of the other only in connection with this contract. However, despite any other obligations or restrictions imposed by this article, ARINC shall have the right to use, disclose and reproduce SELLER's Proprietary Information and Materials, and make derivative works thereof, in connection with this contract. Any such use, disclosure, reproduction or derivative work by ARINC shall, whenever appropriate, include a restrictive legend suitable to the particular circumstances. The restrictions on disclosure or use of Proprietary Information and Materials by SELLER shall apply to all materials derived by SELLER or others from ARINC's Proprietary Information and Materials.

(c) Upon ARINC's request at any time, and in any event upon the completion, termination or cancellation of this contract, SELLER shall return to ARINC all of ARINC's Proprietary Information and Materials and all materials derived there from (except for one archival copy), unless specifically directed otherwise in writing by ARINC or a United States of America Government Contracting Officer.

(d) SELLER may disclose Proprietary Information and Materials of ARINC to its subcontractors as required in connection with this contract program, provided that each such subcontractor first agrees in writing to substantially the same obligations imposed upon SELLER under this article relating to Proprietary Information and Materials.

(d) The provisions of this article control in the event of a conflict with any restrictive legends or notices applied to Proprietary Information and Materials. The provisions of this article shall survive the performance, completion, termination or cancellation of this contract.

7. Conflict of Interest

To the best of the Offeror/SELLER's knowledge and belief, there is no actual or potential conflict of interest with respect to the performance of work under this contract or agreement; or, the Offeror/SELLER has notified ARINC in writing of such a conflict of interest and received written authorization from ARINC to continue in pursuit of a contract or agreement. If in the performance of a contract or agreement with ARINC the Offeror/SELLER becomes aware of an actual or potential conflict of interest, the Offeror/SELLER will immediately notify the Procurement Representative responsible for the contract or agreement in question.

8. Contract Direction

- (a) Only the ARINC Procurement Representative has authority to amend this Contract. Such amendments must be in writing.
- (b) ARINC engineering and technical personnel may render assistance or give technical advice or discuss or effect an exchange of information with SELLER's personnel concerning the Work hereunder. Such actions shall not be deemed to be a change under the **Changes** clause of this Contract and shall not be the basis for equitable adjustment.
- (c) Action or direction by any ARINC customer shall not be deemed to be a change under the **Changes** clause of this Contract and shall not be the basis for equitable adjustment.
- (d) Except as otherwise provided herein, all notices to be furnished by the SELLER shall be sent to the ARINC Procurement Representative.

9. Default

- (a) ARINC, by written notice, may terminate this Contract for default, in whole or in part, if SELLER fails to comply with any of the terms of this Contract, fails to make reasonable progress in its performance of this Contract, or fails to provide adequate assurance of future performance. SELLER shall have ten (10) days (or a longer period, which ARINC may authorize in writing) to cure any such failure after receipt of notice from ARINC. Defaults

involving delivery schedule delays shall not be subject to the cure provision.

such contracts. (Effective June 17, 2010; Applicable to subcontracts in excess of \$1 million applicable)

- (b) ARINC shall not be liable for any Work not accepted; however, ARINC may require SELLER to deliver to ARINC any supplies and materials, manufacturing materials, and manufacturing drawings that SELLER has specifically produced or acquired for the terminated portion of this Contract. ARINC and SELLER shall agree on the amount of payment for these other deliverables.
- (c) SELLER shall continue all Work not terminated.
- (d) If after termination under paragraph (a), it is later determined that SELLER was not in default, such termination shall be deemed a Termination for Convenience.

- (b) The place of the arbitration shall be Washington, D.C. The language to be used in the arbitral proceedings shall be English. Judgment of the arbitrators shall be final and non-appealable and may be entered in any court having jurisdiction or application may be made to such court for a judicial acceptance of the award and an order of the enforcement. Each Party shall bear its own expenses of the arbitration, but the fees and costs of the arbitrators shall be borne equally between the Parties participating in the arbitration.
- (c) Consistent with the expedited nature of arbitration, each party will, upon the written request of the other party promptly provide the requesting party with copies of documents relevant to the issues raised by any claim or counterclaim. Any dispute regarding discovery, or the relevance or scope thereof, shall be determined by the arbitrators, whose determination shall be conclusive. All discovery shall be completed within thirty (30) days following the appointment of the arbitrators.
- (d) No action at law or in equity may be commenced by ARINC or SELLER under or arising from this Contract unless it is brought within two years after the accrual of the cause of action upon which the claim is based, regardless of whether ARINC or SELLER knew or should have known of the accrual of any such cause of action.
- (e) Notwithstanding the foregoing, in the event of a breach or threatened breach by ARINC or SELLER under the *Confidentiality* or *Intellectual Property* provisions of this Contract, ARINC or SELLER may forego arbitration under this provision and seek immediate judicial and equitable remedies, including, but not limited to, injunctive relief or specific performance.
- (f) Until final resolution of any dispute hereunder, SELLER shall diligently proceed with the performance of this Contract as directed by the ARINC Procurement Representative.

10. Definitions

The following terms shall have the meanings set forth below:

- (a) "Contract" means the instrument of contracting (e.g., PO, Purchase Order, or other such designation), including all referenced documents, exhibits, and attachments. If these terms and conditions are incorporated into a master agreement that provides for releases (in the form of a Purchase Order or other such document), the term "Contract" shall also mean the release document for the Work to be performed.
- (b) "ARINC" means ARINC Incorporated.
- (c) "ARINC Procurement Representative" means the person authorized by ARINC's cognizant procurement organization to administer this Contract.
- (d) "PO" or "Purchase Order" as used in any document constituting a part of this Contract shall mean this Contract.
- (e) "SELLER" means the Party identified on the title page of the Contract, with whom ARINC is contracting.
- (f) "Work" means all required articles, materials, supplies, goods, and services constituting the subject matter of this Contract.

11. Disputes

- (a) Any dispute, controversy, or claim arising out of or relating to this Contract or default, termination, or invalidity hereof, shall be settled by arbitration under the rules of the American Arbitration Association, *with the following exception*:
 - (1) *ARINC may not require independent contractors to utilize arbitration to resolve any claim under Title VII of the 1964 Civil Rights Act or any tort related to or arising out of sexual assault or harassment, including assault and battery, intentional infliction of emotional distress, false imprisonment, or negligent hiring, supervision, or retention; or take any action to enforce any provision of an existing agreement with an independent contractor that requires the arbitration of such claims.*
 - (2) *SELLER agrees and certifies that it will not enter into or take any action to enforce similar arbitration agreements with respect to any employee or independent contractor performing work related to*

12. Excusable Delay

- (a) Subject to (b) and when mutually agreed by the Parties, SELLER shall be excused from, and shall not be liable for, failure of performance due to one or more of the following qualifying events (such list being exclusive):
 - (1) War; warlike operation; insurrection; riot; fire, flood, explosion, accident, governmental act; material control regulations or orders; act of God; act of the public enemy; epidemic; quarantine restriction, and strikes; and if
 - (2) Such event was beyond SELLER's control and not occasioned by its negligence or default. The Contract will be extended for that period of time attributable to such event.
- (b) To be excused from performance under (a) SELLER shall submit, within ten (10) calendar days of the start of the qualifying event, a written notice stating a complete and detailed description of such event, the date of commencement, an estimate of the probable period of delay, and explanation indicating how such event was beyond the control of the SELLER and not due to its negligence or fault and what efforts SELLER will make to minimize the length of the delay. SELLER shall use its best efforts to cure the qualifying event. SELLER shall submit within ten (10) calendar days of the end of the

event a written notice stating the impact to the schedule and evidence justifying the length of the delay. If the delay extends for thirty (30) days or more, this Contract may be terminated by ARINC without additional cost and ARINC may elect to return to SELLER for a refund that portion of the work delivered to ARINC prior to the occurrence of the qualifying event.

- (c) Failure of the U.S. Government to issue any required export license, or withdrawal or termination of a required export license by the U.S. Government, shall relieve ARINC of its obligations under this Contract, and shall relieve SELLER of its corresponding obligations.

13. Export Control

- (a) SELLER agrees to comply fully with all applicable U.S. export control laws and regulations as they may apply to any hardware, software, information, or the direct product of such information, furnished to SELLER under this Contract. SELLER agrees that it will not permit the re-export of any the above—including to foreign nationals employed by, associated with, or under contract to SELLER or SELLER's lower-tier suppliers—without the authority of an Export License or applicable License Exception.
- (b) SELLER agrees to notify ARINC if any deliverable Work under this Contract is restricted by export control laws or regulations.
- (c) SELLER shall immediately notify the ARINC Procurement Representative if SELLER is listed in any Denied Parties List or if SELLER's export privileges are otherwise denied, suspended, or revoked in whole or in part by any U.S. Government entity or agency. At ARINC's request, SELLER will provide ARINC with all data ARINC may need to apply for and obtain an Export License or applicable License Exception.
- (d) If performance will take place in the U.S., SELLER certifies that all SELLER employees assigned to work on this Contract are U.S. citizens, U.S. Permanent Residents, non-immigrants authorized to work in the U.S. or non-immigrants who have been granted political asylum or refugee status in accordance with 8 U.S.C. 1324b(a)(3).

14. Extras

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

15. Furnished Property

- (a) ARINC may provide to SELLER property owned by either ARINC or its customer (Furnished Property). Furnished Property shall be used only for the performance of this Contract.
- (b) Title to Furnished Property shall be retained by ARINC or its customer. SELLER shall clearly mark (if not already marked) all Furnished Property to show ownership.
- (c) Except for reasonable wear and tear, SELLER assumes all risk of loss, destruction, or damage of Furnished Property while in SELLER's possession, custody, or control. Upon request, SELLER shall provide ARINC with adequate proof of insurance against such risk of loss. SELLER shall promptly notify ARINC of any loss or

damage. Without additional charge, SELLER shall manage, maintain, and preserve Furnished Property in accordance with good commercial practice.

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

16. Gratuities and Kickbacks

No gratuities (in the form of entertainment, gifts, or otherwise) or kickbacks shall be offered or given by SELLER to any employee of ARINC with a view toward securing favorable treatment as a supplier.

17. Importer of Record

(Applies only if the Contract involves importation of Work into the United States).

- (a) If elsewhere in the Contract ARINC is indicated as importer of record, SELLER warrants that all sales hereunder are or will be made at not less than fair value under the United States Anti-Dumping Laws (19 U.S.C. 1673 et seq.).
- (b) If elsewhere in the Contract ARINC is not indicated as importer of record, then SELLER agrees that:
 - (1) ARINC will not be a party to the importation of Works, the transactions represented by this Contract will be consummated after importation, and SELLER will neither cause nor permit ARINC's name to be shown as "Importer of Record" on any customs declaration; and
 - (2) Upon request and where applicable, SELLER will provide to ARINC a properly executed Customs Form 7501, Customs Entry.

18. Independent Contractor Relationship

SELLER is an independent contractor in all its operations and activities hereunder. The employees used by SELLER to perform Work under this Contract shall be SELLER's employees exclusively, without any relation whatsoever to ARINC, and shall not be entitled to participate in or receive any of ARINC's employee benefits.

19. Inspection and Acceptance

- (a) ARINC and its customer may inspect all Work at reasonable times and places, including, when practicable, during manufacture and before shipment. SELLER shall provide all information, facilities, and assistance necessary for safe and convenient inspection without additional charge.
- (b) No such inspection shall relieve SELLER of its obligations to furnish all Work in accordance with the requirements of this Contract. ARINC's final inspection and acceptance shall be at destination unless otherwise specified in this Contract.
- (c) SELLER shall not retender rejected Work without disclosing the corrective action taken.

20. Indemnification and Insurance

- (a) **Indemnification:** Seller hereby agrees to indemnify and hold harmless ARINC, its affiliates and their respective successors and assigns, and its and their respective directors, officers, agents and employees, from and against any and all claims, liabilities, damages, losses, causes of action and judgments brought by any person, corporation, governmental entity or other entity not a party to this Agreement (including claims made by employees of ARINC under workers compensation or other similar social scheme), whether arising from injury or death to persons or loss or damage to property or otherwise (collectively "Third Party Claims"), and reasonable attorneys' fees and costs and expenses incidental thereto arising from (a) any defect in the design, workmanship or material of any product or associated software delivered by Seller to ARINC hereunder or (b) any negligence (whether active or passive) or willful misconduct of Seller, its contractors of any tier or its or their directors, officers, agents, or employees.

Furthermore, Seller hereby agrees to indemnify ARINC for i) any fines or penalties incurred by ARINC arising out of Seller's violation of any law or regulation related to safe working practices, including by not limited to OSHA regulations, ii) any damage or loss to ARINC owned or leased property or property under ARINC's care, custody or control arising from (a) any defect in the design, workmanship or material of any product or associated software delivered by Seller to ARINC hereunder (b) any negligence (whether active or passive) or willful misconduct of Seller, its contractors of any tier or its or their directors, officers, agents, or employees and iii) all claims, losses, damages, and expenses that may be made against or sustained by an ARINC as a result of Seller's breach of any of its covenants, representations or warranties or performance or non-performance of this Agreement

This indemnity shall survive the termination or expiration of this Agreement for a period of two years.

- (b) **Insurance:** During the term of this Agreement, Seller shall maintain the following insurance or such other insurance and terms of insurance as may be required in the contract schedule: (i) Workers' Compensation as statutorily required in the State where the work is performed; (ii) Employers Liability insurance in an amount not less than One Million U.S. Dollars (\$1,000,000) per employee, per accident, per disease; (iii) Commercial General Liability insurance and, if necessary, Umbrella Liability insurance with a combined total limit not less than Two Million U. S. Dollars (\$2,000,000) per occurrence which shall include coverage for premises, operations, independent contractors, product-completed operations, personal injury and advertising injury, and liability assumed under an insured contract; and (iv) If vehicles are used in the performance of this Agreement, Commercial Automobile Liability insurance and, if necessary, Umbrella Liability insurance with a combined total limit not less than Two Million U. S. Dollars (\$2,000,000) per accident covering all owned, non-owned, and hired vehicles. in reasonable amounts, and such other insurance as ARINC may require, as stated in the contract schedule, and shall comply with all site requirements

Excepting the gross negligence of ARINC, Seller shall cause its workers compensation insurer to waive its rights of subrogation. Seller's insurers, insurance brokers or insurance agents shall by written notice, notify the ARINC at least thirty (30) days in advance of any material

change or cancellation that would reduce the coverage described above; however, such notice shall not be less than seven (7) days advance written notice for cancellation for non-payment of premium. Each insurer must be rated at least A- (VII) by A.M. Best or other rating agency equivalent and be licensed to conduct business in all states where this Agreement shall apply. Subject to ARINC's permission for Seller to utilize subcontractors, Seller shall attempt to ensure that each subcontractor obtains and maintains the above described insurance and extends such indemnity obligation to ARINC. In the event that the subcontractor or its insurers fail or are unable to honor such obligations in any manner, Seller agrees to assume such obligations of the subcontractor. A certificate of insurance shall be provided within ten (10) days of acceptance of this Agreement, but prior to the commencement of any work and at each insurance policy renewal thereafter, until the expiration of this Agreement attesting to the above required insurance and conditions. It is specifically agreed that the types and amounts of insurance requested above shall not limit or otherwise affect Seller's obligation to indemnify and hold ARINC harmless as provided by the indemnification provisions of this Agreement. The failure of the Seller to maintain the insurance coverage and limits required by the ARINC during the term of this Agreement shall be considered a material breach hereof. Any failure of ARINC to declare Seller to be in material breach hereof shall not be deemed a waiver by ARINC of the right to claim material breach for subsequent failure to maintain the required coverage.

21. Intellectual Property

- (a) Unless otherwise agreed by ARINC and SELLER, SELLER agrees and understands that the Work performed hereunder is Work for Hire and as such SELLER agrees that ARINC shall be the owner of all inventions, technology, designs, works of authorship, mask works, technical information, computer software, business information, and other information conceived, developed, or otherwise generated in the performance of this Contract by or on behalf of SELLER. SELLER hereby assigns and agrees to assign all right, title, and interest in the foregoing to ARINC, including (without limitation) all copyrights, patent rights, and other intellectual property rights therein and further agrees to execute, at ARINC's request and expense, all documentation necessary to perfect title therein in ARINC. SELLER agrees that it will maintain and disclose to ARINC written records of, and otherwise provide ARINC with full access to, the subject matter covered by this clause and that all such subject matter will be deemed information of ARINC and subject to the protection provisions of the clause entitled **Confidentiality**. SELLER agrees to assist ARINC, at ARINC's request and expense, in every reasonable way, in obtaining, maintaining, and enforcing patent and other intellectual property protection on the subject matter covered by this clause.
- (b) If SELLER and ARINC agree that performance under this Contract requires the provision or use of any proprietary programs of SELLER or of SELLER's suppliers such that ARINC and SELLER agree that paragraph (a) of this clause is not applicable to a portion of the Work, then, absent agreement of ARINC and SELLER to the contrary, SELLER shall specifically identify such proprietary programs to ARINC and shall grant to ARINC a perpetual worldwide, paid-up license or sublicense to use, copy, modify, sublicense, and create derivative works from any such proprietary programs. Upon request by ARINC, SELLER shall provide all documentation supporting such licensing rights, including copies of licenses granted by SELLER's suppliers to SELLER. SELLER shall defend

and hold ARINC harmless from any and all claims arising in whole or in part from SELLER's failure to comply with this section. There shall be no additional charge for such license or sublicense beyond the price for the work to be performed under this Contract.

- (c) SELLER warrants that the Work performed and delivered under this Contract will not infringe or otherwise violate the intellectual property rights of any third party in the United States or any foreign country. SELLER agrees to defend, indemnify, and hold harmless ARINC and its customers from and against any claims, damages, losses, costs, and expenses, including reasonable attorneys' fees, arising out of any action by a third party that is based on a claim that the Work performed or delivered under this Contract infringes or otherwise violates the intellectual property rights of any person or entity.
- (d) Unless otherwise specified in this Contract, commercial off-the-shelf software delivered hereunder shall be the most recent revision issued by SELLER or SELLER's suppliers. If SELLER or SELLER's suppliers issue a new version within 120 days after delivery to ARINC, SELLER shall provide to ARINC at no additional charge a usable copy of the new version and an equivalent license.

22. Language and Standards

All reports, correspondence, drawings, notices, markings, and other communications shall be in the English language. The English version of the Contract shall prevail. Unless otherwise provided in writing, all documentation and Work shall use the units of U.S. standard weights and measures.

23. Limitation of Liability

In no event shall either SELLER or ARINC be liable to the other for any indirect, incidental or consequential damages arising out of or relating to this Agreement, regardless of the legal theory under which such damages are sought, and even if the parties have been advised of the possibility of such damages or loss.

24. New Materials

Unless otherwise specified in this Contract, the Work to be delivered hereunder shall consist of new materials (not used or reconditioned, or of such age as to impair usefulness or safety).

25. Offset Credit and Cooperation

All offset or countertrade credit value resulting from this Contract shall accrue solely to the benefit of ARINC. SELLER agrees to cooperate with ARINC in the fulfillment of any foreign offset or countertrade obligations.

26. Packing and Shipment

- (a) Unless otherwise specified, all Work is to be packed in accordance with good commercial practice to prevent damage and deterioration during shipping, handling, and storage.
- (b) A complete packing list shall be enclosed with all shipments. SELLER shall mark containers or packages with necessary lifting, loading, and shipping information, including the ARINC contract number, item number, dates of shipment, and the names and addresses of consignor

and consignee. Bills of lading shall include this Contract number.

- (c) For Work shipped within the United States, unless otherwise specified, delivery shall be FOB Destination. For Work imported into the United States, unless otherwise specified, delivery shall be DDP ARINC's facility indicated on the title page of the Contract in accordance with *INCOTERMS 2010*.

27. Payments, Taxes, and Duties

- (a) Unless otherwise provided, terms of payment shall be net forty five (45) days from the latest of the following: (i) ARINC's receipt of the SELLER's proper invoice; (ii) Scheduled delivery date of the Work (SELLER's proper invoice required); or (iii) Actual delivery of the Work (SELLER's proper invoice required).
- (b) Payment shall be deemed to have been made as of the date of ARINC's mailed payment or electronic funds transfer.
- (c) Unless otherwise specified, prices include all applicable federal, state, and local taxes, as well as duties, tariffs, and similar fees imposed by any government, all of which shall be listed separately on the invoice. Prices shall not include any taxes, impositions, charges, or exactions for which ARINC has furnished a valid exemption certificate or other evidence of exemption.
- (d) All taxes, assessments, and similar charges levied with respect to or upon any such products or Work owned by ARINC while in SELLER's possession or control, and for which no exemption is available, shall be borne by SELLER.
- (e) The prices stated in the Contract are firm, fixed prices in United States dollars.

28. Precedence

Any inconsistencies in this Contract shall be resolved in accordance with the following (in descending order of precedence): (a) face of the Purchase Order, release document or schedule (which shall include continuation sheets), as applicable, including any special terms and conditions; (b) any master agreement, such as corporate, sector, or blanket agreements; (c) these General Provisions; and (d) Statement of Work.

29. Quality Control System

Unless this Contract contains other specific quality requirements,

- (a) SELLER shall provide and maintain a quality control system to an industry-recognized quality standard for the Work covered by this Contract.
- (b) Records of all quality control inspection work by SELLER shall be kept complete and made available to ARINC and its customers during the performance of this Contract and for such longer periods as may be specified.
- (c) ARINC, customer, and regulatory authorities will have access to all quality management system documentation upon request.
- (d) The supplier may be required to submit to initial and follow-up audits of their quality management system by

ARINC or regulatory authorities to become, or remain, an approved supplier.

- (e) For suppliers manufacturing items to ARINC or customer-provided design data or suppliers providing Aerospace related products/services, the following requirements shall apply, where appropriate:
- (1) If the supplier determines during production the product (intended for use or delivery to ARINC) does not conform to requirements, this product shall be identified and controlled. The supplier shall provide timely notification to ARINC regarding the nonconforming product.
 - (2) If the supplier determines at any time after delivery of product to ARINC the product does not conform to requirements, the Seller shall notify ARINC within 24 hours of the nonconforming product.
 - (3) If the supplier determines during inspection the product (intended for use or delivery to ARINC) does not conform to requirements, this product shall be identified and controlled. The supplier shall hold the product until dispositioned and approved by ARINC.
 - (4) Supplier shall provide notification to ARINC of any change in product design, materials, or production processes from those originally specified or quoted.
 - (5) Supplier shall provide notification to ARINC of changes in product and/or process, changes of suppliers, changes of manufacturing facility location and, where required, obtain ARINC approval.
 - (6) Supplier shall provide access to ARINC, ARINC customers, and all applicable regulatory authorities to applicable areas of all facilities, at any level of the supply chain, involved in the order and to all applicable records.
 - (7) Supplier shall flow down to the supply chain the applicable requirements including customer requirements and key characteristics.
- (f) Where a supplier is designing hardware, ARINC shall participate in all design review activities and reserves the right to approve preliminary designs prior to proceeding to detailed design and final designs prior to proceeding to fabrication.
- (g) For design, development, or manufacturing work affecting high-value, safety critical systems, ARINC may require that the supplier be certified to AS9100, ISO 9001, or an FAA certificated quality system under FAR Part 145 or FAR Part 21.
- (h) ARINC shall participate in any technical interchange meetings where the supplier is presenting information to our customers.

30. Release of Information

Except as required by law, no public release of any information, or confirmation or denial of same, with respect to this Contract or the subject matter hereof, will be made by SELLER without the prior written approval of ARINC.

31. Stop Work Order

- (a) SELLER shall stop Work for up to ninety (90) days in accordance with the terms of any written notice received

from ARINC, or for such longer period of time as the Parties may agree, and shall take all reasonable steps to minimize the incurrence of costs allocable to the Work covered by this Contract during the period of Work stoppage.

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

32. Survivability

If this Contract is terminated for default or convenience, SELLER shall not be relieved of those obligations contained in this Contract for the following provisions:

- Applicable Laws
- Export Control
- Independent Contractor Relationship
- Confidentiality
- Intellectual Property
- Limitation of Liability
- Release of Information
- Warranty

33. Termination for Convenience

- (a) For specially performed Work, ARINC may terminate part or all of this Contract for its convenience by giving written notice to SELLER. ARINC's only obligation shall be to pay SELLER a percentage of the price reflecting the percentage of the Work performed prior to the notice of termination, plus reasonable charges that SELLER can demonstrate to the satisfaction of ARINC using generally accepted accounting principles, that have resulted from the termination. SELLER shall not be paid for any Work performed or costs incurred that reasonably could have been avoided.
- (b) In no event shall ARINC be liable for lost or anticipated profits, unabsorbed indirect costs or overhead, or any sum in excess of the total Contract price. SELLER's termination claim shall be submitted within ninety (90) days from the effective date of the termination.
- (c) For other than specially performed Work, ARINC may terminate part or all of this Contract for its convenience by giving written notice to SELLER and ARINC's only obligation to SELLER shall be payment of a mutually agreed-upon restocking or service charge.
- (d) SELLER shall continue all Work not terminated.

34. Timely Performance

- (a) Time is of the essence in this Contract. SELLER's timely performance is a critical element of this Contract.
- (b) Unless advance shipment has been authorized in writing by ARINC, ARINC may store, at SELLER's expense, or return, shipping charges collect and at SELLER's risk, all Work received in advance of the scheduled delivery date.
- (c) If SELLER becomes aware of difficulty in performing the Work, SELLER shall promptly notify ARINC, in writing,

giving pertinent details. This notification shall not change any delivery schedule.

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

35. Waiver and Approval

- (a) Failure by ARINC to enforce any of the provisions of this Contract shall not be construed as a waiver of the requirements of such provisions, or as a waiver of the right of ARINC thereafter to enforce each and every such provision.
- (b) ARINC's approval of documents shall not relieve SELLER from complying with any requirements of this Contract.
- (c) The rights and remedies of ARINC in this Contract are in addition to any other rights and remedies provided by law or in equity.

36. Warranty

- (a) In addition to SELLER's standard warranty, SELLER warrants that all Work furnished pursuant to this Contract shall strictly conform to applicable specifications, drawings, samples, descriptions, and other requirements of this Contract and be free from defects in design, material, and workmanship. All warranties shall survive inspection, test and acceptance of, and payment for, the Work. All warranties shall run to ARINC and its successors, assigns, and customers. The warranty shall extend for a period of one (1) year after ARINC's final acceptance unless a different period is set forth elsewhere in this Contract. If any nonconformity of the Work appears within that time, SELLER shall promptly repair, replace, or re-perform the Work, at ARINC's option. Transportation of replacement Work, return of nonconforming Work, and repeat performance of Work shall be at SELLER's expense. Work required to be corrected or replaced shall be subject to this provision and the Inspection and Acceptance provision of this Contract in the same manner and to the same extent as Work originally delivered under this Contract. If repair, replacement, or re-performance of Work is not timely, ARINC may elect to return the nonconforming Work or repair, replace Work, or reprocur the Work at SELLER's expense.
- (b) SELLER further warrants that all software, firmware, and hardware (products) provided by SELLER, having date-dependent functionality containing or calling on a calendar function to process date and time data, will accurately process the date and time data (including, but not limited to, inputting, storing, manipulating, comparing, calculating, updating, displaying, outputting, and transforming such dates and data).
 - (1) In the event of a discovery of any date-dependent functionality noncompliance, the discovering party shall notify the other party within five (5) business days. At ARINC's option, the noncompliant products shall be repaired or replaced by SELLER within ten (10) business days of such notice at no cost to ARINC. The date-dependent functionality warranty shall run to ARINC and its successors, assigns, and customers, and shall extend indefinitely after ARINC's final acceptance.
 - (2) Nothing in this provision shall be construed to limit any other rights under this Contract, at law or in equity

that ARINC may have with respect to date-dependent functionality compliance.

37. Anti-Corruption Compliance

- (a) SELLER agrees that neither it nor any related person shall, in the name of, on behalf of, or for the benefit of ARINC or any of its officers, directors or employees, offer, pay, promise to pay, or authorize the payment of any money, or offer, give, promise to give, or authorize the giving of anything of value to anyone while knowing or being aware of a high probability that all or a portion of such money or thing of value will be offered, given or promised, directly or indirectly to such person for the purposes of: (i) influencing any act or decision; (ii) inducing such person to use his or its influence with a third party thereof to affect or influence any act or decision of such third party, in order to assist the obtaining or retaining of business for or with, or directing business to ARINC or (iii) securing any improper advantage.
- (b) SELLER is familiar with, is not in violation of, and has not violated, any provision of the Foreign Corrupt Practices Act of 1977 (United States Pub. Law 95-213), as amended (the "FCPA"), the UK Bribery Act, or any other applicable law related to the prevention of corruption. Without limiting the generality of the foregoing, SELLER agrees that neither it nor any Related Person (as defined by the FCPA) shall, in the name of, on behalf of, or for the benefit of Seller or any of its officers, directors or employees, offer, pay, promise to pay, or authorize the payment of any money, or offer, give, promise to give, or authorize the giving of anything of value to a foreign official (as defined in the FCPA), to any foreign political party or official thereof or any candidate for foreign political office, or to any person, while knowing or being aware of a high probability that all or a portion of such money or thing of value will be offered, given or promised, directly or indirectly, to any foreign official, to any foreign political party or official thereof, or to any candidate for foreign political office, for the purposes of: (i) influencing any act or decision of such foreign official, political party, party official, or candidate in his or its official capacity, including a decision to fail to perform his or its official functions, or in the case of a foreign official, inducing him to do or omit to do any act in violation of that official's lawful duty; (ii) inducing such foreign official, political party, party official, or candidate to use his or its influence with the foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality, in order to assist the Parties or any other person in obtaining or retaining business for or with, or directing business to, the Parties or any other person; or (iii) securing any improper advantage.

38. Suspect/Counterfeit Items

- (a) SELLER represents and warrants that Item(s) supplied by SELLER are not "Suspect/Counterfeit". SELLER's warranty against counterfeit items shall survive any termination or expiration of this Contract, Agreement or Order.
- (b) A "Counterfeit" item is an item, or any component thereof, produced, altered or otherwise misrepresented to resemble another item, or any part thereof, without authority or right to do so; including but not limited to, any item that is produced or altered to result in Buyer being misled or defrauded through the presentation to Buyer of such item as original, new, genuine or otherwise from a source other than the actual source of such item.

Counterfeit items also include items that have been re-worked, re-marked, re-labeled, repaired, refurbished, or otherwise modified from OEM design but are represented as OEM authentic or as new or any parts that are designated as suspect by the U.S. Government, such as parts listed in alerts published by the Defense Contract Management Agency under the Government-Industry Data Exchange Program (GIDEP).

- (c) If Buyer, in its sole discretion, determines that any items or components received from SELLER are, or may be, Suspect/Counterfeit ("Suspected Counterfeit Parts"), Buyer shall notify SELLER in writing of such determination. SELLER agrees that within ten (10) days after SELLER's receipt of such notice, SELLER shall remit to Buyer all payments previously made to SELLER for such Suspected Counterfeit Parts. Alternatively, the Buyer may elect to have the SELLER offer a replacement item in lieu of remitting all previous payments associated with Suspect/Counterfeit items.
- (d) Prior to SELLER's acquisition of any items, or components thereof, that will be included in any transaction between SELLER and Buyer, SELLER shall flow down the requirements of this Article to all entities from which it receives such items, or components thereof, and shall be fully liable to Buyer for all such entities' compliance with such requirements.

39. Equal Opportunity

- (a) The requirements of 41 CFR 60-300.5 are incorporated herein by reference and apply to any PO/Subcontract that exceeds \$100,000.

This SELLER and its subcontractor(s) shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.

- (b) The requirements of 41 CFR 60-741.5 are incorporated herein by reference and apply to any PO/Subcontract that exceeds \$10,000.

This SELLER and its subcontractor(s) shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

40. Privacy and Data Protection

- (a) If Supplier Processes any Personal Data or Confidential Information as part of performing the Services or providing Goods, Supplier agrees to: (a) comply with all applicable laws and regulations, including but not limited to the EU General Data Protection Regulation (GDPR), and (b) for Personal Data Processing, sign ARINC's separate addendum supplementing this PO regarding compliance with data protection law, including the General Data Protection Regulation.
- (b) "Processing" means any operation or set of operations that is performed on Personal Data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or

alteration, retrieval, consultation, use, disclosure by transmission, dissemination, or otherwise making available, alignment or combination, restriction, erasure, or destruction. "Process", "Processes" and "Processed" will have a corresponding meaning. "Personal Data" means any information relating to an identified or identifiable natural person ("Data Subject"). An identifiable natural person is one who can be identified, directly or indirectly, in particular by referencing an identifier such as a name, an identification number, location data, an online identifier, or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural, or social identity of that natural person.