

**PTI Technologies Inc.**  
**PTI Supplier Standard Terms and Conditions**

1. **Applicability.** The following Terms and Conditions shall apply to purchases of all articles, materials, work or services ("Supplies") by PTI Technologies Inc. ("Buyer") from the party identified on the face of this Purchase Order (this "Order") ("Supplier"). Buyer and Supplier may be referred to collectively as the "Parties" and as "Party" individually. If this is not a purchase for Supplies under a Government contract then only Articles 1-37 shall apply. If a Government contract number appears on the face of the purchase order, or the face of the purchase order indicates it is subject to the Federal Acquisition Regulation ("FAR") or the department of defense Federal Acquisition Regulation Supplement ("DFARS"), Articles 38-39 shall also apply.
2. **Acceptance.** This Order together with any specifications, drawings, and descriptions appearing on and/or referred to on the face hereof becomes the exclusive agreement between the Parties subject to the terms and conditions herein. Any of the following shall constitute Supplier's acceptance of this Order: (a) acknowledgment of this Order, (b) furnishing of any Supplies under this Order, (c) acceptance of any payment under this Order, or (d) commencement of performance under this Order. Additional or differing terms or conditions proposed by Supplier or included in Supplier's acknowledgment hereof are hereby rejected and shall not be considered a part of this Order or be binding upon Buyer.
3. **Packing and Shipment.** Unless otherwise specified, all packing and packaging shall comply with good commercial practice and applicable carrier's tariffs. The price includes all charges for packing and packaging and for transportation to Buyer's designated delivery point. The packaging, labeling, and shipping of all HAZARDOUS SUBSTANCES, including DANGEROUS MATERIALS, must conform to all applicable international, federal, state, and local laws and regulations. In addition to the application of proper shipping labels on the outside container, each container of a hazardous substance shall be labeled in accordance with Title 8, California Code of Regulations, Article 110, Section 5194, with the identity of the hazardous substance(s), appropriate hazard warnings, and the name and address of the manufacturer, importer or other responsible party. If the terms of this order require delivery F.O.B. place of shipment, the Supplier must at that place bear the expense and risk of putting them into the possession of the carrier and at its risk and expense load the Supplies on board. If the terms of this order require delivery F.O.B. place of destination, the Supplier must at Supplier's own expense and risk transport the Supplies to that place and tender delivery of them to Buyer.
4. **Quality Control and Inspection.** Supplier shall provide and maintain a quality control system adequate to ensure compliance with any quality control requirements or specifications set forth on the face of this Order and acceptable to Buyer. During performance of this Order, Supplier's quality control, inspection system and manufacturing processes are subject to review, verification, and analysis by Buyer and, if a Government prime contract number or other Government designation appears on the face of this order, by an authorized Government representative(s). All Supplies ordered may be subject to (a) inspection, verification, or testing during the period of manufacture; (b) inspection or verification prior to shipment; and (c) final inspection and acceptance at destination notwithstanding any prior payment or inspection and acceptance. Such inspection and verification rights shall extend to the Government, if a Government prime contract number or other Government designation appears on the face of this order. If any inspection or test is made on the premises of Supplier or its lower-tier suppliers, Supplier shall, without additional charge to Buyer, provide and shall require its lower-tier suppliers to provide all reasonable facilities and assistance for the safety and convenience of Buyer and Government inspectors in the performance of their duties. Buyer may reject and hold at Supplier's expense subject to Supplier's reasonable disposal instructions, supplies that do not conform to applicable specifications, drawings, samples or descriptions that are defective in material, workmanship, or design. Without limiting any other rights Buyer may have, Buyer, at its option, may require Supplier (a) to repair or replace at Supplier's expense any Supplies or items thereof, which fail to meet the requirements of applicable design, specifications, and drawings; or (b) to

refund the price of any such item. Supplier shall not re-tender rejected supplies reworked to specification or replaced to Buyer unless Buyer has consented to such arrangement. Supplier shall notify Buyer of past rejections of all re-tendered supplies.

5. **Delivery, Advance Manufacturing, and Procurement. Time is of the Essence.** Supplier warrants and certifies that in the performance of this contract, it will comply with all applicable statutes, rules and regulations, and orders of the United States, and of any state or political subdivision thereof, including laws and regulations pertaining to labor, wages, hours and other conditions of employment, applicable price ceilings, if any, and that the articles delivered hereunder shall be produced in compliance with the Fair Labor Standards act. Supplier agrees to so certify on his invoices upon the request of the Buyer. Supplier is aware of their contribution to product or service conformity; their contribution to product safety; and the importance of ethical behavior. Delivery according to schedule is a material condition of this Order. Supplier shall not, without Buyer's prior written consent, deliver more than three working days in advance of schedule. Buyer may return or store at Supplier's expense any item delivered in advance of the required delivery date specified. If at any time it appears to Supplier that any delivery schedule cannot be met, Supplier shall notify Buyer as soon as possible as to the cause or causes thereof, action being taken to remove such cause or causes, when on-schedule status will be achieved and at Supplier's expense, shall take reasonable action necessary, with or without request of Buyer, to meet such schedules as set forth herein or to recover to the maximum extent possible any delay in meeting such schedules. In the event Supplier fails to make scheduled deliveries, Buyer may procure comparable Supplies elsewhere and Supplier shall, in addition to paying to Supplier any other damages sustained by Buyer by reason of such failure, reimburse Buyer for any additional costs incurred in procuring comparable Supplies.
6. **Warranty.** Supplier warrants that all Supplies furnished pursuant to this Order will be free from defects in material and workmanship, conform to applicable specifications, drawings, samples, and descriptions, or other requirements of this Order, and unless of Buyer's sole design and built to the designated specifications of Buyer, be free from design defects. If there is a breach of warranty, Buyer may return such Supplies at Supplier's expense for correction, replacement or credit as Buyer may direct.  
  
Supplier agrees that, notwithstanding the provisions of any warranties, expressed or otherwise negotiated, with respect to Supplies purchased from Supplier by Buyer or by Buyer's customer, Supplier shall reimburse Buyer for labor and material cost, including overhead and general and administrative expense reasonably incurred by Buyer in connection with: (a) the removal and replacement of such Supplies or components thereof from an assembly or subassembly due to defective material, workmanship or design; or (b) any removal of said supplies at Supplier's request; or (c) the removal of said Supplies required to incorporate any previously authorized changes to said Supplies which Supplier has failed to incorporate in order to maintain a delivery schedule. Inspections and tests by Buyer or the Government do not relieve Supplier of responsibility for defects or other failures to meet the requirements of this Order.  
  
The rights and remedies of Buyer provided in this Section are in addition to and do not limit any other rights afforded Buyer by any other Section herein or otherwise. All warranties shall run to Buyer and its customers.
7. **Buyer Changes.** Buyer may at any time make changes within the general scope of this Order in any one or more of the following: (a) drawings, designs or specifications; (b) method of shipping or packing; (c) place of inspection, acceptance, or point of delivery; and (d) delivery schedule. Should any such change increase or decrease the cost of, or the time required for, performance of this Order, an equitable adjustment may be requested by Supplier or Buyer in the price, delivery schedule or both. No request by Supplier for such adjustment will be valid unless submitted to Buyer within thirty (30) days from date of Buyer's notification of Supplier of such change. The request for adjustment should include Supplier's entire claim. Any claim for the cost of redundant material or work in process shall be required to be on the forms and in the detail prescribed

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by Buyer. SUPPLIER AGREES THAT ITS FAILURE TO SUBMIT SUCH CLAIM OR CLAIMS WITHIN THE THIRTY (30) DAY PERIOD REFERRED TO ABOVE SHALL CONSTITUTE A WAIVER THEREOF. Any clarification, direction, approval, or assistance as may be provided by Buyer's program, engineering or technical personnel concerning the work to be performed or the Supplies to be furnished pursuant to this Order shall not constitute nor be construed as a change to this Order. Only the person designated by Buyer on the face of this Order is authorized to make such changes. Nothing contained in this Section shall relieve Supplier from proceeding without delay in the performance of this Order as changed. Notwithstanding the above, Buyer has contracts with its customers permitting schedule delivery performance flexibility. Seller agrees to move deliveries in, or to push them out, to allow Buyer to satisfy its obligations on its customer contracts at no price change to Buyer. Buyer agrees to give Seller 30 days' notice when this condition arises. Additionally, in the event of a National, State or Local Emergency Declaration by the Government, the Buyer reserves the right to adjust schedule without cost compensation to Seller.

8. **Responsibility for Property.** Supplier shall be liable for any loss, destruction of, or damage to property of the Buyer or the Government in Supplier's possession. Supplier shall be responsible for returning any such property in as good condition as when received except for reasonable wear and tear. Upon request of Buyer, such property will be delivered to Buyer. No such property or any part thereof shall be or become a fixture or lose its identity as personal property by reason of affixation to any realty. Buyer, and the Government, if a Government prime contract number appears on the face of this order shall have the right to enter Supplier's premises at all reasonable times to inspect its property and Supplier's records with respect thereto. Supplier shall comply with the provisions of Subpart 45.5 "Management of Government Property in the Possession of Contractors," of the FAR and Appendix H. of the DFAR, "Military Standard Requisitioning and Issue Procedure," when required. Should property of the Buyer be transferred to a third party by Supplier in order to procure Supplies for Supplier's use in the performance of this Order, Supplier shall insert the substance of this Section in its order for procurement of such Supplies.

9. **Use of Buyer's Intellectual Property.** Supplier shall not reproduce, use or disclose any data, designs or other information belonging to or supplied by or on behalf of Buyer ("Buyer's Intellectual Property"), or developed as a result of the performance of this Order, except as necessary in the performance of orders for Buyer. Buyer's Data and any copies thereof shall be returned to Buyer upon completion or earlier termination of this Order. No license is granted under any patents owned by Buyer except for the purpose of Supplier making and selling Supplies to Buyer pursuant to this Order. Where Buyer's Data is furnished to Supplier's suppliers for procurement of Supplies for use in the performance of Buyer's orders, Supplier shall insert the substance of this provision in its orders.

Supplier agrees that all title to and all other rights and legal interests (including copyright) in all data, analyses, graphs, reports, physical property, or other subject matter prepared, procured, or produced in the performance of this Order or based upon Buyer's Intellectual Property shall vest in Buyer. Supplier further agrees to execute an assignment in a form satisfactory to Buyer giving it all title, rights and legal interests to any such data and the copyright therein and all property produced, procured, or prepared. All such materials shall be delivered to Buyer promptly upon expiration or termination of this Agreement. Supplier agrees to have agreements with its employees and agents adequate to be able to convey by such assignment and the assignment referenced below all title, rights and legal interests required by this Section 9.

Supplier further agrees to disclose promptly and in writing to Buyer all inventions, improvements, or discoveries (whether or not patentable) which Supplier conceives or reduces to practice during the period of performance of this Order or which is based upon Buyer's Intellectual Property. Supplier hereby assigns to Buyer all of Supplier's title, rights and legal interests in and to such inventions, improvements, or discoveries. Supplier further agrees to execute and deliver to Buyer all documents and perform all lawful acts which Buyer deems necessary for

the preparation, prosecution, issuance, procurement, defense and maintenance of patent applications and patents of the United States or foreign countries covering said inventions, improvements or discoveries and to execute all documents, including assignments in a form satisfactory to Buyer, which shall be requested or necessary to vest all title, rights and legal interests in Buyer in said inventions, improvements, discoveries, patent applications, and patents.

10. **Assignment.** Neither this Order nor any duty or right under it shall be subcontracted, moved to a different facility whether or not under the Suppliers management, delegated, or assigned by Supplier without the prior written consent of Buyer.

11. **Termination for Default.** Buyer may terminate this Order, in whole or in part, without liability, (a) if deliveries are not made at the time or in the quantities specified, (b) in the event of any breach hereof by Supplier, (c) in the event of the institution of any proceedings in bankruptcy or insolvency by or against Supplier, or any parent, subsidiary or affiliate of Supplier, or (d) in the event of the appointment of a receiver or trustee for Supplier or any parent, subsidiary or affiliate of Supplier or any assignment for the benefit of creditors by Supplier or any parent, subsidiary or affiliate of Supplier, except where the default is caused by conditions beyond the Suppliers' control including, but not limited to Acts of God, Government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the Supplier .

12. **Termination for Convenience.** Buyer may terminate this Order, in whole or in part, at any time for its convenience by written notice. Supplier shall immediately comply with Buyer's instructions and, to the extent specified therein, stop work and the placement of subcontracts hereunder; terminate work under subcontracts outstanding hereunder; take any reasonable action to mitigate any damages incurred as a result of such termination; and take any action necessary to protect Buyer's property in Supplier's possession. Within thirty (30) days of receipt of such notice, Supplier shall advise Buyer of the actions taken to comply with Buyer's instructions and shall also notify Buyer of Supplier's intent to file a termination claim. In the event Buyer terminates and Supplier submits a termination claim, Buyer shall pay to Supplier the following: (a) amounts due for Supplies delivered and accepted or services completed in accordance herewith and not theretofore paid for prior to the effective date of termination; and (b) actual work in process costs incurred by Supplier if properly allocable under generally accepted accounting principles to the terminated portion of this Order, including liabilities to subcontractors which are so allocable, excluding any and all costs of supplies which either can be diverted to other orders of Supplier or retained by Supplier for its own use for future orders and exclusive of any costs attributable to Supplier's supplies paid or to be paid for under (a) above. The total settlement shall not exceed the Order price. Such termination claim shall be submitted within sixty (60) days after the effective date of the termination in such form as may be specified by Buyer. Buyer shall not be required to make any determination on any late claim. SUPPLIER AGREES THAT ITS FAILURE TO SUBMIT SUCH CLAIM OR CLAIMS WITHIN THE SIXTY-DAY TIME PERIOD SET FORTH ABOVE SHALL CONSTITUTE A WAIVER THEREOF. Any termination by Buyer for any reason shall be without prejudice to any claims for damages or other rights of Buyer against Supplier.

13. **Indemnification.** In the event Supplier, its officers, employees, agents, suppliers or subcontractors at any tier enter premises occupied by or under the control of Buyer or third parties in the performance of this Order, Supplier shall defend, indemnify and hold harmless, the Buyer, its officers, employees and agents from any claim, suit, loss, cost, damage, expense (including attorney fees), or liability by reason of property damage or personal injury (including death) to any person, including Supplier's employees, of whatsoever nature or kind arising out of, as a result of, or in connection with such performance occasioned in whole or in part by the actions or omissions of Supplier, its officers, employees, agents, suppliers or subcontractors at any tier. Without in any way limiting the foregoing undertakings, Supplier and its suppliers and subcontractors at any tier shall maintain public liability and property

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damage insurance in reasonable limits covering the obligations set forth herein and shall maintain proper Workers' Compensation Insurance or an approved self-insurance program covering all employees performing this Order.

Supplier further agrees to indemnify and hold harmless Buyer, its officers, employees, agents, suppliers or subcontractors from and against any claim, suit, loss, cost, damage, expense (including attorney fees), or liability by reason of property damage or personal injury (including death) to any person, firm or corporation, of whatsoever nature or kind arising out of the manufacture, sale, or subsequent use of the Supplies purchased under this Order.

**14. Patent Indemnity, Trademarks, Trade secrets, and Copyrights.**

Unless of Buyer's design, Supplier guarantees that the sale and use of Supplies and the use of any processes or methods related to the Supplies will not infringe any United States or foreign patents, trademarks, trade secrets, copyrights or other property rights ("Intellectual Property Rights"). Supplier shall defend, indemnify and hold Buyer and its customers harmless from any loss, cost, damage, expense (including attorney's fees), or liability which may be incurred on account of infringement or alleged infringement of any Intellectual Property Rights with respect to such Supplies and defend, at its own expense, any action or claim in which such infringement is alleged.

**15. Equal Opportunity.**

The Equal Employment Opportunity clause in Section 202 of Executive Order (E.O.) 11246 as amended and the implementing rules and regulations in Title 41, Code of Federal Regulations, Part 60, including 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a) are incorporated herein by reference unless this order is exempted by rules, regulations or orders the Secretary of Labor issued pursuant to Section 204 of E.O. 11246 or provisions of any superseding E.O. As used in said clause, "Contractor" means Supplier. Supplier agrees to provide Buyer with an executed Equal Employment Opportunity Certificate indicating Supplier's compliance or exempt status on an annual basis when requested by Buyer. It is incorporated herein by reference and shall be valid until the next annual request by Buyer.

**16. Gratuities, Gifts and Kickbacks.**

Buyer may, by written notice to Supplier, terminate for default the right of Supplier to proceed under this order if Buyer has reasonable cause to believe that gratuities (in the form of entertainment, gifts or otherwise) or kickbacks were offered or given by Supplier, or any agent or representative of Supplier, to any officer, employee or representative of Buyer with a view toward securing this order or securing favorable treatment with respect to the award or amendment of this order or the making of any determination with respect to the performance of this order. The rights and remedies of Buyer provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this order.

**17. Labor Disputes.**

Whenever any actual or potential labor dispute delays, or threatens to delay, the timely performance of this order, Supplier shall immediately give notice thereof to Buyer. Supplier shall insert the substance of this provision in its orders issued hereunder.

**18. Compliance with Law.**

In the performance of this Order, Supplier agrees to comply with all applicable local, state and federal laws and executive orders and regulations issued pursuant thereto. Supplier further agrees to indemnify Buyer against any loss, cost, damage, or liability by reason of Supplier's violation of this Section.

**19. Remedies.**

The rights and remedies of Buyer provided herein shall be cumulative and in addition to any other rights and remedies provided by law or equity.

**20. Waiver.**

The failure of Buyer in any one or more instances to insist on performance of any provision of this Order shall not be construed to be a waiver of such provision in any subsequent instance.

**21. Nondisclosure of Information.**

Supplier shall not, without prior written consent of Buyer, disclose any information relative to this Order.

**22. Tooling, Material and Special Test Equipment.**

(a) Title and the right to immediate possession of all tooling, material, and special test equipment furnished by Buyer to Supplier or ordered by Buyer from Supplier shall remain in or vest in the Buyer, unless it is identified as property of the Government, whereby it shall remain property of the Government. The Buyer neither warrants nor represents the quality or suitability of such tooling, material, or special test equipment for their intended use. (b) Subject to the provisions of paragraph (a) above, if this order is for tooling, such tooling shall become the property of the Buyer or the Government, as applicable, upon acceptance thereof by the Buyer. (c) Final invoices shall be submitted for tooling after acceptance by Buyer of sample or production parts for which the tooling was ordered. Payment by Buyer of final invoices for tooling will be made following receipt of documentation (i) showing Buyer's part number and tool number and/or other identifying data Buyer may require and the unit price of each tool for which payment is sought; and (ii) bearing Supplier's certification that each tool listed is completed and satisfactory for use for which it is intended. (d) Tooling, material and special test equipment shall be maintained in good condition and must be permanently identified showing (i) the Government prime contract number (if one is indicated on this order); (ii) the Buyer's name; (iii) the part number; and (iv) the tool number. (e) Unless otherwise authorized by Buyer, all tooling, material and special test equipment ordered or furnished by Buyer (unless it is Government property) shall be used in support of Buyer's orders only. Tooling, material, and special test equipment shall be promptly disposed of at any time as Buyer may direct, with no additional cost to Buyer. Such tooling, material, and special test equipment shall not be co-mingled with property belonging to Supplier or others, except as such material that may be incorporated into or attached to Supplies consumed or expended in the performance of this order. (f) Supplier shall maintain inventory control of all such tooling, material, and special test equipment and furnish inventories and reports as required by Buyer. (g) Supplier shall include the substance of this Article and Article 8 in its orders to procure Supplies for use in the performance of this order.

**23. Payment.**

The original and other copies of invoices shall be mailed at or after the time of shipment. The time for payment of Supplier's invoices shall commence upon the date of actual receipt of invoices in complete accordance with the requirements of this Order or the date of acceptance of goods, whichever is later. Unless otherwise provided elsewhere in the purchase orders/contracts, payment Net 90 days from the later of (i) the date of Buyer's receipt of an invoice; or (ii) receipt of product or services, as applicable, provided that Supplier complied with Section 5 above with respect to shipment and delivery of the Supplies. In the event that Supplier delivers excess or early Supplies not in compliance with Section 5 above, then Buyer's time for payment shall be adjusted to comply with the schedule.

**24. Governing Law.**

A). The validity, interpretation, and performance of this Order shall be governed by and construed in accordance with the laws of the state of California, excluding its conflicts of laws rules, and in accordance with applicable federal laws and regulations. In the event any part of this Order is determined for any reason to be unenforceable, such determination shall have no effect on any other part hereof. B). If a United States Government prime contract number or other Government designation appears on the face of this order, the provisions of this order shall be governed by and construed in accordance with the law of United States Government Contracts as set forth by statute and applicable regulations and decisions by the appropriate courts and Boards of Contract Appeals. To the extent that the law referred to in the foregoing sentence is not determinative of an issue, recourse then shall be first to the laws of the State of California and then to the Uniform Commercial Code.

**25. Arbitration.**

Any and all disputes arising between Buyer and Supplier in connection with this sale, including the negotiation, interpretation, performance, breach, or termination thereof, shall be resolved exclusively by binding arbitration pursuant to the rules of Conciliation and Arbitration of the American Arbitration Association ("Association"). The arbitration shall be conducted in the English language by a single arbitrator chosen by both Buyer and Supplier or, if they are unable to agree, by the

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Association, and shall be held in, Oxnard, California or such other place as the parties may agree. The parties shall have three (3) days to object in writing to the appointment of the arbitrator, the sole basis for such objection being an actual conflict of interest. The Association, in its sole discretion, shall determine within three (3) days the validity of any objection. Buyer and Supplier agree to exclude any right of application or appeal to any court in connection with any question of law arising in the course of the arbitration except for purposes of enforcing this agreement to arbitrate or the award and to seek relief or other interim measures in support of arbitration. The arbitrator shall have the right to assess the costs of arbitration, including the legal fees and other costs incurred by either party, against the losing party or in such manner as the arbitrator deems just. The award of the arbitrator shall be final and binding and not subject to judicial review, except as provided by law in a proceeding to enforce the award. The provisions of this Section 24 shall survive the termination of this sale.

26. **Jurisdiction and Venue.** Where federal jurisdiction exists over any action, suit, or proceeding for equitable relief arising out of or in any way connected with this Agreement or to enforce the arbitration decision, the parties designate the United States District Court for the Central District of California, Los Angeles Division, for the exclusive resolution of the dispute and submit to the jurisdiction of that court. Where federal jurisdiction does not exist over that action, suit, or proceeding, the parties designate the Ventura County Superior Court, California, for the exclusive resolution of the dispute and submit to the jurisdiction of that court. Nothing in this Section is intended to limit in any way a party's right to appeal all or any part of a decision or ruling or judgment of any court.
27. **Miscellaneous.** This Order constitutes the full understanding of the parties. No conditions, usage of trade, course of dealing or performance, understanding or agreement purporting to modify, vary, explain, or supplement the terms or conditions of this Order shall be binding unless hereafter made in writing and signed by the parties.
28. **Severability.** If any provision of this Order is determined to be ineffective or invalid, all other provisions of this Order shall remain effective and valid provided the purpose of the remaining valid and effective provisions is not frustrated.
29. **Liquidated Damages.** If Supplier fails to deliver the goods or perform the services within the time specified in the contract, the actual damage to Buyer for the delay will be difficult or impossible to determine. Therefore, in lieu of actual damages, Supplier will pay to Buyer a fixed, agreed, and liquidated damage for each calendar day of delay; except when the delay is a result of a cause beyond the control of the Supplier. Buyer will ascertain the facts regarding the delay, the length of the delay, and will extend the time performance of the contract, if in Buyer's judgment; the findings of fact justify an extension to the contract.

If Buyer cancels the contract, in whole or part, under Termination of Default (paragraph 11) Supplier will be liable for such liquidated damages accruing until such time as Buyer may reasonably obtain delivery of substitute goods or performance of substitute services.

Liquidated damages if called for by Buyer from Supplier shall be one percent (1%), of the contract price of the Item or Service per each calendar day of delay. The scheduled delivery date used for computing such credit shall be the delivery date agreed at the time of original contract placement, or another date from a subsequently issued BUYER contract change order.

30. **Consequential Damages.** If Buyer incurs penalties for late delivery that can be directly attributed to the supplier's late delivery to Buyer, Buyer shall hold Seller fully responsible for all such charges.
31. **Market Pricing.** Buyer reserves the right to evaluate current market pricing throughout the term of this agreement. If it is determined that Buyer can purchase one or more of the PRODUCTS or products similar to PRODUCTS of comparable quality and quantity from another source at a lesser price, Supplier will be given the opportunity to meet the market

price. Buyer reserves the option to decide to move respective PRODUCTS to a new source. As a result, if PRODUCTS are moved to a new Supplier, this agreement may, at Buyer's option, be terminated as provided at paragraph 12, Termination for Convenience.

32. **Regulatory Compliance – Export Controls.** Supplier understands and agrees that the information disclosed, made available or provided herein is private, confidential, and proprietary, and may also be controlled technical data or technology under the Export Administration Regulations ("EAR") or International Traffic in Arms Regulations ("ITAR"), Office of Foreign Assets Control ("OFAC"), or subject to other laws or regulations. Supplier agrees and covenants that it will not release, show, make available, disclose or deliver in any form or fashion all or any part of this information to any person who is not a U.S. Citizen, a lawful permanent resident of the United States (i.e., valid "Green Card" holder – a Visa is irrelevant for this purpose), or who has received Political Asylum in the United States without first having determined whether it is lawful to do so under U.S. laws including the EAR, ITAR, and OFAC. Further, Supplier will not release, show, make available, disclose or deliver in any form or fashion all or any part of this information to any non-U.S. Person without having first obtained the necessary license or approval that may be required from the U.S. Department of Commerce, Department of State, Department of Treasury, or other agency, department, or office. Supplier agrees that if a license or other approval is necessary it will promptly advise Buyer in writing of its determination and confirm that it has not released any controlled technical data or technology and that it is seeking a license or other approval.
33. **Part Changes - Aftermarket Sales.** Supplier understands that on parts purchased from Supplier, where Buyer holds source-controlled drawing design rights, no changes shall be made by Supplier to Buyer's drawings or specifications without prior written approval from Buyer. Supplier further agrees not to sell such parts to anyone other than Buyer, or another purchaser approved by Buyer in writing, and in advance, for any sale of such products, or the sharing of any specification or drawing information related to such parts. Such limitations survive termination or completion of any purchase orders/contracts for the items from Buyer.
34. **Audit.** Buyer shall have the right to visit Supplier's facilities to conduct pre-award surveys. Supplier also grants Buyer access post-award to review the Supplier's facilities and records to ensure Supplier is performing in accordance with contract requirements and including any state and federal regulatory matters. This right extends through the Supplier's supply chain as well.
35. **Changes by Supplier in the performance of work.** Supplier agrees to notify Buyer of any and all changes in product design, content, or testing affecting all products being purchased by Buyer prior to implementing such changes. Buyer shall respond promptly to Supplier regarding acceptability of such changes to Buyer. Supplier agrees it shall notify Buyer of changes in product and/or processes, changes in its supply chain suppliers, changes in manufacturing facility locations, and where required by contract, obtain Buyer's express written approval prior to making such change(s).
36. **Non-Conforming Goods.** In the event that goods do not comply with Buyer's requirements (defined in the Supplier's purchase orders/specification/terms & conditions), Supplier agrees to contact Buyer prior to shipping same. Buyer must disposition such material, in writing to Supplier, prior to any shipments. In the event of an escape from Supplier, Supplier agrees to immediately inform Buyer of said escape within 48 hours of becoming aware of such event.
37. **Commercial Requirements for Imported Goods.** All Supplier invoices for imported products must have the following information:
- a) **COMMERCIAL INVOICES:** Invoices must be written in English; Proper international commercial term (INCOTERMS 2010) must be indicated; The port of entry to which the merchandise is destined; If merchandise is sold or agreed to be sold, the time, place and names of buyer and seller; if consigned, the time and origin of shipment and names of shipper and receiver; A detailed description of the merchandise, including the name by which each item is known, the grade or quality and the marks, numbers and symbols under which the product is sold by the seller or manufacturer to the trade in the

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country of exportation; The quantities in weights and measures; If sold or agreed to be sold, the purchase price of each item in the currency of the sale; The type of currency should be clearly shown; All charges upon the merchandise, itemized by name and amount including freight, insurance, commission, cases, containers, coverings, and cost of packing. If not included above, all charges, costs, and expenses incurred in bringing the merchandise from alongside the carrier at the port of exportation in the country of exportation and placing it alongside the carrier at the first U.S. port of entry. The cost of packing, cases, containers, and inland freight to the port of exportation need not be itemized by amount if included in the invoice price and so identified. Where the required information does not appear on the invoice as originally prepared, it shall be shown on an attachment to the invoice; All rebates, drawbacks and bounties, separately itemized, allowed upon the exportation of the merchandise; Country of Origin must be listed on all invoices; All goods or services furnished for the production of the merchandise not included in the invoice price. (Assists).

- b) **PACKING LISTS:** Packing Lists must provide the following: Number of packing units; Unique identification number for each packing unit; Type of packing unit; Content of each packing unit; Dimensions of each packing unit; Weight of each packing unit; Information on any over packing such as skids, pallet boxes, etc.; Totals of the above; Reference to the invoice number or numbers that is covers.
- c) **WOOD PACKING MATERIALS (WPM):** In a final rule published in the Federal Register on September 16, 2004, the U.S. Department of Agriculture (USDA) amended its regulations with the goal of decreasing the risk of introducing plant pests into the United States. USDA has adopted the international standard for wood packaging material (WPM) that was approved by the International Plant Protection Convention (IPPC) on March 15, 2002; The IPPC (International Plant Protection Convention) standard calls for most WPM to be either heat treated or fumigated with methyl bromide in accordance with the Guidelines and marked with an approved international mark certifying that treatment. The final rule, which became effective on September 16, 2005, and affects all persons using wood packaging material in connection with importing goods into the United States; DLA Contract Clause: 52.247-9012 REQUIREMENTS FOR TREATMENT OF WOOD PACKAGING MATERIAL (WPM) (FEB 2007). <http://www.landandmaritime.dla.mil/OFFICES/PACKAGING/>
- d) **PRODUCT MARKING REQUIREMENTS:** Every article of foreign origin entering the United States must be legibly marked with the English name of the country of origin unless an exception from marking is provided for in the law. **KNOWN EXCEPTIONS TO THE RULE:** The International Plant Protection Convention (IPPC) standard calls for most Wood Packaging Material (WPM) to be either heat treated or fumigated with methyl bromide in accordance with the guidelines and marked with an approved international mark certifying that treatment. **ALL IMPORTS (with certain exceptions) WILL BE DENIED ENTRY IF THEIR WOOD PACKAGING MATERIAL DOES NOT CONFORM TO THESE GUIDELINES AND MARKING REQUIREMENTS.** The only option for non-compliant materials is for it to be immediately exported. There will be no fumigation of untreated wood at U.S. Ports; WPM made entirely from Canadian origin wood, which is exempt from the treatment and marking requirements; Manufactured wood materials such as fiber board, plywood, whisky and wine barrels, and veneer; Pieces of wood that are less than 6 mm (0.24 in.) in all dimensions; Sawdust, wood wool, wood shavings, produced as a result of sawing or shaving wood into small slender and curved pieces less than 6mm in all dimensions; WPM used for most Department of Defense (DOD) shipments imported by either the Department or DOD contractors; Firewood, mesquite wood for cooking and small, non-commercial packages of non-manufactured wood for personal cooking or personal medicinal purposes coming directly from Mexican Border States.
- e) **10 + 2 REQUIREMENTS – ISF (Ocean Shipments Only):** The

proposed Importer Security Filing and Additional Carrier Requirements (or “10+2” rule) went into effect January 1, 2009. The rule mandates those importers of ocean cargo, or their authorized agents, supply U.S. Customs and Border Protection (CBP) with 10 additional data elements and ocean carriers to supply an additional 2 data sets. This information is to be required 24 hours prior to vessel loading in the foreign port and must be filed at that time by the Automated Broker Interface (ABI); **THE TEN REQUIRED DATA ELEMENTS ARE:** Manufacturer (or supplier) name and address; Seller (or owner) name and address; Buyer (or owner) name and address; Ship-to name and address; Container stuffing location; Consolidator (stuffer) name and address; Importer of record number (or foreign trade applicant identification number); Consignee number(s); Country of origin; Commodity Harmonized Tariff Schedule number (to the 6th digit). The carrier is responsible for providing to CBP vessel stow plans and container status messages by the Automated Manifest System (AMS); the purpose of the advance security filing requirement is to improve CBP’s risk assessment and targeting capabilities to help prevent terrorist weapons from entering the U.S. The proposed rule specifically states that the additional information is not to be used for commercial purposes; Suppliers who ship ocean freight to PTI Technologies, Inc. are required to provide the required 10 + 2 information to our authorized Customs Broker via our approved form that will be submitted with the Purchase Order.

- 38. **Government Contracts.** Except as otherwise indicated on the face of this order, the FAR and DFARS clauses specified in this Article (GOVERNMENT SUPPLEMENT-FAR & DFARS CLAUSES), as in effect on the date of this order, are incorporated herein by reference. Further, Supplier agrees to obtain and use the proper issue of all documents referred to herein and required for performance hereunder. As used in the FAR and DFARS clauses specified in this Article, “Government” and “Contracting Officer” mean Buyer (PTI) where applicable, “Contractor” means Supplier, “Contract” means this order unless the context of the clause requires otherwise and “subcontract” means “Supplier’s purchase order or subcontract issued pursuant to this order”. For the clauses listed below which set forth dollar thresholds, please note that such thresholds are subject to change by the government.
- 39. **Government Mercury Free Requirement.** The supplies furnished under this task order shall be free from mercury contamination (i.e., during the manufacturing process, tests or inspections), in accordance with NAVSEA INSTRUCTION 5100.3D. The supplies offered shall not have come in direct contact with mercury or any of its compounds nor with any mercury containing devices employing only a single boundary of containment. (A single boundary of containment is one, which is not backed by a second seal or barrier to prevent contamination in event of rupture of the primary seal or barrier). In all cases where components, materials, equipment, and instruments supplied to this order are contaminated or contain functional mercury, regardless of NAVSEA approval, the Buyer shall be notified.
- 40. **Force Majeure** [Supplier] shall be liable for any failure or delay in performance under this Agreement or any order of products or services, except where such failure or delay results from causes that prevent [Supplier’s] performance, and that are unforeseeable, outside of [Supplier’s] control, and without any fault or negligence of [Supplier]; provided that [Supplier] gives [Buyer] written notice of the failure or delay immediately after [Supplier] learns of such cause (an "Excusable Delay"). If a failure or delay in performance is caused by an event affecting any of [Supplier’s] suppliers, such failure or delay shall not be excusable unless such event is an Excusable Delay as defined above and the good or service to be provided by such supplier is not obtainable by [Supplier] from other sources in time for timely delivery of the products or services to [Buyer]. [Seller] shall use best efforts to mitigate the effects of the failure or delay and shall resume its performance immediately after the removal of such cause. Notwithstanding the foregoing, [Buyer] may in its discretion cancel without liability or obligation to [Supplier] all or any portion of this Agreement, or its order of products or services affected by [Supplier’s] failure or delay in performance, regardless of whether or not such failure or delay is an Excusable Delay.

**PTI Technologies Inc.**  
PTI Supplier Standard Terms and Conditions

**GOVERNMENT SUPPLEMENT-FAR & DFARS CLAUSES**  
**Government Contract Provisions from the Department of Defense FAR Supplement (DFARS)**

When the materials, products or services furnished are for use in connection with a U. S. Government Department of Defense Prime Contract or higher-tier subcontract, in addition to PTI Customer Purchase Order Terms & Conditions – 11/04/2015 Rev. 13, the following clauses set forth in the DFARS in effect as of the date of the prime contract are incorporated herein by reference. In all clauses listed herein, the terms "Government", "Contracting Officer" and "Contractor" shall be revised to suitably identify the contracting parties under this Purchase Order and effect the proper intent of the provision except where further clarified or modified below. "Subcontractor", however, shall mean "Seller's Subcontractor" under this Purchase Order. The Seller, by signing its offer, hereby certifies compliance with the following clauses and is, therefore, eligible for award. With respect to any applicable DFARS clauses incorporated into this Purchase Order relating to rights in noncommercial technical data and noncommercial computer software and noncommercial computer software documentation, the Seller grants to Buyer the right to use, disclose, modify, combine, integrate or make derivative works of any noncommercial technical data, noncommercial computer software and/or noncommercial computer software documentation delivered under this Purchase Order to the extent necessary, and for such period as is required, for Buyer to complete its performance under the Buyer's U.S. Government programs.

<u>FAR</u>	<u>TITLE OF CLAUSE</u>	<u>FAR</u>	<u>TITLE OF CLAUSE</u>
15.001	Definitions (Price Negotiations)	52.227-10	Filing of Patent Applications
31.001	Definitions (Cost Principles)	52.227-11	Patent Rights – Retention by the Contractor (short form)
52.202-1	Definitions	52.227-12	Patent Rights - Retention by the Contractor (long form)
52.202-3	Gratuities	52.227-13	Patent Rights – Acquisition by the Government
52.203-5.1.1	Covenant Against Contingent Fees	52.227-14	Rights in Data – General
52.203-6	Restrictions on Subcontract Sales to the Government	52.227-15	Rights in Data – SBIR Program 52.228-3
52.203-7	Anti-Kickback Procedures	52.228-7	Insurance – Liability to Third Persons
52.204-2	Security Requirements	52.229-3	Federal, State, and Local Taxes (Applicable to Purchase Orders over \$100,000)
52.209-5	Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters.	52.230-1 thru 5	Cost Accounting Standards
52.211-15	Defense Priorities and Allocation Requirements	52.232-11	Extras
52.214-26	Audit and Records – Sealed Bidding	52.236-13	Accident Prevention
52.215-1	Instructions to Offerors – Competitive Acquisition	52.242-13	Bankruptcy (Applicable to Purchase Orders over \$100,000)
52.215-2	Audit and Records – Negotiation	52.242-14	Stop Work Order
52.215-10	Price Reduction for Defective Cost or Pricing Data	52.244-2	Subcontracts
52.215-11	Price Reduction for Defective Cost or Pricing Data – Modification	52.244-5	Competition in Subcontracting (Applicable to Purchase Orders over \$100,000)
52.215-12	Subcontractor Cost or Pricing Data	52.245-2	Government Property
52.215-13	Subcontractor Cost or Pricing Data – Modification	52-245-17	Special Tooling
52.215-14	Integrity Of Unit Prices	52-245-18	Special Test Equipment
52.215-19	Notification of Ownership Changes	52-246-1	Contractor Inspection Requirements
52.215-20	Requirements for Cost or Pricing Data	52-246-2	Inspection of Supplies
52.215-21	Requirements for Cost or Pricing Data – Modification	52.246-4	Inspection of Services
52.219-8	Utilization of Small Business Concerns	52.246-23	Limitation of Liability (Applicable to Purchase Orders over \$100,000)
52.219-9	Small Business Subcontracting Plan	52.247-34	F.O.B. Destination
52.219-16	Liquidated Damages – Subcontracting Plan	52.248-1	Value Engineering (Applicable to Purchase Orders over \$100,000)
52.222-1	Notice to the Government of Labor Disputes	52.252-2	Clauses Incorporated by Reference
52.222-2	Hazardous Material Identification and Material Safety Data		
52.222-4	Contract Work Hours and Safety Standards Act	<u>DFARS</u>	<u>TITLE OF CLAUSE</u>
52.222-20	Walsh-Healey Public Contracts Act (Applicable to Purchase Orders over \$10,000)	252.201-7000	Contracting Officer's Representative
52.222-21	Prohibition of Segregated Facilities (Applicable to Purchase Orders over \$10,000)	252.201-7001	Prohibitions on Persons Convicted of Fraud or Other Defense Contracts Related Felonies (Applicable to Purchase Orders over \$100,000)
52.222-22	Previous Contracts and Compliance Reports (Applicable to Purchase Orders over \$10,000)	252.204-7000	Disclosure of Information
52.222-24	Pre-Award on-Site Equal Opportunity Compliance Review (Applicable over \$10,000)	252.204-7012	Cyber Security
52.222-25	Affirmative Action Compliance (Applicable to Purchase Orders over \$10,000)	252.204-7008	Requirements for Contracts Involving Export-Controlled Items
52.222-26	Equal Opportunity (Applicable to Purchase Orders Over \$10,000)	252.215-7002	Cost-Estimating Requirements
52.222-35	Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era (Applicable to Purchase Orders over \$10,000)	252.219-7003	Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan
52.222-36	Affirmative Action for Workers with Disabilities (Applicable to Orders over \$10,000)	252.223-7001	Hazard Warning Labels
52.222-37	Employment Reports on Disable Veterans and Veterans of the Vietnam Era (Applicable to Purchase Orders over \$10,000)	252.223-7004	Drug-Free Work Force
52.222-50	Combating Trafficking in Persons (Mar 2015)	252.225-7000	Buy American Act
52.222-54	Employment Eligibility Verification (E-Verify Clause)	252.225-7001	Buy American and Balance of Payments Program
52.223-6	Drug Free Workplace	252.225-7006	Quarterly Reporting of Actual Contract Performance Outside the United States
52.223-7	Notice of Radioactive Materials	252.225-7007	Prohibition on Acquisition of United States, Munitions List Items from Communist Chinese Military Companies
52.223-11	Ozone Depleting Substances	252.225-7009	Restriction on Acquisition of Certain Articles Containing Specialty Metals
52.224-2	Privacy Act	252.225-7013	Duty Free Entry
52.225-13	Restrictions on Certain Foreign Purchases	252.225-7014	Preference for Domestic Specialty Metals, Alt 1
52.225-14	Translation between English Version and Translation of Contract	252.225-7016	Restriction on Acquisition of Ball and Roller Bearings
52.226-1	Utilization of Indian Organizations and Indian-Owned Economic Enterprises	252.225-7021	Trade Agreements
52.226-2	Historically Black College or University and Minority Institution Representation	252.225-7025	Restriction on Acquisition of Forgings
52.227-1	Authorization and Consent	252.225-7033	Waivers of United Kingdom Levies
52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement (Applicable on Purchase Orders over \$100,000)	252.227-7013	Rights in Technical Data
52.227-3	Patent Indemnity	252.227-7015	Technical Data – Commercial Items
52.227-6/9	Royalty Information	252.227-7016	Rights in Bid or Proposal Information
		252.227-7018	Rights in Noncommercial Technical Data and Computer Software SBIR Program
		252.227-7034	Patents – Subcontracts
		252.227-7037	Validation of Restrictive Marking on Technical Data
		252.231-7000	Supplemental Cost Principles