

## PURCHASE ORDER AND TASK DIRECTIVE TERMS AND CONDITION

**These Purchase Order and Task Directive Terms and Conditions** (the "Agreement"), represent the governing terms and conditions **between 3T-Innovations, LLC**, a Florida Limited Liability Company with its principal location at 905 E Martin Luther King Drive, Suite 310, Tarpon Springs FL 34689, ("3TI") and the supplier (the "Supplier") identified in the Purchase

Order and Task Directive (together sometimes referred to herein as the "Parties" or individually as a "Party") with respect to the Purchase Order.

### **Definitions.**

**"Deliverables"** means the deliverables specified in the Purchase Order (and any Statement of Work).

**"Delivery Date"** means the date or dates specified in the Purchase Order by which the Supplier is required to deliver the Work.

**"Intellectual Property Rights"** means any and all tangible and intangible: (i) copyrights and other rights associated with works of authorship throughout the world, including but not limited to copyrights, moral rights, and mask works, and all derivative works thereof; (ii) trademark and trade name rights and similar rights; (iii) trade secret rights; (iv) patents, designs, algorithms, utility models, and other industrial property rights, and all improvements thereto and derivatives thereof; (v) all other intellectual and industrial property rights (of every kind and nature throughout the world and however designated) whether arising by operation of law, contract, license, or otherwise; and

(vi) all registrations, applications, renewals, extensions, continuations, divisions, or reissues thereof now or hereafter in force (including any rights in any of the foregoing).

**"Preexisting Materials"** means any Intellectual Property Rights or tangible personal property of Supplier or 3TI created before the date of the Purchase Order or outside the scope of the Purchase Order.

**"Products"** means hardware, software, supplies, and any tangible goods specified in the Purchase Order.

**"Purchase Order"** means the ordering document provided by 3TI to Supplier for the Work, whether identified as a Purchase Order, Task Directive, Task Order, or title of similar import, and includes any attachments, exhibits, specifications, drawings, notes, instructions and other information, as well as these Purchase Order and Task Directive Terms and Conditions, whether physically attached to the Purchase Order or incorporated therein by reference.

**"Services"** means any and all services Supplier is to perform (directly or via a third party) which are specified in the Purchase Order.

**"Statement of Work"** or **"SOW"** means the document specifying, without limitation, the scope, objective, and time frame of any services that Supplier will perform for 3TI or 3TI's customer(s).

**"Work"** means the Deliverables, Products, and Services specified in the Purchase Order, including any SOW therefore.

1) **Scope and Acceptance of Terms.** Notwithstanding anything else contained herein, if a Reseller, Partner, or other Master Agreement has been fully executed and is currently in effect between the Parties, the terms and conditions of said agreement shall take precedence over any inconsistent terms and conditions contained in the Purchase Order. 3TI's submission of the Purchase Order is conditioned on Supplier's agreement that any differing or additional terms to those of the Purchase Order, whether communicated orally, in any quote, purchase order confirmation, invoice, acknowledgement, release, acceptance or other written correspondence, irrespective of the timing, shall not form a part of the Purchase Order, even if Supplier purports to condition its acceptance of the Purchase Order on 3TI's agreement to such differing or additional terms. If Supplier does not accept the Purchase Order in writing for any or no reason, any conduct by Supplier which recognizes the

existence of a contract pertaining to the subject matter hereof (e.g. Supplier's acceptance or acknowledgement of the Purchase Order, commencement of performance, or partial or complete fulfillment of the Purchase order, etc.) shall constitute acceptance by Supplier of the Purchase Order and all of these terms and conditions. In the event that applicable law prevents the previous sentence from having its intended effect, the terms of the contract between the Parties shall be determined pursuant to § 8.2-207, "Additional Terms in Acceptance or Confirmation," of the Code of Florida.

### 2) **Delivery.**

2.1 **Time is of the Essence.** Time is of the essence in the performance of Supplier's obligations under the Purchase Order. Supplier shall immediately notify 3TI if timely performance is delayed or is likely to be delayed for any reason. 3TI's acceptance or acknowledgement of such notice shall not constitute a waiver of any of Supplier's obligations.

Delivery is to be made both in quantities and at times specified herein. In the event Supplier is unable to deliver 3TI's entire order according to the delivery schedule, 3TI may, at its sole discretion, (i) cancel the order without penalty; (ii) accept partial delivery, in which event such delivery shall be separately invoiced and paid for; (iii) direct expedited routing, and any excess cost incurred thereby shall be debited to Supplier's account; or (iv) terminate or modify the Purchase Order in whole or in part without any liability whatsoever. If 3TI accepts partial delivery, it may cancel the remainder of the subject order at any time prior to Supplier's shipment (as communicated in writing to 3TI) of the remaining portion. If Supplier delivers any Work after the Delivery Date, 3TI may reject such Work without liability.

2.2 **Early Delivery.** Work delivered in advance of schedule may, at 3TI's option, (i) be returned at Supplier's expense for proper delivery, (ii) have payment therefore withheld by 3TI until the date that goods are actually scheduled for delivery, or (iii) be placed in storage for Supplier's account and at Supplier's expense until the delivery date specified in the Purchase Order.

2.3 **Rejected Work.** Upon non-acceptance, repudiation or rejection of any Work, 3TI shall not be liable for any profit Supplier would have made, nor for incidental, consequential or indirect damages. 3TI will hold any rejected Work at Supplier's risk and expense, including storage charges, while awaiting Supplier's return shipping instructions. Supplier will bear all return shipping charges, including without limitation, insurance charges 3TI incurs. 3TI may, in its sole and absolute discretion, destroy, sell at a public or private sale, or otherwise dispose of or utilize any rejected Work for which 3TI does not receive return shipping instructions within a reasonable time, and apply the proceeds, if any, first toward any charges Supplier is responsible for (e.g. storage, insurance, shipping, etc.), then in accordance with 3TI's sole and absolute discretion.

2.4 **Supplier's Commitments.** 3TI shall not be liable for Supplier's commitments or arrangements in excess of the amount, or in advance of the time, necessary to meet the Purchase Order delivery schedule.

2.5 **Packing and Insurance.** Supplier will preserve, pack, package and handle the Deliverables and Products so as to protect the Deliverables and Products from loss or damage and in accordance with best commercial practices in the absence of any specifications 3TI may provide. Without limiting the foregoing, Supplier shall observe the requirements of any local laws and regulations relating to hazardous materials, including, without limitation, packing, labeling, reporting, carriage and disposal. No extra charge for packing or insurance shall be allowed unless specifically identified in the Purchase Order.

2.6 **Packing List.** A packing list shall accompany each shipment of Products and/or Deliverables identifying the Purchase Order or Task

Directive number, a description and the quantity of each of the Products and/or Deliverables, the date of shipment, and, if such shipment completes the Purchase Order, shall state thereon: "This shipment completes this order."

**2.7 Point of Delivery.** Unless expressly instructed otherwise by 3TI in writing, Supplier will deliver all Work to the delivery address set forth in the Purchase Order. Supplier assumes responsibility for all shipping and delivery charges including, without limitation, customs, duties, costs, taxes and insurance. Risk of loss for the Deliverables and Products does not pass to 3TI until acceptance in accordance with the terms hereof.

### **3) Pricing and Payment Terms.**

**3.1 Pricing.** Supplier warrants that the prices at which Work is being sold to 3TI are not less favorable than those currently extended to any other customer for the same or similar Work in equal or smaller quantities. In the event Supplier reduces its price(s) for such Work during the term of the Purchase Order or the Period of Performance thereof or thereunder, Supplier shall reduce the price(s) of the Purchase Order in a corresponding manner.

**3.2 Taxes.** Unless otherwise specified in the Purchase Order, the price for the Work includes all applicable taxes (including, but not limited to, sales, use, value-added and ad valorem taxes, tariffs, and assessments after audit), charges such as shipping and delivery charges, duties, customs, tariffs, and government-imposed surcharges. Supplier is responsible for payment of all applicable taxes, exclusive of taxes based on 3TI's income. Supplier shall list separately on its invoice (or voucher) any such tax lawfully applicable to any Work, and payable by 3TI, with respect to which 3TI does not furnish to Supplier lawful evidence of exemption. Supplier shall use its best efforts to assist 3TI in any legal efforts to minimize the taxes resulting from the performance of the Purchase Order.

**3.3 Payment.** 3TI will pay Supplier the price set forth in the Purchase Order forty-five (45) days following the later of: (i) the Delivery Date; (ii) the date of 3TI's acceptance of all of the Work; or (iii) 3TI's receipt of a properly prepared, undisputed invoice. A properly prepared invoice must include the Purchase Order or Task Directive number and, if required in the Purchase Order, Supplier's certification of conformance of the Work to the requirements. Payment will be in U.S. dollars, and if the price set forth in any quote, invoice or other document from Supplier is not in U.S. Dollars, then 3TI will determine the U.S. dollar equivalent of the price as of, in 3TI's discretion: (i) the date of the Purchase Order; (ii) the date of the invoice; or (iii) the date of payment. 3TI may, at any time, set-off any amounts Supplier owes 3TI against any amounts 3TI owes to Supplier or any of its affiliated companies.

**3.4 Limitation Period.** All amounts accrued and made payable by 3TI to the Supplier under the Purchase Order shall be invoiced in full no later than 90 days from the contractual end date of performance (the "Limitation Period"). Unless otherwise mutually agreed to by the parties, Supplier hereby agrees to release and discharge 3TI, its officers, agents, and employees, successors and assigns of and from all liabilities, obligations, and claims arising out of or under the Purchase Order, where such are submitted after the Limitation Period.

### **4) Inspection, Testing, and Acceptance.**

**4.1 Inspection and Testing.** Any and all Work is subject to inspection and testing by 3TI to the extent practicable at all times and places, including the period of manufacture if Products or Deliverables are to be specifically manufactured or produced for 3TI in accordance with drawings, designs, or specifications furnished by 3TI, and in any event prior to acceptance.

**4.2 Acceptance.** Any and all Work shall be subject to final inspection and to acceptance by 3TI after delivery or performance. If the Work ordered does not meet the specifications or otherwise does not conform to the requirements of the Purchase Order, 3TI shall have the right to reject such

Work within thirty (30) days of Supplier's delivery or performance thereof.

**4.3 Rejected Work.** Work that has been delivered or performed and rejected may be, at 3TI's option, and upon notice to Supplier: (i) returned to Supplier for a full refund or credit; (ii) replaced by Supplier; (iii) repaired or corrected by Supplier so that it meets the requirements; or (iv) accepted by 3TI conditioned on Supplier providing a refund or credit in an amount 3TI reasonably determines to represent the diminished value of the non-conforming Work. If, after notice of 3TI's option pursuant to the preceding sentence, Supplier fails to fully carry out 3TI's election with respect to the rejected Work, same may be replaced, repaired, or corrected (without thereby exercising wrongful ownership) by 3TI, and Supplier shall be liable for the replacement, repair, or correction costs incurred by 3TI. Work rejected by 3TI shall not thereafter be tendered for acceptance, whether in relation to the same or a similar Purchase Order, unless the former rejection or requirement for correction is disclosed in writing at the time of such tender. 3TI's payment to Supplier for Work prior to timely rejection of such Work will not be deemed acceptance by 3TI.

### **5) Ownership and Licenses.**

5.1 Unless otherwise specified in a SOW and except as provided in this Section, Ownership and Licenses, 3TI is the sole and exclusive owner of all Work and Supplier hereby irrevocably assigns and transfers to 3TI all of its rights, title to, and interest in the Work, including all associated Intellectual Property Rights.

5.2 Unless otherwise specified in a SOW, each Party owns all right, title, and interest in and to any of its Preexisting Materials. Supplier hereby grants 3TI a perpetual, irrevocable, worldwide, transferable, royalty-free, nonexclusive license, with the right to sublicense and authorize the granting of sublicenses, to use and reproduce Supplier's Preexisting Materials in the Work to the extent necessary for 3TI's exercise and exploitation of its rights in the Work.

5.3 Unless otherwise specified in a SOW, Supplier will obtain and assign to 3TI a nonexclusive, royalty-free, worldwide, perpetual, irrevocable, transferrable, sub-licensable license to use all third party intellectual property rights incorporated into, required to use, or delivered with the Work. Supplier shall deliver copies of proof of the foregoing releases and licenses to 3TI upon request.

5.4 Title to all property furnished to Supplier by 3TI or paid for by 3TI shall remain with 3TI. Supplier shall not alter or use such property for any purpose or for any other party other than that specified by 3TI, without prior written consent of 3TI. Supplier shall keep adequate records, which shall be made available to 3TI upon request, and shall store, protect, repair, and maintain such property in accordance with sound industry practice, all at Supplier's expense. In the event that 3TI's property becomes lost or damaged to any extent for any cause while in Supplier's possession, Supplier agrees to replace or repair such property, at Supplier's expense, upon 3TI's request. At the completion or any termination of the work for which 3TI's property was required, Supplier shall furnish a list of 3TI's property in in Supplier's possession and shall request disposition instructions for all such property, or the remainder thereof, whether in its original form or in semi-processed form. Supplier shall make such property available to 3TI at 3TI's request, including preparation, packaging, and shipping as directed. Expense for said preparation and packaging for shipment shall be borne by Supplier. 3TI may, at its sole discretion and by written notice, divest itself of title in favor in Supplier.

5.5 Unless otherwise specified in the Purchase Order or a SOW, all tools, equipment, and all other articles required for the performance of the Work shall be furnished by Supplier at Seller's expense. If 3TI agrees to pay Supplier for such tools, equipment, and/or other articles, either separately or as a stated part of the unit price of goods or services purchased, title to

same shall pass to 3TI upon (i) commencement of processing for use in performance of the Purchase Order; or (ii) 3TI's payment therefor, whichever occurs first. Any such tools, equipment, and/or other articles which are 3TI's property shall be used only in the performance of the Purchase Order unless otherwise provided in writing by 3TI. Supplier agrees that such tools, equipment, and/or other articles shall further be subject to the terms of the preceding Subsection 5.4.

**6) Warranties.**

**6.1 General Warranties.** Supplier expressly warrants that all Work hereunder shall be free from defects, of good materials and workmanship, and shall conform to applicable specifications, drawings, samples, and performance specifications whether set forth in the Purchase Order or in Supplier's sales literature. In the event of a conflict between the terms of the Purchase Order and such sales literature, the terms of the Purchase Order shall prevail. Said warranties shall not be deemed to limit any warranties of additional scope given to 3TI by Supplier, nor to limit 3TI's rights or Supplier's obligations under any other provision of the Purchase Order, at law or in equity. Supplier shall provide 3TI and its customers with such additional warranties as represent the most comprehensive and robust warranties that Supplier provides to any customer, end user, or other party for the same or similar Work. The foregoing warranties shall survive inspection and acceptance of and payment for the Work hereunder and shall run to 3TI, its successors, assigns, and customers.

**6.2 Drawings and Specifications Review.** If, during the term of the Purchase Order, 3TI representatives review drawings, specifications, or other data developed by Supplier in connection with the Purchase Order and make suggestions or comments or approve such documents and data, such action is only an expression of opinion and shall not serve to relieve Supplier of any responsibility for the reliability, quality, rate of output, cost, delivery performance, or any other requirements of the Purchase Order.

**6.3 Non-waiver of Warranties.** No warranties are waived by 3TI by reason of supplying plans, specifications, drawing, or data, or inspecting or accepting the Work. When 3TI furnishes specifications to Supplier, Supplier shall immediately notify 3TI of any infringement claim and 3TI may defend or negotiate the disposition of any such claim.

**6.4 Replacement Work.** Work repaired or replaced by Supplier pursuant to a warranty claim or due to rejection/non- acceptance shall, unless otherwise provided herein, be subjected by 3TI and/or Supplier to the same qualification or acceptance testing as was the Work at the time of the original delivery to 3TI.

**7) Compliance.**

**7.1 Applicable Laws.** Supplier shall comply with all applicable laws, regulations, rules, executive orders, and customer prime contract or subcontract provisions and clauses relating thereto when notified thereof, including but not limited to laws, regulations, rules, and executive orders related to equal employment opportunity, affirmative action, gifts, bribes, gratuities, and kickbacks, lobbying, hiring of government employees, antitrust, security, and procurement integrity. To the extent that any such law, regulation, rule, executive order, or prime contract or subcontract provision requires that a provision or clause of the prime contractor subcontract be added to the Purchase Order, Supplier agrees that such provision or clause shall then become a part of the Purchase Order.

**7.2 FAR, DFAR & Other Required Clauses.** If 3TI's customer associated with the Purchase Order is a government agency, entity, agent, or other government end user, the applicable FAR, DFARS, and other required clauses identified in Exhibit A are hereby incorporated into the Purchase Order by reference with full force and effect.

**7.3 Procurement Integrity Act.** Supplier shall fully comply with Section 27 of the Office of Federal Procurement Policy Act (the Procurement Integrity Act), (41 U.S.C. 423) and its implementing regulations.

**7.4 DPAS Rating.** The Purchase Order is or is not a rated order as indicated on the Purchase Order or cover thereof, certified for national defense use, and Supplier is required to follow all the provisions of the Defense Priorities and Allocation System regulation (15 CFR Part 700) in obtaining controlled materials and other products, services and materials needed to fill this order.

**7.5 U.S. Foreign Corrupt Practices Act.** Supplier agrees to comply with, and not to perform any act that would subject 3TI to sanctions under, the U.S. Foreign Corrupt Practices Act, 15 U.S.C. Section 78 et seq. In particular, Supplier agrees that in connection with, or in the performance of, the Purchase Order, Supplier will not make or promise to make any payment (whether in currency, property or other thing of value) to any third person, firm or entity (including, without limitation, any government official or representative) for the purpose of obtaining or retaining business. For its part, 3TI agrees that it does not desire and will not request any service or action by Supplier that would or might constitute a violation of the Foreign Corrupt Practices Act. Furthermore, Supplier agrees, directly and indirectly, not to participate in, or otherwise be compliant with, any boycotts that the U.S. Government does not approve, including but not limited to the Arab Boycott of Israel.

**7.6 Export Compliance.**

a) Supplier agrees to comply, at its sole expense, with all applicable U.S. and foreign governmental requirements relating to Supplier's imports into and exports from, the United States, importation and use outside of the United States, and/or re-exports from abroad of all documents, goods, and services, including any requirements to obtain licenses or other authorization prior to transfer or use. The foregoing requirements include, but are not limited to the U.S. Export Administration Act, the Arms Export Control Act, the International Economic Emergency Powers Act, and the Foreign Corrupt Practices Act.

b) Supplier agrees to indemnify, defend and hold 3TI, its directors, officers and employees, including any subsidiaries, affiliates and divisions, harmless, from and against any claims, liabilities, demands, penalties, fines and costs resulting from the Supplier's failure to comply with the requirements of, or breach of the representations and warranties in this Section 7.6. Supplier also agrees that 3TI may withhold payment(s) under the Purchase Order or any other contract between the Parties if 3TI believes, in good faith, that Supplier has breached this Section 7.6.

c) Supplier represents that it is not the subject of any U.S. Government order or designation that restricts or prohibits its participation in financial or export transactions with U.S. persons or involving U.S. goods or services. Supplier agrees to immediately inform 3TI if at any time during the term of the Purchase Order Supplier becomes subject to such restrictions.

d) Supplier represents and warrants that it is either: (i) a U.S. Person as that term is defined in the U.S. export laws and regulations; or (ii) that it has disclosed to 3TI in writing the country in which it is incorporated or otherwise organized to do business, or, if a natural person, all citizenships and U.S. immigration status.

**7.7 Prohibition of Marketing or Lobbying Activities.**

a) 3TI has not engaged Supplier for the purpose of influencing or attempting to influence (marketing or lobbying) any Federal Official on behalf of 3TI, in connection with any Federal Contract action (the award, extension, continuation, renewal, amendment, or modification of any Federal Contract).

b) Supplier agrees to refrain from engaging in any communications with, or making any appearances before, any Federal Official on behalf of 3TI, for the purpose of influencing or attempting to influence (marketing or lobbying) said official in connection with any Federal Contract action.

c) Violation of this Section 7.7 may constitute grounds for immediate termination of the Purchase Order, as well as any other contracts between 3TI and Supplier, at 3TI's sole and absolute discretion, notwithstanding any other provision of the Purchase Order.

**7.8 Ethics Policy.** Supplier acknowledges that it and its employees, consultants and agents shall comply with 3TI's Ethics Compliance Program and Code of Ethics, Conduct and Responsibility (the "Code"), that all employees, consultants and agents of Supplier understand their obligations thereunder, and the restrictions imposed upon Supplier by the Code, and that Supplier agrees to abide by the applicable obligations and restrictions of the Code.

**7.9 Equal Employment Opportunity. 3TI and Supplier shall abide by the requirements of 41 CFR §§ 60- 1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability. The Parties shall further abide by 41 CFR § 61-300.10 (regarding veterans' employment reports), and Executive Order 13496 (regarding notification of employee rights), and any other laws, regulations, rules, and executive orders related to equal employment opportunity, affirmative action, and employee rights, as may be applicable to the Purchase Order.** This subsection 7.9, Equal Employment Opportunity, shall not be construed to limit or restrict any more broad or general requirement or obligation of either Party hereunder.

**7.10 Notice to 3TI.** During the term of the Purchase Order or the period of performance thereunder, Supplier will notify 3TI, in writing, immediately upon becoming aware of the existence and content of any applicable regulation, directive or law that conflicts with any provision of the Purchase Order.

**8) Insurance.** Supplier agrees, at its expense, to indemnify, defend, and hold harmless 3TI, its directors, officers, employees, affiliates, subsidiaries, agents, customers and end users from any and all loss, claims and liability, including, without limitation, reasonable legal fees and costs, for death, injury or disability of any person or damage to or destruction of property (including, without limitation, the loss of use of any property or the presence of hazardous substances at any property) caused by or resulting from the acts or omissions of Seller, its agents, suppliers or employees in connection with the performance of the Purchase Order. During the performance of the Purchase Order, Supplier shall maintain in full force and effect, at its sole cost and expense, the minimum insurance coverages stated below, written on an "occurrence basis" and not "claims-made" basis (unless otherwise stated), covering activities performed under the Purchase Order, including without limitation, coverage of all automobile exposure, all property liability exposure and all contractual liability exposure. All insurance shall be placed with reputable insurance companies acceptable to 3TI with a current rating in A.M. Best's Insurance Rating guide of at least A-X and licensed to do business in the country(ies), state(s) or province(s) where the Purchase Order is being performed. Seller shall maintain insurance with the following minimum policy limits:

a) Workers' Compensation: Coverage for statutory obligations imposed by laws of any State in which the work is to be performed including the coverage required by a Monopolistic State (i.e. North Dakota, Ohio, Washington, West Virginia, and Wyoming), including where applicable, coverage under the United States Longshoremen's and Harbor Workers' Act (USL&H), the Jones Act, and the Defense Base

Act (DBA). In addition, the policy shall be endorsed to waive the insurer's rights of subrogation in favor of 3TI Technologies, LLC and 3TI Holdings, Inc.;

b) Employer's Liability: Coverage for injuries to employees not covered by workers' compensation with limits of at least \$1,000,000 each accident, \$1,000,000 each employee by disease, and \$1,000,000 policy limit by disease;

c) Commercial General Liability: Coverage for third party bodily injury and property damage, personal injury, products and completed operations, contractual liability, and independent contractors' liability with limits not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. 3TI Holdings, Inc., and its officers, employees, and customer, where required by agreement, shall be named as Additional Insured;

d) Business Automobile Liability: Coverage for use of all owned, non-owned, and hired vehicles with limits of not less than \$1,000,000 per occurrence combined single limit for bodily injury and property damage liability. 3TI Holdings, Inc., and its officers, employees, and customer, where required by agreement, shall be named as Additional Insured;

e) Excess Umbrella liability at limits of \$1,000,000 per occurrence, \$1,000,000 annual aggregate. 3TI Holdings, Inc., and its officers, employees, and customer, where required by agreement, shall be named as Additional Insured; and

f) Aircraft public and passenger liability insurance (as applicable). Coverage shall be at least \$200,000 per person and \$500,000 per occurrence for bodily injury, other than passenger liability, and \$200,000 per occurrence for property damage. Coverage for passenger liability bodily injury shall be at least \$200,000 multiplied by the number of seats or passengers, whichever is greater.

Such policies, with the exception of the Professional Liability policy(ies), shall name 3TI, its directors, officers, employees and agents as additional insureds covering activities performed under the Purchase Order. All policies shall provide that coverage may not be materially changed, canceled or non-renewed without thirty (30) days prior written notice to 3TI. The insurance requirements set forth herein are not intended and shall not be construed to modify, limit or reduce the indemnifications made in the Purchase Order by Supplier to 3TI or to limit Supplier's liability under the Purchase Order to the limits of the policies required to be maintained by Supplier under the Purchase Order or in any other manner. Supplier shall furnish 3TI with certificates of insurance for the coverages required under the Purchase Order prior to performance hereunder. Such insurance shall be primary to, not contributing with, and not in excess of, coverage which 3TI may carry. Supplier's insurance shall contain a severability of interest provision. The insurance afforded by these policies applies separately to each insured against whom claim is made or suit is brought, in the same manner as such insured would be covered if the policy insured only such party. The inclusion of such additional insureds shall not increase the policy limits.

#### **9) Term, Termination, Cancellation, Changes, and Stop-Work Orders.**

**9.1 Term.** The Purchase Order shall remain in effect until all Work thereunder has been terminated or completed and accepted in accordance with these terms.

**9.2 Termination for Cause.** 3TI may terminate the Purchase Order, in whole or in part, immediately in the event that (i) Supplier breaches any material term hereof; (ii) Supplier fails to make timely delivery; (iii) Supplier fails to perform in accordance with any of the requirements of the Purchase Order or to make progress so as to endanger performance, or (ii) Supplier becomes insolvent or suspends any of its operations or if any petition is filed or proceeding commenced by or against Supplier under any law relating to bankruptcy, arrangement, reorganization, receivership

or assignment for the benefit of creditors. Any such termination will be without liability to 3TI except for completed items delivered to and accepted by 3TI, payment for which can be set off against any damages or debts owed to 3TI. 3TI may require Supplier to transfer title and deliver to 3TI any or all property produced or procured by Supplier for performance of the work terminated and Supplier shall be credited with the reasonable value thereof not to exceed Supplier's cost. Supplier will be liable for damages caused by or resulting from its default including but not limited to excess costs of re-procurement. Failure by 3TI to take such action, immediately or otherwise, shall not constitute a waiver of said right or any other right 3TI may have through contract, law or otherwise.

**9.3 Termination for Convenience.** 3TI may, at any time, terminate the Purchase Order, in whole or in part, for its convenience upon written notice to Supplier, in which event Supplier shall be entitled to reasonable termination charges consisting of a percentage of the Purchase Order price reflecting the percentage of work performed and accepted prior to termination, plus any reasonably incurred settlement expenses.

**9.4 Order Cancellation.** 3TI may cancel, without penalty or cost, the Purchase Order, in whole or in part, to the extent an 3TI customer has canceled its corresponding order to 3TI, prior to acceptance, and 3TI may return for a full refund and without penalty any Products received by 3TI or its Customer in connection with such Purchase Order or portion thereof. Changes. 3TI may, at any time, by a written order, make changes within the general scope of the Purchase Order for compliance by Supplier, in any one or more of the following: (i) drawings, designs, or specifications, where the supplies or services to be furnished are to be specifically manufactured or produced for 3TI in accordance therewith; (ii) method of shipment or packing; (iii) place of delivery; (iv) delivery schedule and period of performance of work; (v) quantities. Supplier further agrees to incorporate herein any revised or additional clause 3TI reasonably deems necessary to ensure compliance with any higher tier contract or modification thereto. If any such change causes an increase or decrease in the cost of or the time required for the performance of any part of the work under the Purchase Order (whether or not changed by written order): (y) the Parties shall negotiate an equitable adjustment, to the Purchase Order price, delivery schedule and period of performance, or both, in good faith; and (z) the Purchase Order shall be modified in writing accordingly. Supplier will proceed with the Work as changed and directed, regardless of whether the Parties have negotiated the amendment to the Purchase Order or the applicable SOW to incorporate the equitable adjustment. Any claim by Supplier for equitable adjustment under this clause shall be asserted within ten (10) business days from the date of receipt by Supplier of the notification of change.

**9.5 Stop-Work Order.** 3TI may, at any time, by written order to Supplier, require Supplier to stop all, or any part, of the work called for by the Purchase Order for a period of 90 days after the written order is delivered to Supplier, and for any further period to which the Parties may agree. The order shall be specifically identified as a stop-work order issued pursuant to this clause. Upon receipt of the stop-work order, Supplier shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work order is delivered to the Supplier, or within any extension of that period to which the Parties shall have agreed, 3TI shall either (1) cancel the stop-work order; or (2) terminate the work covered by the stop-work order as provided in the terms of the Purchase Order.

**10) Returns.** 3TI shall be entitled to return any and all unused and undamaged Products to Supplier for a full refund of the purchase price (inclusive of any taxes paid) within one (1) year of the date of receipt of such Product(s) by 3TI or its Customer(s). 3TI shall be entitled to return any defective, nonconforming, or otherwise unsatisfactory Products to

Supplier for a full refund (inclusive of any taxes paid) within one (1) year of the date of receipt of such Product(s) by 3TI or its Customer(s). 3TI shall be entitled to return any and all Products which a Customer does not accept due to (a) rejection for any cause; or (b) Customer cancellation of an order or termination of an order or contract, whether partial or complete, for a full refund of the purchase price (inclusive of any taxes paid) of any Products so returned.

**11) Counterfeit Parts.** If suspect/counterfeit parts are furnished under the Purchase Order and are found in any goods or deliverables, or incorporated into any services, provided hereunder, such items will be impounded by 3TI. Supplier shall promptly replace such suspect/counterfeit parts with parts acceptable to 3TI and its Customer(s), and Supplier shall be liable for all costs relating to the removal and replacement of said parts, including without limitation 3TI's external and internal costs of removing such counterfeit parts, of reinserting replacement parts, and of any testing necessitated by the reinstallation of Supplier's goods after counterfeit parts have been exchanged. Supplier shall be fully liable for all such costs, even if such cost might be considered indirect, special or consequential damages under other provisions contained herein.

**12) Confidential Information.**

**12.1 General Confidentiality.** Each Party agrees not to use any Confidential Information (as defined herein) of the other Party except in performance of the Purchase Order and not to disclose such information to third parties (other than, as determined by the receiving party in good faith, those persons with a genuine "need to know" and who will similarly limit the use and disclosure of the information, such as attorneys, accountants, commercial and investment bankers, consultants, Board members and certain key employees). All information which the disclosing party considers confidential will be conspicuously marked or otherwise labeled "Confidential," "Proprietary," "Sensitive" or in another manner indicating its confidential and/or proprietary nature or which, in the case of oral information, is specifically identified at the time of disclosure as being confidential, proprietary or sensitive; provided, however, such oral information is reduced to writing and delivered to receiving party within ten (10) days of oral disclosure. Notwithstanding the foregoing, the terms, conditions, and existence of the Purchase Order, and 3TI's pricing, discounts, margins, and non-public customer data will be considered Confidential Information whether or not so marked. With respect to both Parties hereto, for purposes hereof, Confidential Information will not include any information that: (i) is now or becomes in the public domain through no breach of the terms and conditions of the Purchase Order; (ii) is in the possession of the receiving party as of the date of execution hereof and is not subject to nondisclosure obligations; (iii) is independently learned by the receiving party from a third party without breach of the terms and conditions of the Purchase Order; or (iv) is required by law or order of a court, administrative agency or other governmental body to be disclosed by the receiving party. Each Party acknowledges that the other Party will suffer irreparable injury as a result of any use, disclosure, or duplication of its Confidential Information by the other Party in violation of the provisions of this Section. Accordingly, either Party will be entitled in such event to seek preliminary and final injunctive relief in addition to any other applicable remedies, including the recovery of damages. The provisions of this Section will survive the completion, termination, or expiration of the Purchase Order. Each Party will notify the other immediately upon learning of any unauthorized use, disclosure, or duplication of Confidential Information.

**12.2 Proprietary Drawings and Data.** Supplier shall keep confidential all information, drawings, specifications, or data and return, upon request, all documents furnished by 3TI, and shall not divulge or use such information, drawings, specifications, or data for the benefit of any other

party. Except as required for the efficient performance of the Purchase Order, Supplier shall not make copies or permit copies to be made without the prior written consent of 3TI. Supplier shall thereafter make no further use, either directly or indirectly, of any such data or any information derived therefrom without obtaining 3TI's written consent. The obligations of this clause shall survive the completion, cancellation, or termination of the Purchase Order.

**12.3 Use of Information.** Notwithstanding anything else contained herein, Supplier agrees (i) that all information heretofore or hereafter furnished or disclosed to 3TI by Supplier, in connection with the placing or filling of the Purchase Order, is furnished or disclosed as a part of the consideration for the Purchase Order; (ii) that such information is not, unless otherwise agreed to by 3TI in writing, to be treated as confidential or proprietary; and (iii) that Supplier shall assert no claims (other than for patent infringement) by reason of the use or disclosure of such information by 3TI, its assigns, or its Customers. No employee of 3TI has the authority to make an agreement providing for the confidential treatment of, or limiting the use or disclosure of, information so furnished or disclosed, unless such agreement is made in writing and signed by 3TI's Chief Financial Officer, General Counsel, Corporate Counsel, or Director of Contracts. However, in the event that this clause should conflict with the provisions of any patent rights or data rights clause of the Purchase Order, the latter shall prevail. Any unpatented knowledge or information concerning Supplier's products, methods, or manufacturing processes which Supplier may disclose to 3TI incidental to the manufacture of goods covered by the Purchase Order shall, unless otherwise specifically agreed in writing, be deemed to have been disclosed as part of the consideration for the Purchase Order, and Supplier agrees not to assert any claim against 3TI by reason of 3TI's use or alleged use thereof and, if the Purchase Order involves research or development work, Supplier agrees to grant 3TI an irrevocable, exclusive, royalty-free license to make, have made, use, and sell any inventions resulting from such work under the Purchase Order.

**12.4 Required Disclosures.** Either Party will have the right in its good faith discretion to make such public press releases, announcements or other communications as it reasonably believes are necessary to comply with applicable federal and state securities or other laws and the regulations promulgated by the National Association of Securities Dealers ("NASD") and/or appropriate securities exchanges, as the case may be, but only to the extent of not divulging any proprietary or Confidential Information of the other Party.

**13) Indemnification and Limitation of Liability.**

**13.1 Indemnification by Supplier.** Supplier shall, at its sole expense, indemnify, defend and hold harmless 3TI and its affiliates, shareholders, directors, officers, employees, contractors, agents and Customers from and against any and all claims, losses, damages, injury, liability, expenses of whatever form or nature and costs, including but not limited to reasonable attorneys' fees and court costs, resulting from, arising out of, or in any way connected with the Purchase Order, whether or not caused or contributed to by 3TI based upon: (i) an allegation that any Product, service, deliverable, or portion thereof infringes or constitutes wrongful use of any patent, copyright, trademark, trade secret or other proprietary right of any third party; (ii) any act, omission, or failure to act where action was required by Supplier (including its Subcontractors); and/or (iii) any breach by Supplier of the Purchase Order or any warranties, representations, covenants or obligations as provided for in the Purchase Order. 3TI will provide the Supplier reasonable notice of all claims and the opportunity to assume control of the defense or settlement of those portions of the claim for which indemnification is sought, provided that the 3TI will have the opportunity to approve any such defense or settlement.

**13.2 Indemnification by 3TI.** 3TI shall, at its sole expense, indemnify,

defend and hold harmless Supplier and its affiliates, shareholders, directors, officers, employees, contractors, and agents from and against any and all claims, losses, damages, injury, liability, expenses of whatever form or nature and costs, including but not limited to reasonable attorneys' fees and court costs, resulting from: (i) Supplier's use of 3TI's products or services in connection with the Work; (ii) Supplier's use of information or materials provided to Supplier by 3TI (provided that no modifications, alterations or additions to said information or materials by Supplier or any third party are wholly or partially responsible for the liability); or (iii) infringement of a third party's Intellectual Property Rights directly resulting from Supplier's compliance with 3TI's written instructions. Supplier will provide 3TI prompt written notice of all claims and the opportunity to assume control of the defense or settlement of those portions of the claim for which indemnification is sought.

**13.3 Limitation of Liability.** Except for indemnification obligations, or a breach of the confidentiality obligations contained herein, neither party shall be liable to the other party or any third parties, whether in contract, tort or otherwise, for consequential, incidental, indirect or special damages, including but not limited to lost profits, revenue or data, even if such party has been apprised of the possibility of such damages occurring. UNDER NO CIRCUMSTANCES WILL 3TI OR ITS SUBSIDIARIES, INCLUDING 3TI'S AND ITS SUBSIDIARIES' RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUCCESSORS, ASSIGNS, SHAREHOLDERS, SUBCONTRACTORS OR LICENSORS, BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES, OR FOR THE LOSS OF PROFITS, REVENUE, TIME, OPPORTUNITY OR DATA, WHETHER IN AN ACTION IN CONTRACT, TORT, PRODUCT LIABILITY, STATUTE, EQUITY OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF THOSE DAMAGES. UNDER NO CIRCUMSTANCES WILL 3TI'S OR ITS SUBSIDIARIES', INCLUDING 3TI'S AND ITS SUBSIDIARIES' RESPECTIVE OFFICERS', DIRECTORS', EMPLOYEES', AGENTS', SUCCESSORS', ASSIGNS', SHAREHOLDERS', SUBCONTRACTORS', OR LICENSORS' CUMULATIVE LIABILITY EXCEED THE AMOUNT 3TI PAID SUPPLIER FOR THE APPLICABLE PRODUCTS(S) OR SERVICE(S) IN CONTROVERSY.

**13.4 Two Year Limitation; Discrepancies.** Supplier may not bring a claim or action regardless of form, arising out of or related to the Purchase Order, including any claim of fraud or misrepresentation, more than two (2) years after the delivery of any Products, completion of any services, or payment of any invoice at issue, or more than two (2) years after any such cause of action accrues, whichever is later. In addition, Supplier agrees to bring any administrative discrepancies, including but not limited to, invoice errors, shipment discrepancies and return variances, to 3TI's attention in writing within ten (10) days from the date of the incident's occurrence (e.g. invoice date, receipt of good, etc.). Supplier's failure to raise an administrative discrepancy (with appropriate supporting documentation) within this period will be a waiver of Supplier's right to dispute the incident at a future date.

**14) Miscellaneous.**

**14.1 Purchase Order Number.** Supplier shall include 3TI's Purchase Order or Task Directive number, including any change, modification, or revision designation or controlling blanket agreement number, on all invoices (or vouchers), packing lists, bills of lading, packages, containers and correspondence processed under the Purchase Order.

**14.2 Non-disparagement.** Neither Party will, at any time, disparage the other Party or its affiliates or any of their products or services, or portray the other Party or its affiliates or any of their products or services in a false or poor light.

**14.3 Media Releases.** Supplier shall not in any manner advertise or

publish the fact that it has furnished, or contracted to furnish, 3TI the goods or services under the Purchase Order without 3TI's prior written consent. Except for any announcement intended solely for internal distribution or any disclosure required by legal, accounting, or regulatory requirements beyond Supplier's reasonable control, all media releases, public announcements, or public disclosures by Supplier or its employees or agents relating to the Purchase Order or its subject matter, will require the prior written approval of 3TI before the release thereof.

**14.4 Nonproselytization.** During the term of this Agreement and for a period of one year after its termination or expiration, Supplier shall not solicit for employment or hire any technical, sales, marketing or management employee of 3TI, its parent company(ies), if any, or any affiliate thereof. However, either Party may hire an individual employed by the other who, without other solicitation, responds to employment advertising in newspapers, trade publications, web sites or other public commercial media. The Parties expressly acknowledge the materiality of this covenant.

**14.5 Independent Contractors.** Nothing in the Purchase Order is intended to establish or authorize either Party as an agent, legal representative, joint venture, franchise, employee, or servant of the other for any purpose. Neither Party will make any contract, agreement, warranty, or representation on behalf of the other Party, or incur any debt or other obligation in the other Party's name, or act in any manner which has the effect of making that Party the apparent agent of the other. Neither Party will assume liability for, or be deemed liable as a result of, any such action by the other Party. Neither Party will be liable by reason of any act or omission of the other Party in the conduct of business or for any resulting claim or judgment.

**15) Assignment.** Supplier may not assign the Purchase Order, in whole or in part, its rights or obligations thereunder, or any interest therein (including any claims for monies due or to become due with respect hereto), without 3TI's prior express written consent. Any payment to any assignee of any claim under the Purchase Order, in consequence of such consent, shall be subject to set-off, recoupment, or other reduction for any claim that 3TI may have against Supplier.

**16) Subcontracting.** Supplier may not subcontract any of its rights or obligations under the Purchase Order without 3TI's prior written consent. If 3TI consents to the use of a Subcontractor, Supplier shall (i) not be relieved of any of its obligations hereunder, and shall be fully responsible and liable for performance of the entire Purchase Order, even with respect to any subcontracted portion thereof; (ii) indemnify 3TI for all damages and costs of any kind, subject to the limitations in Section 13, Indemnification and Limitation of Liability, incurred by 3TI or any third party caused by the acts and/or omissions of Supplier's Subcontractor(s); and (iii) make all payments in accordance with the terms of Supplier's agreements with its Subcontractors. If Supplier fails to pay a Subcontractor for work performed in accordance with its agreement therewith, 3TI will have the right, but not the obligation, to pay the Subcontractor and offset any amount due to Supplier by any amount paid to the Subcontractor. Supplier will defend, indemnify and hold 3TI harmless for all damages and costs of any kind, without limitation, incurred by 3TI caused by Supplier's failure to pay a Subcontractor.

**17) Notices.** All notices, orders, directives, request or other written communications required or permitted to be given or sent by this Agreement, will be deemed given if mailed first class, postage paid or sent by electronic mail facsimile, and if addressed as follows:

In the case of Vendor: To the most recently provided address, facsimile number, telephone number, or email address, the address, facsimile number, telephone number, or email address that was provided by Supplier on 3TI's Supplier Setup Request form (or any form used by 3TI for that purpose).

In the case of 3TI:

3TI Technologies, LLC.  
905 E Martin Luther King Dr Suite 310  
Tarpon Springs, Florida 34689  
ATTN: CONTRACTS & LEGAL DEPARTMENT  
Fax Number: (813) 433-5116  
Phone Number: (813) 255-2001

With a copy to:

3TI Technologies, LLC.  
905 E Martin Luther King Dr  
Suite 310  
Tarpon Springs, Florida 34689  
Attn: [Your Account Manager or Sales Rep] Fax Number: [Your Account/Project Manager]  
Phone Number: [Your Account/Project Manager] E-mail: [Your Account/Project Manager]

**18) Force Majeure.** Neither Supplier nor 3TI shall be liable for any delay in delivery, or delay in the performance of other acts required hereunder, when resulting from causes wholly beyond the reasonable control of either party. Such causes shall include, but not be limited to: acts of God, acts of government, wars, revolutions, civil disturbances, strikes, floods, fire, labor disputes or shortages, utility curtailments, power failures, explosions, shortages of equipment or supplies, acts or omissions of third parties, perils of the sea or other interruption of transportation. Notice to this effect ("Notice of Force Majeure") shall be given in writing or by facsimile, or e-mail confirmed in writing as soon as reasonably possible to the other party. The existence of such causes of delay shall justify the suspension of performance hereunder by either party and shall extend the time for such performance for a period equal to the period of delay; provided however, that if such period of delay shall exceed sixty (60) days from the receipt of Notice of Force Majeure, either party shall have the right to cancel the Purchase Order without liability; further provided however, that if such period of delay creates a risk that 3TI may fail to meet its obligations to a Customer 3TI shall have the right to cancel the Purchase Order immediately without liability.

**19) Severability.** Each clause, paragraph and provision hereof is entirely independent and severable from every other clause, paragraph and provision. If any judicial authority or state or federal regulatory agency or authority determines that any portion hereof is invalid or unenforceable or unlawful, such determination will affect only the specific portion determined to be invalid or unenforceable or unlawful and will not affect any other portion of the Purchase Order or these terms and conditions, which will remain and continue in full force and effect. In all other respects, all provisions of the Purchase Order and these terms and conditions will be interpreted in a manner which favors their validity and enforceability and which gives effect to the substantive intent of the Parties.

**20) Survival.** All provisions of herein which are, by their nature, intended to survive the expiration or termination of the Purchase Order will survive such expiration or termination.

**21) Counterparts.** The Purchase Order and these terms and conditions may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. The Purchase Order and these terms and conditions may be executed by facsimile, electronic communication in portable document format (.pdf) or duplicate originals, and the parties agree that their electronically transmitted signatures shall have the same effect as manually transmitted signatures. If any clause, sentence, paragraph or part of the Purchase Order and these terms and conditions shall be held by any court of competent jurisdiction to be invalid, illegal or unenforceable such judgment will not affect or nullify the remaining provisions of the

Purchase Order and these terms and conditions.

**22) Governing Law and Disputes.** The Purchase Order and these terms and conditions shall be governed by and interpreted in accordance with the laws of the Commonwealth of Florida, without regard to the conflicts of law principles thereof. All claims, disputes, demands, controversies and differences that may arise between the Parties hereto shall be settled first, by negotiating promptly with each other in good faith. These negotiations shall commence upon the written request of either Party and shall be conducted by the designated senior management representative of each Party. If the Parties are unable to resolve the dispute between them within thirty (30) days (or within such longer period as the Parties may otherwise mutually agree) through these negotiations, then the Parties agree to try in good faith to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Rules before resorting to arbitration, litigation, or some other dispute resolution procedure. If the Parties are unable to resolve the dispute between them within thirty (30) days (or within such longer period as the Parties may otherwise mutually agree) through said mediation, either Party may resort to the judicial process to pursue its claims. Any such action shall be filed in a court of competent jurisdiction in the Commonwealth of Florida. Each Party will bear its own attorney's fees and other costs associated with negotiation, mediation and arbitration provided for in this section. If court proceedings to stay litigation or compel good faith negotiation or mediation are necessary, the Party who unsuccessfully opposes such proceedings will pay all associated costs, expenses and attorney's fees, which are reasonably incurred by the other Party. If any legal action or other proceedings in a court of competent jurisdiction is brought to enforce the provisions of the Purchase Order or these terms and conditions, the prevailing Party shall be entitled to recover reasonable

attorney's fees and other costs incurred in this action or proceeding, in addition to any other relief to which the prevailing Party may be entitled. Each of the rights and remedies reserved by 3TI in the Purchase Order and these terms and conditions shall be cumulative and additional to any other or further remedies provided in law or equity or in the Purchase Order and these terms and conditions. A waiver of a breach of any provision hereof shall not constitute a waiver of any other breach.

**23) Entire Agreement.** The Purchase Order and these terms and conditions contain the entire agreement between the Parties concerning the subject matter hereof, and supersedes all prior agreements, arrangements, understandings, letters of intent, conversations, and negotiations, whether oral or written, with respect to the subject matter hereof. The Parties stipulate that there are no representations with respect to the subject matter of the Purchase Order except those representations specifically set forth in the Purchase Order and these terms and conditions. Supplier agrees that any terms or conditions contained in any quote, acknowledgment, invoice or other form issued by Supplier shall not be binding on 3TI, and no act of 3TI other than an express agreement in writing, signed by an authorized representative of 3TI, shall be deemed an acceptance of any such term or condition. The Parties specifically agree that (i) headings in this Agreement are inserted for convenience only and shall not affect the construction or interpretation of this Agreement or the Purchase Order; (ii) the word including shall not limit the meaning of the preceding words or terms; and (iii) in cases of ambiguity in the construction of the Purchase Order there shall be no presumption against either Party as the "drafter." This Agreement may not be changed orally, it may only be amended or modified in writing, signed by the Party against whom enforcement of any waiver, change, modification or discharge is sought.



**Exhibit A**  
**FLOW-DOWNS**

SECTION 1.

THE FOLLOWING TERMS AND CONDITIONS SHALL APPLY AS APPROPRIATE WHEN A PURCHASE ORDER IS ISSUED TO FULFILL REQUIREMENTS UNDER ONE OF THE BELOW NOTED PRIME CONTRACT VEHICLES.

3TI Prime Contract Flow-downs

GSA: [http://www.3tinnovations.com/uploads/files/resources/3TI\\_it70\\_gs\\_35F\\_0215v\\_flowdowns\\_9610.pdf](http://www.3tinnovations.com/uploads/files/resources/3TI_it70_gs_35F_0215v_flowdowns_9610.pdf)

**SECTION 2.**

In accordance with Section 7.2 of the Agreement, the following Federal Acquisition Regulations (FAR) and agency FAR Supplement clauses are incorporated into the Agreement by reference and made a part thereof, except to the extent modified below by a numbered note(s). The FAR and FAR Supplement clauses incorporated into the Agreement are the versions in effect as of the date of the prime contract. Except as modified or clarified in the notes associated therewith: i) Subsection A clauses apply to all Purchase Orders in relation to which 3TI's customer is a government agency, entity, agent, or other government end user; ii) Subsection B clauses apply when a NASA prime contract number is cited on the face of this Agreement or the Purchase Order; and iii) Subsection C clauses apply when a DoD prime contract number is cited on the face of this Agreement or the Purchase Order. Except as may be expressly otherwise provided below in each of such clauses, "Contractor" shall mean "Supplier"; "Subcontractor" shall mean "Supplier's Subcontractor"; and "Contract" shall mean the "Purchase Order." "Contracting Officer" shall mean the Contracting Officer of the Government prime contract unless otherwise specified. All clauses listed below shall, with respect to the rights, duties and obligations of 3TI and Supplier hereunder, be interpreted and construed in such manner as to recognize and give effect to: (i) the contractual relationship between 3TI and Supplier under the Purchase Order, (ii) the rights of any higher-tier subcontract, and (iii) the rights of the Government or other Customer with respect thereto under the prime contract from which such clauses are derived. Clauses listed below may not be applicable to individual Purchase Orders because of the type of Purchase Order, dollar thresholds under requirements of the clause, or Mandatory Flow Down requirements of the applicable prime contract. Clauses that are not applicable are deemed self-deleting, shall not be removed from this document, and will be without force and effect. It is Supplier's obligation to contact 3TI regarding any confusion, ambiguity, or questions Supplier may have regarding applicability of any of the following clauses.

**Subsection A: Federal Acquisition Regulation Clauses**

- |   |   |
|---|---|
| 52.203-3 Gratuities   | 52.216-5 Price Redetermination- Prospective   |
| 52.203-5 Covenant Against Contingent Fees (NOTE 1)  | 52.216-6 Price Redetermination- Retroactive   |
| 52.203-6 Restrictions on Subcontractor Sales to the Government (NOTE 2)   | 52.216-16 Incentive Price Revision- Firm Target   |
| 52.203-7 Anti-Kickback Procedures   | 52.216-17 Incentive Price Revision- Successive Targets  |
| 52.203-10 Price or Fee Adjustment for Illegal or Improper Activity  | 52.219-8 Utilization of Small Business Concerns (10/2000)   |
| 52.203-12 Limitation on Payments to Influence Certain Federal Transactions (NOTES 4,20,27,36)                                     | 52.222-1 Notice to the Government of Labor Disputes (NOTE 4)  |
| 52.204-2 Security Requirements  | 52.222-3 Convict Labor  |
| 52.209-6 Protecting The Government's Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment | 52.222-4 Contract Work Hours and safety Standards Act- Overtime Compensation (NOTE 13)  |
| 52.211-5 Material Requirements (8/2000)   | 52.222-11 Subcontracts (Labor Standards)  |
| 52.211-7 Alternatives to Government- Unique Standards (11/99)   | 52.222-16 Approval of Wage Rates  |
| 52.211-15 Defense Priority and Allocation Requirements  | 52.222-20 Walsh-Healey Public Contracts Act   |
| 52.214-26 Audits and Records—Sealed Bidding   | 52.222-21 Prohibition of Segregated facilities (2/99)   |
| 52.214-28 Subcontractor Cost or Pricing Data Modifications—Sealed Bidding   | 52.222-22 Previous Contracts and Compliance Reports   |
| 52.215-1 Instructions to Offers- Competitive Acquisition (1/2001)   | 52.222-25, Affirmative Action Compliance  |
| 52.215-2 Audit and Records- Negotiation   | 52.222-26 Equal Opportunity   |
| 52.215-10 Price Reduction for Defective Cost or Pricing Data (10/97) (NOTE 45)  | 52.222-35 Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (12/2001) |
| 52.215-11 Price Reduction for Defective Cost or Pricing Data-Modification (10/97) (NOTES 7,8)                                     | 52.222-36 Affirmative Action for Workers with Disabilities (6/1998)   |
| 52.215-12 Subcontractor Cost or Pricing Data (10/97) (NOTES 7,44)   | 52.222-37 Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (12/2001) |
| 52.215-13 Subcontractor Cost or Pricing Data-Modifications (10/97) (NOTE 7)   | 52.222-41 Service Contract Act of 1965, as Amended  |
| 52.215-14 Integrity of Unit Prices (10/97) (NOTE 7)   | 52.223-3 Hazardous Materials Identification and Material Safety Data  |
| 52.215-15 Pension Adjustments and Asset Reversions (12/98) (NOTE 9)   | 52.223-7 Notice of Radioactive Materials  |
| 52.215-17 Waiver of Facilities Capital Cost of Money (10/97)  | 52.223-14 Toxic Chemical Release Reporting  |
| 52.215-18 Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other than Pensions (10/97)                          | 52.224-2 Privacy Act  |
| 52.215-19 Notification of Ownership Changes (10/97)   | 52.225-1 Buy American Act—Supplies (5/2002)   |
|   | 52.225-2, Buy American Act Balance of Payments Program Certificate  |
|   | 52.225-5, Trade Agreements  |
|   | 52.225-7 Wavier of Buy American Act for Civil Aircraft and Related Articles (2/2000)  |
|   | 52.225-13, Restrictions on Certain Foreign Purchases  |

- 52.225-8 Duty-Free Entry
- 52.225-13 Restrictions on Certain Foreign Purchases (7/2000)
- 52.227-1 Authorization and Consent
- 52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement (NOTES 1,16)
- 52.227-3 Patent Indemnity
- 52.227-9 Refund of Royalties
- 52.227-10 Filing of Patent Applications- Classified subject Matter (NOTE 17)
- 52.227-11 Patent Rights- Retention by the Contractor (Short Form)
- 52.227-13 Patent Rights- Acquisition by the Government
- 52.227-14 Rights in Data- General (NOTE 19)
- 52.227-16 Additional Data Requirements (NOTE 4)
- 52.227-17 Rights in Data- Special Works (NOTE 4)
- 52.227-18 Rights in Data- Existing Works (NOTE 4)
- 52.227-19 Commercial Computer Software-Restricted Rights
- 52.227-20 Rights in Data-SBIR Program
- 52.227-21 Technical Data Declaration, Revision, and Withholding of Payment- Major System (1/1997)
- 52.227-22 Major System- Minimum Rights
- 52.227-23 Rights to Proposal Data (Technical)
- 52.228-3 Workers' Compensation Insurance (Defense Base Act)
- 52.228-4 Workers' Compensation and War Hazard Insurance Overseas
- 52.228-5 Insurance- Work on a Government Installation
- 52.229-6 Taxes- Foreign Fixed-Price Contracts
- 52.229-7 Taxes- Fixed-Price Contracts with Foreign Governments
- 52.229-8 Taxes- Foreign Cost Reimbursement Contracts (3/1990)
- 52.229-9 Taxes- Cost Reimbursement Contracts with Foreign Government (3/1990)
- 52.229-10 State of New Mexico Gross Receipts and Compensating Tax
- 52.230-2 Cost Accounting Standards (NOTES 7,21)
- 52.230-3 Disclosure and Consistency of Cost Accounting Practices (NOTE 21)
- 52.230-4 Consistency in Cost Accounting Practices (NOTE 21)
- 52.230-5 Cost Accounting Standards- Educational Institution (4/1998)
- 52.230-6 Administration of Cost Accounting Standards (11/1999)
- 52.232-7 Payments Under Time-and-Materials and Labor-Hour Contracts (12/2002)
- 52.232-16 Progress Payments (NOTES 4,40)
- 52.232-17 Interest (NOTE 20)
- 52.232-20 Limitation of Cost
- 52.232-22 Limitation of Funds
- 52.234-1 Industrial Resources Developed Under Defense Production Act Title III
- 52.237-3 Continuity of Services
- 52.242-15 Stop-Work Order (NOTE 4)
- 52.242-17 Government Delay of Work
- 52.243-1 Changes- Fixed-Price (NOTE 4)
- 52.243-2 Changes- Cost-Reimbursement
- 52.243-3 Changes- Time-and-Materials or Labor-Hours
- 52.244-2 Subcontracts (Aug 1998)
- 52.244-5 Competition in Subcontracting
- 52.244-6 Subcontracts for Commercial Items (5/2002)
- 52.245-2 Government Property (Fixed-Price Contracts) (NOTES 4,24)
- 52.246-2 Inspection of Supplies- Fixed-Price (NOTES 1,4)
- 52.246-3 Inspection of Supplies- Cost Reimbursement
- 52.246-4 Inspection of Services- Fixed-Price (NOTE 1)
- 52.246-5 Inspection of Services- Cost Reimbursement
- 52.246-6 Inspection- Time-and-Material and Labor-Hour
- 52.246-15 Certificate of Conformance (NOTES 1,26)
- 52.246-16 Responsibility for Supplies (NOTES 1)
- 52.246-23 Limitation of Liability (NOTE 27)
- 52.246-24 Limitation of Liability- High-Value Items
- 52.246-25 Limitation of Liability- Services (NOTE 27)
- 52.247-63 Preference for U.S.-Flag Air Carriers (NOTE 28)
- 52.247-64 Preference for Privately Owned U.S.-Flag Commercial Vessels
- 52.248-1 Value Engineering (NOTE 4,20)
- 52.249-1 Termination for Convenience of the Government (Fixed- Price) (Short Form)
- 52.249-2 Termination for Convenience of the Government (Fixed- Price) (NOTE 29)
- 52.249-4 Termination for Convenience of the Government (Services) (Short Form)
- 52.249-6 Termination (Cost-Reimbursement)
- 52.249-8 Default (Fixed-Price Supply and Service)

**Subsection B: NASA Federal Acquisition Regulation Supplement Clause**

- 1852.204-75 Security Classification Requirements
- 1852.204-76 Security Requirements for Unclassified Information
- 1852.208-81 Restrictions on Printing and Duplicating (NOTE 4)
- 1852.211-70 Packaging, Handling and Transportation
- 1852.219-75 Small Business Subcontracting Reporting
- 1852.223-70 Safety and Health (NOTE 31)
- 1852.223-71 Frequency Authorization
- 1852.223-72 Safety and Health (Short Form)
- 1852.225-70 Export Licenses
- 1852.227-11 Patent Rights—Retention by the Contractor (Short Form)
- 1852.227-70 New Technology (NOTE 32)
- 1852.227-72 Designation of New Technology Representative and Patent Representative
- 1852.227-85 Invention Reporting and Rights- Foreign
- 1852.227-87 Transfer of Technical Data Under Space Station International Agreements
- 1852.228-72 Cross-Waiver of Liability for Space Shuttle Services
- 1852.231-70 Pre-contract Cost
- 1852.237-71 Pension Portability
- 1852.242-72 Observance of Legal Holiday
- 1852.242-73 NASA Contractor Financial Management Reporting
- 1852.244-70 Geographic Participation in the Aerospace Program (NOTE 7)
- 1852.245-73 Financial Reporting of NASA Property in the Custody of Contractors
- 1852.247-71 Protection of the Florida Manatee
- 1852.249-72 Termination
- 1852.252-70 Compliance with NASA FAR Supplement

**Subsection C: Defense Federal Acquisition Regulation Supplement Clauses**

252.203-7001 Prohibition on Persons Convicted of Fraud or Other Defense Contract-Related Felonies (3/1999)  
252.204-7000 Disclosure of Information  
252.208-7000 Intent to Furnish Precious Metals as Government- Furnished Material  
252.211-7000 Acquisition Streamlining  
252.215-7000 Pricing Adjustments  
252.217-7003 Changes  
252.222-7000 Restrictions on Employment of Personnel  
252.222-7007 Representation Regarding Combating Trafficking of Persons  
252.223-7002 Safety Precautions for Ammunition and Explosives  
252.223-7006 Prohibition on Storage and Disposal of Toxic and Hazardous Material  
252.225-7001 Buy American Act and Balance of Payments Program  
252.225-7002 Qualifying Country Sources as Subcontractors  
252.225-7005 Identification of Expenditures in the United States  
252.225-7011 Restriction on Acquisition of Supercomputers  
252.225-7012 Preference for Certain Domestic Commodities  
252.225-7013 Duty Free Entry  
252.225-7015 Restriction on Acquisition of Hand or Measuring Tools  
252.225-7016 Restriction on Acquisition of Ball and Roller Bearings  
252.225-7025 Restriction on acquisition of forgings (6/1997)  
252.225-7033 Waiver of United Kingdom Levies  
252.225-7037 Evaluation of Offers for Air Circuit Breakers  
252.227-7013 Rights in Technical Data- Noncommercial Items  
252.227-7014 Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation  
252.227-7015 Technical Data- Commercial Items  
252.227-7016 Rights in Bid or Proposal Information  
252.227-7018 Rights in Noncommercial Technical Data and Computer Software-Small Business Innovation Research (SBIR) Program  
252.227-7019 Validation of Asserted Restrictions- Computer Software  
252.227-7020 Rights in Special Works  
252.227-7021 Rights in Data- Existing Works  
252.227-7022 Government Rights (Unlimited)  
252.227-7023 Drawings and Other Data to become Property of Government  
252.227-7026 Deferred Delivery of Technical Data or Computer Software  
252.227-7027 Deferred Ordering of Technical Data or Computer Software (4/1988)  
252.227-7030 Technical Data- Withholding of Payment  
252.227-7033 Rights in Shop Drawings  
252.227-7037 Validation of Restrictive Markings on Technical Data  
252.228-7005 Accident Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles  
252.231-7000 Supplemental Cost Principles  
252.232-7003 Electronic Submission of Payments Requests  
252.234-7001 Earned Value Management System  
252.235-7003 Frequency Authorization  
252.236-7000 Modification Proposals- Price Breakdown  
252.239-7016 Telecommunications Security Equipment, Devices, Techniques, and Services  
252.242-7005 Cost/Schedule Status Report  
252.246-7000 Material Inspection and Receiving Report (NOTE 20)  
252.246-7001 Warranty of Data (NOTES 4,20)  
252.246.7003 Notification of Potential Safety Issues  
252.246-7007 Contractor Counterfeit Electronic Part Detection and Avoidance System  
252.246-7008 Sources of Electronic Parts  
252.247-7023 Transportation of Supplies by Sea (NOTES 27,38,43)  
252.247-7024 Notification of Transportation of Supplies by Sea  
252.249-7002 Notification of Anticipated Contract Termination or Reduction

**Notes:**

1. "Government" means "Government or 3TI"
2. "Government" means "Government or 3TI" in paragraph (a).
3. "Government" and "Prime Contractor" mean "3TI"; "Subcontractor" means "Seller."
4. "Contracting Officer" means "3TI"
5. Paragraphs (a), (b), and (d) only apply.
6. This clause applies if this Agreement exceeds \$10,000.
7. This clause applies if this Agreement exceeds \$100,000.
8. (a) If the Contracting Officer determines that any price, including profit or fee, negotiated in connection with the Prime Contract or any cost reimbursable under the Prime Contract was increased by any significant sums because Seller or any lower-tier subcontractor furnished cost or pricing data which was not complete, accurate, and current, and as a result, the Prime Contract price is reduced pursuant to the Price Reduction clause in the Prime Contract, or the price of this Agreement is not allowed or accepted in full under the Prime contract (where the Prime Contract is other than firm fixed-price), then the price of the Agreement shall be appropriately reduced and this Agreement shall be modified in writing as may be necessary to reflect such reduction. (b) Any determination by the Contracting Officer covered by paragraph (a) of this clause shall be binding upon Seller, subject to the "Disputes" clause of this Agreement. (c) The rights and obligations described in this clause shall survive completion of and final payment under or termination of this Agreement. (d) In paragraph (d), "United States" and "Government" mean "3TI"
9. Paragraph (c) is deleted.
10. In paragraph (a), "Contracting Officer" means "3TI"
11. This clause applies if this Agreement exceeds \$500,000.
12. This clause applies if this Agreement is not subject to the Walsh-Healey Act.
13. 3TI may withhold or recover from Seller such sums as the Contracting Officer and/or Prime Contractor withholds or recovers from 3TI because of liabilities of Seller or its subcontractors under this clause.
14. This clause applies if this Agreement is subject to the Act.
15. This clause applies if this Agreement exceeds \$2,500.
16. "Contracting Officer" shall mean "Contracting Officer or 3TI".
17. Seller shall notify 3TI of any action taken pursuant to this clause.
18. "Agency," "Federal Agency," and "Funding Federal Agency" mean the U.S. Government department or agency which awarded the prime contract under which this Agreement is issued.
19. (a) Any approvals from or submittals to the prime contract Contracting Officer shall be obtained through or made through 3TI. (b) "Government" shall mean "Government and/or 3TI" except in paragraphs (a), (b), (c)(1) and (c)(2), and (h). (c) In paragraph (e)(1), that part which reads "...the Contracting Officer may at any time either return the data to the contractor, or cancel or ignore the markings" is changed to read "...3TI or Contracting Officer may at any time either return the data to the contractor, or cancel or ignore the markings." (d) Paragraph (e)(4) is deleted in its entirety. (e) Delete paragraph (h) and substitute the following: "Seller has the responsibility to obtain from its subcontractors all data and rights therein necessary to fulfill Seller's obligations to 3TI under this contract. If a subcontractor refuses to accept terms affording the Government such rights, Seller shall promptly bring such refusal to the attention of 3TI and

- not proceed with subcontract award without further authorization.” (f) Alternate II is incorporated in this Agreement. No changes are made in the “limited Rights Notice.” (g) Alternate III is incorporated in this Agreement. No changes are made in the Restricted Rights Notice.”
20. “Government” means “3TI”
21. Seller shall communicate and otherwise deal directly with the cognizant ACO to the extent practicable and permissible as to all matters relating to Cost Accounting Standards. Seller shall provide 3TI with copies of all communications between Seller and the cognizant ACO respecting this clause, provided Seller shall not be required to disclose to 3TI such communications containing information which is privileged and confidential to the Seller. In addition to any other remedies provided by law or under this Agreement, Seller agrees to indemnify and hold 3TI harmless to the full extent of any loss, damage, or expense (excluding profit) if 3TI is subjected to any liability as the result of a failure of the Seller or its lower-tier subcontractors to comply with the requirements of this clause.
22. In the second sentence, “Government” means “Government or 3TI.”
23. (a) Delete paragraph (a), “Definitions,” and insert the paragraph, “(a) Contracting Officer”, “Administrative Contracting Officer,” and “Specifically Authorized Representative (SAR)” mean “3TI.” “Government includes 3TI.”
24. (a) In paragraphs (a)(1) and (e)(4), “Government” is changed to “Government or 3TI.” (b) In paragraph (a) (3), “at Government expense” is changed to “at 3TI expense.” (c) In paragraphs (b)(2) and (c)(4), “the Government” is changed to “3TI.” (d) In paragraph (e)(3), “repairs as the Government directs” is changed to “repairs as 3TI directs.” (e) In paragraph (f), “The Government” is changed to “The Government and 3TI.” (f) In paragraph (h), “in favor of the Government” is changed to “in favor of 3TI”; and “the Government shall not” is changed to “neither the Government nor 3TI shall.” (g) In paragraph (h)(4)(i) “or paid to the Government” is changed to “or paid to 3TI” (h) In paragraph (j) “the Government” is changed to “the Government or 3TI.”
25. (a) In paragraph (a) “The Government makes no” is changed to “Neither the Government nor 3TI makes any.” (b) In paragraph (c)(1) “at the Government’s expense” is changed to “at 3TI expense.” (c) In paragraph (c)(2) “the Government” is changed to “the Government or 3TI.”
26. “Cognizant Contract Administration Office” and “CAO” mean “3TI.”
27. This clause applies if this Agreement exceeds \$25,000.
28. This clause applies if this Agreement may involve international air transportation.
29. (a) “Government” and “Contracting Officer” mean “3TI” except in paragraphs (b)(4), (b)(6), (b)(8), (j)(2), and (j)(3), in which the term “Government” means “3TI or Government.” (b) In paragraph (d), “1 year” is changed to “4 months.”
30. “Government” and “Contracting Officer” mean “3TI,” except in paragraph (a).
31. “Contracting Officer” means “3TI,” except in paragraph (f); “Government” means “3TI.”
32. In paragraph (h), “Contractor” means “3TI.”
33. (a) Any approvals from or submittals to the prime contract Contracting Officer shall be obtained through or made through 3TI. (b) In paragraph (c)(1)(i), that part which reads “...shall relieve the Government of liability...” is changed to read “...shall relieve the Government and 3TI of liability...” (c) In paragraph (e)(2), “Contracting Officer” means “3TI.” (d) In paragraph (f), “Government” and “Contracting Officer” mean “3TI.” (e) In paragraph (j), “Contracting Officer” means “3TI.” (f) In paragraph (k), “Government” includes “3TI,” except in subparagraph (3). (g) In paragraph (l), “Contracting Officer” means “3TI.”
34. In the first sentence, that part which reads “... the Government may...” is changed to read “... the Government or 3TI may...”
35. Paragraph (d) is completed.
36. Paragraph (c) is unchanged and is informational only.
37. This clause applies only if the Government will maintain all official property records.
38. All requests for authorization from the Contracting Officer shall be made via the Buyer.
39. This clause applies if Seller employees are to serve as procurement officials for another Government agency procurement.
40. “Government” means “3TI,” except in paragraphs (d), (e), and (j).
41. (a) Paragraph (d) is changed in its entirety to read “In addition to the criminal penalties contained in 10 U.S.C. 2408, the Government may consider other available remedies, such as suspension or debarment. 3TI may terminate this Agreement at no cost or terminate this contract for default if Seller violates the prohibitions of this clause.” (b) Paragraph (f) is deleted.
42. In paragraph (c), “30 calendar days” is changed to “20 calendar days.”
43. In paragraph (f), “Government” and “Contracting Officer” means “3TI.”
44. (a) If the Contracting Officer determines that any price, including profit or fee, negotiated in connection with the Prime Contract or at any cost reimbursable under the Prime Contract was increased by any significant sums because Seller or any lower-tier subcontractor furnished cost or pricing data that was not complete, accurate, and current, and as a result, the Prime Contract price is reduced pursuant to the Price Reduction clause in the Prime Contract, or the price of this Agreement is not allowed or accepted in full under the Prime Contract (where the Prime Contract is other than firm-fixed price), then the price of the Agreement shall be appropriately reduced and this Agreement shall be modified in writing as may be necessary to reflect such reduction. (b) Any determination by the Contracting Officer covered by paragraph (a) of this clause shall be binding upon the Seller, subject to the “Disputes” clause of this Agreement. (c) The rights and obligations described in this clause shall survive completion of and final payment under or termination of the Agreement. (d) In paragraph (e), “United States” and “Government” mean “3TI.”
45. This clause applies if this agreement exceeds the small purchase limitations in FAR, Part 13.
46. This clause does not apply if FAR 52.225-17 is applicable to this Agreement.
47. This clause applies only if specifically referenced in Part I of this Agreement.
48. This clause applies if special test equipment or components will be acquired or fabricated under this Agreement