

PALOMAR		23042 Arroyo Vista Rancho Santa Margarita, CA 92688		PURCHASE ORDER ATTACHMENT	
NUMBER:	REV:	TITLE:			
GL-16	K	PURCHASE ORDER GENERAL PROVISIONS AND SHIPPING INSTRUCTIONS			
Document Owner: Supply Chain Manager		Signature: F. Petermann		Date: 2019-05-17	Dept: Supply Chain
Approved By: J. Copher		Signature: J. Copher		Date: 2019-05-16	Dept: Operations
Approved By: T. Lepak		Signature: T. Lepak		Date: 2019-05-15	Dept: Security
Approved By: A. Lawrence		Signature: A. Lawrence		Date: 2019-05-15	Dept: Quality
Approved By: J. Cole		Signature: J. Cole		Date: 2019-05-17	Dept: Trade Compliance

PURCHASE ORDER SHIPPING INSTRUCTIONS

1. **TARIFF PROVISIONS:**

All shipments shall be made in strict conformity with governing tariff rules and regulations and packaging specifications, except where otherwise specifically required by provisions of this Order or military regulations.

2. **ROUTING INSTRUCTIONS:**


- (a) Freight shipments are to be routed via Order instructions or as authorized by Buyer. Seller will request prior routing instructions for delicate equipment, emergency shipments, or shipments exceeding 10,000 pounds gross weight.
- (b) Freight Charges: Shipments are to be made "Freight Collect" on FOB source shipments, unless otherwise specified herein, United Parcel Service shipments are to have freight charges prepaid and added to the goods invoice. Attach copies of paid freight bills to any invoice that includes transportation charges.
- (c) Insurance: DO NOT DECLARE ANY VALUE FOR CARRIAGE OR INSURANCE. Shipments shall be released to minimum value of governing classification or tariff; or insured for minimum value for traceability. No shipment exceeding \$10,000 shall be sent Parcel Post. No shipment exceeding \$50,000 shall be sent via courier service. Seller will provide advance notice to Buyer of shipments exceeding \$1,000,000.
- (d) Consolidation: Except where limited by Clause 3(c) above, consolidate all shipments to the delivery point specified herein, for any one day, on one bill of lading.
- (e) Purchase Order Number(s) must appear on all correspondence, shipping labels; invoices; and shipping documents, including Packing Sheets, Bills of Lading, and Airway bills.
- (f) Packing Sheets: Seller is to provide two (2) copies of each packing sheet with the shipment.

3. **HAZARDOUS MATERIAL PACKING, LABELING, AND SHIPPING:**

Seller shall comply with Provision 10 below.

4. **PACKING AND PACKAGING:**

Seller shall use best commercial practice for packing and packaging of items to be delivered under this order, unless otherwise specified herein, or by contract.

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ETHICAL STANDARDS OF CONDUCT

Seller hereby represents that it has neither received nor given any gifts or gratuities, nor participated in any other unethical conduct as defined in Buyer's booklet entitled "Ethics & Buying" in connection with this Order. If, at any time, Buyer determines that Seller is in violation due to the foregoing representation, Buyer may cancel Order upon written notice to Seller and Buyer shall have no further obligation to Seller.

PURCHASE ORDER GENERAL PROVISIONS

1. **WARRANTIES:** Seller warrants to Buyer and its customers that all items delivered and all services rendered hereunder will conform to the requirements hereof and will be free from defects. In addition to other remedies which may be available at law or in equity, Buyer, at its option, may return to Seller any nonconforming or defective items, or require corrections or replacement of the item, all at Seller's risk and expense. If Buyer does not require correction or replacement of nonconforming or defective items, seller shall repay such portion of the contract price or such additional amount as is equitable under the circumstances. These rights of Buyer are in addition to and shall not be limited by Seller's Standard warranties. Inspection and acceptance of items by buyer or its customer, or payment thereof, shall not relieve Seller of its responsibilities hereunder.

2. **CHANGES:** By written order, Buyer may, from time to time, order work suspension or make changes in drawings, designs, specifications, place of delivery, methods of shipment and packaging, and property and services furnished by Buyer. If any such change causes an increase or decrease in the price of this Order or in the time required for its performance, Seller shall, within 20 days after the change is ordered, notify Buyer of its intent to submit a proposal for adjustment and an equitable adjustment shall be made. However, nothing in this provision shall excuse Seller from proceeding immediately with the Order as changed. Whether made pursuant to this provision or by mutual agreement, changes shall not be binding upon Buyer except when specifically confirmed in writing by a member of Buyer's Purchasing Department. Information, advice, approvals, or instructions given by Buyer's technical personnel or other representatives shall be deemed expressions of personal opinions only and shall not affect Buyer's and Seller's rights and obligations hereunder unless set forth in a writing which is signed by a member of Buyer's Purchasing Department and which expressly states that it constitutes an amendment or change to this Order.

3. **INFRINGEMENT INDEMNITY:**
 - (a) In lieu of any other warranty by Buyer or Seller against infringement, statutory or otherwise, it is agreed that Seller shall defend at its expense any suit against Buyer or its customers based on a claim that any item furnished under this Order or the normal use or sale thereof infringes any U.S. Letters Patent or copyright, other than claims under Letters Patent covering combinations of such items not furnished by Seller, and shall pay costs and damages finally awarded in any such suit, provided that Seller is notified in writing of the suit, Seller, at no expense to Buyer, shall obtain for Buyer and its customers the right to use and sell said item or shall substitute an equivalent item acceptable to Buyer and extend this patent indemnity thereto.

 - (b) Notwithstanding the foregoing provision, when this Order is performed under the authorization and consent of the U.S. Government to infringe U.S. Patents, Seller's liability for infringement of such Patents in such performance shall be limited to the extent of the obligation of the Buyer to indemnify the U.S. Government.

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4. SELLER'S DATA:

- (a) Seller agrees that all data, including but not limited to tapes, photo prints, and other graphic information, furnished by this Order, together with any information furnished orally, shall be free from proprietary restriction except if elsewhere authorized in this Order. Subject to provision 4.(b) below, Seller's data, for which a restrictive use marking is authorized, other than restricted rights computer software per DFARS 252.227-7013, incorporated herein by this reference, may be duplicated and used by Buyer in performance of its customer contracts. Such usage includes, as a minimum, preparation of logistics and instructional information and delivery thereof as required by such customer's contract. Minimum rights to the use of computer software are set forth in DFARS 252.227-7013 for those computer programs listed or described in this Order which the parties have agreed will be furnished with restricted rights. Any other specific rights, not inconsistent with these minimum rights, are listed or described in a license or agreement made a part of this Order. Seller also grants to the Buyer the same rights granted above to the Government for use by Buyer in performance of its higher tier contracts.
- (b) Except as to data available to Buyer without restriction from other sources, Seller's data, subject to a restrictive use marking, shall not without Seller's permission be: (1) used by Buyer for procurement from other than Seller, (2) used by Buyer for manufacture of items described by such data, or (3) disclosed outside Buyer or its customers.
- (c) Copyright Licensing:
 - (1) To the extent that Seller establishes a claim to statutory copyright in any data first produced and furnished in the performance of this Order, Seller grants the Buyer a royalty-free, nonexclusive, irrevocable, worldwide license to publish, distribute, translate, duplicate, exhibit, or perform any such data copyrighted by the Seller with the right to grant sublicenses.
 - (2) Exclusive of computer software, related documentation and other proprietary data, the Seller agrees to grant a license for the benefit of the Buyer of the same scope as set forth in Provision 4.(c)(1) to any technical data delivered under this Order that are copyrighted by the Seller.
 - (3) Exclusive of computer software and related documentation, the Seller further agrees not to knowingly include any material copyrighted by others in technical data delivered under this Order without first obtaining, at no additional cost and for the benefit of the Buyer, a license therein of the same scope as set forth in Provision 4.(c)(1).

5. PROPRIETARY INFORMATION, DUPLICATION, AND DISCLOSURE:

- (a) Seller shall not use or disclose, without Buyer's prior written consent, any tools or other items or drawings, specifications, technical information, or other data which have been specifically designed for Buyer in connection with this Order or furnished by Buyer; provided, however, that if the U.S. Government has the right to authorize the use of such tools, items, drawings, specifications, technical information or data, Seller may, to the extent of such right use them as authorized by the U.S. Government; provided, further that, Seller gives Buyer notice of such authorization prior to such use. This paragraph shall not apply to technical data generated by Seller in which the Government has unlimited rights.

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- (b) Seller agrees that it will not publicize this Order or disclose, confirm, or deny any details thereof to third parties, or use Buyer's name in connection with Seller's sales promotions or publicity without prior written approval from Buyer.
- (c) Nothing in this Provision 5, however, shall restrict Seller's right to use or disclose drawings, specifications, technical information, and other data that either (1) are or become generally known to the public without breach of this Provision by the Seller or (2) are rightfully obtained from other sources.

6. DEFAULT:

- (a) Buyer may terminate this Order for Seller's default in accordance with FAR 52.249-8 if circumstances set forth therein occur, or if Seller becomes insolvent, fails to pay its debts as they become due, or makes or proposes an assignment for the benefit of creditors. Buyer shall have such additional remedies for default as may be available at law or in equity whether or not it terminates this Order. To be relieved of liability for excess cost as provided in paragraph (c) of FAR 52.249-8, Seller must provide Buyer written notice of the cause of failure to perform which is beyond its control and without its fault or negligence within twenty (20) days of occurrence of the cause.
- (b) Delivery:
 - (1) If at any time it appears that the Seller has not or will not meet this Order's delivery schedule, or any extension thereof, the buyer shall have the right to require the Seller to submit a revised delivery schedule together with adequate documentation to support the reasonableness of the revised schedule. The revised schedule shall provide a specific date for the delivery of each deliverable item under this Order and shall not be submitted subject to any contingencies.
 - (2) Unless the Buyer has extended the time in writing, the Seller shall submit the revised delivery schedule within thirty (30) calendar days after receipt of the Buyer's written request for it. Such request shall not be deemed a waiver of any existing delivery schedule, the Buyer shall have thirty (30) calendar days after receipt of the Seller's response within which to approve or disapprove the Seller's revised schedule. If it is approved, the parties shall incorporate it into the Order using a bilateral modification issued by the Buyer.
 - (3) If the Seller fails to submit a revised delivery schedule as specified above, or any extension thereof granted by the Buyer, the Seller shall be deemed to have failed to make delivery within the meaning of the "Default" clause of this Order and this Order shall be subject to termination.
- (c) FAR 52.249-8 is modified as follows for the purposes of this Order and is subject to the Definitions Provision herein: "Contracting Officer" means Buyer's Purchasing Representative, and "Government" means Buyer, except in paragraph (c) where it means Government and in paragraph (c) where it means Government or Buyer. In the second sentence of paragraph (c) add "acts of Buyer" to the list of examples.

7. ASSIGNMENTS AND SUBCONTRACTING:

- (a) Neither this Order nor any interest herein nor claim hereunder may be assigned or delegated by Seller; nor may all or substantially all of this Order be further subcontracted by Seller without the prior written consent of Buyer. Buyer's consent shall not be deemed to relieve Seller of its obligations to comply fully with the requirements hereof.

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(b) Notwithstanding the above, Seller may, without Buyer's consent, assign monies due to or to become due hereunder provided Buyer shall continue to have the right to exercise any and all of its rights hereunder, settle any and all claims arising out of, and enter into amendments to this Order without notice to or consent of the assignee. Buyer shall be given notice of any assignment and all invoices shall refer to the assignment.

8. PRICES:

Seller warrants that any unit prices charged herein do not exceed the unit prices charged by Seller to the U.S. Government or other customers in substantially similar transactions.

9. INVOICES:


(a) Invoices in duplicate shall be mailed to Buyer's Accounts Payable Department when items are shipped. The time for payment shall not commence before Buyer's actual or scheduled receipt, whichever is later, of items at their destination or before performance by Seller in accordance with the requirements of this Order. Without limiting Buyer's other remedies, if data are deficient or are not furnished when scheduled", Buyer may withhold remaining payments (or such portion thereof as Buyer may deem equitable) until such deficiency or delinquency is cured. All shipping costs and all Federal manufacturers' and retailers' excise and state or local sales or use taxes, when applicable, must be billed as separate items on Seller's invoices. Any and all tax exemption certificates shall be accepted by Seller. Seller hereby certifies that these goods were produced in compliance with all applicable requirements of Sections 6, 7, and 12 of the Fair Labor Standards Act, as amended, and of regulations and orders of the U.S. Department of Labor issued under Section 14 thereof.

(b) In addition to any other remedies that may be available at law or in equity, Buyer shall have the right to recover from Seller, by offset or otherwise, the price of any items returned to Seller under the terms of this Order.

10. HAZARDOUS MATERIAL PACKAGING, LABELING, AND SHIPPING:

(a) Seller shall package, label, transport, and ship hazardous material or items containing hazardous materials in accordance with all applicable Federal, state, and local laws and regulations, including but not limited to current published issues of tariffs and regulations reflecting 40 CFR Articles 100-199, FAR 52.223-3, DFARS 252.223-7001, the Explosive Safety manual AFM 127-100, and Federal Aviation Regulation 103, as amended (e.g. the current Hazardous Materials Regulations of the Department of Transportation; the Official Air Transport Restricted Articles Tariff; Packaging and Handling of Dangerous Materials for Transportation by Military Aircraft, Joint Manual AFM 71-4; and subsequent reissues thereof) and if applicable, to furnish appropriate Material Safety Data Sheets in accordance with California Hazardous Substances Information and Training Act. Seller, prior to each hazardous material shipment, shall notify Buyer of its nature and shipment date by such means of communications as will allow for proper preparation for acceptance of delivery by the carrier of the material and shall identify same on all shipping documents.

(b) The 1990 Clean Air Act Amendments and implementing regulations established labeling requirements for products manufactured with, containers of, and products containing specific ozone depleting substances.

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This label must be "clear and conspicuous". There is no requirement that suppliers label directly on the hardware. Because labeling hardware may not conform to requirements contained in the technical data package (if any), pertinent to this Purchase Order, Buyer prefers that the hardware deliveries under this purchase order not be labeled, and that alternative labeling be used. The EPA regulation provides for the use of alternative labeling. Supplemental printed material may also be appropriate, i.e., where the statement would be as conspicuous on printed material as it would be on the product. For specific requirements and options on labeling regulations, refer to 40 CFR 82.

11. ADDITIONAL PURCHASE ORDER AMENDMENTS:

Seller, upon the request of Buyer, shall negotiate amendments to this Order to incorporate additional provisions herein or to change provisions hereof as Buyer may reasonably deem necessary in order to comply with the provisions of the contract between Buyer and its customer or with the provisions of amendments to such contract. If such amendments to this Order cause an increase or decrease in the cost of, or the time required for, performance of this Order, an equitable adjustment shall be made in the price or delivery schedule, or both, pursuant to the Changes provision herein.

12. DISPUTES:

Irrespective of the place of performance, this Order will be construed and interpreted according to the laws of the state from which Buyer's Order is issued without resort to said state's Conflicts of Law rules. Pending final resolution of a dispute hereunder, the Seller shall proceed diligently with the performance of this Order and in accordance with the Buyer's decision.

13. GENERAL:

This Order and the attachments and documents incorporated herein constitute the completed and exclusive statement of the terms of this agreement between Buyer and Seller and supersede all prior representations, understandings, and communications relating hereto. The invalidity in whole or in part of any provision of this Order shall not affect the validity of other provisions. Buyer's failure to insist, in any one or more instances, upon the performance of any term of this Order, shall not be construed as a waiver or relinquishment of Buyer's right to such performance or to future performance of such a term or terms, and Seller's obligation in respect thereto shall continue in full force and effect. Time shall be of the essence hereunder. Seller shall perform work and make deliveries hereunder no earlier than and only to the minimum extent consistent with delivery schedules and other requirements.

14. PRECEDENCE:

Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence: (1) typed provisions set forth, in this Order, (2) Buyer's Purchase Order Attachments, (3) the preprinted portion of this Order, including these Purchase Order General Provisions, (4) statement of work, and (5) specifications attached or incorporated by reference. Buyer's specifications shall prevail over those of an agency of the U.S. Government, and both shall prevail over those of Seller.

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15. **DEFINITIONS FOR FAR / DFARS CLAUSES:**

The following definitions shall apply to this Order except as otherwise herein provided. The date of the FAR/DFARS clauses shall be the same as the date of the FAR/DFARS clauses in Buyer's prime contract, unless otherwise stated in the body of the Order.

- Buyer - the legal entity issuing this Order
- Contract - this contractual instrument, including changes
- Contractor – Seller
- Contracting Officer - the Government Contracting Officer for the prime contract, or authorized representative
- DFARS - Department of Defense, Federal Acquisition Regulation Supplement
- FAR - Federal Acquisition Regulation
- Government - the Government of the United States
- Prime Contract - the Government contract under which this order is issued
- Purchasing Representative - Buyer's authorized representative
- Seller - the legal entity which contracts with the Buyer
- Subcontractor - Seller's subcontractors
- This Order - this contractual instrument, including changes

16. **FAR CLAUSES APPLICABLE TO ALL ORDERS:**

The text of clauses identified herein by FAR reference number are incorporated herein by this reference, subject to the Definitions Provision herein and to the modifications indicated:

- 52.210-5 New Material, in which "Contracting Officer" means Buyer's Purchasing Representative and "government" means Buyer in the last two sentences of the clause.
- 52.222-1 Notice to the Government of Labor Disputes, in which "Contracting Officer", means Buyer's Purchasing Representative.
- 52.245-2 Government Property (Fixed Price Contracts). In which:
 - Contracting Officer means Buyer's Purchasing Representative
 - Government means Government or Buyer
 - The fourth sentence of paragraph (b) is changed to read: "Neither the Government nor the Buyer shall be liable
- 52.246-2 Inspection of Supplies (Fixed-Price), in which "Contracting Officer" means Buyer's Purchasing Representative or his/her authorized designee, and "Government" means Buyer except that the first time it appears in the first sentence of paragraph (b) and in the fourth sentence of paragraph (b) it means Buyer and the Government (provided, however, that an

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inspection system accepted by the Government will be deemed acceptable to the Buyer), and the first time it appears in paragraph (k) it means Government or Buyer. The provisions in the clause for access, rights to inspect, safety protection, and relief from liability apply equally to Buyer and the Government. The rights and remedies of the Buyer shall be in addition to and not in limitation of those set forth in Provision, 1, Warranties. In this clause, the term Buyer shall include any customer of Palomar Products, Inc.

- 52.246-16 Responsibility for Supplies, in which "Contractor" means Seller and "Government" means Buyer, except in paragraph (d) where "Government" means Government or Buyer.
- 52.249-2 Termination for Convenience of the Government (Fixed-Price), in which "Contracting Officer" means Buyer's Purchasing Representative, and "Government" means Buyer except in paragraph (m). In paragraph (c) the term "45 days" is changed to "90 days." The term "1 year" in paragraph (d) is changed to "6 months." The term "90 days" in paragraph (k) is changed to "45 days." If the Government is unable to unwilling in a timely manner to conduct any audit of Seller's Books and records, an audit may be conducted by a mutually acceptable independent certified public accounting firm.
- 52.249-8 Default (Fixed-Price Supply and Service), in which "Contracting Officer" means Buyer's Purchasing Representative, and "Government" means Buyer.

17. FAR / DFARS CLAUSES APPLICABLE TO ALL GOVERNMENT WORK:

If it is noted on the face of this Order that U.S. Government work is involved, the following FAR and DFARS Clauses are incorporated herein by this reference, subject to the Definitions Provisions herein and to the modifications indicated, unless indicated otherwise in the typed provisions of the Order.

(a) All Orders include the following:

- 52.203-6 Restrictions on Subcontractor Sales to the Government
- 52.203-7 Anti-Kickback Procedures
- 52.204-2 Security Requirements
- 52.204-9 Personal Identity Verification of Contractor Personnel
- 52.204-10 Reporting of Executive Compensation
- 52.208.1 Required Sources for Jewel Bearings and Related Items. Communications required under this clause from Seller to Contracting Officer shall be through Buyer's Purchasing Representative.
- 52.210-7 Used or Reconditioned Material, Residual Inventory, and Former Government Surplus Property
- 52.211-15 Defense Priority and Allocation Requirements
- 52.215-14 (Alternate 1) Integrity of Unit Prices

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52.222-4	Contract Work Hours and Safety Standards Act - Overtime Compensation. Buyer may withhold or recover from Seller such sums as the Contracting Officer withholds or recovers from Buyer because of liabilities of Seller or its subcontractors under this clause.
52.222.19	Child Labor – Cooperation with Authorities and Remedies
52.222.50	Combatting Trafficking in Persons
52.223-3	Hazardous Material Identification and Material Safety Data, in which "Government" means Government or Buyer, and after the term "United States Government Contract No. ___" in paragraph (e) (4) add "and Buyer's Order No. ___." Numbers are noted on the face of this Order.
52.225-13	Restrictions of Certain Foreign Purchases
52.227-1	Authorization and Consent
52.227-10	Filing of Patent Applications - Classified Subject Matter
52.227-11	Patent Rights - Retention by the Contractor (Long Form), if this Order requires the performance of research, experimental or development work.
52.229-3	Federal, State and Local Taxes. In which "Government" means Buyer and "Contracting Officer" means Buyer's Purchasing Representative
52.247-63	Preference for U.S. Flag Air Carriers
231.205-71	Costs related to counterfeit electronic parts and suspect counterfeit electronic parts
252.204-7012	Safeguarding of Unclassified Controlled Technical Information
252.222-7007	Representation Regarding Combating Trafficking in Persons
252.223-7002	Safety Precautions for Ammunition and Explosives, in which "Contracting Officer" means Buyer or Contracting Officer. "Government" shall not mean Buyer except in paragraph (c) where it means Buyer or Government. Seller shall send simultaneously to Buyer a copy of each notification and report sent to the Contracting Officer.
252.225-7013	Duty Free Entry - Qualifying Country End Products and Supplies, in which "Contracting Officer" means Buyer's Purchasing Representative acting pursuant to authorization of the Contracting Officer. In paragraph (k), "this contract" means the prime contract.
252.225-7010	Duty Free Entry - Additional Provisions
252.225-7009	Restriction on Acquisition of Certain Articles Containing Specialty Metals
252.225-7014	Preference for Domestic Specialty Metals (Alternate 1)
252.225-7025	Foreign Source Restrictions, in which "Contracting Officer" shall also mean Buyer's Purchasing Representative in paragraph (f).

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- 252.227-7013 Rights in Technical Data and Computer Software
- 252.227-7018 Restrictive Markings on Technical Data
- 252.211.7027 Deferred Ordering of Technical Data or Computer Software, provided, however, that his right is solely for the purpose and only to the extent necessary to fulfill obligations to the Government in the prime contract under which this Order is issued. The word "Government" shall mean the Buyer or the Government except in the last sentence.
- 252.227.7037 Validation of Restrictive Markings on Technical Data
- 252.228-7005 Accident Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles, in which "Administrative Contracting Officer" means Buyer and Administrative contracting Officer, and "Government" means Buyer or Government.
- 252.246-7007 Contractor Counterfeit Electronic Part Detection and Avoidance System
- 252.246-7008 Sources of Electronic Parts
- 252.247-7024 Notification of Transportation of Supplies by Sea. In paragraph (a), the first sentence and the word "however" in the second sentence are deleted.

(b) Orders exceeding **\$3,000** also include:

- 52.222-36 Affirmative Action for Handicapped Workers, (41 CFR Ch. 60)

(c) Orders exceeding **\$15,000** also include:

- 52.222-20 Walsh-Healey Public Contracts Act
- 52.222-26 EEO / AFFIRMATIVE ACTION:

This contractor and subcontractor 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.

- 52.222-35 Affirmative Action for Special Disabled and Vietnam Era Veterans. (41 CFR Ch. 60)
- 52.222-37 Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era

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(d) Orders exceeding **\$30,000** also include:

- 52.215-1 Examination of Records by Controller General, excluding paragraph, (c)
- 52.215-2 Audit-Negotiation, if the Government is unable or unwilling in a timely manner to conduct any audit of Seller's books or records, an audit may be conducted by a mutually acceptable independent certified public accounting firm.
- 52.219-8 Utilization of Small Business Concerns and Small Disadvantaged Business Concerns
- 52.220-3 Utilization of Labor Surplus Area Concern
- 52.225-8 Duty-Free Entry, in which "Contracting Officer" means Buyers' Purchasing Representative. In the last sentence of paragraph (h) "the contract" means prime contract.
- 52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement
- 52.244-5 Competition in Subcontracting
- 52.247.64 (Alternate 1) Preference for Privately Owned U.S. Flag Commercial Vessels
- 252.203-7001 Special Prohibition on Employment
- 252.209.7000 Acquisition from Subcontractors Subject to On-site Inspection under the INF Treaty
- 252.247-7023 Transportation of Supplies by Sea

(e) Orders exceeding **\$150,000** also include:

- 52.223-2 Clean Air and Water
- 52.203-12 Limitations of Payments to influence Certain Federal Transactions
- 252.225-7006 Reporting of Contract Performance outside the United States

(f) Orders exceeding **\$750,000** also include:

- 52.219-9D Small Business and Small Disadvantaged Business Subcontracting Plan, in which "Contracting Officer" means Buyer's Purchasing Representative in the first sentence of subparagraph (c).
- 52.220-4 Labor Surplus Area Subcontracting Program
- 252.249.7001 Notification of Substantial Impact on Employment
- 252.249-7002 Notification of Proposed Program Termination or Reduction

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18. **SPECIAL PROVISIONS:**

- (a) Jigs and Fixtures: In manufacture of items to be supplied hereunder, Seller shall use jigs, fixtures, and/or other devices or appliances, in all processes where such use is conducive to interchangeability for uniformity of the product, of such character, as will reduce the need for selective assembly.
- (b) Indemnification:
 - (1) Seller hereby indemnifies Buyer and agrees to hold Buyer harmless from any and all violations of import/export laws and regulations of the United States which result either directly or indirectly from Sellers acts or omissions to act.
 - (2) By acceptance of this purchase order, Seller hereby agrees to indemnify, hold harmless, and exonerate Buyer for any losses or damages, resulting from any claim, action, proceeding or suit relating to the Seller’s violation of the provisions of Subsection 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423), Procurement Integrity. In addition to any other remedies that Buyer may have, Seller shall defend, at its expense, any such claim, action, proceeding or suit against Buyer or its Customers and shall pay all costs and damages incurred either through judgment or settlement. Seller further agrees to provide Buyer with certifications of compliance with the provisions of the Act if requested to do so.

19. **COUNTERFEIT GOODS:**

The seller must maintain a Counterfeit Electronic Parts Avoidance, Detection, Mitigation and Disposition Program in accordance with AS5553 and DFAR 252.246-7007, in order to prevent Counterfeit Parts from entering in to Palomar’s Supply Chain.

- (a) Definitions. As used in this clause—
 - “Counterfeit electronic part” means an unlawful or unauthorized reproduction, substitution, or alteration that has been knowingly mismarked, misidentified, or otherwise misrepresented to be an authentic, unmodified electronic part from the original manufacturer, or a source with the express written authority of the original manufacturer or current design activity, including an authorized aftermarket manufacturer. Unlawful or unauthorized substitution includes used electronic parts represented as new, or the false identification of grade, serial number, lot number, date code, or performance characteristics.
 - “Obsolete electronic part” means an electronic part that is no longer available from the original manufacturer or an authorized aftermarket manufacturer.
 - “Suspect counterfeit electronic part” means an electronic part for which credible evidence (including, but not limited to, visual inspection or testing) provides reasonable doubt that the electronic part is authentic.
- (b) Acceptable counterfeit electronic part detection and avoidance system.

The Seller shall establish and maintain an acceptable counterfeit electronic part detection and avoidance system. Failure to maintain an acceptable counterfeit electronic part detection and avoidance system, as defined in this clause, may result in disapproval of the purchasing system by the Buyer and/or withholding of payments and affect the allowability of costs of counterfeit electronic parts or suspect counterfeit electronic parts and the cost of rework or corrective action that may be required to remedy the use or inclusion of such parts (see DFARS 231.205-71).

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(c) System criteria.

A counterfeit electronic part detection and avoidance system shall include risk-based policies and procedures that address, at a minimum, the following areas:

- (1) The training of personnel.
- (2) The inspection and testing of electronic parts, including criteria for acceptance and rejection. Tests and inspections shall be performed in accordance with accepted Government- and industry-recognized techniques (this includes but is not limited to the IDEA-STD-1010). Selection of tests and inspections shall be based on minimizing risk to the Buyer. Determination of risk shall be based on the assessed probability of receiving a counterfeit electronic part; the probability that the inspection or test selected will detect a counterfeit electronic part; and the potential negative consequences of a counterfeit electronic part being installed (e.g., human safety, mission success) where such consequences are made known to the Seller.
- (3) Processes to abolish counterfeit parts proliferation.
- (4) Risk-based processes that enable tracking of electronic parts from the original manufacturer to product acceptance, whether the electronic parts are supplied as discrete electronic parts or are contained in assemblies.
- (5) Use of suppliers in accordance with the DFAR 252.246-7008.
- (6) Reporting and quarantining of counterfeit electronic parts and suspect counterfeit electronic parts. Reporting is required at minimum to the Buyer and to the Government-Industry Data Exchange Program (GIDEP) when the Seller becomes aware of, or has reason to suspect that, any electronic part or end item, component, part, or assembly containing electronic parts purchased by the Customer, or purchased by a Contractor for delivery to, or on behalf of, the Customer, contains counterfeit electronic parts or suspect counterfeit electronic parts. Counterfeit electronic parts and suspect counterfeit electronic parts shall not be returned to the seller or otherwise returned to the supply chain until such time that the parts are determined to be authentic.
- (7) Methodologies to identify suspect counterfeit parts and to rapidly determine if a suspect counterfeit part is, in fact, counterfeit.
- (8) Design, operation, and maintenance of systems to detect and avoid counterfeit electronic parts and suspect counterfeit electronic parts. The Contractor may elect to use current Government- or industry-recognized standards to meet this requirement.
- (9) Flow down of counterfeit detection and avoidance requirements, including applicable system criteria provided herein, to subcontractors at all levels in the supply chain that are responsible for buying or selling electronic parts or assemblies containing electronic parts, or for performing authentication testing.
- (10) Process for keeping continually informed of current counterfeiting information and trends, including detection and avoidance techniques contained in appropriate industry standards, and using such information and techniques for continuously upgrading internal processes.

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- (11) Process for screening GIDEP reports and other credible sources of counterfeiting information to avoid the purchase or use of counterfeit electronic parts.
- (12) Control of obsolete electronic parts in order to maximize the availability and use of authentic, originally designed, and qualified electronic parts throughout the product's life cycle.
 - (a) Palomar Products, Inc.'s review and evaluation of the Seller's policies and procedures will be accomplished as part of the evaluation of the Seller's Purchasing System.
 - (b) The Seller shall include the substance of this clause, excluding the introductory text and including only paragraphs (a) through (e), in subcontracts, including subcontracts for commercial items, for electronic parts or assemblies containing electronic parts.

Seller bears responsibility for procuring authentic Goods or items from its subcontractors and shall ensure that all such subcontractors comply with the requirements of this article.

20. RIGHT OF ENTRY:

The Seller shall, at any reasonable time, allow entry to Seller's premises to Buyer's personnel, Buyer's customer personnel, and regulatory agency personnel for the express purpose of verifying that Seller's premises and product contracted for conforms to specified requirements. Such verification shall not be used by the Seller as evidence of effective control of quality by the Seller. Verification by the Buyer or Buyer's customer shall not absolve the Seller of the responsibility to provide acceptable product, nor shall it preclude subsequent rejection by the Buyer.

21. UNITED STATES GOVERNMENT TRADE CONTROL REGULATIONS:

Seller acknowledges and understands its obligations to comply with U.S. Control Laws and Regulations as identified by the Arms Export Control Act (22 U.S.C. 2751 / 2778) under the International Traffic in Arms Regulations (ITAR), the Export Administration Regulations (EAR), the Office of Foreign Assets Control Regulations (OFAC), and other U.S. trade regulatory agencies. Upon request by Buyer, Seller shall promptly provide the appropriate EAR ECCN or ITAR USML Categories of Export-Controlled Technical Data, Commodities, or Software provided hereunder.

If your organization manufactures or exports any ITAR-controlled products (Defense Articles) and/or services (Defense Services) on behalf of Palomar Products, Inc., then your organization has a legal requirement to be registered with the U.S. Department of State - Directorate of Defense Trade Controls (DDTC), as defined in ITAR Part 120.

Seller understands and agrees that any release of Export-Controlled Technical Data, Commodities, or Software (ITAR Part 120 and EAR Part 772) provided by the Buyer will be controlled and will not be Exported, disclosed, discussed, transferred, or re-Exported to any foreign person (whether in the United States or abroad), including without limitation, a foreign subsidiary of Seller, without first complying with all relevant requirements, including Seller obtaining the appropriate Export Authorization (License or Agreement) as required by U.S. Export Control Laws and Regulations with the express written authorization of the Buyer.

Seller shall control access to Export-Controlled Technical Data, Commodities, or Software and only assign personnel to perform work who are (ITAR Part 120): (a) U.S. citizen; or (b) U.S. permanent resident alien; or (c) who have U.S. protected individual status as defined by 8 USC 1324b(a)(3); or (d) who are working under a valid U.S. Export Authorization (License or Agreement).

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The Parties shall indemnify each other for direct damages and Seller shall indemnify Buyer for all reasonable liabilities, penalties, losses, costs or expenses that may be imposed or incurred in connection with any violations of any U.S. Export Control Laws and Regulations. Seller shall immediately notify Buyer if it or any of its subcontractors or suppliers are listed on any Excluded or Denied Party Lists of any agency of the U.S. Government or if Export or Import privileges are denied, suspended, debarred, or revoked.

22. CHANGE OF LOCATION / SALE OF BUSINESS NOTIFICATION:

Seller must notify buyer of any changes in location, facilities, management, and sale of business or acquisition of business. Seller agrees to discuss with Buyer and proposed plans for changes affecting Buyer's work hereunder. Buyer may terminate this contract for default under the general terms and conditions governing this contract if, in the reasonable opinion of Buyer, changes proposed would jeopardize Seller's ability to perform any existing contract(s) in accordance with scheduled deliveries.

ADDITIONAL QUALITY REQUIREMENTS:

(a) Records:

Seller's records, to demonstrate conformance, shall be on file and available for review by Buyer, Buyer's Customers or Regulatory Agencies, upon request.

1. Record Retention

- a. Documents shall be stored in a safe and accessible manner. Seller shall have a documented procedure on record retention.
- b. Documents in electronic format shall be maintained just as hard copy or paper documents.
 - i. Quality records shall be retained for a minimum of ten (10) years from date of final payment.
 - ii. All Purchasing and contract related documents shall be retained for a minimum of ten (10) years from the date of the final payment.
 - iii. All hard copy and electronic memoranda shall be retained for a minimum of ten (10) years from the date of submission.
 - iv. All hard copy and electronic memoranda pertaining to routine matters that have no significant or lasting consequences should be discarded or deleted within two (2) years. Examples are:
 1. Letters or notes requiring no follow-up
 2. Form letters that require no follow-up
 3. Letters of general inquiry

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2. Destruction of Records

- a. Any specific customer, regulatory agency, or Purchase Order flow-downs take precedence over the destruction instructions below.
 - i. After the minimum retention period, hardcopy documents shall be destroyed by shredding or fire.
 - ii. After the minimum retention period, electronic media including copies shall be destroyed by fire or other proven means.
 - iii. Supplier shall contact Palomar prior to any record destruction, submit a list of the documents, hard copy or electronic to be destroyed, and submit a record of destruction method as applicable.

(b) Product and Service Conformity:

All suppliers to Palomar Products shall ensure that all products and services conform to AS9100D section 8.4.3, and all subcontractors to Palomar Products shall flow down to their subcontractors that all products and services conform to AS9100D section 8.4.3, which includes, but is not limited to, manufacturing parts as per drawings specifications, qualification of processes and persons, expiration, shelf life limitations, temperature control, and calibration.

(c) Electro-Static Discharge (ESD) Management:

ESD Management System must be implemented and compliant to ANSI/ESD-S20.20 for electro-static sensitive devices to the level required to insure part(s) are not compromised.

(d) Foreign Object Damage (FOD):

The seller must maintain a Foreign Object Debris / Damage (FOD) Prevention Program in accordance with National Aerospace Standard NAS-412, in order to prevent entrapment or damage to parts and assemblies. Seller shall further ensure that the FOD requirements are flowed down to subcontractors at every level.

(e) Corrective Action (CAR / SCAR):

Seller shall, on request, on forms designated by Buyer, provide statements of corrective action on nonconformities or failures of Seller's goods or services. Corrective action statements, at Buyer's option, may require approval signature by Buyer and customer quality representatives. All rejected articles resubmitted by Seller to Buyer shall bear adequate identification, including reference to Buyer's rejection document. The seller must respond to any Corrective Action or Supplier Corrective Action within 7 days of receipt. Requests may include root cause / corrective action or other requirements, and timeliness of response is key to reduce defective products or processes from affecting product quality.

(f) Purchase Order Acceptance:

To ensure purchase order acceptance, Palomar requires that the supplier communicate in written form back to the buyer within 72 hours. The acknowledgment or exceptions can be via email, or can be a scanned or faxed copy of the signed acknowledgement on page one of the PO.

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(g) *Discretionary Government Surveillance*

During performance of this contract, Seller and Seller's Subcontractors quality and manufacturing processes are subject to review, verification, and analysis by authorized Government Quality Representatives. Government inspection or release of goods or services prior to shipment is not required unless Seller is otherwise notified. Seller shall provide a copy of this contract upon receipt to the Government Quality Representative who services Seller's facility. In the event the Government Quality Representative or DCMA office cannot be located, Seller shall immediately notify Buyer's Authorized Procurement Representative.

(h) AS9015 Requirements for Delegation of Product Verification

When Seller delegates product verification, Seller shall conform to the requirements of AS9015, "Supplier Self Verification Process Delegation Programs," as may be amended from time to time. Buyer reserves the right to conduct surveillance at Seller's facility to determine that Seller's quality system conforms to the requirements of AS9015. AS9015 establishes minimum requirements for Seller's delegation of product verification. When delegating product verification, Seller is not relieved of its obligations under this contract. Aerospace standards such as AS9015 can be obtained from SAE International at <http://standards.sae.org/>.

(i) Seller's Notification of Escapement

When a nonconformance is determined to exist or is suspected to exist on goods and/or services provided to Buyer under this Contract, Seller shall provide written Post Delivery Notification Letter or Letter of Disclosure [Notification of Escapement (NOE)] to Buyer's Authorized Procurement Representative. Seller shall provide the letter and all required NOE information within three (3) business days of when nonconformance was determined. However, if the nonconformance affects safety of flight or is mission critical; Seller shall immediately provide the letter and all available information. At minimum, Seller shall include the following NOE information:

- Date(s) goods and/or services were shipped under this Contract
- Buyer's contract number and line item number
- Part number(s) and when applicable, the associated serial number(s) and / or lot number(s)
- Quantity
- Date of manufacture and any other pertinent information
- Specific description of nonconformance (i.e., "should be" and "is" condition) with reference to applicable engineering documentation
- Statement declaring whether the nonconformance was determined to exist or suspected to exist
- Preliminary root cause and root cause corrective action
- Name of Seller's Quality personnel involved in the collection and reporting of the NOE information

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(j) Unconfirmed Failure Rejections

In the event Goods delivered on this purchase contract are rejected and returned by the buyer to the seller and the seller is unable to confirm the reported failure, the seller shall provide the following to the buyer and hold shipment pending buyer disposition:

1. Purchase contract number
2. Part number
3. Serial number(s)
4. Buyer's rejection form number
5. Applicable test procedures
6. Results of special tests performed by seller
7. Seller's certification that test procedure used to verify the failure identified by the buyer was adequate to detect those failures. Seller to provide number and revision of test procedure(s) used.