



communications
Aviation Recorders

PROCUREMENT STANDARD PRACTICE INSTRUCTIONS

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Approved: _____ Date: _____

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1.0 See following pages for text. This data is printed on the back of the purchase order. Refer to PSPI 12.3.

STANDARD TERMS AND CONDITIONS OF PURCHASE

1. ACCEPTANCE OF BUYER'S OFFER. This Purchase Order (hereinafter the Contract) constitutes Buyer's offer to Seller, and becomes a binding contract on the terms and conditions set forth herein when it is accepted by Seller either by acknowledgment or commencement of performance hereof. No revisions of this contract or any of the terms and conditions thereof shall be valid unless in writing and signed by an authorized representative of Buyer's Purchasing Department and no condition stated by Seller in accepting or acknowledging this contract shall be binding upon Buyer if in conflict with, inconsistent with, or in addition to the terms and conditions contained herein unless expressly accepted in writing by Buyer.

2. CHANGES. Buyer may at any time by a written notice, and without notice to sureties or assignees, make changes within the general scope of this contract in any one or more of the following: i) drawings, designs, statement of work or specifications; ii) method of shipment or packing; iii) place of inspection, acceptance or delivery; iv) quantities; and v) delivery schedule. Should any such change cause an increase or decrease in the cost of, or in the time required for the performance of any part of, the work under this contract, whether or not changed by such notice, an equitable adjustment shall be made in the purchase price or delivery schedule, or both, and this contract shall be modified in writing accordingly. Any claim by Seller for adjustment under this clause must be asserted promptly and in all events within twenty (20) days from the date of receipt by Seller of such written notice. Nothing contained in this clause shall relieve Seller from proceeding without delay in the performance of this contract as changed. In the event Seller considers that any conduct of Buyer or Buyer's employees constitutes a change to this contract, Seller shall immediately notify Buyer, setting forth in detail the nature of the conduct and the effect upon performance of this contract. Pending receipt of written direction from Buyer, Seller shall take no action to implement the change which Seller believes has occurred.

3. INSPECTION, TEST AND ACCEPTANCE. Seller shall provide and maintain a quality control and inspection system acceptable to Buyer. All goods and services (hereinafter, collectively, "supplies") to be furnished hereunder shall be subject to inspection and test by Buyer and its customer (which term, wherever used herein, includes all higher tier contractors and the U.S. Government if this contract has been issued under a U.S Government prime contract), to the extent practicable, at all times and places during the period of manufacture and, in any event, prior to final acceptance. If such inspections or tests are made on Seller's premises, Seller shall provide to representatives of Buyer and its customer, without charge, reasonable facilities and assistance in performing such functions. Neither approval of test procedures nor inspection or test of supplies by Buyer or its customer prior to final inspection and acceptance at Buyer's facility shall relieve Seller from any responsibility for defects or other failures to meet the requirements of this contract. Buyer shall have the right to reject any supplies furnished hereunder which are defective in material or workmanship or not otherwise in conformity with the requirements of the contract. Supplies so rejected may at the option of Buyer, i) be retained by Buyer at an equitable reduction in price, ii) be returned to the Seller for prompt correction or

replacement, or iii) be held by Buyer for Seller's instructions. Until final acceptance, risk of loss or damage to the supplies and all expenses, including transportation shall be borne by Seller. . Supplies neither accepted nor rejected by Buyer within forty-five (45) days of their receipt by Buyer shall be deemed to have been accepted. Rejected supplies held by Buyer for Seller's instructions shall be disposed of by Buyer for Seller's account unless such instruction shall have been received by Buyer within ten (10) days of Seller's receipt of the notice of rejection. Payment, whether partial or in full, for supplies prior to final inspection shall not constitute acceptance thereof and shall be without prejudice to any rights of Buyer hereunder. Except as otherwise provided in this contract, acceptance shall be construed as conclusive except as regards latent defects, fraud or such gross mistakes as amount to fraud.

4. **WARRANTY OF SUPPLIES.** Seller warrants that all supplies furnished hereunder will be free from defects in labor, materials and fabrication, and will comply with all contract requirements including specifications. All warranties shall run to Buyer and its Customer and shall remain in effect for a period of twelve (12) months after final acceptance unless some other period is set forth elsewhere in this contract. During the warranty period, Buyer may return defective supplies to Seller at Seller's expense for repair or replacement, or may retain such supplies with an equitable price reduction. In the event defective supplies are returned for repair or replacement and Seller fails to promptly redeliver conforming supplies to Buyer, Buyer may correct or replace the failed supplies with similar items and charge to Seller the cost occasioned to Buyer thereby. Any supplies or parts thereof repaired or replaced pursuant to this clause shall be subject to all the provisions of this clause to the same extent as supplies initially delivered, and the warranty period will be tolled for the length of time that supplies are rendered inoperable because of the defect. The rights and remedies of Buyer under this clause are in addition to, and do not limit, any rights afforded Buyer by law or this contract.

5. **WARRANTY OF PRICE.** Seller warrants that the prices for the supplies sold hereunder are not less favorable than those currently extended to any other customer for the same or like supplies in substantially similar quantities and under substantially the same terms and conditions. In the event Seller reduces its price for such supplies during the term of this contract, Seller shall reduce the price hereof correspondingly.

6. **PACKING, SHIPPING AND DELIVERY.** Unless otherwise stated in this contract, all deliveries and prices are f.o.b. Buyer's facility and are to be made in strict accordance with the delivery schedule set forth elsewhere in this contract, time being of the essence. All shipments shall be suitably packed to prevent damage in transit, atmospheric deterioration, assure lowest transportation costs and meet carriers' tariff requirements. Unless otherwise authorized in writing by Buyer, no charge will be made for boxing, crating or storage. Supplies shipped in excess of the quantity ordered may be returned at Seller's expense. Deliveries in advance of schedule without Buyer's written consent, if retained, will be subject to payment conforming to the delivery schedule.

7. DEFAULT

a) Buyer may subject to the provisions of subparagraph c) below, by written notice of default to Seller, terminate the whole or any part of this contract in any one of the following circumstances:

i) if seller fails to make delivery of the supplies or to perform the services within the time specified herein or any extension thereof; or

ii) if Seller fails to perform any of the other provisions of this contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of ten (10) days, or such longer period as Buyer may authorize in writing, after receipt of notice from Buyer specifying such failure.

b) In the event Buyer terminates this contract in whole or in part as provided in subparagraph a) above, Buyer may procure, upon such terms and in such manner as Buyer may deem appropriate, supplies or services similar to those so terminated, and Seller shall be liable to Buyer for any excess costs for such similar supplies or services. Seller shall continue the performance of this contract to the extent not terminated under the provision of this clause.

c) Seller shall not be liable for any excess costs arising from Seller's failure to perform this contract when such failure arises out of causes beyond the reasonable control and without the fault or negligence of Seller. Such causes may include, but are not limited to, acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine, strikes, freight embargoes and unusually severe weather.

d) If this contract is terminated as provided in subparagraph a) above, Buyer, in addition to any other rights provided in this clause or at law, may require Seller to transfer title and deliver to Buyer, in the manner and to the extent directed by Buyer i) any completed supplies and ii) such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information and contract rights as Seller has specifically produced or specifically acquired for the performance of such part of this contract as has been terminated and Seller shall, upon the direction of Buyer, protect and preserve property in the possession of Seller in which Buyer has an interest. Payment for completed supplies delivered to and accepted by Buyer shall be at the contract price. Payment for materials delivered to and accepted by Buyer and for the protection and preservation of property shall be in an amount agreed upon by Buyer and Seller.

e) If, after notice of termination of this contract under the provisions of this clause, it is determined for any reason that Seller was not in default, or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall be the same as the notice of cancellation had been issued pursuant to the clause of this contract entitled "Termination for Convenience@

f) The rights and remedies of Buyer provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

8. TERMINATION FOR CONVENIENCE

a) In the event this contract has been issued under a U.S. Government prime contract, the performance required hereunder may be terminated in whole or, from time to time, in part by Buyer in accordance when the Termination for Convenience of the Government clause set forth in Section 52.249-2 of the Federal Acquisition Regulations (FAR) in effect on the date of Buyer's prime contract, which clause is incorporated herein by reference. Where necessary to make the context of that clause applicable to this contract, the term "Contractor" shall mean Seller, the term "Contract" shall mean this contract, and the term "Government," "Contracting Officers" "Head of Agency or Secretary" and equivalent phrases shall mean Buyer. Notwithstanding the foregoing, any reference to "Disputes" is expressly deleted, and the one year period referenced in subparagraph d) of that clause shall be reduced to six (6) months.

b) In circumstances other than those set forth in subparagraph a) above, Buyer reserves the right to terminate for any reason all or any part of this contract without liability to Seller except to pay i) the contract price for supplies fully completed, whether delivered or undelivered prior to notice of termination, ii) all proper costs (which shall be determined in accordance with generally accepted accounting principles and practices and shall be subject to audit by Buyer) incurred by Seller in connection with supplies not completed when notice of termination is given and iii) an amount as profit to be negotiated by the parties on all costs reimbursed to Seller pursuant to ii) other than the cost of materials on hand or on order on which no substantial work shall have been performed by Seller. The amounts to be paid Buyer shall not be in duplication of any prior payments nor shall the sum of all payments exceed the total contract price. Title to all property covered by this subparagraph shall pass to Buyer upon payment therefore by Buyer with Seller retaining the risk of loss or damage to same until delivered to Buyer.

9 . PATENT INDEMNITY. Unless this contract shall have been issued under a U.S. Government prime contract pursuant to which Buyer is relieved of patent liability, Seller shall indemnify and hold harmless Buyer, its successors, assigns and customers, from and against any and all liability, including reasonable attorneys' fees, arising out of any claimed infringement of any United States or foreign patent, trademark or copyright with respect to the supplies to be furnished hereunder, except those supplies manufactured by Seller to Buyer's detailed design.

10. INDEMNIFICATION. In the event Seller, its employees, agents, subcontractors or lower-tier subcontractors enter premises occupied by, or under the control of, Buyer in the performance of this contract, Seller shall indemnify and hold harmless Buyer, its officers and employees from any loss, costs, damage, expense or liability by reason of property or personal injury of

whatsoever nature or kind arising out of, as a result of, or in connection with such performance occasioned by the actions or omissions of Seller, its employees, agents, subcontractors or lower-tier subcontractors.

11. DESIGNS AND DRAWINGS. Buyer retains all rights in designs, drawings and engineering data furnished to Seller in connection with this contract, which designs, drawings and engineering data shall be returned promptly to Buyer after the need therefore has ended, but in all events no later than completion of performance of this contract. The use of such designs, drawings and engineering data shall be limited to performance of this contract and, except as authorized in writing by Buyer, shall not be incorporated in supplies furnished to others, nor used, disclosed or duplicated for any other purpose.

12. SPECIAL TOOLING, EQUIPMENT AND MATERIAL. Title to all tooling, dies, molds, patterns, jigs, fixtures, equipment material and similar items (hereinafter, collectively, Buyer Property) furnished to Seller or to be specifically paid for by Buyer shall at all times remain in Buyer. Seller shall use Buyer Property only for Buyer's contracts shall keep same in proper repair, shall furnish Buyer with an itemized list of all Buyer Property in its possession at twelve (12) month intervals commencing twelve (12) months after receipt of contract and shall return same on demand at Seller's expense in the same condition as when received, reasonable wear and tear excepted. With respect to tooling paid for by Buyer, the return of same shall be accompanied by such operation sheets or other appropriate data as are necessary to show manufacturing operations or processes for which such tooling was used or designed. Buyer shall have the right to inspect Buyer Property during working hours. In the event of breach of any of the foregoing provisions, Buyer may terminate this contract as provided for in the clause of this contract entitled "Default" and, in any event, shall have the immediate right to take possession of Buyer Property and no common law or statutory lien in favor of Seller shall attach even though payment therefore has not been made or independent disputes exist between Buyer and Seller. Notwithstanding anything in this or the previous clause to the contrary, and subject to the prior condition that Buyer's scheduled performance requirements will not be hindered, Seller may produce items for direct sale to the U.S. Government in instances where the U.S. Government has the right to use the designs, drawings, special tooling equipment, material, engineering data or other technical or proprietary information furnished by Buyer to the extent required for the production of such items. Seller is required to maintain adequate control records of Government/Buyer property. Records must reflect the following information: contract number or equivalent code designation, nomenclature or description of items, including national stock number, if known, quantity received, quantity issued, balance on hand, posting reference and date of transaction, unit price, location and disposition. Posting documents must be maintained in chronological order for auditing purposes. Seller is responsible at all times, for the care, safekeeping and proper use of Government/Buyer property in its possession. Material must be stored in a bonded storage area. The loss, damage, or destruction of Government/Buyer property will be reported to Buyer immediately. Seller will not be relieved of liability for loss, damage or destruction of Government/Buyer property. All Government/Buyer property will be maintained

and stored by Seller until formal disposition instructions are received from Buyer. Unauthorized use of Government/Buyer property is prohibited unless authority is obtained from Buyer. All Government owned Special Tooling or Special Test Equipment furnished to Seller or to be specifically paid for by Buyer shall be appropriately identified to show name of the owning Government Agency, i.e. USAF, USN, etc. followed by the vendor assigned code, prime contract job number and serial control number. Identification numbers to be furnished by the Buyer.

13. NON-DISCLOSURE OF INFORMATION. Except as may be required by law or regulation, or to ensure performance hereunder, Seller shall not, without the prior written consent of Buyer, disclose information relative to this contract.

14. TAXES. The prices stated herein are inclusive for all federal, state and local taxes and duties applicable hereto, and such taxes and duties shall be separately stated on all invoices. To the extent that the supplies covered by this contract are entitled to tax or duty exemptions, or both, such taxes and duties shall be excluded from the prices stated herein. Exemption certificates shall be obtained by Seller.

15. WAIVER. The failure of either party to enforce at any time the terms, conditions, requirements or any other provisions of this contract shall not be construed as a waiver by such party of any succeeding nonperformance of the same term, condition, requirement or any other provision of this contract.

16. STOP WORK. Seller, in accordance with the terms of a written notice from Buyer, shall stop work for a period up to ninety (90) days and take all reasonable steps to minimize the occurrence of costs allocable to the work covered by this contract during the period of the work stoppage. Within said ninety (90) day period, Buyer shall either terminate or continue the work by written notice to Seller. In the event of a continuation, an equitable adjustment in accordance with the provisions of the clause of this contract entitled 'Changes' shall be made to the price or delivery schedule, or both.

17. ASSIGNMENT AND SUBCONTRACTING. No assignment of any rights, including right to moneys due to become due hereunder, and no delegation of any duties under this contract shall be binding upon Buyer until its written consent thereto has been obtained and any such attempted assignment or delegation shall be void. No supplies to be delivered under this contract shall be procured by Seller from a third party in completed or substantially completed form without Buyer's prior written consent.

18. PAYMENT. Payments are made subject to final inspection and acceptance at Buyer's facility. The discount period, if any, shall commence on the date receipt by Buyer of the supplies or Seller's correct invoice, whichever is later. Should Buyer, prior to full performance and completion of this contract, make any payment hereunder for any cause or reason, whether

conditionally or unconditionally, any amount or amounts so paid shall be subject to return with interest at the option of Buyer if this contract is ultimately terminated for default or otherwise not fully performed and completed by Seller in accordance with the terms and provisions hereof.

19 SETOFF. Buyer may set off any amount due from Seller, whether or not under this contract, against any amount due Seller hereunder.

20. NOTICE OF LABOR DISPUTES. Whenever an actual or potential labor dispute is delaying, or threatens to delay, the timely performance of this contract, Seller shall immediately give written notice thereof to Buyer including all relevant information with respect thereto. Seller shall insert the substance of this clause in every subcontract hereunder.

21. GOVERNMENT CLAUSES. In the event this contract has been issued under a U.S. Government prime contract, the clauses of the Federal Acquisition Regulations (FAR) set forth below, in effect as of the date of this contract, are incorporated herein by reference. Copies of the FAR are obtainable from the superintendent of Documents, U.S. Government Printing Office, Washington, D.C. Seller shall insert the provisions of such clauses in each subcontract placed by it hereunder if the incorporated clause requires such inclusion. Where necessary to make the context of the clauses incorporated herein by reference applicable to this contract, the term "Contractor" shall mean Seller, the term "Contract" shall mean this contract, and the terms "Governments" "Contracting Officers" "Head of the Agency or Secretary" and equivalent phrases shall mean Buyer. Notwithstanding the foregoing, any reference in any of the incorporated clauses to "Disputes" is expressly deleted therefrom. If a Government Contract Number and DMS Rating are referenced in this Purchase Order, this is a rated order certified for national defense use and the Seller is required to follow all the provisions of the Defense Priorities and Allocation System Regulations (15 CFR 350).

52.203-6	52.215-1	52.222-1	52.225-35	52.227-13	52.203-7
52.215-2	52.222-4	52.225-10	52.227-7013	52.204-2	52.215-22
52.222-20	52.225-11	52.230-3	52.204-7005	52.215-23	52.222-26
52.225-7008	52.230-4	52.208-1	52.215-24	52.222-35	52.225-7012
52.235-7004	52.208-7000	52.215-25	52.222-36	52.227-1	52.244-2
52.208-0002	52.215-26	52.223-1	52.227-2	52.245-2	52.210-5
52.219-8	52.223-2	52.227-8	52-245-17	52.212-8	52.219-9
52.223-3	52.227-9	52.245-18	52 214-26	52.219-16	52.223-5
52.227-10	52.247-63	52.214-27	52.220-3	52.223-6	52.227-11
52.247-64	52 214-28	52.220-4	52.224-2	52.227-12	52.248-1

22. COMPLIANCE WITH LAWS. In the performance of this contract, comply with all applicable federal, state and local laws.

23. PARTIAL INVALIDITY. If any provision of this contract is or becomes void or

unenforceable by force of law, the remainder shall remain valid and enforceable.

24. **GOVERNING LAW.** This contract shall be governed by and construed in accordance with the federal body of common law as enunciated and interpreted by the various Boards of Contract Appeals of the Executive Departments of the United States Government and the United States Court of Claims and its successor courts.

25. **ORDER OF PRECEDENCE.** In the event of any inconsistency among the various documents constituting this contract, priority shall be afforded in the following descending order:

1. Typed provisions of the contract.
2. Printed special provisions annexed to the contract.
3. These standard terms and conditions of purchase.
4. Specifications annexed to, or incorporated in, the contract.
5. Documents incorporated by reference into the specifications.

26. **ENTIRE AGREEMENT.** The provisions contained herein constitute the entire agreement between the parties and supersede all previous communications and representations, either oral or in writing, with respect to the subject matter hereof.