

GEON® Performance Solutions Terms and Conditions of Purchase of Goods & Services

The following terms and conditions of purchase (these “Terms and Conditions”) are incorporated into and made part of each purchase order (collectively, the “Order(s)”) pursuant to which GEON Performance Solutions, LLC, or any of its affiliated companies (collectively, the “Buyer”) purchases or pays for any good(s) and/or service(s) (collectively, the “Goods”) from any company or other organization (“Seller”) and together with the Orders and these Terms and Conditions will constitute the entire agreement between Buyer and Seller. This Order expressly limits Seller’s acceptance to the terms of the Order, which incorporates these Terms and Conditions.

1. **DEFINITIONS.** Capitalized terms used herein shall have the meaning ascribed to them below or as defined in the following Sections:
 - (A) “Goods” means any good(s) and/or service(s) described in this Order.
 - (B) “Buyer” means the legal entity issuing an Order, specifically GEON Performance Solutions, LLC. or any of its affiliates.
 - (C) “Order(s)” means any purchase order issued by a Buyer to Seller, whether issued electronically, by fax, in writing or other means, referencing these Terms and Conditions.
 - (D) “Seller” means the person or business entity to which this Order is placed by Buyer.
 - (E) “Term” means the period commencing upon the date this Order is accepted and ending when all of Seller’s obligations under this Order have been fully satisfied in accordance with these Terms and Conditions, unless another period is specified in this Order.
 - (F) “Terms and Conditions” means these Purchase Order Terms and Conditions.
2. **ORDERS.** These Terms and Conditions are incorporated into each Order that Buyer issues to Seller as if they are fully written in the Order. Each reference to “this Order” in these Terms and Conditions means and shall be interpreted as “this Order (including these Terms and Conditions),” unless specified herein to the contrary. Each Order will contain a description of the Goods and identify the specifications, drawings, quantities, prices, delivery schedule, terms and place of delivery. Each such order must be confirmed by Buyer or other authorized procurement representative in writing in order to be binding on Buyer. Seller may ship only against a written Order.
3. **AGREEMENT/ACCEPTANCE/MODIFICATION.** An Order is Buyer’s offer to buy from Seller the Goods that are subject of this Order. This Order is not binding on Buyer until Seller accepts the Order, and Seller’s acceptance is expressly limited to the Order’s terms without additions, deletions, or other modifications. Seller shall be deemed to have accepted this Order upon the first to occur of: (A) Seller’s express acknowledgement or acceptance of this Order, (B) Seller’s commencement of manufacturing any Goods that are the subject of this Order, or (C) Seller’s receipt of any payment, partial or full, from Buyer under this Order. Buyer hereby rejects any different or additional terms in Seller’s acceptance of this Order or any other documentation provided by Seller (including but not limited to invoices, confirmations, or acknowledgements). No modification, deletion, or addition shall be binding on Buyer unless each is specifically accepted in writing by Buyer’s authorized procurement representative; provided, however, that only the portion specifically accepted shall be binding upon the parties, and all other portions not specifically accepted are rejected and do not form or become part of this Order. Buyer may withdraw the Order at any time before it is accepted by Seller.
4. **CHANGES:**
 - (A) Subject to other provisions of this Section 4, Buyer may by written notice make changes within the general scope of any Order to any one or more of the following: (i) drawing, designs or specifications for any of the Goods; (ii) method of shipment or packaging; (iii) place of inspection, delivery or acceptance; (iv) quantity of any one or more of the Goods; and (v) delivery schedule.
 - (B) Seller will proceed immediately to perform this Order as changed by Buyer. If any such change is the sole cause of a material increase or decrease in the cost of, or delivery time for, the supply of any Goods under this Order, then, except as otherwise provided for in Section 4(C) below, Seller (in the case of an increase) or Buyer (in the case of a decrease) shall be entitled to an equitable adjustment in the purchase price or delivery schedule or both, as applicable; provided, however, that for Seller to qualify for such an adjustment, Seller must assert a claim for such adjustment within seven (7) days from the date of receipt by Seller of such notice of change from Buyer and thereafter demonstrate, in reasonable detail, the impact of such change on the cost or delivery time of the Goods alleged to be so affected and that all of such impact was caused by such change. Seller shall proceed with the change pending resolution of any dispute over whether Seller is entitled to an adjustment for the change.
 - (C) Notwithstanding paragraphs (A) and (B) above, Buyer may make changes to this Order delivery schedule without cost impact; provided that Buyer provides a minimum four (4) week notice, unless otherwise agreed to in writing, to Seller for any delivery schedule acceleration or deceleration.
 - (D) Seller shall, at no cost to Buyer, use best efforts to support any changes required by Buyer within the notice period set forth above.

- (E) Nothing in this Section will excuse Seller from proceeding with the Order as changed.
- (F) Seller has no authority to deviate from the written contract and cannot make any changes to Good or processes (including drawings, data, specifications, etc.) without obtaining formal authorization in writing from the Buyer to make the proposed changes.

5. **STOP WORK NOTICE:**

- (A) When directed by written notice from Buyer, Seller shall immediately stop all or part of the work relating to this Order for the Goods and duration specified in the notice ("Stop Work Notice").
- (B) If Buyer cancels a Stop Work Notice or if the period therein or in any agreed extension thereof expires, then Seller shall resume work under this Order, and Buyer and Seller will agree upon a reasonable adjustment in the delivery schedule, which shall be approximately the time then remaining to fulfill this Order, on a Good by Good basis, when the Stop Work Notice was issued. In no event shall such adjustment exceed 30% more than such amount of time. A Stop Work Notice shall not affect the applicable pricing for any of the Goods in this Order.

6. **PACKAGING:** Seller at its cost and expense shall package materials in a manner to ensure receipt in good condition. The Purchase Order Number must appear on all packages, boxes and cartons.

7. **INVOICING:** Freight Bills, Bill of Lading, Invoices and Packing Slips must be in English and show our Purchase Order Number. Each invoice shall bear the following statement: "WE HEREBY CERTIFY THAT THESE GOODS AND/OR SERVICES WERE PRODUCED AND /OR PERFORMED IN COMPLIANCE WITH ALL APPLICABLE REQUIREMENTS OF SECTION 6, 7, AND 12 OF THE FAIR LABOR STANDARDS ACT OF 1938, AS AMENDED, AND OF REGULATIONS AND ORDERS OF REGULATIONS AND ORDERS OF THE ADMINISTRATOR OF THE WAGE AND HOUR DIVISION ISSUED UNDER SECTION 14 THEREOF." Transportation Charges on all Invoices must be supported by copies of paid transportation bills. DO NOT INSURE PARCEL POST SHIPMENTS OR DECLARE EXCESS VALUATION ON EXPRESS SHIPMENTS FOR OUR ACCOUNT. Seller will issue invoices upon delivery of goods or completion of services. Buyer will not honor or pay any invoices issued later than 30 days after delivery of any products or completion of any services. No extra charges of any kind will be allowed unless specifically agreed to in writing by the Buyer.

8. **PAYMENT, DISCOUNT AND PRICES.**

- (A) Payment by Buyer will be made net ninety (90) days from the later of the following: (i) the date of acceptance of the Goods or (ii) from Buyer's receipt of an invoice issued in conformance with the requirements of this Order. Any payment discounts will be calculated from the same date. Discount terms will be clearly stated on the face of each invoice.
- (B) Seller warrants and represents that a Good's price in an Order does not exceed the contract price for the same or similar Goods to any other customer during the term of the Order. Seller guarantees that the price to be paid for the Goods will be quoted on the face of the Order. The price on the Order is not subject to any increase or additional charges because of increased costs, any change of law or any other reason.
- (C) Buyer shall have the right of set-off of any amounts due from Seller to Buyer hereunder against any payments due by Buyer or at issue under this Order or any other Order or agreement between Buyer and Seller. Buyer may withhold from payment to Seller in an amount sufficient to reimburse Buyer for any loss, damage, expense, cost or liability relating to Seller's failure to comply with any requirements of this Order or any other Order or agreement between Buyer and Seller.

9. **QUALITY REQUIREMENTS; BUYER'S REMEDIES:**

- (A) In addition to any specific quality assurance requirements stated in this Order, Seller will provide and maintain a Quality System approved by Buyer, including traceability throughout all stages of manufacturing. Seller will provide, at no charge to Buyer, appropriate facilities reasonably necessary to allow Buyer or customer to perform quality inspection activities as they may be required pursuant to these terms. No Quality System shall be destroyed without the written consent of Buyer or its designee.
- (B) Seller agrees that Buyer's authorized customer, purchasing, technical and quality assurance representatives and agents will be entitled to enter the plant of Seller at all reasonable times for the purposes of maintaining liaison between Seller's quality control system and Buyer, for reviewing Seller's manufacturing and processing plans and records, and for conducting preliminary inspection and tests of the Goods. Seller also agrees that a similar provision giving Buyer the right to enter the plants of Seller's subcontractors and suppliers will be included by Seller in its subcontracts relating to Goods. If required by Buyer, Seller will provide, at no charge to Buyer, appropriate facilities reasonably necessary to allow Buyer or regulatory or governmental representatives to perform quality control/inspection activities as may be required. Records of all inspection, processing and test work by Seller will be kept complete and be made available to Buyer during the effectiveness of this Agreement, the performance of any Orders hereunder and for such longer period as may be specified elsewhere in these Terms or in any such Order.
- (C) All Goods are subject to final inspection and acceptance by Buyer at destination, notwithstanding any payment or prior inspection at Seller's point of shipment. The final inspection will be made within a reasonable time, not to exceed ninety

(90) calendar days after receipt of the Goods. Buyer may notify Seller if any Goods delivered hereunder are rejected, and such Goods may be returned to Seller at Seller's risk and expense at Buyer's discretion.

- (D) Inspection and tests by Buyer do not relieve Seller of responsibility for costs of additional testing or for defects or other failures to meet an Order's requirements discovered after acceptance. Sellers providing machining operations may be subject to first piece submittal to Buyer for inspection acceptance. Seller will maintain inspection records for the balance of each lot, which will be made available to Buyer upon request.
- (E) The Seller shall have an effective program for investigation, corrective action, and follow-up for rejections initiated by the Seller or Buyer. When the Buyer discovers discrepancies for which the Seller is responsible, the Buyer may forward a request for corrective action to the Seller for action and response. The Seller's response shall be returned to the Buyer within the requested time frame, and shall include the causes of the discrepancy(s), the positive corrective action(s) taken to prevent recurrence, and the corrective action effective date.
- (F) In addition to all other remedies provided by these Terms and Conditions and by law, including Buyer's right to claim any other damages and to require repair or replacement of nonconforming or defective Goods in its sole discretion, a reasonable charge for handling and re-inspection of all Goods which are found to be nonconforming or defective, may be charged to Seller. If the Goods are returned, all freight charges will be the responsibility of Seller. Further cost of any value added by Buyer will be the responsibility of Seller if the item furnished is found to be nonconforming or defective after processing has begun.
- (G) The Seller will notify Buyer in writing of any Good that may be defective or nonconforming as a result of Seller's processing. However, any such notice shall not be deemed to allow the shipping of nonconforming or deviated parts.
- (H) Raw material dimensional (size) tolerances provided as a supplement to these terms and conditions must be adhered to. Any variance or exception from these standards must be approved in advance by Buyer in writing.
- (I) Under no circumstance is Seller permitted to use substitute material to replace defective Goods or to repair or rework them without Buyer's prior written approval.
- (J) The Seller is responsible for complying with quality system requirements noted herein and for meeting quality performance expectations. Failure to comply with quality system requirements or to achieve an acceptable quality performance level may result in an on-site audit or additional source inspection oversight being initiated by Buyer, at Seller's expense. Buyer reserves the right to debit Seller accounts to compensate for inspection or related activities that take place as a result of Buyer directed inspections, including source inspections being by-passed by the Seller.

10. **WARRANTIES:**

- (A) Seller expressly warrants good title, free from all liens and encumbrances, to all goods ordered hereunder. Seller warrants that: i)all goods and/or work, ordered hereunder will be merchantable and fit and sufficient for the purpose ordered, performed in a professional and workmanlike manner and will comply with industry standards; ii)all goods and/or work ordered according to plans, drawings, specifications, descriptions or samples furnished or approved by Buyer, which are hereby made a part hereof as if fully set out herein, will conform thereto; and iii)all goods and/or work ordered hereunder will be free from defect in material and workmanship and will comply with all requirements of the Occupational Safety and Health Act of 1970 as amended from time to time including all regulations issued there under and shall comply with all requirements of all applicable health and /or safety statutes of federal, state or local jurisdiction in the delivery location for the goods and services. All warranties shall run to Buyer, its successors, assigns and customers and to the users of its products, and shall be construed as conditions as well as warranties, and shall not be deemed to be exclusive. Seller expressly warrants that the goods provided to not contain any chemicals included in Schedule 1, Schedule 2, or Schedule 3 of the Chemical Weapons Convention and Chemical Weapons Convention Regulations. Seller warrants that the goods, as shipped by Seller, do not infringe the intellectual property or violate the trade secret rights of any third party in the country of delivery.
- (B) Seller's warranties will be enforceable against Seller by Buyer's customers, as well as Buyer. The exercise of any remedy herein shall be without prejudice to any other right or remedy available to either party. Any Goods delivered under this Order not meeting all of the foregoing criteria are "**Defective Goods.**"
- (C) Upon its receipt of Defective Goods from Seller, to the extent such Goods do not conform to specification or the other warranties set forth in these Terms and Conditions, Buyer may reject the Goods and return such rejected Goods to Seller, at Seller's expense repair, replacement or credit at Buyer's option. If Buyer elects to have the Defective Goods repaired or replaced, Seller shall do so as promptly as possible, but not later than twenty (20) days after Buyer's notice thereof. Buyer may offset from any amounts due to Seller the amount of actual freight charges incurred in shipping Defective Goods between Buyer and Seller. Buyer may perform any necessary repair to Defective Goods at its own facility and charge the reasonable cost thereof to Seller.

- 11. **FORCE MAJEURE:** Neither Buyer nor Seller shall be liable to the other for any delay, failure or default in the fulfillment of their obligations under these Terms and Conditions to the extent that such delay or failure is caused by an event or circumstance that is beyond the reasonable control of the party charged with performance, without such party's fault or negligence, and which by its nature could not have been foreseen by such party or, if it could have been foreseen, was unavoidable ("Force Majeure Event"). Force Majeure Events include, but are not limited to, acts of God or the public

enemy, government restrictions, floods, fire, earthquakes, explosion, epidemic, war, invasion, hostilities, terrorist acts, riots, strike, embargoes or industrial disturbances. During any such delay or default by Seller, Buyer may elect to purchase the Goods elsewhere and, at Buyer's sole option, apply such purchases to reduce the quantity of goods or services deliverable under any Order. Seller's economic hardship or changes in market conditions are not considered Force Majeure Events. Seller shall use all diligent efforts to end the failure or delay of its performance, ensure that the effects of any Force Majeure Event are minimized and resume performance under the Order. If a Force Majeure Event prevents Seller from carrying out its obligations under the Order for a continuous period of more than thirty (30) business days, Buyer may terminate this Order immediately by giving written notice to Seller

12. **INFRINGEMENT:** Seller shall indemnify and hold harmless the Buyer and Buyer's customers from all costs, judgments, and any other expense resulting from any patent, trademark, or copyright infringement claim or suit against Buyer or Buyer's customers based on the purchase or resale by Buyer or Buyer's customers, as the case may be, of the particular goods, equipment, or work called for in an order and Seller shall defend any such infringement claim or suit at no cost or expense to Buyer or Buyer's customers, provided only that Seller is notified promptly of each such claim or suit.
13. **PERFORMANCE OF WORK:** If an order calls for work to be performed by Seller, all work performed and all materials used in connection therewith shall be at the risk and expense of and shall be replaced by Seller in the event of any damage or destruction thereof prior to delivery to and acceptance by Buyer of the work. If an order calls for work to be performed by Seller upon any premises owned or controlled by Buyer and/or Buyer's customers, Seller will keep the premises and the work free and clear of all mechanics liens and will furnish Buyer with certificate and waiver as provided by law. Whenever any property belonging to Buyer or its customers is in the possession of Seller or Seller's suppliers, Seller shall be deemed an insurer thereof and shall be responsible for its safe return to Buyer. Seller will indemnify, hold harmless and defend Buyer and/or Buyer's customers from any and all claims, demands or suits made or brought under the Workmen's Compensation Law of the state in which any work is performed hereunder or under any applicable federal compensation laws, and will, if requested, furnish to Buyer a Certificate showing that Seller is complying with the Workmen's Compensation Law of such state and with any applicable federal compensation laws. Seller will also indemnify, save harmless and defend Buyer and/or Buyer's customers from all loss and expense for any damage to property or injury to or death of persons caused by Seller or its agents/subcontractors in the performance of an order.
14. **TERMINATION FOR CAUSE OR DEFAULT:**
 - (A) The Order may be terminated by Buyer at any time immediately upon written notice in the event of Seller's material breach of any term or provision of these Terms and Conditions or if Seller fails to:
 - (i) Deliver the Goods within the time specified in an Order or any extension.
 - (ii) Fails to make adequate assurances of performance or future performance.
 - (iii) Make progress, so as to endanger performance of an Order.
 - (iv) Comply with any other provision of the Order or written directions or specifications provided by Buyer.
 - (v) Files or has filed against it a petition of bankruptcy, becomes insolvent, or suffers material adverse change to its financial condition.
 - (B) Buyer's rights to terminate an Order under the subdivisions above of this Section 14 may be exercised if Seller does not cure such failure within ten (10) calendar days (or more if authorized in writing by Buyer) after receipt of the notice from Buyer specifying the failure.
 - (C) Default relating to delivery schedule or financial condition shall not be curable unless separately permitted in writing by Buyer.
 - (D) If Buyer terminates an Order in whole or in part, it may acquire, under the terms and in the manner Buyer considers appropriate, Goods similar to those terminated, and Seller will be liable to Buyer for any excess costs for those Goods. However, Seller shall proceed with the portion of this Order not terminated. This provision does not limit Buyer's other remedies and rights, all of which are cumulative
 - (E) If an Order is terminated for cause, in addition to any and all remedies available to Buyer, Buyer may require Seller to transfer the title and deliver to Buyer, as directed by Buyer, any (1) completed Goods, and (2) Seller Materials that the Seller and its subcontractors have specifically produced or acquired for such portion of this Order and/or partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information and contract rights (collectively referred to as "Manufacturing Materials") that Seller has specifically produced or acquired for the terminated portion of an Order. Upon direction of Buyer, Seller will also take all actions necessary to protect and preserve property in its possession in which Buyer has an interest.
 - (F) Buyer will pay the Order price for completed Goods delivered and accepted. The Seller and Buyer shall agree on a reasonable amount of reimbursement for Seller Materials and/or Manufacturing Materials delivered and accepted and for the protection and preservation of the property upon a termination of an Order. Buyer may withhold from these amounts any sum Buyer determines to be necessary to protect Buyer against loss because of outstanding liens or claims of former lienholders against Seller or the Goods and Buyer's estimate of excess procurement costs due Buyer, as well as any other costs or expenses incurred by Buyer arising from the termination for cause.

- (G) In addition to the provisions of subsection (A) through (C) of this Section 14, Buyer may by written notice terminate the entire Order, or any part thereof, in the following circumstances:
- (i) Seller consents to the appointment of a receiver, trustee, liquidator, assignee, custodian, sequestrator or similar official of Seller or of all or a substantial part of its property, or Seller admits in writing its inability to pay its debts generally as they come due, or makes a general assignment for the benefit of creditors; or
 - (ii) Seller files a voluntary petition in bankruptcy or a voluntary petition or an answer seeking reorganization in any bankruptcy or insolvency case or an answer admitting the material allegations of a petition filed against Seller in any such case, or an order for relief is entered against Seller in any such case, or Seller seeks relief by voluntary petition, answer or consent, under the provisions of any other now existing or future bankruptcy or other similar law providing for the reorganization or winding-up of the corporation, or providing for an agreement, composition, extension or adjustment with its creditors; or
 - (iii) An order, judgment or decree is entered in any proceeding by any court appointing, without the consent of Seller, a receiver, trustee, liquidator, assignee, sequestrator similar official of Seller or of all or any substantial part of its property, or sequestering all or any substantial part of the property of Seller, and any such order, judgment or decree of appointment or sequestration remains in force un-dismissed, unstated or unvacated for a period of ten (10) calendar days after the date of entry thereof; or
 - (iv) A petition against Seller in any bankruptcy or insolvency case in effect is filed and is not withdrawn or dismissed within ten (10) calendar days thereafter; or
 - (v) A breach by the seller and termination of any other contract between the parties; or
 - (vi) A change in control of the Seller; or
 - (vii) The dissolution or liquidation of Seller; or
 - (viii) The cancellation, suspension or other revocation of licenses, permits or authorizations necessary for Seller to conduct its business.
- (H) In the event Seller enters into bankruptcy proceedings, whether voluntary or involuntary, Seller agrees to furnish written notification of the bankruptcy to Buyer within five (5) days of the initiation of bankruptcy proceedings. The notification will include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy was filed, a listing of all outstanding Orders from Buyer and a listing of all Buyer Materials in Seller's possession.
- (I) Should it be determined that Seller was not in default at the time of termination, termination shall be deemed one for convenience and Seller shall not be entitled to or have a claim for lost profits, consequential, or special damages beyond the termination claim allowed under the Termination for Convenience provision below.

15. TERMINATION FOR CONVENIENCE:

- (A) The performance of work under an Order may be terminated, in whole or in part, by Buyer for its convenience. A partial termination of this Order has no effect on the portion of this Order not terminated. Termination of work will be effected by delivery to Seller of a notice of termination specifying the extent to which performance of work under the Order is terminated, and the date upon which such termination becomes effective.
- (B) After receipt of a notice of termination and except as otherwise directed by Buyer, Seller will:
- (i) Immediately cease all work under the portion of this Order so terminated, including but not limited to the further manufacture and procurement of materials for the fulfillment of the terminated portion of this Order, on the date and to the extent specified in the notice of termination;
 - (ii) Place no further Orders or suborders for materials, services, or facilities except as may be necessary for completion of such portions of the work under the Order that is not terminated;
 - (iii) Terminate all Orders and suborders to the extent that they relate to the performance of any work terminated by the notice of termination;
 - (iv) Assign to Buyer, in Buyer's sole discretion and solely in the manner and to the extent directed by Buyer all the right, title and interest of Seller under the Orders or subcontracts so terminated;
 - (v) Settle all outstanding liabilities and all claims arising out of such termination of Orders and subcontracts subject to the approval or ratification of Buyer to the extent Buyer may require, which approval or ratification will be final for all the purposes of this Section 15;
 - (vi) Unless instructed to the contrary in the termination notice, within twenty (20) days after receipt of such notice, transfer title and deliver in the manner, to the extent, and at the times directed by Buyer (1) work in process, completed work, supplies, and other material produced as a part of, or acquired in connection with the performance of, the terminated by the notice of termination, and (2) the completed or partially completed plans, drawings, information, and other property which, if the Order had been completed, would be required to be furnished to Buyer;
 - (vii) Use its best efforts to sell in the manner, to the extent, at the time, and at the price or prices directed or authorized by Buyer, any property of the types referred to above; provided however, that Seller (1) will not be required to extend credit to any purchases, and (2) may acquire any such property under the conditions prescribed by and at a price or prices approved by Buyer; and provided further that the proceeds of any such transfer or disposition

will be applied in reduction of any payments to be made by Buyer to Seller under an Order or will otherwise be credited to the price or cost of the work covered by an Order or paid in such other manner as Buyer may direct;

- (viii) Complete performance of such part of the work that has not been terminated by the notice of termination;
- (ix) Within thirty (30) days after receipt of such notice, provide Buyer with a report describing the status of all Goods (including the degree to which each Good was finished), the inventory and procured cost of Seller Materials and the inventory of Buyer Materials (if any), in each case, at the time of receipt of the termination notice; and
- (x) Take such actions as may be necessary or as Buyer may direct for protection and preservation of the property related to an Order, which is in the possession of Seller and in which Buyer or Buyer's customer has or may acquire an interest.

(C) After receipt of a notice of termination, Buyer will accept a written termination claim from Seller if such claim is received by Buyer not later than seven (7) days from the effective date of termination. Settlement proposals for Seller's termination claim must be on the forms prescribed by Buyer unless otherwise agreed to by Buyer and Seller. Settlement proposals must be in the detail prescribed by such forms and must be accompanied by full and complete supporting documentation as required by Buyer. Buyer and Seller will work together to come to mutual agreement on any amounts owed by Buyer arising from a termination of an Order pursuant to this Section 15.

(D) Buyer's sole obligation shall be to pay Seller a percentage of the total price that reflects the percentage of the work performed prior to the notice of termination plus reasonable charges Seller can demonstrate to the satisfaction of Buyer using its ordinary business records have resulted from the termination. In no event will the total sum to be paid to Seller, pursuant to this Section 15, exceed the total Order price reduced by the amount of payments otherwise made and as further reduced by the Order price of work not terminated. Except for normal spoilage and except to the extent that Buyer will have otherwise expressly assumed the risk of loss, there will be excluded from the amounts payable to Seller the fair value as determined by Buyer of property which is destroyed, lost, stolen, or damaged so as to become undeliverable to Buyer or to its customer. In no event will Buyer be responsible for the payment of any consequential, special, or incidental damages.

(E) The obligation of Buyer to make any payments under this Section 15 will be subject to deductions with respect to (i) all unliquidated advance or other payments on account theretofore made to Seller applicable to the terminated portion of the Order, (ii) any claim which Buyer may have against Seller, in connection with the Order or any other transaction with Seller, and (iii) the agreed price for, or the proceeds of sale of any materials, supplied, or other things retained by Seller or sold, and not otherwise recovered by or credited to Buyer. Upon Buyer's payment to Seller, title to all deliverables, including but not limited to, completed Goods, work-in-progress, tooling, equipment, drawings, plans, specifications, and other information obtained by and under this Order.

(F) Notwithstanding the notice of termination or payment under this Section, Buyer preserves all rights related to Seller's previous breach(es).

16. EXCUSABLE DELAY.

(A) A delay in the performance by the Seller of any obligations under this Order which is caused by an event which (i) is an act of God, act of Government, fire, riot, war, or any other event which constitutes a superior force and is beyond the reasonable control of the Seller, (ii) interferes with the performance of Seller's obligations under this Order, and (iii) the effects of which could not reasonably have been avoided by the Seller shall, subject to the provisions of this Section 16, constitute an "Excusable Delay." Lack of financial resources of the Seller or its subcontractors and labor disturbances, including strikes/lock-outs experienced by the Seller or its subcontractors, are not Excusable Delay.

(B) To claim an Excusable Delay, the Seller shall, by written notice to the Buyer, advise of the occurrence of an event that has resulted or is likely to result in an Excusable Delay and take all reasonable steps to avoid or remove the cause of such delay and provide the Buyer with a reasonable corrective action plan within ten (10) calendar days of such facts coming to the attention of Seller.

(C) In the event of an Excusable Delay, any affected delivery date shall be postponed for such period as is reasonably necessary to offset the effects of the Excusable Delay. In no event shall the delivery date be extended by a time period longer than the time period in which the Excusable Delay was in effect. No adjustment will be made to this Order price; adjustment to the delivery schedule is the exclusive remedy of the Seller in the case of an Excusable Delay.

(D) Notwithstanding the above, after an Excusable Delay has continued for a period of thirty (30) calendar days, the Buyer may terminate this Order or any portion thereof.

17. INTELLECTUAL PROPERTY.

(A) A copyright, trademark, trade secret, software, data, idea, concept, process, formula, invention, system, report or other intellectual property resulting from any Seller work performed for this Order, shall be the sole property of Buyer. To the maximum extent permitted by law, any and all of the foregoing that constitutes copyrightable subject matter shall be deemed "work made for hire" under 17 U.S.C. §101. To the extent any of the foregoing is not deemed a "work made for hire," then Seller agrees to assign and hereby assigns to Buyer any interest Seller may have in such intellectual property and Seller and its employees and contractors hereby waive any economic or moral rights relating to such

intellectual property. Seller shall, and shall cause its employees and contractors to, promptly execute and deliver to Buyer any documentation reasonably requested by Buyer to further document ownership consistent with this Section.

- (B) With respect to any software contained within or required to use the Goods, unless otherwise agreed in writing by the Parties, Seller grants to Buyer a fully paid-up, worldwide, irrevocable and non-terminable license under all intellectual property rights owned by or licensed to Seller or any of its affiliates in such software and its related documentation, including, without limitation the rights to reproduce, distribute, create derivative works, display publicly, make, use, sell, offer for sale and import such software and documentation, in whatever form provided or stored, and Goods and processes incorporating or made using such software or documentation. The foregoing license includes the right to sublicense to affiliates and contractors of Buyer. Such software and documentation constitutes "intellectual property" as defined by 11 U.S.C. §101 and Buyer is entitled to all of the benefits of the U.S. Bankruptcy Code in connection therewith, including to the extent not in the possession of Buyer, the right to request and receive the source code form of such software to the extent reasonably requested by Buyer to exercise the rights licensed to it hereunder.
- (C) With respect to any Seller Materials that constitute copyrighted subject matter, Seller grants to Buyer a fully paid-up, worldwide, irrevocable, and non-terminable license under all intellectual property rights owned by or licensed to Seller or any of its affiliates in such subject matter, including without limitation, the rights to reproduce, distribute, create derivative works of, display and perform publicly such subject matter, in whatever form it is kept, stored or provided. Such license includes the right to sublicense to affiliates and contractors of Buyer.
- (D) Buyer grants to Seller a license under all of Buyer's intellectual property rights in the Buyer Materials to use such materials to the limited extent strictly necessary for Seller to supply the Goods to Buyer in accordance with this Order. Except as provided in the preceding sentence, Buyer does not grant to Seller any rights under any of Seller's or its affiliates' intellectual property rights, by implication, estoppel or otherwise, and Seller reserves all such rights for itself.

Seller agrees to assign and assigns to Buyer an interest Seller may have in inventions conceived by Buyer and reduced to practice by Seller using funds provided by Buyer under an Order. Seller hereby agrees to grant and does hereby grant to Buyer a worldwide irrevocable, non-exclusive, royalty-free license to make, use and sell any invention conceived or first actually reduced to practice in the course of or under the Order.

18. **INSURANCE:** Seller will maintain insurance at its own expense covering the risks associated with any Order with coverages and limits no less than industry standards, but in no event less than:

- (A) Workmen's Compensation insurance at statutory limits and Employers' Liability Insurance at not less than \$1,000,000 aggregate;
- (B) Comprehensive General Liability Insurance (including contractual liability, products, and completed operations) with a bodily injury, death, and property damage combined single limit of not less than \$5,000,000 per occurrence; and
- (C) Pollution and Environmental Impairment Insurance with limits of not less than \$5,000,000 per occurrence and \$10,000,000 annual aggregate.

The requirements set forth in this Section 18 shall apply to all purchases under this Order.

Seller's insurance shall always be primary and non-contributing with respect to Buyer's insurance. Seller shall add Buyer as an additional insured under such policies, except for workers' compensation, and subrogation shall be waived on all such insurance.

19. **COMPLIANCE WITH EXECUTIVE ORDER 11246, OTHER LAWS AND REGULATIONS:**

Contractor/subcontractor undertakes to comply with Executive Order 11246, as amended, in its implementing regulations, including equal opportunity clause set forth in Section 202 of the order and 60.1.4(a) of the regulations of the Secretary of Labor, Title 41 CFR, Chapter 60, Parts 1--0, which are incorporated in this contract/subcontract by reference. In addition, the contract/subcontract incorporates by reference the affirmative action clauses of the Rehabilitation Act of 1973 at 41 CFR 60--741.4, and the Vietnam Era Readjustment Act of 1974, at 41 CFR 60--2504.

20. **INDEMNIFICATION:** Seller will protect, defend, hold harmless and indemnify Buyer from and against any and all claims, actions, liabilities, losses, costs and expenses arising out of any actual or alleged death of or injury to any person (including Seller's and Seller's contractors' and agents' employees), damage to any property, or any other damage or loss by whomsoever suffered, resulting or claimed to have resulted in whole or in part from any actual or alleged defect in any goods or services purchased hereunder, whether latent or patent including actual or alleged improper construction or design of said goods or the failure of said goods or services to comply with specifications or with any express or implied warranties of Seller, or arising out of any actual or alleged violation by such services or such goods, or its manufacture, possession, use or sale, or any law, statute or ordinance or any governmental administrative order, rule or regulation. Buyer's extension of express or implied warranties to its customer, except to the extent that any such Buyer's warranties expressly extend beyond the scope of Seller's warranties, express or implied, to Buyer, shall not be affected or limited in any way by this Agreement.
21. **BOOKS AND RECORDS.** Seller shall provide authorized representatives of Buyer reasonable access to Seller's books, records and data that permits the adequate evaluation of cost data, direct materials, labor hours and incorporated rates used to arrive at the price of Goods or any of Seller's proposals for costs or prices. At Buyer's request, Seller shall provide copies of collective labor agreements to which Seller is a party, if any, and Seller's audited company financial statements. Seller shall

keep and maintain all books and records relating to the supply of Goods hereunder for at least seven (7) years or such longer time required by applicable law or specified in this Order.

22. GENERAL:

- Neither an order nor any moneys due or to become due there under may be assigned by Seller without the written consent of Buyer.
- Failure by Buyer at any time and from time to time to enforce any term or conditions of this agreement or an order shall not operate as a waiver thereof on the same or on subsequent occasions nor a waiver of any other term or condition hereof.
- This agreement shall impose liability on the Seller only to the extent permitted by applicable law and to the fullest extent permitted thereby. Any provision hereof prohibited by such law shall be deemed to be void without affecting the rest of the agreement.
- The receipt by Buyer of any quotation form, sales confirmation or acknowledgment, or any other proposal shall not in the absence of a written acknowledgment and acceptance by Buyer expressly agreeing to same, have the effect of changing in any manner or adding to the terms and conditions hereof. This offer hereby expressly limits acceptance by the Seller to the terms and conditions hereof. Notice of objection to different or additional terms or condition is hereby given.

23. PASSAGE OF TITLE, RISK OF LOSS: Payment of freight charges or INCOTERMS applicable to shipments will not determine passage of title. Seller's delivery obligation will not be deemed complete, nor will title pass to Buyer until Buyer has inspected at the Buyer's dock the goods shipped under the contract or the services provided, as applicable, and the Buyer has accepted the goods or services as conforming will all representations made by Seller when ordered. Acceptance of the goods will not operate as a waiver of any of the Buyer's rights under this Purchase Document at law, in equity or otherwise. Risk of loss as to all goods will pass to Buyer at Buyer's dock, unless the goods for a part of a contract for goods and services, in which event risk of loss as to the goods will pass to Buyer at the time Seller completes, and Buyer accepts such services.

24. DELIVERY TERMS: The Delivery Terms specified in this contract are strictly governed by "INCOTERMS 2020", unless expressly stated otherwise. If delivery terms specified in the purchase contract are FCA and/or CPT Seller's Facility, Seller will ship via the method, carrier, and /or route specified in the instructions provided by the Buyer. The bill of lading must indicate GEON'S release number. Time is of the essence in performing this Order. Should Seller experience or anticipate any delay in performing this Order, Seller shall immediately notify Buyer in writing of such delay, its expected duration, the reasons thereof, the action being taken to mitigate such cause of non-delivery and when on-schedule status will be regained. Neither such notification nor an acknowledgment by Buyer shall constitute a waiver of this Order's specified delivery schedule or of any rights or remedies of Buyer under this Order. The delivery schedule shall not be modified unless the parties do so in writing or as otherwise provided in this Order. Seller shall be liable for any direct damages resulting from a delay in delivery, and Seller shall, at its expense, take whatever reasonable action is necessary, with or without Buyer's request, to meet such schedules as set forth herein or to recover to the maximum extent possible any delay in meeting such schedules. Such reasonable action by Seller shall include, but not be limited to, expedited shipment. Seller will not reserve a security interest in shipped Goods. Seller will have a responsibility for and expense of preparing and filing claims against carriers for loss or damage to the Goods in transit. Seller will follow Buyer's written instructions as to mode and routing of shipments in addition to other rights and remedies provided in these Terms and Conditions. Buyer may reject the Goods shipped contrary to instructions or not in recognized standard containers.

25. ASSIGNMENT. Except as provided in this Section 25, Seller shall not assign, transfer, delegate or subcontract any of its rights or obligations under this Order, this Order nor any interest herein nor any claim hereunder, without the prior written consent of Buyer. Any purported assignment or delegation in violation of this Section 25 shall be null and void. No assignment or delegation shall relieve the Seller of any of its obligations under this Order. Buyer may at any time assign, transfer or subcontract any or all of its rights or obligations under the Order without Seller's prior written consent.

26. PUBLICITY; CONFIDENTIALITY.

- (A) Seller shall not advertise or publicize without Buyer's prior written consent, in any medium, including, without limitation, any print, broadcast, direct mailing, or any internet web site maintained by or for Seller, the fact that Seller is a supplier of Goods or services to Buyer. Seller shall not, and shall cause its subcontractors, suppliers and agents not to, without Buyer's prior written consent: (i) use Buyer's name, photographs, logos, trademarks, or any other identifying information in any such medium; (ii) use (except to communicate with Buyer or its affiliates) any internet domain names, metatags or electronic mail addresses, or the name of any Good or service for which Buyer owns the trademark; or (iii) provide a link to any domain name or internet address registered to Buyer or any of its affiliates.
- (B) Seller and Buyer shall treat all information exchanged between them related to this Order in accordance with any non-disclosure or confidentiality agreement between the parties effective as of the date of this Order, if such agreement exists. If no such agreement exists, then Seller agrees not to, without the prior written consent of Buyer, (i) disclose any information provided by Buyer to Seller in connection with this Order to any third party, except to the limited extent

required by applicable law and then only pursuant to a protective order that provides suitable restriction on disclosure, or (ii) use any of the foregoing other than as strictly necessary to fulfill Seller's obligations to Buyer under this Order.

(C) Everything owned by Buyer pursuant to Section 17 is the confidential information of Buyer, whether or not marked as such and whether or not originating from Buyer or Seller. Seller shall not use any such Buyer confidential information for any purpose other than fulfillment of Seller's obligations to Buyer under this Order or any other order or agreement between Seller and Buyer. Seller shall not, without the advance written consent of Buyer, disclose such Buyer confidential information to any person or entity other than Seller's employees having a need-to-know such information for the foregoing purpose.

27. **SETOFF AND WITHHOLDING.** Without prejudice to any other right or remedy it may have, Buyer reserves the right to set off at any time any amount owing to it by Seller against any amount payable by Buyer to Seller.
28. **DRAWINGS.** Seller may make no drawing changes without Buyer's prior written approval. Seller will provide updated drawings to the new configuration with explanation as to how the changes incorporated differ from the previous configuration on all changes. Seller shall maintain a system for tracking all drawings and revisions thereto and shall make all drawings available to Buyer upon request.
29. **APPLICABLE LAW AND VENUE.** These Terms and Conditions and an Order issued hereunder shall be governed by and construed exclusively under the laws of the State of Ohio, U.S.A. Both Buyer and Seller hereby submit to the exclusive jurisdiction and venue the state and federal courts of competent jurisdiction in the State of Ohio in the County of Cuyahoga. Buyer and Seller shall not challenge such jurisdiction and venue on any basis and waive their respective rights to do so.
30. **ATTORNEYS' FEES.** If Buyer brings a successful action or asserts a successful counterclaim for enforcement of these Terms and Conditions, Seller agrees that Buyer will be entitled to an award of its reasonable attorney's fees and court costs associated with such enforcement or counterclaim proceedings.
31. **CUMULATIVE REMEDIES.** The rights and remedies under this Order are cumulative and additional to and not in substitution for any other or further rights and remedies provided in law or in equity or otherwise.
32. **NO WAIVER.** Buyer's failure to seek remedy for any breach by Seller or Buyer's failure to insist on performance of any of the terms or conditions herein or exercise any right or privilege hereunder will not thereafter be deemed a waiver for any such terms, conditions, or privileges or any other terms, conditions, or privileges whether of the same or similar type.
33. **HARMONIZED CODE NUMBER, COUNTRY OF ORIGIN, & USMCA:** Seller will provide the Buyer with the Harmonized Code number and country of origin for each product specified in the Purchase document. If product supplied by Seller qualifies for the USMCA, Seller will provide the Buyer with any necessary documentation to demonstrate such qualification. If changes are made that disqualify product from USMCA qualification during the calendar year, the Seller must immediately provide written notification to Buyer. Seller hereby indemnifies Buyer against all costs and duty arising from misrepresentation or false declaration(s) in Seller's USMCA certificate of origin. Buyer shall have a right to any duty drawbacks available on goods imported, sold to Buyer by Seller and subsequently exported by Buyer incorporated into goods manufactured by Buyer using the same. Seller will co-operate with Buyer in all respects in efforts by Buyer to claim the same, including providing documentation and executed those drawback documents reasonably required to effect drawback.
34. **SUPPLIER CODE OF CONDUCT.** To ensure a mutually beneficial and productive relationship, GEON asks all suppliers to adhere to our safety procedures and security policies within manufacturing plants; distribution centers; sales; regional; or corporate offices.

Further, Seller will:

- Conduct all commercial negotiations in a responsible, ethical and lawful manner.
- Treat all transactions and dealings with GEON as confidential and proprietary. Outside communications about GEON require prior written consent.
- Provide value-added services by sharing engineering, technical and product information with GEON associates for the purpose of making process and productivity improvements; developing project scopes and equipment specifications; and demonstrating best business practices.
- Inform GEON of financial, economic, supply changes, government regulations or other material conditions that could affect ongoing operations or operating decisions.
- Provide all proposals in writing and direct a copy of business correspondence to the appropriate sourcing and procurement professionals.
- Refrain from offering GEON employees money, loans, credits, prejudicial discounts, gifts, products or services for their personal use or benefit. Meals and entertainment for the purposes of developing business relationships must be within reasonable, customary, and lawful business practices in the country or industry. Suppliers are expected to comply with all applicable import and export controls, as well as all trade compliance and antitrust laws.
- Avoid conflicts of interests that involve business dealings with family members and close personal friends at GEON.

35. **GENERAL.**

- (A) If any provisions of this Order are deemed void or unenforceable, the parties desire that the other provisions shall remain valid and enforceable. Waiver of one or more provisions of this Order by Buyer shall in no way act as a waiver of any other provision herein.
 - (B) In the event of any inconsistency among the provisions of this Order hereunder, such inconsistency shall be resolved by giving precedence in the following sequence:
 - (i) Provisions on the face of the Purchase Order that initiated this Order;
 - (ii) Any specifications, drawings or other documents incorporated by reference in such purchase order;
 - (iii) Any revisions thereto mutually agreed in writing;
 - (iv) Any applicable terms of any long-term supply agreement applicable to this Order and any amendments thereto;
 - (v) Any additions, deletion or modifications to these Terms accepted in accordance with Section 3; and
 - (vi) These Terms and Conditions.
36. Seller is responsible for all obligations and reporting requirements covering social security, unemployment insurance, worker's compensation, income tax, and any other reports, payments or deductions required by local, state, or federal law or regulation in connection with its activities under this Order.
37. Neither Party is granted, expressly or impliedly, any right or authority to create any obligation or liability on behalf of or in the name of the other party
38. **ENTIRE AGREEMENT.** These Terms and Conditions and an Order constitute the entire agreement between Buyer and Seller and supersedes all prior representations and understandings, including oral and written agreements, course of performance, communications and negotiations between the parties with respect to the subject matter herein.