

Real Time Logic, Inc.

12515 Academy Ridge View, Colorado Springs, CO 80921
Phone: (719) 598-2801 Fax: (719) 598-2655
www.rtlogic.com

PAGE 1 OF 4

GENERAL PROVISIONS

COMMERCIAL SUBCONTRACT/PURCHASE ORDERS

- | | |
|--|---|
| 1. Acceptance of Contract/Terms and Conditions | 18. Insurance/Entry on Real Time Logic, Inc.'s Property |
| 2. Applicable Laws | 19. Intellectual Property |
| 3. Assignment | 20. New Materials |
| 4. Changes | 21. Offset Credit/Cooperation |
| 5. Contract Direction | 22. Packing and Shipment |
| 6. Default | 23. Payments, Taxes and Duties |
| 7. Definitions | 24. Precedence |
| 8. Disputes | 25. Quality Control System |
| 9. Electronic Contracting | 26. Release of Information |
| 10. Export Control | 27. Severability |
| 11. Extras | 28. Stop Work Order |
| 12. Furnished Property | 29. Survivability |
| 13. Gratuities/Kickbacks | 30. Termination for Convenience |
| 14. Independent Contractor Relationship | 31. Timely Performance |
| 15. Information of Real Time Logic, Inc. | 32. Waiver, Approvals, and Remedies |
| 16. Information of Seller | 33. Warranty |
| 17. Inspection and Acceptance | |

1. ACCEPTANCE OF CONTRACT/TERMS AND CONDITIONS

- (a) This Contract integrates, merges, and supersedes any prior offers, negotiations, and agreements concerning the subject matter hereof and constitutes the entire agreement between the Parties.
- (b) SELLER's acknowledgement, acceptance of payment, or commencement of performance, shall constitute SELLER's unqualified acceptance of this Contract.
- (c) **Additional or differing terms or conditions proposed by SELLER or included in SELLER's acknowledgement hereof are hereby objected to by RT LOGIC and have no effect unless accepted in writing by RT LOGIC.**

2. APPLICABLE LAWS

- (a) This Contract shall be governed by the laws of the State of Colorado, excluding its choice of law rules. SELLER agrees to comply with all applicable laws, orders, rules regulations, and ordinances.
- (b) SELLER represents that each chemical substance constituting or contained in Work sold or otherwise transferred to RT LOGIC hereunder is on the list of chemical substances compiled and published by the Administrator of the Environmental Protection Administration pursuant to the Toxic Substances Control Act (15 U.S.C Sec. 2601 et seq.) as amended.
- (c) SELLER shall provide to RT LOGIC with each delivery any Material Safety Data Sheet applicable to the Work in conformance with and containing such information as required by the Occupational Safety and Health Act of 1970 and regulations promulgated thereunder, or its state approved counterpart.

3. ASSIGNMENT

Any assignment of SELLER's contract rights or delegation of duties shall be void, unless prior written consent is given by RT LOGIC. However, SELLER may assign rights to be paid amounts due, or to become due, to a financing institution if RT LOGIC is promptly furnished a signed copy of such assignment reasonably in advance of the due date for payment of any such amounts. Amounts assigned to an assignee shall be subject to setoffs or recoupment for any present or future claims of RT LOGIC against SELLER. RT LOGIC shall have the right to make settlements and/or adjustments in price with SELLER without notice to the assignee.

4. CHANGES

- (a) RT LOGIC may at any time, by 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, or specifications; (ii) Methods of shipping or packing; (iii) place of inspection, acceptance, or point of delivery; and (iv) delivery schedule.
- (b) If any such changes cause an increase or decrease in the cost of, or the time required for, performance of any part of this Contract, RT LOGIC shall make an equitable adjustment in the Contract price and/or delivery schedule, and modify the Contract accordingly. Changes to delivery schedule will be subject to price adjustment only.
- (c) Any claim for an equitable adjustment by SELLER must be submitted in writing to RT LOGIC within 30 days from the date of notice of the change, unless the parties agree in writing to a longer period.
- (d) Failure to agree to any adjustment shall be resolved in accordance with the "Disputes" clause of this Contract. However, nothing contained in this "Changes" clause shall excuse SELLER from proceeding without delay in the performance of this Contract as changed.

5. CONTRACT DIRECTION

- (a) Only the RT LOGIC PROCUREMENT REPRESENTATIVE has authority to make changes in or amendments to this Contract. Such changes or amendments must be in writing.
- (b) RT LOGIC engineering and technical personnel may from time to time render assistance or give technical advice or discuss or effect an exchange of information with SELLER's personnel concerning the Work hereunder. Such actions shall not be deemed to be a change under the "Changes" clause of this Contract and shall not be the basis for equitable adjustment.
- (c) Except as otherwise provided herein, all notices to be furnished by the SELLER shall be sent to the RT LOGIC PROCUREMENT REPRESENTATIVE.

6. DEFAULT

- (a) RT LOGIC, by written notice, may terminate this Contract for default, in whole or in part, if SELLER fails to comply with any of the terms of this Contract, fails to make progress as to endanger performance of this Contract, or fails to provide adequate assurance of future performance. SELLER shall have ten (10) days (or such longer period as RT LOGIC may authorize in writing) to cure any such failure after receipt of notice

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PAGE 2 OF 4

from RT LOGIC. Default involving delivery schedule delays shall not be subject to the cure provision.

- (b) RT LOGIC shall not be liable for any Work not accepted; however, RT LOGIC may require SELLER to deliver to RT LOGIC any supplies and materials, manufacturing materials, and manufacturing drawings that SELLER has specifically produced or acquired for the terminated portion of the Contract. RT LOGIC and SELLER shall agree on the amount of payment for those deliverables.
- (c) SELLER shall continue all Work not terminated.
- (d) If after termination under paragraph (a), it is determined that SELLER was not in default, such termination shall be deemed a Termination for Convenience.

7. DEFINITIONS

The following terms shall have the meanings set forth below:

- (a) "Work" means all required articles, materials, supplies, goods and services constituting the subject matter of this contract.
- (b) "SELLER" means the party identified on the face of the Contract with whom RT LOGIC is contracting.
- (c) "RT LOGIC", means REAL TIME LOGIC CORPORATION, as identified on the face of the Contract.
- (d) "RT LOGIC Procurement Representative" means the person authorized by RT LOGIC's cognizant procurement organization to administer this Contract.
- (e) "Contract" means the instrument of contracting, such as "PO", "Purchase Order", or other such type designation, including all referenced documents, exhibits and attachments. If these terms and conditions are incorporated into a "master" agreement that provides for releases, (in the form of a purchase order or other such document) the term "Contract" shall mean the release document for the Work to be performed.
- (f) "PO" or "Purchase Order" as used in any document constituting a part of this Contract shall mean this "Contract."

8. DISPUTES

All disputes under this Contract which are not disposed of by mutual agreement may be decided by recourse to an action at law or in equity. Until final resolution of any dispute hereunder, SELLER shall diligently proceed with the performance of this contract as directed by RT LOGIC.

9. ELECTRONIC CONTRACTING

The parties agree that if this Contract is transmitted electronically neither party shall contest the validity of this Contract, or any Acknowledgement thereof, on the basis that this Contract or Acknowledgement contains an electronic signature.

10. EXPORT CONTROL

- (a) SELLER agrees to comply with all applicable U.S. export control laws and regulations, specifically including, but not limited to, the requirements of the Arms Export Control Act, 22 U.S.C. 2751-2794, including the International Traffic in Arms Regulation (ITAR), 22 C.F.R. 120 et seq.; and the Export Administration Act, 50 U.S.C. app. 2401-2420, including the Export Administration Regulations, 15 C.F.R. 730-774; including the requirement for obtaining any export license or agreement, if applicable. Without limiting the foregoing, SELLER agrees that it will not transfer any export controlled item, data, or services, to include transfer to foreign persons employed by or

associated with, or under contract to SELLER or SELLER's lower-tier suppliers, without the authority of an export license, agreement, or applicable exemption or exception.

- (b) SELLER agrees to notify RT LOGIC if any deliverable under this Contract is restricted by export control laws or regulations.
- (c) SELLER shall immediately notify the RT LOGIC Procurement Representative if SELLER is, or becomes, listed in any Denied Parties List or if SELLER's export privileges are otherwise denied, suspended or revoked in whole or in part by any U.S. Government entity or agency.
- (d) If SELLER is engaged in the business of either exporting or manufacturing (whether exporting or not) defense articles or furnishing defense services, SELLER represents that it is registered with the Office of Defense Trade Controls, as required by the ITAR, and it maintains an effective export/import compliance program in accordance with the ITAR.
- (e) Where SELLER is a signatory under a RT LOGIC export license or export agreement (e.g. TAA, MLA), SELLER shall provide prompt notification to the RT LOGIC Procurement Representative in the event of changed circumstances including, but not limited to, ineligibility, a violation or potential violation of the ITAR, and the initiation or existence of a U.S. Government investigation, that could affect the SELLER's performance under this Contract.
- (f) **SELLER shall be responsible for all losses, costs, claims, causes of action, damages, liabilities and expense, including attorneys' fees, all expense of litigation and/or settlement, and court costs, arising from any act or omission of SELLER, its officers, employees, agents, suppliers, or subcontractors at any tier, in the performance of any of its obligations under this clause.**

11. EXTRAS

Work shall not be supplied in excess of quantities specified in the Contract. SELLER shall be liable for handling charges and return shipment costs for any excess quantities.

12. FURNISHED PROPERTY

- (a) RT LOGIC may provide to SELLER property owned by either RT LOGIC or its customer (Furnished Property). Furnished Property shall be used only for the performance of this Contract.
- (b) Title to Furnished Property shall remain in RT LOGIC or its customer. SELLER shall clearly mark (if not so marked) all Furnished Property to show its ownership.
- (c) Except for reasonable wear and tear, SELLER shall be responsible for, and shall promptly notify RT LOGIC of, any loss or damage. Without additional charge, SELLER shall manage, maintain, and preserve Furnished Property in accordance with good commercial practice.
- (d) At RT Logic's request, and/or upon completion of this Contract the SELLER shall submit, in an acceptable form, inventory lists of Furnished Property and shall deliver or make such other disposal as may be directed by RT LOGIC.

13. GRATUITIES/KICKBACKS

No gratuities (in the form of entertainment, gift or otherwise) or kickbacks shall be offered or given by SELLER, to any employee of RT LOGIC with a view toward securing favorable treatment as a supplier.

14. INDEPENDENT CONTRACTOR RELATIONSHIP

- (a) SELLER, is an independent contractor in all its operations and activities hereunder. The employees used by SELLER to perform Work under this Contract shall be SELLER'S employee exclusively without any relation whatsoever to RT LOGIC.

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PAGE 3 OF 4

- (b) SELLER shall be responsible for all losses, costs, claims, causes of action, damages, liabilities, and expenses including attorneys' fees, all expenses of litigation and/or settlement, and court costs, arising from any act or omission of SELLER, its officers, employees, agents, suppliers, or subcontractors at any tier, in the performance of any of its obligations under this Contract.

15. INFORMATION OF REAL TIME LOGIC

Information provided by RT LOGIC to SELLER remains the property of RT LOGIC. SELLER agrees to comply with the terms of any Proprietary Information Agreement with RT LOGIC and to comply with all Proprietary Information Markings and Restrictive Legends applied by RT LOGIC to anything provided hereunder to SELLER. **SELLER agrees not to use any RT LOGIC provided information for any purpose except to perform this Contract and agrees not to disclose such information to third parties without the prior written consent of RT LOGIC.**

16. INFORMATION OF SELLER

SELLER shall not provide any proprietary information to RT LOGIC without prior execution of a proprietary information agreement by the parties.

17. INSPECTION AND ACCEPTANCE

- (a) RT LOGIC and its customers may inspect all Work at reasonable times and places, including, when practicable, during manufacturing and before shipment. SELLER shall provide all information, facilities, and assistance necessary for safe and convenient inspection without additional charge.
- (b) No such inspection shall relieve SELLER of its obligations to furnish all Work in accordance with the requirements of this Contract. RT LOGIC's final inspection and acceptance shall be at destination.
- (c) SELLER shall not re-tender rejected Work without disclosing the corrective action taken.

18. INSURANCE/ENTRY ON REAL TIME LOGIC'S PROPERTY

In the event that SELLER, its' employees, agents, or subcontractors enter RT LOGIC's or its' customer's premises for any reason in connection with this Contract, SELLER, its subcontractors and lower-tier subcontractors, shall procure and maintain worker's compensation, comprehensive general liability, bodily injury and property damage insurance in reasonable amounts, and such other insurance as RT LOGIC may require and shall comply with all site requirements. SELLER shall indemnify and hold harmless RT LOGIC, its officers, employees, and agents from any losses, costs, claims, causes of action, damages, liabilities, and expenses, including attorneys' fees all expenses of litigation and/or settlement, and court costs by reason of property damage or personal injury to any person caused in whole or in part by the actions or omissions of SELLER, its officers, employee, agents, suppliers, or subcontracts at any tier. SELLER shall provide to RT LOGIC thirty days advance written notice prior to the effective date of any cancellation or change in the term or coverage of any of SELLER required insurance. If requested, SELLER shall send a "Certificate of Insurance" showing SELLER's compliance with these requirements. SELLER shall name RT LOGIC as an additional insured for the duration of this Contract. Insurance maintained pursuant to this clause shall be considered primary as respects the interest of RT LOGIC and is not contributory with any insurance which RT LOGIC may carry.

19. INTELLECTUAL PROPERTY

(Subparagraph (a) is NOT applicable for commercial off-the-shelf purchases.)

- (a) SELLER agrees that RT LOGIC shall be the owner of all inventions, technology, designs, work of authorship, mask works, technical information, and other information conceived, developed or otherwise generated in the performance of this Contract by or on behalf of SELLER. SELLER hereby assigns and agrees to assign all right title and interest in the foregoing to RT LOGIC, including without

limitation all copyrights, patent rights and other intellectual property rights therein and further agrees to execute, at RT LOGIC's request and expense, all documentation necessary to perfect title therein in RT LOGIC. SELLER agrees that it will maintain and disclose to RT LOGIC written records of, and otherwise provide RT LOGIC with full access to, the subject matter covered by this and that all such subject matter will be deemed information of RT LOGIC and subject to the protection provisions of the clause entitled "Information of Real Time Logic". SELLER agrees to assist RT LOGIC, at RT LOGIC's request and expense, in every reasonable way, in obtaining, maintaining, and enforcing patent and other intellectual property protection on the subject matter covered by this Clause.

- (b) SELLER warrants that the Work performed and delivered under this Contract will not infringe or otherwise violate the intellectual property rights of any third party in the United States or any other foreign country. SELLER agrees to defend, indemnify and hold harmless RT LOGIC and its customers from and against any claims, damages, losses costs and expenses, including reasonable attorney's fees, arising out of any action by a third party that is based upon a claim that the Work performed or delivered under this Contract infringes or otherwise violates the intellectual property rights of any person or entity.

20. NEW MATERIALS

The Work to be delivered hereunder shall consist of new materials (not used, or reconditioned, remanufactured, or of such age as to impair its usefulness or safety)

21. OFFSET CREDIT/COOPERATION

All offset or countertrade credit value resulting from this Contract shall accrue solely to the benefit of RT LOGIC. SELLER agrees to cooperate with RT LOGIC in the fulfillment of any foreign offset/countertrade obligations.

22. PACKING AND SHIPMENT

- (a) Unless otherwise specified, all Work is to be packed in accordance with good commercial practice.
- (b) A complete packing list shall be enclosed with all shipments. SELLER shall mark containers or packages with necessary lifting, loading, and shipping information, including the RT LOGIC contract number, item number, dates of shipment, and the names and addresses of consignor and consignee. Bills of lading shall include this contract number.
- (c) Unless otherwise specified, delivery shall be FOB Place of Shipment.

23. PAYMENT, TAXES, AND DUTIES

- (a) Unless otherwise provided, terms of payment shall be net 30 days from the latest of the following: (i) RT LOGIC's receipt of the SELLER's proper invoice; (ii) Scheduled delivery date of the Work; or (iii) Actual delivery of the Work. RT LOGIC shall have a right of setoff against payments due or at issue under this Contract or any other Contract between the parties.
- (b) Payment shall be deemed to have been made as of the date of mailing RT LOGIC's payment or electronic funds transfer.
- (c) Unless otherwise specified, prices include all applicable federal state and local taxes, duties, tariffs, and similar fees imposed by any government, all of which shall be listed separately on the invoice.
- (d) All taxes, assessments and similar charges levied with respect to or upon any such products it Work owned by RT LOGIC while in SELLER's possession or control, and for which no exemption is available, shall be borne by SELLER.

24. PRECEDENCE

For any inconsistencies in the Contract shall be resolved in accordance with the following descending order of precedence: (1) Face of the Purchase Order, Release document or Schedule, (which shall include continuation

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sheets), as applicable, including any Special Provisions; (2) Any master-type agreement (such as corporate, sector or blanket agreements); (3) these General Provisions; (4) Statement of Work.

25. QUALITY CONTROL SYSTEM

- (a) Except as otherwise provided, SELLER shall provide and maintain a quality control system to an industry recognized Quality Standard for the Work covered by the Contract.
- (b) Records of all quality control inspection work by SELLER shall be kept complete and available to RT LOGIC and its customer during the performance of this Contract and for such longer periods as may be specified.

26. RELEASE OF INFORMATION

Except as required by law, no public release if any information, or confirmation or denial of same, with respect to this Contract or the subject matter hereof, will be made by SELLER without the prior written approval of RT LOGIC.

27. SEVERABILITY

Each paragraph and provision of this Contract is severable, and if one or more paragraphs or provisions are declared invalid, the remaining paragraphs and provisions of this Contract will remain in full force and effect.

28. STOP WORK

- (a) SELLER shall stop Work for up to ninety (90) days in accordance with the terms of any written notice received from RT LOGIC, or for such a longer period of time as the parties may agree and shall take all reasonable steps to minimize the incurrence of costs allocable to the Work covered by this Contract during the period of Work stoppage.
- (b) Within such a period, RT LOGIC shall either terminate or continue the Work by written order to SELLER. In the event of a continuation, an equitable adjustment in accordance with the principles of the "Changes" clause, shall be made to the price, delivery schedule, or other provision affected by the Work stoppage, if applicable, provided that the claim for equitable adjustment is made within thirty (30) days after such continuation.

29. SURVIVABILITY

If this Contract expires, is completed, or is terminated, SELLER shall not be relieved of those obligations contained in the following provisions:

- Applicable Laws
- Electronic Contracting
- Export Control
- Independent Contractor Relationship
- Information of RT Logic
- Insurance/Entry on RT Logic Property
- Intellectual Property
- Release of Information
- Warranty

30. TERMINATION FOR CONVENIENCE

- (a) For specially performed Work: RT LOGIC may terminate part or all of this Contract for its convenience by giving written notice to SELLER. RT LOGIC's only obligation shall be to pay SELLER a percentage of the price reflecting the percentage of the Work performed prior to the notice of termination, plus reasonable charges that Seller can demonstrate to the satisfaction of RT LOGIC, using generally accepted accounting principles, have resulted from the termination. SELLER shall not be paid for any Work not performed or costs incurred which reasonably could have been avoided. In no event shall RT LOGIC be liable for lost or anticipated profits, or unabsorbed indirect costs or overhead, or for any sum in excess of the total Contract price. SELLER's termination claim shall be submitted within 90 days from the effective date of the termination.

- (b) For other than specifically performed Work: RT LOGIC may terminate part or all of this Contract for its convenience by giving written notice to SELLER and RT LOGIC's only obligation to SELLER shall be payment of a mutually agreed-upon restocking or service charge.
- (c) SELLER shall continue all Work not terminated.

31. TIMELY PERFORMANCE

- (a) SELLER's timely performance is a critical element of this contract.
- (b) Unless advance shipment has been authorized in writing by RT LOGIC, RT LOGIC may store at SELLER's expense, or return, shipping charges collect, all Work received in advance of the schedules delivery date.
- (c) If SELLER becomes aware of difficulty in performing the Work, SELLER shall timely notify RT LOGIC, in writing, giving pertinent details. This notification shall not change any delivery schedule.
- (d) In the event of a termination for convenience or change, no claim will be allowed for any manufacture or procurement in advance of SELLER's normal flow time unless there has been prior written consent by RT LOGIC.

32. WAIVER, APPROVAL, AND REMEDIES

- (a) Failure by RT LOGIC to enforce any of the provision(s) if this Contract shall not be construed as a waiver of the requirement(s) of such provision(s), or as a wavier of the right of RT LOGIC thereafter to enforce each and every such provision.
- (b) RT LOGIC's approval of documents shall not relieve SELLER from complying with any requirements of this Contract.
- (c) The rights and remedies of RT LOGIC in this Contract are cumulative and in addition to any rights and remedies provided by law or in equity.

33. WARRANTY

SELLER warrants that all Work furnished pursuant to this Contract shall strictly conform to applicable specifications, drawings, samples, and descriptions, and other requirements of this Contract and be free from defects in design, material, and workmanship. The warranty shall begin upon final acceptance and extend for a period of (i) the manufacture's warranty period or six months, whichever is longer, if seller is not the manufacturer and has not modified the Work or, (ii) one year or the manufacturer's warranty period, whichever is longer if the SELLER is the manufacturer of the Work or has modified it. If any non-conformity with Work appears within the time, SELLER shall promptly repair, replace, or re-perform the Work. Transportation of replacement Work and return of non-conforming Work and repeat performance of the Work shall be at SELLER's expense. If repair or replacement or re-performance of non-conforming Work or repair or replace Work or reproduce the Work at SELLER's Expense. All warranties shall run to RT LOGIC and its customers. *Any implied warranty of merchantability and fitness for a particular purpose is hereby disclaimed.*