

# Paragon Space Development Corporation

## General Terms and Conditions for Purchase Orders and Subcontracts

All Purchase Agreements and Subcontracts hereafter "Agreement" are subject to the following Terms and Conditions:

- 1) **General:** This Agreement constitutes the Buyers offer to purchase materials, services, and articles, described in this Agreement, in accordance with its provisions which include the provisions set forth on the face of this Agreement, the provisions attached hereto, and the provisions incorporated herein by reference.

The terms contained in this Buyers Agreement, with any attachments or provisions, will constitute the entire and only Agreement of the Parties and will supersede all prior discussions, writings, specifications, drawings and or oral agreements. Any provisions contained in any document shall be construed as a counteroffer and shall not be effective unless stated on a revised Agreement. This is the complete and exclusive statement of the Agreement between Seller and Buyer with respect to Buyer's purchase of the products. No waiver, consent, modification, amendment or change of the terms contained herein shall be binding unless in specifically added to the Agreement. All articles ordered to Buyer's specifications shall comply with such specifications current as of the date of this Agreement, unless otherwise specified in writing by the Buyer.

- 2) **Paragon Right of Entry and Surveillance:** Work under this Agreement may be subject to Paragon Space Development Corporation hereafter "Paragon" or "Buyer", Government, and/or Customer's surveillance/inspection at Supplier plant or sub-tier Supplier's facility. Supplier will be notified if a surveillance/inspection is to be conducted. No shipments are to be held for surveillance/inspection unless notification is received prior to, or at time of, product being ready for shipment.
- 3) **Buy American Act:** Metallic Raw Materials shall be compliant with the Buy American Act Federal Acquisition Regulation (FAR) 52.225 unless prior written approval has been granted.
- 4) **Prevention of Counterfeit Product:** The Buyer requires its Suppliers to take steps to eliminate the risk of introducing, both counterfeit electronic parts as well as non-electronic parts and materials. The Buyer defines Counterfeit Work as items that are or contain unlawful or unauthorized reproductions, substitutions or alterations that have been knowingly mismarked, misidentified or otherwise misrepresented to be an authentic, unmodified part from the original manufacturer or a source with the express written authority of the original manufacturer or the current design activity, including an authorized aftermarket manufacturer. Unlawful or unauthorized substitution includes used items represented as new or the false identification of grade, serial number, lot number and date code or performance characteristics.
- 5) **Flow Down Requirements:** This clause mandates that all applicable requirements that are invoked or applied to Paragon's Agreement, including this clause, shall be flowed down to the Supplier's sub-tier Suppliers.
- 6) **Change Control Authority:** The Supplier shall provide in writing advance notification to Paragon of any change(s) to tooling, facilities, materials, or processes at the Supplier or the Supplier's sub-tier that could affect Paragon's contracted product(s). This includes, but is not limited to, fabrication, assembly, handling, testing, facility location or introduction of a new sub-tier Supplier.
- 7) **Record Retention:** Supplier's records that provide evidence of conformance to specified requirements and the effective operation of the quality system shall remain on file by Supplier. These records shall be retained on file for a period of not less than five (5) years following the end of an Agreement - unless otherwise specified by Agreement. Supplier shall also ensure such records of Supplier's subcontractor(s) shall remain on file by Supplier's subcontractor(s) or Supplier for the same retention period. At the end of the retention period, if there is intent to dispose of such records, then prior to disposal Supplier shall notify Buyer in writing.
- 8) **Foreign Object Debris (FOD) Prevention:** Supplier shall maintain a FOD Control program and current plan assuring work is accomplished in a manner preventing foreign objects or materials from entering and remaining in deliverable items. Prior to closing inaccessible or obscured areas and compartments during assembly, Supplier will inspect for foreign objects/materials. Tooling, jigs, fixtures, and test or handling equipment shall be maintained in a state of cleanliness and repair to prevent Foreign Object Damage.
- 9) **Packaging and Delivery:** Unless otherwise specified in Agreement, or provisions/drawings, all work is to be packaged in accordance with specifications, standards, or good commercial practice to prevent damage and deterioration during shipment, handling, and storage.

A complete packing list shall be enclosed with all shipments to attest that the quantity and articles identified by Paragon's Agreement were produced, processed, and inspected by Supplier and Supplier's sub-tiers to established requirements. A statement on the packing slip meets this requirement. The products shall be individually identified as specified on the engineering drawing or specification. When identification is not specified on the engineering drawing or specification, the product shall be identified with the part number specified on the Agreement. When items are too small to easily identify, they may be bagged and tagged with the part number specified on the Agreement. Seller shall mark all packages with necessary lifting, loading, and shipping information, including the Paragon Agreement number.

- 10) **Warranty:** In addition to Sellers standard warranty, Seller warrants that all work furnished pursuant to this Agreement shall strictly conform to applicable specifications, drawings, samples, descriptions, and other requirements of this Agreement and be free from defects in design, materials, and workmanship. If not ordered to specification, all work will be fit, form and function and sufficient for the purpose intended and that all articles will be merchantable, of good material and workmanship and free from defect. All warranties, together with Seller's service warranties and guarantees if any, shall survive inspection, test, acceptance of, and payment for the work shall run to Buyer, its successors, assigns and customers. Except for latent defects, fraud, or such gross mistakes of Seller as amount to fraud, notice of any defect or nonconformity must be given by Buyer to Seller within one (1) year after delivery, or one (1) year after receipt of satisfactory qualification test reports, if required, whichever is later. Seller shall promptly repair, replace or to perform work over at Buyers option. Defective or nonconforming articles shall not be corrected or replaced unless specified on Buyer's written Agreement.
- 11) **Inspection and Tests:** Buyer and Buyer's customer reserve the right to inspect and/or always test all work on this Agreement at the Sellers facility and places, including the period of manufacture. Seller is required to reserve the right of Buyer and Buyer's customer to perform verification at Seller's lower-tier subcontractor's facilities to the extent necessary to assure product conformance. Buyer verification shall in no way replace Seller's source inspection or relieve

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Seller of the responsibility for ensuring product quality. Buyer's final inspection and acceptance shall be at destination unless otherwise specified in this Agreement.

- 12) **Changes:** Buyer may at any time, by written notice, make changes in the specifications, designs or drawings, samples, or other description to which the articles are to conform, in methods of shipment and packaging, or place of delivery. If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this Agreement, whether changed or not changed by any such Agreement, an equitable adjustment shall be made in the price or delivery schedule, or both and this Agreement shall be modified in writing accordingly. Any claim by the Seller for an adjustment must be made in writing within 30 days of the receipt of such notice. Seller shall not ship against an Agreement unless the requirements of the released Agreement have been met, all applicable drawings have been fully released, and all applicable non-conformances have been closed.
- 13) **Assignment:** This Agreement may not be assigned by Seller, nor may Seller delegate the performance of its duties hereunder without Buyer's prior written consent.
- 14) **Contract Direction:** Only the Buyer Procurement Representative has the authority to amend this Agreement. Such amendments should be submitted in writing. Engineering, Quality, or technical personnel may render or give technical advice or discuss information with Seller's personnel concerning the work under this Agreement. Such actions shall not be deemed to be a change under the Changes clause of this Agreement and shall not be the basis for equitable adjustment. Unless otherwise provided herein, all notices to be furnished by the Seller shall be sent to the Buyer Procurement Representative.
- 15) **Release of News Information and Advertising:** Seller shall not, without prior written consent of Buyer: (a) make any news release, public announcement denial or confirmation of all or part of the subject matter of this Agreement or (b) in any manner advertises or publishes the fact that Buyer has placed this Agreement.
- 16) **Confidential or Proprietary Information:** Seller shall keep confidential and otherwise protect from disclosure all information obtained from Buyer in connection with this Agreement and identified as confidential, or proprietary, or sensitive but not proprietary. Unless expressly authorized herein or by Buyer, Seller shall use such information, and any other information provided by Buyer, only in the performance of or for the purpose of this Agreement. (a) Upon Buyer's request, and in any event upon the completion or cancellation of this Agreement, Seller shall return all such information to Buyer or make other such disposition as directed by Buyer or other disposition as directed by Buyer. In all Agreement issues by Seller for performance of work related to this Agreement, Seller shall with written approval from Buyer, be permitted to disclose Buyer information under the same obligations as are contained in this clause. (b) Seller shall be liable to Buyer for any loss of the information. (c) Any information which Seller may disclose to Buyer with respect to design, manufacture, sale, or use of articles covered by this Agreement shall be deemed to have been disclosed as part of the consideration for this Agreement and Seller shall not assert any claim against Buyer by reason of Buyer's use thereof. (d) The ownership of any information disclosed by a party hereunder shall remain that party.
- 17) **Furnished or Buyers Property:** Buyer may provide to seller property owned by either Buyer or its customer (Furnished property). Furnished property shall be used only for the performance of this Agreement. Buyer or its customer shall retain title to furnished property. Seller shall clearly mark (if not already marked) all Furnished Property, including but not limited to, materials and tools. Except for reasonable wear and tear, Seller assumes all risk of loss, destruction, or damage of Furnished Property while in Seller's possession, custody, or control. Upon request, Seller shall provide Buyer with adequate proof of insurance against risk of loss. Seller shall notify Buyer of any loss or damage.
- 18) **Gratuities:** Seller warrants that neither it nor its employees, agents or representatives has offered or given any gratuities to Buyer's employees, agents, or representatives with a view toward securing this Agreement or favorable treatment to this Agreement.
- 19) **Utilization of Small Businesses:** To support company policy and consistent with the efficient performance of this Agreement, Seller agrees to accomplish a maximum amount of subcontracting to small business concerns.
- 20) **Compliance with Laws:** In performance of this Agreement, Seller shall comply with all applicable federal, state, and local laws and regulations. Seller shall notify Buyer immediately if Seller's work for Buyer becomes the subject of a government audit or investigation. Seller shall promptly notify Buyer if Seller is indicted, suspended, or debarred. Seller represents that Seller has not been convicted of fraud or any other felony arising out of a contract for the DOD as described in 10 U.S.C. 2408.
- 21) **U.S. Export Control Laws and Regulations:** Seller agrees to comply fully with all applicable U. S. laws and regulations as they may apply to the export of any hardware, software, defense service or technical data (collectively data) provided by through or with the cooperation of seller in the performance of this Agreement. Information furnished to seller under this solicitation/Agreement may contain technical data as defined in the International Traffic in Arms Regulations ("ITAR"). Seller is advised and hereby acknowledges that such technical data may not be exported, disclosed, or transferred to any foreign person, as defined by ITAR at 22 CFR 120.16, without first complying with all requirements of the ITAR (22 CFR 120- 130) including requirements for obtaining any required export authority. If such technical data is marked as ITAR controlled, seller shall be responsible and liable for all claims, liabilities, and expenses to the extent that the claims, liabilities, and expense are a direct result of Seller's failure to comply with the export laws and regulations of the United States.
- 20) **Notice to Buyer of Labor Disputes:** Seller shall immediately give notice of any knowledge of an actual or potential labor disputes that will delay or threaten to delay the timely performance of this Agreement. Seller agrees to insert this clause in any subcontract work required to complete this Agreement.
- 21) **Stop Work:** Buyer may at any time by written Agreement to the seller, require Seller to stop all or any part of work called for by this Agreement for a period of ninety (90) days and for any further period to which the parties may agree on. Upon receipt of the stop work Agreement, Seller shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocated to the Agreement. At the expiration of the stop work Agreement, Buyer shall either cancel the stop work Agreement or cancel this Agreement as specified in cancellation of this Agreement.
- 22) **Default-Cancellations:** If Seller's financial condition is found to be or becomes unsatisfactory to Buyer during the term of this Agreement or Seller fails to make reasonable progress in its performance of this Agreement, Buyer reserves the right without incurring any liability to Seller, to cancel this Agreement by written notice and terminate this Agreement and receive a refund of any deposits, down payments, or other advance payment (except for goods or services already

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delivered). Buyer also reserves the right similarly to terminate all other Agreements covering purchases by Buyer of Sellers products. No rights shall be placed on Buyer by Seller. The foregoing rights of Buyer are in addition to, and not in lieu of, any rights the Buyer may possess under the Uniform Commercial Code or other provisions of the law.

If seller fails to perform as specified in this Agreement or breaches any of the terms hereof, Buyer reserves the right, without incurring any liability to Seller and, upon giving Seller written notice to: (a) Cancel this Agreement in whole or in part. Seller shall be liable to Buyer for damages, losses and liability incurred by Buyer directly or indirectly resulting from Seller's breach; or (b) obtain goods or services from another source, with any excess cost resulting therefore chargeable to the Seller; or © setoff or reduce all claims for money due or to become due to Buyer from Seller to the extent Buyer is damaged by Sellers's failure to perform.

- 23) **Hazardous Materials:** Seller shall notify buyer of every article ordered hereunder which contains material hazardous or is injurious to the health and safety of persons even though said hazard or injury may occur due to mishandling or misuse of the article. In addition, Seller shall identify the hazardous or injurious material and notify the Buyer of the effects of such material on human beings and the physical manifestations that could result. For each article so identified, Seller shall supply Buyer with warning labels or instructional material appropriate to warn persons coming in contact therewith of the hazard and its effects. Seller shall inform Buyer as to any articles which contain the chemicals specifically designated on Paragon's Banned or Restricted List.
- 24) **Quality Management System:** Level 3 Suppliers are expected to have a quality program in place that is verified by a 3<sup>rd</sup> party or Paragon audit. The Supplier shall maintain a quality program that complies with the International Organization of Standardization that was submitted when becoming a Level 3 supplier. (i.e., ISO9001, AS9100, AS9120, ANSI Z540, Etc.) If the Supplier subsequently changes registrars, loses its registration status, or is put on notice of losing its registration status, it shall notify Paragon's procurement department within 36 hours of receiving such notice from its registrar. The requirement for certified Suppliers is based on flow down from customer or use of Supplier for flight hardware.
- 25) **Calibration System and Notice of Significant Out-Of-Tolerance Conditions (if Applicable):** The following requirements are applicable when measuring/testing/or calibrating a hardware deliverable. The Supplier shall maintain a system which evaluates the adequacy of their calibration system based on out-of-tolerance data because of calibrating the measuring and test equipment. This system shall include, but not be limited to, adjustment of calibration frequency, adequacy of the measuring or test equipment, calibration procedures and measuring or test procedures. The Supplier's system shall specifically identify and prevent the use of any measuring and test equipment that does not perform satisfactorily. Supplier shall notify Paragon of significant out-of-tolerance conditions so appropriate actions can be taken to correct possible nonconforming goods.
- 26) **Limited Operating Life Items (if Applicable):** Supplier shall collect and maintain records of operating time or cycles for all items designated as Limited Operating Life items by Customer's drawings or specifications. Records will include the total elapsed time or cycle for each operation, cumulative time or cycles starting with the first functional test, and remaining time or cycles. Each shipment shall include a copy of this data traceable to the individual item by part number and serial number.
- 27) **Nonconforming Product:** The Supplier shall process nonconforming product in accordance with the applicable method described below unless directed otherwise in the purchase contract. Supplier does not have Material Review Board (MRB) authority for any Paragon product.
  1. Buyer designed product - Document product nonconformance and submit Suppliers suggested disposition to Paragon for approval.
  2. Supplier designed product (Source or Specification Control Drawing) - Document and process nonconforming Supplier designed characteristics in accordance with the procedures of the Supplier's Buyer approved quality system. The Supplier is delegated Preliminary Material Review authority for hardware nonconformances. This authority is limited to dispositions of Rework to engineering requirements, return to previous operation for reprocessing, Scrap Paragon approved standard repair, and Return to Sub-tier Supplier. This authority does not extend to the use of a MRB for any purpose including changing engineering criteria, which can only be accomplished by drawing change.
- 28) **Captions:** The captions appearing at the beginning of each paragraph of these terms and conditions are for convenience only and are not to be construed as a substantive part of said terms and conditions.
- 29) **Taxes:** Prices shall not include any taxes, impositions, charges, and extractions for which the Buyer has furnished an exemption certificate.
- 30) **Disputes.** Any dispute arising under this Agreement that is not settled by agreement between the Parties may be settled by appropriate legal proceedings in any court of competent jurisdiction. pending final resolution, Seller shall proceed with the performance of this Agreement in accordance with Buyer's instructions.
- 31) **Termination for Convenience.** Buyer reserves the right, at any time, in its own best interest, and without liability to terminate this Agreement in whole or part, by written notice of termination for convenience to Seller. If the Agreement is so terminated, then, within thirty (30) days following Seller's receipt of the termination notice, Seller shall submit a claim for equitable adjustment. If the termination involves only services, Buyer shall be obligated to pay only for services performed before the termination date. Seller shall provide Buyer any supporting information necessary to document the reasonableness of Seller's termination for convenience claim.
- 32) **Permits, Fees, and Licenses.** Except as may otherwise be provided in this Agreement, Seller shall obtain and pay for all permits, fees and licenses required for the work at no additional charge to Buyer.
- 33) **Force Majeure:** Neither Party shall be liable for damages for delay in delivery arising out of causes beyond its reasonable control and without its fault or negligence, including, but not limited to, acts of God or of the public enemy, acts of any government authority, fires, floods, epidemics, quarantine restrictions, strikes, embargos or unusually severe weather. If the delay is caused by the delay of a subcontractor of Seller and if such delay arises from causes beyond the reasonable control of both Seller and the sub-contractor, and without fault or negligence of either of them, Seller shall not be liable to Buyer for damages unless the articles or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Seller to meet the required delivery schedule. Seller shall notify in writing within ten (10) days after the beginning of any such case
- 34) **Ethics.** Suppliers shall ensure persons are aware of their contribution to product or service conformity and safety and the importance of ethical behavior.

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- 35) **Entire Agreement and Amendments:** This Agreement constitutes the entire understanding and agreement between the Parties with respect to the subject matter thereof and supersedes all prior negotiations, representations, and agreements with respect thereto. No amendment or change of any kind shall be binding upon Buyer unless in writing and signed by authorized representative of Buyer's purchasing department.
- 36) **Cadmium Free.** Paragon is designated as a cadmium free facility due to the inherent hazards associated with its use in space applications. As such, any raw materials, equipment, tools, or hardware shall be free of cadmium metal, cadmium oxides, and cadmium compounds. Cadmium and zinc plating (excluding Zinc-Nickel) are prohibited from use as metallic finishes.