

Standard Terms and Conditions of Sale

Commercial and FAR Commercial Items

1. Definitions. As used throughout these terms and conditions, including provisions incorporated by reference, the following terms shall have the meaning set forth below:

- (a) “Buyer” means the person, firm, or corporation that is purchasing Seller’s articles for its own use or for the purpose of fulfilling its responsibilities on a U. S. Government contract.
- (b) “Contract” means the Contractual instrument (e.g. Agreement, Purchase Order, or Subcontract) into which these General Provisions are incorporated.
- (c) “Seller” means BlueSky Innovations Holdings, Inc. and its business units, the legal entities providing goods and/or services.

2. Acceptance of Purchase Orders. Seller’s acceptance of any purchase order issued by Buyer shall be expressly limited to the terms and conditions set forth below and any others expressly set forth or referenced in Seller’s acknowledgement form. Any additional or different terms referenced in Buyer’s purchase order are hereby objected to by Seller and shall not be deemed a part of any resulting order. These terms and conditions represent the entire agreement between the Buyer and Seller pertaining to the subject matter of this order and shall supersede all prior oral and written agreements, proposals, communications, and documents. Buyer’s purchase order shall be deemed accepted only after Seller’s written acknowledgement form is executed by an authorized official of Seller and shall not be construed to be accepted by any other action of Seller including, but not limited to, commencement of performance or delivery. TO THE EXTENT THAT THIS FORM AND ACCOMPANYING DOCUMENTS CONSTITUTE AN OFFER TO SELL, BLUESKY INNOVATIONS HOLDINGS, INC.’ OFFER IS EXPRESSLY LIMITED TO THE TERMS STATED HEREIN. TO THE EXTENT THAT THIS FORM AND ACCOMPANYING DOCUMENTS CONSTITUTE AN ACCEPTANCE OF BUYER’S OFFER, BLUESKY INNOVATIONS HOLDINGS, INC.’ ACCEPTANCE IS EXPRESSLY MADE CONDITIONAL ON BUYER’S ASSENT TO THE ADDITIONAL OR DIFFERENT TERMS HEREOF. IN NO EVENT ARISING FROM OR CONNECTED WITH THIS ORDER, OR THE ARTICLES OR SERVICES PROVIDED HEREUNDER, SHALL SELLER BE LIABLE FOR SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES.

3. Payment. Buyer shall pay for all articles within thirty (30) days from (a) the date articles are shipped, or (b) date of the invoice, whichever is later. Payment will be deemed to have been made when check is received by Seller or executed as an electronic transfer. Late payments will accrue interest from the date due until receipt by Seller of full payment at the lesser of (a) one and one-half percent per month compounded monthly, or (b) the maximum rate permitted by law. Seller may require advance payment or other reasonable assurance of timely payment prior to beginning performance of this order.

4. Packing and Shipping. Unless otherwise agreed to by Seller in writing, Seller shall pack and ship all articles in accordance with good commercial practices.

5. Title and Risk of Loss. Unless otherwise agreed to by Seller in writing, the FOB point shall be destination. Title and liability for loss or damage to the articles shall pass to Buyer upon delivery of the articles by a carrier at the FOB point. Loss or damage after delivery at the FOB point shall not relieve Buyer from any obligation hereunder.

6. Inspection and Acceptance. All articles shall be subject to final inspection and acceptance at Seller’s facility. If Buyer does not inspect the articles at Seller’s facility, acceptance shall be deemed completed upon delivery of the articles to the carrier. Buyer agrees that any inspection or test on the premises of Seller shall not delay or disrupt Seller’s performance. Buyer further agrees that it shall comply with Seller’s security and safety policies during any inspection or test on the premises of Seller. Final inspection and acceptance by Buyer shall be conclusive. Failure of Buyer to accept or provide written notice to Seller of rejection

of the article within thirty (30) days after delivery shall be deemed to constitute final acceptance by Buyer of the product.

7. Force Majeure. Neither party shall be liable for any excess costs or other damages if the failure to perform arises out of causes beyond the control and without the fault or negligence of the party. Such causes may include, but are not restricted to (a) acts of God or of the public enemy, (b) acts of the U. S. Government in either its sovereign or Contractual capacity, (c) fires, (d) floods, (e) epidemics, (f) quarantine restrictions, (g) strikes, (h) freight embargoes and (i) unusually severe weather. In each instance, the failure to perform must be beyond the control and without the fault or negligence of the party. If the delay is caused by a delay of a subcontractor or Seller and if such delay arises out of causes beyond the reasonable control of both, and without the fault or negligence of either, Seller shall not be liable for excess costs unless the goods to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit Seller to meet the required delivery schedules. Seller shall notify Buyer in writing within ten (10) calendar days after the beginning of any such cause.

8. Taxes. Any and all taxes, assessments, or duties which may be imposed upon the production, shipment, installation, or sale of the articles covered hereby shall be the sole responsibility of and shall be paid by Buyer. Prices shall not include any taxes, impositions, charges, or exactions for which Buyer has furnished a valid exemption certificate or other evidence of exemption.

9. Warranty. This clause applies unless a separate warranty sheet for the specific product is attached and takes precedence.

9.1 Hardware. Seller warrants that any article sold to Buyer hereunder, which is provided by Seller, will at the time of shipment be free and clear of all liens and encumbrances, will be free from defects in material and workmanship, and will conform to Seller’s applicable specifications or, if appropriate, to Buyer’s specifications accepted by Seller in writing. If any article sold hereunder, which is provided by Seller, is not as warranted, Seller will, at its option, repair or replace the article and return the article under the same delivery terms and conditions as originally used or refund the purchase price, provided proof of purchase and written notice of nonconformance are received by Seller within one (1) year, unless otherwise specified in article’s published documentation, from the date of shipment, and provided the non-conforming article is, with Seller’s prior written authorization, returned to Seller’s facility at Buyer’s expense no later than thirty (30) days after the expiration of the warranty period. Seller shall warrant repaired articles as to the particular defect subject to repair, for ninety (90) days after shipment or the remaining warranty term, whichever is longer. Seller’s total liability is limited to the total price of the article.

This warranty does not apply to any article not in its original condition or which Seller determines has been, by Buyer or otherwise, subjected to testing for other than specified electrical characteristics, to operating and/or environmental conditions in excess of the maximum values established, or to mishandling, misuse, neglect, improper installation, testing, repair, alteration, damage, assembly or processing that alters physical or electrical properties.

Seller’s warranty will not be enlarged by, and no obligation or liability will arise out of, Seller’s rendering of technical advice or provision of facilities in connection with an article sold hereunder.

THIS WARRANTY EXTENDS TO BUYER ONLY AND MAY BE INVOKED ONLY BY BUYER ON BEHALF OF ITS CUSTOMERS. SELLER WILL NOT ACCEPT WARRANTY RETURNS DIRECTLY FROM BUYER’S CUSTOMERS OR USERS OF BUYER’S PRODUCTS. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, CONDITIONS OR REPRESENTATIONS WHATSOEVER, WHETHER EXPRESS, IMPLIED OR STATUTORY,



INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS, ALL OF WHICH ARE HEREBY EXPRESSLY EXCLUDED.

9.2 Software. Seller warrants that under normal use, the Software shall perform the functions specified in its documentation. If the Software does not conform to its documentation such that its functional performance is significantly affected and Seller is notified in writing within ninety (90) days from the date of purchase along with a copy of the receipt of purchase, Seller shall have the option of refunding the purchase price or replacing the Software as Licensee's exclusive remedy.

9.3 Services. Seller warrants that: each of its employees assigned to perform the Services hereunder shall have the proper skill, training and background so as to be able to perform in a competent and professional manner and that all work will be performed in accordance with the applicable statement of work. SELLER EXPRESSLY DISCLAIMS ANY WARRANTY RELATED TO TESTING OR SERVICES PROVIDED UNDER THIS ORDER INCLUDING ANY EXPRESS, IMPLIED OR STATUTORY WARRANTY, OR WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT WILL SELLER BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES.

9.4 Commercial Test Equipment. If Buyer has purchased commercial test equipment then the warranty for the equipment, the license for any software included and the software warranty was provided to Buyer with the equipment and is incorporated herein and made a part of these Terms of Sale. These warranties are given in lieu of all other warranties, express or implied, which are specifically excluded, including, without limitation, implied warranties or merchantability and Fitness for a particular purpose. Buyer hereby acknowledges receipt of such warranties and licenses.

10. Changes. No changes, extras or other work (whether deemed to be within or outside of the general scope of this order or modification of any kind or description) shall be authorized unless agreed to by both parties as evidenced by a written amendment to this order signed by duly authorized representatives of Buyer and Seller.

11. Termination. No purchase order accepted by Seller may be terminated by Buyer for other than Seller's default except by mutual agreement of Buyer and Seller as evidenced by a written purchase order amendment signed by both parties.

12. Audit. Notwithstanding any language or provision to the contrary, Buyer shall not be allowed the right to audit or examine Seller's books and records.

13. Proprietary Information. All information disclosed in written, graphic, model, or oral form, including, but not limited to, drawings, prints, publications, specifications, processes, manufacturing techniques, oral explanations, schedules and financial reports, obtained by Buyer from Seller prior to and during the performance of this order which is marked as "Proprietary" by Seller shall be kept confidential by Buyer and shall remain the property of Seller, and shall be returned at Seller's request. Such information shall be used in performance of this order and shall not be used for other purposes unless agreed to in writing by Seller. Such information shall not be reproduced, published, disseminated, or disclosed to any third party, including the U.S. Government, by Buyer without the prior written consent of Seller. Nothing contained herein shall be construed as granting an implied license or a license by estoppel or otherwise under any Seller's intellectual property.

14. Patent Indemnity. Seller shall defend any suit or proceeding brought against Buyer insofar as such suit or proceeding is based upon a claim that any articles manufactured and sold by Seller to Buyer constitute direct infringement of any duly issued United States Patent, and Seller shall pay all damages and costs finally awarded therein against Buyer provided Seller informed and furnished a copy of each communication, notice or other action relating to the alleged infringement and is given authority, information and assistance at Seller's expense necessary to defend or settle said suit or proceeding. If the use or sale of an article furnished hereunder is enjoined as a result of such suit, Seller, at its option and at no expense to Buyer, shall obtain for Buyer the right to

use and sell the article, or shall substitute an equivalent article acceptable to Buyer and extend this indemnity thereto, or shall accept the article returned and reimburse Buyer the purchase price therefore, less a reasonable charge for wear and tear. Seller shall have no obligation or liability hereunder for infringement, which results from compliance with Buyer's specifications or from a combination with or addition to or modification of the article after delivery by Seller or from use of the article or any part thereof in the practice of a process. Seller's obligation above enumerated shall not apply to any infringement occurring after Buyer has received notice alleging the infringement unless Seller has given Buyer written permission therefore. The sale of the articles furnished hereunder does not convey any license by implication, estoppel, or otherwise under any proprietary or patent rights of Seller covering a combination of these articles with other elements.

SELLER SHALL NOT BE LIABLE FOR ANY COLLATERAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING FROM INFRINGEMENT OR ALLEGED INFRINGEMENT OF PATENTS.

The foregoing states the sole and exclusive liability of Seller for patent infringement and is in lieu of all warranties, expressed or implied, in regard thereto.

15. Governing Law and Venue. This contract shall be governed by and construed in accordance with the laws of the State of Florida. No consideration shall be given to Florida's conflict of laws rules. Venue shall be in a court of competent jurisdiction in Pinellas County within the State of Florida.

16. Assignment. This order shall be binding upon and inure to the benefit of the successors and assigns of the entire business of either Buyer or Seller or of that part of the business of either used in the performance of such order, but shall not be otherwise assignable without the prior written consent of the other party.

17. Validity and Waiver. The invalidity in whole or in part of any provision of this order shall not affect the validity of other provisions. The failure of Seller to enforce any applicable provision of these terms and conditions, or to require at any time performance by Buyer of any provision or obligation hereof, shall in no way be construed to be a waiver of such provision, nor in any way affect the validity of this order or any part hereof, or the right of Seller thereafter to enforce each and every provision.

18. Compliance with Export Laws. Buyer shall not export, directly or indirectly, any hardware, software, technology, information, or technical data disclosed under this Contract to any individual or country for which the U.S. Government requires an export license or other U. S. Government approval, without first obtaining such license or approval. Buyer shall indemnify and hold Seller harmless for all claims, demands, damages, costs, fines, penalties, attorneys' fees, and other expenses arising from Buyer's failure to comply with this clause.

19. Compliance with Laws. Seller agrees to comply with any applicable provisions of the following FAR clauses: (i) 52.203-13 Contractor Code of Business Ethics and Conduct (if this contract exceeds \$5,000,000 and the performance period is 120 days or more. All disclosures of violation of the civil False Claims Act or of the Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.), (ii) 52.204-10 Reporting Executive Compensation and First-Tier Subcontract Awards, ((iii) 52.209-6 Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended or Proposed for Debarment (if the contract exceeds \$30,000), (iv) 52.219-8, Utilization of Small Business Concerns, if the subcontract offers further subcontracting opportunities, (v) 52.222-19 Child Labor – Cooperation with authorities and remedies (if contract exceeds \$3,000), (vi) 52.222-21 Prohibition of Segregated Facilities, (vii) 52.222-22 Previous Contacts and Compliance Reports, (viii) 52.222-26, Equal Opportunity (ix) 52.222-35, Equal Opportunity for Veterans, (x) 52.222-36, Affirmative Action for Workers with Disabilities, (xi) 52.222-37

Employment Reports on Veterans, (xii) 52.222-39 Notification of Employee Rights Concerning Payment of Union Dues or Fees (xiii) 52.222-40, Notification of Employee Rights Under the National Labor

Relations Act, (xiv) 52.222-41 Service Contract Act of 1965 as amended (if subject to the Act and the contract exceeds \$2,500), (xv) 52.222-50, Combating Trafficking in Persons, (xvi) 52.222-51 Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements, (xvii) 52.222-53 Exemption from Application of the Service Contract Act to Contracts for Certain Services-Requirements, (xviii) 52.223-18 Contractor Policy to Ban Text Messaging While Driving (if the contract exceeds \$3,000), (xix) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels, and (xx) 252.225-7009 Restriction on Acquisition of Certain Articles Containing Specialty Metals.

20. Order of Precedence. In the event that two or more provisions in this Contract conflict and there is no reasonable interpretation that resolves the conflict in a manner that is consistent with the entire contract, then the parties shall resolve the conflict using the following descending order of precedence: 1) these Standard Terms and Conditions of Sale; and 2) the statement of work.

21. Dispute Resolution. In the event of any dispute, claim, question, or disagreement arising from or relating to this agreement or the breach thereof, the parties hereto shall attempt to settle the dispute, claim, question, or disagreement. To this effect, the parties shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties. If the parties do not reach such solution (or agree in writing to mediate the dispute) within a period of 30 days, then, upon notice by either party to the other, all disputes, claims, questions, or differences shall be finally settled by arbitration administered by the American Arbitration Association in accordance with the provisions of its Commercial Arbitration Rules and Mediation Procedures.

The American Arbitration Association will select one arbitrator to resolve the dispute and the arbitration will be held in Largo, Florida.

Disputes, claims, questions, or disagreement that are based on intellectual property rights (including, but not limited to patent validity and infringement, trademark or copyright infringement, and misuse or disclosure of trade secrets) shall be submitted to a court of competent jurisdiction and are not subject to the arbitration procedures mandated by this clause.

The arbitrator will have no authority to award punitive or other damages not measured by the prevailing party's actual damages, except as may be required by statute.

The arbitrator shall award to the prevailing party, if any, as determined by the arbitrator, all of its costs and fees. "Costs and fees" mean all reasonable pre-award expenses of the arbitration, including the arbitrators' fees, administrative fees, travel expenses, out-of-pocket expenses such as copying and telephone, court costs, witness fees, and attorneys' fees.

The procedures set forth in this Article shall be the sole and exclusive procedures for the resolution of disputes between the parties arising out of or relating to this Agreement; provided, however, that a party may seek a preliminary injunction or other provisional judicial relief if, in its sole judgment, such action is necessary. Despite such action, the parties will continue to participate in good faith in the procedures specified in this Article. All applicable statutes of limitations and defenses based upon the passage of time shall be tolled while the procedures (including optional mediation) specified in this Article are pending. The parties will take necessary action that is required to effectuate such tolling. Each party is required to continue to perform its obligations under this contract pending resolution of any dispute arising out of the contract unless to do so would be impossible under the circumstances. The requirements of this Article shall not be deemed to constitute a waiver of any right of termination under this contract.

22. Disclaimer. UNDER NO CIRCUMSTANCES WILL SELLER BE LIABLE IN CONTRACT OR OTHERWISE FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, OR SPECIAL DAMAGES ARISING FROM ANY LOSS, DAMAGE, EXPENSE OR INJURY SUSTAINED FROM OR IN CONNECTION WITH THE SALE, INSTALLATION, USE, SERVICE OR FAILURE OF ANY ARTICLE SOLD HEREUNDER, OR ANY DEFECT THEREIN, OR FROM ANY OTHER CAUSE. BUYER'S REMEDY, IF ANY, WILL BE STRICTLY LIMITED TO THE TERMS OF THIS SECTION.

23. Limitation of Liability. Notwithstanding any other provisions or language in this contract to the contrary, in no event shall Seller's total liability under this contract (including breach of contract actions, or any action arising in tort) exceed the total price hereof.

24. Orders for Labor Services Only. In the event that this order pertains only to labor services being provided by Seller to Buyer, the word "article" shall mean "services. In addition, Articles 4, 5, 6, 9.1, 9.2, 9.4 and 14 are not applicable to such services provided by Seller.