

GENERAL TERMS AND CONDITIONS

03/31/10

1. **CONTRACT:** This Purchase Order constitutes an offer to contract for sale between Non-Intrusive Inspection Technologies, Inc. (to be known as "NIITEK" throughout the remainder of this document). NIITEK and Seller (designated on the face page hereof) which upon acceptance by Seller or commencement of performance by Seller shall be a contract made in and governed by the laws of the Commonwealth of Virginia. Seller agrees that this Purchase Order shall constitute the entire contract between NIITEK and Seller and that any delivery of the goods ordered hereunder or other performance with respect hereto indicating an intent to accept shall be conclusively deemed to constitute an acceptance of this offer in strict accordance with the terms hereof, notwithstanding any prior course of dealing.
2. **DELIVERY, QUALITY, QUANTITY, RISK OF LOSS:** NIITEK's production schedules and warranties to its customers are based upon the agreement that deliveries of the goods shall occur on the required delivery date shown on the face page hereof. TIME IS OF THE ESSENCE and Seller shall be responsible for any and all damages of any kind incurred or suffered by NIITEK proximately caused by any delay of Seller beyond the delivery date. Unauthorized advance shipments and shipments other than for the quantity ordered are returnable at Seller's expense.
3. **COUNTERFEIT PART PREVENTION:** NIITEK requires all semiconductor parts be procured from the OEM, franchised or authorized distributors only. If all methods to procure the material have been exhausted and a later delivery is not acceptable, the Seller must gain approval in writing from NIITEK before procuring from an Independent Broker. Contact NIITEK's purchasing department for further instructions.
4. **WARRANTIES:** Seller warrants that all Work furnished under this Purchase Order will: (i) be free from defects in materials and workmanship; (ii) conform to the applicable specifications, drawings, samples or other descriptions; (iii) be free from defects in design except to the degree such supplies are manufactured to NIITEK's design; (iv) be suitable for the intended purpose; if the purpose is made known to Seller and NIITEK relies on Seller's judgment and selection; and, (v) be free of defects in title. Seller further expressly warrants that all services performed under this Purchase Order will be free from defects in workmanship. These warranties shall remain in effect, as to each item furnished, serviced and or repaired hereunder for a period of time consistent with the warranty life normally offered by the Seller. All warranties shall be construed as conditions as well as warranties and shall not be deemed to be exclusive. The benefits of these warranties shall accrue to NIITEK's customers and assigns to the same extent they shall accrue to NIITEK. Articles ordered to Government specifications shall comply with such specifications as are current at the date of this Purchase Order unless otherwise specified by the NIITEK Buyer. Under circumstance of Breach of Warranty, NIITEK shall be entitled to avail itself cumulatively of all remedies provided in law or in equity. Seller shall make timely responses to NIITEK's notification of Breach of Warranty and shall respond with the understanding (and Seller agrees) that time will be of the essence in all instances.
5. **INSPECTION:** NIITEK's final acceptance of Goods or Services is subject to NIITEK's final inspection within thirty (30) days after receipt at NIITEK's facility or such other place as may be designated by NIITEK, notwithstanding any payment or prior test or inspection.

Seller and its suppliers shall establish and maintain a quality control and inspection program as specified in the Purchase Order. Subject to applicable national security regulations, NIITEK and NIITEK's representative(s) shall have the right of access, on a non-interference basis, to any area of Seller's or Seller's supply chain suppliers as a condition of this Purchase Order. Seller shall flow this requirement to its sub tier supply chain suppliers as a condition of this Purchase Order. Seller shall, without additional cost to NIITEK, provide all reasonable in-plant accommodations, facilities, and assistance for the safety and convenience of NIITEK and NIITEK's representative(s) in the performance of their duties.

Seller shall keep and maintain inspection, test and related records, which shall be available to NIITEK or NIITEK's representative(s). Seller shall allow copies to be made and shall furnish all information required by NIITEK or NIITEK's representative(s).
6. **INFORMATION DISCLOSED:** No information or knowledge, heretofore or hereafter disclosed to NIITEK in the performance of, or in connection with, this Purchase Order, shall be deemed to be confidential or proprietary unless otherwise expressly agreed to in writing by NIITEK, and any such information or knowledge shall be free from any restrictions, other than claim for patent infringement, as part of the consideration for this Purchase Order. Seller shall not, without first obtaining written consent from NIITEK, in any manner advertise, publish, or disclose the existence or acceptance of this Purchase Order, nor any details connected herewith, or the content of any information or knowledge transmitted by hereunder, to any third party.
7. **REJECTION:** If Seller delivers nonconforming Goods or Services, NIITEK may, at its option and Seller's expense: (i) return the goods for refund or credit; (ii) require Seller to promptly correct or replace the Goods or Services; (iii) correct the nonconformance; or, (iv) obtain conforming goods from another source. NIITEK shall specify the reason for any return or rejection of nonconforming Goods or Services and/or shall describe the action to be taken. Seller shall be liable for any increase in costs, including procurement costs, attributable to NIITEK's rejection of the nonconforming Goods or Services.
8. **INVOICES:** Invoices may be mailed when goods are shipped; but, the time for payment shall not commence until NIITEK's actual receipt of the item(s) at their destination or upon satisfactory completion of services. NIITEK shall promptly pay Seller any amount due within forty-five (45) days, except if identified elsewhere in the Purchase Order, unless the invoiced amount is in dispute. NIITEK may withhold payment for shortages and/or non-conforming Goods or Services.
9. **INDEMNIFICATION:** Seller shall indemnify, hold harmless, and at NIITEK's request defend NIITEK, its officers, directors, employees, successors, and assigns, agents, and customers, against all claims, liabilities, damages, losses and expenses arising out of or in any way connected with the Goods or Services provided under this Purchase Order, including, without limitation: (i) the breach of any warranty contained herein; (ii) any claim based on the death or bodily injury to any person, destruction or damage to property, or contamination of the environment and any associated clean up costs; (iii) Seller's failure to satisfy the Internal Revenue Service's guidelines for an independent contractor; (iv) any claim based upon negligence, omissions or willful misconduct of Seller or any of Seller's agents, suppliers, employees or anyone acting on behalf of Seller; and, (v) any claim by a third party against NIITEK alleging that the Goods or Services (including but not limited to software), the results of such Services or any other products or processes provided under this Purchase Order, infringes a patent, copyright, trademark, trade secret or other proprietary right of a third party, whether such are provided alone or in combination with other products, software or process. Seller shall not settle any such suit or claim without NIITEK's written concurrence. Seller agrees to reimburse all costs that may be incurred by NIITEK in enforcing this indemnity.
10. **ASSIGNMENT:** Seller shall not delegate any duties, nor assign any rights or claims hereunder, without prior written consent of NIITEK, and any such attempted delegation or assignment shall be void. All claims for monies due or to become due from NIITEK shall be subject to deduction by NIITEK for any setoff or counterclaim arising out of this or any other of NIITEK's Purchase Orders with Seller, whether such setoff or counterclaim arises before or after any such assignment by Seller.
11. **INVALIDITY/WAIVERS/REMEDIES:** The invalidity in whole or in part of any condition of this Purchase Order shall not affect the validity of the other conditions. The remedies herein reserved shall be cumulative and additional to any other remedies in law or in equity. No waiver of a breach of any provision of this Purchase Order shall constitute a waiver of any other breach or of any other provision.
12. **FEDERAL ACQUISITION REGULATIONS (FAR):** FAR 52.219-8, Utilization of Small Business Concerns and FAR 52.213-4, Terms and Conditions-Simplified Acquisition (Other Than Commercial Items) is incorporated herein by reference with the same force and effect as if they were given in full text. The full text of each clause will be provided upon request.

GENERAL TERMS AND CONDITIONS

03/31/10

13. **FORCE MAJEURE:** The following events, and only the following events, shall constitute force majeure under this Purchase Order: (i) acts of God or of a public enemy; (ii) acts of Government in its sovereign capacity; (iii) fires; (iv) floods; (v) epidemics; (vi) quarantine restrictions; (vii) strikes; (viii) freight embargoes; and, (ix) unusually severe weather. In each instant, the failure to perform must be entirely beyond the control and without the fault or negligence of NIITEK or the Seller. Each party shall give the other immediate notice of any event that such party claims is a Force Majeure condition that would prevent the party from performing its obligations hereunder, and of the cessation of the condition. A party's notice under this provision shall include the party's good faith estimate of the likely duration of the Force Majeure condition.
14. **CHANGES:** NIITEK may at any time by written notice make changes within the general scope of this Purchase Order including, but not limited to, changes in (i) the Statement of Work including, without limitation, the description or quantity of work to be provided by Seller; (ii) the drawings, designs, specifications, or other technical documents; (iii) the time (e.g., the hours of the day, days of the week, etc.) of performance, delivery, inspection, or acceptance; (iv) the place of performance, delivery, inspection, or acceptance; (v) the method of delivery, packaging, or packing; and, (vi) the terms and conditions in this Purchase Order. No conduct by NIITEK other than a signed written change order or modification will constitute a change to the Purchase Order.

If any change affects the cost or schedule of this Purchase Order, NIITEK may make an equitable adjustment in price or schedule or both. Any claim by Seller for an equitable adjustment of price or schedule must be in writing and submitted within ten (10) days from the date of NIITEK's written notification of the change or such further time as NIITEK may allow in writing. Seller's failure to adhere to the time deadlines in asserting the equitable adjustment claim shall serve as a waiver of the claim.

Nothing contained in this Changes provision shall relieve or excuse the Seller from proceeding without delay in performing this Purchase Order as changed.

NIITEK's engineering, technical and other personnel may, on occasion, render assistance, exchange information, or give advice to Seller's personnel concerning the supplies or services furnished hereunder. However, such assistance, exchange, or advice shall not constitute either a change or a waiver of the Seller's existing obligations. In order to be valid and binding upon NIITEK, any change, waiver, or amendment to this Purchase Order must be in writing and signed by an authorized representative of NIITEK.

15. **CHANGE OF PRODUCT:** Seller shall notify NIITEK's Buyer in writing thirty (30) days prior to the implementation of any change of the product design or manufacturing process for the Work to be delivered hereunder, which may affect performance, quality, reliability, or interchangeability. Such notification shall include a thorough description of the proposed change and a suggested test plan designed to demonstrate that the change will not adversely affect performance, quality, reliability, or interchangeability, and that the changed product will continue to meet the specification requirements. A change in location of the facility used to manufacture the product shall also be considered a change requiring such notification
16. **COMPLIANCE:** Seller warrants that all goods sold hereunder shall have been produced, sold, delivered and furnished in strict compliance with all applicable laws and regulations to which the goods are subject. Seller shall execute and deliver such documents as may be required to effect or to evidence compliance. Suppliers fabricating parts and/or assemblies to our specifications and/or drawings requiring dimensional, electrical or other measurement must certify that their measuring equipment is controlled, maintained and calibrated "in accordance with" a documented system (ISO, MIL-STD-45662, etc.) and that their reference standards are traceable to the National Institute of Standards and Technology (NIST). This would also apply to manufacturers of standard parts who certify performance, i.e., resistance, capacitance, diameter, etc.
17. **INDEMNIFICATION BY SELLER:** Seller will defend, indemnify and hold harmless NIITEK, its officers, directors, employees, successors and assigns, agents, and customers, against any claims, loss, damage or expense, including, without limitation, payment of direct, special, incidental and consequential damage, and expenses of defending claims and attorneys' fees, except to the extent caused by the negligence of NIITEK. This duty to defend, indemnify and hold harmless extends to

any suit, claim, judgment, or demand that may arise out of or in connection with the performance or nonperformance of this Purchase Order by Seller or its agents; breach of warranty by Seller or its agents; any defective Work performed or delivered by Seller or its agents; any patent infringement or misappropriation of trade secrets by Seller or its agents; any failure of Sellers or its agents to pay royalties; any assertion under workers' compensation or similar acts by persons furnished by Seller or its agents; or, any other breach of Seller's obligations hereunder, whether such suit, claim, judgment, or demand is based upon contract, warranty, strict liability in tort, negligence, or other legal theory, and extends not only to "third party claims" but also to any direct loss suffered by NIITEK. NIITEK will inform Seller of any claim, demand, judgment, or suit asserted or instituted against it to which this provision may apply. "Agents" as used herein includes, but is not limited to, Seller's employees, subcontractors, and suppliers.

18. **TERMINATION:**

(a) **For Cause** - NIITEK reserves the right to terminate this Purchase Order, or any part hereof, and to cancel all or any part of the undelivered portion of this Purchase Order if Seller fails to: (i) deliver the supplies or perform the services by the time specified in this Purchase Order; (ii) deliver supplies or perform services that meet the required specifications, or otherwise breaches any of the other terms of this Purchase Order, including the warranties; or (iii) make progress in the work as to endanger performance.

NIITEK shall also have the right to terminate this Purchase Order or any part thereof, and cancel all or any part of the undelivered portion in the event of the happening of any of the following: (i) insolvency of Seller; (ii) filing of a voluntary petition in bankruptcy; (iii) filing of any involuntary petition to have Seller declared bankrupt provided it is not vacated within thirty days from the date of such filing; or, (iv) the execution by Seller of any assignment for the benefit of creditors. NIITEK shall have no obligations to Seller in respect to the canceled portion of this Purchase Order and NIITEK's liability shall be limited to payment for the delivered portion of this Purchase Order at the rate specified on the face page hereof (reflecting quantity prices as though this Purchase Order had gone to full completion). If, as a result of default in performance by the Seller, this Purchase Order is terminated in whole or in part, and it is necessary to procure any of the specified supplies or services elsewhere, then Seller will be liable for any re-procurement charges which exceed the amount which would have been due the Seller if it had satisfactorily completed this Purchase Order. These remedies shall be cumulative and additional to any other or further remedies provided in law or in equity.

If after this Purchase Order has been totally or partially terminated by a "For Cause" notice, and it is determined that Seller's failure is excused, then such notice shall be deemed to have been issued "For Convenience" and the rights of the parties shall be governed by paragraph (b) below.

b) **For Convenience** - NIITEK may, for its convenience, terminate work under this Purchase Order in whole or in part at any time by giving notice to Seller in writing. Seller will thereupon immediately stop work on this Purchase Order or the terminated portion thereof and notify any suppliers to do likewise. Seller shall be entitled to reimbursement for its actual costs incurred up to and including the date of termination, such costs to be determined in accordance with recognized accounting principles, and a reasonable profit on the work done prior to termination at a rate not exceeding the rate used in establishing the original purchase price; provided, however, if it appears Seller would have sustained a loss on the Purchase Order, no profit shall be allowed and reimbursement of costs shall be adjusted to reflect the indicated rate of loss.

In no event shall NIITEK's obligations, as a consequence of the termination, exceed the Purchase Order price of the item(s) terminated. At its election, NIITEK shall have the right to direct the disposition of any or all work in process, parts and materials included in the Seller-reimbursed costs. Seller will comply with and be reimbursed for reasonable expenses incurred in effecting NIITEK's directions. Prior to settlement of any termination claim, Seller grants to NIITEK the right to physically inspect any and all inventory included in the claim, and the right of NIITEK, or its designee, to audit the directly pertinent books, records and documents, relating to the costs claimed for reimbursement.

GENERAL TERMS AND CONDITIONS

03/31/10

19. INTELLECTUAL PROPERTY RIGHTS, LICENSES AND INDEMNIFICATION: Seller agrees that NIITEK shall become entitled to, as NIITEK property, all improvements, inventions, and discoveries, whether or not patentable, conceived of or made by Seller or Seller's agents, whether alone or with others whom relate to Seller's performance under this Purchase Order, whether or not such improvements, inventions, or discoveries are conceived of or made during regular working hours. Seller shall promptly disclose to NIITEK in written detail any such improvements, inventions, and discoveries and shall take all steps required to promptly vest title to such improvement, inventions, and discoveries to NIITEK. Seller hereby grants NIITEK and NIITEK's customer the right, without payment of additional compensation, to use, duplicate, operate, process, disclose and sublicense, all data, writings, reports, or other information and items produced and delivered by Seller to NIITEK in connection with this Purchase Order. To the extent any such data, writings, reports, or other information and writings were first created by Seller or its agents under this Purchase Order and comprise works susceptible to protection under the copyright laws, Seller agrees that such information or works shall be deemed "works for hire" hereunder. In the event any such work is determined not to be a "work for hire" under the copyright laws, this provision shall operate as an irrevocable license assigned by Seller to NIITEK of the copyright in the work, including, without limitation, all right, title, and interest therein, in perpetuity.

Seller shall indemnify, defend, and hold harmless NIITEK and NIITEK's customer and their respective officers, directors, agents, and employees against liability and losses including, without limitation, defense costs and attorneys' fees, for any allegation of or suit or action for infringement of any United States or foreign patent, copyright, trademark, or other intellectual property right arising out of the manufacture or delivery or performance of Work under this Purchase Order or out of the use or disposal of such Work by or for the account of NIITEK. Seller shall at its own expense procure for NIITEK and/or NIITEK's customer the right to continue using the alleged infringing Work, replace it with non-infringing Work, or modify it so that it becomes non-infringing. The foregoing indemnity shall not apply unless NIITEK or NIITEK's customer informs Seller of the suit or action or other proceeding alleging infringement and gives Seller the opportunity as is afforded by applicable laws, rules, or regulations, to participate in the defense thereof. Notwithstanding the foregoing, Seller shall not be required to indemnify or hold harmless NIITEK from infringement claims based on items solely of NIITEK's design.

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