

## LISTING OF TERMS AND CONDITIONS

Starwin's list of Terms and Conditions contain specific purchasing flow down requirements. This listing is identified and controlled here in the Special Lists Manual and a copy is located on Starwin's Internet Website for access by Starwin's customers, subcontractors, suppliers and vendors. The Purchasing Agent and/or Starwin's Purchasing Order Form shall direct them to access the website for their applicable Terms and Conditions.

### Standard Terms and Conditions

This document, together with the attachments appended hereto, constitutes the Terms and Conditions for the Contract between the parties, and acceptance is strictly limited to the terms and conditions contained herein. Additional or differing terms, conditions, or limitations of liability proposed by Seller, whether in a quote, acceptance or delivery document, shall have no effect unless accepted in writing by Starwin Industries LLC. In particular, any limitation of liability or disclaimer differing from the terms herein is expressly rejected.

1. **Definitions:** As used throughout this Contract and/or other document(s) expressly incorporated herein by reference, the terms listed below shall have the described meaning:
  - a. "Buyer" shall mean Starwin Industries LLC and/or the entity identified as the Buyer in this Contract.
  - b. "Contract", "Purchase Order", or "Order" shall mean the purchase order attached hereto, these terms and conditions, and any drawings, specifications, or special conditions appended hereto or documents incorporated herein.
  - c. "Goods" or "Products" shall mean those items identified in this Contract, which may be changed, from time to time by the mutual agreement of the parties.
  - d. "Seller" shall mean the party with whom Buyer places an Order.
  
2. **Order of Precedence:** In the event of a conflict between these terms and conditions and other portions of the Contract, the order of precedence shall be as follows:
  - a. Purchase Order, including any typed provisions on the face of the purchase order specifically modifying the terms and conditions as approved by Buyer and Seller;
  - b. These terms and conditions;
  - c. Terms set forth in any specification(s);
  - d. Terms set forth in any engineering drawing(s).

Said order of precedence shall not include or be limited by any third party or "Industry Standards" unless specifically agreed by the parties in writing executed prior to acceptance of the Contract.

3. **Procurement Personnel and Agents:** Only authorized personnel or agents of Buyer are permitted to commit any company funds. Buyer's authorized personnel for this order are as follows: President, Vice President, Purchasing Agent, Estimator, Manufacturing Team Leader or Prototype Leader. Any verbal orders, purchase orders, and amendments by unauthorized personnel may result in nonpayment and, for willful violations on the part of the Seller, potential disqualification of Seller from consideration for future contracts.
  
4. **Quality Assurance:** Seller must comply with all requirements set forth in SAE AS9100 Revision C, and may be subject to Seller Quality audits to assess processing and Quality compliance capabilities.
  - (a) Buyer will describe the products or services to be purchased in terms of the following requirements (where appropriate):
    - (i) The requirements for approval of products or services, procedures, processes and equipment;
    - (ii) The requirements for qualification of personnel (eg. X-ray Inspector, Welder, Weld Inspector);
    - (iii) The quality management system requirements;
    - (iv) The identification and revision status of specifications, drawings, process requirements, inspection/verification instructions and relevant technical data;
    - (v) The requirements for design, test, verification (including production process verification), use of statistical techniques for product acceptance, and related instructions for acceptance by Starwin, and as applicable critical items including key characteristics
    - (vi) The requirements for test specimens (e.g. production method, number, storage conditions) for design approval, inspection/verification, investigation or auditing.
  - (b) The specification "Make Complete" on the Purchase Order means that all conditions required by the Purchase Order, including Engineering Drawings, apply.
  - (c) When specified in the Buyer purchase order, Seller must have appropriate gauging to verify the conformity of the manufactured item.
  - (d) Seller must use customer approved special process resources when required.

- (e) In addition to the above requirements, Seller shall have processes and procedures in place to:
- (i) Notify Buyer upon the occurrence of any nonconforming product produced;
  - (ii) Secure all nonconforming product(s) until Buyer has had an opportunity to evaluate and make arrangements for the disposition of nonconforming product(s);
  - (iii) Notify Buyer of any changes in the product and/or process, changes of suppliers, changes of manufacturing location and where required, obtain Starwin approval and;
  - (iv) Provide Buyer, its customers, and regulatory authorities the right of access to the applicable areas of all facilities, at any level of the supply chain, involved in the order and to all applicable records related to the order;
  - (v) Flow down to sub-tier suppliers the applicable requirements including customer requirements.

## **5. Price and Set-Off**

- (a) All prices listed are firm fixed prices and cannot be changed without Buyer's written or verbal acceptance of the proposed change. In the event of a decrease in Seller's published prices for the products covered by this Contract, the contract prices shall be reduced accordingly. The reduced price shall apply to all of the Buyers Purchase Orders affected by the reduction within thirty (30) days of the published reduced price, unless otherwise agreed by the parties in writing. No charges of any kind shall be added to the prices and charges appearing on the face of this [order/contract], without Buyer's written or verbal permission.
- (b) In the event Seller is liable to Buyer for any amounts pursuant to this Contract, Buyer may, at its option, set-off against any amounts payable to Seller under this Contract.

## **6. Packaging, Transportation, and Delivery:**

- (a) TIME IS OF THE ESSENCE
- (b) Seller shall suitably pack, mark, and ship all materials in strict accordance with any instructions provided by Buyer. In the absence of such instructions, Seller shall prepare and package the Goods to prevent damage or deterioration in accordance with standard commercial practices. Seller shall make all reasonable efforts to ship the Goods so as to secure the lowest shipping cost possible. Parts must be packaged with sufficient packaging material to avoid damage during transit. Metal-to-metal contact is prohibited at all times unless the material/surface is able to or will be machined by Buyer. Notwithstanding the foregoing, the cost of repairing any damage to Goods not packed to ensure proper protection to the same will be charged to Seller.

- (c) No additional charges shall be made to Buyer for packing, boxing, marking, shipping, drayage, or storage unless authorized in writing by Buyer. Buyer may, upon reasonable notice to Seller, change the date of scheduled shipments or direct temporary suspension of scheduled shipments, neither of which shall entitle Seller to a modification of price for the Goods covered in the Order.
- (d) Deliveries shall be made in the quantities and at the times specified in the Order or in supplementary schedules furnished by Buyer.
- (e) Seller shall immediately notify Buyer if Seller has reason to believe delivery will not be made as scheduled. If Seller's deliveries fail to meet Buyer's delivery schedule, Buyer, without limiting its other remedies, may (1) reject the Goods and cancel the Order, (2) direct Seller to use expedited routing at Seller's expense, or (3) Buyer may terminate the Contract as to the remaining Goods not delivered, purchase substitute goods elsewhere and charge to Seller any increase in costs, including procurement costs, attributable to Buyer's purchase of the substitute goods.
- (f) Buyer shall not be required to make payment for Goods delivered to Buyer that are in excess of the quantities specified in the Purchase Order and Buyer reserves the right to return any over shipment made by Seller at Seller's expense.
- (g) Charges for packaging, storage, and shipping, including any applicable federal, state and local taxes are included in the price stated on the Purchase Order. Unless specified in the Order, Buyer will not accept a C.O.D. shipment.
- (h) Delivery shall not have occurred and risk of loss shall not have shifted to Buyer until the Goods have been delivered to Buyer's facility or any other location specified by Buyer and such Goods have been accepted by Buyer.

## **7. Inspection and Acceptance:**

- (a) Work performed and Goods received are subject to inspection and rejection by the Buyer. Seller shall provide right of access, on a non-interference basis, and inspection/testing of Goods to Buyer, Buyer's designee(s), and any associated regulatory authorities to any area of Seller's facilities where any part of the work is being performed at any stage of manufacture before delivery.
- (b) Buyer's acceptance of Goods shall be subject to Buyer's final inspection within sixty (60) days after receipt at destination, notwithstanding any payment or prior test or inspection.
- (c) Seller shall keep and maintain proper and adequate inspection, test and related records, which shall be available for review by Buyer or Buyer's designee(s) and shall furnish copies of all information which may be required by Buyer or Buyer's designee(s).

8. **Rejection:** If any of the Goods are found to be defective in material or workmanship, or otherwise not in conformity with the requirement of the Order, Buyer, in addition to any other rights which it may have under the remaining sections of this Contract or otherwise, may, at its option, (1) correct or have corrected the nonconformity at the Seller's expense, (2) reject and return such Goods at Seller's expense for a refund or credit to Buyer, or (3) obtain conforming goods from another source. Seller shall be liable for any increase in costs, including procurement costs, attributable to Buyer's rejection of the nonconforming Goods.

9. **Changes:**

- (a) Buyer reserves the right to make changes in specifications or requirements of the Order at any time that are within the scope of the Purchase Order. If such a change causes an increase or decrease in the price, time of performance, or scheduled delivery, Seller shall promptly notify Buyer. Seller shall not unilaterally modify the price or delivery date. Seller may not charge any additional or increased fees due to a change in the Purchase Order unless such additional or increase in fee is authorized by the Buyer after Seller requests an equitable adjustment. However, nothing in this provision shall entitle Seller to stop or delay performance under the Order, or shall excuse Seller from proceeding immediately with the directed change(s).
- (b) When specified in the Purchase Order, no process changes are permitted without prior consent from Buyer.
- (c) The maximum liability of the Buyer for obsolescence, scrappage, and/or rework resulting from any change shall be limited to the materials and parts in process at the time of the change and when such parts are within the Seller's normal manufacturing cycle required to meet the established delivery schedule. Buyer shall not be liable for cost of obsolescence, scrappage, or rework of materials and parts, which Seller has released for manufacture in advance of Seller's normal manufacturing process.
- (d) If this order is placed under a Government Prime Contract, the pricing of any equitable adjustment hereunder, or of any other adjustment under this order, shall be in accordance with the cost principles enunciated in Part 31 of the Federal Acquisition Regulation in effect on the date of this order.

10. **Payment**

- (a) All requests for payment shall be made by invoice only. Buyers shall promptly pay Seller the amount due using the payment terms identified in the Contract unless the invoiced amount is in dispute or Buyer exercises its right to set-off.
- (b) All of Seller's invoices covering charges for special tooling or equipment, or design, engineering, research, or related services, shall be accompanied by a detailed list showing the charges for these items.

(c) All such invoices shall be net forty-five (45) days. All tooling separately invoiced shall be the property of Buyer and will be provided to Buyer on request.

11. **Force Majeure:** Neither party shall be deemed to be in breach of the Contract or otherwise liable to the other party in any manner whatsoever for any failure or delay in performing its obligations under the Contract due to a Force Majeure (as defined herein) event. If a party's performance of its obligations under the Contract is affected by a Force Majeure event, then it shall give notice to the other party, specifying the nature and extent of the Force Majeure event, within seven (7) days of becoming aware of the Force Majeure event and will at all times use all reasonable efforts to mitigate the severity of the Force Majeure event. If the Force Majeure event prevails for a continuous period in excess of sixty (60) days after the date on which the Force Majeure event begins, the party not in default is then entitled to give notice in writing to the defaulting party to terminate the Contract. The notice to terminate must specify the termination date. Neither party shall be liable for any claims, damages or penalties for such failure or delay. For the purposes herein, "Force Majeure" means, in relation to either party, acts of God, acts of war or national emergency, riots, terrorism, fire or explosion in the facility where the work is performed impairing said work, strikes, freight embargoes, or flood.

**12. Warranty:**

(a) Seller warrants that all Goods will: (1) be of good and merchantable quality and workmanship and free from defects; (2) conform to the drawings, specifications, descriptions, and samples furnished or specified by Buyer; (3) be suitable for its intended purposes; (4) be free and clear from all liens and encumbrances; and (5) be fit for their particular purpose, if Seller knows or has reason to know of such particular purpose. The Warranties contained in this paragraph are in addition to the warranties provided by law including, without limitation, as specified in the Uniform Commercial Code. These warranties shall survive delivery.

(b) Seller warrants and represents that the Goods will be produced, distributed, shipped, packaged and/or performed in compliance with all applicable federal, state and local laws and regulations, including without limitation, laws, rules and regulations including, but not limited to laws dealing with fair labor standards. On Buyer's request, Seller agrees to furnish satisfactory evidence of compliance.

**13. Indemnification:**

(a) Seller shall indemnify and hold harmless, and at Buyer's request, defend Buyer, its officers, directors, employees, and agents and invitees from and against all claims, liabilities, demands, losses, costs, damages and expenses, including but not limited to attorneys' fees and other costs of litigation arising out of or in any way connected with the Goods provided under this Agreement, 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) any claim based on the

negligence, omissions or willful misconduct of Seller or any of Seller's agents, subcontractors, employees or anyone acting on behalf of Seller; and, (iv) any claim by a third party against Buyer alleging that the Goods (including but not limited to software), or any other products or processes provided under this Agreement, infringe 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 processes. Seller shall not settle any such suit or claim without Buyer's prior written approval.

(b) Seller's obligation to indemnify Buyer shall apply regardless of whether the claim arises in tort, negligence, contract, warranty or strict liability or otherwise, except to the extent any such liability arises out of the gross negligence of Buyer.

(c) Seller shall without limitation as to time, defend, indemnify and hold Buyer harmless from all liens which may be asserted against property covered hereunder, including without limitation mechanic's liens or claims arising under Worker's Compensation or Occupational Disease laws and from all claims for injury to persons or property arising out of or related to such property unless the same are caused solely and directly by Buyer's negligence.

14. **Suspension:** On the Buyer's request, Seller shall immediately suspend shipments of materials and performance of work for reasonable periods. Also, the Buyer reserves the right to cancel this order in whole or part at any time without cause. Any extensions in times of delivery or performance, and any losses or damages resulting from suspension of shipments or partial or total cancellation of the order, shall be equitably adjusted between Buyer and Seller. The Buyer shall not be liable for failure to accept delivery of materials or performance of work due to causes beyond Buyer's control, including without limitation fire, flood, or other casualty, court orders, acts of governmental authorities, or strikes or other work stoppages. Seller will not be entitled to recover any incidental or consequential damages upon any cancellation or breach by Buyer under or related to this order.

**15. Termination:**

(a) Default: Buyer shall have the option to terminate the Contract for default, in whole or in part if Seller fails to perform its obligations under the Contract, including without limitation the failure of Goods to conform to warranty stated in these terms and conditions, or Seller's failure to make delivery as required. Buyer may also terminate the Contract for default if Seller: (a) becomes insolvent; (b) files a voluntary petition in bankruptcy; (c) has an involuntary petition in bankruptcy filed against it; (d) has a receiver or trustee appointed for it; or (e) makes an assignment for the benefit of creditors. In the event of termination for default, without prejudice to any other rights or remedies, Buyer has the right to: (a) refuse to accept delivery of Goods and/or performance of work; (b) return to Seller any Goods already accepted, recover any payments made for the same and for freight, storage, handling, and other expenses incurred, and be relieved of liability for any further payments to Seller made pursuant to the Contract; (c) recover any payments made to Seller for undelivered or returned

Goods or work to be performed; and (d) purchase elsewhere and charge Seller with any resultant losses.

- (b) Termination for Convenience: Buyer may terminate the Contract for any reason, in whole or in part, by a change order directing termination. Seller shall immediately cease all work on terminated Goods, cancel all orders for components and supplies related to terminated Goods on the best terms available and return to its stock or the stock of its suppliers any reusable components and supplies. Buyer shall pay Seller a termination fee equal to actual costs incurred for work completed and accepted, plus additional expenses incurred by Seller as a direct result of termination, less any amounts previously paid with respect to the terminated Goods and credits for components and supplies returned to the stock of Seller and its suppliers. All work in process and other supplies identified to the terminated Goods and not returned to stock of Seller or its suppliers, shall be the property of buyer and disposed of according to Buyer's instructions. Buyer shall in no event be required to pay termination fees in excess of the purchase price of any terminated Goods. Except as expressly set forth in this section, Buyer shall not be liable for any damages as a result of any termination including, without limitation, anticipated or lost profits, or special, incidental or consequential damages. Seller shall continue performance of the order to the extent not terminated.

#### **16. Records and Audits:**

- (a) Seller will control records created and/or retained during processing of products or processes unless directed by Buyer.
- (b) Seller agrees that Buyer, or Buyer's designee(s), shall have access to any books, documents, papers and records of the Seller which are directly pertinent to the work performed and Goods provided hereunder, for the purpose of making audits, examinations, excerpts and transcriptions upon prior written request and during normal business hours for a period of up to ten (10) years. Should Seller cease business, Seller shall provide Buyer with a copy of all records applicable to this Purchase Order.

17. **Confidentiality:** All information which Buyer has divulged or may divulge to the Seller and any information relating to the product or Goods which may have come into the possession of the Seller in the course of carrying out Buyer's purchase order, shall be treated by the Seller in confidence and shall not, without prior written consent of Buyer, be disclosed to any third parties, or be used for any purpose other than for the execution of this order.

#### **18. Dispute:**

- (b) Buyer and Seller agree to timely notify each other of any claim, dispute, or cause of action arising from or related to this Purchase Order, and to negotiate in good faith to



resolve any such dispute. If any dispute arises under this Contract, Buyer and Seller will hold a meeting attended by at least one Corporate Executive from each Party. The meeting will be held within fourteen (14) days of either Party requesting such a meeting. Such meeting shall be held telephonically if travel is impracticable for either Party. The meeting will be an attempt to negotiate a good faith resolution to the claim or dispute. The Corporate Executives will have the power to negotiate on behalf of the Parties and will be authorized to settle the dispute. Any statements or representations made in such a meeting will be for purposes of settlement only and will not be admissible as evidence in court. Any written settlement agreement executed by the Parties shall be admissible in court.

- (c) After the initial meeting, the Corporate Executives may agree to a further meeting or meetings. If the matter has not been resolved within fourteen (14) days of the meeting deemed final by at least one Executive, the Parties agree to submit the matter to mediation in Dayton, Ohio. The Parties will choose a mutually agreeable mediator and will share the costs of the mediation equally.
- (d) If the Parties are unable to resolve their dispute through negotiation or mediation, then either may institute an action against the other in a court of competent jurisdiction in Greene or Montgomery County, Ohio. Such action must be commenced with sixty (60) days after the completion of the mediation or any claim is irrevocably waived. Buyer and Seller each waive any rights that either Party may have to trial before a jury on any dispute arising from or related to this Contract.
- (e) Nothing in this Section 18 shall preclude either Party from filing an action in court at any time for injunctive relief to prevent injury involving the use or disclosure of the other Party's intellectual property rights for which monetary damages would be inadequate.
- (f) Any action arising from or related to this Contract shall be instituted and litigated in any federal or state court located in Greene County or Montgomery County, Ohio. The parties hereby irrevocably consent to the jurisdiction of the courts of Greene County and Montgomery County, Ohio.
- (g) Pending the resolution of any Dispute, Seller shall proceed diligently with the performance of this Purchase Order and in accordance with all the Terms and Conditions contained herein and with the Buyer's direction thereof. Buyer and Seller shall each bear its own costs of processing any dispute hereunder.

19. **Governing Law:** Buyer and Seller hereby submit themselves to the Jurisdiction of the State of Ohio in connection with any cause of action arising under this contract. The laws of the State of Ohio shall govern the validity, performance, construction and effect of this contract.

**20. Compliance with Law:**

- (a) Seller shall comply with all applicable Federal, state, and local laws, Executive Orders, rules and regulations during performance of the Contract, including but not limited to, the Occupational Health and Safety Act (OSHA); Toxic Substances Control Act; the Fair Labor Standards Act (FLSA); the Clean Air Act; the International Traffic in Arms Regulations (ITAR); and the Anti-Kickback Act.
- (b) Seller shall control the dissemination of and access to technical data, information and other items received under this Contract in accordance with U.S. export control laws and regulations, including but not limited to the Arms Export Control Act, the Export Administration Act, including the Export Administration Regulations, and the International Traffic in Arms Regulations (ITAR). The Seller shall indemnify Buyer for all liabilities, penalties, losses damages, costs or expenses that may be imposed on or incurred by Buyer in connection with any violations of such laws and regulations by the Seller.
21. **Assignment:** This order may not be assigned by Seller in whole or part without Buyer's written consent. This order and its terms and conditions are binding on the parties and their successors and assigns.
22. **Subcontracting:** The requirements of this Contract must be flowed down to all Sellers and their sub-tier Sellers (including FAR, DFARS, and ITAR).
23. **Government Contracts:** For Contracts placed in support of and charged to a U.S. Government Contract: (i) the appendices to the Contract will include a list or lists of clauses set forth in the Federal Acquisition Regulation (FAR) or the Defense Federal Acquisition Regulation Supplement (DFARS); (ii) such appended FAR and DFARS clauses are incorporated herein by reference as if set forth at length herein; and, (iii) the terms "Government" and "Contractor" contained in the FAR and DFARS clauses shall be revised to identify the Seller and the Buyer respectively.
24. **Notices:** All notices shall be delivered by hand or by courier, facsimile, express mail (or its equivalent), or postage prepaid certified or registered mail to the address listed on the face hereof, and shall be deemed effective on the earlier of actual receipt or three (3) business days after having been sent.

## Supplement 1

### Starwin Industries LLC

#### General Terms and Conditions

#### Supplement 1 – Government Contract Provisions from the Federal Acquisition Regulation (FAR)

1. **When** the materials or products furnished are for use in connection with a Government contract or subcontract, in addition to the General Provisions, the following provisions shall apply, as required by the terms of the prime contract, or by operation of law or regulation. In the event of a conflict between these FAR provisions and the General Provisions, the FAR provisions shall control.
  
2. The following clauses set forth in the FAR in effect as of the date of the prime contract are incorporated herein by reference. In all clauses listed herein, the terms “Government”, “Contracting Officer” and “Contractor” shall be revised to suitably identify the contracting parties herein and effect the proper intent of the provision except where further clarified or modified below. “Subcontractor”, however, shall mean “Seller’s Subcontractor” under this purchase order.

Title of Clause	FAR
<b>Definitions</b> (NOV 2013)	52.202-1
<b>Gratuities</b>	52.203-3
<b>Covenant Against Contingent Fees</b>	52.203-5
<b>Restrictions on Subcontractor Sales to the Government</b>	52.203-6
<b>Anti-Kickback Procedures</b>	52.203-7
<b>Cancellation, Rescission and Recovery of Funds for Illegal or Improper Activity</b> (MAY 2014)	52.203-8
<b>Price or Fee Adjustment for Illegal or Improper Activity</b> (MAY 2014)	52.203-10
<b>Limitation on Payments to Influence Certain Federal Employees</b>	52.203-12
<b>Contractor Code of Business Ethics and Conduct</b> (Dec 2008)	52.203-13
<b>Display of Hotline Poster</b> (Dec 2007)	52.203-14

<b>Contractor Employee Whistleblower Rights and requirement to Inform Employees of Whistleblower Rights (APR 2014)</b>	52.203-17
<b>Security Requirements (AUG 1996)</b>	52.204-2
<b>Printed or Copied Double-sided on Postconsumer Fiber Content Paper (MAY 2011)</b>	52.204-4
<b>Reporting Executive Compensation and First-Tier Subcontractor Awards</b>	52.204-10
<b>Commercial and Government Entity Code Reporting (JUL 2016)</b>	52.204-16
<b>Commercial and Government Entity Code Maintenance (JUL 2016)</b>	52.204-18
<b>Incorporation by Reference of Representations and Certifications (DEC 2014)</b>	52.204-19
<b>Defense Priority and Allocation Requirements</b>	52.211-15
<b>Predecessor of Offeror (JUL 2016)</b> As prescribed in 4.1804(d), insert the following provision: (a) Definitions. As used in this provision - “Commercial and Government Entity (CAGE) code” means - (1) An identifier assigned to entities located in the United States or its outlying areas by the Defense Logistics Agency (DLA) Commercial and Government Entity (CAGE) Branch to identify a commercial or government entity; or (2) An identifier assigned by a member of the North Atlantic Treaty Organization (NATO) or by the NATO Support and Procurement Agency (NSPA) to entities located outside the United States and its outlying areas that the DLA Commercial and Government Entity (CAGE) Branch records and maintains in the CAGE master file. This type of code is known as a NATO CAGE (NCAGE) code. “Predecessor” means an entity that is replaced by a successor and includes any predecessors of the predecessor. “Successor” means an entity that has replaced a predecessor by acquiring the assets and carrying out the affairs of the predecessor under a new name (often through acquisition or merger). The term “successor” does not include new offices/divisions of the same company or a company that only changes its name. The extent of the responsibility of the successor for the liabilities of the predecessor may vary, depending on State law and specific circumstances. (b) The Offeror represents that it [ ] is or [ ] is not a successor to a predecessor that held a Federal contract or grant within the last three years. (c) If the Offeror has indicated “is” in paragraph (b) of this provision, enter the following information for all predecessors that held a Federal contract or grant within the last three years (if more than one predecessor, list in reverse chronological order): Predecessor CAGE	52.204-20

code: (or mark "Unknown") Predecessor legal name: (Do not use a "doing business as" name)	
<b>Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended, or proposed for Suspension (OCT 2015)</b>	52.209-6
<b>Prohibition on Contracting with Inverted Domestic Corporations (NOV 2015)</b>	52.209-10
<b>Defense Priority and Allocation Requirements (APR 2008)</b>	52.211-15
<b>Audit and Records – Negotiation</b> (Applicable in all subcontracts that exceed the simplified acquisition threshold, and 1) that are cost-reimbursement, incentive, time, and materials, labor-hour, or price-determinable or any combination of these; 2) for which cost or pricing data are required; or 3) that require the subcontractor to furnish reports as discussed in paragraph (e) of the clause.)	52.215-2
<b>Integrity of Unit Prices</b> (Does not apply to subcontracts for construction or architect-engineer services under FAR Part 36, utility services under FAR Part 41, services where supplies are not required, commercial items, and petroleum products)	52.215-14
<b>Small Business Subcontracting Plan</b>	52.219-9
<b>Limitations on Subcontracting</b>	52.219-14
<b>Liquidated Damages – Subcontracting Plan</b>	52.219-16
<b>Convict Labor</b>	52.222-3
<b>Child Labor – Cooperation with Authorities and Remedies (OCT 2016)</b>	52.222-19
<b>Contracts for Materials and Supplies, Article, and Equipment Exceeding \$15,000 (MAY 2014)</b>	52.222-20
<b>Prohibition of Segregated Facilities</b>	52.222-21
<b>Equal Opportunity</b>	52.222-26
<b>Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans</b>	52.222-35
<b>Affirmative Action for Workers with Disabilities</b>	52.222-36

<b>Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans</b>	52.222-37
<b>Notification of Employee Rights Under the National Labor Relations Act (DEC 2010)</b>	52.222-40
<b>Combating Trafficking in Persons</b>	52.222-50
<b>Employment Eligibility Verification (Jan 2009)</b>	52.222-54
<b>Drug – Free Workplace (MAY 2001)</b>	52.223-6
<b>Toxic Chemical Release Reporting (Does not apply to subcontracts for commercial items.)</b>	52.223-14
<b>Buy American Act- Supplies</b>	52.225-1
<b>Buy American Act – Free Trade Agreements (Alternate I), (orders over \$25,000 but less than \$50,000; for orders over\$50,000 but less than \$70,079, use Alternate II.)</b>	52.225-3
<b>Trade Agreements</b>	52.225-5
<b>Restrictions on Certain Foreign Purchases</b>	52.225-13
<b>Authorization and Consent</b>	52.227-1
<b>Notice and Assistance Regarding Patent and Copyright Infringement</b>	52.227-2
<b>Patent Rights—Ownership by the Contractor (Applicable only to contracts for experimental, developmental, or research work to be performed by a small business concern or nonprofit organization.)</b>	52.227-11
<b>Federal, State and Local Taxes (FEB 2013)</b>	52.229-3
<b>Cost Accounting Standards (OCT 2015)</b>	52.230-2
<b>Administration of Cost Accounting Standards (JUN 2010)</b>	52.230-6
<b>Interest (MAY 2014)</b>	52.232-17
<b>Assignment of Claims (MAY 2014), ALT I (APR 1984)</b>	52.232-23
<b>Payment by Third Party</b>	52.232-36
<b>Unenforceability of Unauthorized Obligations (JUN 2013)</b>	52.232-39

<b>Providing Accelerated Payment to Small Business Subcontractors</b> (DEC 2013)	52.232-40
<b>Protest After Award</b> (AUG 1996)	52.233-3
<b>Applicable Law for Breach of Contract Claim</b>	52.233-4
<b>Bankruptcy</b> (JUL 1995)	52.242-13
<b>Subcontracts for Commercial Items</b>	52.244-6
<b>Preference for US – Flag Air Carriers</b>	52.247-63
<b>Value Engineering</b> (Applicable to all subcontracts over \$100,000 but may be included in subcontracts of lesser value.)	52.248-1
<b>Termination for Convenience of the Government</b> (Fixed Price)	52.249-2
<b>Default Transactions</b> (Fixed-Price Supply and Service)	52.249-8
<b>Computer Related Forms</b> (JAN 1991)	52.253-1

## Supplement 2

### Starwin Industries LLC LLC.

#### General Terms and Conditions

#### Supplement 2 – Government Contract Provisions from the Department of Defense Federal Acquisition Regulation (DFARS)

When the materials or products furnished are for use in connection with a U.S. Government Department of Defense contract or subcontract, in addition to the General Provisions and the FAR provisions, the following provisions shall apply, as required by the terms of the prime contract, or by operation of law or regulation. In the event of a conflict between these DFARS provisions and the General Provisions or the FAR provisions, the DFARS provisions shall control.

The following clauses set forth in the DFARS in effect as of the date of the prime contract are incorporated herein by reference. In all clauses listed herein, the terms “Government”, “Contracting Officer” and “Contractor” shall be revised to suitably identify the contracting parties under this purchase order and effect the proper intent of the provision except where further clarified or modified below. “Subcontractor”, however, shall mean “Seller’s Subcontractor” under this purchase order. The Seller, by signing its offer, hereby certifies compliance with the following clauses and is, therefore, eligible for award.

Title of Clause	DFARS
<b>Requirements Relating to Compensation of Former DoD Officials</b>	252.203-7000
<b>Prohibition on Persons Convicted of Fraud or other Defense-Contract Related Felonies</b> (Does not apply to subcontracts for commercial items or components.)	252.203-7001
<b>Disclosure of Information</b>	252.204-7000
<b>Control of Government Personnel Work Product</b> (APR 1992)	252.204-7003
<b>Oral Attestation of Security Responsibilities</b> (NOV 2001)	252.204-7005
<b>Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information</b> (OCT 2016) (a) Definitions. As used in this clause - “Compromise” means disclosure of information to unauthorized persons, or a violation of the security policy of a system, in which unauthorized intentional or unintentional disclosure, modification, destruction, or loss of an object, or the copying of information to unauthorized media may have occurred. “Controlled technical information” means technical information with military or space application that is subject to controls on the access, use, reproduction, modification,	252.204-7009



performance, display, release, disclosure, or dissemination. Controlled technical information would meet the criteria, if disseminated, for distribution statements B through F using the criteria set forth in DoD Instruction 5230.24, Distribution Statements on Technical Documents. The term does not include information that is lawfully publicly available without restrictions. "Covered defense information" means unclassified information that - (1) Is - (i) Provided to the contractor by or on behalf of DoD in connection with the performance of the contract; or (ii) Collected, developed, received, transmitted, used, or stored by or on behalf of the contractor in support of the performance of the contract; and (2) Falls in any of the following categories: (i) Controlled technical information. (ii) Critical information (operations security). Specific facts identified through the Operations Security process about friendly intentions, capabilities, and activities vitally needed by adversaries for them to plan and act effectively so as to guarantee failure or unacceptable consequences for friendly mission accomplishment (part of Operations Security process). (iii) Export control. Unclassified information concerning certain items, commodities, technology, software, or other information whose export could reasonably be expected to adversely affect the United States national security and nonproliferation objectives. To include dual use items; items identified in export administration regulations, international traffic in arms regulations and munitions list; license applications; and sensitive nuclear technology information. (iv) Any other information, marked or otherwise identified in the contract, that requires safeguarding or dissemination controls pursuant to and consistent with law, regulations, and Governmentwide policies (e.g., privacy, proprietary business information). "Cyber incident" means actions taken through the use of computer networks that result in a compromise or an actual or potentially adverse effect on an information system and/or the information residing therein. (b) Restrictions. The Contractor agrees that the following conditions apply to any information it receives or creates in the performance of this contract that is information obtained from a third-party's reporting of a cyber incident pursuant to DFARS clause 252.204-7012, Safeguarding Covered Defense Information and Cyber Incident Reporting (or derived from such information obtained under that clause): (1) The Contractor shall access and use the information only for the purpose of furnishing advice or technical assistance directly to the Government in support of the Government's activities related to clause 252.204-7012, and shall not be used for any other purpose. (2) The Contractor shall protect the information against unauthorized release or disclosure. (3) The Contractor shall ensure that its employees are subject to use and non-disclosure obligations consistent with this clause prior to the employees being provided access to or use of the information. (4) The third-party contractor that reported the cyber incident is a third-party beneficiary of the non-disclosure agreement between the

Government and Contractor, as required by paragraph (b)(3) of this clause. (5) A breach of these obligations or restrictions may subject the Contractor to - (i) Criminal, civil, administrative, and contractual actions in law and equity for penalties, damages, and other appropriate remedies by the United States; and (ii) Civil actions for damages and other appropriate remedies by the third party that reported the cyber incident, as a third party beneficiary of this clause. (c) Subcontracts. The Contractor shall include this clause, including this paragraph (c), in subcontracts, or similar contractual instruments, for services that include support for the Government's activities related to safeguarding covered defense information and cyber incident reporting, including subcontracts for commercial items, without alteration, except to identify the parties.

**Safeguarding Covered Defense Information and Cyber Incident Reporting (OCT 2016)**

252.204-7012

(a) Definitions. As used in this clause-

“Adequate security” means protective measures that are commensurate with the consequences and probability of loss, misuse, or unauthorized access to, or modification of information.

“Compromise” means disclosure of information to unauthorized persons, or a violation of the security policy of a system, in which unauthorized intentional or unintentional disclosure, modification, destruction, or loss of an object, or the copying of information to unauthorized media may have occurred.

“Contractor attributional/proprietary information” means information that identifies the contractor(s), whether directly or indirectly, by the grouping of information that can be traced back to the contractor(s) (e.g., program description, facility locations), personally identifiable information, as well as trade secrets, commercial or financial information, or other commercially sensitive information that is not customarily shared outside of the company.

“Contractor information system” means an information system belonging to, or operated by or for, the Contractor.

“Controlled technical information” means technical information with military or space application that is subject to controls on the access, use, reproduction, modification, performance, display, release, disclosure, or dissemination. Controlled technical information would meet the criteria, if disseminated, for distribution statements B through F using the criteria set forth in DoD Instruction 5230.24, Distribution Statements on Technical Documents. The term does not include information that is lawfully publicly available without restrictions.

“Covered contractor information system” means an information system that is owned, or operated by or for, a contractor and that processes, stores, or transmits covered defense information.

“Covered defense information” means unclassified information that

-

(i) Is --

(A) Provided to the contractor by or on behalf of DoD in connection with the performance of the contract; or  
(B) Collected, developed, received, transmitted, used, or stored by or on behalf of the contractor in support of the performance of the contract; and

(ii) Falls in any of the following categories:

(A) Controlled technical information.

(B) Critical information (operations security). Specific facts identified through the Operations Security process about friendly intentions, capabilities, and activities vitally needed by adversaries for them to plan and act effectively so as to guarantee failure or unacceptable consequences for friendly mission accomplishment (part of Operations Security process).

(C) Export control. Unclassified information concerning certain items, commodities, technology, software, or other information whose export could reasonably be expected to adversely affect the United States national security and nonproliferation objectives. To include dual use items; items identified in export administration regulations, international traffic in arms regulations and munitions list; license applications; and sensitive nuclear technology information.

(D) Any other information, marked or otherwise identified in the contract, that requires safeguarding or dissemination controls pursuant to and consistent with law, regulations, and Governmentwide policies (e.g., privacy, proprietary business information).

“Cyber incident” means actions taken through the use of computer networks that result in a compromise or an actual or potentially adverse effect on an information system and/or the information residing therein.

“Forensic analysis” means the practice of gathering, retaining, and analyzing computer-related data for investigative purposes in a manner that maintains the integrity of the data.

“Malicious software” means computer software or firmware intended to perform an unauthorized process that will have adverse impact on the confidentiality, integrity, or availability of an information system. This definition includes a virus, worm, Trojan horse, or other code-based entity that infects a host, as well as spyware and some forms of adware.

“Media” means physical devices or writing surfaces including, but is not limited to, magnetic tapes, optical disks, magnetic disks, large-scale integration memory chips, and printouts onto which information is recorded, stored, or printed within an information system.

“Operationally critical support” means supplies or services designated by the Government as critical for airlift, sealift, intermodal transportation services, or logistical support that is

essential to the mobilization, deployment, or sustainment of the Armed Forces in a contingency operation.

“Rapid(ly) report(ing)” means within 72 hours of discovery of any cyber incident.

“Technical information” means technical data or computer software, as those terms are defined in the clause at DFARS 252.227-7013, Rights in Technical Data-Non Commercial Items, regardless of whether or not the clause is incorporated in this solicitation or contract. Examples of technical information include research and engineering data, engineering drawings, and associated lists, specifications, standards, process sheets, manuals, technical reports, technical orders, catalog-item identifications, data sets, studies and analyses and related information, and computer software executable code and source code.

(b) Adequate security. The Contractor shall provide adequate security for all covered defense information on all covered contractor information systems that support the performance of work under this contract. To provide adequate security, the Contractor shall -

(1) Implement information systems security protections on all covered contractor information systems including, at a minimum -

(i) For covered contractor information systems that are part of an Information Technology (IT) service or system operated on behalf of the Government -

(A) Cloud computing services shall be subject to the security requirements specified in the clause 252.239-7010, Cloud Computing Services, of this contract; and  
(B) Any other such IT service or system (i.e., other than cloud computing) shall be subject to the security requirements specified elsewhere in this contract; or

(ii) For covered contractor information systems that are not part of an IT service or system operated on behalf of the Government and therefore are not subject to the security requirement specified at paragraph (b)(1)(i) of this clause -

(A) The security requirements in National Institute of Standards and Technology (NIST) Special Publication (SP) 800-171, “Protecting Controlled Unclassified Information in Nonfederal Information Systems and Organizations,” <http://dx.doi.org/10.6028/NIST.SP.800-171> that is in effect at the time the solicitation is issued or as authorized by the Contracting Officer, as soon as practical, but not later than December 31, 2017. The Contractor shall notify the DoD CIO, via email at [osd.dibcsia@mail.mil](mailto:osd.dibcsia@mail.mil), within 30 days of contract award, of any security requirements specified by NIST SP 800-171 not implemented at the time of contract award; or  
(B) Alternative but equally effective security measures used to compensate for the inability to satisfy a particular

requirement and achieve equivalent protection accepted in writing by an authorized representative of the DoD CIO; and

(2) Apply other information systems security measures when the Contractor reasonably determines that information systems security measures, in addition to those identified in paragraph (b)(1) of this clause, may be required to provide adequate security in a dynamic environment based on an assessed risk or vulnerability.

(c) Cyber incident reporting requirement.

(1) When the Contractor discovers a cyber incident that affects a covered contractor information system or the covered defense information residing therein, or that affects the contractor's ability to perform the requirements of the contract that are designated as operationally critical support, the Contractor shall

--

- (i) Conduct a review for evidence of compromise of covered defense information, including, but not limited to, identifying compromised computers, servers, specific data, and user accounts. This review shall also include analyzing covered contractor information system(s) that were part of the cyber incident, as well as other information systems on the Contractor's network(s), that may have been accessed as a result of the incident in order to identify compromised covered defense information, or that affect the Contractor's ability to provide operationally critical support; and
- (ii) Rapidly report cyber incidents to DoD at <http://dibnet.dod.mil>.

(2) Cyber incident report. The cyber incident report shall be treated as information created by or for DoD and shall include, at a minimum, the required elements at <http://dibnet.dod.mil>.

(3) Medium assurance certificate requirement. In order to report cyber incidents in accordance with this clause, the Contractor or subcontractor shall have or acquire a DoD-approved medium assurance certificate to report cyber incidents. For information on obtaining a DoD-approved medium assurance certificate, see <http://iase.disa.mil/pki/eca/Pages/index.aspx>.

(d) Malicious software. The Contractor or subcontractors that discover and isolate malicious software in connection with a reported cyber incident shall submit the malicious software in accordance with instructions provided by the Contracting Officer.

(e) Media preservation and protection. When a Contractor discovers a cyber incident has occurred, the Contractor shall preserve and protect images of all known affected information systems identified in paragraph (c)(1)(i) of this clause and all relevant monitoring/packet capture data for at least 90 days from the submission of the cyber incident report to allow DoD to request the media or decline interest.

(f) Access to additional information or equipment necessary for forensic analysis. Upon request by DoD, the Contractor shall provide DoD with access to additional information or equipment that is necessary to conduct a forensic analysis.

(g) Cyber incident damage assessment activities. If DoD elects to conduct a damage assessment, the Contracting Officer will request that the Contractor provide all of the damage assessment information gathered in accordance with paragraph (e) of this clause.

(h) DoD safeguarding and use of contractor attributional/proprietary information. The Government shall protect against the unauthorized use or release of information obtained from the contractor (or derived from information obtained from the contractor) under this clause that includes contractor attributional/proprietary information, including such information submitted in accordance with paragraph (c). To the maximum extent practicable, the Contractor shall identify and mark attributional/proprietary information. In making an authorized release of such information, the Government will implement appropriate procedures to minimize the contractor attributional/proprietary information that is included in such authorized release, seeking to include only that information that is necessary for the authorized purpose(s) for which the information is being released.

(i) Use and release of contractor attributional/proprietary information not created by or for DoD. Information that is obtained from the contractor (or derived from information obtained from the contractor) under this clause that is not created by or for DoD is authorized to be released outside of DoD -

- (1) To entities with missions that may be affected by such information;
- (2) To entities that may be called upon to assist in the diagnosis, detection, or mitigation of cyber incidents;
- (3) To Government entities that conduct counterintelligence or law enforcement investigations;
- (4) For national security purposes, including cyber situational awareness and defense purposes (including with Defense Industrial Base (DIB) participants in the program at 32 CFR part 236); or
- (5) To a support services contractor ("recipient") that is directly supporting Government activities under a contract that includes the clause at 252.204-7009, Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information.

(j) Use and release of contractor attributional/proprietary information created by or for DoD. Information that is obtained from the contractor (or derived from information obtained from the contractor) under this clause that is created by or for DoD (including the information submitted pursuant to paragraph (c) of

this clause) is authorized to be used and released outside of DoD for purposes and activities authorized by paragraph (i) of this clause, and for any other lawful Government purpose or activity, subject to all applicable statutory, regulatory, and policy based restrictions on the Government's use and release of such information.

(k) The Contractor shall conduct activities under this clause in accordance with applicable laws and regulations on the interception, monitoring, access, use, and disclosure of electronic communications and data.

(l) Other safeguarding or reporting requirements. The safeguarding and cyber incident reporting required by this clause in no way abrogates the Contractor's responsibility for other safeguarding or cyber incident reporting pertaining to its unclassified information systems as required by other applicable clauses of this contract, or as a result of other applicable U.S. Government statutory or regulatory requirements.

(m) Subcontracts. The Contractor shall -

(1) Include this clause, including this paragraph (m), in subcontracts, or similar contractual instruments, for operationally critical support, or for which subcontract performance will involve a covered contractor information system, including subcontracts for commercial items, without alteration, except to identify the parties; and

(2) When this clause is included in a subcontract, require subcontractors to rapidly report cyber incidents directly to DoD at <http://dibnet.dod.mil> and the prime Contractor. This includes providing the incident report number, automatically assigned by DoD, to the prime Contractor (or next higher-tier subcontractor) as soon as practicable.

<b>Provision of Information to Cooperative Agreement Holders</b>	252.205-7000
<b>Subcontracting with Firms that are Owned or Controlled by the Government of a Terrorist Country</b>	252.209-7004
<b>Pricing Adjustments</b>	252.215-7000
<b>Small Business Subcontracting Plan (DoD contracts)</b>	252.219-7003
<b>Small Business Subcontracting Plan (Test Programs)</b>	252.219-7004
<b>Restriction on the Use of Mandatory Arbitration Agreements</b>	252.222-7006
<b>Drug-Free Work Force (SEP 1988)</b>	252.223-7004
<b>Buy American Act and Balance of Payments Program</b>	252.225.7001

<b>Qualifying Country Sources as Subcontractors</b>	252.225-7002
<b>Quarterly Reporting of Actual Contract Performance Outside the United States.</b> (Does not apply to subcontracts for commercial items, construction, ores, natural gases, utilities, petroleum products and crudes, timber (logs), or subsistence.)	252.225-7006
<b>Restriction on Acquisition of Specialty Metals</b>	252.225-7008
<b>Restriction on Acquisition of Certain Articles Containing Specialty Metals</b>	252.225-7009
<b>Preference for Certain Domestic Commodities</b>	252.225-7012
<b>Duty-Free Entry</b> (Applicable to all subcontracts for (i) qualifying country components or (ii) nonqualifying country components for which the Contractor estimates that duty will exceed \$200 per unit.)	252.225-7013
<b>Restriction of Acquisition of Hand or Measuring Tools</b>	252.225-7015
<b>Restriction on Acquisition of Ball and Roller Bearings</b> (Flow down to all subcontracts except for those for i) commercial items, or ii) items that do not contain ball or roller bearings.)	252.225-7016
<b>Waiver of United Kingdom Levies</b> (Applies only where a lower-tier subcontract exceeding \$1,000,000 with a U.K. firm is anticipated.)	252.225-7033
<b>Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns</b>	252.226-7001
<b>Rights in Technical Data – Noncommercial Items</b>	252.227-7013
<b>Rights in Bid or Proposal Information</b>	252.227-7016
<b>Identification and Assertion of Use, Release, or Disclosure Restrictions</b>	252.227-7017
<b>Deferred Delivery of Technical Data or Computer Software</b>	252.227-7026
<b>Deferred Ordering of Technical Data or Computer Software</b>	252.227-7027
<b>Validation of Restrictive Markings on Technical Data</b> (Does not apply to commercial items or commercial components.)	252.227-7037



<b>Electronic Submission of Payment Requests and Receiving Reports</b>	252.232-7003
<b>Levies on Contract Payments (DEC 2006)</b>	252.232-7010
<b>Pricing of Contract Modifications (DEC 1991)</b>	252.243-7001
<b>Requests for Equitable Adjustments</b>	252.243-7002
<b>Subcontracts for Commercial Items and Commercial Components on DOD contracts (Applicable to subcontracts for either commercial items or commercial components.)</b>	252.244-7000
<b>Transportation of Supplies by Sea</b>	252.247-7023