

2 Definitions

As used throughout this Order, the following terms have the following meanings:

CATS or Buyer:	C ⁴ ADVANCED TACTICAL SYSTEMS, LLC (CATS).
Seller:	Company identified in the CATS Purchase Order Form.
Goods:	The deliverable Product detailed in the Order.
Services:	The activities and obligations to be carried out by the Seller beyond the supply of the Goods
Work:	The supply of Goods and/or the performance of Services.
Purchase Order Form:	The document bearing the title Purchase Order.
Order:	The Order Form, these terms and conditions, and all annexes attached hereto.
Location:	C ⁴ facility in 243 Wetherbee Road, Orlando, Florida 32824.

3 Declarations: Seller declares that it is aware of the following facts: (i) the Product is ordered within a program of the Israeli Ministry of Defense (hereinafter "the Customer"); (ii) the end user of the System in which the Product will be integrated (hereinafter "the System") is the Israeli Armed Forces (hereinafter "the End User"); (iii) the prime contractor in the program is Rafael Advanced Defense Systems LTD (hereinafter "Prime Contractor"); (iv) CATS' Buyer is a subcontractor of Rafael Advanced Defense Systems LTD (hereinafter "C⁴"); (v) Rafael Armament Development Authority Ltd (hereinafter "Design Authority") an Israeli Corporation, is the Israeli main subcontractor in the program and has guaranteed the performance of Buyer under its contract with IDF which is a subcontractor of the Prime Contractor; and (vi) This Agreement is financed by FMF funds and is subject to FMF rules.

4 Adoption of Annexes: The following Annexes that are attached to this Order, as applicable, form an integral part hereof:

- a. PO docs file folder, email version
- b. Purchase Order (if awarded)
- c. Access all applicable Annexes and specifications attached to this bid
- d. Instructions for Bidding
- e. Refer to Q-A-Requirements – 93.00.3

5 General:

- a. Acceptance: In order for this Order to become effective, Seller must accept it by signing these Subcontract Terms and Conditions and initialing each page, as well as by filling out all the necessary information, dating and signing the Certification and Agreement accompanying Purchase Order/Request for Quotation (Annex 4) and returning these documents to Buyer.
- b. Acceptance conveys that Seller has the skill, judgment, capability, means, equipment, products, facilities and personnel to properly, timely and fully perform its obligations under this Agreement in accordance with all of its terms and conditions, and acknowledges that Buyer, in reliance upon such express declaration, has entered into this Agreement.
- c. Order of Precedence: The provisions detailed on the face of the Order Form will have priority over all the other provisions detailed in the Order. These terms and conditions will have priority over Annexes.

6 Scope of Work: The Work as detailed in the SOW

7 Quality Control: Seller shall adhere to the Quality Assurance provisions as referenced in 4.e above and in accordance with Q-A-Requirements-93.00.3. Seller shall provide a quality control system in accordance with AS9100C or ISO-9001 (2000), and acceptable to Buyer and/or Customer, which shall be maintained in accordance with a Buyer approved program which periodically and systematically audits all quality aspects of the ISO-9001 (2008) system as regards to the Product. The Seller shall issue, along with each delivered Good(s), a Certificate of Conformance signed by an authorized representative of the Seller's quality control department or by an officer of the Seller attesting that each delivered Good(s) is in full compliance with the requirements of the Order. A serviceable tag will be attached to each and every Goods shipped from the supplier(s).

8 Factory Acceptance Test: When applicable, Seller shall carry out Factory Acceptance Test (FAT) or First Article Inspection (FAI) in accordance with the procedures and success criteria specified in the applicable Annex.

9 Packing and Shipment: Shipment shall be in accordance with instructions specified in this Order. In the absence of instructions, all Goods shall be suitably packed and shipped in accordance with best commercial practices used for the same type of Goods. No charge shall be made for boxing, crating, packing, storage, drayage, or other costs unless expressly incorporated on the face of this Order. Buyer's Order number must be plainly marked on all invoices, packages, bills of lading and shipping orders. Packing list shall accompany each box or package shipment showing Buyer's Order number and description of material. Buyer's count or weight shall be final and conclusive on shipments. Goods shall be packed to assure against damage from weather and transportation. Shipments comprised, in whole or in part, of hazardous materials shall comply with the applicable laws and regulations in the code of Federal Regulations, Title 49, and the United States Code, Title 49. Invoices shall be mailed in triplicate to the attention of Buyer's Accounting Department immediately after each shipment. For shipments where the Buyer is responsible for payment of freight charges, the Seller shall not insure the shipment while in transit. Packing instructions, best Commercial practice.

10 Buyers Technical Representatives and Support Contractors: During the term of this Agreement, Buyer and/or, and/or Design Authority and/or the Customer and/or the End-User shall have the right to have technical representatives (the "Representatives") visit Seller's facilities and/or Seller's major subcontractors in order to observe the execution of the Agreement. Seller shall put at the disposal of the Representatives suitably furnished offices with telephone, facsimile and copying facilities. All such visits will be coordinated in advance and shall be carried out on a non-interference basis.

11 Inspection and Acceptance: All Goods and/or Services shall be subject to final inspection and test by Buyer and/or, and/or Design Authority and/or the Customer and/or the End-User, within thirty (30) days, at destinations designated in writing by Buyer. It is expressly agreed that prior payments, or inspection at source, not constitute final acceptance. If Buyer requires inspection at Seller's facility, Seller shall provide, without additional cost, all reasonable facilities, therefore. Seller will replace or repair (as directed by Buyer), within two (2) weeks from Seller's receipt of defective Good(s), any Good(s) that does not pass inspection with new Good(s), or provide a refund, per Buyer's discretion. Goods or Services will be deemed accepted after successful completion of final inspection and test.

12 Delivery: Delivery shall be made to the location specified on the Order and in accordance with INCOTERMS 2011.

- a. Seller shall give Buyer, at least seven (7) days prior notice of each Delivery date. The notice shall also include:
 - (1) The value of the shipment (copy of the Proforma Invoice, when available);
 - (2) Approximate gross weight and physical dimensions of the shipment.
- b. Buyer reserves the right to refuse or return, at Seller's risk and expense, any shipment received in advance of the Schedule, and no extra or early payment will be made by Buyer, unless otherwise provided herein or agreed to in writing.
- c. Delay in Delivery: In addition to any other right and remedies that CATS may have under the law and under this order, CATS shall have the right to deduct from the order price or to collect from the Seller as damages and not as a penalty, a sum equal to two (2) percent of the price of the Goods not delivered and/or Services not performed by the date specified in the Order for every week of delay, or any part thereof. Total delay penalty will not exceed 4% of the value of the goods not delivered on time. Buyer will notify Seller in writing regarding any delay in delivery, and Seller will be entitled to a 30-day cure period starting from the date of notification before the imposition of delay penalties by Seller. This right shall be enforceable by the sole fact of delay without any previous notification to the Supplier or other formalities or recourse to judicial proceedings.

Supplier Initials & Date _____

13 **Warranty:**

- a. Seller warrants that all Goods shall have marketable title and will conform to applicable specifications, drawings, samples and/or other descriptions given, be free from defects in material, workmanship, and design and suitable for the purposes intended by Buyer as disclosed to Seller, for a period of twelve (12) months from the time each Good is delivered to the End User, or for a total period of twenty-four (24) months from delivery to Buyer, whichever is shorter. Warranty period for latent defects is five (5) years from Acceptance. No approval of any design by Buyer furnished by Seller shall constitute a waiver by Buyer of Seller's obligations hereunder. Upon notice of any defect, Seller shall repair or replace, according to Buyer's discretion, any defective Good(s). Repair or replacement shall be carried out within a maximum period of two (2) weeks starting from the date of Seller's receipt of defective unit and ending when Buyer receives and accepts the repaired/replaced Good(s). The warranties of Seller shall run to Buyer and/or its customers and/or the end-user, and shall survive inspections, acceptance and payment. Seller shall bear all expenses whatsoever concerning the fulfillment of the warranty provisions.
- b. The Warranty Period (applicable to the repair) will automatically be extended for a period equal to the period commencing with the date of notice of a defect and ending with the acceptance by Buyer of the repaired or replaced Good(s). In no event shall the remaining Warranty period be less than six (6) months.
- c. Documentation and/or data supplied by Seller shall be complete, accurate, up-to-date, and free from errors and/or defects and/or omissions and shall enable Buyer to successfully integrate and/or operate and/or maintain the Goods and any unit thereof.
- d. If a defective or faulty hardware part and/or installation is repaired three (3) times as a result of similar or connected failures by the Seller during the warranty period, the Seller shall be liable to replace it with a new part and it shall not be entitled to repair it again unless it obtains prior written approval to do so from the Buyer.
- e. Upon notice of any error or defect in the documentation and/or data, the Seller shall within 10 (ten) days from the date of submission of notice, provide Buyer with proper documentation. In the event that the documentation and/or data incorporate information supplied by a third party, said information shall be supplied in the original form.

14 **Changes:** Buyer reserves the right, at any time, by written notice to, whether in whole or in part, make changes to this Order. Any difference in price and/or time for performance resulting from such change, whether by way of increase or decrease, will be equitably adjusted as mutually agreed to between Seller and Buyer and the Order modified in writing accordingly; provided any such claim by Seller, and the amount thereof, shall be made in writing within 10 calendar days from receipt by Seller of notice of change or be conclusively deemed waived; and provided further that nothing contained herein shall excuse Seller from proceeding with its performance under the Order as changed.

15 **Rights in Data and Know-How:**

- a. Seller shall be entitled to use Buyer Data and the Program Data (collectively the "Data") for the purpose of performing this Order only and for no other purpose. The Data shall be clearly marked as Buyer's property and shall be separately segregated from items owned by the Seller. The Seller shall maintain the Data in confidence and shall not disclose and/or transfer and/or reveal the Data to any third party. Seller may make available the Data only to those of its employees who have a "need to know" in connection with the performance of the Order.
- b. Any information proprietary to Seller and disclosed in the Goods and documentation furnished to Buyer or Services performed shall be deemed to have been disclosed as part of the consideration hereof and Buyer shall have the right to use same for any purpose and for any reason as Buyer may deem necessary and/or fit as if such information were Buyer Data.
- c. Seller shall not, without prior written consent of the Buyer, make any disclosure, news release or public announcement, denial or confirmation of same, of any part of the subject matter of this Order or in any manner advertise or publish the fact that Seller has supplied or contracted to supply to Buyer the Goods mentioned herein except as may be required to perform this Order.
- d. The provisions of this Article shall survive the termination or expiration of the Order.

16 **Termination:**

- a. For Convenience. In the event of Buyer's termination, in whole or in part, of this Agreement, including but not limited to any reduction in quantity of Deliverables, Buyer's liability to seller for terminated and un terminated parts of this Agreement, shall not exceed the applicable percentage which appears in Annex 8 for a termination at any given point in time, less the aggregate of all payments which have been made to Seller until such point in time or which would have been made, had Seller met the contractual Delivery Schedule, (relevant only for Deliverables not terminated). For such non terminated Deliverables, Seller shall deliver and Buyer shall pay in accordance with the provisions of this Agreement, as if it has not been subject to termination. In order to receive any (termination) payment: (a) Seller must provide copies of all material purchase orders (POs) related to the RSTM and must have received those materials in good condition; (b) Goods must be inspected and accepted by CATS. (c) Seller must provide Proof of Delivery (PoD) to CATS. Once the above conditions are met, the materials will become the property of CATS. In the event that applicable POs total less than \$150,000, CATS will pay only the actual amount of the POs. Under no circumstances will the termination liability exceed the Order amount.
- b. For Default. Time is of the essence for this Order. In the event of any breach of any of the terms of this Order by Seller, or in the event of any proceeding by or against Seller in bankruptcy or insolvency or for appointment of any receiver or trustee or any general assignment for the benefit of creditors, Buyer may, in addition to any other remedy it may have in law or equity, without any liability to Seller on account thereof, by written notice, terminate all or any part of this Order, procure the Goods or Service(s) elsewhere and Seller shall be liable to pay Buyer any and all excess costs and damages caused to Buyer as a result thereof.

17 **Stop Work:** Buyer may, at any time, by written instruction to Seller, require Seller to stop immediately all or any part of the Work called for by this Order for a period of up to 90 (ninety) days after the stop work order is submitted to Seller and for any further period to which the Parties may agree. Any such stop work order shall be specifically identified as a stop work order issued pursuant to this clause. Upon receipt of a stop work order, Seller shall forthwith comply with its terms and take all reasonable steps to minimize the costs allocable to the work covered by the stop work order during the period of work stoppage. Within a period of 90 (ninety) days after a stop work order is submitted to the Seller, or within any extension of that period to which the Parties have agreed, Buyer shall either: Cancel the stop work order; or terminate the Order or any part thereof by reason of Seller's default or for Buyer's convenience in accordance with the applicable provisions of this Order. If a stop work order issued by Buyer is canceled or the period of the stop work order or any extension thereof expires, Seller shall resume work.

18 **Prices and Payment Terms:** Seller by acknowledging this Order represents that its prices as stated herein are no greater than those charged any other of its customers for the same Goods or Services in like quantities; include all applicable taxes, customs and duties; will remain fixed for the entire period of performance/delivery. Terms of payment will be as specified in the Order.

19 **Optional Procurement:** Buyer has the option to procure, and Seller has right of first refusal for, an additional xx --yy serial production units at the same unit price and conditions of this Order. This option shall remain valid and in effect until DD/MM/YYYY.

20 **Record Retention:** Seller shall retain all records that may require future reference for any reason for a minimum of 7 years, or as stated by Buyer. Inspection data, test data, outside process data, and all data applicable to this Order.

21 **New Materials:** Seller Warrants that the delivered Goods and any part thereof, will be new and not used or reconditioned.

22 **Indemnity:**

- a. Seller acknowledges that the Goods being manufactured under this Order are pursuant to detailed specifications furnished by Buyer. Furthermore, while the Seller is designing the Goods per Buyer furnished specifications, Seller hereby confirms that it has not and will not knowingly infringe upon any third party's intellectual property rights in the process. Seller shall defend, hold harmless and indemnify Buyer from and against any allegation, claim, liability, demand, suit or the like pertaining to any wrong-doing by Seller, should it be determined that Seller knowingly infringed upon any third party's intellectual property rights.
- b. The provisions of this article shall survive the termination or expiration of the Order.

23 **Subcontracting:** Sub-Contractors who take part in performing Seller's obligations pursuant to the provisions of this Agreement (hereinafter: "The Sub-Contractors"), as well as their scope of work will be brought to the Buyer attention in advance. Primary Sub-Contractors require the Buyer's advance and written approval. (Primary Sub-Contractors means a US sub-contractor whereby the purchase from it was financed by FMF funds and who received from the Seller an order for a sum exceeding 500,000 Dollars or whose approval was required pursuant to the US FMF rules).

24 **Assignment:** In entering into this Order, Buyer is relying on the expertise and reputation of Seller. The obligations set forth herein are personal in nature. Seller may not assign its rights and obligations under the Order, including without limitation, claims for money due and/or money damages for non-performance. A change of control of Seller shall constitute an impermissible assignment. Any attempted assignment shall be void. The above notwithstanding, Buyer may assign this Agreement to its parent company and/or to a subsidiary thereof.

25 **Insurance:** Seller shall, at its own expense, provide and maintain during the entire performance of this Agreement adequate levels of workers' compensation, employer's liability, general public liability, product and completed operations liability, comprehensive automobile liability (bodily injury and property damage) insurance and such other insurance as Seller may specifically require to have under this Agreement.

Supplier Initials & Date _____

26. **Support After Termination or Expiration:** Seller agrees that for the term of this Agreement as well as for a period of five (5) years after termination of the Warranty Period for the last Deliverable Item (the "Support Period"), it shall retain under its control technical personnel who are experts in the, manufacture and trouble-shooting of the Deliverables. Such personnel shall be available to render technical assistance to Buyer upon request. Such technical assistance, which will be limited to assistance by telephone, fax or correspondence, shall be supplied during Seller's normal business hours. In addition, Seller shall notify Buyer by written notice immediately upon receipt of discontinuance notification from an original component manufacturer. The Seller shall provide the Buyer with sufficient data and information to facilitate "Last Buy" action by Buyer from the original manufacturer.
27. **US Government Approvals and Export Licenses:** Buyer shall be responsible for obtaining any necessary export licenses to assure full compliance with the U.S. International Traffic in Arms Regulations (ITAR).
28. **Force Majeure:** If a Force Majeure results in any delay of this Order by more than 60 (sixty) days, Buyer may terminate this Order in whole or in part and the provisions of Article 12 ("Termination for Convenience") shall apply except that Seller shall not be entitled to any profit for such termination.
29. **Waiver:** No waiver by Buyer of any terms or conditions of this Order, shall be or be construed to be a continuing waiver, nor deprive Buyer of the right to reassert or rely upon any such Goods or conditions thereafter.
30. **Venue and Governing Law:** This Order shall be deemed to have been executed in Orlando, Florida, and shall be governed by the laws of the State of Florida, and applicable Federal Laws of the United States.
31. **Miscellaneous:** Warranty, pricing, offset, special tooling, indemnity, non-disclosure, and venue and governing law provisions shall survive the term of this Order. Paragraph headings are for reference purposes only. Should any provision of this Order be determined to be unenforceable or unlawful, the remaining provisions of this Order shall remain in full force and effect.

ACCEPTED AND AGREED TO:

 (Type Subcontractor Name)

By: _____
 (Signature)

 (Type Name)

 (Title)

 (Date)

Supplier Initials & Date _____

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Supplier Initials & Date _____