

**PERATON INC**  
**STANDARD COST REIMBURSEMENT TERMS AND CONDITIONS AND FAR/DFARS/NFS/FAA AMS FLOWDOWN PROVISIONS**

*For Subcontracts and Purchase Orders For Non-Commercial Items Under a U.S. Government Contract*

**ITEM 1 - ARTICLES APPLICABLE TO ALL ORDERS**

**DEFINITIONS AND RULES OF CONSTRUCTION**

As used throughout this Purchase Order, the following terms are defined as specified below unless otherwise specifically stated:

“AMS” means the Federal Aviation Administration’s Acquisition Management System.

“Buyer” means Peraton Inc, an incorporation organized and existing under the laws of the state of Maryland, and all of its wholly owned subsidiaries and affiliates.

“Buyer’s Representative” means the agent of Buyer with the actual authority to make legally binding commitments on behalf of Buyer, such as a procurement representative or subcontract administrator.

“Day” or “Days” means calendar day(s). All periods of days referred to in this Order shall be measured in calendar days. Where a date referenced in this Order falls on a weekend or federal holiday, the date shall be deemed to fall on the next business day.

“DFARS” means the Defense Federal Acquisition Regulation Supplement.

“FAA” means the Federal Aviation Administration.

“FAR” means the Federal Acquisition Regulation.

“Item” means goods, parts, components, supplies, or items including, without limitation, those part numbers model numbers, and/or descriptions set forth on the face of this Order and any Services supplied with them, and shall also include computer software or hardware (including any software, firmware or other hardware logic embedded within the hardware) delivered or to be delivered under this Order. It shall also include Services not supplied with Items as the context requires.

“Government” means the Government of the United States, unless otherwise specified.

“Government Contract” means one of Buyer’s contracts with the Department of Defense, National Aeronautics and Space Administration (“NASA”), the National Security Agency (“NSA”), FAA or any other agency of the United States including without limitation the Department of Homeland Security and the General Services Administration.

“NFS” means the National Aeronautics and Space Administration (“NASA”) FAR Supplement.

“NSA” means the National Security Agency.

“Parties” means Buyer and Seller, and, if the context requires, their employees, officers, agents (including without limitation, carriers and riggers), subcontractors, wholly-owned subsidiaries, and others acting at their respective direction and control or under contract to either.

“Purchase Order” or “Order” means this contractual instrument, or any Purchase Order issued hereunder, including written change notices, supplements, amendments, or other written modifications thereto, together with any referenced certifications, certificates (including Seller’s Annual Certification), exhibits, attachments or other documents, as well as the Subcontract (if any) and includes these terms and conditions, and the Statement of Work, if any.

“Seller” means the legal entity performing work pursuant to this Order and, if the context requires, its employees, officers, agents (including without limitation, carriers and riggers), subcontractors, and others acting at its direction and control or under contract to it.

“Seller’s Annual Certification” means the certifications and representations set forth in Peraton’ Annual Certification document, attested to and executed by a duly authorized representative of Seller’s company.

“Services” means any effort supplied by Seller incidental to the sale of Items by Seller under this Order including, without limitation, installation, repair, and maintenance services. The term “Services” shall also include, without limitation, any effort specifically required by this Order, including all

associated efforts such as design, engineering, repair, maintenance, technical, construction, consulting, professional, or other services.

**1. CONTENTS AND ORDER OF PRECEDENCE:** This Order integrates, merges, and supersedes any prior offers, negotiations, and agreements concerning the subject matter hereof and constitutes the entire agreement between the Parties and shall govern the performance and/or delivery of Items and/or Services provided pursuant to the Order. The provisions of this Order shall be construed and interpreted as consistent whenever possible. Any conflicts in this Order shall be resolved in accordance with the following descending order of precedence

- (a) the Purchase Order;
- (b) these Terms and Conditions (which are incorporated by reference in any Purchase Order issued hereunder); and
- (c) the Statement of Work.

These Terms and Conditions shall be construed and interpreted as consistent whenever possible. In the event of a conflict in the Articles contained in ITEM 1 and applicable clauses contained in ITEM 2, the applicable clauses in ITEM 2 shall control to the extent necessary for Buyer to comply with Buyer’s Government Contract. No other document supersede FAR and DFARS clauses when the prime is with the Government.

**2. ACCEPTANCE OF THIS ORDER:** Any of the following acts by Seller shall constitute acceptance of this Order, regardless of whether Buyer has received a signed Order from Seller:

- (a) execution of the acceptance copy of this Order and receipt by Buyer;
- (b) initiation of any aspect of performance, or notification to Buyer that Seller is commencing performance, under this Order;
- (c) shipping of any Items in performance of this Order; or
- (d) acceptance of any form of payment, partial or complete, under this Order.

Any additional or different terms proposed by Seller, including any contained in Seller’s acknowledgment form, are rejected unless expressly agreed to in writing by Buyer’s Representative.

Seller’s staff shall perform such work as may be ordered by Buyer. The entire direction, scope, control, and interpretation of any work to be performed by Seller’s staff shall be made exclusively and solely at the discretion of Buyer. Seller shall at all time employ persons to perform the tasks who are fully experienced and properly qualified to perform the same.

In accordance with the Department of Defense Priorities and Allocations Systems (“DPAS”), codified at 15 C.F.R. § 700, Seller must sign and return the Order acceptance copy within ten (10) working days of Seller’s receipt if this Order is DX rated, within fifteen (15) working days after receipt if DO rated. For unrated Orders, Seller shall sign and return the Order acceptance copy within ten (10) days after receipt.

**3. ALLOWABLE COST, PAYMENT AND CLOSE-OUT:**

- (a) Hourly rate.
  - (1) Hourly rate means the rate(s) prescribed in the Order for payment for labor that meets the labor category qualifications of a labor category specified in the contract that are—
    - (i) Performed by Seller;
    - (ii) Performed by Seller’s subcontractor; or
    - (iii) Transferred between divisions, subsidiaries, or affiliates of Seller under a common control.
  - (2) The amounts shall be computed by multiplying the number of direct labor hours performed by the appropriate hourly rates prescribed in the face of the Purchase Order or an attachment thereto, which shall specify the labor categories, the billing rate for each labor category and the period of performance.
  - (3) The hourly rates shall be paid for all labor performed on the contract that meets the labor qualifications specified in the contract. Labor hours incurred to perform tasks for which labor qualifications were specified in the contract will not be paid to the extent the work is performed by employees that do not meet the qualifications specified in the contract, unless specifically authorized by the Contracting Officer.
  - (4) The hourly rates shall include wages, indirect costs, general and administrative expense, and profit. Fractional parts of an hour shall be payable on a prorated bases.
- (b) Materials. Material costs shall be reimbursed at actual acquisition cost incurred excluding any burden indirect overhead rate application unless specifically authorized on the face of the Purchase Order or an attachment thereto, in which case the invoice shall include the percent

and dollar amount of such burden amount. Fee shall not be charged for any material. To the extent able, Seller shall—

- (1) Obtain materials at the most advantageous prices available with due regard to securing prompt delivery of satisfactory materials; and
- (2) Take all cash and trade discounts, rebates, allowances, credits, salvage, commissions, and other benefits. When unable to take advantage of the benefits, Seller shall promptly notify Buyer's Representative and give the reasons. Seller shall give credit to Buyer for cash and trade discounts, rebates, scrap, commissions, and other amounts that have accrued to the benefit of Seller, or would have accrued except for the fault or neglect of Seller. Seller shall not deduct from gross costs the benefits lost without fault or neglect on the part of Seller, or lost through fault of Buyer.

(c) Invoicing.

- (1) Buyer will make payments in amounts determined to be allowable by Buyer's Representative in accordance with Federal Acquisition Regulation (FAR) Subpart 31.2 and agency supplements as appropriate in effect on the date of this Order and the terms of this Order as set forth in Article 26 herein. If the Order is with an educational institution, FAR Subpart 31.3 shall apply; if with a nonprofit organization other than an educational institution, FAR Subpart 31.7 shall apply.
- (2) Contract financing payments are not subject to the interest penalty provisions of the Prompt Payment Act. Interim payments made prior to the final payment under the Order are contract financing payments, except interim payments if this Order contains Alternate I to the clause at 52.232-25.
- (3) Seller shall issue a separate invoice, in English, for each shipment or each billing period. Payments will be made from "Original" invoices only. Fax copies, statements, or invoice copies will not be accepted. "Duplicate Original" invoices must not be sent without prior authorization from Buyer. Unless otherwise instructed by Buyer, each invoice shall include:
  - (i) Buyer Purchase Order Number and Line number;
  - (ii) Buyer Line Description (as referenced on the Order);
  - (iii) the Unit Price and Total Price for material;
  - (iv) Seller's invoice number and date;
  - (v) the payment terms as agreed by the Parties and stated in the Purchase Order;
  - (vi) the hours expended in each labor category toward each Service;
  - (vii) a description of the Services provided;
  - (viii) the applicable billing rate for each labor category of Service;
  - (ix) extended amount (hours multiplied by rate) by labor category, and the sum total amount for the Services performed;
  - (x) the period of performance for the invoice; and
  - (xi) any fee authorized to be charged under the subcontract.
- (4) Unless otherwise noted by Buyer's Purchase Order, only billable hours will be invoiced. All billable hours will be invoiced at the standard rate (an/or the rate negotiated at the time of Buyer's issuance of the Purchase Order), regardless of the number of billable hours per week. If required by Buyer, Seller agrees to notify Buyer promptly of any proposed overtime that may be required under this Order. In no event shall Seller perform any work under this Order on an overtime basis without the prior written authorization of Buyer.
- (5) Seller will substantiate invoices by evidence of actual hours incurred via Buyer approved timesheets, or such other substantiation approved by Buyer. Documentation supporting the amount invoiced for material shall also be included.
- (6) Each payment made shall be subject to reduction to the extent of amounts which are found by Buyer or Seller not to have been properly payable, and shall also be subject to reduction for overpayments. Seller shall promptly notify Buyer of any such overpayments found by Seller. Buyer, and any affiliate of Buyer, may withhold, deduct and/or setoff all money due, or which may become due, from Buyer or any affiliate of Buyer, arising out of Seller's performance under this Order or any other transaction Buyer and its affiliates may have with Seller.
- (7) If Buyer chooses to make interim payments for Order financing, Buyer will make such payments on the 60<sup>th</sup> day after the payment office designated on the Purchase Order receives a proper payment request. In the event that Buyer or Buyer's Customer requires an audit or other review of a specific payment request to ensure compliance with the terms and conditions of the Order, Buyer is not compelled to make payment by the specified due date.
- (8) Payment terms begin upon Buyer's receipt of an acceptable invoice. Payments are not scheduled based upon the date of

Seller's invoice. Seller must correctly indicate agreed upon terms in each invoice compliant with the terms set forth on the face of the Purchase Order. Any applicable discount period will run from the date of receipt of a correct invoice to the date Buyer issues a check.

- (d) Total cost. Buyer shall not be obligated to pay Seller for amounts in excess of the Funded Value of this Order as set forth on the face of Order or any duly authorized modifications. If at any time Seller has reason to believe that the hourly rate payments and material costs that will accrue in performing this contract in the next succeeding 60 days, if added to all other payments and costs previously accrued, will exceed 75 percent of the Funded Value the Order, Seller shall immediately notify Buyer to that effect and shall provide a current estimate for completion. If the estimate is greater than the Funded Value, the estimate for completion shall contain the hours and billing rate by labor category, material cost and material burden (if applicable) separately for costs to date, estimate to complete and total together with supporting reasons and documentation.
- (e) Final payment and close-out. Following completion of work and before final payment, Seller shall comply with the close-out procedure set forth in this Order.
- (f) No subcontract placed under this Order shall provide for payment of a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-reimbursement subcontracts shall not exceed the fee limitations in paragraph 15.404-4(c)(4)(i) of the FAR.

**4. FEE:**

- (a) Fixed Fee:
  - (1) If applicable, Buyer shall pay Seller for performing this Order the fixed fee specified in the Order.
  - (2) Payment of the fixed fee shall be made as specified in the Order; provided, that after payment of 85 percent of fixed fee, Buyer may withhold further payment of fee until a reserve is set aside in an amount that Buyer considers necessary to protect the Buyer's interest. This reserve shall not exceed 15 percent of the total fixed fee or \$100,000, whichever is less.
- (b) Incentive Fee: If applicable, Buyer shall pay Seller for performing this Order a fee determined as follows:
  - (1) *General.* Buyer shall pay Seller for performing this Order a fee determined as provided in this Order.
  - (2) *Target cost and target fee.* The target cost and target fee specified in the Schedule are subject to adjustment if the Order is modified in accordance with paragraph (d) of this clause.
    - (i) "Target cost," as used in this Order, means the estimated cost of this Order as initially negotiated, adjusted in accordance with paragraph (d) of this clause.
    - (ii) "Target fee," as used in this Order, means the fee initially negotiated on the assumption that this Order would be performed for a cost equal to the estimated cost initially negotiated, adjusted in accordance with paragraph (d) of this clause.
- (3) Withholding of payment – Normally, Buyer shall pay the fee to Seller as specified in the Schedule. However, when Buyer considers that performance or cost indicates that Seller will not achieve target, Buyer shall pay on the basis of an appropriate lesser fee. When Seller demonstrates that performance or cost clearly indicates that Seller will earn a fee significantly above the target fee, Buyer may, at the sole discretion of Buyer, pay on the basis of an appropriate higher fee. After payment of 85 percent of the applicable fee, Buyer may withhold further payment of fee until a reserve is set aside in an amount that Buyer considers necessary to protect Buyer's interest. This reserve shall not exceed 15 percent of the applicable fee or \$100,000, whichever is less.
- (4) *Equitable adjustments.* When the work under this Order is increased or decreased by a modification to this Order or when any equitable adjustment in the target cost is authorized under any other clause, equitable adjustments in the target cost, target fee, minimum fee, and maximum fee, as appropriate, shall be stated in a supplemental agreement to this Order.
- (5) Fee payable.
  - (i) The fee payable under this Order shall be the target fee increased by [insert] cents for every dollar that the total allowable cost is less than the target cost or decreased by [insert] cents for every dollar that the total allowable cost exceeds the target cost. In no event shall the fee be greater than [insert] percent of the target cost.
  - (ii) The fee shall be subject to adjustment, to the extent provided in paragraph (d) of this clause, and within the minimum and maximum fee limitations in paragraph (e)(1) of this clause, when the total allowable cost is increased or decreased as a consequence of—
    - (A) Payments made under assignments; or

- (B) Claims excepted from the release as required by paragraph (h)(2) of the Allowable Cost and Payment clause.
- (iii) If this Order is terminated in its entirety, the portion of the target fee payable shall not be subject to an increase or decrease as provided in this paragraph. The termination shall be accomplished in accordance with other applicable clauses of this Order.
- (iv) For the purpose of fee adjustment, "total allowable cost" shall not include allowable costs arising out of—
  - (A) Any of the causes covered by Article 17 "Delays and Notice of Labor Disputes" to the extent that they are beyond the control and without the fault or negligence of Seller or any subcontractor of Seller;
  - (B) The taking effect, after negotiating the target cost, of a statute, court decision, written ruling, or regulation that results in Seller's being required to pay or bear the burden of any tax or duty or rate increase in a tax or duty;
  - (C) Any direct cost attributed to Seller's involvement in litigation as required by Buyer pursuant to a clause of this Order, including furnishing evidence and information requested pursuant to Article 27 "Patent/Intellectual Property Indemnity by Seller";
  - (D) The purchase and maintenance of additional insurance not in the target cost and required by Buyer, or claims for reimbursement for liabilities to third persons pursuant to Article 22 "Risk of Damage/Indemnification/Insurance";
  - (E) Any claim, loss, or damage resulting from a risk for which the Seller has been relieved of liability by Article 35 "Furnished Property"; or
- (v) All other allowable costs are included in "total allowable cost" for fee adjustment in accordance with this paragraph (e), unless otherwise specifically provided in this Order.
- (6) *Order modification.* The total allowable cost and the adjusted fee determined as provided in this clause shall be evidenced by a modification to this Order signed by Seller and Buyer.
- (c) *Award Fee:* The Award Fee criteria, if applicable, are contained in the face of the Purchase Order.

**5. ARTICLE HEADINGS:** The headings and subheadings of Articles contained herein are used for convenience and ease of reference and do not limit the scope or intent of the Article.

**6. ASSIGNMENT AND SUBCONTRACTING:** Neither this Order itself, nor any interest or obligation hereunder, shall be assigned or transferred by Seller without the prior written consent of Buyer. Seller shall not subcontract the furnishing of any of the complete or substantially complete Items or Services required by this Order, without the prior written approval of Buyer; however, this Article shall not be construed to require the approval of contract of employment between Seller and personnel assigned for Services hereunder. **Assignment and Subcontracting:** Seller shall flow down all applicable requirements, including Buyer's customer's requirements and the clauses set forth in ITEM 2, to Seller's subcontractors and assignees, if any. Seller further agrees to select subcontractors (including vendors or suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of this Purchase Order. Seller shall remain primarily responsible for the performance of obligations which it subcontracts hereunder and shall reasonably supervise such work. However, Seller may assign rights to be paid amounts due, or to become due, to a financing institution if Buyer is promptly furnished a signed copy of such assignment reasonably in advance of the due date for payment of any such amounts. Amounts assigned to an assignee shall be subject to setoffs or recoupment for any present or future claims of Buyer against Seller. Buyer shall have the right to make settlements and adjustments in price with Seller without notice to the assignee. Seller shall give Buyer immediate written notice of any action or suit filed and prompt notice of any claim made against Seller by any subcontractor or vendor that, in the opinion of Seller, may result in litigation related in any way to this Order, with respect to which Seller may be entitled to reimbursement from Buyer. Buyer may assign this Order, at no cost to Buyer, to any affiliated company, any successor in interest, or Buyer's customer.

**7. AUDIT, INSPECTION OF RECORDS:** Buyer and Buyer's Customer, including the Government and regulatory authorities, if Buyer agrees with the customer's request to audit Seller's records or Buyer is otherwise obligated to grant the customer access to records, shall have the right to audit Seller's records: (a) in the event of cancellation, termination, or default; (b) in connection with any equitable adjustment request; (c) with respect to any Order for which the price is based on time and cost of material or where the terms of this Order, law and regulation, or applicable standard, including the

AS9100, otherwise entitle Buyer and/or its Customer to audit Seller's records and/or facilities, including the records and/or facilities of Seller's assignees or subcontractors, if any; (d) in connection with internal investigations of alleged violations of law including the U.S. Foreign Corrupt Practices Act; or (e) any type of litigation. Seller shall keep reasonably detailed records of direct labor costs, material costs, and all other costs of the performance of this Order for a period of no less than four (4) years from the date of final payment or termination of any warranty or Item support under this Order, whichever is later. Seller shall provide Buyer, Buyer's Customer and regulatory authorities access to all facilities involved in the Order and to all applicable records.

**8. BANKRUPTCY:** If Seller enters into proceedings relating to bankruptcy, whether voluntary or involuntary, Seller shall furnish by certified mail written notification of the bankruptcy to Buyer. This notification shall include the date on which the bankruptcy petition was filed and the identity of the court where the bankruptcy petition was filed.

**9. BUYER'S RIGHT TO USE INFORMATION DISCLOSED BY SELLER:** Unless otherwise expressly set forth in this Order or a separate written agreement, Buyer shall have the right to use, for any purpose, information concerning Seller's items, manufacturing methods or processes which Seller has disclosed to Buyer, without restrictions, prior to or during the performance of this Order. In the event of a conflict between the terms of this Article and the terms and conditions of any separately executed and applicable Non-Disclosure Agreement between Buyer and Seller, the terms and conditions of the Non-Disclosure Agreement shall control.

**10. APPLICABLE LAW AND DISPUTES:** This Agreement shall be construed and governed in accordance with the Commonwealth of Virginia, excluding its choice of law statutes. Jurisdiction and venue for any suit between THE PARTIES hereto arising out of or connected with this Agreement, or the Services and Products furnished hereunder, shall be in Fairfax County, Virginia., except that any clause in ITEM 2 of this Order (i.e., FAR, DFARS, NFS, FAA AMS or other U.S. Government contract clauses and certifications) shall be construed and interpreted according to the federal common law of government contracts as enunciated and applied by federal judicial bodies, boards of contract appeals, and quasi-judicial agencies of the Federal government.

Seller consents to personal jurisdiction in the Commonwealth of Virginia and any litigation under this Order, if commenced by Seller, must be brought exclusively in a Court of competent jurisdiction in Fairfax County, Virginia, without regard to conflicts of law principles. The Parties hereby mutually agree to waive their respective rights to trial by jury. The rights and remedies herein reserved to Buyer shall be cumulative and additional to any other or further rights and remedies provided in law or equity. Subject to any specific provisions in this Order, including clause 46(e), Seller shall be liable for any damages incurred by Buyer as a result of Seller's failure to perform its obligations in the manner required by this Order.

The Parties specifically disclaim application to this Order of the United Nations Convention on Contracts for the International Sale of Goods.

**11. CHANGES AND EQUITABLE ADJUSTMENTS:**

- (a) Buyer may at any time and without notice to third parties, including sureties (if any), by written instructions from Buyer's Representative to Seller, unilaterally make changes to these terms and conditions and/or in the Services to be performed or the Items to be furnished hereunder in any one or more of the following:
  - (1) drawings, designs or specifications;
  - (2) method of shipment or packing;
  - (3) time and/or place of delivery, inspection or acceptance,
  - (4) the quantity of Items ordered or Services to be performed;
  - (5) the statement of work;
  - (6) method or manner of performance of the work; and
  - (7) property, facilities, equipment, or materials, to be provided under this Order.

During performance of this Order, Seller shall not make any changes in the Services to be performed or in the design of Items or manufacturing of Items to be furnished by Seller under this Order, including any changes to the process, manufacturing location, or use of suppliers, without advance notification to and written approval of Buyer. Items or Services that have changed without prior notification and consent shall be nonconforming Items or Services under this Order. Changes shall not be binding upon Buyer, except when confirmed in writing by a member of Buyer's Representative. The issuance of information, advice, approvals or instructions by Buyer's technical personnel or other representative shall be deemed expressions of personal opinion only, and shall not affect Buyer's and Seller's rights and obligations hereunder, unless the same is in writing signed by Buyer's Representative and which expressly states that it constitutes an amendment to this Order. If Seller considers that Buyer's conduct constitutes a change, Seller shall notify Buyer's Representative immediately in writing as to the nature of such conduct and its effect upon Seller's performance.

- (b) If any change under this Article causes an increase or decrease in the allocation of hours by labor category, change to material costs anticipated or the time required for performance of the Order, an equitable adjustment to the estimated cost, amount of any fixed fee and/or delivery schedule may be made and the Order modified in writing accordingly, provided however, that any equitable adjustment in price to which Seller may be entitled as a result of an increase in the quantity of Items or Services ordered shall not exceed the funded value or unit price established for such Items or Services herein. Any claim by Seller for adjustment must be submitted in writing in the form of a complete change proposal, fully supported by factual information to Buyer's Representative within fifteen (15) days from the date Buyer issued the change order. Buyer may, in its sole discretion, increase the funded value and may consider any such claim regardless of when asserted, except that no claim for equitable adjustment shall be allowed after final payment of this Order. Consistent with Article 10, for any claims seeking an equitable adjustment or other relief in excess of \$100,000 submitted by Seller under this Order, Seller shall submit to Buyer a signed certificate that states as follows, substituting Seller's legal name where indicated:

"I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the Order adjustment for which [Seller] believes Buyer is liable; and that I am duly authorized to certify the claim on behalf of [Seller]."

If requested by Buyer, Seller shall identify that portion of its claim for which it believes the Government is liable and shall execute the certification above, substituting "the Government" for "Buyer" as to such amount.

If Buyer and Seller are unable to agree upon an equitable adjustment in the event of any change directed by Buyer, the matter will be resolved in accordance with the disputes provisions of Article 10. Nothing contained herein, including failure of the Parties to agree upon any equitable adjustment to be made under this Article, shall excuse Seller from proceeding without delay with the Order as changed by Buyer's written direction.

- (c)
- (1) Notwithstanding any other provisions in this Order, any decision of the Contracting Officer under Buyer's Government Contract which binds Buyer shall bind both Buyer and Seller to the extent that it relates to this Order.
  - (2)
    - (i) Seller will pay all direct costs and expenses of any such appeal reasonably incurred by Buyer in providing assistance to Seller in Seller's appeal.
    - (ii) Seller will be solely responsible for prosecuting the appeal and preparing and presenting all pleadings, evidence and argument, and
    - (iii) Seller will provide monthly written reports to Buyer of the progress of the appeal and will furnish Buyer copies of all pleadings and non-privileged correspondence filed or received by it concerning the appeal.
  - (3) Any decision upon such appeal, when final, shall be binding upon Seller.
  - (4) Seller shall indemnify and save harmless from any and all liability of any kind incurred by or imputed to Buyer under Section 5, "Fraudulent Claims," of the Contract Disputes Act of 1978, as amended, if Seller is unable to support any part of its claim and it is determined that such inability is attributable to fraud or misrepresentation of fact on the part of Seller.
  - (d) Pending any prosecution, appeal, or final decision or settlement of any dispute arising under this Order, Seller shall proceed diligently, as directed by Buyer, with the performance of this Order.
  - (e) Nothing in this clause nor any authorization or offer that may be made shall be deemed to constitute acceptance or acknowledgment by Buyer of the validity of Seller's claim or any part thereof, nor be deemed to limit or in any way to restrict Buyer from taking any actions, including available remedies, it deems appropriate to protect its own interests.
  - (f) As used in this clause, the word "appeal" means an appeal taken under the Contract Disputes Act of 1978, as amended.
  - (g) Notwithstanding the foregoing provisions of this Article, if this Order is incrementally funded, the funds allotted for the performance thereof shall not be increased or deemed to be increased except by specific written modification of this Order indicating the new funded value. Until such modification is made, Seller shall not be obligated to continue performance or incur costs beyond the point established in FAR 52.232-20 or FAR 52.232-22, whichever is applicable.
  - (h) In no event shall the Seller acquire any direct claim or direct course of action against the United States Government.

**12. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS:** Seller agrees to comply with all applicable national, state, provincial and local

laws, orders, rules, regulations, and ordinances. Seller shall procure all licenses/permits, pay all fees, and other required charges and shall comply with all applicable guidelines and directives of any local, state and/or federal government authority.

- (a) Buyer may proceed as provided for in subparagraph (c) below if, as a result of any violation of applicable laws, orders, rules, regulations, or ordinances by Seller, its officers, employees, agents, suppliers, or subcontractors at any tier:
- (1) Buyer's contract price or fee is reduced;
  - (2) Buyer's costs are determined to be unallowable;
  - (3) any fines, penalties, withholdings, or interest are assessed on Buyer; or
  - (4) Buyer incurs any other costs or damages.
- (b) Buyer may also proceed as provided for in subparagraph (c) below where submission of cost or pricing data is required or requested at any time prior to or during performance of this Order, if Seller or its lower-tier subcontractors:
- (1) submit and/or certify cost or pricing data that are defective with notice of applicable cutoff dates; and
  - (2) upon Buyer's request to provide cost or pricing data, submit cost or pricing data, whether certified or not certified at the time of submission, as a prospective subcontractor, and any such data are defective as of the applicable cutoff date on Buyer's Certificate of Current Cost or Pricing Data;
  - (3) claim an exception to a requirement to submit cost or pricing data and such exception is invalid;
  - (4) furnish data of any description that is inaccurate; or,
  - (5) if the U.S. Government alleges any of the foregoing, and, as a result:
    - (i) Buyer's contract price or fee is reduced;
    - (ii) Buyer's costs are determined to be unallowable;
    - (iii) any fines, penalties, withholdings, or interest are assessed on Buyer; or
    - (iv) Buyer incurs any other costs or damage.
- (c) Upon the occurrence of any of the circumstances in subparagraphs (a) and (b) above, other than withholdings identified in paragraphs (b)(5)(ii) and (iii), Buyer may make a reduction of corresponding amounts (in whole or in part) in the price of this Order or any other contract with Seller, and/or may demand payment (in whole or in part) of the corresponding amounts. Seller shall promptly pay amounts so demanded. In the case of withholding(s), Buyer may withhold the same amount from Seller under this Order.

**13. COMPLIANCE WITH THE U.S. FOREIGN CORRUPT PRACTICES ACT:** Seller warrants and represents that it is familiar with and will strictly comply with the requirements of the U.S. Foreign Corrupt Practices Act of 1977, as amended. Seller will not offer, pay or promise to pay, give, or authorize payment of any money or anything of value to any government or public official (including political parties, officials or candidates for political office) for the purpose of influencing any act or decision of such official in his official capacity, including failure to perform his official function. Seller agrees that no expenditures for other than lawful purposes will be made with respect to the performance of this Order.

**14. GRATUITIES/KICKBACKS:** No gratuities (in the form of entertainment, gifts, travel, or anything of value) or kickbacks shall be offered or given by Seller or by any agent, representative, affiliate or subcontractor of Seller to any officer or employee of Buyer's customer or Buyer. This restriction specifically prohibits the direct or indirect inclusion of any kickback amounts in any invoices or billings submitted under this Order or any other agreement with Buyer. Buyer may, by written notice to Seller, immediately terminate the right of Seller to proceed under this Order if it is found that gratuities (in the form of entertainment, gifts, travel or anything of value) or kickbacks were offered or given by Seller, or by any agent or representative of Seller, to any officer or employee of Buyer's customer or Buyer.

**15. CONFIDENTIAL RELATIONSHIP:** Seller shall treat as proprietary and confidential all specifications, drawings, blueprints, nomenclature, samples, models and other information supplied by Buyer, except for any such information provided by the Government or to which the Government has other than unlimited rights, in which case Seller shall use and disclose the information in accordance with applicable provisions and/or restrictive markings concerning Seller's use and disclosure of such information. Unless the written consent of Buyer is first obtained, Seller shall not in any manner advertise, publish, or release for publication, including without limitation by news releases, articles, brochures, advertisements, or speeches, any statement mentioning Buyer or the fact that Seller has furnished or contracted to furnish to Buyer Items and/or Services required by this Order, or quote the opinion of any employees of Buyer. Seller shall not disclose any information relating to this Order to any person not authorized by Buyer to receive it. Seller shall use the information supplied by Buyer only to accomplish work covered by this Order and for no other purpose. Upon completion, all information is to be



returned to Buyer upon Buyer's written request. In the event of a conflict between the terms of this Article and the terms and conditions of any separately executed and applicable Non-Disclosure Agreement between Buyer and Seller, the terms and conditions of the Non-Disclosure Agreement shall control.

Seller is expressly prohibited from communicating with Buyer's Customer with respect to Buyer's Government Contract and/or the Order, including any discussion of management issues, pricing, payments, specific tasking or Seller's performance of Orders, without Buyer's prior express consent. However, nothing in this Article 18 shall be construed to restrict (1) the discussion of day-to-day operational issues, or (2) limit Seller's communications with Buyer's Customer pursuant to FAR 52-203-6. Any authorized communications, other than those expressly provided for herein, between Seller and Buyer's Customer shall be conducted in the presence of Buyer's Representative unless otherwise agreed by the Parties.

#### 16. TERMINATION:

- (a) Default. Buyer may terminate this Order for default in whole or in part by written notice to Seller if:
  - (1) Seller becomes insolvent or makes a general assignment for the benefit of creditors;
  - (2) a petition under any bankruptcy act or similar statute is filed by or against Seller and not vacated within ten (10) days after it is filed;
  - (3) Seller fails to make delivery of the Items or to perform the Services within the time specified in this Order;
  - (4) Seller fails to perform any of the other obligations of this Order, or fails to make progress, so as to endanger performance of this Order, in accordance with its terms;
  - (5) Seller's financial condition endangers completion of performance, (provided with respect to (4) and (5) Seller fails to remedy any such condition within seven (7) days from the date of receipt of a notice from Buyer concerning the existence of the condition);
  - (6) it is found that gratuities (in the form of entertainment, gifts, travel or anything of value) or kickbacks were offered or given by Seller, or by any agent or representative of Seller, to any officer or employee of Buyer's customer or Buyer; or
  - (7) control of Seller changes. A change of control includes: (a) the sale, lease or exchange of a substantial portion of Seller's assets used for the production of the Items; (b) the sale or exchange of a controlling interest in the shares of Seller; or (c) the execution of a voting or other change of control. Seller will provide Buyer with written notice of change of control within ten (10) days after the change of control has become effective. Buyer will have sixty (60) days from the date that Buyer receives written notice from Seller within which to notify Seller of its decision to terminate this Order. The effective date of the termination will be no sooner than thirty (30) days after the effective date of the written notice of termination according to the terms of notice;
  - (8) Seller fails to agree upon any deletion, amendment, or addition to this Order which is required by statute, executive order, applicable regulations, or is otherwise deemed appropriate by Buyer as a result of or relating to a modification of Buyer's Government Contract;
  - (9) Seller is sanctioned, suspended, or debarred by the Government;
  - (10) it is found that Seller has a potential, actual or apparent personal or organizational conflict of interest related to or arising out of its performance of this Order and Buyer determines that such conflict(s) cannot be adequately avoided or mitigated;
  - (11) Seller's business systems are deemed inadequate by the Defense Contract Audit Agency or the Defense Contract Management Agency; or
  - (12) if the Government does not consent to the award of the Order or subcontract.
- (b) Termination for Convenience
  - (1) Buyer may terminate this Order for its convenience in accordance with FAR 52.249-6 (May 2004) except as otherwise noted, replace "Government" with "Buyer" and "Contracting Officer" with "Buyer's Representative".
  - (2) The proposed settlement invoice shall be submitted to Buyer's Representative within 30 days with full supporting documentation for all costs claimed.
  - (3) If this Order is terminated for convenience solely by Buyer, audits and examinations of records, as required by Buyer, shall be performed by Buyer or an independent certified public accounting firm, mutually acceptable to Buyer and Seller. The cost of independent audits and examinations of records shall be paid by Buyer. Notwithstanding anything to the contrary, Buyer shall not be liable for special or consequential damages.
- (c) Applicable Procedures
  - (1) In the event Buyer terminates this Order for default, in whole or in part, Buyer may procure, upon such terms and in such manner

as Buyer deems appropriate, Items or Services similar to those canceled. Seller shall continue the performance of this Order to the extent not canceled under the provisions of this Article.

- (2) After receipt of notice of such termination for default or convenience, and upon Buyer's direction, Seller shall stop work under this Order on the date and to the extent specified in the notice of termination, and shall transfer title and deliver to Buyer satisfactorily completed work and such work in process as directed by Buyer. Payment for completed Items delivered to and accepted by Buyer shall be at the price set out in the Order. Buyer may withhold from Seller moneys otherwise due Seller for completed Items and/or materials in such amounts as Buyer determines necessary to protect Buyer against loss due to outstanding liens or claims against said Items or materials.

#### 17. DELAYS AND NOTICE OF LABOR DISPUTES:

- (a) Seller shall not be liable for any delays in delivery caused by circumstances beyond its reasonable control including acts of God or of the public enemy, fire, floods, epidemics, quarantine restrictions, strikes or freight embargoes, provided that:
  - (1) Seller immediately gives written notice to Buyer of any difficulty or anticipated difficulty in meeting the delivery schedule set forth in the Order;
  - (2) Seller immediately gives written notice to Buyer of any actual or potential situation that is delaying, or threatens to delay the timely performance of the Order, including an actual or potential labor dispute;
  - (3) the delay does not materially effect Buyer's scheduling on any system or process;
- (b) When any delays in delivery occur, Seller shall immediately give notice thereof to Buyer. If requested by Buyer, Seller shall use additional effort, including premium effort, to avoid or minimize delay to the maximum extent possible. All of the costs of the additional effort shall be borne by Seller. The rights and remedies pursuant to this Article are in addition to rights and remedies provided to Buyer under this Order.
- (c) Notwithstanding the above, if such delays extend for more than thirty (30) days from the delivery or performance date or threatens Buyer's delivery commitments under its Government Contract, Buyer may terminate such part of this Order remaining to be performed without liability to Buyer except for the fair value of work already completed and accepted.

**18. DELIVERY:** Shipments made pursuant to this Order must be shipped as specified in the Purchase Order. If Seller does not use Buyer's specified carrier(s) and Buyer incurs additional freight cost as a result, such additional freight cost shall be Seller's responsibility. Moreover, unless otherwise specified, Seller hereby agrees to the following:

- (a) Buyer reserves the right to refuse shipments made in advance of the schedule set forth in this Order. If Seller tenders Items for delivery to Buyer in advance of the delivery date specified in Buyer's delivery schedules, Buyer may, in its absolute discretion, either (i) refuse delivery, return early deliveries at Seller's expense, and require re-delivery at Seller's expense on the delivery date, or (ii) retain such Items and make payment in accordance with the original payment schedule in the Purchase Order regardless of the actual date of delivery. Seller bears the risk of loss of all Items delivered in advance of the delivery date specified in Buyer's delivery schedules.
- (b) Overshipment allowances require prior Buyer authorization, and will be applied to the entire Order. Unauthorized overshipments shall be returned to Seller at Seller's sole expense. Seller has the right to deem overshipments uneconomical to return, relieving Buyer of responsibility to return or pay for the overshipment.
- (c) Time is of the essence in Seller's performance of the Order, and Seller shall deliver Items and Services by the delivery date specified in Buyer's delivery schedules. If Seller tenders Items for delivery to Buyer after the delivery date specified in Buyer's delivery schedules:
  - (1) Buyer may, in its sole discretion, refuse late deliveries.
  - (2) If Buyer agrees to accept deliveries after the contracted delivery date the Parties agree that delays which are not excusable or mutually agreed upon shall be subject to liquidated damages of one percent (1%) of the total order value per day, up to a maximum amount of twenty-five percent (25%) of the Purchase Order value, for each day delivery or performance is delayed beyond the date set forth in the Schedule of this Purchase Order, to be paid within sixty (60) days of Buyer's acceptance of such deliveries. Buyer's right hereunder to recover liquidated damages for Seller's delayed performance is not an exclusive remedy for delay and shall be in addition to all other rights and remedies that Buyer has under this Order and at law and equity. The liquidated penalty amount shall be subtracted from the line item value. If the delivery delay was as a result of any action taken on the part of Buyer, Seller shall notify Buyer in writing at the time the delay occurs and request that Buyer waive the

penalty assessment. Failure to notify Buyer will result in penalty. Seller may not refuse shipment of said line item to avoid late delivery penalty.

- (3) If Buyer agrees to accept deliveries after the delivery date has passed, Buyer shall have the right to direct Seller to make shipments by the most expeditious means and the total cost of such expedited shipment and handling shall be borne by Seller.
- (4) Acceptance of late deliveries shall not be deemed a waiver of Buyer's right to hold Seller liable for any loss or damage resulting therefrom, nor shall it act as a modification of Seller's obligation to make future deliveries in accordance with the delivery schedule set forth in this Order.
- (5) Seller at the request of Buyer, shall provide a written explanation for the root cause of the delay, Seller's corrective action plan to address the late deliveries and assurances that Seller will make all future deliveries in accordance with the Order requirements and schedule.

#### 19. WARRANTY:

- (a) Seller warrants that all the Items and Services furnished hereunder shall:
  - (1) conform fully with all requirements of this Order, including any and all specifications, drawings, and performance requirements;
  - (2) conform to approved sample or samples, if any;
  - (3) unless detailed designs have been furnished by Buyer, be fit for the use intended by Buyer whether expressed or reasonably implied;
  - (4) be free from defects in material, workmanship, design and fabrication;
  - (5) be free from security interests, liens or encumbrances and of good title; and
  - (6) be performed with that degree of skill and judgment normally exercised by recognized professionals delivering or performing the same or similar Items or Services. In the event that an employee of Seller should prove to be unsatisfactory during that employee's first 80 billable hours of work on Buyer's Order, Buyer may request the removal of Seller's employee from performance of the Order with no billable charges incurred.
- (b) Except for latent defects, Seller guarantees all Services and Items, parts, components, and assemblies furnished hereunder against any defects in design, material, or workmanship for eighteen (18) months from the date of acceptance at Buyer's location. In the case of latent defects, Buyer's rights to corrective action by Seller shall commence upon Buyer's discovery of the latent defect and notification of Seller thereof.
- (c) Neither approval by Buyer of Seller's design or material used nor Buyer's inspection of same shall relieve Seller from any obligations under the warranties set forth in this Article.
- (d) The word "Item(s)" as used herein includes parts, components, assemblies, materials, equipment, services and data required under this Order.
- (e) Any Services or Item(s) corrected or replaced pursuant to this Article shall be subject to all provisions of this Article to the same extent as Services and Item(s) initially delivered.
- (f) The aforesaid warranties shall survive acceptance and payment and shall run to Buyer, its customers and the users of these Services and Item(s) and shall not be deemed to be the exclusive rights of Buyer but shall be in addition to other rights of Buyer under law, equity, and the terms of this Order.
- (g) Seller shall furnish Buyer a certificate of Seller's compliance with these Article 42 warranty conditions upon Buyer's request.

#### 20. QUALITY CONTROL/INSPECTION/REJECTION/ ACCEPTANCE:

- (a) Seller shall establish and maintain a quality management system acceptable to Buyer for the Items or Services purchased under this Order. Seller shall permit Buyer to review procedures, practices, processes and related documents to determine such acceptability. Seller shall have a continuing obligation to promptly notify Buyer of any violation or deviation from Seller's approved inspection/quality control system and to advise Buyer of the quantity and specific identity of any Items or Services provided to Buyer during the period of any such violation or deviation. Seller will maintain the accepted quality management system throughout the duration of the Order. If Seller is cited for compliance violations, Seller shall within forty-eight (48) hours so notify Buyer and within sixty (60) days must rectify the non-compliance issues. If the violation is not corrected and certification has not taken place within this time frame, then Buyer at its sole discretion may terminate this Order. Seller will notify Buyer of any significant changes that affect quality within twenty-four (24) hours of that change. These changes include – but are not limited to – change in key management or personnel, change in source of supply of key materials, change in address or site configuration.

- (b) Buyer and/or its customer, to the extent practicable at all times and places including the period of manufacture or performance, may inspect and test material, work in process, services, and supplies. This Order may include requirements for design, test, inspection, verification (including production process verification), use of statistical techniques for product acceptance, and related instructions for acceptance by Buyer, and as applicable critical items including key characteristics and requirements for test specimens (e.g., production method, number, storage conditions) for design approval, inspection/verification, investigation or auditing. This Order grants Buyer and its customer the right to so inspect and test, but not the obligation. Seller retains the obligation to ensure proper inspection and testing.
- (c) Seller shall not provide non-conforming Services or Items. Buyer shall have the right to reject any Services or Items or lots of Items which it determines are defective in material or workmanship or otherwise not in conformity with the requirements of this Order and to require their correction or replacement, or to provide other disposition direction for the non-conforming Services or Items. Rejected Services or Items shall be removed or if permitted or required by Buyer, corrected in place by and at the expense of Seller promptly after notice, and shall not thereafter be tendered for acceptance unless the former rejection or requirement of correction is disclosed. If Seller fails to promptly replace, correct, or remove such Services or Items or lots of Items which are required to be removed, Buyer may:
  - (1) replace or correct such Services or Items and charge to Seller the cost occasioned Buyer thereby; or
  - (2) pay for such Services or Items at a reduced price which is equitable under the circumstances; or
  - (3) cancel this Order, or any portion thereof, for default as provided in Article 16; or
  - (4) exercise any other applicable rights or remedies.
- (d) If Buyer rejects any Services or Items as non-conforming, and Seller fails to inform Buyer in writing of the manner in which Seller desires that Buyer dispose of non-conforming Services or Items within forty-eight (48) hours of notice of Buyer's rejection of non-conforming Services or Items (or such shorter period as is reasonable under the circumstances), Buyer will be entitled to dispose of the non-conforming Services or Items without liability to Seller, provided, however, that in any event Buyer may elect to arrange for the shipment of any non-conforming Services or Items back to Seller at Seller's expense. Seller will bear all risk of loss with respect to all non-conforming Services or Items and will promptly pay or reimburse all costs incurred by Buyer to return, store or dispose of any non-conforming Services or Items.
- (e) Buyer's payment for any non-conforming Items or Services will not constitute acceptance by Buyer, limit or impair Buyer's right to exercise any rights or remedies, or relieve Seller of responsibility for the non-conforming Items or Services. In the event Buyer decides for any reason to accept non-conforming Items or Services, any costs incurred by Buyer testing, evaluating and manufacturing, relating to the design changes to any of the Items or Services, shall be responsibility of Seller, and Seller may not pass along any costs in relation to the design change(s).
- (f) If any inspection or test is made by Buyer and/or its customer on the premises of Seller or a lower tier subcontractor, Seller without additional charge shall provide all reasonable facilities and assistance for the safety and convenience of Buyer and/or customer inspectors in the performance of their duties. In the case of rejection, Buyer shall not be liable for any reduction in value of samples used in connection with such inspection or test. All inspections and tests by Buyer and/or its customer shall be performed in such a manner as not to unduly delay the work. Buyer reserves the right to charge to Seller any additional cost of inspection and test when Items or Services are not ready at the time such inspection and test was requested by Seller or when reinspection or retest is necessitated by prior rejection. Unless otherwise provided herein, final inspection and acceptance or rejection of Items or Services shall be made as promptly as practicable after delivery to Buyer's facility. Buyer's failure to inspect or accept or reject Items or Services in a timely manner shall neither relieve Seller from full compliance with all requirements of this Order, nor impose responsibility on Buyer therefore.
- (g) Seller shall provide and maintain an inspection system acceptable to Buyer covering the Items or Services hereunder. Records of all test and inspection work by Seller shall be kept complete and available to Buyer and/or its customer for six (6) years following completion of an order, or for a longer period of time if required to comply with FAR 4.703. Such records shall be stored, maintained and handled in accordance with the requirements set forth in FAR 4.805.
- (h) Inspection and test by Buyer or its customer of any Services or Items or lots thereof does not relieve Seller from any responsibility regarding defects or other failures to meet Order requirements which may be discovered prior to acceptance or during the warranty period set forth in Article 19. In the event Seller discovers a Service or Item is non-conforming subsequent to performance or delivery, Seller shall

promptly notify Buyer. Disposition shall be in accordance with paragraphs (c) and (d) of this Article.

- (i) If, prior to or at the time of final acceptance or within the warranty period, it was known or should be known by Buyer that said Items or Services would not or did not conform to the requirements of this Order, final acceptance shall not be construed as a waiver of any rights Buyer may have with respect to the Items or Services purchased under this Order, notwithstanding the failure of Buyer to timely inform Seller of such nonconformance.
- (j) Final acceptance by Buyer of the Items or Services provided hereunder shall take place only after complete delivery of all Items or Services in accordance with the delivery schedule specified herein or later agreed upon by the Parties in writing and after final inspection of those Items or Services by Buyer and Buyer's customer. Final acceptance shall be contingent upon agreement by Buyer and Buyer's customer that the Items or Services conform to the requirements of this Order. Final acceptance by Buyer shall be conclusive, except for latent defects, negligent or intentional misrepresentations by Seller that a nonconformity or defect would be or had been cured or did not exist, acceptance induced by false or negligent assurances of Seller, or as otherwise provided in this Order or applicable law. Seller shall not consider acceptance to be Buyer's Final acceptance until Buyer issues a Final Acceptance Document. Final acceptance by Buyer of the Items or Services delivered hereunder shall not limit or affect the warranty or indemnity granted by Seller hereunder.

**21. ITEM CONTENT:** Seller agrees to provide to Buyer all Item content information required to satisfy both Buyer's content reporting obligations and Buyer's customers' reporting obligations.

**22. RISK OF DAMAGE/INDEMNIFICATION/INSURANCE:** All personal property belonging to Buyer in Seller's custody or possession, shall be at Seller's risk from loss or damage from all hazards. Seller agrees, to the fullest extent permitted by applicable law, to indemnify and hold harmless Buyer, its officers and employees, from and against any and all claims, liabilities, causes of action, losses, costs, damages and expenses by reason of property damage or personal injury, including death, of whatsoever nature or kind, including special, incidental or consequential damages, for any reason, arising out of or as a result of Seller activity or omissions under this Order, whether arising out of the actions or inactions of Seller or of its employees, subcontractors, and lower tier subcontractors. Seller and its subcontractors and lower tier subcontractors shall maintain, at their own expense:

- (a) Comprehensive General Liability policies for an amount of at least \$2,000,000 combined single limit for bodily injury and property damage; \$2,000,000 annual aggregate
- (b) Comprehensive Automobile Liability policies shall be for an amount of at least \$2,000,000 combined single limit for bodily injury and property damage; \$2,000,000 annual aggregate
- (c) Worker's Compensation in accordance with such laws as may be applicable to the work to be performed.
- (d) Employer's Liability: \$2,000,000/\$2,000,000

Proof of compliance with applicable legal requirements shall be obtained for all subcontractors working on Buyer's premises, and may be provided by the subcontractor's insurer. Satisfactory evidence by copy of certificate of insurance thereof shall be submitted annually to Buyer upon Buyer's request. Such insurance shall be carried during the term of this Order, including extension, and for at least three (3) years thereafter.

**23. MODIFICATION OF ORDER:** This Order contains all the agreements of the Parties with respect thereto and no course of dealing or usage of the trade shall be applicable unless expressly incorporated in this Order. The terms and conditions contained in this Order may not be added to, modified, superseded or otherwise altered except by a written instrument signed by Buyer's Representative and delivered by Buyer to Seller. Modifications of this Order shall be handled pursuant to Article 11 "Changes and Equitable Adjustments". Each shipment received from Seller shall be deemed to be exclusively upon the terms and conditions contained in this Order notwithstanding any terms and conditions that may be contained in any acknowledgment, invoice, correspondence or other documents of Seller, and notwithstanding Buyer's act of accepting or paying for any shipment or similar act of Buyer.

**24. NO WAIVER OF CONDITIONS:** Buyer's failure to insist upon or enforce strict compliance by Seller with any aspect of this Order shall not be deemed a waiver or relinquishment to any extent of any of Buyer's right to assert or rely upon any such provisions or rights in that or any other instance; rather, the same shall remain in full force and effect. Waiver of a right under this Order shall not constitute a waiver of any other right, waiver or default under this Order.

**25. OFFSET/COUNTERTRADE CREDIT:** In connection with the sale of Buyer's Items to certain foreign government customers, Buyer may incur direct and/or indirect offset/countertrade obligations. Seller hereby

exclusively grants to Buyer all offset or countertrade credit that may be obtained from this Order, or from Seller's placement of its purchase orders and subcontracts, for Buyer's use on the offset/countertrade program of Buyer's choice. Buyer retains the right to assign any such offset or countertrade credits to third parties. Seller shall include this clause, for the benefit of Buyer, in all lower-tier purchase orders and subcontracts awarded in the performance of this Order. Seller shall maintain a record of its purchases under this Order or subcontract and Buyer reserves the right to review such record not more often than every six (6) months to determine offset availability. This Article 25 shall survive two (2) years beyond the completion of this Order.

**26. PACKING:** Unless otherwise specified in this Order, Seller shall be responsible for safe and adequate packing conforming to the requirements of carriers' tariffs or, in the absence of such requirements, conforming to the best commercial practices. All expendable packaging materials must be legally and economically disposable or recyclable. Seller shall separately number all cases, packages, etc., showing the corresponding numbers on the invoices. An itemized packing slip, bearing this Order number must be placed in each container. No extra charge shall be made for packaging or packing materials unless authority therefore is set forth in this Order.

**27. PATENT/INTELLECTUAL PROPERTY INDEMNITY BY SELLER:** Seller warrants that the Items and Services performed and delivered under this Order will not infringe or otherwise violate the intellectual property rights of any third party in the United States or any foreign country. For Items and Services delivered hereunder, Seller shall be liable for, defend, indemnify and hold harmless Buyer, and each subsequent purchaser or user thereof, from all loss or damage of any kind (including all costs and expenses including attorneys' fees) arising out of any and all allegations, actions, proceedings, claims, or awards for any infringement, misappropriation, or wrongful use suit or action, including, without limitation, any proceeding under 28 U.S.C. § 1498, alleging that manufacture, use or sale infringes any patent, trademark, copyright, trade secret, mask work right or other proprietary or intellectual property right (collectively "Infringement Claim(s)") in connection with any Items, software or data furnished hereunder, whether such are provided alone or in combination with other Items, software or processes. Seller hereby agrees to defend any and all such actions, at Seller's expense, if requested to do so by Buyer. If, however, the Infringement Claim arises as a necessary consequence of Seller's compliance with Buyer's drawings and specification, which describe that aspect of the Items and Services upon which the Infringement Claim is based, Seller shall have no obligation to indemnify Buyer.

Seller and Buyer agree to notify each other as soon as they become aware of a challenge of infringement or wrongful use in connection with any such Items, software or data furnished hereunder. Seller, if required to indemnify Buyer under this Article, shall promptly assume and diligently conduct the entire defense of such Infringement Claim at its own expense. Buyer shall have the right to reasonably reject counsel selected by Seller and the right to reject any settlement that would negatively impact Buyer as determined solely by Buyer. Buyer shall have the right to participate with Seller in determining the strategy to defend any such suit or action, and shall have the right, with the permission of the court, to intervene in any such Infringement Claim.

Notwithstanding any of the above provisions, Buyer shall have the further right, at its own election, to supersede Seller in the defense of any such alleged infringement and thereafter to assume and conduct the same according to Buyer's sole discretion. Upon Buyer's election, Seller shall be released from its obligation to pay for attorneys fees and court costs. Further, Seller, if requested in writing by Buyer, shall cooperate with Buyer in Buyer's defense of any alleged infringement claim.

If the use or sale of such Item or Services, in respect to which Seller indemnifies Buyer, is enjoined as a result of such action or proceeding, Seller, at no expense to Buyer, shall obtain for Buyer and its customers, the right to use and sell said Item or Services or shall substitute an equivalent Item or Service acceptable to Buyer and extend this patent indemnity with respect to such equivalent Item or Service. In the event that Seller is unable to secure such right of use for Buyer or its customer or to secure an equivalent Item or Service as a substitute, Seller will indemnify Buyer and its customer for any and all losses or damages sustained by reason of such injunction.

This indemnity and hold harmless shall not be considered an allowable cost under any provisions of this Order except with regard to allowable insurance costs. Seller's obligation to defend, indemnify, and hold harmless Buyer and its customers under this Article shall not apply to the extent FAR 52.227-1 "Authorization and Consent" applies to Buyer's Government Contract for infringement of a U.S. patent and Buyer and its customers are not subject to any actions for claims, damages, losses, costs, and expenses, including reasonable attorneys fees by a third party.

**28. RIGHTS IN DATA AND INVENTIONS:**

- (a) All specifications, information, data, drawings, software and other items supplied to Buyer by Seller shall be disclosed to Buyer on a non-

proprietary basis and may be used and/or disclosed by Buyer without restriction, unless:

- (1) otherwise required by the U.S. Government Regulations included in Item 2 hereto, or
  - (2) Buyer has executed a separate agreement restricting the use and disclosure of such information, data, software and the like.
- (b) Unless otherwise expressly agreed in writing to the contrary and subject to this Article 28(d) below, all specifications, information, data, drawings, software and other items which are: supplied to Seller by Buyer, or obtained or developed by Seller in the performance of this Order or paid for by Buyer, shall be proprietary to Buyer, shall be used only for purposes of providing Items or Services to Buyer pursuant to this Order, and shall not be disclosed to any third party without Buyer's express written consent. All such Items supplied by Buyer or obtained by Seller in performance of this Order or paid for by Buyer shall be promptly provided to Buyer on request or upon completion of this Order.
- (c) Subject to this Article 28(d) below, any invention or intellectual property first made or conceived by Seller in the performance of this Order or which is derived from or based on information supplied by Buyer shall be considered to be the property of Buyer and Buyer shall own all right, title, and interest in such property. Seller shall execute all documents necessary to perfect Buyer's interest in and title thereto, including, without limitation, assigning any and all right, title and interest Seller has in any subject property to Buyer. Seller shall ensure that any third party with whom Seller has subcontracted to deliver Items or Services also executes and assigns any and all rights, titles, and interest in any such intellectual property to Buyer. Subject to this Article 28(d) below, any work performed pursuant to this Order which includes any copyright interest shall be considered a "work made for hire."
- (d) Applicable Government procurement regulations incorporated into this Order shall, when applicable, take precedence over any conflicting provision of this Article 28 to the extent that such regulations so require. The incorporation by reference of such Government regulations dealing with subcontractors rights in technical data, subject inventions, copyrights, software and similar intellectual property are not intended to, and shall not, unless otherwise required by applicable law, obviate or modify any greater rights which Seller may have previously granted to Buyer pursuant to prior agreements between the Parties.

#### 29. ITEM SUPPORT:

- (a) Seller shall agree to support the Items purchased hereunder during the operational life of the Items or for a period of ten (10) years from the date of final shipment under this Order if Buyer funds such support. Said support includes, but is not limited to, technical service and maintenance of Seller's stock of subassemblies and spare parts as may be required to be ordered to support the operation of the Items.
- (b) In the event Seller discontinues manufacture of the aforementioned Items, subassemblies and spare parts therefore, and does not provide for another qualified source, Seller shall give Buyer not less than six months notice of such decision to discontinue and thereupon make available to Buyer all drawings, specifications, data, and know how which will enable Buyer or its customers to manufacture or procure said Items, subassemblies and spare parts under a royalty free license which is hereby granted.

**30. SHIPPING INSTRUCTIONS:** Seller shall comply with Buyer's routing and shipping instructions. If Buyer's routing and shipping instructions are not attached to the Purchase Order or have not been previously received by Seller, Seller shall immediately request the Instructions from Buyer. Seller shall remain liable for any and all additional charges which accrue as a result of Seller's failure to comply with Buyer's Routing and Shipping Instructions.

#### 31. SUSPENSION OF WORK:

- (a) Buyer shall have the right to direct Seller in writing to suspend all or any part of the work for a period of time not to exceed ninety (90) days, and for any further period as the Parties may agree, unless extended by Buyer's customer. Upon receipt of the written notice, Seller shall immediately comply with the terms of the notice and shall take all reasonable measures to mitigate the costs allocable to the suspended portion of the work.
- (b) If work is suspended, an adjustment may be made in accordance with the provisions of Article 11 for any increase in the time and the cost (exclusive of profit) of performing this Order necessarily caused by such suspension prior to incurrence of costs in excess of the funded value, and this Order may be modified in writing accordingly. In no event, however, is Buyer obliged to increase the funded value, therefore Seller shall ensure costs never exceed the funded value.
- (c) A claim shall not be allowed under this Article unless the claim, in an amount stated, is asserted in writing within thirty (30) days after Buyer's issuance of the notice of termination of the suspension. Suspension may only be terminated by written notice from Buyer,

regardless of the expiration of the original or extended suspension period. When the suspension has been terminated, Seller shall immediately commence performance, notwithstanding the fact that there is no agreement as to a revised schedule or the cost of completing this Order.

**32. TAXES:** Unless otherwise notified by Buyer in writing, the price of this Order includes and Seller shall be responsible for the payment of any Federal, State, and Local taxes, duties, tariffs, transportation taxes, or other similar taxes or fees which are required to be imposed upon the Items or Services ordered hereunder by Buyer or Buyer's customer, unless Seller obtains any applicable exemptions. Seller represents that its price does not include any taxes, impositions, charges or exactions for which it has obtained a valid exemption certificate or other evidence of exemption. Any taxes included in this Order shall be itemized separately in Seller's invoice.

**33. TITLE AND RISK OF LOSS:** Unless otherwise specified in the Order, Seller shall bear the risk of loss and damage to all Items to be supplied hereunder until final acceptance by Buyer. Buyer shall have equitable title to all Items for which partial or progress payments have been furnished to Seller.

**34. TOOLS, MATERIALS AND INFORMATION:** Refer also to Articles 28 (Rights in Data and Inventions). If any designs, sketches, drawings, blueprints, patterns, dies, molds, models, tools, gauges, equipment or special appliances should be made or procured by Seller especially for producing the Items covered by this Order, then immediately upon manufacture or procurement they shall become the property of Buyer or Buyer's customer. Seller shall maintain a current inventory list of the foregoing. Except for tools, material and information owned by the Government or to which the Government has unlimited rights, any such item or any materials or any engineering data or other technical or proprietary information related thereto furnished by or paid for by Buyer shall: (a) become and shall be identified as property of Buyer, (b) be held by Seller on consignment at Seller's risk, (c) be used exclusively in the production and/or provision for Buyer of Items and/or Services required by this Order, and (d) be subject to disposition by Buyer at any and all times and upon demand they shall be returned to Buyer. Seller shall maintain procedures for the adequate accountability, storage, maintenance and inspection of such items and shall make such records available to Buyer upon request.

#### 35. FURNISHED PROPERTY:

- (a) Buyer may provide to Seller property owned by either Buyer or its customer (Furnished Property) as set forth in the Order. Furnished Property shall be used only for the performance of this Order, or for the performance of a direct contract between Buyer's customer and Seller where Seller has obtained specific approval from Buyer's Customer authorizing such use.
- (b) Title to Furnished Property shall be retained by Buyer or its customer. Seller shall clearly mark (if not already marked) all Furnished Property to show ownership. While Furnished Property is in Seller's possession, Seller shall prevent the comingling of Furnished Property with other materials in Seller's possession, except in accordance with Buyer's written instructions.
- (c) Except for reasonable wear and tear, Seller assumes all risk of loss, destruction, or damage of Furnished Property while in Seller's possession, custody, or control. Upon request, Seller shall promptly provide Buyer with adequate proof of insurance against such risk of loss. Seller shall promptly notify Buyer of any loss or damage. Without additional charge, Seller shall manage, maintain, and preserve Furnished Property in accordance with good commercial practice.
- (d) At Buyer's request or at completion of this Order, Seller shall submit, in an acceptable form, inventory lists of Furnished Property and shall deliver or make such other disposition in accordance with instructions from Buyer.
- (e) With respect to government-furnished property, or property to which the Government may take title under this Order: [1] For this Cost Reimbursement Order, the clause at FAR 52.245-1 shall apply and is incorporated by reference. [2] Seller shall provide to Buyer immediate notice of any disapproval, withdrawal of approval, or nonacceptance by the Government of its property control system.

#### 36. SPECIAL TOOLING, SPECIAL TEST EQUIPMENT, AND FACILITIES:

- (a) Unless specifically provided to the contrary in this Order, Seller warrants that the estimated cost set forth in this Order does not include as a direct charge to this Order the cost of any special tooling, test equipment, or facilities as the same are defined in FAR 2.101. Any such special tooling, test equipment or facilities to be charged to Buyer will be covered by a separate Purchase Order.
- (b) Seller represents that it now has or can readily procure without the assistance of Buyer or the Government all facilities necessary for the performance of this Order, except as set forth herein.



**37. FOREIGN TRANSACTIONS AND EXPORT CONTROL:** Seller, at its sole expense, agrees to comply with all laws and regulations of the United States and other countries related to exports and imports including obtaining all required authorizations from the U.S. or other applicable governments. Seller shall immediately notify Buyer's Representative if Seller's export privileges are denied, suspended or revoked in whole or in part by any U.S. or other Government entity or agency. Buyer may deem Seller's failure to comply with the requirements of this Article a material failure to perform under this Order that shall subject Seller to termination in accordance with Article 16, Termination.

(a) **ITAR CONTROLLED HARDWARE, TECHNICAL DATA OR SERVICES.** Seller is hereby notified that certain hardware (e.g., finished goods, parts, components, accessories, attachments, samples, prototypes, test equipment, firmware, software, or systems), technical data (e.g., technical specifications, drawings, photos, instructions, or other technical information in any form), and/or services provided by Buyer for purposes of this Order are or may be subject to the International Traffic in Arms Regulations (ITAR) (22 C.F.R. §§ 120-130). In addition, Seller is hereby notified that hardware, technical data, and/or services sold by Seller that are designed, developed, modified, adapted or configured from hardware, technical data, and/or services provided by Buyer are or may also be subject to the ITAR. The ITAR is accessible at the U.S. Department of State, Directorate of Defense Trade Controls (DDTC) website at <http://www.pmdtdc.state.gov>.

(1) If Seller is a manufacturer and/or exports defense articles or Defense services, Seller represents that it is registered with the U.S. Department of State and will maintain said registration in order to be eligible to engage in the manufacture and/or export of defense articles and defense services as required by the ITAR (22 C.F.R. § 122.1(a)).

(2) The ITAR restricts access to Buyer's and Seller's controlled hardware, technical data, or services to U.S. citizens and permanent residents (i.e., U.S. person) only. Seller is advised and acknowledges that controlled hardware, technical data, and/or services shall not be exported out of the U.S. or transferred to a non-U.S. person inside the U.S. without prior authorization of the U.S. Government. Seller will be informed by Buyer of the export control status of all hardware, technical data, and/or services provided to Seller by Buyer. Hardware and technical data will be clearly marked as export controlled or not. Seller agrees that it will not transfer or provide access to any ITAR-controlled hardware, technical data, or services provided by Buyer to non-U.S. persons employed by or associated with Seller, whether located in the U.S. or not, without U.S. Government authorization and permission from Buyer.

(3) If this Order is in an amount of \$500,000 or more, or if this Order is amended so that the total amount of the Order is in an amount of \$500,000 or more, Seller shall, within fifteen (15) days of the date of this Order, or such amendment, inform Buyer in a written statement if Seller has paid, offered or agreed to pay, in respect of the sale for which the Items will be used, political contributions or fees or commissions, within the meaning of 22 C.F.R. Part 130. Seller's statement shall conform to the requirements of 22 C.F.R. Part 130. Failure of Seller to provide Buyer with such a statement within the specified time-frame, or any extension thereof, shall constitute a certification by Seller that it has not paid, offered, or agreed to pay such political contributions, fees or commissions.

(4) Seller shall indemnify Buyer and be solely responsible for all losses, costs, claims, fines, causes of action, damages, liabilities and expense, including attorneys' fees, all expense of litigation and/or settlement, and court costs, arising from any act or omission of Seller, its officers, employees, agents, suppliers, or subcontractors at any tier, in the performance of any of its obligations under this clause.

(b) **GOODS, TECHNOLOGY, SOFTWARE SUBJECT TO U.S. EXPORT ADMINISTRATION REGULATIONS.** Seller is hereby notified that certain hardware (e.g., finished goods, parts, components, accessories, attachments, samples, prototypes, test equipment, firmware, software, or systems), technology (e.g., technical specifications, drawings, photos, instructions, or other technical information in any form), and/or software provided by Buyer for purposes of this Order are or may be subject to the Export Administration Regulations (EAR). In addition, Seller is hereby notified that the hardware, technology, technical data, and/or software sold by Seller that is derived from hardware, technology, and/or software provided by Buyer are or may also be subject to the EAR. The EAR is accessible at the U.S. Department of Commerce, Bureau of Industry and Security website at <http://www.bis.doc.gov>.

(1) The EAR restrict the shipment, transmission, or transfer of certain of Buyer's and Seller's controlled hardware, technology, technical data and/or software from the U.S. to foreign countries,

as well as to foreign nationals located inside the U.S. ("deemed export.")... Seller is advised and acknowledges that certain controlled hardware, technology, technical data and/or software may not be exported out of the U.S. or to a non-U.S. person inside the U.S. without prior authorization of the U.S. Government. Seller will be informed by Buyer of the export control status of all hardware, technology, and/or software provided to Seller by Buyer. Hardware and technology will be clearly marked as export controlled or not. Seller agrees that it will not transfer or provide access to any EAR-controlled hardware, technology, technical data, or software provided by Buyer out of the United States or to non-U.S. persons employed by or associated with Seller, whether located in the U.S. or not, without U.S. Government authorization and permission from Buyer.

(2) Seller agrees that it will inform Buyer of the export control status of all hardware, technical data, technology, software, and/or services sold to Buyer under this Order to include clearly marking all hardware and/or technical data.

(3) Seller also certifies to Buyer that it does not, and shall not, participate or comply with any boycott (both domestic and international), or boycott-related request or engage in any restrictive trade practices which are in contravention of a United States Government law or regulation including 15 C.F.R. § 760.

(4) Where Seller is a signatory under a Buyer export authorization, Seller shall provide prompt notification to Buyer's Representative in the event of changed circumstances including, but not limited to, ineligibility, a violation or potential violation of applicable export regulations that could affect Seller's performance under this Contract.

(5) Seller shall indemnify Buyer and be solely responsible for all losses, costs, claims, causes of action, damages, liabilities and expense, including attorneys' fees, all expense of litigation and/or settlement, and court costs, arising from any act or omission of Seller, its officers, employees, agents, suppliers, or subcontractors at any tier, in the performance of any of its obligations under this clause.

(c) **U.S. ECONOMIC AND TRADE SANCTIONS.** Seller understands that the Office of Foreign Assets Control (OFAC) of the U.S. Department of the Treasury administers and enforces economic and trade sanctions based on US foreign policy and national security goals against targeted foreign countries and regimes, terrorists, international narcotics traffickers, those engaged in activities related to the proliferation of weapons of mass destruction, and other threats to the national security, foreign policy or economy of the United States. Seller agrees that it will comply with these OFAC administered regulations and policies, and will not transfer any Items or Services to or from, or otherwise engage with entities or persons listed on the Specially Designated Nationals (SDN) List. The SDN List is accessible at <http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>.

(d) **HARDWARE, TECHNOLOGY, OR TECHNICAL DATA RECEIVED WITHOUT MARKING.** Seller is hereby notified that, to the extent it should receive any hardware, technology, or technical data from Buyer that is not marked as export controlled (i.e., under the ITAR or EAR), Seller must treat such hardware, technology, or technical data in conformance with the most restrictive standard potentially applicable unless it requests and receives specific written instructions from Buyer that releases Seller from this requirement.

(e) **IMPORTS APPEARING ON THE U.S. MUNITIONS IMPORT LIST.** If performance under this Purchase Order requires Seller to permanently import into the U.S. articles appearing on the U.S. Treasury Department, Bureau of Alcohol, Tobacco & Firearms (BATF) U.S. Munitions Import List at 27 CFR Part 47, Subpart C, Seller is advised and hereby acknowledges that such items may not be permanently imported into the U.S. without an approved import permit issued by BATF pursuant to 27 CFR Part 47, Subpart E, unless an exemption applies. Additionally, if Seller is engaged in the business, in the U.S., of importing articles appearing on the U.S. Munitions Import List, Seller must register with BATF pursuant to 27 CFR Part 47, Subpart D. Downloadable copies of the BATF regulations and forms are accessible at the BATF website at <http://www.atf.treas.gov/regulations/index.htm>.

(f) **ITEMS REQUIRING APPROVED BATF PERMITS.** If performance under this Purchase Order requires Seller to export out of the U.S. machine guns, destructive devices, explosives, and certain other firearms, as defined in 27 CFR Part 179, Subpart B, Seller is advised and hereby acknowledges that such items may not be exported out of the U.S. without an approved export permit issued by BATF pursuant to 27 CFR Part 178, Subpart K and 27 CFR Part 179, Subpart H. Seller is also advised that an approved export license issued by ODTC may also be required pursuant to the relevant requirements of the ITAR.

(g) **RECORD KEEPING.** Seller agrees to bear sole responsibility for all regulatory record keeping associated with the use of licenses and

license exceptions/exemptions. Without limiting the foregoing, Seller agrees that it will not transfer any export controlled item, data, or services, to include transfer to foreign persons employed by or associated with, or under contract to Seller or Seller's lower-tier suppliers, without the authority of an export license, agreement, or applicable exemption or exception. Seller agrees to notify Buyer if any deliverable under this Contract is restricted by export control laws or regulations. Seller shall immediately notify Buyer's Representative if Seller is, or becomes, listed in any Denied Parties List or if Seller's export privileges are otherwise denied, suspended or revoked in whole or in part by any U.S. Government entity or agency.

- (h) Upon Buyer's request, Seller shall provide a report of all sources outside the United States utilized by Seller or its lower-tier subcontractors in the fulfillment of this Order, including the names and locations of the sources, and a description of the items or services obtained from such sources.

**38. CLASSIFIED REQUIREMENTS:** In the event this Order requires access to classified information, Seller, at its sole expense, agrees to comply with all laws and regulations of the United States related to such classified requirements, including obtaining all required authorizations from the U.S. pursuant to, among other requirements, those set forth in the National Industrial Security Program Operating Manual (NISPOM) and any specific agency supplements to the NISPOM or other classified requirements as directed by Buyer. A copy of the NISPOM is available for download at [https://www.dss.mil/GW/ShowBinary/DSS//isp/fac\\_clear/download\\_nispom.html](https://www.dss.mil/GW/ShowBinary/DSS//isp/fac_clear/download_nispom.html).

**39. CUSTOMS:**

- (a) Credits and Refunds. Transferable credits or benefits associated with or arising from Items purchased under this Order, including trade credits, export credits or rights to the refund of duties, taxes or fees, belong to Buyer. Seller will, at its expense, provide all information necessary (including written documentation and electronic transaction records in Buyer-approved formats) to permit Buyer to receive these benefits, credits, or rights. Seller will furthermore, at its expense, provide Buyer with all information, documentation, and electronic transaction records relating to the items necessary for Buyer to fulfill any customs-related obligations, origin marking or labeling requirements and certification or local content reporting requirements, to enable Buyer to claim preferential duty treatment for items eligible under applicable trade preference regimes, and to make all arrangements that are necessary for the items to be covered by any duty deferral or free trade zone programs(s) of the country of import. Seller will, at its expense, provide Buyer or Buyer's nominated service provider with export documentation to enable the items to be exported, and obtain all export licenses or authorizations necessary for the export of the items unless otherwise indicated in this Order, in which event Seller will provide all information as may be necessary to enable Buyer to obtain such licenses or authorization(s).
- (b) Customs-Trade Partnership Against Terrorism. To the extent any item covered by this Order is to be imported into the United States of America, if requested by Buyer, Seller shall comply with all applicable recommendations or requirements of the Bureau of Customs and Border Protection's Customs-Trade Partnership Against Terrorism ("C-TPAT") initiative. Upon request, Seller shall certify in writing its compliance with all applicable recommendations or requirements of the C-TPAT initiative.

**40. NEW MATERIAL:**

- (a) "Material," as used in this clause, includes, but is not limited to raw material, parts, items, components and end Items. "New," as used in this clause, means previously unused or composed of previously unused materials allowing for typical in-factory or site use including, but not limited to integration, installation, assembly, test, burn-in, training, troubleshooting, and rework as required.
- (b) Unless Buyer specifies in writing otherwise, Seller shall deliver New Material under this contract that are fully warranted and do not contain any counterfeit material. Material verification includes documentation that Seller is purchasing product directly from the original equipment manufacturer or authorized franchised distributor. In addition, the New Material is not of such age or so deteriorated, due to storage factors, as to impair its usefulness or safety.

**41. PROHIBITED SOFTWARE:**

- (a) This clause only applies to Services/Items that include the delivery of software.
- (b) As used herein, "Prohibited License" means the General Public License ("GPL") or Lesser/Library GPL, the Artistic License (e.g., PERL), the Mozilla Public License, the Netscape Public License, the Sun Community Source License, the Sun Industry Standards License, or variations thereof, including without limitation licenses referred to as "GPL-Compatible, Free Software License."

- (c) As used herein, "Prohibited Software" means software that incorporates or embeds software in, or integrates software in connection with, as part of, bundled with, or alongside any
- (1) open source, publicly available, or "free" software, library or documentation, or
  - (2) software that is licensed under a Prohibited License, or
  - (3) software provided under a license that:
    - (i) subjects the delivered software to any Prohibited License; or
    - (ii) requires the delivered software to be licensed for the purpose of making derivative works or be redistributable at no charge; or
    - (iii) obligates Buyer to sell, loan, distribute, disclose or otherwise make available or accessible to any third party:
      - i. the delivered software, or any portion thereof, in object code and/or source code formats; or
      - ii. any Items incorporating the delivered software, or any portion thereof, in object code and/or source code formats.
- (d) Unless Seller has obtained Buyer's prior written consent, which Buyer may withhold in its sole discretion, Seller shall not use in connection with this Order, or deliver to Buyer, any Prohibited Software.
- (e) Seller agrees to defend, indemnify, and hold harmless Buyer, its customers and suppliers from and against any claims, damages, losses, costs, and expenses, including reasonable attorneys' fees, to the extent Seller causes Buyer to use or to deliver Prohibited Software in connection with this Order.

**42. COMPLIANCE WITH HAZARDOUS SUBSTANCES AND WASTE RECYCLING LAWS:**

- (a) Seller warrants that the sale, resale, supply, export or delivery of any Item (whether used as a component or otherwise) by Buyer in any market will not violate any law or regulation in any jurisdiction worldwide on the use of hazardous substances, or the recycling or treatment of waste equipment including, but not limited to the laws implementing the European Directive (2002/95/EC) on the Restriction on the Use of Certain Hazardous Substances in Electronic and Electrical Equipment "RoHS Directive", and European Directive (2002/96/EC) on Waste Electrical and Electronic Equipment ("WEEE Directive"), the U.S. Environmental Protection Act ("EPA") including Resource Conservation Recovery Act ("RCRA") 40 CRF Part 260 through 265, and the European regulation EC 1907/2006 on the Registration, Evaluation, Authorization and Restriction of Chemicals ("REACH") (together, "Environmental Laws").
- (b) Seller hereby represents and warrants that the Items contain no asbestos containing materials or mercury.
- (c) Buyer may sell products containing Seller's Items in California, and Seller shall disclose in writing to Buyer all materials and components in the Items, and the amounts therein, that require labeling under California Proposition 65 or the laws of other states.
- (d) As soon as Seller is aware of any non-compliance but in no event any later than prior to the shipment of any Item, Seller shall identify in writing to Buyer (e.g., in a Material Safety Data Sheet):
- (1) any and all components and materials contained in the Items that may require recycling or other treatment during the product lifecycle under the laws and regulations implementing the Environmental Laws, and
  - (2) the location of any component or material that is hazardous within the meaning of the WEEE Directive or other Environmental Laws, and any Item that is required by the Environmental Laws to be marked shall be so marked by Seller.
- (e) Seller shall, upon request, provide Buyer with written confirmation of its compliance with the Environmental Laws, in the form, manner and within the timeframe reasonably directed by Buyer, including but not limited to, evidence that Supplier has registered, notified and communicated supplied materials for Buyer's intended use as required by REACH.
- (f) Buyer shall have the right to audit Seller's compliance with the Environmental Laws. Seller shall provide Buyer with all such information and documentation that it may reasonably require (including access to its staff and facilities) to enable Buyer to satisfy itself of Seller's compliance with all Environmental Laws and that the warranty contained in subsection (a) above remains true and accurate.
- (g) Seller shall bear all costs and expenses, including those related to recycling or taking back the Items, arising out of or related to either Buyer or Seller complying with the Environmental Laws and placing the Items on, or their importation into, any jurisdiction worldwide.
- (h) Seller shall indemnify and hold Buyer harmless from any cost, expense, liability or damage suffered by Buyer by reason of any breach or alleged breach of any of the Environmental Laws arising out of or related to the Items.

**43. TOXIC, HAZARDOUS OR CARCINOGENIC SUBSTANCES AND SUBSTANCES OF VERY HIGH CONCERN (SVHC):**

- (a) Seller represents and warrants that the following are not prohibited by any laws or regulations of any country or other jurisdiction in the world:
- (1) the Items, and substances contained therein including parts, subparts, components, and chemical constituents;
  - (2) substances used in the manufacture of the Items, including parts, subparts, components and chemical constituents;
  - (3) use of the Items in the manner intended, and
  - (4) substances required for the maintenance of the Items provided under this Order.
- (b) Laws and regulations referenced in subparagraph (a) above include, without limitation, those of:
- (1) The United States through a Department or Agency such as the Environmental Protection Agency acting under the Toxic Substances Control Act (15 U.S.C., § 2601 et seq.) or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (21 U.S.C. § 346a et seq.) or any other statute or regulation;
  - (2) Individual states in the U.S.;
  - (3) The European Community through European Community Council Directive of 27 July 1976 "on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and uses of certain dangerous substances and preparations" (76/769/EEC) and other Directives and Regulations;
  - (4) The European Community through EC 1907/2006 Registration, Evaluation, Authorization and Restriction of Chemicals (REACH);
  - (5) Nations in the European Community that have implemented legislation concerning 76/769/EEC and other Directives; and
  - (6) Nations that are not in the European Community but which implement legislation similar to 76/769/EEC and other Directives.
- (c) Seller represents and warrants that:
- (1) each chemical substance, including chemical substances contained in the Items delivered under this Order, is on the Inventory List (see 40 C.F.R. § 710) published by the Environmental Protection Agency pursuant to the Toxic Substances Control Act (15 U.S.C. § 2601 et seq.) at the time of such delivery;
  - (2) delivery of any Items, including their chemical constituents, under this Order shall be made in accordance with transportation, labeling and other requirements enacted by any government or regulatory body anywhere in the world, and
  - (3) the Items, including their chemical constituents, shall meet the environmental, health and safety requirements of all jurisdictions, including under any applicable exclusions, exceptions or waivers, such that Buyer may freely transport, export, import, use, maintain, market and sell the Item or article throughout the world.
- (d) Where there are regulations or restrictions pertaining to the Item, Seller shall:
- (1) inform Buyer of such regulations or restrictions in writing, specifying the jurisdictions in which the Item is regulated,
  - (2) provide Buyer with a written copy of the appropriate compliance recommendations on handling or use, and
  - (3) obtain Buyer's written approval for the delivery of any Items that are regulated or restricted.
- (e) Seller certifies, based on its qualitative determination, that the Items or parts it manufactures for this Order do not contain asbestos or polychlorinated biphenyls (PCBs), nor were they manufactured with chlorofluorocarbons (CFCs), and Seller will not introduce into the Items or any replacements any materials that contain asbestos or PCBs, nor manufacture the Items with CFCs.
- (f) Seller shall establish a process to assure that current governmental and safety constraints on restricted, toxic and hazardous substances/materials are in compliance, relative to the purchased Items as stated on purchase orders.
- (g) If Seller provides Items under this Order which:
- (1) contain a toxic or hazardous substance identified under Occupational Safety and Health Standards, 29 C.F.R. § 1919.20 or 29 C.F.R. § 1910.1000 et seq. (Subpart Z), or
  - (2) contain a carcinogenic substance, or
  - (3) the use of which is regulated or restricted under 76/769/EC or other European Community Directive, or
  - (4) contain SVHCs or materials requiring registration, notification or communication under REACH, or
  - (5) contain substances or materials that are regulated as waste by RCRA.

Seller shall provide Buyer with a Material Safety Data Sheet (meeting the requirements of 29 C.F.R. § 1910.1200(g) and the latest revision of Federal Standard No 313 and REACH), that shall include information on the presence of all chemical substances in the Item, including

concentrations of chemicals equal to or greater than 0.1% and any other information required by any applicable law. Seller shall provide this information to Buyer prior to the initial shipment of the item and again with the initial shipment of the item. When a change in formulations occurs Seller shall provide Buyer with a copy of any new restriction on handling, use, or disposal and receive approval from Buyer prior to shipment. Seller shall label each container of such Items in a clearly legible and conspicuous form, stating that a toxic or hazardous substance is contained therein, and providing Buyer with a copy of any existing or new restrictions on handling or use. Material Safety Data Sheets for all other materials shall be retained by Seller and made available to Buyer upon request.

- (h) Notwithstanding anything in this Order to the contrary, for Items supplied to Buyer's Defense unit as a defense contractor, nothing herein shall require or permit Seller to change in any manner the lead composition of any Item without the prior written approval of Buyer.

**44. OZONE DEPLETING SUBSTANCES:** Seller agrees that the Items delivered hereunder shall be accurately labeled in accordance with the requirements of Section 611 of the 1990 Clean Air Act Amendments and the regulations promulgated thereunder, including but not limited to requirements contained in 40 C.F.R. §§ 82.114 and 82.116. At Buyer's request, Seller shall certify in a form satisfactory to Buyer whether the Items were manufactured with a controlled substance, as defined in 40 C.F.R. § 82.104.

**45. HAZARDOUS CONDITIONS/INDEMNIFICATION:**

- (a) Seller shall comply with applicable occupational, health and safety laws and regulations, including any specifications included by Buyer as part of this Order. Seller shall comply with the appropriate revision and section of MIL-STD-882 or Buyer equivalent, which Buyer will make available upon Seller's request. In the event that Seller or Buyer learns of any issue relating to a potential safety hazard or unsafe condition in any of the Items, materials or Services produced hereunder, or is advised of such by competent authorities of any government having jurisdiction over such Items, materials or Services, it will immediately advise the other party by the most expeditious means of communication. When any change occurs that affects requirements or recommendations for safe handling, use, or disposal Seller shall provide Buyer with a copy of any new restriction on handling, use, or disposal and receive approval from Buyer prior to shipment.
- (b) Expenses associated with the correction of a safety hazard or unsafe condition, caused by or associated with Items or Services produced by Seller, including reasonable attorneys' fees, court costs, expenses, and the like, if they become necessary, shall be solely Seller's responsibility, subject only to any other arrangement negotiated by the Parties in light of the particular facts and circumstances then existing.
- (c) Seller agrees to protect, defend, hold harmless, indemnify, and reimburse Buyer, its officers, directors, agents, employees, distributors, dealers, affiliates, insurers, and customers during the term of this Order and any time thereafter for any and all costs and expenses (including, but not limited to, reasonable attorneys' fees and expenses, overhead, settlements, judgments, and court costs) arising out of or related to any liability, demand, lawsuit, or claim alleging or asserting in whole or in part:
- (1) any Failure of Items or Services to comply with applicable specifications, warranties, and certifications under this Order (including those set forth in Seller's Annual Certification);
  - (2) the negligence or fault of Seller in design, testing, development, manufacture, or otherwise with respect to Items or parts therefore;
  - (3) claims, demands, or lawsuits that, with respect to the Items or any parts thereof allege product liability, strict product liability, or any variation thereof;
  - (4) 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;
  - (5) Seller failing to satisfy the Internal Revenue Service's guidelines for an independent contractor; or
  - (6) 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.
- (d) Buyer agrees to protect, defend, hold harmless, and indemnify in a similar fashion from and against any liability, claim, demands, or cost or expense that is the result of design or other special requirements specified by Buyer and actually incorporated in the Items or Services over the written objection of Seller. Buyer also agrees to protect, defend, hold harmless, and indemnify Seller in a similar fashion from and against any liability, claim, demands, or cost or expense arising out of death of or injury to any person or damage to tangible property which is the result of the negligence or other fault of Buyer.
- (e) Should Buyer's use, or use by its distributors, subcontractors or customers, of any Items or Services purchased from Seller be enjoined,

be threatened by injunction, or be the subject of any legal proceeding, Seller shall, at its sole cost and expense, either:

- (1) substitute fully equivalent non-infringing Items or Services;
  - (2) modify the Items or Services so that they no longer infringe but remain fully equivalent in functionality;
  - (3) obtain for Buyer, its distributors, subcontractors or customers the right to continue using the Items or Services; or,
  - (4) if none of the foregoing is possible, refund all amounts paid for the infringing Items or Services.
- (f) 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.

**46. INDEMNITY AGAINST CLAIMS/LIMITATION OF LIABILITY:**

- (a) Seller shall keep its work and all items supplied by it hereunder and Buyer premises free and clear of all liens and encumbrances, including mechanic's liens, in any way arising from performance of this Order by Seller or by any of its vendors or subcontractors. Seller may be required by Buyer to provide a satisfactory release of liens as a condition of final payment. To the extent not covered by the Patent/Intellectual Property Indemnity provision in Article 27, Seller shall, without limitation, indemnify, save, and hold harmless Buyer and its customer(s) and their respective officers, directors, employees and agents harmless from and against every liability, claim of liability, allegation, judgment, cost, expense, attorneys fees, cause of action, loss or damages whatsoever, including, without limitation, (i) any and all claims (including claims under Workers' Compensation or Occupational Disease laws) and resulting costs, expenses and liability which arise from personal injury, death, or property loss or damage attributed to, or caused by, the Services or other Items supplied by Seller pursuant to this Order, including, without limitation, latent defects in such Services or other Items, except to the extent that such injury, death, loss or damage is caused solely and directly by the negligence of Buyer, and (ii) all claims (including resulting costs, expenses and liability) by the employees of Seller or any of its subcontractors.
- (b) Seller agrees to notify Buyer as soon as practicable of any such claim described in subparagraph (a) above. Seller, if required to indemnify Buyer under this Article, shall promptly assume and diligently conduct the entire defense of such claim at its own expense. Buyer shall have the right to reasonably reject counsel selected by Seller and the right to reject any settlement that would negatively impact Buyer as determined solely by Buyer. Buyer shall have the right to participate with Seller in determining the strategy to defend any such suit or action, and shall have the right, with the permission of the court, to intervene in any such claim.
- (c) Notwithstanding any of the above provisions, Buyer shall have the further right, at its own election, to supersede Seller in the defense of any such claim and thereafter to assume and conduct the same according to Buyer's sole discretion. Upon Buyer's election, Seller shall be released from its obligation to pay for attorneys fees and court costs. Further, Seller, if requested in writing by Buyer, shall cooperate with Buyer in Buyer's defense of any alleged claim.
- (d) In the event Buyer should bring action to enforce the indemnification provisions of this Article 46 and prevail in such action, Seller agrees that Buyer shall be entitled to be awarded its reasonable attorney's fees and costs.
- (e) Except for any indemnifications provided in this Order, in no event shall either party, their employees, agents or representatives be liable to the other party relating to this Order or for any acts or omissions of either party in connection with this Order for any indirect, special, punitive, incidental or consequential damages of any kind, however caused, or any claims or demands against either party by any other entity, whether such remedy is sought in contract, tort (including without limitation negligence), strict liability or otherwise.

**47. ETHICAL STANDARDS OF CONDUCT:**

- (a) Buyer is committed to conducting its business fairly, impartially, and in an ethical and proper manner. Buyer's expectation is that Seller also will conduct its business fairly, impartially, and consistent with the Peraton Code of Conduct (<https://peraton.com/wp-content/uploads/2017/09/Peraton-Code-of-Conduct.pdf>) as it relates to intermediaries, in its current form and as it may be amended from time to time. Buyer's further expectation is that Seller also will have (or will develop) and adhere to its own code of ethical standards. Seller's employees are required to conduct company business with integrity and maintain a high standard of conduct in all business-related activities.
- (b) If Seller has cause to believe that Buyer or any employee or agent of Buyer has behaved improperly or unethically under this contract, Seller

shall report such behavior to the Peraton EthicsPoint resource (+1-844-800-3721 or [www.Peraton.ethicspoint.com](http://www.Peraton.ethicspoint.com)).

- (c) Seller shall not participate in any personal business, or investment activity that may be defined as a conflict of interest, whether real or perceived. As a material obligation hereunder, Seller must immediately notify Buyer if, at any time during the term of this Order, Seller becomes aware that it has an actual or potential conflict of interest, as defined by FAR 9.5, DFAR 252.209-7009, including without limitation a relationship of any nature which may affect or which may reasonably appear to affect Seller's objectivity or ability to perform the Work ("Conflict of Interest").
- (d) **SELLER COMPLIANCE:** In performing its obligations under this Order, Seller will not use child labor as defined by local law, will not use forced or compulsory labor, will not physically abuse labor and will respect employees' rights to choose whether to be represented by third parties and to bargain collectively in accordance with local law. In addition, in all wage and benefit, working hours and overtime and health, safety and environmental matters, Seller will comply with all applicable laws and regulations. Seller further agrees that, if requested by Buyer, it shall demonstrate, to the satisfaction of Buyer, compliance with all requirements in this paragraph. Buyer shall have the right to inspect any site of Seller involved in work for Buyer, and failure to comply with the obligations in this paragraph shall be cause for immediate termination without penalty or further liability to Buyer.

**48. NON-SOLICITATION:** During the term of this Order, and for a period of twenty-four (24) months following termination of this Order, Seller shall not, directly or indirectly, solicit for employment, employ or otherwise engage the services of employees or individual consultants of Buyer.

**49. GENERAL RELATIONSHIP:** Seller's relationship to Buyer in the performance of this Order is that of an Independent Contractor. Neither Seller nor any of the persons utilized by Seller to furnish materials or perform work or Services under this Order are employees of Buyer. Seller shall, at its own expense, comply with all applicable laws and regulations and assume all liabilities and obligations imposed by such laws and regulations with respect to this Order. Seller agrees that neither it nor its personnel are employees of Buyer, or provided to any benefits provided or rights guaranteed by Buyer, or by operation of law, to Buyer's respective employees, including but not limited to group insurance, liability insurance, disability insurance, paid vacation, sick leave or other leave, retirement plans, health plans, stock options and the like. Seller shall be responsible for and hold harmless Buyer and its customers from and against all losses, costs, claims, causes of action, damages, liabilities, and expenses, including attorneys fees, all expenses of litigation and/or settlement, and court costs, arising from any act or omission of Seller, its officers, employees, agents, suppliers, or subcontractors at any tier, in the performance of any of its obligations under this Order. Buyer shall be solely responsible for all liaison and coordination with Buyer's customer(s), including the Government, as it affects the applicable Government Contract, this Order, and any related contract. Unless otherwise directed in writing by Buyer's Representative, all documentation requiring submittal to, or action by, the Government or the Contracting Officer shall be routed to, or through, Buyer's Representative, or as otherwise permitted by this Order.

**50. SEVERABILITY:** If any part, term, or provision of this Order shall be held void, illegal, unenforceable, or in conflict with any law of a federal, state, or local government having jurisdiction over this Order, the validity of the remaining portions of provisions shall not be affected thereby. In the event that any part, term or provision of this Order is held void, illegal, unenforceable, or in conflict with any law of the federal, state, or local government having jurisdiction over this Order, Seller agrees to negotiate a replacement provision, construed to accomplish its originally intended effect that does not violate such law or regulation.

**51. SURVIVABILITY:** If this Order expires, is completed, or is terminated for default or convenience, Seller shall not be relieved of those obligations contained in this Order for the following provisions:

- (a) Allowable Cost, Payment and Close-Out, Article 3; Applicable Law and Disputes, Article 10; Compliance with Federal, State and Local Laws, Article 12; Confidential Relationship, Article 15; General Relationship, Article 49; Risk of Damage/Indemnification/Insurance, Article 22; Offset/Countertrade Credit, Article 25; Patent/Intellectual Property Indemnity By Seller, Article 27; Warranty, Article 19; Foreign Transactions and Export Control, Article 37; Compliance With Hazardous Substances and Waste Recycling Laws, Article 42; and Indemnity Against Claims/Limitation of Liability, Article 46.
- (b) Those United States Government flowdown provisions that, by their nature, should survive.

**52. CERTIFICATIONS:**

By accepting this Order, Seller certifies that:



- (a) there is no litigation or proceeding pending, and that none are anticipated (e.g. claims of fraud, waste or abuse, debarment proceedings, or criminal allegations, against it or any of its officers or employees that may restrict, invalidate or void the Items or Services contemplated by this Order or render the continuation of such Order inadvisable);
- (b) Seller has reviewed the Order and that no person that it provides to perform any services included therein has any legal restrictions as a result of government service that would be pertinent to the Order that would prevent such person from reasonably performing the work contemplated (e.g., post-employment restrictions related to representing a company to the government, accepting compensation for these services or improperly using or disclosing non-public information in these duties);
- (c) if this effort includes support for a competitive proposal, that no person Seller provides for performance of this Order will have worked on the same or a directly related effort for any company in competition with Buyer for this work; and
- (d) Seller has taken reasonable steps to identify and prevent the conflicts referenced above related to the personnel it provides for performance of this Order.
- (e) A duly authorized representative of Seller has attested to and executed Seller's Annual Certification.

Seller further agrees to furnish to Buyer or directly to Buyer's Customer, upon Buyer's request, any certificate required to be furnished under any provisions of this Order, including the clauses set forth and incorporated in Item 2 of this Order.

**ITEM 2 – FAR, DFARS, NFS AND/OR FAA AMS CLAUSES APPLICABLE IF THIS ORDER IS PLACED UNDER BUYER CONTRACT CONTAINING SUCH CLAUSES**

In addition to the provisions of Item-1, the following provisions shall apply as required by the terms of the Buyer's Government Contract or by operation of law or regulation. Buyer is flowing down to Seller certain provisions and clauses from the Federal Acquisition Regulation (FAR), Department of Defense FAR Supplement (DFARS), NASA FAR Supplement (NFS) and FAA Acquisition Management System (AMS) (all herein "USG Clauses"). These USG Clauses are hereby incorporated by reference, as applicable, and in the manner set forth below (including any parenthetical information and Numbered Notes). USG Clauses inapplicable to the performance of this Order under Buyer's Government Contract are self-deleting. If the date and/or substance of a USG Clause is different than the date or substance of the clause incorporated in Buyer's Government Contract, then the date and/or substance of the clause incorporated in Buyer's Government Contract shall apply instead. The Parties hereby agree to amend this ITEM 2 to include any additional or revised USG Clauses incorporated in Buyer's Government Contract that are applicable to the performance of this Order. The Parties shall handle any such amendments of this ITEM 2 under Article 11 "Changes and Equitable Adjustments" of this Order. Seller shall flow down to its lower-tier subcontractors all applicable USG Clauses and any other requirements of this Order and applicable law so as to enable and ensure that Buyer and Seller comply with all applicable requirements of Buyer's Government Contract.

It is intended by the Parties that these USG Clauses shall apply to Seller in such manner as is necessary to reflect the position of Seller as a subcontractor to Buyer, and to insure Seller's obligations to Buyer and to the Government, and to enable Buyer to meet its contract obligations to the Federal Government. Consequently, in interpreting and applying USG Clauses flowed down to Seller, and as context requires, the terms "Contractor" and "Offeror" shall mean Seller, the term "Contract" shall mean this Order, and the term "Government", "Contracting Officer" and equivalent phrases shall mean Buyer and/or Buyer's Representative. However, as an exception to the foregoing, the terms "Government" and "Contracting Officer" do not change in the following circumstances:

- (a) in the phrases "Government Property," "Government-Furnished Property," and "Government-Owned Property;"
- (b) in the Patent Rights clauses incorporated therein, if any;
- (c) when a right, act, authorization or obligation can be granted or performed only by the Government or a Contracting Officer or his/her duly-authorized representative;
- (d) when title to property is to be transferred directly to the Government;
- (e) when access to proprietary financial information or other proprietary data is required, except as otherwise provided in this Order; and
- (f) where specifically modified in this Order.

USG Clauses flowed down by Buyer to Seller pursuant to this provision may require submission of certificates. All such required representations and certifications made by Seller in connection with flow down of USG Clauses, including all such certifications submitted by Seller with its offer, are hereby incorporated in this Order by reference. Seller shall, with respect to applicable USG Clauses flowed down pursuant to this provision, furnish to Buyer (or directly to the Government upon request of Buyer) any certificate required to be furnished by any USG Clause and any certificate required by any further U.S. law, ordinance, or regulation with respect to Seller's compliance with the terms and provisions of U.S. laws, ordinances, or regulations. As used in this paragraph, the word "certificate" shall include any plan or course of action or record keeping function, as, for example, a small business subcontracting plan for which flow down is required.

Seller shall indemnify and hold Buyer harmless from and against any price reduction in Buyer's Government Contract, as well as Buyer's reasonable attorney fees and other direct costs to defend Government Contract claims when said reduction is attributable to the failure of Seller or Seller's subcontractors to properly discharge applicable duties under the Truth in Negotiation Act and Cost Accounting Standards clauses incorporated by reference in accordance with this provision.

The notation [M] after a FAR Clause name (or Alternate) indicates that the FAR *requires* the clause to be flowed down to subcontracts, or requires the contractor to certify the subcontractor's compliance.

**1. FAR CLAUSES**

The following provisions shall apply as required by the terms of Buyer's Government Contract or by operation of law or regulation. The following Federal Acquisition Regulation (FAR) Clauses are hereby incorporated by reference, as applicable, and made a part of this Order.

**A. APPLICABLE TO ALL ORDERS:**

- 52.202-1 Definitions [NOV 2013]
- 52.203-3 Gratuities [APR 1984]
- 52.203-5 Covenant Against Contingent Fees [MAY 2014]

- 52.203-8 Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity [MAY 2014]
- 52.203-10 Price or Fee Adjustment for Illegal or Improper Activity [MAY 2010]
- 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions [SEP 2007]
- 52.203-15 Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 [M] (applies to all Orders funded in whole or in part with American Recovery and Reinvestment Act of 2009 funds) [JUN 2010]
- 52.204-2 Security Requirements [M] (applies if work involves access to classified information) [AUG 1996]
- 52.204-3 Taxpayer Identification [OCT 1998]
- 52.204-4 Printed or Copied Double-Sided on Postconsumer Fiber Content Paper [MAY 2011]
- 52.204-5 Women-Owned Business (Other Than Small Business) [OCT 2014]
- 52.204-6 Unique Entity Identifier [Oct 2016]
- 52.204-7 System for Award Management [OCT 2016]
- 52.204-8 Annual Representations and Certifications [OCT 2016]
- 52.204-9 Personal Identity Verification of Contractor Personnel [M] (applies if work requires routine access to a Federally-controlled facility and/or to a Federally-controlled information system) [JAN 2011]
- 52.207-4 Economic Purchase Quantity Supplies [AUG 1987]
- 52.207-5 Option to Purchase Equipment (applies if Order involves a lease with option to purchase) [FEB 1995]
- 52.208-8 Required Sources for Helium and Helium Usage Data [M] (applies if Order involves a major helium requirement) [APR 2014]
- 52.209-2 Prohibition on Contracting With Inverted Domestic Corporations- Representation [NOV 2015]
- 52.209-5 Certification Regarding Responsibility Matters [OCT 2015]
- 52.209-7 Information Regarding Responsibility Matters [JUL 2013]
- 52.209-9 Updates of Publicly Available Information Regarding Responsibility Matters (Alt I applies if included in Buyer's Government Contract) [JUL 2013]
- 52.209-10 Prohibition on Contracting with Inverted Domestic Corporations [NOV 2015]
- 52.210-1 Market Research [APR 2011]
- 52.211-5 Material Requirements [AUG 2000]
- 52.211-15 Defense Priority and Allocation Requirements [M] (applies to Orders that contain a DPAS rating) [APR 2008]
- 52.215-6 Place of Performance [OCT 1997]
- 52.215-9 Changes or Additions to Make-or-Buy Program (Alt I and/or II apply if included in Buyer's Government Contract) [OCT 1997]
- 52.215-20 Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data (Alt I, Alt II, Alt III, and/or Alt IV apply if included in Buyer's Government Contract) [OCT 2010]
- 52.215-21 Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data – Modifications (Alt I, Alt II, Alt III, and/or Alt IV apply if included in Buyer's Government Contract) [OCT 2010]
- 52.215-22 Limitations On Pass-Through Charges- Identification of Subcontract Effort [OCT 2009]
- 52.215-23 Limitations On Pass-Through Charges [M] (Alt I applies if in Buyer's Government Contract) [OCT 2009]
- 52.216-7 Allowable Cost and Payment [JUN 2013]
- 52.216-8 Fixed Fee [JUN 2011]
- 52.216-10 Incentive Fee [JUN 2011]
- 52.216-11 Cost Contract- No Fee [APR 1984]
- 52.216-12 Cost Sharing Contract – No Fee [APR 1984]
- 52.217-9 Option to Extend the Term of the Contract [MAR 2000]

52.219-1	Small Business Program Representations (Alt I applies if Buyer's Government Contract was issued by DoD, NASA, or the Coast Guard) [OCT 2014]	52.223-3	Hazardous Material Identification and Material Safety Data (Seller shall furnish the information required by Para. (b) to Buyer) (Alt I is applicable if included in Buyer's Government Contract) [JAN 1997]
52.219-8	Utilization of Small Business Concerns [M] [NOV 2016]	52.223-4	Recovered Material Certification [MAY 2008]
52.219-10	Incentive Subcontracting Program [NOV 2016]	52.223-5	Pollution Prevention and Right-To-Know Information (applies to Orders that provide for performance, in whole or in part, on a Federal facility) (Alt I or II are applicable if included in Buyer's Government Contract) [MAY 2011]
52.219-28	Post-Award Small Business Program Representation [JUL 2013]	52.223-6	Drug-Free Workplace [MAY 2001]
52.222-1	Notice to the Government of Labor Disputes [FEB 1997]	52.223-7	Notice of Radioactive Materials [M] (applies to Orders meeting the criteria of Para. (a)) (Insert "60" in the first sentence of Para. (a)) [JAN 1997]
52.222-3	Convict Labor [JUN 2003]	52.223-9	Estimate of Percentage of Recovered Material Content for EPA-Designated Items (Alt I applies if included in Buyer's Government Contract) [MAY 2008]
52.222-4	Contract Work Hours and Safety Standards Act - Overtime Compensation [M] (In addition, Buyer may withhold or recover from Seller any sums the Contracting Officer withholds or recovers from Buyer because of a violation of this provision by Seller or Seller's subcontractor) [MAY 2014]	52.223-11	Ozone-Depleting Substances [JUN 2016]
52.222-6	Construction Wage Rate Requirements [M] [MAY 2014]	52.223-12	Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners [JUN 2016]
52.222-7	Withholding of Funds [MAY 2014]	52.223-15	Energy Efficiency in Energy-Consuming Products [DEC 2007]
52.222-8	Payrolls and Basic Records [M] [MAY 2014]	52.223-16	Acquisition of EPEAT Registered Personal Computer Products [OCT 2015]
52.222-9	Apprentices and Trainees [M] [JUL 2005]	52.223-17	Affirmative Procurement of EPA-Designated Items in Service and Construction Contracts [MAY 2008]
52.222-10	Compliance with Copeland Act Requirements [M] [FEB 1988]	52.223-18	Encouraging Contractors to Ban Text Messaging While Driving [M] (applies to all Orders expected to exceed the micro-purchase threshold) [AUG 2011]
52.222-11	Subcontracts (Labor Standards) [M] [MAY 2014]	52.223-19	Compliance with Environmental Management Systems [MAY 2011]
52.222-12	Contract Termination - Debarment [M] [MAY 2014]	52.224-1	Privacy Act Notification [M] [APR 1984]
52.222-13	Compliance with Construction Wage Rate Requirements and Related Regulations [M] [MAY 2014]	52.224-2	Privacy Act [M] [APR 1984]
52.222-14	Disputes Concerning Labor Standards [M] [FEB 1988]	52.225-1	Buy American Act - Supplies [M] [MAY 2014]
52.222-15	Certification of Eligibility [M] [MAY 2014]	52.225-3	Buy American Act—Free Trade Agreements—Israeli Trade Act [M] (Alt I and II apply if included in Buyer's Government Contract) [MAY 2014]
52.222-19	Child Labor - Cooperation With Authorities and Remedies [OCT 2016]	52.225-5	Trade Agreements [OCT 2016]
52.222-21	Prohibition of Segregated Facilities [M] [APR 2015]	52.225-7	Waiver of Buy American Act for Civil Aircraft and Related Articles [FEB 2016]
52.222-22	Previous Contracts and Compliance Reports [FEB 1999]	52.225-8	Duty-Free Entry [M] (applies if, under this Order, supplies identified in the Schedule to be accorded duty-free entry will be imported into the customs territory of the United States or other foreign supplies in excess of \$15,000 may be imported into the customs territory of the United States either as end products or for incorporation into end products) (Change "20 calendar days" to "30 calendar days" in Para. (c)(1), and "10 calendar days" to "20 calendar days" in Para. (c)(2)) [OCT 2010]
52.222-26	Equal Opportunity [M] [SEP 2016] and Alt I [FEB 1999]	52.225-9	Buy American Act - Construction Materials (Alt I applies if in Buyer's Government Contract) [MAY 2014]
52.222-29	Notification of Visa Denial (applies if Seller is required to perform in or on behalf of a foreign country) [APR 2015]	52.225-10	Notice of Buyer American Act Requirement-Construction Materials (Alt I applies if in Buyer's Government Contract) [MAY 2014]
52.222-38	Compliance With Veterans' Employment Reporting Requirements [FEB 2016]	52.225-11	Buy American Act - Construction Materials under Trade Agreements (Alt I applies if in Buyer's Government Contract) [OCT 2016]
52.222-41	Service Contract Act of 1965 [M] (applies to Orders subject to the Act) [MAY 2014]	52.225-12	Notice of Buy American Act Requirement-Construction Materials under Trade Agreements (Alt I and/or II apply if in Buyer's Government Contract) [MAY 2014]
52.222-48	Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipments - Requirements [MAY 2014]	52.225-13	Restrictions on Certain Foreign Purchases [M] [JUN 2008]
52.222-50	Combating Trafficking in Persons [M] [MAR 2015] and Alt I [MAR 2015] (Alt I is applicable if included in Buyer's Government Contract)	52.225-14	Inconsistency Between English Version and Translation of Contract [FEB 2000]
52.222-51	Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipments - Requirements [M] (applies to Orders for services exempt from the Service Contract Act) [MAY 2014]	52.225-17	Evaluation of Foreign Currency Offers [FEB 2000]
52.222-52	Exemption from Application of the Service Contract Act to Contracts for Certain Services - Certification [MAY 2014]	52.225-18	Place of Manufacture [MAR 2015]
52.222-53	Exemption from Application of the Service Contract Act to Contracts for Certain Services - Requirements [M] (applies to Orders for services exempt from the Service Contract Act) [MAY 2014]	52.225-19	Contractor Personnel in a Designated Operational Area or Supporting a Diplomatic or Consular Mission Outside the United States [M] (applies if this Order requires Seller to perform outside the United States (1) in a designated operational area during contingency operations, or humanitarian or peacekeeping operations, or other military
52.222-54	Employment Eligibility Verification [M] (applies if this Order (1) is for commercial or noncommercial services (except for commercial services that are part of the purchase of a COTS item (or an item that would be a COTS item, but for minor modifications), performed by the COTS provider, and are normally provided for that COTS item) or construction; (2) has a value of more than \$3,500; and (3) includes work performed in the United States) [OCT 2015]		

	operations or military exercises, when designated by the Combatant Commander (2) when supporting a diplomatic or consular mission that has been designated by the Department of State as a danger pay post or that the Contracting Officer has indicated is subject to this clause) [MAR 2008]	52.232-17	Interest [MAY 2014]
		52.232-20	Limitation of Costs (applies if this is a fully funded Order) [APR 1984]
52.225-20	Prohibition on Conducting Restricted Business Operations in Sudan-Certification [AUG 2009]	52.232-22	Limitation of Funds (in para. (c) replace 60 days with 90 days, and replace 75% with 60%) (in para. (d), replace 60 days with 90 days) (following para. (d), insert the following: "If the estimate is higher than the funded value, the estimate at completion shall contain the hours and billing rate by labor category, material cost and material burden (if applicable) separately for costs to date, estimate to complete and total together with supporting reasons and documentation.") [APR 1984]
52.225-21	Required Use of American Iron, Steel, and Manufactured Goods – Buy American Act-Construction Materials [MAY 2014]		
52.225-22	Notice of Required Use of American Iron, Steel, and Manufactured Goods – Buy American Act-Construction Materials (and Alt I) [MAY 2014]	52.233-3	Protest After Award [AUG 1996] and Alt I AUG 1996]
52.225-23	Required Use of American Iron, Steel, and Manufactured Goods – Buy American Act-Construction Materials Under Trade Agreements [OCT 2016]	52.234-1	Industrial Resources Developed Under Defense Production Act Title III [M] [SEP 2016]
52.225-24	Notice of Required Use of American Iron, Steel, and Manufactured Goods – Buy American Act-Construction Materials Under Trade Agreements [MAY 2014]	52.234-4	Earned Value Management System [M] (applies when the Contracting Officer has listed Seller in Para. (g)) [MAY 2014]
52.225-25	Prohibition on Engaging in Sanctioned Activities Relating to Iran-Certification [OCT 2015]	52.237-2	Protection of Government Buildings, Equipment, and Vegetation (applies if work will be performed on a Government installation) [APR 1984]
52.226-1	Utilization of Indian Organizations and Indian-Owned Economic Enterprises [JUN 2000]	52.237-3	Continuity of Services [JAN 1991]
52.226-2	Historically Black College or University and Minority Institution Representation [OCT 2014]	52.237-8	Restriction on Severance Payments to Foreign Nationals (Para. (a) only) [AUG 2003]
52.227-4	Patent Indemnity- Construction Contracts [DEC 2007]	52.237-11	Accepting and Dispensing of \$1 Coin [SEPT 2008]
52.227-6	Royalty Information [APR 1984]	52.239-1	Privacy or Security Safeguards (applies for contracts for information technology which require security of information technology, and/or are for the design, development, or operation of a system of records using commercial information technology services or support services) [AUG 1996]
52.227-10	Filing of Patent Applications – Classified Subject Matter [M] [DEC 2007] (applies to Orders that cover classified subject matter)		
52.227-11	Patent Rights – Ownership by the Contractor [M] [MAY 2014] (Alt I and II apply if in Buyer's Prime Contract)	52.242-1	Notice of Intent to Disallow Costs (delete para. (a)(2)) [APR 1984]
52.227-13	Patent Rights – Ownership by the Government [M] [DEC 2007] (Alt I and II apply if in Buyer's Prime Contract)	52.242-2	Production Progress Reports [APR 1991]
52.227-14	Rights in Data – General [M] ("Government" does not change in Para. (b) Allocation of Rights, and "Contracting Officer" does not change in the first sentence of Para. (c)(1) and Para. (e)) (delete (b)(2)(i)-(iii), (c)(1), and (d)(1)-(2)) [MAY 2014] (Alternates I - V apply if included in Buyer's Government Contract)	52.242-3	Penalties for Unallowable Costs [MAY 2014]
		52.242-4	Certification of Final Indirect Costs [JAN 1997]
		52.242-13	Bankruptcy [JUL 1995]
		52.242-15	Stop-Work Order ("90 days" is modified to read "180 days" in Para. (a)) [AUG 1989]
		52.243-6	Change Order Accounting [APR 1984]
		52.244-2	Subcontracts [OCT 2010]
		52.244-6	Subcontracts for Commercial Items [M] NOV 2016]
52.227-16	Additional Data Requirements [JUN 1987]	52.245-1	Government Property [M] (Note 3) [APR 2012] (Alternates I [APR 2012] and II [APR 2012] apply if included Buyer's Government Contract)
52.227-17	Rights in Data – Special Works [DEC 2007]	52.245-2	Government Property Installation Operation Services (applies if Order is a service contract to be performed on a Government installation when Government-furnished property will be provided for initial provisioning only and the Government is not responsible for repair or replacement) [APR 2012]
52.227-18	Rights in Data – Existing Works [DEC 2007]		
52.227-20	Rights in Data – SBIR Program [MAY 2014]	52.245-9	Use and Charges (applies if included in Buyer's Government Contract) [APR 2012]
52.227-21	Technical Data Declaration, Revision, and Withholding of Payment – Major Systems [MAY 2014]	52.246-3	Inspection of Supplies – Cost-Reimbursement [MAY 2001] (Note 2)
52.227-22	Major System – Minimum Rights [JUN 1987]	52.246-5	Inspection of Services – Cost-Reimbursement [APR 1984] (Note 2)
52.227-23	Rights to Proposal Data (Technical) [JUN 1987]	52.246-8	Inspection of Research and Development – Cost Reimbursement (Note 2) [MAY 2001]
52.228-3	Workers' Compensation Insurance (Defense Base Act) [M] [JUL 2014]	52.246-9	Inspection of Research and Development (Short Form) [APR 1984]
52.228-4	Workers' Compensation and War-Hazard Insurance Overseas [M] [APR 1984]	52.246-11	Higher-Level Contract Quality Requirement (Government Specification) [DEC 2014]
52.228-5	Insurance – Work on a Government Installation [M] (kinds and amounts, if applicable, set forth in Purchase Order) [JAN 1997]	52.246-15	Certificate of Conformance [APR 1984]
52.229-2	North Carolina State and Local Sales and Use Tax [APR 1984]	52.246-17	Warranty of Supplies of a Noncomplex Nature (Alt I through V apply if incorporated in Buyer's Government Contract) [JUN 2003]
52.229-8	Taxes- Foreign Cost Reimbursement Contracts [MAR 1990]	52.247-63	Preference for U.S.-Flag Air Carriers [M] (applies to Orders involving international air transportation) [JUN 2003]
52.229-9	Taxes – Cost Reimbursement Contracts with Foreign Governments [MAR 1990]	52.247-64	Preference for Privately Owned U.S.-Flag Commercial Vessels [M] (in Para. (c)(2)(i) "20" is changed to "10" and in Para. (c)(2)(ii) "30" is changed to "20") [FEB 2006] (Alternates I and II apply if in Buyer's Government Contract)
52.229-10	State of New Mexico Gross Receipts and Compensating Tax [M] [APR 2003]		
52.230-1	Cost Accounting Standards Notices and Certifications [OCT 2015]		
52.232-9	Limitation on Withholding of Payments [APR 1984]		
52.232-16	Progress Payments (if Seller is a large business, applies only when approved by Buyer, "Government" does not change in paras. (d) and (g)) [APR 2012] (and Alt I if Seller is a small business)		



- 52.247-67 Submission of Transportation Documents for Audit (applies when Seller is a first-tier supplier and transportation will be reimbursed as a direct charge to the Order. Delete Para. (a)(2)) [FEB 2006]
- 52.247-68 Report of Shipment (REPSHIP) [FEB 2006]
- 52.248-1 Value Engineering [OCT 2010] (Note 4)
- 52.251-1 Government Supply Sources [APR 2012]
- B. ORDERS EXPECTED TO EXCEED \$10,000 ALSO INCLUDE:**
- 52.222-40 Notification of Employee Rights Under the National Labor Relations Act [M] (applies if Order will be performed wholly or partially in the United States) [DEC 2010]
- C. ORDERS EXPECTED TO EXCEED \$15,000 ALSO INCLUDE:**
- 52.222-20 Walsh-Healey Public Contracts Act [MAY 2014]
- 52.222-36 Affirmative Action for Workers With Disabilities [M] (Para.(b) (2) is revised to delete "provided by or through the Contracting Officer" and insert "provided upon request by the Contracting Officer through Buyer.") [JUL 2014]
- 52.226-6 Promoting Excess Food Donation to Nonprofit Organizations [M] (applies to all contracts, task orders, delivery orders, purchase orders, and other similar instruments greater than \$25,000 with its subcontractors or suppliers, at any tier, who will perform, under this contract, the provision, service, or sale of food in the United States) [MAY 2014]
- D. ORDERS EXPECTED TO EXCEED \$30,000**
- 52.204-10 Reporting Executive Compensation and First-Tier Subcontract Awards (applies to Orders expected to exceed 30,000) [OCT 2016]
- 52.209-6 Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment [M] (applies to first tier subcontracts exceeding \$35,000; Seller shall furnish to Buyer the information required by Para. (c)) [OCT 2015]
- E. ORDERS EXPECTED TO EXCEED \$100,000 AND/OR THE SIMPLIFIED ACQUISITION THRESHOLD ALSO INCLUDE:**
- 52.203-6 Restrictions on Subcontractor Sales to the Government [M] [SEP 2006]
- 52.203-7 Anti-Kickback Procedures [M] (applies to Orders exceeding \$150,000) (exclude paragraph (c)(1)) (In paragraph (c)(4) delete "[T]he contracting officer may" and replace with "[T]o the extent the Contracting Officer has made an offset in Buyer's Government Contract or directed Buyer to withhold an amount, Buyer may ...") [MAY 2014]
- 52.203-12 Limitation on Payments to Influence Certain Federal Transactions [M] (applies to Orders exceeding \$150,000) [OCT 2010]
- 52.215-2 Audit and Records – Negotiation [M] (Alt I and/or III apply if included in Buyer's Government Contract) [OCT 2010]
- 52.215-14 Integrity of Unit Prices [M] (exclude Para. (b), but include Para. (b) in Alternate I (a)) [OCT 2010]
- 52.222-35 Equal Opportunity for Veterans [M] (unless exempted by rules, regulations or orders of the Secretary of Labor) [OCT 2015] and Alt I [JUL 2014]
- 52.222-37 Employment Reports Veterans [M] (unless exempted by rules, regulations or orders of the Secretary of Labor) [FEB 2016]
- 52.227-1 Authorization and Consent [M] (applies to all subcontracts with a value expected to exceed the simplified acquisition threshold) [DEC 2007]
- 52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement [M] (applies to all subcontracts with a value expected to exceed the simplified acquisition threshold) [DEC 2007]
- 52.237-10 Identification of Uncompensated Overtime (applies to orders for professional or technical services) [MARCH 2015]
- 52.248-1 Value Engineering [M] (Note 7) [OCT 2010] (Alternates I, II, and/or III apply if in Buyer's Government Contract)
- F. ORDERS EXPECTED TO EXCEED THE APPLICABLE THRESHOLD IN AFFECT AT TIME OF PRIME CONTRACT AWARD INCLUDE:**
- 52.214-26 Audit and Records – Sealed Bidding [M] (applies to orders expected to exceed the threshold for submitting cost and pricing data in FAR 15.403-4(a)(1)) [OCT 2010]
- 52.214-27 Price Reduction for Defective Certified Cost or Pricing Data – Modifications – Sealed Bidding (applies to Orders expected to exceed the threshold for submitting cost and pricing data in FAR 15.403-4(a)(1)) (Note 1) [AUG 2010]
- 52.215-15 Pension Adjustments and Asset Reversions [M] (applies to Orders that meet FAR 15.408(g)) [OCT 2010]
- 52.215-18 Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions [M] (applies to Orders that meet FAR 15.408(j)) [JUL 2005]
- 52.215-19 Notification of Ownership Changes [M] (applies to Orders that meet FAR 15.408(k)) [OCT 1997]
- 52.215-21 Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data - Modifications [OCT 2010] (Alt I – IV apply if included in Buyer's Government Contract)
- 52.219-9 Small Business Subcontracting Plan [M] (Alt II [JAN 2017] and Alt III [JAN 2017] apply if included in Buyer's Government Contract) [JAN 2017]
- 52.219-16 Liquidated Damages- Subcontracting Plan [JAN 1999]
- G. ORDERS UNLESS OTHERWISE EXEMPT ALSO INCLUDES:**
- 52.215-10 Price Reduction for Defective Certified Cost or Pricing Data (Seller shall provide Buyer or, upon Buyer's request, the Government, with cost or pricing data and execute a Certificate of Current Cost or Pricing Data in substantially the form prescribed in FAR 15.406-2) (the term "Contracting Officer" in (c)(1) remains the Government Contracting Officer) (Note 1) [AUG 2011]
- 52.215-11 Price Reduction for Defective Certified Cost or Pricing Data – Modifications (Seller shall provide Buyer or, upon Buyer's request, the Government with cost or pricing data and execute a Certificate of Current Cost or Pricing Data in substantially the form prescribed in FAR 15.406-2) (the term "Contracting Officer" in (c)(1) remains the Government Contracting Officer) (Note 1) [AUG 2011]
- 52.215-12 Subcontractor Certified Cost or Pricing Data [M] (applies to Orders over the threshold for submitting cost and pricing data in FAR 15.403-4) [OCT 2010]
- 52.215-13 Subcontractor Certified Cost or Pricing Data – Modifications [M] (applies to Orders over the threshold for submitting cost and pricing data in FAR 15.403-4) [OCT 2010]
- 52.215-16 Facilities Capital Cost of Money (applies to Orders that meet FAR 15.408(h)) [JUN 2003]
- 52.215-17 Waiver of Facilities Capital Cost of Money (applies to Orders that meet FAR 15.408(i)) [OCT 1997]
- H. ORDERS EXPECTED TO EXCEED \$5,000,000 ALSO INCLUDE:**
- 52.203-13 Contractor Code of Business Ethics and Conduct [M] (applies where performance period is more than 120 days; "Government" and "Contracting Officer" do not change) [OCT 2015]
- 52.203-14 Display of Hotline Poster(s) [M] (applies unless this Order is for the acquisition of a commercial item or is performed entirely outside the United States) [OCT 2015]
- 52.222-24 Preaward On-Site Equal Opportunity Compliance Evaluation (applies to Orders over \$10,000,000 if Seller is a first-tier subcontractor) [FEB 1999]
- I. ADDITIONAL CLAUSES:**
- 1. Cost Accounting Standards (Note 5)**

**APPLICABLE THRESHOLD IN AFFECT AT TIME OF PRIME CONTRACT AWARD**

The following provisions apply to the extent required in Buyer's Government Contract or as otherwise specifically directed by Buyer.

- 52.230-2 Cost Accounting Standards [M] (exclude Para. (b)) (see Para. (d) for effective date of clause) [OCT 2015]
- 52.230-3 Disclosure and Consistency of Cost Accounting Practices [M] (exclude Para. (b)) [OCT 2015]
- 52.230-4 Disclosure and Consistency of Cost Accounting Practices-Foreign Concerns [M] [OCT 2015]
- 52.230-5 Cost Accounting Standards - Educational Institution [M] (exclude Para. (b)) [OCT 2015]
- 52.230-6 Administration of Cost Accounting Standards [M] [JUN 2010]

**2. Truth In Negotiations (Cost and Pricing Data)**

Unless exempt, Seller shall submit a FAR Part 15 compliant cost proposal inclusive of appropriate updates throughout the negotiation process. At the conclusion of negotiations, and regardless of any prior certification, Seller must certify as to the accuracy, currency and completeness of its information in accordance with the FAR required Certificate of Current Cost or Pricing Data.

- (a) Indemnification. If any price (including profit or fee) negotiated in connection with Buyer's Government Contract or any cost that is reimbursable under said contract is reduced because cost or pricing data furnished by Seller in connection with any proposal submitted by Buyer relating to said contract or in connection with this Purchase Order was not accurate, complete, or current, Seller shall indemnify Buyer in the amount of said reduction. The phrase "cost or pricing data" as used herein shall be deemed to include any such data which related to a lower-tier prospective or actual subcontract, at any level, which was submitted by Seller or which it procured by submission of, in connection with the aforesaid proposal or this Order in support of its cost estimate. If any reduction in the contract price under this clause reduces the price of items for which payment was made prior to the date of the modification reflecting the price reduction, Seller shall be liable and shall pay Buyer at the time such overpayment is repaid:
  - (1) Simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to Seller to the date Buyer is repaid by Seller at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C. 6621(a)(2); and
  - (2) For Department of Defense contracts only, a penalty equal to the amount of the overpayment, if Seller knowingly submitted cost or pricing data which were incomplete, inaccurate, or non-current.

At Buyer's election, Buyer may set off against any amounts due or to become due to Seller from Buyer, whether or not under this Order, all amounts by which this order has been reduced as set forth above. Notwithstanding the remedies available to Buyer under this Article, Seller shall indemnify and hold harmless Buyer from and against any and all loss or damage, including Buyer's costs, attorney's fees, any penalties resulting from any and all determinations by Buyer's customer set forth in this subparagraph.

- (b) Cost or Pricing Data for Changes. Prior to the pricing of any change or other modification to this Order which involves increases and/or decreases in costs plus applicable profit expected to exceed the threshold for submission of cost or pricing data, subcontractors shall submit cost or pricing data and shall certify that the data, as defined in Federal Acquisition Regulation 15.406-2, submitted either actually or by specific identification in writing, are accurate, complete, and current as of the date of completion of negotiations. When required to obtain cost or pricing data from its subcontractors, pursuant to the provisions of this Order, Seller shall obtain such data.

**2. DEPARTMENT OF LABOR CLAUSE**

In accordance with Executive Order 13496, when the Order is expected to exceed \$10,000 and is not otherwise exempt, in addition to the provisions of ITEM-1, the Employee Notice Clause at 29 CFR Part 471, Appendix A to Subpart A is hereby incorporated by reference and made a part of this Order.

Seller is required to flow down this Employee Notice Clause in all subcontracts expected to exceed \$10,000 that are not otherwise exempt.

**3. DFARS CLAUSES**

In addition to the provisions of ITEM-1, the following provisions shall apply as required by the terms of Buyer's Government Contract or by operation of law or regulation. The following Defense FAR Supplement (DFARS) clauses, in addition to or in lieu of the FAR clauses set forth above, are hereby incorporated by reference, as applicable, and made a part of this Order.

**A. ALL ORDERS INCLUDE:**

- 252.203-7000 Requirements for Relating to Compensation of Former DoD Officials [OCT 2016]
- 252.203-7002 Requirements to Inform Employees of Whistleblower Rights [SEPT 2013]
- 252.203-7003 Agency Office of the Inspector General [SEP 2010]
- 252.203-7004 Display of Fraud Hotline Poster(s) [OCT 2016]
- 252.204-7000 Disclosure of Information [M] (in para. (b) "45" is changed to "60") [OCT 2016]
- 252.204-7003 Control of Government Personnel Work Product [APR 1992]
- 252.204-7008 Compliance with Safeguarding Covered Defense Information Controls [OCT 2016]
- 252.204-7009 Limitations on the Use Or Disclosure of Third-Party Contractor Reported Cyber Incident Information [OCT 2016]
- 252.204-7012 Safeguarding Covered Defense Information and Cyber Incident Reporting [OCT 2016]
- 252.205-7000 Provision of Information to Cooperative Agreement Holders [DEC 1991]
- 252.208-7000 Intent to Furnish Precious Metals as Government-Furnished Material [M] [DEC 1991, as revised December 29, 2010]
- 252.209-7002 Disclosure of Ownership or Control by a Foreign Government [JUN 2010]
- 252.209-7004 Subcontracting With Firms That Are Owned or Controlled by the Government of a Terrorist Country [OCT 2015]
- 252.209-7009 Organizational Conflict of Interest- Major Defense Acquisition Program [OCT 2015]
- 252.211-7003 Item Identification and Valuation [M] [JUN 2011] (apply Alt I [MARCH 2016] if included in Buyer's Government Contract)
- 252.211-7005 Substitution for Military of Federal Specifications and Standards [NOV 2005]
- 252.211-7006 Passive Radio Frequency Identification [JUN 2016]
- 252.211-7007 Reporting of Government-Furnished Equipment in the DoD Item Unique Identification (applies if this Order requires Government property in Seller's possession to contain unique item identification; "Government" does not change) [AUG 2012]
- 252.215-7000 Pricing Adjustments (applies if FAR 52.215-12 or 52.215-13 applies to this Order) [DEC 2012]
- 252.216-7004 Award Fee Reductions or Denial for Jeopardizing the Health or Safety of Government Personnel [SEPT 2011]
- 252.216-7005 Award Fee [FEB 2011]
- 252.217-7012 Liability and Insurance [AUG 2003]
- 252.217-7026 Identification of Sources of Supply [NOV 1995]
- 252.219-7003 Small Business Subcontracting Plan (DoD Contracts) [MARCH 2016]
- 252.219-7004 Small Business Subcontracting Plan (Test Program) [OCT 2014]
- 252.222-7000 Restrictions on Employment of Personnel [M] (applies if noncontiguous state is identified in Buyer's Government Contract) [MAR 2000]
- 252.222-7002 Compliance With Local Labor Laws (Overseas) [JUN 1997]
- 252.222-7006 Restrictions on the Use of Mandatory Arbitration Agreements [DEC 2010]
- 252.223-7001 Hazard Warning Labels (applies if delivery of hazardous materials is required) [DEC 1991]
- 252.223-7002 Safety Precautions for Ammunition and Explosives [M] (applies if articles furnished under this Order contain ammunition or explosives, including liquid and solid propellants) [MAY 1994]

252.223-7003	Change in Place of Performance – Ammunition and Explosives [DEC 1991]	252.225-7025	Restrictions on Acquisition of Forgings [M] (applies to Orders for forging items or for other items that contain forging items) [DEC 2009]
252.223-7006	Prohibition on Storage and Disposal of Toxic and Hazardous Materials (applies to Orders which require, may require or permit Seller to dispose of non-DoD owned toxic or hazardous materials as defined in this clause) [APR 1993] and Alt I [M] [SEPT 2014]	252.225-7027	Restriction on Contingent Fees for Foreign Military Sales [APR 2003]
252.223-7007	Safeguarding Sensitive Conventional Arms, Ammunition, and Explosives [M] (applies to Orders for the development, production, manufacture, or purchase of arms, ammunition, and explosives or when arms, ammunition, and explosives will be provided to Contractor as Government Furnished Property) [SEP 1999]	252.225-7028	Exclusionary Policies and Practices of Foreign Governments [M] [APR 2003]
252.225-7000	Buy American – Balance of Payments Program Certificate (Alt I applies if included in Buyer’s Government Contract) [NOV 2014]	252.225-7030	Restriction of Acquisition of Carbon, Alloy, and Armor Steel Plate [DEC 2006]
252.225-7001	Buy American Act and Balance of Payments Program (applies if work contains other than domestic components; “Government” is not changed in this clause) (Alt I [AUG 2016] applies when the Order includes acquisition of end products listed in 225.401-70 in support of operations in Afghanistan) [JAN 2009]	252.225-7031	Secondary Arab Boycott of Israel [JUN 2005]
252.225-7002	Qualifying Country Sources as Subcontractors [AUG 2016]	252.225-7032	Waiver of United Kingdom Levies – Evaluation of Offers (applies to Orders with U.K. firms) (exclude Paras. (c)(1) and (c)(2)) [APR 2003]
252.225-7003	Report of Intended Performance Outside the United States and Canada – Submission with Offer [OCT 2015]	252.225-7035	Buy American Act – Free Trade Agreements – Balance of Payments Program Certificate (exclude Para. (b)) [NOV 2014]
252.225-7006	Acquisition of the American Flag [AUG 2015]	252.225-7036	Buy American—Free Trade Agreements—Balance of Payments Program (applies to orders for end products under Buyer’s Government Contract) (Alt I – III apply if incorporated in Buyer’s Government Contract) [AUG 2016]
252.225-7007	Prohibition on Acquisition of United States Munitions List Items from Communist Chinese Military Companies [M] (applies to items covered by the United States Munitions List) [SEP 2006]	252.225-7038	Restriction on Acquisition of Air Circuit Breakers [JUN 2005]
252.225-7008	Restriction on Acquisition of Specialty Metals [MARCH 2013]	252.225-7039	Defense Contractors Outside the United States [JUN 2016]
252.225-7009	Restriction on Acquisition of Certain Articles Containing Specialty Metals [M] (exclude paragraph (d)) [OCT 2014]	252.225-7040	Contractor Personnel Authorized to Accompany U.S. Armed Forces Deployed Outside the United States [M] (applies to Orders that require Seller’s personnel to accompany U.S. Armed Forces deployed outside the United States in contingency operations; humanitarian or peacekeeping operations; or other military operations or exercises designated by the Combatant Commander) [OCT 2015]
252.225-7011	Restriction on Acquisition of Supercomputers (applies to Orders for supercomputers) [JUN 2005]	252.225-7042	Authorization to Perform [APR 2003]
252.225-7012	Preference for Certain Domestic Commodities [AUG 2016]	252.225-7043	Antiterrorism/Force Protection Policy for Defense Contractors Outside The United States [M] (applies where Seller will be performing or traveling outside the U.S. under this Order. For paragraph (d), see applicable information cited in PGI 225.7403-1) [JUN 2015]
252.225-7013	Duty-Free Entry [M] (applies to Orders for qualifying country components, or for non-qualifying country components when total duty paid is estimated to exceed \$200 per unit) (include information required by Para. (j)) [MAY 2016]	252.227-7013	Rights in Technical Data – Noncommercial Items [M] (applies when technical data from Seller is delivered to the Government by Buyer; delete from (b) (1) (vi) “to the Contractor” and from (b) (1) (ix) “contract or” and “thereunder”; add “Buyer or” before “Government” in (c) and (i); change the second and third occurrences of “Contracting Officer” to “Government” in (e) (4); add “and the Government” after “parties” in (h) (1); change in (h) (2) “sixty (60)” to “fifty (50)” days; no substitutions for “Government” are made) [FEB 2014] (Alternate I and/or II apply if included in Buyer’s Government Contract)
252.225-7015	Restriction on Acquisition of Hand or Measuring Tools (applies to Orders for hand or measuring tools) [JUN 2005]	252.227-7014	Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation [M] (applies when software and software documentation from Seller are delivered to the Government by Buyer; delete from (b) (1) (iii) “to the Contractor” and from (b) (1) (vi) “contract or” and “thereunder”; add “Buyer or” before “Government” in (i); change the second and third occurrences of “Contracting Officer” to “Government” in (e) (4); add “and the Government” after “parties” in (h) (1); change in (h) (2) “sixty (60)” to “fifty (50)” days; no substitutions for “Government” are made) [FEB 2014]
252.225-7016	Restriction on Acquisition of Ball and Roller Bearings [M] (applies if work supplied under this Order contains ball or roller bearings) [JUN 2011]	252.227-7016	Rights in Bid or Proposal Information [M] (applies when Clause 252.227-7013 is used; no substitutions for “Government” or “Contracting Officer” are made) [JAN 2011]
252.225-7019	Restriction on Acquisition of Anchor and Mooring Chain [M] (applies to Orders requiring welded shipboard anchor or mooring chain four inches or less in diameter) [DEC 2009]	252.227-7017	Identification and Assertion of Use, Release, or Disclosure Restrictions [JAN 2011]
252.225-7020	Trade Agreements Certificate (exclude para. (b)) (Alt I and II apply if included in Buyer’s Government Contract) [NOV 2014]	252.227-7018	Rights in Noncommercial Technical Data and Computer Software – Small Business Innovation Research (SBIR) Program [M] (applies when this Order involves noncommercial data or
252.225-7021	Trade Agreements (applies to Orders for end products under Buyer’s Government Contract) (Alt I [SEP 2008] applies if Buyer’s Contract includes the clause at 252.225-7024, Requirement for Products or Services from Iraq or Afghanistan, unless the clause at 252.225-7024 has been modified to provide a preference only for the products of Afghanistan) (Alt II [DEC 2010] applies if the Order is for the acquisition of end products in support of operations in Afghanistan and Alt I is not applicable) [NOV 2014]		

252.227-7019	computer software for delivery to the Government for a contract under the SBIR program) (Alternate I [JUN 1995] is applicable if in Buyer's Government Contract) [FEB 2014] Validation of Asserted Restrictions -- Computer Software [M] (applies when clause 252.227-7014 is used; substitute "Buyer's Representative" for "Contracting Officer" in paragraph (b), otherwise no substitutions are made for "Contracting Officer" or "Government"; in paragraphs (f)(5) and (f)(6), substitute "the Government contract" for "this contract") [SEPT 2016] Rights in Special Works [JUN 1955] Rights in Data – Existing Works [MAR 1979] Government Rights (Unlimited) [MAR 1979] Drawings and Other Data To Become Property of the Government [MAR 1979] Notice and Approval of Restricted Designs [APR 1984] Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends (applies when Clause 252.227-7013 or 252.227-7014 are used; no substitution is made for "Government") [MAY 2014] Deferred Delivery of Technical Data or Computer Software [APR 1988] Deferred Ordering of Technical Data or Computer Software [APR 1988] Technical Data or Computer Software Previously Delivered to the Government [JUN 1995] Technical Data – Withholding of Payment (applies when Clause 252.227-7013 is used; substitute "Buyer" for "Contracting Officer" in paragraph (a); add in paragraph (b), "or Buyer" after "Government") [MAR 2000] Rights in Technical Data and Computer Software (Foreign) [JUN 1975] Rights in Shop Drawings [M] [APR 1966] Validation of Restrictive Markings on Technical Data [M] (applies when Clauses 252.227-7013, 252.227-7014 or 252.227-7015 are used; in para. (b), "Contractor's" remains in the clause with a lower case "c", insert in paras. (c) and (d)(1) "hereunder" after "subcontract"; change in paras. (f) and (g) (2) (i) "this contract" to "the Government contract"; change in para. (i) "a contract" to "Buyer's Government Contract"; no substitutions for "Government" or "Contracting Officer" are made) [SEP 2016] Patent Rights – Ownership by the Contractor (Large Business) [M] (applies if this Order is for experimental, developmental, or research work, unless the work is to be performed by a small business concern or nonprofit organization or a different patent rights clause is required by FAR 27.303; "Government" and "Contracting Officer" do not change) (Alt I [DEC 2007] and II [DEC 2007] apply if included in Buyer's Government Contract) [JUN 2012] Patents – Reporting of Subject Inventions [APR 1990] Reimbursement for War Hazard Losses [DEC 1991] Ground and Flight Risk [SEPT 2014] Accident Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles [M] [DEC 1991] Invoices Exclusive of Taxes or Duties [JUN 1997] Tax Relief (Alt I [JUN 1997] applies if included in Buyer's Government Contract) [SEPT 2014] Customs Exemptions (Germany) [JUN 1997] Tax Exemptions (Italy) [MAR 2012] Status of Contractor as a Direct Contractor (Spain) [M] [JUN 1997] Tax Exemptions (Spain) [MARCH 2012]	252.229-7006 252.229-7007 252.229-7008 252.229-7011 252.231-7000 252.232-7004 252.234-7002 252.235-7002 252.235-7003 252.236-7000 252.236-7013 252.237-7010 252.237-7019 252.237-7023 252.237-7024 252.239-7009 252.239-7010 252.239-7016 252.242-7004 252.242-7005 252.243-7001 252.243-7002 252.245-7001 252.245-7002 252.245-7003 252.246-7001 252.246-7003	Value Added Tax Exclusion (United Kingdom) [DEC 2011] Verification of United States Receipt of Goods [JUN 1997] (applies if contract performance will be in the United Kingdom.) Relief from Import Duty (United Kingdom) [DEC 2011] Reporting of Foreign Taxes – U.S. Assistance Programs [M] (applies if this Order is for commodities in excess of \$500.00) [SEPT 2005] Supplemental Cost Principles [DEC 1991] DoD Progress Payment Rates [OCT 2014] Earned Value Management System [M] (applies when the Contracting Officer has listed Seller in Para. (k)) (Para. (b) applies only to subcontracts valued at \$50,000,000 or more) [MAY 2011] Animal Welfare [DEC 2014] [M] (applies to Orders involving performance in the United States or its outlying areas involving research on live vertebrate animals) Frequency Authorization [M] [MARCH 2014] (Alt I [AUG 2008] applies if included in Buyer's Government Contract) Modification Proposals – Price Breakdown [DEC 1991] Requirement for Competition Opportunity for American Steel Producers, Fabricators, and Manufacturers [JUN 2013] Prohibition on Interrogation of Detainees By Contractor Personnel [M] (applies to Orders that may require Seller's personnel to interact with detainees in the course of their duties) [JUN 2013] Training for Contractor Personnel Interacting with Detainees [M] (applies if this Order may require Seller personnel to interact with detainees in the course of their duties) [JUN 2013] Continuation of Essential Contractor Services (applies to Order for essential services) [M] [OCT 2010] Notice of Continuation of Essential Contractor Services (applies to Order for essential services that include 252.237-7023) [OCT 2010] Representation of Use of Cloud Computing [SEP 2015] Cloud Computing Services [OCT 2016] Telecommunications Security Equipment, Devices, Techniques and Services [M] [DEC 1991] Material Management and Accounting System [MAY 2011] Contractor Business Systems [FEB 2012] Pricing of Contract Modifications [DEC 1991] Requests for Equitable Adjustment [DEC 2002] Tagging, Labeling, and Marking of Government-Furnished Property [APRIL 2012] Reporting Loss of Government Property [APR 2012] Contractor Property Management System Administration [APR 2012] Warranty of Data [MAR 2014] (applies to Orders containing DFARS 252.227-7013) (Additional liability provisions at Para. (d) (3) are appropriate only if the Alternate I or II version of this clause is in Buyer's Government Contract) (In Para. (b), delete the parenthetical. In Para. (d), including (d)(1), and (d) (2) "Buyer" is substituted for "Contracting Officer." Paras. (d) (3) (i) through (iii) are modified and deleted to read "The limit of Seller's liability shall be ten percent of the total price." In Para. (d) (3) (iv) (B), change the second "Government" to "Government or Buyer.") Notification of Potential Safety Issues [M] (applies if this Order is for parts identified as critical safety items; systems and subsystems, assemblies, and subassemblies integral to a system; or repair, maintenance, logistics support, or overhaul services for systems and
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- subsystems, assemblies, subassemblies, and parts integral to a system; "Government" does not change) [JUN 2013]
- 252.246-7004 Safety of Facilities, Infrastructure, and Equipment For Military Operations [OCT 2010]
- 252.247-7003 Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer (applies if Seller is acting as a motor carrier, broker or freight forwarder) [JUN 2013]
- 252.247-7007 Liability and Insurance [DEC 1991]
- 252.247-7022 Representation of Extent of Transportation by Sea [AUG 1992]
- 252.247-7023 Transportation of Supplies by Sea [M] (change "prime contractor" in para. (a)(5) to "Seller" and "the prime contract" to "this order"; modify para. (c) to read "Seller and its subcontractors may request that Buyer obtain Government authorization for shipment . . ."; change in para. (d) "Contracting Officer" to "Buyer" in the second sentence; change "45" to "60" days in para. (d) and "30" to "25" in para. (e); delete in para. (e) "and the Maritime Administration Office of Cargo Preference, U.S. Department of Transportation, 400 Seventh Street, N.W., Washington, DC 20590"; paras. (f) and (g) only apply if this Order exceeds the simplified acquisition threshold; delete in para. (g) "for the purposes of the Prompt Payment clause of this contract") (Alt I [APR 2014], Alt II [APR 2014])
- 252.247-7024 Notification of Transportation of Supplies by Sea [M] (applies to Orders when the prime's original response to the solicitation stated that no transportation by sea was contemplated; modify paragraph (a) to read "If, after the award of this order, Seller learns that supplies . . .") [MAR 2000]
- 252.247-7027 Riding Gang Member Requirements (applies for Order the charter of or carriage of cargo, by a U.S.-flag vessel documented under 46 U.S.C. § 121) [OCT 2011]
- 252.249-7000 Special Termination Costs [DEC 1991]
- 252.203-7001 Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies [M] (applies in first-tier Orders) ("Government" is not changed in this clause) [DEC 2008]

**B. ORDERS EXPECTED TO EXCEED \$500,000 ALSO INCLUDE:**

- 252.226-7001 Utilization of Indian Organizations, Indian-Owned Economic Enterprises and Native Hawaiian Small Business Concerns [M] [SEP 2004]

**C. APPLICABLE THRESHOLD IN AFFECT AT TIME OF PRIME CONTRACT AWARD:**

- 252.219-7003 Small Business Subcontracting Plan (DoD Contracts) (Alt I [OCT 2010] applies if included in Buyer's Government Contract) [MAR 2016]
- 252.225-7004 Report of Intended Performance Outside the United States and Canada – Submission After Award (applies to first tier subcontractors) [OCT 2015]
- 252.249-7002 Notification of Proposed Program Termination or Reduction [M] (Delete para. (d)(1) and the first five words of para. (d)(2)) [OCT 2015]

**D. ORDERS EXPECTED TO EXCEED \$1,000,000 ALSO INCLUDE:**

- 252.211-7000 Acquisition Streamlining [M] (applies to Orders expected to exceed \$1.5 million) ("Government" is not changed in this clause) [OCT 2010]
- 252.225-7033 Waiver of United Kingdom Levies [M] (applies to Orders with UK firms) [APR 2003]
- 252.234-7004 Cost and Software Data Reporting [M] (applies to Orders expected to exceed \$50 million) [NOV 2014]

**NUMBERED NOTES APPLICABLE TO FAR AND DFARS REGULATIONS**

1. Excluded from such reduction, however, shall be Buyer's burden and profit applied to defective cost and pricing data of Seller and its subcontractors and suppliers. In addition to any remedies provided by law, if Buyer is subjected to any liability as a result of Seller's failure to comply with this requirement, then Seller agrees to indemnify and hold Buyer harmless to the full extent of any loss, damage or expense resulting from such failure. (FAR 52.215-10 and 52.215-11)
2. The term "Government" in this clause shall be deemed to include both the Government and Buyer. (FAR 52.246-3, 52.246-5, and 52.246-8)
3. The rights and obligations of Seller with respect to Buyer Furnished Property, if any, shall be the same as those which Seller has with respect to Government Property under this FAR clause 52.245-1. (FAR 52.245-1)
4. "Government" and "Contracting Officer" do not change in this clause. However all proposals under the FAR shall be submitted through Buyer. (FAR 52.248-1)
5. Seller shall communicate and otherwise deal directly with the Contracting Officer to the extent practicable and permissible as to all matters relating to Cost Accounting Standards. Seller shall provide Buyer with copies of all communications between Seller and the Contracting Officer respecting Cost Accounting Standards, FAR 52.230-2 and Administration of Cost Accounting Standards, FAR 52.230-6, provided Seller shall not be required to disclose to Buyer such communications containing information which is legally privileged and confidential to Seller. In addition to other remedies provided by law under this Order, Seller agrees to indemnify and hold Buyer harmless to the full extent of any loss, damage, or expense if Buyer is subjected to any liability as the result of failure of Seller or its lower-tier subcontractors to comply with the requirements of FAR 52.230-2, 52.230-3, 52.230-5 or 52.230-6. Paragraph (b) is deleted in each of the foregoing clauses. (COST ACCOUNTING STANDARDS)

**4. NFS CLAUSES**

If the Purchase Order identifies a NASA contract number, the following NASA FAR Supplement (NFS) clauses, in addition to or in lieu of FAR clauses set forth above, are hereby incorporated by reference, as applicable, and made a part of this Order. Any NFS clauses without a specified effective date are effective as of the date of the corresponding FAR clause.

**A. ALL ORDERS INCLUDE:**

- |             |  |
|-------------|--|
| 1852.203-70 | Display of Inspector General Hotline Posters [JUN 2001]]   |
| 1852.204-75 | Security Classification Requirements [SEPT 1989]   |
| 1852.204-76 | Security Requirements for Unclassified Information Technology Resources [M] (applies to Orders that meet the conditions of Para. (b) of this clause) [JAN 2011]                                      |
| 1852.208-81 | Restrictions on Printing and Duplicating [M] (Seller shall include the provisions of this clause in any applicable lower tier Orders) [NOV 2004]   |
| 1852.209-71 | Limitation of Future Contracting [DEC 1988]  |
| 1852.211-70 | Packaging, Handling and Transportation [M] (applies to items that will be components of deliverable Class I, II or III items) [[SEP 2005]]   |
| 1852.215-78 | Make or Buy Program Requirements [FEB 1998]  |
| 1852.215-79 | Price Adjustments for "Make or Buy" Changes [DEC 1998]   |
| 1852.216-74 | Estimated Cost and Fixed Fee [DEC 1991]  |
| 1852.216-75 | Payment of Fixed Fee [DEC 1988]  |
| 1852.216-77 | Award Fee for End Item Contracts [AUG 2016]  |
| 1852.216-81 | Estimated Cost [DEC 1988]  |
| 1852.216-84 | Estimated Cost and Incentive Fee [OCT 1996]  |
| 1852.216-85 | Estimated Cost and Award Fee [SEPT 1993]   |
| 1852.223-70 | Safety and Health [M] (applies to Orders when one or more of four conditions in Para. (g) exist) (Seller shall include the provisions of this clause in any applicable lower tier Orders) [DEC 2015] |
| 1852.223-71 | Frequency Authorization [M] (applies to Orders for which a radio frequency authorization is required) (Seller shall include the provisions of  |

	this clause in any applicable lower tier Orders) [APR 2015]		purpose and no other Government Property is to be furnished) [JAN 2011]
1852.223-72	Safety and Health (Short Form) [M] (applies to orders over the micro-purchase threshold) [JULY 2015]	1852.245-74	Identification and Marking of Government Equipment [JAN 2011]
1852.223-73	Safety and Health Plan (Alt I [NOV 2004] applies if incorporated in Buyer's Government Contract) [JULY 2015]	1852.245-75	Property Management Changes [JAN 2011]
1852.223-74	Drug and Alcohol-Free Workforce [M] (not applicable to Orders for commercial items) (Seller shall include the provisions of this clause in any applicable lower tier Orders) [NOV 2015]	1852.245-76	List of Government Property Furnished Pursuant to FAR 52.245-1 [JAN 2011]
1852.223-75	Major Breach of Safety or Security (Alt I [FEB 2006] applies if incorporated in Buyer's Government Contract) [FEB 2002]	1852.245-77	List of Government Property Furnished Pursuant to FAR 52.245-2 [JAN 2011]
1852.223-76	Federal Automotive Statistical Tool Reporting [JUL 2003]	1852.245-79	Use of Government-owned Property [JAN 2011]
1852.225-8	Duty-Free Entry of Space Articles (Modifies FAR 52.225-8) [FEB 2000]	1852.245-80	Use of Government Production and Research Property on a No-Charge Basis. [JAN 2011]
1852.225-70	Export Licenses [M] (Alt I [FEB 2000] applies if incorporated in Buyer's Government Contract) [FEB 2000]	1852.245-81	List of Available Government Property (applies to Orders where Government Property will be made available for Seller's performance) [JAN 2011]
1852.227-11	Patent Rights - Retention by the Contractor (Short Form) (Modifies FAR 52.227-11) [APR 2015]	1852.246-72	Material Inspection and Receiving Report [APR 2015]
1852.227-14	Rights in Data - General (Modifies FAR 52.227-14) [APR 2015]	1852.246-73	Human Space Flight Item [M] (applies to lower tier Orders) [MAR 1997]
1852.227-17	Rights in Data - Special Works (Modifies FAR 52.227-17) [JUL 1997]	1852.247-71	Protection of the Florida Manatee [M] [JUL 2015]
1852.227-70	New Technology [M] (applies to Orders that meet the criteria of Para. (h)(1)(i)) (Seller shall include the provisions of this clause in any applicable lower tier Orders) [APR 2015]		
1852.227-71	Requests for Waiver of Rights to Inventions (applies if NFS 1852.227-70 applies) [M] (applies if Order includes a "New Technology" clause or "Patent Rights--Retention by the Contractor (Short Form)" clause) [APR 2015]		
1852.227-72	Designation of New Technology Representative and Patent Representative [APR 2015]		
1852.227-84	Patent Rights Clauses [APR 2015]		
1852.227-85	Invention Reporting and Rights - Foreign [M] (applies to Orders for experimental, developmental or research work) (Buyer will provide the name and address of the Contracting Officer) [APR 2015]		
1852.227-86	Commercial Computer Software - Licensing [APR 2015]		
1852.228-71	Aircraft Flight Risks [DEC 1988]		
1852.228-75	Minimum Insurance Coverage [OCT 1988]		
1852.228-76	Cross-Waiver of Liability for Space Station Activities [M] (Note 1) [OCT 2012]		
1852.228-78	Cross-Waiver of Liability for NASA Expendable Launch Vehicle (ELV) Launches [M] (Note 1) [OCT 2012]		
1852.232-70	NASA Modification of FAR 52.232-12 [M] [APR 2015]		
1852.235-70	Center for Aerospace Information [DEC 2006]		
1852.235-71	Key Personnel and Facilities [MAR 1989]		
1852.237-70	Emergency Evacuation Procedures [DEC 1988]		
1852.242-70	Technical Direction ("COTR" shall be deemed to be Buyer's Representative) [NOV 1993]		
1852.242-71	Travel Outside the U.S. (substitute "45 days" for "30 days" in para. (b)) [DEC 1988]		
1852.242-72	Denied Access to NASA Facilities [OCT 2015]		
1852.242-78	1852.242-73 NASA Contractor Financial Management Reporting [NOV 2004]		
1852.243-71	Emergency Medical Services and Evacuation [APR 2001]		
1852.243-71	Shared Savings ("Contracting Officer" shall mean "Buyer's Representative") [MAR 1997]		
1852.245-71	Installation-Accountable Government Property (Alt I [JAN 2011] applies if included in Buyer's Government Contract) [JAN 2011]		
1852.245-72	Liability for Government Property Furnished for Repair or Other Services (applies to Orders for the repair, modification, rehabilitation, or other servicing of government property, if such property is to be furnished to Seller for that		

**NUMBERED NOTES APPLICABLE TO NASA FAR SUPPLEMENT REGULATIONS**

1. Buyer agrees to waive all claims against the entities or persons identified in paragraphs (c) (1) (i) through (c) (1) (iii) of this clause.

**5. FAA AMS CLAUSES**

In addition to the provisions of ITEM-1, the provisions which Buyer has marked in the following list shall apply as required by the terms of Buyer's Government Contract or by operation of law or regulation. The marked FAA AMS clauses, in addition to or in lieu of the FAR clauses set forth above, are hereby incorporated by reference, as applicable, and made a part of this Order:

- 1.13-1 Notice of Earned Value Management System [JULY 2016]
- 1.13-2 Earned Value Management System [JULY 2016]
- 1.13-5 Integrated Master Schedule [OCT 2014]
- 1.13-6 Contractor Integrated Baseline Review [JULY 2016]
- 3.1-1 Clauses and Provisions Incorporated By Reference [JUL 2011]
- 3.1.7-1 Exclusion from Future Agency Contracts [M] [AUG 1997]
- 3.1.7-2 Organizational Conflicts of Interest [M] [APR 2012]
- 3.1.7-4 Organizational Conflict of Interest- Mitigation Plan Required [APR 2012]
- 3.1.7-5 Disclosure of Conflicts of Interest [MAR2009]
- 3.1.7-6 Disclosure of Certain Employee Relationships [M] [JUL 2009]
- 3.1.8-1 Cancellation, Recession and Recovery of Funds for Illegal or Improper Activity [OCT 2014]
- 3.1.8-2 Price or Fee Adjustment for Illegal or Improper Activity [OCT 2014]
- 3.1.9-1 Electronic Commerce and Signature [JUL 2013]
- 3.2.1.3-1 Notice of Competitive Sourcing [OCT 2003]
- 3.2.1.3-2 Right of First Refusal of Employment [SEP 2003]
- 3.2.1.5-1 Notice of Disaster or Emergency Area Set-Aside [JAN 2008]
- 3.2.1.5-2 Disaster or Emergency Area Representation [JAN 2008]
- 3.2.1.5-3 Restrictions on Subcontracting Outside Disaster or Emergency Area [JAN 2008]
- 3.2.1.5-4 Continuity of Services - Mission Critical Contracts [JAN 2008]
- 3.2.2.3-1 False Statements in Offers [JUL 2004]
- 3.2.2.3-2 Minimum Offer Acceptance Period [JUL 2004]
- 3.2.2.3-3 Affiliated Offerors [JUL 2004]
- 3.2.2.3-6 Submittals in the English Language [JUL 2004]
- 3.2.2.3-7 Submittals in U.S. Currency [JUL 2004]
- 3.2.2.3-8 Audit and Records (applies to Orders expected to exceed \$1 million) [JUL 2010]
- 3.2.2.3-9 Notice of Possible Standardization [JUL 2004]
- 3.2.2.3-10 Type of Business Organization [JUL 2004]
- 3.2.2.3-11 Unnecessarily Elaborate Submittals [JUL 2004]
- 3.2.2.3-12 Amendments to Screening Information Requests [JUL 2004]
- 3.2.2.3-13 Submission of Information/Documentation/Offers [JUL 2004]

3.2.2.3-14	Late Submissions, Modifications, and Withdrawals of Submittals [JUL 2004]	3.2.3-1	Cost Accounting Standards Notices and Certifications [JAN 2012]
3.2.2.3-15	Authorized Negotiators [JUL 2004]	3.2.3-2	Cost Accounting Standards [OCT 2011]
3.2.2.3-16	Restricting, Disclosing and Using Data [JUL 2004]	3.2.3-3	Disclosure and Consistency of Cost Accounting Practices [OCT 2011]
3.2.2.3-17	Preparing Offers [JUL 2004]	3.2.3-4	Consistency in Cost Accounting Practices [APR 1996]
3.2.2.3-18	Prospective Offeror's Requests for Explanations [FEB 2009]	3.2.3-5	Administration of Cost Accounting Standards [APR 1996]
3.2.2.3-19	Contract Award [JUL 2004]	3.2.4-1	Type of Contract [APR 1996]
3.2.2.3-20	Electronic Offers [JUL 2004]	3.2.4-5	Allowable Cost and Payment [M] [JAN 2016]
3.2.2.3-22	Period for Acceptance of Offer [JUL 2004]	3.2.4-5	Alternate I Allowable Cost and Payment [MAR 2001]
3.2.2.3-23	Place of Performance [JUL 2004]	3.2.4-6	Fixed Fee [JAN 2011]
3.2.2.3-24	Changes or Additions to Make-or-Buy Program [JUL 2004]	3.2.4-7	Fixed Fee Construction [APR 1996]
3.2.2.3-25	Reducing the Price of a Contract or Modification for Defective Cost or Pricing Data [OCT 2011]	3.2.4-8	Incentive Fee [APR 1996]
3.2.2.3-27	Subcontractor Cost or Pricing Data [M] (applies to Order expected to exceed \$1 million) [JUL 2004]	3.2.4-9	Cost Contract – No Fee [APR 1996]
3.2.2.3-29	Integrity of Unit Prices [JUL 2004]	3.2.4-10	Cost Sharing Contract – No Fee [APR 1996]
3.2.2.3-30	Termination of Defined Benefit Pension Plans [M] [JUL 2004]	3.2.4-13	Predetermined Indirect Cost Rates [APR 1996]
3.2.2.3-31	Facilities Capital Cost of Money [JUL 2004]	3.2.4-21	Execution and Commencement of Work [APR 1996]
3.2.2.3-32	Waiving Facilities Capital Cost of Money [JUL 2004]	3.2.4-22	Limitation of Government Liability [APR 1996]
3.2.2.3-33	Order of Precedence [MAR 2009]	3.2.4-23	Contract Price Definitization [OCT 2011]
3.2.2.3-34	Evaluating Offers for Multiple Awards [JUL 2004]	3.2.4-24	Payments of Allowable Costs Before Definitization [MAY 2001]
3.2.2.3-35	Annual Representations and Certifications [JUL 2004]	3.2.4-27	Limitation of Price and Contractor Obligations [APR 1996]
3.2.2.3-36	Reversing or Adjusting of Plans for Postretirement Benefits Other Than Pensions [PRB] [M] (applies to Orders expected to exceed \$1 million that require cost or price data) [JUL 2004]	3.2.4-28	Cancellation of Items [APR 1996]
3.2.2.3-37	Notification of Ownership Changes [M] (applies to Orders expected to exceed \$1 million that require cost or price data) [JUL 2004]	3.2.4-28	Alternate I Cancellation of Items Alternate I [APR 1996]
3.2.2.3-38	Requirements for Certified Cost or Pricing Data or Other Information [JUL 2010]	3.2.4-29	Evaluation Exclusive of Options [APR 1996]
3.2.2.3-38	Alternate I Requirements for Certified Cost or Pricing Data or Other Information [JUL 2010]	3.2.4-30	Evaluation of Options Exercised at Time of Contract Award [APR 1996]
3.2.2.3-38	Alternate II Requirements for Certified Cost or Pricing Data or Other Information [JUL 2010]	3.2.4-31	Evaluation of Options [APR 1996]
3.2.2.3-39	Requirements for Certified Cost or Pricing Data or Other Information -Modifications [JUL 2010]	3.2.4-32	Option for Increased Quantity [APR 1996]
3.2.2.3-40	Precontract Costs [JUL 2004]	3.2.4-33	Option for Increased Quantity - Separately Priced Line Item [APR 1996]
3.2.2.3-45	Material and Workmanship [JUL 2004]	3.2.4-34	Option to Extend Services [OCT 2014]
3.2.2.3-59	Organization and Direction of the Work [JUL 2004]	3.2.4-35	Option to Extend the Term of the Contract [APR 1996]
3.2.2.3-63	Site Visit [Construction] [JUL 2004]	3.2.4-36	Award Fee [JAN 2004]
3.2.2.3-64	Dismantling and Demolishing of Property [JUL 2004]	3.2.5-1	Officials Not to Benefit [APR 1996]
3.2.2.3-65	Use of Explosives [JUL 2004]	3.2.5-3	Gratuities or Gifts [JAN 1999]
3.2.2.3-66	Contractor's Daily Log [OCT 2014]	3.2.5-4	Contingent Fees [OCT 1996]
3.2.2.3-67	Special Precautions for Work at Operating Airports [JUL 2004]	3.2.5-5	Anti-Kickback Procedures [M] (applies to Orders expected to exceed \$150,000) [OCT 2010]
3.2.2.3-68	Safety and Health [OCT 2014]	3.2.5-6	Restrictions on Subcontractor Sales to the FAA [M] [APR 1996]
3.2.2.3-68	Alternate I Safety and Health [JUL 2004]	3.2.5-7	Disclosure Regarding Payments to Influence Certain Federal Transactions [M] [OCT 2010]
3.2.2.3-69	Subcontracts - Construction [JUL 2004]	3.2.5-8	Whistleblower Protection for Contractor Employees [APR 1996]
3.2.2.3-70	Taxpayer Identification [JUL 2004]	3.2.5-13	Contractor Code of Business Ethics and Conduct [M] (applies to Orders to large businesses that are expected to be equal to or exceed \$5 million and a performance period of more than 120 days) [APR 2010]
3.2.2.3-72	Announcing Competing Offerors [JUL 2004]	3.2.5-14	Display of Hotline Poster[s] [M] (applies to Orders that are expected to be equal to or exceed \$5 million, except for Order performed entirely outside the United States) [APR 2008]
3.2.2.3-73	Shipping Spare Parts [MAR 2009]	3.3.1-7	Limitation on Withholding of Payments [MAY 1997]
3.2.2.3-74	Site And Depot Level Spare Parts [JUL 2004]	3.3.1-10	Availability of Funds [APR 2014]
3.2.2.3-81	Prohibition Against Contracting With Inverted Domestic Corporations- Representation [OCT 2015]	3.3.1-11	Availability of Funds for the Next Fiscal Year [APR 1996]
3.2.2.7-1	Qualification Requirements [MAR 2009]	3.3.1-12	Limitation of Cost [APR 1996]
3.2.2.7-6	Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment [M] (applies to Orders expected to exceed \$30,000) [APR 2011]	3.3.1-14	Limitation of Funds [APR 1996]
3.2.2.7-7	Certification Regarding Responsibility Matters [OCT 2016]	3.3.1-15	Assignment of Claims [APR 1996]
3.2.2.7-8	Disclosure of Team Arrangements [APR 2008]	3.3.1-15	Alternate I Assignment of Claims Alternate I [APR 1996]
3.2.2.8-1	Material Requirement [APR 2009]	3.3.1-16	Prohibition of Assignment of Claims [APR 1996]
3.2.2.8-5	Liquidated Damages - Construction [APR 1996]	3.3.1-33	System for Award Management [oct 2016]
3.2.2.8-6	Time of Delivery [NOV 1997]	3.3.1-34	Payment by Electronic Funds Transfer- System for Award Management [AUG 2012]
3.2.2.8-6	Alternate I Time of Delivery [NOV 1997]	3.3.1-35	Certification of Registration in System for Award Management [CCR] [APR 2012]
3.2.2.8-6	Alternate II Time of Delivery [NOV 1997]	3.3.2-1	FAA Cost Principles [JAN 2016]
3.2.2.8-6	Alternate III Time of Delivery [NOV 1997]	3.3.2-2	Reimbursement for Travel and Subsistence [APR 2010]
3.2.2.8-7	Desired and Required Time of Delivery [NOV 1997]	3.4.1-1	Proposal Guarantee [APR 1996]
3.2.2.8-7	Alternate I Desired and Required Time of Delivery [NOV 1997]	3.4.1-2	Deposit of Assets Requirements [APR 1996]
3.2.2.8-7	Alternate II Desired and Required Time of Delivery [NOV 1997]	3.4.1-4	Performance Bond Requirements [OCT 2010]
3.2.2.8-7	Alternate III Desired and Required Time of Delivery [NOV 1997]	3.4.1-5	Payment Bond Requirements [APR 1996]
		3.4.1-6	Additional Bond Security [APR 1996]
		3.4.1-7	Notice to Proceed [APR 1996]
		3.4.1-8	Patent Infringement Bond Requirements [OCT 1996]
		3.4.1-9	Deposit of Assets Instead of Surety Bonds [APR 1996]
		3.4.1-11	Insurance- Liability to Third Persons (only para. (a) and (b)) [JUNE 1999]
		3.4.1-12	Insurance [JUL 1996]

3.4.1-13	Errors and Omissions [JUL 1996]	3.6.2-1	Contract Work Hours and Safety Standards Act-Overtime Compensation [M] (applies to Orders expected to exceed \$100,000) [JAN 2012]
3.4.2-1	State of New Mexico Gross Receipts and Compensating Tax [M] [APR 1996]	3.6.2-2	Convict Labor [APR 1996]
3.4.2-2	Taxes – Cost-Reimbursement Contracts with Foreign Governments [APR 1996]	3.6.2-3	Walsh-Healey Public Contracts Act Representation [OCT 2010]
3.4.2-3	Taxes – Foreign Cost-Reimbursement Contracts [APR 1996]	3.6.2-4	Walsh-Healey Public Contracts Act [OCT 2014]
3.5-1	Authorization and Consent [JAN 2009]	3.6.2-5	Certification of Nonsegregated Facilities [M] [MARCH 2009]
3.5-1	Alternate I Authorization and Consent Alternate I [JAN 2009]	3.6.2-6	Previous Contracts and Compliance Reports [MAY 1997]
3.5-2	Notice and Assistance Regarding Patent and Copyright Infringement [M] (applies if value of Order is expected to exceed the simplified purchasing threshold) [JAN 2009]	3.6.2-7	Preaward On-Site Equal Opportunity Compliance Review [JUL 2011]
3.5-4	Patent Indemnity - Construction Contracts [JAN 2009]	3.6.2-8	Affirmative Action Compliance [APR 1996]
3.5-4	Alternate I Patent Indemnity - Construction Contracts Alternate I [JAN 2009]	3.6.2-9	Equal Opportunity [AUG 1998]
3.5-5	Waiver of Indemnity [JAN 2009]	3.6.2-9	Alternate I Equal Opportunity Alternate I [M] [PR 1996]
3.5-6	Royalty Information [JAN 2009]	3.6.2-10	Equal Opportunity Preaward Clearance of Subcontracts [NOV 1997]
3.5-7	Patents - Notice of Government Licensee [JAN 2009]	3.6.2-11	Notification of Visa Denial [APR 1996]
3.5-9	Filing of Patent Applications – Classified Subject Matter [JAN 2009]	3.6.2-12	Equal Opportunity for Veterans [M] (applies to Orders expected to exceed \$100,000) [JAN 2011]
3.5-10	Patent Rights - Ownership by the Contractor [M] [JAN 2009]	3.6.2-13	Affirmative Action for Workers With Disabilities [M] [OCT 2010]
3.5-10	Alternate I Patent Rights - Ownership by the Contractor Alternate I [JAN 2009]	3.6.2-14	Employment Reports on Veterans [M] (applies to Orders expected to exceed \$100,000) [JAN 2011]
3.5-10	Alternate II Patent Rights - Ownership by the Contractor Alternate II [JAN 2009]	3.6.2-15	Evaluation of Compensation for Professional Employees [APR 1996]
3.5-10	Alternate III Patent Rights - Ownership by the Contractor Alternate III [JAN 2009]	3.6.2-16	Notice to the Government of Labor Disputes [M] [APR 1996]
3.5-10	Alternate IV Patent Rights - Ownership by the Contractor Alternate IV [JAN 2009]	3.6.2-18	Davis Bacon Act [M] [OCT 2010]
3.5-12	Patent Rights - Ownership by the Government [M] [JAN 2009]	3.6.2-19	Withholding-Labor Violations [APR 1996]
3.5-12	Alternate I Patent Rights - Ownership by the Government Alternate I [JAN 2009]	3.6.2-20	Payrolls and Basic Records [APR 2011]
3.5-12	Alternate II Patent Rights - Ownership by the Government Alternate II [JAN 2009]	3.6.2-21	Apprentices, Trainees, and Helpers [OCT 2010]
3.5-13	Rights in Data - General [OCT 2014]	3.6.2-22	Subcontracts [Labor Standards] [M] [OCT 2010]
3.5-13	Alternate I Rights in Data - General Alternate I [JAN 2009]	3.6.2-23	Certification of Eligibility [APR 1996]
3.5-13	Alternate II Rights in Data - General Alternate II [JAN 2009]	3.6.2-24	Affirmative Action Compliance Requirements for Construction [M] (applies to Order expected to exceed \$10,000) [OCT 2010]
3.5-13	Alternate III Rights in Data - General Alternate III [JAN 2009]	3.6.2-28	Service Contract Act of 1965, as Amended [M] [OCT 2014]
3.5-13	Alternate IV Rights in Data - General Alternate IV [JAN 2009]	3.6.2-29	Statement of Equivalent Rates for Federal Hires [APR 1996]
3.5-13	Alternate V Rights in Data - General Alternate V [JAN 2009]	3.6.2-32	SCA Minimum Wages and Fringe Benefits [Applicable to Successor Contract Pursuant to Predecessor Contractor Collective Bargaining Agreements [CBA]] [APR 1996]
3.5-14	Representation of Limited Rights Data and Restricted Computer Software [JAN 2010]	3.6.2-33	Exemption from Application of Service Contract Act Provisions [for Contracts for Maintenance, Calibration, and/or Repair of Certain ADP, Scientific and Medical, and/or Office and Business Equipment-Contractor Certification] [APR 1996]
3.5-15	Additional Data Requirements [JAN 2009]	3.6.2-34	Service Contract Act - Place of Performance Unknown [APR 1996]
3.5-16	Rights in Data - Special Works [JAN 2009]	3.6.2-35	Prevention of Sexual Harassment [M] [AUG 1998]
3.5-17	Rights in Data - Existing Works [JAN 2009]	3.6.2-38	Certification of Knowledge Regarding Child Labor End Products [JUL 2007]
3.5-20	Technical Data Declaration, Revision, and Withholding of Payment - Major Systems [JAN 2009]	3.6.2-39	Trafficking in Persons [M] [JAN 2008]
3.5-21	Rights In Data - SBIR Program [JAN 2009]	3.6.2-40	Nondisplacement of Qualified Workers [M] [APR 2009]
3.5-22	Major System - Minimum Rights [JAN 2009]	3.6.2-41	Employment Eligibility Verification [M] [SEP 2009]
3.5-23	Rights to Proposal Data [Technical] [JAN 2009]	3.6.3-3	Hazardous Material Identification and Material Safety Data [OCT 2016]
3.6.1-1	Notice of Total Small Business Set-Aside [JAN 2010]	3.6.3-4	Recycled Content Products Certification [OCT 2016]
3.6.1-2	Notice of Very Small Business Set-Aside [JUL 2006]	3.6.3-5	Estimate of Percentage of Recovered Recycled for Designated Items to be Used in the Performance of the Contract [OCT 2016]
3.6.1-3	Utilization of Small, Small Disadvantaged and Women-Owned, and Service-Disabled Veteran Owned Small Business Concerns [MAR 2009]	3.6.3-5	Alternate I Estimate of Percentage of Recovered Recycled for Designated Items to be Used in the Performance of the Contract Alternate I [OCT 2016]
3.6.1-4	Small, Small Disadvantaged, Women-Owned and Service-Disabled Veteran Owned Small Business Subcontracting Plan [OCT 2010]	3.6.3-6	Notice of Radioactive Materials [M] [JUL 2008]
3.6.1-6	Liquidated Damages - Subcontracting Plan [JAN 2010]	3.6.3-7	Waste Reduction and Pollution Prevention [JUL 2008]
3.6.1-7	Limitations on Subcontracting [APRIL 2016]	3.6.3-8	Alternatives to Products Containing Ozone Depleting Substances and High Global Warming Potential Hydrofluorocarbons [OCT 2016]
3.6.1-8	Notification of Competition Limited to Eligible SEDB Concerns [APR 2016]	3.6.3-9	Ozone Depleting Substances and High Global Warming Potential Hydrofluorocarbons [OCT 2016]
3.6.1-9	Mentor Protégé Program [APR 2016]	3.6.3-10	Refrigeration Equipment and Air Conditioners [OCT 2016]
3.6.1-10	Evaluation of Contractor Participation in the FAA Mentor Protégé Program [JAN 1999]	3.6.3-12	Asbestos - Free Construction [APR 2009]
3.6.1-11	Mentor Requirements and Evaluation [APR 2016]	3.6.3-13	Affirmative Procurement of Recycled Content and Products under Service and Construction Contracts [OCT 2016]
3.6.1-12	Notice of Service-Disabled Veteran Owned Small Business Set-Aside [OCT 2011]	3.6.3-14	Use Of Environmentally Preferable Products [OCT 2016]
3.6.1-15	Post-Award Small Business Program Representation [OCT 2016]		



3.6.3-16	Drug Free Workplace [MAR 2009]	3.10.1-25	Novation and Change-Of-Name Agreements [OCT 2007]
3.6.3-17	Efficiency in Energy-Consuming Products [M] [OCT 2016]	3.10.1-26	Contractor Performance Assessment Reporting System [APR 2013]
3.6.3-18	Biobased Product Certification [OCT 2016]	3.10.2-1	Subcontracts [Fixed-Price Contracts] [APR 1996]
3.6.3-19	Affirmative Procurement of Biobased Products Under Service and Construction Contracts [OCT 2016]	3.10.2-1	Alternate I Subcontracts [Fixed-Price Contracts] Alternate I [APR 1996]
3.6.3-20	IEEE 1680 Standard for the Environmental Assessment of Electronic Computers [OCT 2016]	3.10.2-2	Subcontracts [Cost-Reimbursement and Ceiling Priced Contracts] [M] [OCT 1996]
3.6.4-1	Waiver of Buy American Act for Civil Aircraft and Related Articles [JAN 2011]	3.10.2-5	Competition in Subcontracting [JAN 1998]
3.6.4-2	Buy American Act - Supplies [OCT 2014]	3.10.2-6	Subcontracts for Commercial Items and Commercial Components [M] [APR 1996]
3.6.4-3	Buy American Act - Construction Materials [OCT 2014]	3.10.3-1	Definitions [APR 2012]
3.6.4-4	Buy American Act - Construction Materials Under North American Free Trade Agreement [OCT 2015]	3.10.3-2	Government Property - Basic Clause [APR 2014]
3.6.4-5	Buy American - Steel and Manufactured Products [JUL 2010]	3.10.3-2	Alternate I Government Property - Basic Clause Alternate I [APR 2004]
3.6.4-6	Balance of Payments Program [MAY 1997]	3.10.3-2	Alternate II Government Property - Basic Clause Alternate II [APR 2004]
3.6.4-8	Buy American Act - NAFTA Implementation Act - Balance of Payments Program [OCT 2014]	3.10.4-1	Contractor Inspection Requirements [APR 1996]
3.6.4-10	Restrictions on Certain Foreign Purchases [M] [JAN 2010]	3.10.4-3	Inspection of Supplies – Cost-Reimbursement [APR 1996]
3.6.4-11	Inconsistency Between English Version and Translation of Contract [APR 1996]	3.10.4-4	Inspection of Services – Both Fixed-Price and Cost Reimbursement [APR 1996]
3.6.4-14	Balance of Payments Program-Construction Materials-NAFTA [JUL 1996]	3.10.4-7	Alternate I Inspection of Research and Development - Cost Reimbursement Alternate I [NOV 1997]
3.6.4-15	Buy American Act Certificate [JUL 1996]	3.10.4-8	Inspection of Research and Development [Short Form] [APR 1996]
3.6.4-16	Balance of Payments Program Certificate [JUL 1996]	3.10.4-10	Inspection of Construction [SEP 2009]
3.6.4-17	Buy American Act-NAFTA Implementation Act-Balance of Payments Certificate [JUL 1996]	3.10.4-13	Higher-Level Contract Quality Requirement [OCT 2015]
3.6.4-18	Certification Regarding Steel and Manufactured Products [APR 2009]	3.10.4-14	Assignment of a Quality Reliability Officer [QRO] [OCT 2015]
3.6.4-19	Prohibition Contracting with Engaging in Certain Activities or Transactions Related to Iran-Representation and Certification [APR 2013]	3.10.4-15	Certificate of Conformance [APR 1996]
3.6.5-1	Utilization of Indian Organizations and Indian Owned Economic Enterprises [MAR 2009]	3.10.4-19	Government Industry Data Exchange Program [GIDEP] [JAN 2002]
3.7-1	Privacy Act Notification [NOV 2016]	3.10.4-26	Technical Data Quality Requirement for NAS Procurements [JAN 2004]
3.7-2	Privacy Act [M] [NOV 1996]	3.10.5-1	Product Improvement/ Technology Enhancement [APR 1996]
3.8.2-9	Site Visit [APR 1996]	3.10.6-3	Termination (Cost-Reimbursement) [OCT 2014]
3.8.2-10	Protection of Government Buildings, Equipment, and Vegetation [APR 1996]	3.10.6-3	Alternate I Termination (Cost-Reimbursement) [OCT 2014]
3.8.2-11	Continuity of Services [OCT 2008]	3.10.6-3	Alternate II Termination (Cost-Reimbursement) [OCT 2014]
3.8.2-15	Indemnification and Medical Liability Insurance [M] [APR 1996]	3.10.6-3	Alternate III Termination [Cost-Reimbursement] [OCT 2014]
3.8.2-16	Restriction on Severance Payments to Nationals [JULY1996]	3.10.6-3	Alternate IV Termination [Cost-Reimbursement] [JAN 2015]
3.8.2-17	Key Personnel and Facilities [MAY 1997]	3.10.6-3	Alternate V Termination [Cost-Reimbursement] [JAN 2015]
3.8.2-18	Certification of Data [MAY 1997]	3.10.6-7	Excusable Delays [OCT 1996]
3.8.2-19	Prohibition on Advertising [M] [OCT 1996]	3.10.7-1	Indemnification under Public Law 85-804 [SEPT 2001]
3.8.2-22	Substitution or Addition Of Personnel [OCT 2006]	3.11-1	Commercial Bill of Lading Notations [APR 1999]
3.8.4-5	Government Supply Sources [APR 1996]	3.11-29	F.O.B. Origin [APR 1999]
3.8.4-6	Interagency Fleet Management System Vehicles and Related Services [APR 1996]	3.11-30	F.O.B. Origin, Contractor's Facility [APR 1999]
3.9.1-1	Contract Disputes [OCT 2011]	3.11-31	F.O.B. Origin, Freight Allowed [APR 1999]
3.9.1-2	Protest After Award [AUG 1997]	3.11-32	F.O.B. Origin, Freight Prepaid [APR 1999]
3.9.1-3	Protest [OCT 2011]	3.11-33	F.O.B. Origin With Differentials [APR 1999]
3.10.1-1	Notice of Intent To Disallow Costs [APR 1996]	3.11-34	F.O.B. Destination [APR 1999]
3.10.1-2	Production Progress Reports [APR 1996]	3.11-35	F.O.B. Destination, Within Cosignee's Premises [APR 1999]
3.10.1-3	Penalties for Unallowable Costs [OCT 1996]	3.11-36	F.A.S. Vessel, Port of Shipment [APR 1999]
3.10.1-4	FOB Origin - Government Bills of Lading or Prepaid Postage [APR 1996]	3.11-37	F.O.B. Vessel, Port of Shipment [APR 1999]
3.10.1-5	FOB Government Bills of Lading or Indicia Mail [APR 1996]	3.11-38	F.O.B. Inland Carrier, Point of Exportation [APR 1999]
3.10.1-7	Bankruptcy [APR 1996]	3.11-39	F.O.B. Inland Point, Country of Importation [APR 1999]
3.10.1-9	Stop-Work Order [JUN 1996]	3.11-40	Ex Dock, Pier, or Warehouse, Port of Importation [APR 1999]
3.10.1-13	Changes - Cost-Reimbursement [APR 1996]	3.11-41	C. & F. Destination [APR 1999]
3.10.1-13	Alternate I Changes - Cost-Reimbursement Alternate I [APR 1996]	3.11-42	C.I.F. Destination [APR 1999]
3.10.1-13	Alternate II Changes - Cost-Reimbursement Alternate II [APR 1996]	3.11-43	F.O.B. Designated Air Carrier's Terminal, Point of Exportation [APR 1999]
3.10.1-13	Alternate III Changes - Cost-Reimbursement Alternate III [APR 1996]	3.11-44	F.O.B. Designated Air Carrier's Terminal, Point of Importation [APR 1999]
3.10.1-13	Alternate IV Changes - Cost-Reimbursement Alternate IV [APR 1996]	3.11-45	F.O.B. Origin and/or F.O.B. Destination Evaluation [APR 1999]
3.10.1-13	Alternate V Changes - Cost-Reimbursement Alternate V [APR 1996]	3.11-46	Shipping Point[s] Used in Evaluation of F.O.B. Origin Offers [APR 1999]
3.10.1-16	Changes and Changed Conditions [APR 1996]	3.11-47	Evaluation - F.O.B. Origin [APR 1999]
3.10.1-18	Notification of Changes [APR 1996]	3.11-48	F.O.B. Destination - Evidence of Shipment [APR 1999]
3.10.1-22	Contracting Officer's Representative [APR 2012]	3.11-49	Destination Unknown [APR 1999]
3.10.1-24	Notice of Delay [MAR 2009]	3.11-50	No Evaluation of Transportation Costs [APR 1999]
		3.11-51	Evaluation of Export Offerors [APR 1999]

- 3.11-51 Alternate I Evaluation of Export Offerors Alternate I [APR 1999]
- 3.11-51 Alternate II Evaluation of Export Offerors Alternate II [APR 1999]
- 3.11-51 Alternate III Evaluation of Export Offerors Alternate III [APR 1999]
- 3.11-52 Freight Classification Description [APR 1999]
- 3.11-53 F.O.B. Point for Delivery of Government Furnished Property [APR 1999]
- 3.11-54 Transit Arrangements [APR 1999]
- 3.11-55 Transit Privilege Credits [APR 1999]
- 3.11-56 Loading, Blocking and Bracing of Freight Car Shipments [APR 1999]
- 3.11-57 F.O.B. Origin -Carload and Truckload Shipments [APR 1999]
- 3.11-58 Guaranteed Shipping Characteristics [APR 1999]
- 3.11-59 F.O.B. Origin- Minimum Size of Shipments [APR 1999]
- 3.11-60 Specific Quantities Unknown [APR 1999]
- 3.11-61 Preference for U.S. Flag Carriers [M] [APR 1999]
- 3.11-62 Preference for Privately Owned U.S. Flag Commercial Vessels [M] [APR 1999]
- 3.11-62 Alternate I Preference for Privately Owned U.S. Flag Commercial Vessels Alternate I [APR 1999]
- 3.11-62 Alternate II Preference for Privately Owned U.S. Flag Commercial Vessels Alternate II [APR 1999]
- 3.11-65 Submission of Commercial Transportation Bills to the General Services Administration for Audit [APR 1999]
- 3.11-68 F.O.B. Origin - Government Bills of Lading or Prepaid Postage [APR 1999]
- 3.11-69 Report of Shipment [RESHIP] [APR 1999]
- 3.13-1 Approval of Contract [OCT 2001]
- 3.13-4 Contractor Identification Number - Data Universal Numbering System [DUNS] Number [AUG 2012]
- 3.13-5 Seat Belt Use by Contractor Employees [OCT 2001]
- 3.13-10 Contractor Attendance at FAA Sponsored Training [JAN 2003]
- 3.13-11 Plain Language [JUL 2006]
- 3.13-13 Contractor Policy to Ban Text Message While Driving [M] (applies to Orders expected to exceed \$150,000) [JAN 2011]
- 3.13-14 Reporting Executive Compensation and First-Tier Subcontract Awards [OCT 2012]
- 3.14-1 Security Requirements - Classified Contracts [M] [JUL 2002]
- 3.14-1 Alternate I Security Requirements - Classified Contracts Alternate I [OCT 2010]
- 3.14-2 Contractor Personnel Suitability Requirements [M] [JUL 2016]
- 3.14-3 Foreign Nationals as Contractor Employees [M] [APR 2014]
- 3.14-4 Access to FAA Systems and Government-Issued Keys, Personal Identity Verification [PIV] cards, and Vehicle Decals [NOV 2016]
- 3.14-5 Sensitive Unclassified Information [SUI] [JUL 2013]
- 3.17-1 American Recovery and Reinvestment Act-Reporting Requirements [M] [JUL 2010]
- 3.17-2 Authority of the Inspector General and Comptroller General Relating to Contracts Using American Recovery and Reinvestment Act Funding [APR 2009]
- 3.17-3 Whistleblower Protections under the American Recovery and Reinvestment Act [M] [JUL 2010]