

PERATON INC
STANDARD FIXED PRICE TERMS AND CONDITIONS AND FAR/NFS 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 these Terms and Conditions, the following terms are defined as specified below unless otherwise specifically stated:

“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.

“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 hardwired 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’s 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);
- (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 supersedes FAR and DFAR clauses when the prime contract 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 Defense Priorities and Allocations Systems (“DPAS”), codified at 15 C.F.R. § 700, Seller must sign and return, or reject in writing, 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. 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 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) 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.
 - (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.
- (d) Delivery shall be to the location directed by Buyer.

4. 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 21; or
 - (4) exercise any other applicable rights or remedies.
- (d) If Buyer rejects any Services or Items as non-conforming, 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 four (4) 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 26. 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. Final acceptance by Buyer of the Items or Services delivered hereunder shall not limit or affect the warranty or indemnity granted by Seller hereunder.

5. 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.

6. 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.

7. 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 Representative and delivered by Buyer to Seller. Modifications of this Order shall be handled pursuant to Article 13 "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.

8. 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.

9. 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.

10. PRICE, PAYMENT AND CLOSE-OUT:

- (a) Buyer shall pay Seller, upon the submission of proper invoices or vouchers, the prices stipulated in this Order for Items delivered and accepted or Services rendered and accepted, less any deductions provided in this Order.
- (b) Invoicing.
 - (1) 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;
 - (iv) Seller's invoice number and date;
 - (v) the payment terms as agreed by the Parties and stated in the Purchase Order;
 - (vi) a description of the work performed; and
 - (2) 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.
 - (3) If Buyer chooses to make interim payments for Order financing, Buyer will make such payments on the 60th 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.

- (4) Determination of payment due date, whether under net or discount terms, will be based on the latest of (i) the date goods are received or services performed; (ii) the date provided in this contract for receipt of goods or completion of services; or (iii) the date an accurate invoice is received in Buyer's accounts payable group. Payments are not scheduled based upon the date of Seller's invoice. Payment will be deemed to have been made when deposited in the mail. Any applicable discount period will be computed from the date of receipt of a correct invoice to the date Buyer issues a check.
 - (5) Seller shall submit invoices to Buyer no later than the 15th day of the month following the period of performance being invoiced. Seller shall not backdate any invoices. There shall NOT be a lapse of more than thirty (30) calendar days between performance and submission of an invoice. Failure to submit an invoice for each month of an active and current performance period may result in a 5% deduction of the total outstanding amount to be paid on the most current invoice.
 - (6) Upon Buyer's request, Seller shall provide a reconciliation of all invoices submitted to Buyer.
- (c) 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.
- (d) Following completion of work and before final payment, Seller shall comply with the close-out procedure as directed by Buyer.

11. 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 and Buyer reserves the right to review such record not more often than every six (6) months to determine offset availability. This Article 11 shall survive two (2) years beyond the completion of this Order.

12. 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.

13. 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 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 Order price 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 46, 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 47. 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) If Buyer elects not to appeal any final decision of the Contracting Officer, or deemed denial under the Disputes Clause of Buyer's Government Contract, Buyer will so notify Seller in writing with reasonable promptness after Buyer receives the final decision of the Contracting Officer or the dispute is deemed denied. If within thirty (30) days after Seller receives Buyer's notice of its decision not to appeal the final decision of the Contracting Officer or deemed denial, Seller notifies Buyer that Seller wishes to appeal that final decision or deemed denial, Buyer may grant Seller an indirect right to appeal that final decision or deemed denial in Buyer's name under the Disputes Clause of Buyer's Government Contract, provided that:
 - (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) In no event shall the Seller acquire any direct claim or direct course of action against the United States Government.

14. 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's Customer, or the United States Government. Buyer shall have equitable title to all Items for which partial or progress payments have been furnished to Seller.

15. TOOLS, MATERIALS AND INFORMATION: Refer also to Article 25 (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, any tools, materials, Items 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.

16. 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. Seller shall maintain written records of the management, maintenance, and preservation of the Furnished Property, in accordance with good commercial practice, and provide such records to Buyer, upon request.
- (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 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.

17. FACILITIES: 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.

18. 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

19. 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.

20. COUNTERFEIT PARTS:

- (a) Seller represents and warrants that it has policies and procedures in place to ensure that none of the supplies or materials furnished under this Order are "suspect/counterfeit parts" and certifies, to the best of its knowledge and belief, that no such parts have been or are being furnished to Buyer by Seller. Seller represents and warrants that it is in compliance with NDAA-2012-818 and any superseding DFAR clause. "Suspect/counterfeit parts" are parts that may be of new manufacture, but are misleadingly labeled to provide the impression they are of a different class or quality or from a different source than is actually the case. They also include refurbished parts, complete with false labeling, that are represented as new parts or any parts that are designated as suspect by the U.S. Government, such as parts listed in alerts published by the Defense Contract Management Agency under the Government-Industry Data Exchange Program (GIDEP).
- (b) Parts furnished under this Order shall be purchased directly from the Original Component Manufacturers ("OCM")/Original Equipment Manufacturers ("OEM") or through the OCM/OEMs Franchised Distributor. OCM is an organization that designs and/or engineers a part and is pursuing or has obtained the intellectual property rights to that part. OEM is an organization that designs and/or engineers equipment and is pursuing or has obtained the intellectual property rights to that equipment. This term is synonymous with OCM. Franchised Distributor is a distributor with whom the OCM has a contractual agreement to buy, stock, re-package, sell and distribute its product lines. Franchised distributors normally offer the product for sale with full manufacturers warranty. Franchising contracts may include clauses that provide for the OCM's marketing and technical support, failure analysis and corrective action, and exclusivity of inventory. Documentation must be available upon Buyer's request that authenticates traceability to the applicable OCM/OEM.
- (c) Seller shall maintain documented systems (policy, procedure, or other documented approach) that provides for prior notification to Buyer and Buyer's written approval before parts or components are procured from sources other than OCM, OEM, or OCM or OEM's Franchised Distributor. Seller shall provide copies of such documentation for its system upon Buyer's request. Seller's systems shall be consistent with applicable industry standard, for the detection and avoidance of counterfeit electronic parts, including flowing down requirements to subcontractors.
- (d) If Buyer reasonably determines that Seller has supplied suspect/counterfeit parts to Buyer, Buyer shall promptly notify Seller and Seller shall immediately replace the suspect/counterfeit parts with parts acceptable to Buyer. Notwithstanding any other provision contained herein, Seller shall be liable for all costs incurred by Buyer to inspect, remove, and replace the suspect/counterfeit parts, including without limitation Buyer's external and internal costs of removing such a counterfeit parts, of reinserting replacement parts and of any testing necessitated by the reinstallation of Seller's goods after counterfeit parts have been exchanged. In addition, Buyer may unilaterally terminate this order for convenience depending on the impact of the delivery of suspect/counterfeit parts on the Seller's overall performance on this order. Seller's warranty against suspect/counterfeit parts shall survive any termination or expiration of this Order.

21. 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; or

- (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; or
 - (3) Seller fails to make delivery of the Items or to perform the Services within the time specified in this Order; or
 - (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; or
 - (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, unless otherwise extended in writing by Buyer); or
 - (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; or
 - (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; or
 - (9) Seller is sanctioned, suspended, or debarred by the Government; or
 - (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; or
 - (11) Seller fails to cure a deficiency identified by Buyer, within ten (10) days of notification by Buyer, unless otherwise such cure period is extended in writing by Buyer.
- (b) Termination for Convenience
 - (1) Buyer may terminate this Order for its convenience in accordance with FAR 52.249-1 where the total value of the Order is not expected to exceed the Simplified Acquisition Threshold, or if greater value, then in accordance with FAR 52.249-2. Except as otherwise noted, replace "Government" with "Buyer" and "Contracting Officer" with "Buyer's Representative."
 - (2) If any Force Majeure delays, as defined in Article 22, 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.
 - (3) The proposed settlement invoice shall be submitted to Buyer's Representative within thirty (30) days, unless otherwise extended in writing, with full supporting documentation for all costs claimed.
 - (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. For default, Seller shall reimburse Buyer for excess re-procurement costs, including any increase in cost to re-procure items or services. Seller shall continue the performance of this Order to the extent not canceled under the provisions of this Article. Buyer shall be entitled to excess re-procurement costs.
 - (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.

22. FORCE MAJEURE: 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:

- (a) Seller immediately gives written notice to Buyer of any difficulty or anticipated difficulty in meeting the delivery schedule set forth in the Order;
- (b) 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; the delay does not materially affect Buyer's scheduling on any system or process.

23. STOP 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 13 for any increase in the time and the cost 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.

24. 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, but not the obligation, to participate with Seller in determining the strategy to defend any such suit or action, and shall have the right, but not the obligation, 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 attorney's 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.

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.

25. 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 25(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 25(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 25(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.

26. 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.
- (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) If, within the warranty period, any defect or failure appears, Buyer shall have the right to take the following actions:
- (1) retain such defective Services or Item(s) and an equitable adjustment will be made in the Order price; or
 - (2) reject such defective Services or Item(s) and require Seller to promptly remove and repair or replace such defective Services or Item(s) at Seller's sole expense (including shipping costs), with risk of loss and damage for the rejected, corrected or replacement Services and Item(s) while in transit borne by Seller; or
 - (3) correct or replace such defective Services and Item(s) with similar Services or Item(s) and recover the total cost (including shipping costs) thereof from Seller. Services or Item(s) rejected shall be removed promptly by Seller at its expense and its risk. Even if the parties disagree whether or not Seller has breached this warranty, Seller shall promptly comply with Buyer's directions to provide warranty work pending resolution of the disagreement.
- (d) Upon discovery of any defect or failure within the warranty period provided hereby, the following conditions shall apply:
- (1) Buyer shall furnish written notice to Seller of the Services or Item(s) involved and set forth the nature of the defect(s) or failure(s) discovered;
 - (2) within fifteen (15) days after receipt by Seller of such notification, Seller shall provide in writing to Buyer the following information:
 - (i) acknowledgment of the notification given by Buyer of the defect or failure;
 - (ii) the corrective action to be taken by Seller to remedy the defect or failure;
 - (iii) disposition instructions regarding the defective material or equipment;
 - (iv) the date that the defective Services and Items will be repaired, corrected or replaced as applicable and redelivered to the appropriate destination as directed by Buyer; or
 - (v) with the advance approval of Buyer, submit a proposed price reduction to this Order for Buyer's consideration pursuant to (c) (1) above.
 - (e) 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.
 - (f) The word "Item(s)" as used in this Article 26 includes parts, components, assemblies, materials, equipment, services and data required under this Order.
 - (g) 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.
 - (h) The aforesaid warranties shall survive acceptance, payment, and United States Government approval, 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.
 - (i) Seller shall furnish Buyer a certificate of Seller's compliance with these Article 19 warranty conditions upon Buyer's request.

27. RISK OF DAMAGE/INDEMNITY AGAINST CLAIMS/LIMITATION OF LIABILITY:

- (a) 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.
- (b) Seller, including its subcontractors or vendors, shall keep its work and all Items supplied under this Order and Buyer premises free and clear of all liens and encumbrances, including mechanic's liens. Seller may be required by Buyer to provide a satisfactory release of liens as a condition of final payment.
- (c) To the extent not covered by the Patent/Intellectual Property Indemnity provision in Article 24, Seller shall, without limitation, defend, indemnify, save, and hold harmless Buyer and its customer(s) and their respective officers, directors, employees and agents from and against every third party liability, claim of liability (including claims under Workers' Compensation or Occupational Disease laws), allegation, judgment, cost, expense, attorneys' fees, cause of action, loss or damages whatsoever, including special, indirect, and consequential damages arising from the Services or Items supplied by Seller, or its employees, subcontractors, and lower tier subcontractors, pursuant to this Order, including, without limitation, latent defects in such Services or Items, except to the extent that such injury, death, loss or damage is caused solely and directly by the negligence of Buyer.
- (d) Seller and Buyer agree to notify each other as soon as practicable of any such claim described in subparagraph (c) 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.
- (e) 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.
 - (f) In the event Buyer should bring action to enforce the indemnification provisions of this Article 28 and prevail in such action, Seller agrees that Buyer shall be entitled to be awarded its reasonable attorney's fees and costs.
 - (g) 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 for any indirect, special, punitive, incidental or consequential damages of any kind arising out of this Order, whether such remedy is sought in contract, tort (including without limitation negligence), strict liability or otherwise.

28. INSURANCE: 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.

29. NON-DISCLOSURE AND CONFIDENTIAL RELATIONSHIP:

- (a) The Parties shall treat as proprietary and confidential all specifications, drawings, blueprints, nomenclature, samples, models and all other information designated in writing by the disclosing Party as "Confidential," "Proprietary," "Secret" or otherwise marked, identified or labeled in a manner to alert the receiving Party to its confidential nature, 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. 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 specifications, drawings, blueprints, nomenclature, samples, models and all other information received by Seller from Buyer, including any copies made by Seller, is to be returned to Buyer or destroyed, upon Buyer's written request.
- (b) 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.
- (c) Unless the written consent of Buyer is first obtained, Seller shall not in any manner advertise, publish, or release for publication, including without limitation, 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.
- (d) 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 30 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.

30. 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.

31. ASSIGNMENT AND SUBCONTRACTING:

- (a) Assignment: Neither this Order itself, nor any interest or obligation hereunder, shall be assigned or transferred by either party without the prior written consent of the other party, which shall not be unreasonably withheld. Either party may assign this Order, at no cost to the other party, to any affiliated company, any subsidiary entity, any successor in interest, or Buyer's customer.
- (b) Subcontracting: 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 contracts of employment between Seller and personnel assigned for Services hereunder.
- (c) 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.

32. AUDIT, INSPECTION OF RECORDS: The United States Government and other regulatory authorities 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, 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, but not limited to, the U.S. Foreign Corrupt Practices Act; or (e) any type of litigation. Seller shall keep reasonably detailed records, in accordance with applicable FAR, DFARS and Generally Accepted Accounting Principles 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 The United States Government and other regulatory authorities access to all facilities involved in the Order and to all applicable records.

33. 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).

- (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.

34. 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) or (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.

35. COMPLIANCE WITH THE U.S. FOREIGN CORRUPT PRACTICES ACT/FACILITATION PAYMENTS: Seller warrants and represents that it is familiar with the requirements of the U.S. Foreign Corrupt Practices Act ("FCPA"), the U.K. Bribery Act, and any applicable local or foreign laws, ordinances, and regulations regarding payments, gratuities, or bribes to government personnel. Seller agrees that in the performance of this Order Seller, including its officers, directors, agents, employees, independent contractors, and subcontractors, will comply with the FCPA, the U.K. Bribery Act, and any applicable local or foreign anti-corruption laws, ordinances, or regulations. To the extent there are any inconsistencies between the FCPA,

the U.K. Bribery Act, and any applicable local or foreign anti-corruption laws, ordinances, or regulations, the more restrictive shall apply. Buyer may terminate this Order for default, and seek all remedies for material breach of contract, if Seller violates or is subject to a bona fide allegation that Seller violated the FCPA, the U.K. Bribery Act, and any applicable local or foreign anti-corruption laws, ordinances, or regulations. At its sole discretion, Buyer may institute a 10 percent withholding against Seller's invoices pending the resolution of any bona fide allegation that Seller violated the FCPA, the U.K. Bribery Act, and any applicable local or foreign anti-corruption laws, ordinances, or regulations.

Seller agrees to promptly notify Buyer of any allegations against Seller, including its officers, directors, agents, employees, independent contractors, and subcontractors, regarding a violation of the FCPA, the U.K. Bribery Act, and any applicable local or foreign anti-corruption laws, ordinances, or regulations.

Seller agrees to indemnify Buyer against any and all risks of loss associated with any violations, or allegations of a violation, by Seller, including its officers, directors, agents, employees, independent contractors, and subcontractors, of the FCPA, the U.K. Bribery Act, or any applicable local or foreign anti-corruption laws, ordinances, or regulations. Such indemnity shall include Buyer's legal costs and fees, including costs and fees incurred by Buyer to respond to allegations made against Seller that are ultimately resolved without any administrative or judicial action against Buyer or Seller.

Seller agrees to complete annual certifications regarding Seller's compliance with the FCPA, the U.K. Bribery Act, and any applicable local or foreign anti-corruption laws, ordinances, or regulations. Seller shall promptly notify Buyer of any material changes to any prior disclosures or certifications regarding the FCPA, the U.K. Bribery Act, and any applicable local or foreign anti-corruption laws, ordinances, or regulations. Seller further agrees to require all subcontractors who are performing work in support of the Order to complete an annual certification regarding their compliance with the FCPA, the U.K. Bribery Act, and any applicable local or foreign anti-corruption laws, ordinances, or regulations, and to update any materials changes to the same. Seller agrees to engage in annual training of its employees, agents, and independent contractors who are supporting the Order regarding compliance with the FCPA, the U.K. Bribery Act, and any applicable local or foreign anti-corruption laws, ordinances, or regulations.

Seller will keep accurate expense, correspondence, and other records of the business conducted by Seller in furtherance of its performance of this Order, including documentation confirming that all payments made by Seller in connection with the performance of this Order are made in consideration for bona fide services or goods provided to Seller. Seller and Buyer agree that all payments by Seller in connection with the performance of this Order will be by check or bank transfer and that no payments will be made in cash or by bearer instruments, except for *de minimis* or petty cash payments made in the normal course of business, and that no payments will be made through an intermediary other than a financial institution in the normal course of Seller's business operations. Additionally, all payments owed to Seller or Buyer will be made directly to that party and all payments to foreign parties will be made in the foreign country at issue. Seller shall fully cooperate with and agrees to provide Buyer or Buyer's third party professional service provider, with all documents and other information requested by Buyer for purposes of auditing or verifying compliance with all laws and regulations, including U.S. laws and regulations such as the FCPA, that are applicable to the Parties' relationship or to this Order.

Seller shall not subcontract any portion of the work required under this Order to any entity without prior approval by Buyer. Prior to seeking Buyer's consent to subcontract, Seller shall conduct due diligence to confirm the proposed-subcontractor's compliance with the FCPA, the U.K. Bribery Act, and any applicable local or foreign anti-corruption laws, ordinances, or regulations.

Seller will not make any facilitation payments, or payments of cash or the provision of a small gift to a low level foreign official, for the sole purpose of expediting or securing the performance of a routine, non-discretionary governmental action. Facilitation payments do not include payment of established fees for government services.

36. 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.

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 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 21, 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.pmdtc.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) 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.
- (4) 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.
- (5) 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 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 Order.
 - (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 ODC is also 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 Order is restricted by export control laws or regulations. Seller shall immediately notify Buyer 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. 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 program(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.

39. 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 caused Buyer to use or deliver Prohibited Software in connection with this Order.

40. COMPLIANCE WITH ENVIRONMENTAL LAWS:

- (a) Seller hereby represents and 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 on the use of hazardous substances, or the recycling or treatment of waste equipment including, but not limited to the laws implementing:
 - 1) the European Directive (2011/65/EU) 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");
 - 2) the U.S. Environmental Protection Act ("EPA") including Resource Conservation Recovery Act ("RCRA") 40 CRF Part 260 through 265;
 - 3) the Toxic Substances Control Act (15 U.S.C., § 2601 et seq.);
 - 4) the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA") (7 U.S.C. § 136 et seq.);
 - 5) the European Regulation EC 1907/2006 on the Registration, Evaluation, Authorization and Restriction of Chemicals ("REACH");
 - 6) the European Community Council Directive of 27 July 1976 (76/769/EEC) (together, "Environmental Laws").
- (b) Seller hereby represents and warrants that the Items contain no asbestos containing materials, mercury, cadmium, hexavalent chromium, polybrominated biphenyls, chlorofluorocarbons, or polybrominated diphenyl ethers or other substance, in a quantity other than in compliance with the Environmental Laws, the use of which is banned or restricted by any Environmental Law.
- (c) Seller hereby represents and warrants that each and every chemical substance delivered under this Order shall, at the time of sale, transfer, or delivery, be on the list of chemical substances compiled and published by the Administrator of the EPA pursuant to Section 8 of the Toxic Substances Control Act (15 U.S.C. § 2601).
- (d) 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.
- (e) 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 Safety Data Sheet):
- (f) 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
- (g) the location of any component or material that is hazardous within the meaning of the the Environmental Laws, and any Item that is required by the Environmental Laws to be marked shall be so marked by Seller.
- (h) 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 Seller has registered, notified and communicated supplied materials for Buyer's intended use as required by the Environmental Laws.
- (i) 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.
- (j) 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.

- (k) 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.

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

- (a) 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.
- (b) 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 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 restrictions 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.

- (c) Notwithstanding anything in this Order to the contrary, for Items supplied to Buyer as a Department of Defense contractor or subcontractor at any tier, 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

42. 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.

43. HAZARDOUS CONDITIONS: All supplied items that are Articles (as defined under Environmental Laws) must conform to appropriate and applicable commercial (ANSI) standards and practices. Articles must be provided with any information, necessary data, and certifications as necessary for proper and safe use by Buyer either directly or when incorporated within a product or service provided by Buyer. Required information must address the items life cycle, including disposal.

44. NON-SOLICITATION: To the maximum extent consistent with all applicable law, during the term of this Order, and for a period of twenty-four (24) months following termination of this Order, Seller shall not, on its own behalf or pursuant to an arrangement with a third party, solicit for employment, employ or otherwise engage the services of employees or individual consultants of Buyer that are directly related to this Order or Buyer's Government Contract.

45. 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.

46. 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.

47. 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 customer, 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.

48. 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.

49. 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.

50. 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) Item Support, Article 8; Price, Payment and Close-Out, Article 10; Offset/Countertrade Credit, Article 11; Patent/Intellectual Property Indemnity By Seller, Article 24; Warranty, Article 26; Risk of Damage/Indemnity Against Claims/Limitation of Liability, Article 27; Insurance, Article 28; Non-Disclosure and Confidential Relationship, Article 30; Applicable Law and Disputes, Article 46; Compliance with Federal, State and Local Laws, Article 35; Foreign Transactions and Export Control, Article 37; Compliance With Hazardous Substances and Waste Recycling Laws, Article 40; Non-Solicitation, Article 44; and General Relationship, Article 47.
- (b) Those United States Government flowdown provisions that, by their nature, should survive.

51. 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.

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;
- (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; and
- (e) A duly authorized representative of Seller has attested

ITEM 2 – FAR AND NFS 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 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) and National Aeronautics and Space Administration FAR Supplement (NFS) (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 13 “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 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.

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

In addition to the provisions of ITEM1, 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]
- 52.203-7 Anti-Kickback Procedures [M] [MAY 2014]
- 52.203-8 Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity [MA 2014]

- 52.203-10 Price or Fee Adjustment for Illegal or Improper Activity [MAY 2014]
- 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions [SEP 2007]
- 52.203-13 Contractor Code of Business Ethics and Conduct [M] [OCT 2015]
- 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) [AUG1996] (Alternates I and II apply if in Buyer’s Government Contract)
- 52.204-3 Taxpayer Identification [OCT 1998]
- 52.204-4 Printed or Copied Double-Sided on Post Consumer 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) [FEB1995]
- 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]
- 52.209-4 First Article Approval – Government Testing (Alternate I or II apply if in Buyer’s Government Contract) [SEPT 1989]
- 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 (applies to order valued above the simplified acquisition threshold for items other than commercial items) [APR 2011]
- 52.211-5 Material Requirements [AUG 2000]
- 52.211-11 Liquidated Damages – Supplies, Services, or Research and Development (value of damages equivalent to that specified in Buyer’s Government contract) [SEPT 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 [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]
- 52.216-5 Price Redetermination- Prospective [OCT 1997]
- 52.216-6 Price Redetermination- Retroactive [OCT 1997]
- 52.216-16 Incentive Price Revision- Firm Target [OCT 1997]
- 52.216-17 Incentive Price Revision– Successive Targets [OCT 1997]
- 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]
- 52.219-8 Utilization of Small Business Concerns [M] [NOV 2016]
- 52.219-10 Incentive Subcontracting Program [OCT 2014]
- 52.219-28 Post-Award Small Business Program Representation [JUL 2013]
- 52.222-1 Notice to the Government of Labor Disputes [FEB 1997]

52.222-3	Convict Labor [JUN 2003]	ozone depleting substances or for supplies that may contain or be manufactured with ozone depleting substances)
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]	52.223-12 Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners [JUN 2016]
52.222-6	Construction Wage Rate Requirements [M] [MAY 2014]	52.223-15 Energy Efficiency in Energy-Consuming Products [DEC 2007]
52.222-7	Withholding of Funds [M] [MAY 2014]	52.223-16 Acquisition of EPEAT-Registered Personal Computer Products (Alt I applies if included in Buyer's Government Contract) [OCT 2015]
52.222-8	Payrolls and Basic Records [M] [MAY 2014]	52.223-17 Affirmative Procurement of EPA-Designated Items in Service and Construction Contracts [MAY 2008]
52.222-9	Apprentices and Trainees [M] [JUL 2005]	52.223-18 Encouraging Contractor Policies to Ban Text Messaging While Driving [M] (applies to all Orders expected to exceed the micro-purchase threshold) [AUG 2011]
52.222-10	Compliance with Copeland Act Requirements [M] [FEB 1988]	52.223-19 Compliance with Environmental Management Systems [MAY 2011]
52.222-11	Subcontracts (Labor Standards) [M] [MAY 2014]	52.224-1 Privacy Act Notification [M] [APR 1984]
52.222-12	Contract Termination – Debarment [M] [MAY 2014]	52.224-2 Privacy Act [M] [APR 1984]
52.222-13	Compliance with Construction Wage Rate Requirements and Related Regulations [M] [MAY 2014]	52.225-1 Buy American – Supplies [M] [MAY 2014]
52.222-14	Disputes Concerning Labor Standards [M] [FEB 1988]	52.225-3 Buy American—Free Trade Agreements—Israeli Trade Act [M] (Alt I and II apply if included in Buyer's Government Contract) [MAY 2014]
52.222-15	Certification of Eligibility [M] [MAY 2014]	52.225-5 Trade Agreements [OCT 2016]
52.222-18	Certification Regarding Knowledge of Child Labor for Listed End Products [FEB 2001]	52.225-7 Waiver of Buy American Statute for Civil Aircraft and Related Articles [FEB 2016]
52.222-19	Child Labor – Cooperation with Authorities and Remedies [OCT 2016]	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) [OCT 2010]
52.222-21	Prohibition of Segregated Facilities [M] [APR 2015]	52.225-9 Buy American – Construction Materials (Alt I applies if in Buyer's Government Contract) [MAY 2014]
52.222-22	Previous Contracts and Compliance Reports [FEB 1999]	52.225-10 Notice of Buyer American Requirement- Construction Materials (Alt I applies if in Buyer's Government Contract) [MAY 2014]
52.222-26	Equal Opportunity [M] [SEP 2016] and Alt I [FEB 1999]	52.225-11 Buy American– Construction Materials under Trade Agreements (Alt I applies if in Buyer's Government Contract) [OCT 2016]
52.222-29	Notification of Visa Denial (applies if Seller is required to perform in or on behalf of a foreign country) [APR 2015]	52.225-12 Notice of Buy American Requirement- Construction Materials under Trade Agreements (Alt I and/or II apply if in Buyer's Government Contract) [MAY 2014]
52.222-38	Compliance With Veterans' Employment Reporting Requirements [FEB 2016]	52.225-13 Restrictions on Certain Foreign Purchases [M] [JUN 2008]
52.222-41	Service Contract Labor Standards[M] (applies to Orders subject to the Act) [MAY 2014]	52.225-14 Inconsistency Between English Version and Translation of Contract [FEB 2000]
52.222-43	Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (Multiple Year and Option Contracts) [MAY 2014]	52.225-17 Evaluation of Foreign Currency Offers [FEB 2000]
52.222-44	Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustments [May 2014]	52.225-18 Place of Manufacture [MARCH 2015]
52.222-48	Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration or Repair of Certain Equipment- Requirements [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 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]
52.222-50	Combating Trafficking in Persons [M] [MAR 2015] and Alt I [AUG 2007] (Alt I is applicable if included in Buyer's Government Contract) and Executive Order-Strengthening Protections Against Trafficking In Persons In Federal Contracts dated 25 September 2012 and National Defense Authorization Act of 2013 Title XVII-Ending Trafficking in Government Contracting signed by the President 2 January 2013.	52.225-20 Prohibition on Conducting Restricted Business Operations in Sudan-Certification [AUG 2009]
52.222-51	Exemption from Application of the Service Contract Labor Standards 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]	52.225-21 Required Use of American Iron, Steel, and Manufactured Goods – Buy American Statute- Construction Materials [MAY 2014]
52.222-53	Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services – Requirements [M] (applies to Orders for services exempt from the Service Contract Act) [MAY 2014]	52.225-22 Notice of Required Use of American Iron, Steel, and Manufactured Goods – Buy American Statute- Construction Materials (and Alt I) [MAY 2014]
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]	52.225-23 Required Use of American Iron, Steel, and Manufactured Goods – Buy American Statute- Construction Materials Under Trade Agreements [OCT 2016]
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]	52.225-24 Notice of Required Use of American Iron, Steel, and Manufactured Goods – Buy American Statute- Construction Materials Under Trade Agreements [MAY 2014]
52.223-4	Recovered Material Certification [MAY 2008]	52.225-25 Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran-Certification [OCT 2015]
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]	52.226-1 Utilization of Indian Organizations and Indian-Owned Economic Enterprises [JUN 2000]
52.223-6	Drug-Free Workplace [MAY 2001]	52.226-2 Historically Black College or University and Minority Institution Representation [OCT 2014]
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]	52.227-3 Patent Indemnity (Alt I and/or II apply if incorporated in Buyer's Government Contract) [APR 1984]
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]	52.227-5 Waiver of Indemnity [APR 1984]
52.223-11	Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons [JUN 2016] (applies if Order is for	52.227-6 Royalty Information [APR 1984]

- 52.227-9 Refund of Royalties [M] (applies to subcontracts in which the amount of royalties reported during negotiation of the subcontract exceeds \$250) [APR 1984]
 - 52.227-10 Filing of Patent Applications – Classified Subject Matter [M] (applies to subcontracts that are likely to cover classified subject matter) [DEC 2007]
 - 52.227-11 Patent Rights – Ownership by the Contractor [M] [MAY 2014] (Alternates I – V apply if in Buyer’s Prime Contract)
 - 52.227-13 Patent Rights – Ownership by the Government [M] [DEC 2007] (Alternates I and II apply if in Buyer’s Prime Contract)
 - 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)
 - 52.227-16 Additional Data Requirements [JUN 1987]
 - 52.227-17 Rights in Data – Special Works [DEC 2007]
 - 52.227-18 Rights in Data – Existing Works [DEC 2007]
 - 52.227-19 Commercial Computer Software License [DEC 2007]
 - 52.227-20 Rights in Data – SBIR Program [M] [MAY 2014]
 - 52.227-21 Technical Data Declaration, Revision, and Withholding of Payment – Major Systems [MAY 2014]
 - 52.227-22 Major System – Minimum Rights [JUN 1987]
 - 52.227-23 Rights to Proposal Data (Technical) [JUN 1987]
 - 52.228-3 Workers’ Compensation Insurance (Defense Base Act) [M] [JUL 2014]
 - 52.228-4 Workers’ Compensation and War-Hazard Insurance Overseas [M] [APR 1984]
 - 52.228-5 Insurance - Work On A Government Installation [M] (applies to all subcontracts that require work on a government installation) [JAN 1997]
 - 52.229-2 North Carolina State and Local Sales and Use Tax [APR 1984]
 - 52.229-3 Federal, State, and Local Taxes [FEB 2013]
 - 52.229-4 Federal, State, and Local Taxes (State and Local Adjustments) [Feb 2013]
 - 52.229-6 Taxes- Foreign Fixed-Price Contracts [Feb 2013]
 - 52.229-7 Taxes – Fixed-Price Contracts With Foreign Governments [FEB 2013]
 - 52.230-1 Cost Accounting Standards Notices and Certifications (Alt I applies if incorporated in Buyer’s Government Contract) [OCT 2015]
 - 52.232-1 Payments [APR 1984]
 - 52.232-3 Payments Under Personal Services Contracts (applies to subcontracts for personal services) [APR 1984]
 - 52.232-9 Limitation on Withholding of Payments [APR 1984]
 - 52.232-11 Extras [APR 1984]
 - 52.232-16 Progress Payments (if this Order is with a large business, applies only when approved by Buyer, “Government” does not change in Paras. (d) and (g)) [APR 2012] and Alt I [MAR 2000] (Alt I is applicable if this Order is with a small business)
 - 52.232-17 Interest [MAY 2014]
 - 52.233-3 Protest After Award [AUG 1996] and Alt I [AUG 1996]
 - 52.234-1 Industrial Resources Developed Under Defense Production Act Title III [M] [SEP 2016]
 - 52.234-4 Earned Value Management System [M] (applies when the Contracting Officer has listed Seller in Para. (g)) [NOV 2016]
 - 52.236-13 Accident Prevention [NOV 1991]
 - 52.237-1 Site Visit [APR 1984]
 - 52.237-2 Protection of Government Buildings, Equipment, and Vegetation (applies if work will be performed on a Government installation) [APR 1984]
 - 52.237-3 Continuity of Services [JAN 1991]
 - 52.237-11 Accepting and Dispensing of \$1 Coin [SEPT 2008]
 - 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]
 - 52.242-1 Notice of Intent to Disallow Costs (delete para. (a)(2)) [APR 1984]
 - 52.242-2 Production Progress Reports [APR 1991]
 - 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]
 - 52.242-17 Government Delay of Work (“Contracting Officer” in Para. (a) includes Buyer, “Government” does not change) [APR 1984]
 - 52.243-6 Change Order Accounting [APR 1984]
 - 52.244-2 Subcontracts [M] [OCT 2010]
 - 52.244-5 Competition in Subcontracting [DEC 1996]
 - 52.244-6 Subcontracts for Commercial Items [M] []
 - 52.245-1 Government Property [M] (Note 2) [APR 2012] (Alternates I [AUG 2010] and II [JUN 2007] apply if included Buyer’s Government Contract)
 - 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]
 - 52.245-9 Use and Charges (applies if included in Buyer’s Government Contract) [APR 2012]
 - 52.246-2 Inspection of Supplies- Fixed-Price (Alt I and/or II apply if incorporated in Buyer’s Government Contract) [AUG 1996]
 - 52.246-4 Inspection of Services – Fixed-Price [AUG 1996]
 - 52.246-7 Inspection of Research and Development – Fixed-Price [AUG 1996]
 - 52.246-9 Inspection of Research and Development (Short Form) [APR 1984]
 - 52.246-11 Higher-Level Contract Quality Requirement [DEC 2014]
 - 52.246-15 Certificate of Conformance [APR 1984]
 - 52.246-16 Responsibility for Supplies [APR 1984] (the term “Government” in Para. (d) of this clause shall be deemed to include both the Government and Buyer)
 - 52.246-17 Warranty of Supplies of a Noncomplex Nature (Alt I through V apply if incorporated in Buyer’s Government Contract) [JUN 2003]
 - 52.246-18 Warranty of Supplies of a Complex Nature (Alt II through IV apply if incorporated in Buyer’s Government Contract) [MAY 2001]
 - 52.246-19 Warranty of Systems and Equipment Under Performance Specifications or Design Criteria (Alt I through III apply if incorporated in Buyer’s Government Contract) [MAY 2001]
 - 52.246-20 Warranty of Services [MAY 2001]
 - 52.246-24 Limitation of Liability – High Value Items (only subparagraphs (c), (d) and (e)) [FEB 1997]
 - 52.246-25 Limitation of Liability – Services (only subparagraph (c) applies) [FEB 1997]
 - 52.247-1 Commercial Bill of Lading Notations (applies to Orders at or below the Simplified Acquisition Threshold with delivery terms F.O.B. origin) [FEB 2006]
 - 52.247-63 Preference for U.S.-Flag Air Carriers [M] (applies to Orders involving international air transportation) [JUN 2003]
 - 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 applies if in Buyer’s Government Contract)
 - 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]
 - 52.249-2 Termination for Convenience of the Government (Fixed-Price) (Change “120 days” to “60 days” in Para. (c); change “1 year” to “6 months” in Para. (e); change “90 days” to “45 days” in Para. 1) (Note 4) [APR 2012]
 - 52.250-1 Indemnification Under Public Law 85-804 (applies only if Buyer obtains advance written approval by Buyer’s Government Contract Contracting Officer) [APR 1984]
 - 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 Contracts for Material, Supplies, Articles and Equipment Exceeding \$15,000 [MAY 2014]
 - 52.222-36 Equal Opportunity 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) [JUL 2010]
- 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 \$30,000; Seller shall furnish to Buyer the information required by Para. (b)) [DEC 2010]

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] [SEPT 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) [MAR 2015]
- 52.248-1 Value Engineering [M] (Note 3) [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 2011]
- 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 I, Alt II and/or Alt III apply if included in Buyer's Government Contract) [JAN 2017]
- 52.219-16 Liquidated Damages- Subcontracting Plan [JAN 1999]
- 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)) [AUG 2016]
- 52.230-6 Administration of Cost Accounting Standards [M] [JUN 2010]

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]

NUMBERED NOTES APPLICABLE TO FAR 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 52.214-27, 52.215-10 and 52.215-11)
2. 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)
3. "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)
4. If this Order is terminated for convenience as a result of a termination for convenience issued by the Government, the term "Government" does not change in (b) (4), (6), (8) and (m). If this Order is terminated for convenience solely by Buyer, audits and examinations of records, as required by Buyer, shall be performed by an independent certified public accounting firm, mutually acceptable to Buyer and Seller. The cost of such 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. (FAR 52.249-2)
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)

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)) [AUG 2016]
52.230-6	Administration of Cost Accounting Standards [M] [JUN 2010]

2. TRUTH IN NEGOTIATIONS (COST AND PRICING DATA)

- (a) 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.
- (b) 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 setoff 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.
- (c) 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.

3. DEPARTMENT OF LABOR CLAUSES

- (a) In accordance with Executive Order 13496, when the items and/or services furnished are for use in connection with a Government Contract or subcontract, and 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.
- (b) When the items and/or services furnished are for use in connection with a Government Contract or subcontract, and the Order is expected to exceed \$10,000 and is not otherwise exempt, in addition to the provisions of ITEM-1, the following is incorporated into this Order: 41 CFR 60-741.5(a). **This contractor and subcontractor shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contracts and subcontractors to employ and advance in employment qualified individuals with disabilities.**
- (c) When the items and/or services furnished are for use in connection with a Government Contract or subcontract, and the Order is expected to exceed \$100,000 and is not otherwise exempt, in addition to the provisions of ITEM-1, the following is incorporated into this Order: 41 CFR 60-300.5(a). **This contractor and subcontractor shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contracts and subcontractors to employ and advance in employment qualified protected veterans.**

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]
1852.223-72	Safety and Health (Short Form) [M] (applies to orders over the micro-purchase threshold) [JULY 2015]
1852.223-73	Safety and Health Plan (Alt I [NOV 2004] applies if incorporated in Buyer's Government Contract) [JULY 2015]
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]
1852.223-75	Major Breach of Safety or Security (Alt I [FEB 2006] applies if incorporated in Buyer's Government Contract) [FEB 2002]

1852.223-76	Federal Automotive Statistical Tool Reporting [JUL 2003]		made available for Seller's performance) [JAN 2011]
1852.225-8	Duty-Free Entry of Space Articles (Modifies FAR 52.225-8)[FEB 2000]	1852.246-72	Material Inspection and Receiving Report [APR 2015]
1852.225-70	Export Licenses [M] (Alt I [FEB 2000] applies if incorporated in Buyer's Government Contract) [FEB 2000]	1852.246-73	Human Space Flight Item [M] (applies to lower tier Orders) [MAR 1997]
1852.227-11	Patent Rights - Retention by the Contractor (Short Form) (Modifies FAR 52.227-11)[APR 2015]	1852.247-71	Protection of the Florida Manatee [M] [JUL 2015]
1852.227-14	Rights in Data - General (Modifies FAR 52.227-14) [APR 2015]		
1852.227-17	Rights in Data - Special Works (Modifies FAR 52.227-17) [JUL 1997]		
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]		
1852.242-73	NASA Contractor Financial Management Reporting [NOV 2004]		
1852.242-78	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 purpose and no other Government Property is to be furnished) [JAN 2011]		
1852.245-74	Identification and Marking of Government Equipment [JAN 2011]		
1852.245-75	Property Management Changes [JAN 2011]		
1852.245-76	List of Government Property Furnished Pursuant to FAR 52.245-1 [JAN 2011]		
1852.245-77	List of Government Property Furnished Pursuant to FAR 52.245-2 [JAN 2011]		
1852.245-79	Use of Government-owned Property [JAN 2011]		
1852.245-80	Use of Government Production and Research Property on a No-Charge Basis. [JAN 2011]		
1852.245-81	List of Available Government Property (applies to Orders where Government Property will be		