

L3HARRIS TECHNOLOGIES, INC.

STANDARD GENERAL TERMS, CONDITIONS AND FAR/NFS FLOWDOWN PROVISIONS - FIXED PRICE PURCHASE ORDERS FOR NON-COMMERCIAL ITEMS UNDER A U.S. NATIONAL AERONAUTICS AND SPACE ADMINISTRATION CONTRACT

SECTION 1 - ARTICLES APPLICABLE TO ALL ORDERS

**DEFINITIONS:**

As used throughout these Terms and Conditions, the following terms are defined as specified below unless otherwise specifically stated:

“Authorized Distributor” means a Distributor distributing product within the terms of an Original Component Manufacturer (OCM) or the Original Equipment Manufacturer (OEM) contractual agreement. Contractual Agreement terms include, but are not limited to, distribution region, distribution products or lines, and warranty flow down from the OCM/OEM. Under this distribution, the distributor would be known as an Authorized Distributor. The term Franchised Distributor is considered synonymous with Authorized Distributor.

“Authorized Source” means Original Component Manufacturers (OCM), Original Equipment Manufacturer (OEM), Authorized Distributor (AD), Authorized Aftermarket Manufacturer, and Suppliers, approved by the Organization, that obtain parts exclusively from an OCM, OEM, AD, or Authorized Aftermarket Manufacturer.

“Authorized Aftermarket Manufacturer” means an organization that fabricates a part under a contract with, or with the express written authority of, the original component manufacturer based on the original component manufacturer’s designs, formulas and/or specifications.

“Authorized Reseller” means a reseller that purchases parts and materials exclusively from the OCM, OEM, or their Authorized Distributors (ADs) and then sells the products to the end user. Chain of custody is maintained throughout the process. “Resellers” apply to certain Commercial Off-The-Shelf (COTS) assemblies and commodities such as Information Technology (IT) equipment, hardware, fasteners, and raw materials.

“Buyer” means L3Harris Technologies, Inc., a corporation organized and existing under the laws of the state of Delaware, and all of its subsidiaries and affiliates.

“Buyer’s Representative” means the agent of Buyer with the actual authority to make legally binding commitments on behalf of Buyer as designated on the Purchase Order or Subcontract.

“Cost or pricing data” means cost or pricing data as defined in FAR 2.101.

“Counterfeit Part” means (1) An unauthorized copy, imitation, substitute, or modified part, which is knowingly misrepresented as a specified genuine part of the manufacturer. (2) Or a previously used Electrical, Electronic, and Electromechanical (EEE) Part which has been modified and is knowingly misrepresented as new without disclosure to the customer that it has been previously used. NOTE 1: Examples of a counterfeit part can include, but are not limited to; the false identification of grade, serial number, date code or performance characteristics. NOTE 2: This definition shall be read so as not to conflict with the definition for “counterfeit electronic part” cited in any U.S. government agency FAR Supplement, where that definition shall govern to the extent that clause applies.

“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 unless otherwise specified.

“Electrical, Electronic, and Electromechanical (EEE) Parts” means components designed and built to perform specific functions using electricity that are not subject to disassembly without destruction or impairment of design use. Examples of electrical parts include resistors, capacitors, inductors, transformers, and connectors. Electronic parts include active devices, such as monolithic microcircuits, hybrid microcircuits, diodes, and transistors. Electromechanical parts are devices that have electrical inputs with mechanical outputs, or mechanical inputs with electrical outputs, or combinations of each.

Examples of electromechanical parts are motors, synchros, servos, and relays. Although some of these electromechanical parts may be properly thought of as assemblies, for the purposes of this order these are considered to be parts.

“FAR” means the Federal Acquisition Regulation.

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

“Government Contract” means Buyer’s contracts with the Department of Defense or with a higher-tier contractor with contracts with the Department of Defense.

“Independent Distributor (Broker)” means a Distributor that purchases parts with the intention to resell them back into the market. Purchased parts may be obtained from OCMs/OEMs or Contract Manufacturers (typically from excess inventories), or from other independent distributors. Re-sale of the purchased parts (re-distribution) may be to OCMs/OEMs, Contract Manufacturers, or other independent distributors. Independent Distributors do not have contractual agreements with the OCMs/OEMs.

“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 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.

“Original Component Manufacturer (OCM)” means an entity that designs and/or engineers a part and is pursuing or has obtained the intellectual property rights to that part. NOTE 1: The part and/or its packaging are typically identified with the OCM’s trademark. NOTE 2: OCMs may contract out manufacturing and/or distribution of their product. NOTE 3: Different OCMs may supply product for the same application or to a common specification.

“Original Equipment Manufacturer (OEM)” means a company that manufactures products that it has designed from purchased components and sells those products under the company’s brand name.

“NASA” means the National Aeronautics and Space Administration.

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

“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 any Purchase Order or Subcontract issued hereunder, including written change notices, supplements, amendments, and other written modifications thereto, together with any referenced certifications, certificates (including Seller’s Annual Certification), exhibits, attachments or other documents, 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 Buyer’s Annual Certification document, attested to and executed by a duly authorized representative of Seller’s company.

“Services” means any labor, performance of a duty, or 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. Seller expressly represents that in accepting this Order it does not rely and has not relied upon any written or oral representation, warranty, or statement not set forth in the Order and that it will not have any right or remedy arising out of any representation, warranty, or other statement not expressly set out in this Order. The provisions of this Order shall be construed and interpreted as consistent whenever possible. Any conflicts in this Order shall be resolved by giving precedence in the following order:

- (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; and
- (d) Specifications, drawings or other requirements attached hereto or incorporated by reference.

In the event of a conflict in the Articles contained in Section 1 and applicable clauses contained in Section 2, the applicable clauses in Section 2 shall control to the extent necessary for Buyer to comply with Buyer's Government Contract. No other documents supersede FAR and NFS clauses applicable to Buyer's Government Contract 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:

- (a) Seller's execution of the acceptance copy of this Order;
- (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, 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 times employ persons to perform the tasks who are fully experienced and properly qualified to perform the same.

**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, in its sole discretion, refuse late deliveries.

(2) If Buyer agrees to accept deliveries after the contracted delivery date the Parties agree that delays which are not excusable or mutually agreed upon shall be subject to liquidated damages of one percent (1%) of the total order value per day, up to a maximum amount of twenty-five percent (25%) of the Purchase Order value, for each day delivery or performance is delayed beyond the date set forth in the Schedule of this Purchase Order. Such liquidated damages shall be paid by Seller 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 damages 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 liquidated damages provided herein. Failure to notify Buyer will result in liquidated damages. Seller may not refuse shipment of said line item to avoid late delivery liquidated damages.

(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) If Buyer agrees to accept deliveries after the delivery date has passed, Buyer shall have the right to direct Seller to make shipments by the most expeditious means and the total cost of such expedited shipment and handling shall be borne by Seller.

(5) 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.

(6) 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, AND ACCEPTANCE:**

(a) Seller and its suppliers shall establish and maintain a quality management, inspection and counterfeit parts program acceptable to Buyer and consistent with current industry standards (e.g., ISO9001, AS9100, AS9115, AS9120, AS5553, AS6496, AS6174, etc.). 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. If Seller learns of any violations of its obligations under this Article, 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) Subject to applicable national security regulations, Buyer and Buyer's Customer shall have the right of access, on a non-interference basis, to any area of Seller's or Seller's supply chain sub-tier premises where any part of the work is being performed. Seller shall flow this requirement down to its sub tier supply chain suppliers as a condition of this Order. Seller shall, without additional costs to Buyer, provide all reasonable in-plant accommodations, facilities, and assistance for the safety and convenience of the Buyer and the Buyer's representatives in the performance of their duties.

(c) 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 inspect and test material, work in process, services and suppliers, but not the obligation. Seller retains the obligation to ensure proper inspection and testing. Seller shall keep and maintain inspection, test, and related records, for a period of six (6) years following completion of the order. Seller shall allow copies to be made and shall furnish all records required by the Buyer or Buyer's Customer.

(d) Seller shall not provide non-conforming Items or Services. Buyer shall have the right to reject any Items or Services 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 Items or Services. Rejected Items or Services 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 Items or Services or lots of Items which are required to be removed, Buyer may:

- (1) replace or correct such Items or Services and charge to Seller the cost occasioned Buyer thereby; or
- (2) pay for such Items or Services 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 20; or
- (4) exercise any other applicable rights or remedies.

(e) If Buyer rejects any Items or Services as non-conforming, and Seller fails to inform Buyer in writing of the manner in which Seller desires that Buyer dispose of non-conforming Items or Services within forty-eight (48) hours of notice of Buyer's rejection of non-conforming Items or Services (or such shorter period as is reasonable under the circumstances), Buyer will be entitled to dispose of the non-conforming Items or Services without liability to Seller, provided, however, that in any event Buyer may elect to arrange for the shipment of any non-conforming Items or Services back to Seller at Seller's expense. Seller will bear all risk of loss with respect to all non-conforming Items or Services and will promptly pay or reimburse all costs incurred by Buyer to return, store or dispose of any non-conforming Items or Services.

(f) 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).

(g) Inspection and test by Buyer or its customer of any Items or Services 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 25. In the event Seller discovers an Item or Service is non-conforming subsequent to performance or delivery, Seller shall promptly notify Buyer. Disposition shall be in accordance with paragraphs (d) and (e) of this Article.

(h) 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. Wooden packaging from Seller must conform to International Standards for Phytosanitary Measures (ISPM 15) regarding the Regulation of Wood Packaging Material in International Trade (2009), as amended. 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 12 "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 and expiration of any warranty period 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 manufacturing, dealing, or reselling the aforementioned Items, subassemblies and spare parts, and does not provide for another qualified source, Seller shall give Buyer not less than twelve (12) 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) Unless otherwise provided, terms of payment shall be net sixty (60) days from actual delivery of Items or Services and Buyer's receipt of Seller's proper invoice. Buyer shall pay 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, Buyer's Customer, or Seller not to have been properly payable. Seller shall promptly notify Buyer of any overpayments and remit the overpayment amount to Buyer along with a description of the overpayment, including the circumstances of the overpayment, affected Order and delivery order number if applicable, and affected Order line item or subline item if applicable. 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 60<sup>th</sup> day after the payment office designated on the Purchase Order receives a proper payment request. In the event that Buyer or Buyer's Customer requires an audit or other review of a specific payment request to ensure compliance with the terms and conditions of the Order, Buyer is not compelled to make payment by the specified due date.

(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 on a cost-plus-a-percentage-of-cost basis.

(d) If Seller, its subcontractor, or prospective subcontractor at any tier fails to submit accurate, complete and current cost or pricing data, and as a result of that failure, the government reduces Buyer's prime contract, Buyer may recover from Seller an amount equal to the reduction as well as any other costs incurred including attorney's fees.

**11. 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 is eligible to obtain and/or 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.

**12. 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.

(b) 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 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.

(c) If any written change under this Article causes an increase or decrease in the estimated costs 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. 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 unit price established for such Items or Services herein.

(d) Any claim by Seller for adjustment must be asserted to Buyer within fifteen (15) days from date of Buyer issued change order. Seller's claim 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 thirty (30) days from the date Buyer issued the change order. Buyer may, in its sole discretion, consider any such claim regardless of when asserted, except that no claim for equitable adjustment shall be allowed after final payment.

(e) 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 42. 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.

(f) 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.

(g) In no event shall the Seller acquire any direct claim or direct cause of action against the Government.

**13. 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 interim, partial or progress payments have been furnished to Seller.

**14. TOOLS, MATERIALS AND INFORMATION:** Refer also to Article 24 (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.

**15. 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. If Seller fails to return such property upon Buyer's demand, Buyer shall have the right, upon reasonable notice, to enter Seller's premises and remove any such property at any time without being liable for trespasses or damages of any sort.

(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.

**16. 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.

**17. 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 <http://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodm/522022M.pdf>.

**18. COUNTERFEIT PARTS:**

(a) All suppliers shall purchase parts, materials, chemicals, and assemblies directly from authorized sources (reference sub-paragraphs 1 and 2 for further requirement resolution). Only new and authentic materials are to be supplied or used in products delivered to Buyer. No counterfeit or suspect counterfeit parts are to be delivered or contained within delivered product.

(1) EEE parts Authorized Distributors (ADs) shall only purchase product directly from the OCM. Parts shall not be purchased from other Authorized Distributors (ADs) or Independent Distributors (IDs) without written consent from Buyer. Procurement practices and documentation shall enable traceability back to the applicable OCM for each purchase transaction.

(2) Contract Manufacturers (CMs), Maintenance Repair and Overhaul (MRO) services, and Resellers shall only purchase parts, materials, and assemblies from the OCM, OEM, or their ADs. Independent Distributors (IDs) shall not be used without written consent from Buyer. Procurement practices and documentation shall enable traceability back to the applicable OCM/OEM or AD for each purchase transaction.

(b) If Seller becomes aware or suspects that it has furnished Counterfeit Parts to Buyer under this Order, Seller shall promptly notify Buyer of such no later than thirty (30) days from that discovery. Seller shall replace, at Seller's own expense, such Counterfeit Parts with OEM or Buyer-approved Items that conform to the requirements of this Order. Seller shall be liable for all costs related to the replacement of Counterfeit Parts and any testing or validation necessitated by the installation of authentic Items or components of Items after Counterfeit Parts have been replaced.

**19. TERMINATION FOR CONVENIENCE:**

(a) Buyer may, in its sole discretion and by notice in writing, direct Seller to terminate work under this Order in whole or in part, at any time, and such termination shall not constitute default. In such event, Buyer shall have all rights and obligations accruing to it either at law or in equity, including Buyer's rights to title and possession of the goods and materials paid for. Buyer

may take immediate possession of all work so performed upon notice of termination.

(b) Seller shall immediately stop work and limit costs incurred on the terminated work.

(c) Seller's settlement proposal shall be submitted to Buyer's Representative within thirty (30) days, unless otherwise extended in writing, with full supporting documentation for all costs claimed.

(d) Upon termination for convenience, Buyer, after deducting any amount(s) previously paid, shall reimburse Seller for the actual, reasonable, substantiated, and allowable costs with the total amount to be paid by the Buyer, being determined by Buyer, and not to exceed the value of the Order. Payment for completed Items delivered to and accepted by Buyer shall be at the price set out in the Order.

## 20. TERMINATION FOR DEFAULT:

(a) 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; 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) After receipt of notice of such termination for default, 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.

## 21. DELAYS AND NOTICE OF LABOR DISPUTES:

(a) Seller shall not be liable for any delays in delivery caused by circumstances beyond its reasonable control including acts of God or of the public enemy, fire, floods, epidemics, quarantine restrictions, strikes or freight embargoes, provided that:

(1) Seller immediately gives written notice to Buyer of any difficulty or anticipated difficulty in meeting the delivery schedule set forth in the Order;

(2) Seller immediately gives written notice to Buyer of any actual or potential situation that is delaying, or threatens to delay the timely performance of the Order, including an actual or potential labor dispute; and

(3) the delay does not materially affect Buyer's scheduling on any system or process.

(b) When any delays in delivery occur, Seller encounters difficulty in meeting performance requirements or Seller anticipates difficulty in complying with the delivery schedule or date, Seller shall immediately give notice thereof to Buyer. If requested by Buyer, Seller shall use additional effort, including premium effort, to avoid or minimize delay to the maximum extent possible. All of the costs of the additional effort shall be borne by Seller. The rights and remedies pursuant to this Article are in addition to rights and remedies provided to Buyer under this Order.

(c) Notwithstanding the above, if such delays extend for more than thirty (30) days from the delivery or performance date or threatens Buyer's delivery commitments under its Government Contract, Buyer may terminate such part of this Order remaining to be performed without liability to Buyer except for the fair value of work already completed and accepted.

## 22. SUSPENSION OF WORK/STOPWORK ORDER:

(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 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 12 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.

(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.

## 23. INDEMNIFICATION:

(a) In addition to, and without limiting, Buyer's rights under other indemnifications available under statute or common law, Seller shall indemnify, hold harmless, and at Buyer's request, defend Buyer, its officers, directors, customers, agents and employees, against all claims, liabilities, damages, losses and expenses, including attorneys' fees and cost of suit arising out of or in any way connected with the Goods or Services provided under this Order, including, without limitation: (i) the breach of any warranty contained herein; (ii) any claim based on the death or bodily injury to any person,

destruction or damage to property, or contamination of the environment and any associated clean-up costs; (iii) Seller failing to satisfy the Internal Revenue Service's guidelines for an independent contractor; (iv) any claim based on the negligence, omissions or willful misconduct of Seller or any of Seller's agents, subcontractors, employees or anyone acting on behalf of Seller; and (v) violation of federal, state, or local laws, including but not limited to export control, hazardous substance, toxic substance, and hazardous conditions laws. Seller shall not settle any such suit or claim without Buyer's prior written approval. Seller agrees to pay or reimburse all costs that may be incurred by Buyer in enforcing this indemnity, including attorneys' fees.,

(b) Seller will indemnify, defend and hold harmless Buyer and its customer from all claims, suits, actions, awards (including, but not limited to, awards based on infringement of patents known at the time of such infringement, exceeding actual damages and/or including attorneys' fees and/or costs), liabilities, damages, costs and attorneys' fees related to the actual or alleged infringement of any United States or foreign intellectual property right (including, but not limited to, any right in a patent, copyright, or based on misappropriation or wrongful use of information or documents). Buyer and/or its customer will duly notify Seller of any such claim, suit or action. Seller will, at its own expense, fully defend such claim, suit or action on behalf of the indemnitees.

(c) Should Buyer's use, or use by its distributors, subcontractors or customers, of any Goods or Services purchased from Seller be enjoined, be threatened by injunction, or be the subject of any legal proceeding, Seller shall, at its sole cost and expense, either: (i) substitute fully equivalent non-infringing Goods or Services; (ii) modify the Goods or Services so that they no longer infringe but remain fully equivalent in functionality; (iii) obtain for Buyer, its distributors, subcontractors or customers the right to continue using the Goods or Services; or, (iv) if none of the foregoing is possible, refund all amounts paid for the infringing Goods or Services.

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

(e) Seller shall without limitation as to time, defend, indemnify and hold Buyer harmless from all Workers' Compensation or Occupational Disease laws claims for bodily injury including death to employees of Seller brought forth by the Seller's employees and/or their family arising out of or in connection with this Order.

(f) Buyer and Seller agree to notify each other in writing as soon as practicable of all claims. Seller, if required to indemnify Buyer under this Section, shall promptly assume and diligently conduct the entire defense of such claim at its own expense. Buyer shall have the right to reject any settlement that would negatively impact Buyer as determined solely by Buyer. Buyer shall, upon Seller's reasonable request and at Seller's expense, use commercially reasonable efforts to furnish all information and assistance reasonably available to Buyer and to cooperate to assist in the defense and/or settlement of any such claim.

## 24. RIGHTS IN DATA AND INVENTIONS:

(a) Definitions:

(1) Intellectual Property. Intellectual Property means inventions, discoveries and improvements, know-how, works of authorship, technical data, drawings, specifications, process information, reports and documented information, and computer software.

(2) Background Intellectual Property. Background Intellectual Property means Intellectual Property that is (i) in existence prior to the effective date of this Order or (ii) is designed, developed or licensed after the effective date of this Order

independently of both the work undertaken or in connection with this Order, and the proprietary information and Intellectual Property of the other party to this Order.

(3) Foreground Intellectual Property. Foreground intellectual property means intellectual property conceived, created, acquired, developed, derived from or based on development performed under this Order or information supplied by Buyer, or first actually reduced to practice by Seller in connection with this Order.

(b) Seller shall treat as proprietary and confidential all intellectual property and other information supplied by Buyer, except for any such information provided by the Government or to which the Government has other than unlimited rights, in which case Seller shall use and disclose the information in accordance with applicable provisions and/or restrictive markings concerning Seller's use and disclosure of such information. Seller shall use the information supplied by Buyer only to accomplish work covered by this Order and for no other purpose. Upon completion, all information is to either be returned to Buyer upon Buyer's written request or destroyed by Seller in which case Seller shall provide Buyer with a Certificate of Destruction. 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) All Intellectual Property 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 Section 2 hereto, or

(2) Buyer has executed a separate agreement restricting the use and disclosure of such Intellectual Property.

(d) Foreground Intellectual Property. Unless otherwise expressly agreed in writing to the contrary and subject to this Article 24 paragraph (h) below, all Foreground Intellectual Property developed exclusively with Buyer monies (i.e., development was accomplished entirely with monies paid by Buyer to Seller that are not subject to recovery by Buyer under a government contract) and not subject to this Article 24 paragraph (e) below is hereby assigned to Buyer and shall be proprietary to Buyer, shall be used by Seller 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 Foreground Intellectual Property shall be promptly provided to Buyer on request or upon completion of this Order. Any work performed pursuant to this Order which includes any copyright interest shall be considered a "work made for hire." The tangible medium storing copies of all reports, memoranda, or other materials in written form, including machine-readable form, prepared by Seller and furnished to Buyer pursuant to this Order shall become the sole property of Buyer.

(e) Inventions. Subject to this Article 24 paragraph (h) below, any invention constituting Foreground Intellectual Property is hereby assigned to 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 such invention to Buyer. Seller shall ensure that any third party with whom Seller has subcontracted to deliver Items or Services, and Seller's employees, also executes and assigns any and all rights, titles, and interest in any such invention to Buyer. Seller shall, within two (2) months after conception or first actual reduction to practice of any invention constituting Foreground Intellectual Property and prior to completion of the Order, disclose in writing to Buyer all inventions, whether or not patentable, in sufficient technical detail to clearly convey the invention to one skilled in the art to which the invention pertains. Seller shall promptly execute all written instruments, and assist as Buyer reasonably directs in order to file, acquire, prosecute, maintain, enforce and assign Buyer's invention rights. Seller hereby irrevocably appoints Buyer and any of Buyer's officers and agents as Seller's attorney in fact to act on Seller's

behalf and instead of Seller, with the same legal force and effect as if executed by Seller, with respect to executing any such written instruments.

(f) Seller-Owned Intellectual Property. Seller shall retain ownership of all Background Intellectual Property and of any Foreground Intellectual Property not assigned to Buyer pursuant to this Article paragraphs (d) and (e) (collectively, "Seller-Owned Intellectual Property"). Unless otherwise expressly agreed in writing to the contrary and in addition to U.S. Government's Intellectual Property rights, Seller grants to Buyer an nonexclusive, irrevocable, sublicensable, paid-up, royalty-free worldwide right to make, have made, sell, offer for sale, use, execute, reproduce, display, perform, distribute (internally or externally) copies of, and prepare derivative works of any and all Seller-Owned Intellectual Property in the performance of its Government Contract or higher-tier contract obligations (including obligations of follow-on contract or contracts for subsequent phases of the same program).

(g) Buyer-Owned Intellectual Property. Buyer shall retain ownership of all Buyer Intellectual Property provided hereunder and of any Foreground Intellectual Property assigned to Buyer pursuant to this Article paragraph (d) above (collectively, "Buyer-Owned Intellectual Property"). Buyer grants to Seller a non-exclusive, royalty-free right during the term of this Order to use, reproduce, modify, practice and prepare derivative works of any Buyer-Owned Intellectual Property solely as necessary for Seller to perform its obligations under this Order. Seller shall not, without Buyer's prior written consent, use Buyer-Owned Intellectual Property or any derivative works of any of the Buyer-Owned Intellectual Property in any manner not authorized under this Order, including, but not limited to, developing, manufacturing, offering for sale or selling any item or service which utilizes or is enabled by Buyer-Owned Intellectual Property.

(h) Nothing in this Article 24 shall modify or alter any rights that the U.S. Government may have in any items or services, including technical data or computer software deliverables to the U.S. Government. Applicable Government procurement regulations incorporated into this Order dealing with subcontractors rights in 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.

**25. WARRANTY:**

(a) Seller warrants that all the Items and Services furnished hereunder shall:

- (1) conform fully with all requirements of this Order, including any and all specifications, drawings, and performance requirements;
- (2) conform to approved sample or samples, if any;
- (3) unless detailed designs have been furnished by Buyer, be fit for the use intended by Buyer whether expressed or reasonably implied;
- (4) be free from defects in material, workmanship, design and fabrication;
- (5) be free from security interests, liens or encumbrances and of good title; and
- (6) be performed with that degree of skill and judgment normally exercised by recognized professionals delivering or performing the same or similar Items or Services. In the event that an employee of Seller should prove to be unsatisfactory during that employee's first eighty (80) billable hours of work on Buyer's Order, Buyer may request the removal of Seller's employee from performance of the Order with no billable charges incurred.

(b) 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 25 includes parts, components, assemblies, materials, equipment, services and data required under this Order.

(g) Any Item(s) or Services 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 25 warranty conditions upon Buyer's request.



## 26. INSURANCE:

(a) If this Order is for the performance of Services on Buyer's premises or Buyer's customer's premises, or, Seller utilizes their own vehicles to deliver Goods to Buyer's facility, Seller shall maintain the following insurance in at least the minimum amounts stated herein. Seller shall also maintain, and Seller shall cause its subcontractors to maintain, such general liability, property damage, employers' liability, and worker's compensation insurance, professional errors and omissions insurance, motor vehicle liability (personal injury and property damage) insurance and aviation liability as are maintained in their normal and ordinary course of business. Upon request by the Buyer, Seller shall provide certificates of insurance evidencing limits of not less than the following:

(1) Commercial General Liability ("GCL") insurance, with limits of at least \$5,000,000 combined single limit for bodily injury and property damage per occurrence and \$5,000,000 annual aggregate.

(2) Workers' Compensation Statutory for the jurisdiction where the work is to be performed, including Federal Acts if applicable Employers' Liability, \$1,000,000 each person/accident. In states where Workers' Compensation insurance is a monopolistic state-run system (e.g., Ohio, Washington, North Dakota, and Wyoming), Seller shall add Stop Gap Employers Liability with limits not less than \$500,000 for each accident or disease. To the extent that any work to be performed is subject to the Jones Act, the Longshore and Harbor Workers' Compensation Act, or the Defense Base Act, the Workers' Compensation policy must be endorsed to cover such liability under such Act.

(3) Automobile Liability insurance shall be for an amount of at least \$5,000,000 combined single limit for bodily injury and property damage per accident.

(4) Employer's Liability with limits of at least \$2,000,000 for each occurrence.

(b) Some or all of the following additional insurance coverages may be required, depending upon the nature of the work to be performed. These additional insurance requirements, if, any will be identified in the Order.

(1) Professional Liability \$5,000,000 per claim.

(i) Internet Liability and Network Protection (Cyber-risk) insurance with limits of at least \$2,500,000 each claim or wrongful act.

(ii) Media Liability insurance with limits of at least \$2,500,000 each claim or wrongful act.

(2) Aviation Liability including products \$50,000,000 per occurrence (including aircraft products and completed operations and War, Hijacking and other perils (AVN 52D).

(3) Hangar-keepers' Liability \$50,000,000 per occurrence.

(4) All Risk Property Insurance Replacement Value (covering property of Buyer or Buyer's customer in the care, custody or control of Seller and include Buyer as Loss Payee.

(5) Fidelity or Crime insurance covering employee dishonesty, including but not limited to dishonest acts of Seller, its employees, agents, subcontractors and anyone under Seller's supervision or control. The Seller shall be liable for money, securities or other property of Buyer. Seller shall include a client coverage endorsement written for limits of at least \$1,000,000 and shall include Buyer as Loss Payee.

(6) Environmental Insurance (Contractor's Pollution Liability) with limits of at least \$5,000,000 each

occurrence, claim, or wrongful act and \$10,000,000 aggregate. The policy must include Buyer, its Affiliates, and their directors, officers, and employees as Additional Named Insured's. Seller shall provide a copy of the Additional Insured endorsement to Buyer. If required within the scope of Seller's work to be performed, the insurance required herein cannot exclude coverage for bodily injury, property damage, pollution or environmental harm resulting from or arising out of the work to be performed, asbestos, lead or silica-related claims, claims arising out of microbial matter or bacteria, testing, monitoring, measuring operations or laboratory analyses, or liability arising out of the operation of a treatment facility. The policy must contain a separation of insured's clause. If a motor vehicle is used in connection with the work to be performed, the Business Automobile Liability policy will include coverage at least as broad as Insurance Services Office (ISO) CA 99 48 and be endorsed to include Motor Carrier Act endorsement MCS 90.

(7) Pollution Legal Liability with limits of at least \$3,000,000 each occurrence, claim, or wrongful act and \$6,000,000 aggregate.

(c) The above limits may be satisfied by any combination of both primary and excess limits. Seller shall arrange a waiver of subrogation for the above. Except for Workers' Compensation, Aviation Liability, Hangar-keeper's Liability, All Risk Property, and Fidelity or Crime, Seller shall name Buyer as an additional insured under each of the above policies and shall provide to Buyer, within fifteen (15) days of Buyer's issuance of a SOW, a Certificate of Insurance evidencing compliance with this Section. Seller shall notify Buyer when cancellation or any material change in the policies adversely affect the interests of Buyer in such insurance, and such changes shall not become effective until thirty (30) days after written notice is provided to Buyer.

(d) Seller and Seller's subcontractors shall furnish, prior to the start of work or at such other time as Buyer requires, certificates or adequate proof of the foregoing insurance. The policies shall be endorsed to provide thirty (30) days written notice of cancellation to Buyer. Any other coverage available to Buyer shall apply on an excess basis.

(e) Seller agrees that Seller, Seller's insurer(s) and anyone claiming by, through, under or on Seller's behalf shall have no claim, right of action or right of subrogation against Buyer and Buyer's Customer based on any loss or liability insured against under the foregoing insurance.

**27. 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 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.

## 28. ASSIGNMENTS, SUBCONTRACTING, ORGANIZATIONAL CHANGES:

(a) Neither this Order nor any interest herein nor claim hereunder may be transferred, novated, assigned, or delegated by Seller; nor may all or substantially all of this Order be further subcontracted by Seller without the prior written consent of Buyer. Lack of consent shall not be deemed as a waiver or otherwise relieve Seller of its obligations to comply fully with the requirements hereof.

(b) Notwithstanding the above, Seller may, without Buyer's consent, assign moneys due or to become due hereunder provided Buyer continues to have the right to exercise any and all of its rights hereunder, settle any and all claims arising out of, and enter into amendments to the Order without notice to or consent of the assignee. Buyer shall be given prompt notice of any assignment. Amounts so assigned shall continue to be subject to any of Buyer's rights to set-off or recoupment under this Order or at law.

(c) Buyer may assign this Order to any successor in interest.

(d) Seller shall promptly notify Buyer in writing of any organizational changes made by Seller, including name or ownership changes, mergers or acquisitions.

**29. AUDIT, INSPECTION OF RECORDS:** Buyer and Buyer's Customer, including the Government and regulatory authorities shall have the right to audit and reproduce Seller's records including, but not limited to: (a) in the event of cancellation, termination, or default; (b) in connection with any equitable adjustment request; (c) all records and other evidence sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred directly or indirectly in performance of this contract; (d) 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; (e) in connection with internal investigations of alleged violations of law including, but not limited to, the U.S. Foreign Corrupt Practices Act; or (f) any type of litigation. Seller shall keep reasonably detailed records of all costs of the performance of this Order for a period of no less than four (4) years from the date of final payment or termination of any warranty or Item support under this Order, whichever is later. Seller shall provide Buyer, Buyer's Customer and regulatory authorities access to all facilities involved in the Order and to all applicable records.

**30. 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 in an ethical and proper manner. Buyer's further expectation is that Seller will have (or will develop) and adhere to a code of ethical standards and comply with Buyer's Supplier Code of Conduct, available at: <https://www.l3harris.com/documents/L3HarrisSupplierCodeOfConduct.pdf> 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 appropriate Buyer Points of Contact ("POCs"). Buyer's Code of Conduct contains listings of its POCs and is available on <http://www.l3harris.com>. Seller's employees are required to conduct company business with integrity and maintain a high standard of conduct in all business-related activities.

(b) 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.

**31. CONFLICT OF INTEREST:** It is understood and agreed that the Seller, under the terms of this Order, or through the performance of this Order, is neither obligated nor expected to deliver or provide material or perform work, which will place the Seller in an Organizational Conflict of Interest (OCI) per FAR 9.5, which could serve as a basis for excluding the Seller from supplying products or services to the U.S. Government customer. It will be the Seller's responsibility to identify any situation in which the potential for an OCI exists. Failure to provide such notice will be considered a material breach of this Order.

**32. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS:**

(a) Seller, in the performance of this Order, shall comply with all applicable local, state, and federal laws, orders, rules, regulations, ordinances, guidelines, directives, FAA, DOT and other transportation regulations and Hazard Communication Standards promulgated pursuant to the Occupational Health and Safety Act. Seller shall procure all licenses/permits, pay all fees, and other required charges. NOTE: Export licenses, unless otherwise specified in the Order, will be obtained by Buyer. Buyer may proceed as provided for in subparagraph (c) below if, as a result of any violation of

applicable laws, rules, regulations, ordinances, or this Order 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 certified 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 certified 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) such data causes the U.S. Government to allege 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, 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. Additionally, upon occurrence of any of the circumstances in subparagraph (b) above, Seller shall be liable and shall pay Buyer at the time any 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) a penalty equal to the amount of the overpayment, if Seller knowingly submitted cost or pricing data which were incomplete, inaccurate, or non-current.

**33. COMPLIANCE WITH THE U.S. FOREIGN CORRUPT PRACTICES ACT:** Seller shall: (i) comply with the requirements of the Foreign Corrupt Practices Act (FCPA) (15 U.S.C. §§ 78dd-1, et. seq.) (as amended), regardless of whether Seller is within the jurisdiction of the United States; (ii) neither directly nor indirectly, pay, offer, give, or promise to pay or give, any portion of monies or anything of value to a non-U.S. public official or any person in violation of the FCPA and/or in violation of any applicable country laws relating to anti-corruption or anti-bribery; and, (iii) not interact with any government official, political party or public international organization on behalf of Buyer without the prior written permission of the Buyer's Procurement Representative.

**34. 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.

**35. EXPORT CONTROL COMPLIANCE:** 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. Within 30 days of contract award or prior to receipt by Buyer, Seller shall also provide Buyer with all applicable trade control classification information (e.g. ECCNs, USML codes, HTS codes, Schedule B codes) for the commodities supplied to Buyer. 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 19, Termination for Default.

(a) ITAR Controlled Hardware, Technical Data, or Services.

(1) 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.pmdtcc.state.gov>.

(2) 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)). Non-U.S. companies shall be registered as required under its local government export regulations and shall also provide the applicable trade control classification information for its commodities as indicated above. Canadian companies must be registered by the Canadian Federal or Provincial government authorities.

(3) 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. "deemed export", without prior authorization of the U.S. Government. Seller will be informed by Buyer of the export control status (i.e., jurisdiction and categorization 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 abide by all restrictions and requirements in the ITAR, including that Seller 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.

(b) Goods, Technology, Software Subject to U.S. Export Administration Regulations.

(1) 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>.

(2) 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 persons located inside the U.S. (also referred to as a "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 (i.e., jurisdiction and categorization) 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.

(c) Anti-Boycott Laws and Regulations.

(1) Seller is hereby notified that, as outlined in greater detail in 15 C.F.R. § 760.2, the following are prohibited under the EAR: refusing or agreeing to refuse to do business with or in a boycotted country or with a national of boycotted country or a boycotted person; refusing to employ or otherwise discriminating against a U.S. person in deference to a boycott request on the basis of race, religion, sex, or national origin; furnishing information about the race, religion, sex, or national origin of the U.S. person or any owner, officer, director, or employee of a domestic concern or controlled in fact non-U.S. affiliate in response to a boycott request; furnishing information about any person's past, ongoing, or proposed future relationships (or the absence of relationships) with other parties if the information is sought for boycott-related reasons; providing information about any person's association with or support for any charitable or fraternal organization supporting a boycotted country; and

paying, honoring, confirming, or otherwise implementing a letter of credit that contains any prohibited boycott requirement or request.

(2) Seller is advised and acknowledges that it may be responsible for complying with any applicable anti-boycott laws, regulations, and guidance.

(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 Government law or regulation including 15 C.F.R. Part 760.

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

(e) 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 warrants that it is not (1) a person or entity whose name appears on the list of Specially Designated Nationals and Blocked Persons published by the OFAC ("Listed Person") or (2) a department, agency, or instrumentality of, or otherwise controlled by or acting on behalf of any OFAC Listed Person or the government of a country subject to U.S. economic sanctions administered by OFAC. Seller further warrants that it will immediately notify Buyer if it becomes subject to any of the foregoing lists or sanctions.

(f) 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>. Seller further agrees that it will not engage in unauthorized transactions, including the transfer any Items or Services to or from, with persons or entities identified on any other U.S. government screening list, including those identified on the U.S. government's Consolidated Screening List. The Consolidated Screening List can be found here: [http://2016.export.gov/ecr/eg\\_main\\_023148.asp](http://2016.export.gov/ecr/eg_main_023148.asp).

(g) 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.

(h) 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>.

(i) 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 the DDTC may also be required pursuant to the relevant requirements of the ITAR.

(j) 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 share its applicable export control documentation with Buyer upon request. 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.

(k) 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.

**36. FOREIGN PERSONS:** The Seller acknowledges 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 may be controlled by the ITAR or the EAR, and may require U.S. Government export authorization before assigning any Foreign Person (as defined in 22 CFR 120.16, which includes foreign governments, business entities, groups and international organizations) to perform work under this Order or before granting access to Foreign Persons to any technical data obtained, used, generated, or delivered in performance of this Order. Any request for export authorization must include the information required by applicable export laws and regulations (reference ITAR, EAR or Chapter 10 of the National Industrial Security Program Operating Manual).

**37. CUSTOMS:**

(a) Credits and Refunds. Transferable credits or benefits associated with or arising from Items purchased under this Order, export credits or rights to the refund of duties, taxes or fees (collectively, "trade credits"), belong to Buyer.

(b) Documentation. For any shipments to be imported by the Buyer:

(1) Seller shall provide to Buyer's Procurement Representative, in writing, five (5) business days advance notification of shipments. Such notification shall include submission of a copy of the Commercial invoice and packing list required by this provision and such other information as Buyer may reasonably request.

(2) Seller shall forward copies of its shipping documents and any applicable Certificates via email or facsimile, to Buyer so that Buyer may facilitate Customs clearance. These documents shall include:

(i) Commercial Shipping Invoice

(ii) Any applicable Free Trade Agreement or Special Trade Program Certifications/Statements, examples include NAFTA and IFTA certificates of origin.

(iii) If using Ocean Transport: Ocean ISF details according to Customs Publication, dated August 2009 – Importer Security Filing and Additional Carrier Requirements (10+2)

(3) For articles returned to Buyer after repair, Seller shall

(i) Include a Foreign Repairer Certificate attesting to the work performed abroad in accordance with 19 CFR § 10.8.

(ii) Reference any return instructions as provided by Buyer.

(iii) Include a commercial invoice stating the reason for return. Products being returned to Buyer after repair must include the hardware value from the original sale of the item. Example: “Original hardware for Customs purposes only: \_\_\_”

(iv) Include the cost of the repair as a separate line item on the commercial invoice.

(v) For repair work done under warranty, the Seller is required to include the estimated cost of repair.

(4) For articles being returned with a Department of State license, Seller is required to indicate the license number on the commercial invoice.

(5) For articles being returned under any ITAR exemption, Seller is required to include the exemption citation on the commercial invoice.

(6) Seller is required to cite 48 CFR 252.225-7013 (e) (2) (iv.) (A) For any Duty Free Entries against a US Prime Contract.

(7) This Article 37 shall survive two (2) years beyond the completion of this Order.

(c) 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.

**38. OFFSETS AND INDUSTRIAL PARTICIPATION:** When Buyer has identified an offset obligation directly related to the performance of this Order in its solicitation or in relation to any properly enacted modification, and Seller’s performance of this Order generates offset credits which Buyer could use to satisfy that identified offset obligation, then Buyer shall have the right to such Seller offset credits. 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. The Buyer shall have no rights to any other offset credits that may be generated by the Seller in connection with this Order. The Seller agrees to provide all reasonably necessary information in such form as may be required to enable Buyer to obtain the aforementioned offset credits

**39. PROHIBITED SOFTWARE:**

(a) This clause only applies to Services/Items that include the delivery of software.

(b) “OSS License” means the General Public License (“GPL”), Lesser/Library GPL, (LGPL), the Affero GPL (AGL), the Apache license, the Berkeley Software Distribution (“BSD”) license, the MIT license, the Artistic License (e.g., PERL), the Mozilla Public License (MPL), or variations thereof, including without limitation licenses referred to as “Free Software License”, “Open Source License”, “Public License”, or “GPL Compatible 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) Seller shall disclose to Buyer in writing any (OSS) that will be used or delivered in connection with this Contract and shall obtain Buyer’s prior written consent before using or delivering such OSS in connection with this Contract. Buyer may withhold such consent in its sole discretion. Seller warrants all OSS used or delivered in connection with this Contract complies with any applicable OSS License.

(e) Seller warrants that any hardware, software, and firmware Items delivered under this order to the extent reasonably possible: (i) do not contain any viruses, malicious code, Trojan horse, worm, time bomb, self-help code, back door, or other software code or routine designed to (a) damage, destroy, or alter any software or hardware; (b) reveal, damage, destroy, or alter any data; (c) disable any computer program automatically; or (d) permit unauthorized access to any software or hardware; and (ii) do not contain any 3rd party software (including software that may be considered free software or open source software) that (a) may require any software to be published, accessed or otherwise made available without the consent of Buyer or (b) may require distribution, copying or modification of any software free of charge.

**40. LIENS:** Seller shall keep its work and all items supplied by it hereunder and Buyer premises free and clear of all liens and encumbrances, including mechanic’s liens, in any way arising from performance of this Order by Seller or by any of its vendors or subcontractors. Seller may be required by Buyer to provide a satisfactory release of liens as a condition of final payment. 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.

**41. NON-SOLICITATION:** During the term of this Order, and for a period of twelve (12) months following termination of this Order, Seller shall not, directly or indirectly, solicit for employment, employ or otherwise engage the services of employees or individual consultants of Buyer. This clause shall not restrict any employee from responding to or accepting offers of general employment from either party.

**42. APPLICABLE LAW AND DISPUTES:**

(a) This Order, irrespective of the place of performance, shall be governed by, subject to, and construed in accordance with the laws of the State of Florida, excluding its choice of law rules, except that any provision in this Order that is (i) incorporated in full text or by reference from the Federal Acquisition Regulations (FAR); (ii) incorporated in full text or by reference from any agency regulation that implements or supplements the FAR or; (iii) that is substantially based on any such agency regulation or FAR provision, shall be construed and interpreted according to the federal common law of government contracts as enunciated and applied by federal judicial bodies, boards of contracts appeals, and quasi-judicial agencies of the federal Government.

(b) Any disputes under this Order that are not disposed of by mutual agreement of the Parties may be decided by recourse to an action at law or in equity. Until final resolution of any dispute hereunder, Seller shall diligently proceed with performance of this Order as directed by Buyer. Buyer and Seller shall each bear its own costs of processing any dispute hereunder. In no event shall the Seller acquire any direct claim or direct course of action against the United States Government.

(c) Seller consents to personal jurisdiction in the state of Florida and any litigation under this Order must be brought exclusively in a court of competent jurisdiction in the state of Florida, 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 clauses in this Order, 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.

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

(e) Any decision of the Contracting Officer under the prime contract which binds Buyer shall bind both Buyer and Seller to the extent that it relates to this Order—provided that:

(1) The Buyer notifies with reasonable promptness the Seller of such decision;

(2) The Buyer, at its sole discretion, authorizes in writing the Seller to appeal in the name of the Buyer such decision at its own expense; or

(3) If Buyer should appeal such decision, Buyer at its sole discretion offers to the Seller the opportunity at its own expense to join Buyer in such appeal.

(4) Any decision upon such appeal, when final, shall be binding upon the Seller.

(5) The Seller shall keep Buyer informed of any appeal it makes by providing copies of all pertinent documents to Buyer.

(6) The Seller shall indemnify and hold 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 misinterpretation of fact on the part of Seller.

(f) Nothing in this clause nor any authorization or offer shall be deemed to constitute acceptance or acknowledgement by Buyer of the validity of Seller's claim or any part thereof, nor be deemed to limit or in any way restrict Buyer from taking any actions, included available remedies, it deems appropriate to protect its own interests.

(g) As used in this clause, the word "appeal" means an appeal taken under the Contract Disputes Act of 1978, as amended.

**43. GENERAL RELATIONSHIP:**

(a) 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.

(b) Unless the written consent of Buyer is first obtained, Seller shall not in any manner advertise, publish, or release for publication, including without limitation by news releases, articles, brochures, advertisements, or speeches, any statement mentioning Buyer or the fact that Seller has furnished or contracted to furnish to Buyer Items and/or Services required by this Order, or quote the opinion of any employees of Buyer. Seller shall not disclose any information relating to this Order to any person not authorized by Buyer to receive it.

(c) 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. This clause does not prohibit Seller from communicating with the U.S. Government regarding (1) matters Seller is required by law or regulation to communicate to the Government, (2) fraud, waste, or abuse communicated to a designated investigative or law enforcement representative of a federal department or agency authorized to receive such information, or (3) any matter for which this Order, including a FAR or FAR Supplement clause included in this Order, provides for direct communication by Seller to the Government.

**44. 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 rights; 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.

**45. EQUAL OPPORTUNITY:**

(a) 41 C.F.R. § 60-741.5(a). This contractor and subcontractor shall abide by the requirements of 41 C.F.R. § 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

(b) 41 C.F.R. § 60-300.5(a). This contractor and subcontractor shall abide by the requirements of 41 C.F.R. § 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.

(c) This contractor and subcontractor shall abide by the requirements of 41 C.F.R. Parts 60-1, 60-20, and 60-50 as set forth under EO 11246 and as amended under EO 13672, specifically section 202 and section 203, where these regulations prohibit discrimination on the bases of race, color, religion, sex, sexual orientation, gender identity, or national origin and require affirmative measures to prevent discrimination on those bases from occurring.

**46. CONFLICT MINERALS:** By accepting these terms and conditions, Seller agrees to timely respond, to the best of its knowledge and belief following a reasonable country of origin due diligence inquiry in accordance with the framework in the Organization for Economic Cooperation and Development (OECD) Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas or other prevailing industry standard, to any request by, or on behalf of, Buyer, for information on the origin, source and chain of custody information of 3TG (tin, tantalum, tungsten, and gold) minerals necessary to the functionality or production of a product manufactured by you or supplied by you to Buyer. Further, Seller agrees to provide Buyer timely notice when Seller becomes aware that any 3TG in a product or component it supplies to Buyer finances or benefits armed groups in the Democratic Republic of Congo or an adjoining country. In addition, you understand and acknowledge that any information you provide in this regard may be used by Buyer to comply with its reporting obligations under the Rule 13p-1 of the Securities and Exchange Act of 1934,

as amended and the Dodd-Frank Wall Street Reform and Consumer Protection Act, including filing a Form SD and Conflict Minerals Report with the U.S. Securities and Exchange Commission.

**47. 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 law, Seller agrees to negotiate a replacement provision, construed to accomplish its originally intended effect.

**48. SURVIVABILITY:** All of the provisions of this Order shall survive the termination (whether for convenience or default), suspension or completion of this Order unless they are clearly intended to apply only during the term of this Order.

**49. 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.

**50. CERTIFICATIONS:**

By accepting this Order, Seller certifies to the best of its knowledge and belief that:

(a) Seller and/or any of its principles are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any federal agency;

(b) 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);

(c) 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);

(d) 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;

(e) Seller has taken reasonable steps to identify and prevent the conflicts referenced above related to Seller or the personnel Seller provides for performance of this Order; and

(f) A duly authorized representative of Seller has attested to and executed Seller's Annual Certification.

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

**51. ELECTRONIC TRANSMISSIONS:**

(a) The parties agree that if this Order is transmitted electronically, neither party shall contest its validity, or any acknowledgment

thereof, on the basis that this Order or acknowledgment contains an electronic signature.

(b) Seller shall, at Buyer's request and Seller's expense, send and receive business transactions by electronic means using Web-based technologies. Such Web-based technologies for electronic transmissions may include a) email and (b) the Internet directly between Buyer and Seller.

**52. SELLER BUSINESS SYSTEMS:** "Seller Business Systems" as used in this clause means Seller's material management and accounting system, cost estimating system, accounting system, earned value management system, property management system, and purchasing system. When Seller's Business Systems are reviewed and approved by a Government agency, Seller shall provide prompt notice to Buyer whenever there is a material change in the status of the Government's approval or determination of adequacy of any of Seller's Business Systems. Should the Government observe a deficiency in Seller's Business Systems and if any of those systems produces data that is integral to the output of the Buyer, acting in its role as a prime to the Government or to another prime contractor, which may result in the Seller's and/or Buyer's Business Systems being disapproved, Seller shall be liable for and save Buyer harmless from any loss, damage, or expense whatsoever that Buyer may suffer.

**53. LIMITATION OF LIABILITY:**

IN NO EVENT SHALL THE BUYER BE LIABLE FOR INDIRECT, SPECIAL, CONSEQUENTIAL, MULTIPLE OR PUNITIVE DAMAGES, OR ANY DAMAGE DEEMED TO BE OF AN INDIRECT OR CONSEQUENTIAL NATURE ARISING OUT OF OR RELATED TO ITS PERFORMANCE UNDER THE CONTRACT, WHETHER BASED UPON BREACH OF CONTRACT, WARRANTY, NEGLIGENCE AND WHETHER GROUNDED IN TORT, CONTRACT, CIVIL LAW OR OTHER THEORIES OF LIABILITY, INCLUDING STRICT LIABILITY. TO THE EXTENT THAT THIS LIMITATION OF LIABILITY CONFLICTS WITH ANY OTHER PROVISION(S) OF THIS CONTRACT, SAID PROVISION(S) SHALL BE REGARDED AS AMENDED TO WHATEVER EXTENT REQUIRED TO MAKE SUCH PROVISION(S) CONSISTENT WITH THIS PROVISION. IN NO EVENT SHALL THE TOTAL CUMULATIVE LIABILITY OF BUYER WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE FOR THE PERFORMANCE OR BREACH OF THE CONTRACT OR ANYTHING DONE IN CONNECTION THEREWITH EXCEED THE AGREEMENT PRICE. NOTWITHSTANDING ANYTHING ELSE IN THE AGREEMENT TO THE CONTRARY, THE STATED MONETARY LIMITATION HEREIN ABOVE IS THE MAXIMUM LIABILITY BUYER HAS TO THE SELLER.

**SECTION 2 – FAR AND NFS CLAUSES APPLICABLE IF THIS ORDER IS PLACED UNDER BUYER CONTRACT CONTAINING SUCH CLAUSES**

In addition to the clauses of Section 1, the following clauses shall apply to the Order as required by the terms of Buyer’s Government Contract, by operation of law or regulation, or by the terms of the specific clauses. Buyer is flowing down to Seller certain provisions and clauses from the Federal Acquisition Regulation (FAR) and NASA 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 regarding applicability, bracketed information regarding modifications to the USG Clauses). For certain USG Clauses, Buyer has provided parenthetical language describing the circumstances in which the USG Clauses apply to the Order. This parenthetical language may not encompass all situations where the USG Clauses apply and Seller is responsible for confirming whether the USG Clauses are applicable to the Order.

The effective version of the USG Clauses shall be the version in effect as of the date this Order is issued unless a different version appears in Buyer’s Government Contract, in which case the version in Buyer’s Government Contract applies. The Parties hereby agree to amend this Section 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 Section 2 under Article 12 “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 ensure Seller’s obligations to Buyer and to the Government, and to enable Buyer to meet its contract obligations to the Federal Government. Consequently, in interpreting and applying USG Clauses flowed down to Seller, and as context requires, the terms “Contractor” and “Offeror” shall mean Seller, the term “Contract” shall mean this Order, and the term “Government”, “Contracting Officer” and equivalent phrases shall mean Buyer and/or Buyer’s Representative. However, as an exception to the foregoing, the terms “Government” and “Contracting Officer” do not change in the following circumstances:

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

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

Seller shall indemnify and hold Buyer harmless from and against any price reduction in Buyer’s Government Contract, as well as Buyer’s reasonable attorney fees and other direct costs to defend Government Contract claims when

said reduction is attributable to the failure of Seller or Seller’s subcontractors to properly discharge applicable duties under the Truth in Negotiation Act and Cost Accounting Standards clauses incorporated by reference in accordance with this provision.

**1. FAR CLAUSES:**

In addition to the clauses of Section 1, the following clauses shall apply to the Order as required by the terms of Buyer’s Government Contract, by operation of law or regulation, or by the terms of the specific clauses. The following Federal Acquisition Regulation (FAR) Clauses are hereby incorporated by reference, as applicable, and made a part of this Order.

**APPLICABLE TO ALL ORDERS:**

52.203-19	Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements
52.204-19	Incorporation by Reference of Representations and Certifications
52.204-23	Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities
52.204-24	Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment
52.204-25	Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment
52.204-26	Covered Telecommunications Equipment or Services-Representation
52.209-5	Certification Regarding Responsibility Matters
52.211-5	Material Requirements
52.215-9	Changes or Additions to Make-or-Buy Program
52.216-25	Contract Definitization (applies if this Order is for an undefinitized letter contract or “not-to-exceed” or unpriced action. This clause is applicable when time is of the essence and the normal procurement process will not support customer requirements. Use this clause with FAR 52.216-24, Limitation of Government Liability.)
52.219-8	Utilization of Small Business Concerns
52.222-21	Prohibition of Segregated Facilities
52.222-26	Equal Opportunity and Alt I
52.222-50	Combating Trafficking in Persons and Alt I (Alt I is applicable if included in Buyer’s Government Contract; the requirements of paragraph (h) of the clause only apply to the portion of the Order that: (i) is for supplies, other than COTS items, acquired outside of the U.S. or services to be performed outside the U.S. and (ii) has an estimated value that exceeds \$500,000)
52.223-3	Hazardous Material Identification and Material Safety Data (applies if Order requires the delivery of hazardous materials; Seller shall furnish the information required by Para. (b) to Buyer) (Alt I is applicable if included in Buyer’s Government Contract)
52.223-6	Drug-Free Workplace
52.225-13	Restrictions on Certain Foreign Purchases



52.242-15	Stop-Work Order (applies to Orders for supplies, services, or research and development); "90 days" is modified to read "180 days" in Para. (a))	52.203-17	Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights
52.244-6	Subcontracts for Commercial Items	52.215-2	Audit and Records – Negotiation (Alt I and/or III apply if included in Buyer's Government Contract)
52.245-1	Government Property (applies if Government property is furnished in the performance of Buyer's Government Contract; Alt I and II apply if included Buyer's Government Contract)	52.215-14	Integrity of Unit Prices [exclude Paragraph (b), but include Paragraph (b) in Alternate I ]
52.246-2	Inspection of Supplies- Fixed-Price (Alt I and/or II apply if incorporated in Buyer's Government Contract)	52.222-17	Nondisplacement of Qualified Workers (applies to Orders for services)
52.246-4	Inspection of Services – Fixed-Price	52.222-35	Equal Opportunity for Veterans (applies to Orders that exceed \$150,000 unless exempted by rules, regulations, or orders of the Secretary of Labor) and Alt I
52.247-64	Preference for Privately Owned U.S.-Flag Commercial Vessels (Alt I applies if in Buyer's Government Contract) [in Para. (c)(2)(i) "20" is changed to "10" and in Para. (c)(2)(ii) "30" is changed to "20"]	52.222-37	Employment Reports On Veterans
ORDERS EXPECTED TO EXCEED \$3,500:		52.223-9	Estimate of Percentage of Recovered Material Content for EPA-Designated Items (Alt I applies if included in Buyer's Government Contract)
52.222-54	Employment Eligibility Verification (applies if this Order exceeds \$3,500 except for commercial services that are part of the purchase of a COTS item, performed by the COTS provider, and are normally provided for that COTS item)	52.227-1	Authorization and Consent (applies only if in Buyer's Government Contract)
52.223-18	Encouraging Contractor Policies to Ban Text Messaging While Driving	52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement
ORDERS EXPECTED TO EXCEED \$10,000 ALSO INCLUDE:		52.244-2	Subcontracts
52.222-40	Notification of Employee Rights Under the National Labor Relations Act (applies if Order will be performed wholly or partially in the United States)	52.248-1	Value Engineering (Alt I, II, and/or III apply if in Buyer's Government Contract)
ORDERS EXPECTED TO EXCEED \$15,000 ALSO INCLUDE:		ORDERS EXPECTED TO EXCEED \$700,000 ALSO INCLUDE:	
52.222-36	Equal Opportunity for Workers With Disabilities	52.219-9	Small Business Subcontracting Plan (Also applies to Orders in excess of \$1.5 million for construction of a public facility and does not apply to small business concerns; Alt II and Alt III apply if included in Buyer's Government Contract)
ORDERS EXPECTED TO EXCEED \$30,000 ALSO INCLUDE:		52.219-16	Liquidated Damages – Subcontracting Plan (applies to Orders containing FAR 52.219-9; also applies to Orders in excess of \$1.5 million for construction of a public facility and does not apply to small business concerns)
52.204-10	Reporting Executive Compensation and First-Tier Subcontract Awards	ORDERS EXPECTED TO EXCEED \$2,000,000 ALSO INCLUDE:	
ORDERS EXPECTED TO EXCEED \$35,000 ALSO INCLUDE:		52.214-26	Audit and Records – Sealed Bidding
52.209-6	Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment (applies to all Orders not for COTS items)	52.215-12	Subcontractor Certified Cost or Pricing Data
ORDERS EXPECTED TO EXCEED THE SIMPLIFIED ACQUISITION THRESHOLD ALSO INCLUDE:		52.215-13	Subcontractor Certified Cost or Pricing Data – Modifications
52.202-1	Definitions	52.215-22	Limitation on Pass-Through Charges—Identification of Subcontract Effort
52.203-3	Gratuities	52.215-23	Limitations on Pass-Through Charges (Alt I applies if in Buyer's Government Contract)
52.203-5	Covenant Against Contingent Fees	52.242-3	Penalties for Unallowable Costs
52.203-6	Restrictions on Subcontractor Sales to the Government	ORDERS EXPECTED TO EXCEED \$5,500,000 ALSO INCLUDE:	
52.203-7	Anti-Kickback Procedures [in paragraph (c)(4) delete "The Contracting Officer may" and replace with "To the extent the Contracting Officer has made an offset in Buyer's Government Contract or directed Buyer to withhold an amount, Buyer may..."]	52.203-13	Contractor Code of Business Ethics and Conduct (applies where performance period is more than 120 days) ["Government" and "Contracting Officer" do not change]
52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity	52.203-14	Display of Hotline Poster(s) (applies unless this Order is for the acquisition of a commercial item or is performed entirely outside the United States)
52.203-10	Price or Fee Adjustment for Illegal or Improper Activity	ORDERS ALSO INCLUDE THE FOLLOWING UNLESS OTHERWISE EXEMPT:	
52.203-12	Limitation on Payments to Influence Certain Federal Transactions		

52.203-15	Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (applies if the Order is funded in whole or in part with Recovery Act funds)	52.215-18	Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions (applies to Orders for which certified cost or pricing data will be required)
52.203-16	Preventing Personal Conflicts of Interest (applies to Orders that include a requirement for services by contractor employee(s) that involve acquisition functions closely associated with inherently governmental functions for, or on behalf of, a federal agency or department)	52.215-19	Notification of Ownership Changes (applies if the Order meets the applicability requirements of FAR 15.408(k)) [“Administrative Contracting Order” and “ACO” mean “Buyer’s Representative”]
52.204-2	Security Requirements (applies if work involves access to classified information; Alt I and II apply if in Buyer’s Government Contract)	52.215-20	Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data (applies if the submission of certified cost or pricing data is required; Alt I, Alt II, Alt III, and/or Alt IV apply if included in Buyer’s Government Contract)
52.204-9	Personal Identity Verification of Contractor Personnel (applies if the Order requires Seller’s employees to have routine physical access to a Federally-controlled facility and/or to a Federally-controlled information system)	52.215-21	Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data - Modifications (applies if submission of certified cost or pricing data or data other than certified cost or pricing data may be required for modifications; Alt I – IV apply if included in Buyer’s Government Contract)
52.204-14	Service Contract Reporting Requirements, (applies if this Order exceeds the thresholds at FAR 4.1703, except for indefinite-delivery contracts. This clause is not required for contracts awarded with generic identifier, or in classified solicitations, contractors, or orders)	52.216-5	Price Redetermination- Prospective (applies when conditions specified in FAR 16.205-2 and 16.205-3(a) through (d) apply)
52.204-15	Service Contract Reporting Requirements for Indefinite-Delivery Contracts. (applies if this Order is for services (including construction) where one or more orders issued thereunder are expected to each meet or exceed the thresholds at FAR 4.1703. This clause is not required for contracts awarded with generic entity identifier, or in classified solicitations, contracts, or orders.)	52.216-6	Price Redetermination- Retroactive (applies when conditions in FAR 16.206-2 and 16.206-3(a) through (d) apply)
52.204-21	Basic Safeguarding of Covered Contractor Information Systems (applies if the Order may result in federal contract information residing in or transiting through its information system)	52.216-16	Incentive Price Revision– Firm Target (applies when fixed-price incentive (firm target) Order is contemplated)
52.207-4	Economic Purchase Quantity – Supplies (applies to Orders for supplies)	52.216-17	Incentive Price Revision– Successive Targets (applies when fixed-price incentive (successive targets) Order is contemplated)
52.207-5	Option to Purchase Equipment (applies if Order involves a lease with option to purchase)	52.222-1	Notice to the Government of Labor Disputes (applies if Buyer’s Government Contract involves programs or requirements that have been designated under 48 C.F.R. § 22.101-1(e))
52.208-8	Required Sources for Helium and Helium Usage Data (applies if Order involves a major helium requirement)	52.222-4	Contract Work Hours and Safety Standards Act— Overtime Compensation (applies where the Order requires or involves the employment of laborers or mechanics; 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)
52.211-15	Defense Priority and Allocation Requirements (applies to Orders that contain a DPAS rating)	52.222-41	Service Contract Labor Standards (applies if the Order for services exceeds \$2,500 and is subject to the Service Contract Labor Standards statute)
52.215-10	Price Reduction for Defective Certified Cost or Pricing Data (applies if submission of certified cost or pricing data is required) [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]	52.222-43	Fair Labor Standards Act and Service Contract Labor Standards- Price Adjustment (applies to Multiple Year and Option Orders where FAR 52.222-41 applies)
52.215-11	Price Reduction for Defective Certified Cost or Pricing Data – Modifications (applies if submission of certified cost or pricing data is required) [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]	52.222-44	Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustments (applies to Orders where FAR 52.222-41 applies)
52.215-15	Pension Adjustments and Asset Reversions (applies to Orders for which certified cost or pricing data will be required)	52.222-55	Minimum Wages under Executive Order 13658 (applies to Orders for services subject to the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute that are to be performed in whole or in part in the United States)
		52.222-62	Paid Sick Leave Under Executive Order 13706 (applies if the Order is subject to the Service Contract Labor Standards statute or the Wage Rate Requirements statute and is to be performed in whole or in part in the United States)

52.223-7	Notice of Radioactive Materials (applies to Orders for radioactive material meeting the criteria in paragraph (a) of the clause)52.223-11 Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (applies if the Order involved manufactured end products that may contain or be manufactured with ozone-depleting substances)		subject to the control of a foreign government. [Paragraph (g) is deleted]
		52.227-14	Rights in Data – General (applies to the Order if data will be produced, furnished, or acquired)
		52.227-16	Additional Data Requirements (applies if the Order involves experimental, developmental, research, or demonstration work)
52.224-2	Privacy Act (applies if the Order requires the design, development, or operation of a system of records on individuals)	52.227-19	Commercial Computer Software License (applies to the acquisition of commercial computer software)
52.224-3	Privacy Training (applies to Orders where Seller’s employees will have access to a systems of records; create, collect, use, process, store, maintain, disseminate, disclose, dispose, or otherwise handle personally identifiable information; or design, develop, maintain, or operate a system of records on individuals or will handle personally identifiable information; Alt I applies if the conditions above are satisfied and the agency specifies that only its agency-provided training is acceptable)	52.228-3	Workers’ Compensation Insurance (Defense Base Act) (applies if the Order is subject to the Defense Base Act)
		52.228-5	Insurance – Work on a Government Installation (applies if the Order requires work on a government installation; kinds and amounts of insurance, if applicable, are set forth in Order)
		52.232-40	Providing Accelerated Payments to Small Business Subcontractors (applies to Orders with small business concerns)
52.225-1	Buy American Act – Supplies (applies if the clause is included in Buyer’s Government Contract unless specifically exempted by Buyer in writing)	52.234-1	Industrial Resources Developed Under Title III Defense Production Act (applies to Orders for major systems and items of supply)
52.225-3	Buy American Act—Free Trade Agreements—Israeli Trade Act (applies if the clause is included in Buyer’s Government Contract unless specifically exempted by Buyer in writing; Alt I and II apply if included in Buyer’s Government Contract)	52.237-2	Protection of Government Buildings, Equipment, and Vegetation (applies if work will be performed on a Government installation)
		52.239-1	Privacy or Security Safeguards (applies to Orders 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)
52.225-4	Buy American Act North American Free Trade Agreement – Israeli Trade Act Certificate (applies only if FAR 52.225-3 applies)	52.243-6	Change Order Accounting (applies if the Order involves supply and research and development work of significant technical complexity and numerous changes are anticipated)
52.225-5	Trade Agreements (applies if the clause is included in Buyer’s Government Contract unless specifically exempted by Buyer in writing)	52.245-9	Use and Charges (applies if included in Buyer’s Government Contract)
52.225-6	Trade Agreements – Certificate (applies only if FAR 52.225-5 applies)	52.246-2	Inspection of Supplies – Fixed-Price (applies if the Order involves the furnishing of supplies)
52.225-8	Duty-Free Entry (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) [Change “20 calendar days” to “30 calendar days” in Paragraph (c)(1), and “10 calendar days” to “20 calendar days” in Paragraph (c)(2)]	52.246-4	Inspection of Services – Fixed-Price (applies if the Order involves the furnishing of services)52.247-63 Preference for U.S.-Flag Air Carriers (applies to Orders involving international air transportation)
52.225-26	Contractors Performing Private Security Functions Outside the United States (applies to Orders with work performed outside of the US in areas of combat operations or other significant military operations)		
52.227-9	Refund of Royalties (applies if the amount of royalties reported during negotiation of the Order exceeds \$250)		
52.227-10	Filing of Patent Applications – Classified Subject Matter (applies to Orders that cover or are likely to cover classified subject matter)		
52.227-11	Patent Rights – Ownership by the Contractor (applies to Orders to perform experimental, developmental, or research work; Alternates I and II apply if in Buyer’s Prime Government Contract).		
52.227-13	Patent Rights—Ownership by the Government (applies in lieu of FAR 52.227-11 if this Order is for experimental, developmental, or research work and Seller is not located in the United States or does not have a place of business located in the United States or is		

**2. COST ACCOUNTING STANDARDS:**

The following provisions pertaining to Cost Accounting Standards are applicable as stated in the Order.

52.230-2	Cost Accounting Standards
52.230-3	Disclosure and Consistency of Cost Accounting Practices
52.230-4	Disclosure and Consistency of Cost Accounting Practices—Foreign Concerns
52.230-5	Cost Accounting Standards—Educational Institution
52.230-6	Administration of Cost Accounting Standards

**3. NFS CLAUSES:**

If the Purchase Order identifies a NASA contract number, the following 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.

ALL ORDERS INCLUDE:

- 1852.203-71 Requirement to Inform Employees of Whistleblower Rights  
1852.204-75 Security Classification Requirements
- 1852.225-70 Export Licenses
- 1852.227-11 Patent Rights - Ownership by the Contractor
- 1852.227-14 Rights in Data - General
- 1852.227-72 Designation of New Technology Representative and Patent Representative
- 1852.228-75 Minimum Insurance Coverage
- 1852.232-80 Submission of Vouchers for Payment 1852.245-70  
Contractor Requests for Government Furnished Property
- 1852.245-72 Liability for Government Property Furnished for Repair or  
Other Services (applies to Orders for repair, modification,  
rehabilitation, or other servicing of government property)
- 1852.246-73 Human Space Flight Item

ORDERS EXPECTED TO EXCEED \$100,000 ALSO INCLUDE:

- 1852.244-70 Geographic Participation in the Aerospace Program

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

- 1852.223-75 Major Breach of Safety or Security

ORDERS EXPECTED TO EXCEED \$5,000,000 ALSO INCLUDE:

- 1852.203-70 Display of Inspector General Hotline Posters

ORDERS EXPECTED TO EXCEED \$50,000,000 ALSO INCLUDE:

- 1852.234-2 Earned Value Management System (Alt I applies if the value  
of the subcontract is less than \$50 million)

APPLICABLE AS INDICATED:

- 1852.204-75 Security Classification Requirements (applies if work to be  
performed under an Order requires security clearance)
- 1852.204-76 Security Requirements for Unclassified Information  
Technology Resources (applies if the Contract requires  
contractors to have physical or electronic access to NASA's  
computer systems, networks, IT infrastructure or use  
information systems to generate store, process, or exchange  
data with NASA)
- 1852.208-81 Restrictions on Printing and Duplicating (applies where the  
Order requires printing or copying in excess of 5,000  
production units)
- 1852.209-71 Limitation of Future Contracting (applies if the Order may  
give rise to a potential organizational conflict of interest)
- 1852.211-70 Packaging, Handling and Transportation (applies where the  
Order is for deliverable items, including software, designated  
as Class I (mission essential), Class II (delicate or sensitive),  
or Class III (requires special handling or monitoring))
- 1852.213-70 Offeror Representations and Certifications—Other Than  
Commercial Items (applies to a simplified acquisition  
exceeding the micro-purchase threshold that is for other than  
commercial items)
- 1852.216-80 Task Ordering Procedure (applies to an indefinite-delivery  
task order Order; if the Order does not require 533M reporting,  
use the clause with Alternate I)

- 1852.216-88 Performance Incentive (applies when the primary Order  
deliverable is hardware and the total estimated cost and fee is  
greater than \$25 million)
- 1852.223-70 Safety and Health Measures and Mishap Reporting (applies to  
the Order when work will be conducted completely or partly  
on federally controlled facilities)
- 1852.223-71 Authorization for Radio Frequency Use (applies when radio  
frequency equipment authorization is required for a device  
involved in contract performance)
- 1852.223-72 Safety and Health (Short Form) (applies to the Order exceeds  
the SAT and work will be conducted completely or partly on  
a federally controlled facility)
- 1852.223-73 Safety and Health Plan (applies to the Order exceeds the SAT,  
work will be conducted completely or partly on a Federally-  
controlled facility, and the safety and health plan will be  
evaluated in source selection as approved by the source  
selection authority)
- 1852.223-74 Drug and Alcohol-Free Workforce (applies to the Order in  
which an employee in a sensitive position performs work)
- 1852.223-76 Federal Automotive Statistical Tool Reporting (applies where  
the Order is required to operate government-owned or -leased  
motor vehicles)
- 1852.227-70 New Technology - Other than a Small Business Firm or  
Nonprofit Organization (applies to the Order that is not a small  
business or nonprofit organization)
- 1852.227-71 Requests for Waiver of Rights to Inventions (applies to the  
Order containing NASA FAR Supp. 1852.227-70)
- 1852.227-84 Patent Rights Clauses (applies to the Order when in  
solicitations for experimental, developmental, or research  
work to be performed in the United States when the eventual  
awardee may be a small business or a nonprofit organization)
- 1852.227-85 Invention Reporting and Rights – Foreign (applies to the Order  
where performance of research, experimental design,  
engineering, or developmental work is contemplated)
- 1852.227-86 Commercial Computer Software - License (applies to the  
Order where it is considered appropriate for the acquisition of  
existing computer software)
- 1852.227-88 Government-Furnished Computer Software and Related  
Technical Data (applies to the Order when involves use of  
government-furnished computer software and/or related  
technical data in any way)
- 1852.228-76 Cross-Waiver of International Space Station Activities  
(applies to the Order where work involves Protected Space  
Operations relating to the International Space Station and the  
value is above the SAT)
- 1852.228-78 Cross-Waiver of Liability for Science or Space Exploration  
Activities Unrelated to International Space Station (applies to  
the Order where work involves launches for science or space  
exploration activities unrelated to the International Space  
Station and the value is above the SAT)
- 1852.234-1 Notice of Earned Value Management System (applies to the  
Order involving development or production and institutional  
projects with a value exceeding \$20,000,000 and other major  
acquisitions as designated by a project manager under OMB  
Circular A-11)
- 1852.235-70 Center for Aerospace Information (applies to Orders involving  
research and development work)
- 1852.235-71 Key Personnel and Facilities (applies to the Order predicated  
upon possession of special capabilities)

- 1852.235-73 Final Scientific and Technical Reports (applies to a research and development contracts and cost-reimbursement supply subcontract involving research and development work)
- 1852.235-74 Additional Reports of Work—Research and Development (applies to a research and development Order and cost-reimbursement supply subcontract involving research and development work when periodic reports are required for monitoring subcontract performance)
- 1852.236-73 Hurricane Plan (applies to a construction Order at sites that experience hurricanes)
- 1852.237-70 Emergency Evacuation Procedures (applies to the Order for on-site support services where emergency evacuations of the NASA installation may occur, e.g., snow, hurricanes, tornadoes, earthquakes or other emergencies)
- 1852.237-71 Pension Portability (applies to a service Order if the prime contract requires pension portability, subcontracted labor dollars exceed \$2,500,000 and ten percent of the total prime contract labor dollars, and additional conditions are met)
- 1852.237-72 Access to Sensitive Information (applies to the Order that may involve access to sensitive information)
- 1852.237-73 Release of Sensitive Information (applies to the Order that may involve access to sensitive information)
- 1852.242-72 Denied Access to NASA Facilities (applies to the Order will be working onsite at a NASA facility)
- 1852.242-73 NASA Contractor Financial Management Reporting (applies to the Order when any of the NASA Form 533 series of report is required)
- 1852.242-78 Emergency Medical Services and Evacuation (applies to Orders that requires travel outside the United States or to remote locations in the United States)
- 1852.245-71 Installation-Accountable Government Property (applies to the Order when government property is made available for work on a NASA installation and the government maintains accountability for the property)
- 1852.245-73 Financial Reporting of NASA Property in the Custody of Contractors (applicable to cost reimbursement contracts and in all contracts in which the contractor has custody of NASA owned-property with a value of \$10 million or more, unless all property to be provided is subject to the clause at 1852.245-71, Installation-Accountable Government Property)
- 1852.245-74 Identification and Marking of Government Equipment (applies to the Order that requires the delivery of government equipment)
- 1852.245-75 Property Management Changes (applies to the Order that provides for progress payments or includes FAR Part 45 property clauses)
- 1852.245-76 List of Government Property Furnished Pursuant to FAR 52.245-1 (applies to the Order where contractor is accountable for government property)
- 1852.245-77 List of Government Property Furnished Pursuant to FAR 52.245-2 (applies to the Order that incorporates FAR 52.245-2, Government Property Installation Operation Services)
- 1852.245-78 Physical Inventory of Capital Personal Property (applies to the Order that provides government property)
- 1852.245-79 Records and Disposition Reports for Government Property with Potential Historic or Significant Real Value (applies to the Order when, after consultation with the center Historic Preservation Officer, it is determined that the items acquired for or produced by the Order are likely to have historic significance or increased value due to their use in support of NASA projects and program)
- 1852.245-80 Government Property Management Information (applies to the Order when it is known, or there is a reasonable chance, that Government property will be provided to the subcontractor for contract performance)
- 1852.245-81 List of Available Government Property (applies to the Order when government property is made available for contract performance)
- 1852.245-82 Occupancy Management Requirements (applies to the Order that requires performance on or in any NASA Center, installation, facility, or other NASA-owned property)
- 1852.245-83 Real Property Management Requirements (applies to the Order that involves the acquisition, construction, modification, demolition, or management of real property)
- 1852.246-72 Material Inspection and Receiving Report (applies to the Order that provides for separate and distinct deliverables, even if the deliverables are not separately priced)
- 1852.247-71 Protection of the Florida Manatee (applies to the Order that involves deliveries or vessel operations, dockside work, or disassembly functions that involve the use of waterways inhabited by manatees)