

**General Provisions and FAR/
DFARS Flowdown Provisions
for Time and Materials (T&M)
and Labor Hour Subcontracts
or Purchase Orders for
Noncommercial Items Under
a U.S. Government Prime Contract**

SECTION I: GENERAL PROVISIONS

1	Formation of Contract and Terms and Conditions
2	Applicable Laws
3	Assignment and Subcontracting
4	Communication with Field Customer
5	Confidentiality
6	Contract Direction
7	Definitions
8	Disputes
9	Export Control Compliance for Foreign Persons
10	Extras
11	Furnished Property (Furnished and SELLER-Acquired)
12	Gratuities and Kickbacks
13	Indemnification
14	Independent Contractor Relationship
15	Information of Field
16	Information of SELLER
17	Insurance and Liability to Third Parties
18	Intellectual Property Infringement
19	Language and Standards
20	Limitation of Liability
21	New Materials
22	Offset Credit and Cooperation
23	Packing and Shipment

24	Parts Obsolescence
25	Payments, Taxes, Duties and Invoicing
26	Payments, Time and Materials and Labor Hour Contracts and Invoicing
27	Precedence
28	Priority Rating
29	Quality Control System
30	Release of Information
31	Source Surveillance
32	Subcontracts
33	Survivability
34	Timely Performance
35	Waiver and Approval
36	Warranty
37	Suspect/Counterfeit Items
38	Equal Opportunity

SECTION II: FAR AND DFARS FLOWDOWN PROVISIONS

A	Incorporation of FAR and DFARS Clauses
B	Government Subcontract
C	Notes
D	Amendments Required by Prime Contract
E	FAR Flowdown Clauses
F	DFARS Flowdown Clauses
G	Certifications and Representations

SECTION I: GENERAL PROVISIONS

1. Formation of Contract and Terms and Conditions

- (a) This Contract is Field's offer to SELLER. SELLER's signature on the Contract, acknowledgment, acceptance of payment, or commencement of performance, shall constitute SELLER's unqualified acceptance of this Contract. SELLER's acceptance of this Contract creates a binding Contract between Field and SELLER, which shall be governed by the provisions of this Contract.
- (b) This Contract integrates, merges, and supersedes any prior offers, negotiations, and agreements concerning the subject matter hereof and constitutes the entire agreement between the Parties.
- (c) Additional or differing terms or conditions proposed by SELLER or included in SELLER's acknowledgment hereof are hereby objected to by Field and have no effect unless accepted in writing by Field.

2. Applicable Laws

- (a) This Contract shall be governed by the laws of the state of Oklahoma, excluding its choice of laws rules, except that any provision in this Contract 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) 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) (1) SELLER agrees to comply with all applicable laws, orders, rules, regulations, and ordinances.
- (2) These rights and obligations shall survive the termination or completion of this Contract
- (c) In particular, if the Work is to be shipped to or performed in the United States:
 - (1) SELLER represents that each chemical substance constituting or contained in Work sold or otherwise transferred to Field hereunder is on the list of chemical substances compiled and published by the Administrator of the Environmental Protection Administration pursuant to the Toxic Substances Control Act (15 U.S.C. Sec. 2601 et seq.) as amended.

(2) SELLER shall provide to Field with each delivery any Material Safety Data Sheet applicable to the Work in conformance with and containing such information as required by the Occupational Safety and Health Act (OSHA) of 1970 and regulations promulgated thereunder, or the state-approved counterpart to OSHA.

3. Assignment and Subcontracting

- (a) Any assignment of SELLER's contract rights or delegation of duties shall be void, unless prior written consent is given by Field. However, SELLER may assign rights to be paid amounts due, or to become due, to a financing institution if Field is promptly furnished a signed copy of such assignment reasonably in advance of the due date for payment of any such amounts. Field shall have the right to make settlements and adjustments in price with SELLER without notice to the assignee.
- (b) Without Field's written consent, SELLER will not subcontract for the design, development, or procurement of any substantial portion of goods or services under this contract. This limitation does not apply to SELLER's purchases of standard commercial supplies or raw materials.

4. Communication with Field Customer

- (a) Field shall be solely responsible for all liaison and coordination with the Field customer, including the U.S. Government, as it affects the applicable Prime Contract, this Contract, and any related contract.
- (b) Unless otherwise directed in writing by the authorized Field Procurement Representative, all documentation requiring submittal to, or action by, the government or the Contracting Officer shall be routed to, or through, the Field Procurement Representative, or as otherwise permitted by this Contract.

5. Confidentiality

- (a) Unless otherwise addressed by a separate Confidentiality Agreement between the parties, Field and SELLER shall each keep confidential and protect from unauthorized use and disclosure for a period of three (3) years after receipt all (a) confidential, proprietary and/or trade secret information; (b) tangible items containing, conveying or embodying such information; and (c) tooling identified as being subject to this article and obtained, directly or indirectly, from the other in connection with this contract (collectively referred to as a "Proprietary Information and Materials").
- (b) Field and SELLER shall each use Proprietary Information and Materials of the other only in connection with this contract. However, despite any other obligations or restrictions imposed by this article, Field shall have the right to use, disclose and reproduce SELLER's Proprietary Information and Materials, and make derivative works thereof, in connection with this contract. Any such use, disclosure, reproduction or derivative work by Field shall, whenever appropriate, include a restrictive legend suitable to the particular circumstances. The restrictions on disclosure or use of Proprietary Information and Materials by SELLER shall apply to all materials derived by SELLER or others from Field's Proprietary Information and Materials.
- (c) Upon Field's request at any time, and in any event upon the completion, termination or cancellation of this

contract, SELLER shall return to Field all of Field's Proprietary Information and Materials and all materials derived there from (except for one archival copy), unless specifically directed otherwise in writing by Field or a United States of America Government Contracting Officer.

- (d) SELLER may disclose Proprietary Information and Materials of Field to its subcontractors as required in connection with this contract program, provided that each such subcontractor first agrees in writing to substantially the same obligations imposed upon SELLER under this article relating to Proprietary Information and Materials.
- (e) The provisions of this article control in the event of a conflict with any restrictive legends or notices applied to Proprietary Information and Materials. The provisions of this article shall survive the performance, completion, termination or cancellation of this contract.

6. Contract Direction

- (a) Only the Field Procurement Representative has authority to amend this Contract. Such amendments must be in writing.
- (b) Field engineering and technical personnel may render assistance or give technical advice or discuss or affect an exchange of information with SELLER's personnel concerning the Work hereunder. Such actions shall not be deemed to be a change under the **Changes** clause of this Contract (FAR 52.243-3) and shall not be the basis for equitable adjustment.
- (c) Action or direction by any Field customer shall not be deemed to be a change under the **Changes** clause of this Contract and shall not be the basis for equitable adjustment.
- (d) Except as otherwise provided herein, all notices to be furnished by the SELLER shall be sent to the Field Procurement Representative.

7. Definitions

The following terms shall have the meanings set forth below:

- (a) "Contract" means the instrument of contracting, (e.g., PO, Purchase Order, or other such designation), including all referenced documents, exhibits, and attachments. If these terms and conditions are incorporated into a master agreement that provides for releases (in the form of a Purchase Order or other such document), the term "Contract" shall also mean the release document for the Work to be performed.
- (b) "FAR" means the Federal Acquisition Regulation, issued as Chapter 1 of Title 48, Code of Federal Regulations.
- (c) "Field" means ASES, LLC d/b/a Field Aerospace.
- (d) "Field Procurement Representative" means the person authorized by Field's cognizant procurement organization to administer this Contract.
- (e) "PO" or "Purchase Order" as used in any document constituting a part of this Contract shall mean this Contract.
- (f) "SELLER" means the Party identified on the title page of the Contract, with whom Field is contracting.

- (g) "Work" means all required articles, materials, supplies, goods, and services constituting the subject matter of this Contract.

8. Disputes

- (a) Any dispute, controversy, or claim arising out of or relating to this Contract or default, termination, or invalidity hereof, shall be settled by arbitration under the rules of the American Arbitration Association, with the following exceptions:
- (1) Field may not require independent contractors to utilize arbitration to resolve any claim under Title VII of the 1964 Civil Rights Act or any tort related to or arising out of sexual assault or harassment, including assault and battery, intentional infliction of emotional distress, false imprisonment, or negligent hiring, supervision, or retention; or take any action to enforce any provision of an existing agreement with an independent contractor that requires the arbitration of such claims.
 - (2) SELLER agrees that it will not enter into or take any action to enforce similar arbitration agreements with respect to any employee or independent contractor performing work related to such contracts. (Effective June 17, 2010; Applicable to subcontracts in excess of \$1 million)
Note: A certification to above provision is included in the Certifications Section of this document.
- (b) The place of the arbitration shall be Oklahoma. The language to be used in the arbitral proceedings shall be English. Judgment of the arbitrators shall be final and non-appealable and may be entered in any court having jurisdiction or application may be made to such court for a judicial acceptance of the award and an order of the enforcement. Each Party shall bear its own expenses of the arbitration, but the fees and costs of the arbitrators shall be borne equally between the Parties participating in the arbitration.
- (c) Consistent with the expedited nature of arbitration, each party will, upon the written request of the other party, promptly provide the requesting party with copies of documents relevant to the issues raised by any claim or counter claim. Any dispute regarding discovery, or the relevance or scope thereof, shall be determined by the arbitrators, whose determination shall be conclusive. All discovery shall be completed within thirty (30) days following the appointment of the arbitrators.
- (d) No action at law or in equity may be commenced by Field or SELLER under or arising from this Contract unless it is brought within two years after the accrual of the cause of action upon which the claim is based, regardless of whether Field or SELLER knew or should have known of the accrual of any such cause of action.
- (e) Notwithstanding the foregoing, in the event of a breach or threatened breach by Field or SELLER under the *Confidentiality* or *Intellectual Property* provisions of this Contract, Field or SELLER may forego arbitration under this provision and seek immediate judicial and equitable remedies, including, but not limited to, injunctive relief or specific performance.
- (f) Until final resolution of any dispute hereunder, SELLER shall diligently proceed with the performance of this Contract as directed by the Field Procurement Representative.

9. Export Control Compliance for Foreign Persons

- (a) SELLER agrees to comply fully with all applicable U.S. export control laws.
- (b) The subject Work of this Contract (together including data, services, and hardware provided hereunder, hereinafter "Controlled Technology") may be controlled for export purposes under the International Traffic in Arms Regulations (ITAR) controlled by the U.S. Department of State or the Export Administration Regulations ("EAR") controlled by the U.S. Department of Commerce. ITAR controlled technology may not be exported without prior written authorization and certain EAR technology requires a prior license depending upon its categorization, destination, end-user and end-use. SELLER shall obtain the authority of either an Export License or an applicable License Exception before permitting the export of any information, technical data, technology, services, software, equipment, or the direct product thereof, generated by or delivered to SELLER under this Contract. SELLER shall obtain the authority of either an Export License or an applicable License Exception before assigning any foreign persons or foreign sources to perform work under this Contract or before permitting any foreign persons or foreign sources to have access to any information, technical data, technology, services, software, equipment, or the direct product thereof, generated by or delivered SELLER under this Contract. "Foreign person" is any person who is not a citizen or national of the United States and includes individuals, foreign corporations, international organizations, and foreign governments. "Foreign source" includes vendors, subcontractors, and suppliers owned and controlled by a foreign person.
- (c) SELLER hereby certifies that all SELLER employees who have access to the Controlled Technology are U.S. citizens, have a valid green card or, have been granted political asylum or refugee status in accordance with 8 U.S.C. 1324b(a)(3). Any non-citizens who do not meet one of these criteria have been authorized under export licenses to perform their work hereunder.
- (d) SELLER further certifies that all SELLER employees assigned to work on this Contract are U.S. citizens, U.S. Permanent Residents, non-immigrants authorized to work in the U.S. or non-immigrants who have been granted political asylum or refugee status in accordance with 8 U.S.C. 1324b(a)(3).
- (e) SELLER agrees to notify Field if any deliverable Work under this Contract is restricted by export control laws or regulations.
- (f) SELLER shall immediately notify the Field Procurement Representative if SELLER is 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. At Field's request, SELLER will provide Field with all data Field may need to apply for and obtain an Export License or applicable License Exception.

10. Extras

Work shall not be supplied in excess of quantities specified in the Contract. SELLER shall be liable for handling charges and return shipment costs for any excess quantities.

11. Furnished Property (Furnished and SELLER-Acquired)

- (a) Field may provide to SELLER property owned by either Field or its customer (Furnished Property). Furnished Property shall be used only for the performance of this Contract. Title to Furnished Property shall be retained by

Field or its customer. SELLER shall clearly mark all Furnished Property to show ownership.

- (b) SELLER-acquired property means property acquired, fabricated or otherwise provided by SELLER as part of performance under a Government-funded Field subcontract and to which the Government or Field has taken or will take title.
- (c) No less than annually and at completion of this Contract the SELLER shall submit, in an acceptable form, inventory lists of Furnished and SELLER-Acquired Property and shall deliver or make such other disposal as may be directed by Field. SELLER shall notify Field immediately when any property is lost, damaged, destroyed or stolen. Information of SELLER
- (d) With respect to property to which the government may take title under this Contract:
 - (1) For this Time and Materials Contract, the clause at FAR 52.245-1 Government Property shall apply. Said clause is incorporated by reference, except as used therein "Government" means "Field" except in the phrases "Government-Furnished Property" and "Government Property," and in references to government title to property. "Contracting Officer" means "Field."
 - (2) If SELLER has an approved Government property system, SELLER shall provide approval documentation to Field within 5 days of contract award. SELLER shall provide to Field immediate notice of any disapproval, withdrawal of approval, or non-acceptance by the government of its property control system.

12. Gratuities and Kickbacks

- (a) No gratuities (in the form of entertainment, gifts, or otherwise) or kickbacks shall be offered or given by SELLER to any employee of Field with a view toward securing favorable treatment as a supplier.
- (b) By accepting this Contract, SELLER certifies and represents that it has not made or solicited and will not make or solicit kickbacks in violation of FAR 52.203-7 or the Anti-Kickback Act of 1986 (41 USC 51-58), both of which are incorporated herein by this specific reference, except that paragraph (c)(1) of FAR 52.203-7 shall not apply.

13. Indemnification

Each party shall indemnify the other against all liability that may result from any claim, action, or suit based on any alleged injury to or death of any person or damage to or loss of any property to the extent that it was caused or alleged to have been caused by it in the course of its performance of this Contract. The indemnifying party shall pay all attorneys fees and costs of defense and, if any judgment is rendered against the indemnified party in any such action or actions, the indemnifying party shall satisfy and discharge the judgment without cost or expense to the indemnified party.

14. Independent Contractor Relationship

SELLER is an independent contractor in all its operations and activities hereunder. The employees used by SELLER to perform Work under this Contract shall be SELLER's employees exclusively, without any relation whatsoever to

Field, and shall not be entitled to participate in or receive any of Field's employee benefits.

15. Information of Field

Information provided by Field to SELLER remains the property of Field. SELLER agrees to comply with the terms of any confidential disclosure agreement with Field and to comply with all proprietary information markings and restrictive legends applied by Field to anything provided hereunder to SELLER.

SELLER agrees not to use any Field-provided information for any purpose except to perform this Contract and agrees not to disclose such information to third parties without the prior written consent of Field.

16. Information of SELLER

SELLER shall not provide any proprietary information to Field without prior execution by Field of a confidential disclosure agreement.

17. Insurance and Liability to Third Parties

- (a) In the event that SELLER, its employees, agents, or subcontractors enter Field's or its customer's premises for any reason in connection with this Contract, SELLER, as well as its subcontractors and lower-tier subcontractors, shall procure and maintain worker's compensation, comprehensive general liability, bodily injury, and property damage insurance in reasonable amounts, and such other insurance as Field may require, as stated in the contract schedule, and shall comply with all site requirements. Such insurance shall be written through a licensed carrier, with a financial rating of no less than A-, in the respective state of operation and shall meet all legal minimum requirements of same state. SELLER shall indemnify and hold harmless Field, its officers, employees, and agents from any and all losses, costs, claims, causes of action, damages, liabilities, and expenses, including (but not limited to) attorneys' fees, all expenses of litigation and settlement, and court costs, by reason of property damage or personal injury to any person caused in whole or in part by the actions or omissions of SELLER, its officers, employees, agents, suppliers, or subcontractors at any tier, to the extent of SELLER'S negligence, gross negligence, or intentional misconduct.
- (b) SELLER shall provide Field thirty (30) days advance written notice prior to the effective date of any cancellation or change in the term or coverage of any of SELLER'S required insurance. If requested, SELLER shall send a Certificate of Insurance showing SELLER'S compliance with these requirements. SELLER shall name Field as an additional insured for the duration of this Contract. Insurance maintained pursuant to this clause shall be considered primary as respects the interest of Field and is not contributory with any insurance which Field may carry.

18. Intellectual Property Infringement

- (a) SELLER represents that to the best of its knowledge the SELLER'S patents, copyrights, trademarks, trade secrets or similar rights relating to the maintenance, sale or use of goods furnished, or relating to, or used in, the work performed, pursuant to this contract do not infringe on any existing patents, copyrights, trade secrets or other intellectual property and proprietary rights of any third party nor has any claim (whether or not embodied in action, past or present) of such infringement been

threatened or asserted, nor is such a claim pending against SELLER.

- (b) In the event of a breach of this representation, SELLER shall defend, at SELLER's own responsibility and expense, Field and Field's customer from any suit or claim against Field or Field's customer and SELLER shall indemnify and hold harmless Field and Field's customer from and against any and all claims, liabilities, losses, damages, and expenses provided Field (a) notifies SELLER promptly in writing of such claim; (b) allows SELLER to control the defense of such claims; and (c) reasonably cooperates with SELLER to defend such claim.
- (c) SELLER will have no obligation under this article with regard to any infringement arising from (a) SELLER's compliance with formal drawings or specifications issued by Field or U.S. Government where infringement could not be avoided in complying with such drawings or specifications or (b) use or sale of products in combination with other items when such infringement would not have occurred from the use or sale of those products solely for the purpose for which they were designed or sold by SELLER.
- (d) SELLER will have no obligation under this article with regard to any infringement authorized by the Authorization and Consent clause in clause of the contract , provided SELLER complies with the Authorization and Consent and the Notice and Assistance Regarding Patent and Copyright Infringement clauses in clause.

19. Language and Standards

All reports, correspondence, drawings, notices, markings, and other communications shall be in the English language. The English version of the Contract shall prevail. Unless otherwise provided in writing, all documentation and work shall use the units of U.S. standard weights and measures.

20. Limitation of Liability

- (a) In no event shall either SELLER or Field be liable to the other for any indirect, incidental or consequential damages arising out of or relating to this Agreement, regardless of the legal theory under which such damages are sought, and even if the parties have been advised of the possibility of such damages or loss.
- (b) Each Party shall indemnify and hold harmless the other, its officers, directors, employees and agents, against and from any liability, loss, damage, cost and expense (including attorneys' fees and costs of litigation) arising out of or in connection with any claim or action which any third party may file or threaten to file against either Party or its officers, directors, employees or agents arising out of, or resulting directly from, the negligent acts or omissions or the willful misconduct of it or its employees, directors, officers, representatives, and agents in the course of its performance of its obligations under this Agreement. The indemnification provided herein shall survive the termination of this Agreement.

21. New Materials

The Work to be delivered hereunder shall consist of new materials, as defined in FAR 52.211-5 (not used, reconditioned, remanufactured, or of such age as to impair usefulness or safety).

22. Offset Credit and Cooperation

All offset or countertrade credit value resulting from this Contract shall accrue solely to the benefit of Field. SELLER agrees to cooperate with Field in the fulfillment of any foreign offset or countertrade obligations.

23. Packing and Shipment

- (a) Unless otherwise specified, all Work is to be packed in accordance with good commercial practice to prevent damage and deterioration during shipping, handling, and storage.
- (b) A complete packing list shall be enclosed with all shipments. SELLER shall mark containers or packages with necessary lifting, loading, and shipping information, including the Field contract number, item number, dates of shipment, and the names and addresses of consignor and consignee. Bills of lading shall include this Contract number.
- (c) For Work shipped within the United States, unless otherwise specified, delivery shall be FOB Destination. For Work imported into the United States, unless otherwise specified, delivery shall be DDP Field's facility indicated on the title page of the Contract in accordance with *INCOTERMS 1990*.

24. Parts Obsolescence

Field may desire to place additional orders for items purchased hereunder. SELLER shall provide Field with a Last Time Buy Notice at least twelve (12) months prior to any action to discontinue any item purchased under this Contract.

25. Payments, Taxes, Duties and Invoicing

- (a) Unless otherwise provided, terms of payment shall be net forty five (45) days from the latest of the following: (i) Field's receipt of the SELLER's proper invoice; (ii) Scheduled delivery date of the Work (SELLER'S proper invoice required); or (iii) Actual delivery of the Work (sellers proper invoice required).
- (b) Payment shall be deemed to have been made as of the date of Field's mailed payment or electronic funds transfer.
- (c) Unless otherwise specified, prices include all applicable federal, state, and local taxes, duties, tariffs, and similar fees imposed by any government, all of which shall be listed separately on the invoice. Prices shall not include any taxes, impositions, charges or exactions for which Field has furnished a valid exemption certificate or other evidence of exemption.
- (d) All taxes, assessments and similar charges levied with respect to or upon any such products or Work owned by Field while in SELLER's possession or control, and for which no exemption is available, shall be borne by SELLER.
- (e) The prices stated in the contract are in United States dollars.
- (g) All invoices must be submitted electronically in .pdf format and the invoice must reference the Subcontract/Purchase Order line that is being invoiced. The invoice must be sent to accountspayable@fieldaero.com.

- (h) Each invoice must contain the following information: vendor name, vendor address, vendor point of contact, invoice number, invoice date and Field Aerospace Subcontract/Purchase Order number.

26. Payments – Time and Materials and Labor Hour Contracts and Invoicing

Field shall pay the SELLER as follows, upon the submission of invoices approved by Field. (Note: If this is a Labor Hour Contract, the terms of this clause that govern reimbursement for materials furnished are considered to have been deleted.)

- (a) *Hourly rate.*
 - (1) *Hourly rate* means the rate(s) prescribed in the contract for payment for labor that meets the labor category qualifications of a labor category specified in the contract that are—
 - (i) Performed by the SELLER;
 - (ii) Performed by the SELLER's subcontractors; or
 - (iii) Transferred between divisions, subsidiaries, or affiliates of the SELLER under a common control.
 - (2) The amounts shall be computed by multiplying the appropriate hourly rates prescribed in the contract by the number of direct labor hours performed.
 - (3) The hourly rates shall be paid for all labor performed on the contract that meets the labor qualifications specified in the contract. Labor hours incurred to perform tasks for which labor qualifications were specified in the contract will not be paid to the extent the work is performed by employees that do not meet the qualifications specified in the contract, unless specifically authorized by Field.
 - (4) The hourly rates shall include wages, indirect costs, general and administrative expense, and profit. Fractional parts of an hour shall be payable on a prorated basis.
 - (5) Invoices may be submitted once each month (or at more frequent intervals, if approved by Field. If Field has determined prior to award that the SELLER does not have an adequate timekeeping system, Field may require submission of timesheets in support of each invoice submitted. Upon request the seller shall provide the following within five business days.
 - (i) Time sheets in support of hours invoiced;
 - (ii) Records that verify the employees meet the qualifications for the labor categories specified in the contract; or
 - (iii) Other substantiation approved by the Field procurement representative.
 - (6) After receipt of each substantiated invoice, Field shall, except as otherwise provided in this contract, and subject to the terms of paragraph (e) of this clause, make payment in accordance with the contract.
 - (7) Field may require a withhold of 5 percent of the amounts due under paragraph (a) of this clause, but the total amount withheld for the contract shall not exceed \$50,000. The amounts withheld shall be retained until the SELLER executes and delivers the release required by paragraph (g) of this clause.

- (8) Unless the Contract prescribes otherwise, the hourly rates in the Contract shall not be varied by virtue of the Contractor having performed work on an overtime basis. If no overtime rates are provided in the Contract and overtime work is approved in advance by the Field Contracts representative, overtime rates shall be negotiated and incorporated into the contract.

- (b) *Materials.*
 - (1) For the purposes of this clause—
 - (i) *Direct materials* means those materials that enter directly into the end product, or that are used or consumed directly in connection with the furnishing of the end product or service.
 - (ii) *Materials* means—
 - (A) Direct materials, including supplies transferred between divisions, subsidiaries, or affiliates of the SELLER under a common control;
 - (B) SELLER's subcontracts for supplies, and incidental services for which there is not a labor category specified in the contract;
 - (C) Other direct costs (e.g., incidental services for which there is not a labor category specified in the contract, travel, computer usage charges, etc.); and
 - (D) Applicable indirect costs.
 - (2) If the SELLER furnishes its own materials that meet the definition of a commercial item at FAR [2.101](#), the price to be paid for such materials shall not exceed the SELLER's established catalog or market price, adjusted to reflect the—
 - (i) Quantities being acquired; and
 - (ii) Actual cost of any modifications necessary because of contract requirements.
 - (3) Except as provided for in paragraph (b)(2) of this clause, Field will reimburse the SELLER for allowable cost of materials provided the SELLER—
 - (i) Has made payments for materials in accordance with the terms and conditions of the agreement or invoice; or
 - (ii) Ordinarily makes these payments within 30 days of the submission of the SELLER's payment request to Field and such payment is in accordance with the terms and conditions of the agreement or invoice.
 - (4) Payment for materials is subject to the Allowable Cost and Payment at FAR 52.216-7. Field will determine allowable costs of materials in accordance with [Subpart 31.2](#) of the Federal Acquisition Regulation (FAR) in effect on the date of this contract.
 - (5) The SELLER may include allocable indirect costs and other direct costs to the extent they are—
 - (i) Comprised only of costs that are clearly excluded from the hourly rate;
 - (ii) Allocated in accordance with the SELLER's written or established accounting practices; and
 - (iii) Indirect costs are not applied to subcontracts that are paid at the hourly rates.
 - (6) To the extent able, SELLER shall—

- (i) Obtain materials at the most advantageous prices available with due regard to securing prompt delivery of satisfactory materials; and
 - (ii) Take all cash and trade discounts, rebates, allowances, credits, salvage, commissions, and other benefits. When unable to take advantage of the benefits, the SELLER shall promptly notify Field and give the reasons. The SELLER shall give credit to Field for cash and trade discounts, rebates, scrap, commissions, and other amounts that have accrued to the benefit of the SELLER, or would have accrued except for the fault or neglect of the SELLER. The SELLER shall not deduct from gross costs the benefits lost without fault or neglect on the part of the SELLER or lost through fault of Field.
- (7) Except as provided for in FAR [31.205-26\(e\)](#) and (f), Field will not pay profit or fee to the SELLER on materials.
- (c) *Total cost.* It is estimated that the total cost to Field for the performance of this contract shall not exceed the ceiling price set forth in the Contract and the SELLER agrees to use its best efforts to perform the work specified in the Contract and all obligations under this contract within such ceiling price. If at any time the SELLER has reason to believe that the hourly rate payments and material costs that will accrue in performing this contract in the next succeeding 30 days, if added to all other payments and costs previously accrued, will exceed 85 percent of the ceiling price in the Contract, the SELLER shall notify Field and give a revised estimate of the total price to Field for performing this contract with supporting reasons and documentation. If at any time during performing this contract, the SELLER has reason to believe that the total price to Field for performing this contract will be substantially greater or less than the then stated ceiling price, the SELLER shall so notify Field, giving a revised estimate of the total price for performing this contract, with supporting reasons and documentation. If at any time during performing this contract, Field has reason to believe that the work to be required in performing this contract will be substantially greater or less than the stated ceiling price, Field will so advise the SELLER, giving the then revised estimate of the total amount of effort to be required under the contract.
- (d) *Ceiling price.* Field will not be obligated to pay the SELLER any amount in excess of the ceiling price in the Contract, and the SELLER shall not be obligated to continue performance if to do so would exceed the ceiling price set forth in the Contract, unless and until Field notifies the Contractor in writing that the ceiling price has been increased and specifies in the notice a revised ceiling that shall constitute the ceiling price for performance under this contract. When and to the extent that the ceiling price set forth in the Contract has been increased, any hours expended and material costs incurred by the SELLER in excess of the ceiling price before the increase shall be allowable to the same extent as if the hours expended and material costs had been incurred after the increase in the ceiling price.
- (e) *Audit.* At any time before final payment under this contract, Field may require an audit of the invoices and supporting documentation. Each payment previously made shall be

subject to reduction to the extent of amounts, on preceding invoices, that are found by Field not to have been properly payable and shall also be subject to reduction for overpayments or to increase for underpayments. Upon receipt and approval of the invoice designated by the SELLER as the "final invoice" and supporting documentation, and upon compliance by the SELLER with all terms of this contract (including, without limitation, terms relating to patents and the terms of paragraph (g) of this clause), Field shall promptly pay any balance due the SELLER. The final invoice and supporting documentation, shall be submitted by the SELLER as promptly as practicable following completion of the work under this contract, but in no event later than 1 year (or such longer period as Field may approve in writing) from the date of completion.

- (f) *Assignment and Release of Claims.* The SELLER and each assignee under an assignment entered into under this contract and in effect at the time of final payment under this contract, shall execute and deliver, at the time of and as a condition precedent to final payment under this contract, a release discharging Field, its officers, agents, and employees of and from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions:
- (1) Specified claims in stated amounts, or in estimated amounts if the amounts are not susceptible of exact statement by the SELLER.
 - (2) Claims, together with reasonable incidental expenses, based upon the liabilities of the SELLER to third parties arising out of performing this contract, that are not known to the SELLER on the date of the execution of the release, and of which the SELLER gives notice in writing to Field not more than 6 years after the date of the release or the date of any notice to the SELLER that Field is prepared to make final payment, whichever is earlier.
 - (3) Claims for reimbursement of costs (other than expenses of the SELLER by reason of its indemnification of Field against patent liability), including reasonable incidental expenses, incurred by the SELLER under the terms of this contract relating to patents.

27. Precedence

Any inconsistencies in this Contract shall be resolved in accordance with the following (in descending order of precedence): (1) face of the Purchase Order, release document or schedule (which may include continuation sheets), as applicable, including any special terms and conditions; (2) any master agreement, such as corporate, sector, or blanket agreements; (3) these General Provisions; and (4) Statement of Work.

28. Priority Rating

If so identified, this Contract is a "rated order," certified for national defense use, and the SELLER shall follow all the requirements of the *Defense Priorities and Allocation System Regulation* (15 C.F.R. Part 700).

29. Quality Control System

Unless this Contract contains other specific quality requirements,

- (a) SELLER shall provide and maintain a quality control system to an industry-recognized quality standard for the Work covered by this Contract.
- (b) Records of all quality control inspection work by SELLER shall be kept complete and made available to Field and its customers during the performance of this Contract and for such longer periods as may be specified.
- (c) Field, customer, and regulatory authorities shall have access to all quality management system documentation upon request.
- (d) The SELLER may be required to submit to initial and follow-up audits of their quality management system by Field or regulatory authorities to become, or remain, an approved supplier.
- (e) For SELLER manufacturing items to Field or customer-provided design data or SELLER providing aerospace related products/services, the following requirements shall apply, where appropriate:
 - (1) If the SELLER determines during production the product (intended for use or delivery to Field) does not conform to requirements, this product shall be identified and controlled. The SELLER shall provide timely notification to Field regarding the nonconforming product.
 - (2) If the SELLER determines at any time after delivery of product to Field the product does not conform to requirements, the SELLER shall notify Field within 24 hours of the nonconforming product.
 - (3) If the SELLER determines during inspection the product (intended for use or delivery to Field) does not conform to requirements, this product shall be identified and controlled. The SELLER shall hold the product until dispositioned and approved by Field.
 - (4) SELLER shall provide notification to Field of any change in product design, materials, or production processes from those originally specified or quoted.
 - (5) SELLER shall provide notification to Field of changes in product and/or process, changes of suppliers, changes of manufacturing facility location and, where required, obtain Field approval.
 - (6) SELLER shall provide access to Field, Field customers, and all applicable regulatory authorities to applicable areas of all facilities, at any level of the supply chain, involved in the order and to all applicable records.
 - (7) SELLER shall flow down to the supply chain the applicable requirements including customer requirements and key characteristics.
- (f) Where a SELLER is designing hardware, Field shall participate in all design review activities and reserves the right to approve preliminary designs prior to proceeding to detailed design and final designs prior to proceeding to fabrication.
- (g) For design, development, or manufacturing work affecting high-value, safety critical systems, Field may require that

the SELLER be certified to AS9100, ISO 9001, or an FAA certificated quality system under FAR Part 145 or FAR Part 21.

- (h) Field shall participate in any technical interchange meetings where the SELLER is presenting information to our customers.
- (i) SELLER shall ensure its employees and other persons performing work directly under SELLER's control are aware of their contribution to product or service conformity and product safety, and the importance of ethical behavior.

30. Release of Information

Except as required by law, no public release of any information, or confirmation or denial of same, with respect to this Contract or the subject matter hereof, will be made by SELLER without the prior written approval of Field.

31. Source Surveillance

In addition to inspections as otherwise provided in this Contract, and at no increase in Contract price, Field may assign product assurance representatives to SELLER's facilities to conduct and maintain surveillance as necessary to ensure quality and reliability. SELLER likewise shall ensure such right to Field with respect to SELLER's lower-tier subcontractors. If such examination is made, SELLER shall provide, and require its subcontractors to provide, such representatives with reasonable facilities, equipment, and unescorted access (except in areas where proprietary processes or data are located, in which case access shall be on an escorted basis) to all areas essential to the proper conduct of the above described activity.

32. Subcontracts

- (a) If this Contract is primarily for the purpose of furnishing services, no subcontract shall be made by the SELLER with any other Party for furnishing all or substantially all of the Work or services herein contracted for without the advance written approval of Field; however, this provision shall not be construed to require the approval of contracts of employment between the SELLER and personnel assigned for services hereunder.
- (b) The SELLER shall give Field immediate written notice of any action or suit filed and prompt notice of any claim made against the SELLER by any subcontractor or vendor that, in the opinion of the SELLER, may result in litigation related in any way to this Contract, with respect to which the SELLER may be entitled to reimbursement from Field.
- (a) No subcontract placed under this Contract shall provide for payment on a cost-plus-a-percentage-of-cost-basis, and any fee payable under cost-reimbursement, lower-tier subcontracts shall not exceed the fee limitations in paragraph 15.404-4(c)(4) (formerly 15.903(d)) of the FAR.

33. Survivability

If this Contract expires, is completed, or is terminated for default or convenience, SELLER shall not be relieved of those obligations contained in this Contract for the following provisions:

- (a) Applicable Laws

Confidentiality
Export Control Compliance
Independent Contractor Relationship
Insurance and Liability to Third Parties
Intellectual Property Infringement
Limitation of Liability
Release of Information
Warranty

- (b) Those U.S. Government flowdown provisions that, by their nature, should survive.

34. Timely Performance

- (a) Time is of the essence in this Contract. SELLER's timely performance is a critical element of this Contract.
- (b) Unless advance shipment has been authorized in writing by Field, Field may store, at SELLER's expense, or return, shipping charges collect, all Work received in advance of the scheduled delivery date.
- (c) If SELLER becomes aware of difficulty in performing the Work, SELLER shall promptly notify Field, in writing, giving pertinent details. This notification shall not change any delivery schedule.
- (d) In the event of a termination for convenience or change, no claim will be allowed for any manufacture or procurement in advance of SELLER's normal flow time unless Field has given prior written consent.

35. Waiver and Approval

- (a) Failure by Field to enforce any provisions of this Contract shall not be construed as a waiver of the requirements of such provisions, or as a waiver of the right of Field thereafter to enforce each and every such provisions.
- (b) Field's approval of documents shall not relieve SELLER from complying with any requirements of this Contract.
- (c) The rights and remedies of Field in this Contract are in addition to any other rights and remedies provided by law or in equity.

36. Warranty

- (a) In addition to SELLER's standard warranty, SELLER warrants that all Work furnished pursuant to this Contract shall strictly conform to applicable specifications, drawings, samples, descriptions, and other requirements of this Contract and be free from defects in design, material, and workmanship. All warranties shall survive inspection, test and acceptance of, and payment for, the Work. All warranties shall run to Field and its successors, assigns, and customers. The warranty shall extend for a period of one (1) year after Field's final acceptance unless a different period is set forth elsewhere in this Contract. If any nonconformity of the Work appears within that time, SELLER shall promptly repair, replace, or reperform the Work, at Field's option. Transportation of replacement Work, return of nonconforming Work, and repeat performance of Work shall be at SELLER's expense. Work required to be corrected or replaced shall be subject to this provision and the **Inspection- Time and Materials and Labor-Hours clause** of this Contract (FAR 52.246-6) in the same manner and to the same extent as Work originally delivered under this Contract. If repair, replacement, or reperformance of Work is not timely, Field may elect to return the nonconforming Work or

repair, replace Work, or reprocure the Work at SELLER's expense.

- (b) SELLER further warrants that all software, firmware, and hardware (products) provided by SELLER, having date-dependent functionality containing or calling on a calendar function to process date and time data, will accurately process the date and time data (including, but not limited to, inputting, storing, manipulating, comparing, calculating, updating, displaying, outputting, and transforming such dates and data).

- (1) In the event of a discovery of any date-dependent functionality noncompliance, the discovering party shall notify the other party within five (5) business days. At Field's option, the noncompliant products shall be repaired or replaced by SELLER within ten (10) business days of such notice at no cost to Field. The date-dependent functionality warranty shall run to Field and its successors, assigns, and customers, and shall extend indefinitely after Field's final acceptance.
- (2) Nothing in this provision shall be construed to limit any other rights under this Contract, at law or in equity that Field may have with respect to date-dependent functionality compliance.

37. Suspect/Counterfeit Items

(a) Seller represents and warrants that Item(s) supplied by Seller are not "Suspect/Counterfeit". Seller's warranty against counterfeit items shall survive any termination or expiration of this Contract, Agreement or Order.

(b) A "Counterfeit" item is an item, or any component thereof, produced, altered or otherwise misrepresented to resemble another item, or any part thereof, without authority or right to do so; including but not limited to, any item that is produced or altered to result in Buyer being misled or defrauded through the presentation to Buyer of such item as original, new, genuine or otherwise from a source other than the actual source of such item. Counterfeit items also include items that have been re-worked, re-marked, re-labeled, repaired, refurbished, or otherwise modified from OEM design but are represented as OEM authentic or as new or any parts that are designated as suspect by the U.S. Government, such as parts listed in alerts published by the Defense Contract Management Agency under the Government-Industry Data Exchange Program (GIDEP).

(c) If Buyer, in its sole discretion, determines that any items or components received from Seller are, or may be, Suspect/Counterfeit ("Suspected Counterfeit Parts"), Buyer shall notify Seller in writing of such determination. Seller agrees that within ten (10) days after Seller's receipt of such notice, Seller shall remit to Buyer all payments previously made to Seller for such Suspected Counterfeit Parts. Alternatively, the Buyer may elect to have the Seller offer a replacement item in lieu of remitting all previous payments associated with Suspect/Counterfeit items.

(d) Seller further agrees that it shall indemnify, defend, and hold harmless Buyer from and against any claims, actions, proceedings, judgments, penalties, fines and/or other losses of any kind arising out of or in connection with any such Suspected Counterfeit Parts. Seller shall be liable for all costs incurred by Buyer to remove and replace the suspect/counterfeit parts, including without limitation Buyer's external and internal costs of removing such counterfeit parts, of reinserting replacement parts and of any testing necessitated by the reinstallation of replacement goods after counterfeit parts have been replaced.

(e) Prior to Seller's acquisition of any items, or components thereof, that will be included in any transaction between Seller and Buyer,

Seller shall flow down the requirements of this Article to all entities from which it receives such items, or components thereof, and shall be fully liable to Buyer for all such entities' compliance with such requirements.

38. Equal Opportunity

- (a) The requirements of 41 CFR 60-300.5 are incorporated herein by reference and apply to any PO/Subcontract that exceeds \$100,000.

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

- (b) The requirements of 41 CFR 60-741.5 are incorporated herein by reference and apply to any PO/Subcontract that exceeds \$100,000.

This contractor and subcontractor shall abide by the requirements of 41 CFR 60–741.5(a). This regulation prohibits discrimination against 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.

SECTION II: FAR and DFARS FLOWDOWN PROVISIONS

A. Incorporation of FAR and DFARS Clauses

The Federal Acquisition Regulation (FAR) clauses and Defense Federal Acquisition Regulation Supplement (DFARS) clauses referenced below are incorporated herein by reference, with the same force and effect as if they were given in full text, and are applicable, including any notes following the clause citation, during the performance of this Contract. The effective date of each clause incorporated herein shall be that in effect as of the effective date of the Subcontract or Purchase Order unless a previous version of the clause is specified in this contract.

B. Government Subcontract

This Contract is entered into by the Parties in support of a U.S. Government contract.

As used in the FAR and DFARS clauses referenced below and otherwise in this Contract:

1. "CONTRACTOR" means the SELLER, as defined previously in the **Definitions** provision of this document, acting as the immediate (first-tier) subcontractor to Field.
2. "Prime Contract" means the contract between Field and the U.S. Government or between Field and its higher-tier contractor who has a contract with the U.S. Government.
3. "Contract" means this Contract.
4. "Subcontract" means any contract placed by the CONTRACTOR or lower-tier subcontractors under this Contract.

C. Notes

1. Substitute "Field" for "Government" or "United States" as applicable throughout this clause.
2. Substitute "Field Procurement Representative" for "Contracting Officer," "Administrative Contracting Officer," and "ACO" throughout this clause.
3. Insert "and Field" after "Government" or "Contracting Officer," as appropriate, throughout this clause.
4. Insert "or Field" after "Government" throughout this clause.
5. Communication or notification required under this clause from or to the CONTRACTOR, and to or from the Contracting Officer shall be through Field.
6. "Contracting Officer" shall mean the U.S. Government Contracting Officer for Field's government Prime Contract under which this Contract is entered.

D. Amendments Required by Prime Contract

CONTRACTOR agrees that upon the request of Field it will negotiate in good faith with Field relative to amendments to this Contract to incorporate additional provisions herein or to change provisions hereof, as Field may reasonably deem necessary in order to comply with the provisions of the applicable Prime Contract or with the provisions of amendments to such Prime Contract. If any such amendment to this Contract causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the Work under this Contract, an equitable adjustment shall be made pursuant to the **Changes** clause of this Contract.

E. FAR Flowdown Clauses

REFERENCE	TITLE
-----------	-------

1. **The following FAR clauses apply to this Contract :**
 - (a) 52.211-5 Material Requirements (See Note 2)
 - (b) 52.216-7 Allowable Cost and Payment (See Notes 3 and 4)
 - (c) 52.219-8 Utilization of Small Business Concerns
 - (d) 52.222-21 Prohibition of Segregated Facilities
 - (e) 52.222-26 Equal Opportunity
 - (f) 52.222-50 Combating Trafficking in Persons
 - (g) 52.223-11 Ozone-Depleting Substances (Applicable if the Work was manufactured with or contains ozone-depleting substances.)
 - (h) 52.225-13 Restrictions on Certain Foreign Purchases (In paragraph (a), see Notes 5 and 6.)
 - (i) 52.227-14 Rights in Data—General
 - (j) 52.234-1 Industrial Resources Developed Under Defense Production Act Title III (See Note 2.)
 - (k) 52.236-13 Accident Prevention
 - (l) 52.242-13 Bankruptcy (See Note 2)

- (m) 52.242-15 Stop-Work Order (See Notes 1 and 2.)
 - (n) 52.243-3 Changes – Time and Materials or Labor Hours (See Notes 1 and 2)
 - (o) 52.244-6 Subcontracts for Commercial Items
 - (p) 52.245-1 Government Property
 - (q) 52.246-6 Inspection – Time and Materials and Labor Hour (The government also may exercise any of Field’s inspection rights under this clause. See Notes 1 and 2)
 - (r) 52.247-64 Preference for Privately Owned U.S.-Flag Commercial Vessels (See Note 2.) (Refer to FAR 47.507 for applicability)
 - (s) 52.249-6 Termination(Cost-Reimbursement) Alternate IV (NOTE: Alternate V applicable if subcontract is with federal, state, local or foreign government) See Notes 1 and 2. “Government” and “Contracting Officer” mean “Field” except in paragraph (n), where “Government” means Field and the “Government” and “Contracting Officer” means “Field” or the “Contracting Officer.” In paragraph (c), “120 days” is changed to “60 days.” In paragraph (d), “15 days” is changed to “30 days,” and “45 days” is changed to “60 days.” In paragraph (e), “1 year” is changed to “6 months.” Paragraph (j) is deleted. In paragraph (l), “90 days” is changed to “45 days.” Settlements and payments under this clause may be subject to the approval of the Contracting Officer.)
 - (t) 52.249-14 Excusable Delays (See Note 2)
2. **The following FAR clauses apply to this Contract if the value of this Contract exceeds \$15,000**
- (a) 52.222-36 Affirmative Action for Workers with Disabilities
3. **The following FAR clauses apply to this Contract if the value of this Contract equals or exceeds \$100,000:**
- (a) 52.222-35 Equal Opportunity for Veterans
 - (b) 52.222-37 Employment Reports Veterans
4. **The following FAR clauses apply to this Contract if the value of this Contract exceeds \$150,000:**
- (a) 52.203-6 Restrictions on Subcontractor Sales to the Government
 - (b) 52.203-7 Anti-Kickback Procedures (Para (c)(1) does not apply)
 - (c) 52.203-12 Limitation on Payments to Influence Certain Federal Transactions (see Note 5.)
 - (d) 52.215-2 Audit and Records-Negotiation (Insert “and the Field Purchasing Representative” after “the Contracting Officer or representatives of the Contracting Officer” or after “...representatives of the Contracting Officer who are employees of the government,” where indicated throughout the clause.)
- (e) 52.215-14 Integrity of Unit Prices (Delete paragraph (b) of the clause.)
 - (f) 52.223-14 Toxic Chemical Release Reporting (See Notes 2 and 5; delete subparagraph (e).)
 - (h) 52.227-1 Authorization and Consent (Applicable only if the Prime Contract contains this clause. In the clause, in paragraph (a)(1), see Note 4, and in paragraph (a)(2)(ii), see Note 2.)
 - (i) 52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement (See Notes 2 and 4.)
 - (j) 52.248-1 Value Engineering (See Note 1, except in subparagraphs (c)(5) and (m), see Note 3)
5. **The following FAR clause applies to this Contract if the value of this Contract exceeds \$650,000:**
- (a) 52.219-9 Small Business Subcontracting Plan (Applicable if the SELLER is not a small business; see Notes 1 and 2, applicable to subparagraph (c) only; the SELLER’s subcontracting plan is incorporated herein by reference.)
6. **The following FAR clauses apply to this Contract if the value of this Contract equals or exceeds \$700,000:**
- (a) 52.215-12 Subcontractor Certified Cost or Pricing Data (Applicable if not otherwise exempt under FAR 15.403)
 - (b) 52.215-13 Subcontractor Certified Cost or Pricing Data – Modifications (Applicable for modifications if not otherwise exempt under FAR 15.403)
7. **The following FAR clauses apply to this Contract as indicated:**
- (a) 52.203-13 Contractor Code of Business Ethics (Applicable in all subcontracts at all tiers that have a value in excess of \$5,000,000 and a performance period more than 120 days)
 - (b) 52.203-14 Display of Hotline Posters (Applicable to all subcontracts that exceed \$5,000,000 except for commercial items OR subcontracts performed entirely outside the United States)
 - (c) 52.203-15 Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Applicable if funded in whole or part with Recovery Act funds)
 - (d) 52.203-16 Preventing Personal Conflicts of Interest (Applicable if subcontract exceeds \$150,000 AND subcontractor employees will perform acquisition functions closely associated with inherently governmental functions Does not apply to self-employed consultants)
 - (e) 52.204-2 Security Requirements (Applicable if the Work requires access to classified information; delete paragraph (c) of the clause.)

(f) 52.204-9	Personal Identity Verification of Contractor personnel (Applicable in subcontracts at all tiers where subcontractor is required to have routine access to a federally-controlled facility and/or federally-controlled information system)	(r) 52.222-3	Convict Labor (Applicable when performance is in the U.S., Puerto Rico, Northern Mariana Islands, American Samoa Guam or the U.S. Virgin Islands, unless subject to the Walsh-Healey Public Contracts Act purchase is from Federal Prisons Industries, In., or purchase is from any State prison of finished supplies that may be secured in the open market/existing stocks as distinguished from supplies requiring special fabrication, and exceeds the micro-purchase threshold.),
(g) 52.204-10	Reporting Executive Compensation and First-Tier Subcontract Awards (Applicable if this award is 25K or above)		
(h) 52.209-6	Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Applicable to subcontracts at all tiers that (1) exceed \$30,000 and (2) are not subcontracts for commercial items)	(s) 52.222-4	Contract Work Hours and Safety Standards Act – Overtime Compensation (Applicable as prescribed at FAR 22.305.)
(i) 52.215-10	Price Reduction for Defective Certified Cost or Pricing Data (Applicable if FAR 52.215-12 applies to this Contract. See Notes 2 and 4. Rights and obligations under this clause shall survive completion of the Work and final payment under this Contract.)	(t) 52.222-40	Notification of Employee Rights under the National Labor Relations Act (applicable to all subcontracts at all tiers that exceed \$10,000 and will be performed wholly or partially in the US unless exempted by rules ,regulations or orders of the Secretary of Labor pursuant to Section 3 of Exec Order 13496.
(j) 52.215-11	Price Reduction for Defective Certified Cost or Pricing Data – Modifications (Applicable if FAR 52.215-13 applies to this Contract, and FAR 52.215-10 is not applicable. See Notes 2 and 4. Rights and obligations under this clause shall survive completion of the Work and final payment under this Contract.)	(u) 52.222-54	Employment Eligibility Verification Applicable to subcontracts for (1) Commercial or non-commercial services (except for commercial services that are part of the purchase of a COTS item or item that would be a COTS item, but with minor modifications, performed by the COTS provider, and normally provided for that COTS item), or construction; (2) Have a value of more than \$3,000, and (3) Include work performed in the U. S. This clause is effective only for subcontracts under prime contracts which contain this clause.
(k) 52.215-15	Pension Adjustments and Asset Reversions (Applicable if this Contract meets the applicability requirements of FAR 15.408(g); see Note 5.)		
(l) 52.215-16	Facilities Capital Cost of Money (Applicable only if the Contract is subject to the cost principles at FAR Subpart 31.2 and the CONTRACTOR proposed facilities capital cost of money in its offer.)	(v) 52.223-3	Hazardous Material Identification and Material Safety Data (Applicable if the Contract involves hazardous material. See Notes 2 and 3.)
(m) 52.215-17	Waiver of Facilities Capital Cost of Money (Applicable only if the Contract is subject to the cost principles at FAR Subpart 31.2 for Contracts with commercial organizations, and the CONTRACTOR did not propose facilities capital cost of money in its offer.)	(w) 52.223-7	Notice of Radioactive Materials (Applicable to Work containing covered radioactive material. Insert "30" in the blank; see Notes 1 and 2)
(n) 52.215-18	Reversion or Adjustment of Plans for Post-Retirement Benefits (PRB) Other Than Pensions (Applicable if this Contract meets the applicability requirements of FAR 15.408(j); see Note 5.)	(x) 52.223-18	Encouraging Contractor Policies to Ban Text Messaging While Driving (Applicable to all subcontracts at all tiers that exceed the micro-purchase threshold)
(o) 52.215-19	Notification of Ownership Changes (Applicable if this Contract meets the applicability requirements of FAR 15.408(k); See Note 2.	(y) 52.225-1	Buy American Act – Supplies (Applicable if the Work contains other than domestic components.)
(p) 52.215-20	Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data (See Note 2.)	(z) 52.225-8	Duty-Free Entry (Applicable if supplies will be imported into the Customs Territory of the United States. In paragraph (c) (1), the notice provision shall be 45 days. See Notes 3, 5, and 6.)
(q) 52.215-21	Requirements for Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data – Modifications (See Note 2.)	(aa) 52.227-9	Refund of Royalties (Applicable when reported royalty exceeds \$250; see Notes 1 and 2.)

- (bb) 52.227-10 Filing of Patent Applications – Classified Subject Matter (Applicable if the Work or any patent application may cover classified subject matter.)
- (cc) 52.227-11 Patent Rights – Ownership by the Contractor (Applicable if CON-TRACTOR is a small business or nonprofit organization performing experimental or research and development (R&D) work.)
- (dd) 52.228-3 Workers' Compensation Insurance (Defense Base Act)
- (ee) 52.228-4 Workers' Compensation and War-Hazard Insurance Overseas
- (ff) 52.228-5 Insurance – Work on a Government Installation (Applicable if Work performed on government installation. See Note 2.)
- (gg) 52.230-2 Cost Accounting Standards (When referenced in the Contract, full CAS coverage applies. In subparagraph (a) (4) (ii) and (a) (5), see Note 1. Delete paragraph (b) of the clause.)
- (hh) 52.230-3 Disclosure and Consistency of Cost Accounting Practices (When referenced in the Contract, modified CAS coverage applies. In subparagraphs (a) (3) (ii) and (a)(4), see Note 1. Delete paragraph (b) of the clause.)
- (ii) 52.230-6 Administration of Cost Accounting Standards (Applicable if FAR 52.230-2 or FAR 52.230-3 applies.)
- (jj) 52.233-3 Protest After Award (In the event Field's customer has directed Field to stop performance of the work under the Prime Contract under which this Contract is issued pursuant to FAR 33.1, Field may, by written order to SELLER, direct SELLER to stop performance of the Work called for by this Contract; "30 days" means "20 days" in paragraph (b)(2); Note 1 applies, except the first time it appears in paragraph (f); in paragraph (f) add "and recovers those costs from Field" after "33.104(h)(1)"; See Note 2.)
- (kk) 52.237-2 Protection of Government Buildings, Equipment, and Vegetation (Applicable if Work performed on government installation. See Note 2.)
- (ll) 52.243-6 Change Order Accounting (Applicable only if Prime Contract requires change order accounting. See Note 2; delete reference to the "Disputes" clause in the last sentence.)
- (mm) 52.245-2 Government Property Installation Operation Services (Applicable if SELLER will be involved in the use of Govt Property listed in this contract)
- (nn) 52.245-9 Use and Charges (Applicable if SELLER will be using Government Property)

- (oo) 52.247-63 Preference for U.S. Flag Air Carriers (Applicable if this contract involves international air transportation)
- (pp) 52.252.2 Clauses Incorporated by Reference (Feb 1998) If contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. The full text may be accessed electronically at this address:
<http://www.acquisition.gov/far>

F. DFARS Flowdown Clauses

If this contract is placed under a U.S. Government Department of Defense (DoD) contract, the following additional DFARS clauses apply.

REFERENCE	TITLE
1. The following DFARS clauses apply to this Contract:	
(a) 252.204-7000	Disclosure of Information.
(b) 252.204-7012	Safeguarding Covered Defense Information and Cyber Incident Reporting
(c) 252.204-7020	NIST SP 800-171 DoD Assessment Requirements
(d) 252.225-7013	Duty-Free Entry.
(e) 252.225-7014	Preference for Domestic Specialty Metals Alternate I (Applicable if the Work to be furnished hereunder contains specialty metals.)
(f) 252.227-7013	Rights in Technical Data – Noncommercial Items
(g) 252.227-7014	Rights in Non-Commercial Computer Software and Non-Commercial Computer Software Documentation
(h) 252.227-7016	Rights in Bid or Proposal Information
(i) 252.227-7019	Validation of Asserted Restrictions – Computer Software
(j) 252.227-7025	Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends (For subparagraph (c)(1), see Note 3.)
(k) 252.227-7026	Deferred Delivery of Technical Data or Computer Software (See Note 1.)
(l) 252.227-7027	Deferred Ordering of Technical Data or Computer Software (See Note 4.)
(m) 252.227-7028	Technical Data or Computer Software Previously Delivered to the Government (In this clause, the terms "contract" and "subcontract" shall not change in meaning)
(n) 252.227-7030	Technical Data - Withholding of Payment (See Notes 1 and 2.)

- (o) 252.227-7037 Validation of Restrictive Markings on Technical Data
- (p) 252.228-7005 Accident Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles (In subparagraph (a), see Note 5; in subparagraph (b), see Note 3.)
- (q) 252.231-7000 Supplemental Cost Principles
- (r) 252.243-7001 Pricing of Contract Modifications
- (s) 252.247-7023 Transportation of Supplies by Sea (Substitute the DFARS clause for FAR clause 52.247-64 in all Contracts for ocean transportation of supplies; In paragraph (g), delete the reference to the "Prompt Payment" clause; See Notes 1 and 2, except for paragraph (d) of the clause, which shall retain its original meaning.)
- (t) 252.247-7024 Notification of Transportation of Supplies by Sea (See Note 2.)
2. **The following DFARS clause applies to this Contract if the value of this Contract exceeds \$150,000:**
- (a) 252.203-7001 Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies (In this clause, the terms "contract," "contractor," and "subcontract" shall not change in meaning; Delete paragraph g; See Note 2.)
3. **The following DFARS clauses apply to this Contract if the value of this Contract equals or exceeds \$650,000:**
- (a) 252.225-7006 Quarterly Reporting of Actual Contract Performance Outside the United States (Para (c) addresses some exceptions to reporting)
- (b) 252.249-7002 Notification of Anticipated Contract Termination or Reduction (See Note 1.)
4. **The following DFARS clause applies to this Contract if the value of this Contract exceeds \$1,500,000:**
- (a) 252.211-7000 Acquisition Streamlining
5. **The following DFARS clauses apply to this Contract only if the stipulation in the relevant parenthetical applies:**
- (a) 252.204-7008 Requirements for Contracts Involving Export-Controlled Items-(Applicable if DFAR 252.204-7008 is in Field prime contract and export-controlled items (hardware, software, or technical data) are involved in performance of the subcontract)
- (b) 252.211-7007 Reporting of Government Furnished Equipment in the DoD Item Unique Identification (IUID) Registry (Applicable if 52.245-1 applies)
- (c) 252.215-7000 Pricing Adjustments (Applicable if FAR 52.215-12 or 52.215-13 applies to this Contract.)
- (d) 252.219-7003 Small Business Subcontracting Plan (DoD Contracts) (Applicable if FAR 52.219-9 applies to this Contract; delete subparagraph (g))
- (e) 252.223-7001 Hazard Warning Labels (Applies if this Contract requires submission of hazardous material data sheets; see FAR 23.302(c).)
- (f) 252.223-7002 Safety Precautions for Ammunition and Explosives (Applicable only if the articles furnished under the Contract contain ammunition or explosives, including liquid and solid propellants. See Notes 1, 3, and 5)
- (g) 252.223-7003 Change in Place of Performance – Ammunition and Explosives (Applicable if DFARS 252.223-7002 applies to this Contract. See Notes 2 and 4)
- (h) 252.223-7007 Safeguarding Sensitive Conventional Arms, Ammunition, and Explosives Only applicable if this contract involves arms, ammunition, and explosives.)
- (i) 252.225-7001 Buy American Act and Balance of Payments Program (Substitute the DFARS clause for FAR clause 52.225-3 in all Contracts for supplies; applicable if the Work contains other than domestic components as defined by this clause)
- (j) 252.225-7008 Restriction on Acquisition of Specialty Metals (Applicable if Field award exceeds Simplified Acquisition Level and requires delivery of specialty metals as end items)
- (k) 252.225-7009 Restriction on Acquisition of Certain Articles Containing Specialty Metals (Applicable if Field award exceeds Simplified Acquisition Level and requires delivery of items @ (2)(i)(ii) of DFAR 225.7003-5))
- (l) 252.225-7012 Preference for Certain Domestic Commodities (Applicable if Field award exceeds Simplified Acquisition Level)
- (m) 252.225-7015 Restriction on Acquisition of Hand or Measuring Tools (Applicable if Field award exceeds Simplified Acquisition Level and requires delivery of hand tools)
- (n) 252.225-7016 Restriction on Acquisition of Ball and Roller Bearings (Applicable if items supplied under this Contract contain ball or roller bearings. See Note 2)
- (o) 252.225-7032 Waiver of United Kingdom Levies (Applicable if this Contract exceeds \$1 million and is with a United Kingdom firm. See Note 2)

- (p) 252.225-7043 Anti-Terrorism/Force Protection for Defense Contractors Outside the United States (Applies where SELLER will be performing or traveling outside the United States under this Contract.)
- (q) 252.226-7001 Utilization of Indian Organizations, Indian-Owned Economic Enterprises and Native Hawaiian Small Business Concerns (Applicable if contract exceeds \$500,000)
- (r) 252.235-7003 Frequency Authorization (Applicable if this Contract requires developing, producing, constructing, testing, or operating a device requiring a frequency authorization. See Note 2)
- (u) 252.237-7023 Continuation of Essential Contractor Services (Applicable for essential Service contracts only)
- (v) 252.239-7016 Telecommunications Security Equipment, Devices, Techniques and Services (Applicable if contract secures telecommunications)
- (w) 252.246-7007 Contractor Counterfeit Electronic Part Detection and Avoidance System. (Applicable if Contract is subject to Cost Accounting Standards {CAS}).

Payments to Influence Certain Federal Transactions” ([52.203-12](#)).

- (2) *Prohibition.* The prohibition and exceptions contained in the FAR clause of this solicitation entitled “Limitation on Payments to Influence Certain Federal Transactions” ([52.203-12](#)) are hereby incorporated by reference in this provision.
- (3) *Certification.* SELLER certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on its behalf in connection with the awarding of this contract.
- (4) *Disclosure.* If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, the offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The offeror need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.

G. Certifications and Representations

1. The clauses listed below contain certifications and representations that are material representations of fact upon which Field will rely in making awards to CONTRACTOR. By submitting its written offer, providing oral offers or quotations at the request of Field, or accepting any Contract, CONTRACTOR certifies to the representations and certifications as set forth in each of the clauses listed below. These certifications shall apply whenever these terms and conditions are incorporated by reference in any Contract, agreement, other contractual document or any quotation, request for quotation (oral or written), or request for proposal or solicitation (oral or written), issued by Field. CONTRACTOR shall immediately notify Field of any change of status with regard to these certifications and representations.

2. The following clauses of the FAR are incorporated herein by reference, with the same force and effect as if they were given in full text, and are applicable to any order, agreement, or subcontract. In each clause incorporated below, substitute “FIELD” for “Government” and “Contracting Agency” and “FIELD Procurement Representative” for “Contracting Officer” throughout.

- (a) **FAR 52.203-11, “Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions”.** (Applicable to solicitations and contracts exceeding \$150,000.)

- (1) *Definitions.* As used in this provision—“Lobbying contact” has the meaning provided at 2 U.S.C. 1602(8). The terms “agency,” “influencing or attempting to influence,” “officer or employee of an agency,” “person,” “reasonable compensation,” and “regularly employed” are defined in the FAR clause of this solicitation entitled “Limitation on

- (5) *Penalty.* Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by [31 U.S.C. 1352](#). Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure required to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.
- (b) **The following FAR clause applies to this Contract if the value of this Contract exceeds \$5,000,000 and the period of performance is more than 120 days:**

(1) 52.203-13 Contractor Code of Business Ethics and Conduct

By signing a contract or performing against a contract in which FAR 52.203-13 is applicable:

The SELLER hereby certifies that they will comply with all elements of FAR 52.203-13 including timely disclosure, in writing, to the agency Office of the Inspector General (OIG), with a copy to the Contracting Officer, and the cognizant Field Procurement Representative whenever, in connection with the award, performance, or closeout of this contract or any subcontract there under, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed—

- (A) A violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity**

violations found in Title 18 of the United States Code; or

(B) A violation of the civil False Claims Act (31 U.S.C. 3729-3733).

The SELLER also certifies that, within 30 days of signing a contract or performing against a contract in which FAR 52.203-13 is applicable, they will establish a written code of business ethics and conduct and will make a copy of the code available to each employee engaged in performance of the contract.

- (c) FAR 52.203-14 Display of Hotline Posters (Applicable to contracts which exceed \$5,000,000)
- (d) FAR 52.209-5, Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters"
- (e) FAR 52.222-22, Previous Contracts and Compliance Reports
- (f) FAR 52.222-25, Affirmative Action Compliance

3. Conflict of Interest

To the best of the Offeror/SELLER's knowledge and belief, there is no actual or potential conflict of interest with respect to the performance of work under this contract or agreement; or, the Offeror/SELLER has notified Field in writing of such a conflict of interest and received written authorization from Field to continue in pursuit of a contract or agreement. If in the performance of a contract or agreement with Field the Offeror/SELLER becomes aware of an actual or potential conflict of interest, the Offeror/SELLER will immediately notify the Procurement Representative responsible for the contract or agreement in question.

4. Disputes

In accordance with the 2010 Department of Defense Appropriations Act, Public Law No. 111-118, Section 8116, SELLER certifies that it will not enter into or take any action to enforce arbitration agreements with any employee or independent contractor performing work related to subcontracts covered by these General Terms, for claims under Title VII of the 1964 Civil Rights Act or any tort related to or arising out of sexual assault or harassment, including assault and battery, intentional infliction of emotional distress, false imprisonment, or negligent hiring, supervision, or retention.(Effective June 17, 2010; Applicable to subcontracts in excess of \$1 million)

5. Anti-Corruption Compliance

SELLER agrees that neither it nor any related person shall, in the name of, on behalf of, or for the benefit of Field or any of its officers, directors or employees, offer, pay, promise to pay, or authorize the payment of any money, or offer, give, promise to give, or authorize the giving of anything of value to anyone while knowing or being aware of a high probability that all or a portion of such money or thing of value will be offered, given or promised, directly or indirectly to such person for the purposes of: (i) influencing any act or decision; (ii) inducing such person to use his or its influence with a third party thereof to affect or influence any act or decision of such third party, in order to assist the obtaining or retaining of business for or with, or directing business to Field or (iii) securing any improper advantage.