

ITT DEFENSE
STANDARD FIXED PRICE TERMS AND CONDITIONS OF PURCHASE

ITEM 1 (DEFENSE ARTICLES APPLICABLE TO ALL ORDERS)

1. CONTENTS AND ORDER OF PRECEDENCE: This Order, which includes the Purchase Order, these ITT Defense ("Buyer") Standard Fixed Price Terms and Conditions of Purchase ("Terms and Conditions"), which are incorporated by reference in the Purchase Order, and the Statement of Work, if any, integrates, merges, and supersedes any prior offers, negotiations, and agreements concerning the subject matter hereof and, together with any referenced certifications, certificates, exhibits, attachments or other documents, constitutes the entire agreement between the parties ("Order") and shall govern the performance and/or delivery of items and/or services provided pursuant to the Order ("Items" and/or "Services"). These Terms and Conditions consist of one or more of the following items: ITEM 1—Articles 1 through 51, and ITEM 2—a list of clauses from the Federal Acquisition Regulation (FAR), Defense FAR Supplement (DFARS), and National Aeronautics Space Agency (NASA) Supplement (NFS). Articles 1 through 51 in ITEM 1, including any referenced certifications, exhibits, attachments or other documents apply to this Order. If this Order is placed under Buyer's Federal, Defense or NASA contract or subcontract ("Government Contract"), then the clauses contained in ITEM 2, including any referenced certifications, certificates, exhibits, attachments or other documents also apply, as applicable, to this Order. The provisions of this Order shall be construed and interpreted as consistent whenever possible. Any conflicts in this Order shall be resolved in accordance with the following descending order of precedence (i) the Purchase Order; (ii) these Terms and Conditions (which are incorporated by reference in the Purchase Order); and (iii) the Statement of Work. These Terms and Conditions shall be construed and interpreted as consistent whenever possible. In the event of a conflict in the articles contained in ITEM 1 and applicable clauses contained in ITEM 2, the applicable clauses in ITEM 2 shall control to the extent necessary for Buyer to comply with Buyer's Government Contract.

2. ACCEPTANCE OF THIS ORDER: The Purchase Order Acceptance Copy must be signed and returned by Seller within five (5) days of receipt by Seller if this Order is DX rated, otherwise within ten (10) days after receipt. Any of the following acts by Seller shall constitute acceptance of this Order:

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

Any additional or different terms proposed by Seller, including any contained in Seller's acknowledgment form, are rejected unless expressly agreed to in writing by an authorized representative of Buyer's Procurement Department.

3-6. RESERVED.

7. APPLICABLE LAW AND DISPUTES: Any dispute over any question of fact or law arising under this Order shall be governed by the laws of the State of Indiana, except that any clause in ITEM 2 of this Order (i.e., FAR, DFARS, NFS or other U.S. Government contract clauses and certifications) shall be construed and interpreted according to the federal common law of government contracts as enunciated and applied by federal judicial bodies, boards of contract appeals, and quasi-judicial agencies of the Federal government.

Seller consents to personal jurisdiction in Indiana and any litigation under this Order, if commenced by Seller, must be brought exclusively in a Court of competent jurisdiction in the State of Indiana, except as otherwise provided by any applicable conflicts of laws provisions. The parties hereby mutually agree to waive their respective rights to trial by jury. Pending the resolution of any dispute, Seller shall proceed as directed by Buyer in writing.

Any dispute arising under or related to this Order, which Buyer could include in a claim or other demand under the "Disputes" clause of its Government (or other customer) contract, shall be resolved at Buyer's discretion. In the event Buyer prosecutes a claim under its Government (or other customer) contract that includes Seller's claim, Seller shall fully cooperate with Buyer, pay proportional costs in prosecuting the claim and hereby agrees to be bound by the resulting decision. Buyer's entire liability to Seller with respect to any matter prosecuted under the "Disputes" clause of its Government (or other customer) contract shall be limited to the recovery obtained against the Government (or other customer) for Seller's claims, less markups specifically allowed Buyer.

Subject to any specific provisions 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. 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 without consideration of Indiana's conflict of laws rules.

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

8. 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.

9. ASSIGNMENT AND SUBCONTRACTING: Neither this Order itself, nor any interest or obligation hereunder, shall be assigned or transferred by Seller without the prior written consent of Buyer. Seller shall not subcontract the furnishing of any of the complete or substantially complete Items required by this Order, without the prior written approval of Buyer. Seller shall remain primarily responsible for the performance of obligations which it subcontracts hereunder and shall reasonably supervise such work. Buyer may assign this Order to any affiliated company, any successor interest, or Buyer's customer. Buyer may terminate this Order, in whole or in part, upon written notice to the Seller, if control of the Seller changes. A change of control includes: (a) the sale, lease or exchange of a substantial portion of the Seller's assets used for the production of the Items; (b) the sale or exchange of a controlling interest in the shares of the Seller; or (c) the execution of a voting or other Order of control. The Seller will provide the Buyer with written notice of change of control within 10 days after the change of control has become effective. The Buyer will have 60 days from the date the written notice from the Seller is received by Buyer within which to notify the Seller of its decision to terminate this Order and the effective date of the termination, which will be no sooner than 30 days after the date the written notice of termination is effective according to the terms of notice.

10. AUDIT, INSPECTION OF RECORDS: Buyer, and Buyer's customer, including the Federal government, if Buyer agrees with the customer's request to audit Seller's records or Buyer is otherwise obligated to grant the customer access to records, shall have the right to audit Seller's records: (a) in the event of cancellation, termination, or default; (b) in connection with any equitable adjustment request; (c) with respect to any Order for which the price is based on time and cost of material or where the terms of this Order or law and regulation otherwise entitle Buyer and/or its customer to audit Seller's records; (d) in connection with internal investigations of alleged violations of law including the U.S. Foreign Corrupt Practices Act; or (e) any type of litigation. Seller shall keep reasonably detailed records of direct labor costs, material costs, and all other costs of the performance of this Order for a period of no less than three (3) years from the date of final payment or termination of any warranty or Item support under this Order, whichever is later.

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

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

13. CALENDAR DAYS: 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.

14. CHANGES: Buyer may at any time, by written instructions from Buyer's Procurement Department to Seller, 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:

- (a) drawings, designs or specifications;
- (b) method of shipment or packing;
- (c) time and/or place of delivery; and
- (d) the quantity of Items ordered.

During performance of this Order, Seller shall not make any changes in the design of Items or manufacturing of Items to be furnished by Seller under this Order without advance notification to and written approval of the Buyer. Items that have changed without prior notification and consent shall be nonconforming Items under this Order.

If any change under this Article causes an increase or decrease in the price due under the Order or the time required to perform, an equitable adjustment to the Order price and delivery schedule shall be made and the Order modified in writing accordingly, provided however, that any equitable adjustment in price to which Seller may be entitled as a result of an increase in the quantity of Items ordered shall not exceed the unit price established for such Items herein. Any claim hereunder must be asserted by Seller in writing within fifteen (15) days from the date the change is ordered.

Consistent with Article 7, if this is a Government Order issued under Buyer's Government Contract, for any claims seeking an equitable adjustment or other relief in excess of \$100,000 submitted by Seller under this Order, Seller shall submit to Buyer a signed certificate that states as follows, substituting Seller's legal name where indicated:

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

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

If a final decision is issued by a Contracting Officer for Buyer's Government Contract and the decision relates in any way to this Order or to the Items or Services ordered hereunder, said decision, if binding upon the Buyer, shall also be binding upon Buyer and Seller with respect to this Order.

If Buyer appeals or commences an action regarding such decision, any decision upon such appeal or action, if binding upon the Buyer under Buyer's Government Contract, shall be binding upon the Buyer and Seller as it relates to this Order. Consistent with Article 7, if any appeal is taken or an action commenced by Buyer, Seller shall assist Buyer in its prosecution thereof in every reasonable manner.

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.

Whether made pursuant to this Article, or by mutual Order, changes shall not be binding upon Buyer, except when confirmed in writing by a member of Buyer's Procurement Department. 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 an authorized representative of Buyer's Procurement Department and which expressly states that it constitutes an amendment to this Order.

15. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS: Seller agrees to comply with all applicable laws, orders, rules, regulations, and ordinances. Seller shall procure all licenses/permits, pay all fees, and other required charges and shall comply with all applicable guidelines and directives of any local, state and/or federal government authority.

- (a) Buyer may proceed as provided for in subparagraph (c) below if, as a result of any violation of applicable laws, orders, rules, regulations, or ordinances by Seller, its officers, employees, agents, suppliers, or subcontractors at any tier:
 - (1) Buyer's contract price or fee is reduced;
 - (2) Buyer's costs are determined to be unallowable;
 - (3) any fines, penalties, withholdings, or interest are assessed on Buyer; or
 - (4) Buyer incurs any other costs or damages.
- (b) Buyer may also proceed as provided for in subparagraph (c) below where submission of cost or pricing data is required or requested at any time prior to or during performance of this contract, if Seller or its lower-tier subcontractors:
 - (1) submit and/or certify cost or pricing data that are defective;
 - (2) with notice of applicable cutoff dates and upon Buyer's request to provide cost or pricing data, submit cost or pricing data, whether certified or not certified at the time of submission, as a prospective subcontractor, and any such data are defective as of the applicable cutoff date on Buyer's Certificate of Current Cost or Pricing Data;
 - (3) claim an exception to a requirement to submit cost or pricing data and such exception is invalid;

- (4) furnish data of any description that is inaccurate; or,
- (5) if the U.S. Government alleges any of the foregoing, and, as a result:
 - (i) Buyer's contract price or fee is reduced;
 - (ii) Buyer's costs are determined to be unallowable;
 - (iii) any fines, penalties, withholdings, or interest are assessed on Buyer; or
 - (iv) Buyer incurs any other costs or damage.
- (c) Upon the occurrence of any of the circumstances in subparagraphs (a) and (b) above, other than withholdings identified in paragraphs (b)(5)(ii) and (iii), Buyer may make a reduction of corresponding amounts (in whole or in part) in the price of this Contract 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 contract.

16. COMPLIANCE WITH THE U.S. FOREIGN CORRUPT PRACTICES ACT:

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

17. 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 or representative of Seller to any officer or employee of Buyer's customer or 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.

18. CONFIDENTIAL RELATIONSHIP: Seller shall treat as proprietary and confidential all specifications, drawings, blueprints, nomenclature, samples, models and other information supplied by Buyer. Unless the written consent of Buyer is first obtained, Seller shall not in any manner advertise, publish, or release for publication any statement mentioning Buyer or the fact that Seller has furnished or contracted to furnish to Buyer items and/or services required by this Order, or quote the opinion of any employees of Buyer. Seller shall not disclose any information relating to this Order to any person not authorized by Buyer to receive it. Seller shall use the information supplied by Buyer only to accomplish work covered by this Order and for no other purpose. Upon completion, all information is to be returned to Buyer upon Buyer's written request. In the event of a conflict between the terms of this Article and the terms and conditions of any separately executed and applicable Mutual Non-Disclosure Agreement between Buyer and Seller, the terms and conditions of the Mutual Non-Disclosure Agreement shall control.

19. DEFAULT:

- (a) Buyer may terminate this Order for default in whole or in part by written notice to Seller if:
 - (1) Seller shall become insolvent or make a general assignment for the benefit of creditors; or
 - (2) a petition under any bankruptcy act or similar statute is filed by or against Seller and not vacated within ten (10) days after it is filed; or
 - (3) Seller fails to make delivery of the Items or to perform the Services within the time specified in this Order;
 - (4) Seller fails to perform any of the other obligations of this Order, or fails to make progress, so as to endanger performance of this Order, in accordance with its terms;
 - (5) Seller's financial condition shall endanger completion of performance, (provided with respect to (4) and (5) Seller shall fail 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); 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.
- (b) In the event Buyer terminates this Order for default in whole or in part as provided in paragraph (a) of this Article, Buyer may

procure, upon such terms and in such manner as Buyer deems appropriate, Items or Services similar to those canceled, and Seller shall be liable to Buyer for any excess and incidental costs of similarly procured Items or Services. Seller shall continue the performance of this Order to the extent not canceled under the provisions of this Article.

- (c) After receipt of notice of such termination for default, and upon Buyer's direction, Seller shall transfer title and deliver to Buyer satisfactorily completed work and such work in process as directed by Buyer. Payment for completed Items delivered to and accepted by Buyer shall be at the price set out in the Order. Buyer may withhold from Seller moneys otherwise due Seller for completed Items and/or materials in such amounts as Buyer determines necessary to protect Buyer against loss due to outstanding liens or claims against said Items or materials.
- (d) If, after notice of termination for default of this Order, it is determined that Seller was not in default under the provisions of this Article, the rights and obligations of the parties shall be the same as if the notice of termination for default had been issued pursuant to Article 37 hereof, "Termination for Convenience".
- (e) If this Order is issued under Buyer's Government Contract, and Buyer notifies Seller in writing that the termination was directed by the U.S. Government, termination will be in accordance with Section 52.249-2 of the Federal Acquisition Regulation, which is incorporated by reference in ITEM 2 of these Terms and Conditions.

20. 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 embargoes. When any delays in delivery occur, Seller shall immediately give notice thereof to Buyer.
- (b) Whenever an actual or potential labor dispute is delaying or threatening to delay the performance of this Order, Seller shall immediately give notice thereof to Buyer.
- (c) Notwithstanding the above, if such delays extend for more than sixty (60) days from the delivery or performance date or threatens Buyer's delivery commitments under its Government (or other customer) 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.

21. DELIVERY: Except for shipments covered by Article 21(e), 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. Buyer may return early deliveries at Seller's expense. 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 the Seller at Seller's sole expense. Seller has the right to deem overshipments uneconomical to return relieving Buyer of responsibility to return and pay for overshipment.
- (c)
 - (1) Late deliveries may be refused by Buyer.
 - (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. Buyer's right hereunder to recover liquidated damages for Seller's delayed performance is not an exclusive remedy for delay and shall be in addition to all other rights and remedies that Buyer has under this Order and at law and equity. The liquidated penalty amount shall be subtracted from the line item value. If the delivery delay was as a result of any action taken on the part of the Buyer, the Seller shall notify the Buyer in writing at the time the delay occurs for Buyer Order to waive penalty assessment. Failure to notify Buyer will result in penalty. Seller may not refuse shipment of said line item to avoid late delivery penalty.

- (3) If Buyer agrees to accept deliveries after the delivery date has passed, Buyer shall have the right to direct Seller to make shipments by the most expeditious means and the total cost of such expedited shipment and handling shall be borne by Seller.
- (4) Acceptance of late deliveries shall not be deemed a waiver of Buyer's right to hold Seller liable for any loss or damage resulting therefrom, nor shall it act as a modification of Seller's obligation to make future deliveries in accordance with the delivery schedule set forth in this Order.
- (5) Seller at the request of the 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 deliveries in accordance with the Order requirements and schedule.
- (d) If the requirements of Buyer's customers or market, economic or other conditions require changes in delivery schedules, Buyer may change the rate of scheduled shipments or direct temporary suspension of scheduled shipments without entitling Seller to a price adjustment or other compensation.
- (e) The Seller may be required or have the option to provide self-managed and Seller-owned inventory to be used at Buyer locations. The Buyer may provide Seller with periodic inventory demands by location or grant Seller's approved employees weekly on-site access to manage inventory level at Buyer locations to allow Seller the ability to restock inventory levels to the previously-negotiated inventory levels.
- (f) RESERVED.

22. 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.

23. GENERAL RELATIONSHIP: Seller's relationship to Buyer in the performance of this Order is that of an Independent Contractor. Neither Seller nor any of the persons utilized by Seller to furnish materials or perform work or Services under this Order are employees of Buyer. Seller shall, at its own expense, comply with all applicable laws and regulations and assume all liabilities and obligations imposed by such laws and regulations with respect to this Order.

24. QUALITY CONTROL/INSPECTION/REJECTION/ACCEPTANCE:

- (a) Seller shall establish and maintain a quality management system acceptable to Buyer for the Items purchased under this Order. Seller shall permit Buyer to review procedures, practices, processes and related documents to determine such acceptability. Seller shall have a continuing obligation to promptly notify Buyer of any violation or deviation from Seller's approved inspection/quality control system and to advise Buyer of the quantity and specific identity of any Items delivered to Buyer during the period of any such violation or deviation. Seller will maintain the accepted quality management system throughout the duration of the Order. If Seller is cited for compliance violations, Seller shall within 48 hours so notify the Buyer and within 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 the Buyer at its discretion may terminate this Order. Seller will notify Buyer of any significant changes that affect quality within 24 hours of that change. These changes include – but are not limited to – change in key management or personnel, change in source of supply of key materials, change in address or site configuration.
- (b) Buyer and/or its customer, to the extent practicable at all times and places including the period of manufacture, may inspect and test material, work in process, and supplies. This Order grants Buyer and its customer the right to so inspect and test, but not the obligation. Seller retains the obligation to ensure proper inspection and testing.
- (c) Buyer shall have the right to reject any Items or lots of Items which it determines are defective in material or workmanship or otherwise not in conformity with the requirements of this Order and to require their correction or replacement. Rejected Items shall be removed or if permitted or required by Buyer, corrected in place by and at the expense of Seller promptly after notice, and shall not thereafter be tendered for acceptance unless the former rejection or requirement of correction is disclosed. If Seller fails to promptly replace, correct, or remove such Items or lots of Items which are required to be removed, Buyer may:
 - (1) replace or correct such Items and charge to Seller the cost occasioned Buyer thereby;

- (2) pay for such Items at a reduced price which is equitable under the circumstances; or
 - (3) cancel this Order for default as provided in Article 19 entitled "Default"; or
 - (4) exercise any other applicable rights or remedies.
- (d) If Buyer rejects any Items as non-conforming, Buyer may, at its option, (a) reduce the quantities of Items ordered under this Order by the quantity of non-conforming Items – in this case, however, the original quantities will be maintained for seller performance and scoring, (b) require Seller to replace the non-conforming Items, and/or (c) exercise any other applicable rights or remedies. If Seller fails to inform Buyer in writing of the manner in which Seller desires that Buyer dispose of non-conforming Items within forty-eight (48) hours of notice of Buyer's rejection of non-conforming Items (or such shorter period as is reasonable under the circumstances), Buyer will be entitled to dispose of the non-conforming Items without liability to Seller, provided, however, that in any event Buyer may elect to arrange for the shipment of any non-conforming Items back to Seller at Seller's expense. Seller will bear all risk of loss with respect to all non-conforming Items and will promptly pay or reimburse all costs incurred by Buyer to return, store or dispose any non-conforming Items. Buyer's payment for any non-conforming payments 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. In the event Buyer decides for any reason to accept non conforming items, any costs incurred by Buyer testing, evaluating and manufacturing, relating to the design changes to any of the Items, shall be responsibility of the Seller, and Seller may not pass along any costs in relation to the design change(s).
- (e) If any inspection or test is made by Buyer and/or its customer on the premises of Seller or a lower tier subcontractor, Seller without additional charge shall provide all reasonable facilities and assistance for the safety and convenience of Buyer and/or customer inspectors in the performance of their duties. In the case of rejection, Buyer shall not be liable for any reduction in value of samples used in connection with such inspection or test. All inspections and tests by Buyer and/or its customer shall be performed in such a manner as not to unduly delay the work. Buyer reserves the right to charge to Seller any additional cost of inspection and test when Items are not ready at the time such inspection and test was requested by Seller or when reinspection or retest is necessitated by prior rejection. Unless otherwise provided herein, final inspection and acceptance or rejection of Items shall be made as promptly as practicable after delivery to Buyer's facility. Buyer's failure to inspect or accept or reject Items in a timely manner shall neither relieve Seller from full compliance with all requirements of this Order, nor impose responsibility on Buyer therefor.
- (f) Seller shall provide and maintain an inspection system acceptable to Buyer covering the Items hereunder. Records of all test and inspection work by Seller shall be kept complete and available to Buyer and/or its customer for one (1) year following completion of this Order, or for six (6) years following completion of an order pursuant to a U.S. Government contract or subcontract.
- (g) Inspection and test by Buyer or its customer of any Items or lots thereof does not relieve Seller from any responsibility regarding defects or other failures to meet Order requirements which may be discovered prior to acceptance or during the warranty period set forth in Article 40.
- (h) If, prior to or at the time of final acceptance or within the warranty period, it was known or should be known by Buyer that said Items would not or did not conform to the requirements of this Order, final acceptance shall not be construed as a waiver of any rights Buyer may have with respect to the Items purchased under this Order, notwithstanding the failure of Buyer to timely inform Seller of such nonconformance.
- (i) Final acceptance by Buyer of the Items provided hereunder shall take place only after complete delivery of all Items in accordance with the delivery schedule specified herein or later agreed upon by the parties in writing and after final inspection of those Items by Buyer and Buyer's customer. Final acceptance shall be contingent upon agreement by Buyer and the Buyer's customer that the Items 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 delivered hereunder shall not limit or affect the warranty or indemnity granted by Seller hereunder.

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

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

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

26. INVOICING AND PAYMENT: A separate invoice shall be issued for each shipment and properly identify the ITT Corporation Purchase Order Number and Line number; ITT Corporation Part Number (as referenced on PO) and Unit Price and Total Price. Unless otherwise specified in this Order, an invoice shall not be issued prior to shipment of items and payment shall not be made prior to receipt of items and correct invoice. Discount periods will be computed from the date of receipt of correct invoice to the date ITT Corporation check is issued. Unless otherwise provided, terms of payment shall be specified on the face of the Purchase Order. Each payment made shall be subject to reduction to the extent of amounts which are found by Buyer or Seller not to have been properly payable, and shall also be subject to reduction for overpayments. Seller shall promptly notify Buyer of any such overpayments found by Seller. Buyer, and any affiliate of Buyer, may withhold, deduct and/or setoff all money due, or which may become due, from Buyer or any affiliate of Buyer, arising out of Seller's performance under this Order or any other transaction Buyer and its affiliates may have with Seller.

27. 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 an authorized representative of Buyer's Procurement Department and delivered by Buyer to Seller. Modifications of this Order shall be handled pursuant to Article 14 "Changes". 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.

28. NO WAIVER OF CONDITIONS: Buyer's failure to insist upon strict compliance with any aspect of this Order shall not be deemed a waiver of any of Buyer's rights hereunder, and waiver of a right under this Order shall not constitute a waiver of any other right, waiver or default under this Order.

29. OFFSET/COUNTERTRADE CREDIT: In connection with the sale of Buyer's items to certain foreign government customers, Buyer may incur direct and/or indirect offset/countertrade obligations. Seller hereby exclusively grants to Buyer all offset or countertrade credit that may be obtained from this Order, or from Seller's placement of its purchase orders and subcontracts, for Buyer's use on the offset/countertrade program of Buyer's choice. Buyer retains the right to assign any such offset or countertrade credits to third parties. Seller shall include this clause, for the benefit of Buyer, in all lower-tier purchase orders and subcontracts awarded in the performance of this Order. Seller shall maintain a record of its purchases under this Order or subcontract and Buyer reserves the right to review such record not more often than every six (6) months to determine

offset availability. This Article 29 shall survive two (2) years beyond the completion of this Order.

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

31. PATENT/INTELLECTUAL PROPERTY INDEMNITY BY SELLER: If the detailed design of any Item purchased hereunder is not supplied by Buyer, Seller shall defend and hold harmless Buyer, its customers and those for whom Buyer may act as agent, from all loss or damage of any kind (including all costs and expenses including attorneys' fees) arising out of any and all allegations, actions, proceedings or awards for infringement, misappropriation or wrongful use of any Items or Services (including but not limited to software), the results of such Services, or any other items or processes, patent, copyright, trademark, trade secret or other proprietary or intellectual property rights in connection with any Items, software or data furnished hereunder, whether such are provided alone or in combination with other Items, software or processes. Seller hereby agrees to defend any and all such actions, at Seller's expense, if requested to do so by Buyer.

Seller and Buyer agree to notify each other as soon as they become aware of a challenge of infringement or wrongful use in connection with any such Items, software or data furnished hereunder. Buyer shall have the right to reasonably reject counsel selected by Seller and the right to reject any settlement that would negatively impact Buyer as determined solely by Buyer. Buyer shall have the right to participate with Seller in determining the strategy to defend any such suit or action.

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

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

32. RIGHTS IN DATA AND INVENTIONS:

- (a) All specifications, information, data, drawings, software and other items supplied to Buyer by Seller shall be disclosed to Buyer on a non-proprietary basis and may be used and/or disclosed by Buyer without restriction, unless:
 - (1) otherwise required by the U.S. Government Regulations referred to below, or
 - (2) the Buyer has executed a separate agreement restricting the use and disclosure of such information, data, software and the like.
- (b) Unless otherwise expressly agreed in writing to the contrary and subject to this Article 32 (d) below, all specifications, information, data, drawings, software and other items which are:
 - (1) supplied to Seller by Buyer or
 - (2) obtained or developed by Seller in the performance of this Order or paid for by Buyer shall be proprietary to Buyer, shall be used only for purposes of providing items or services to Buyer pursuant to this Order, and shall not be disclosed to any third party without Buyer's express written consent. All such items supplied by Buyer or obtained by Seller in performance of this Order or paid for by Buyer shall be promptly provided to Buyer on request or upon completion of this Order.
- (c) Subject to this Article 32 (d) below, any invention or intellectual property first made or conceived by Seller in the performance of this Order or which is derived from or based on information supplied by Buyer shall be considered to be the property of Buyer; and Seller shall execute such documents necessary to perfect Buyer's title thereto. Subject to this Article 32 (d) below, any work performed pursuant to this Order which

includes any copyright interest shall be considered a "work made for hire."

- (d) Applicable Government Procurement Regulations incorporated into this Order shall, when applicable, take precedence over any conflicting provision of this Article 32 to the extent that such Regulations so require. The incorporation by reference of such U.S. Government Regulations dealing with subcontractors rights in Technical Data, subject inventions, copyrights, software and similar intellectual property are not intended to, and shall not, unless otherwise required by applicable law, obviate or modify any greater rights which Seller may have previously granted to Buyer pursuant to prior agreements between the parties.

33. ITEM SUPPORT:

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

34. 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.

35. SUSPENSION OF WORK:

- (a) Buyer shall have the right to direct Seller in writing to suspend all or any part of the work for a period of time not to exceed ninety (90) days unless extended by Buyer's customer.
- (b) If work is suspended, an adjustment shall be made for any increase in the time and the cost (exclusive of profit) of performing this Order necessarily caused by such suspension, and this Order shall 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 the termination of the suspension. 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.

36. 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 ordered hereunder by any government, unless Seller obtains any applicable exemptions. Seller represents that its price does not include any taxes, impositions, charges or exactions for which it has obtained a valid exemption certificate or other evidence of exemption. Any taxes included in this Order shall be itemized separately in Seller's invoice.

37. TERMINATION FOR CONVENIENCE:

- (a) Buyer shall have the right to terminate this Order in whole or in part at any time, and from time to time, by written notice effective upon receipt by Seller, even though Seller is not in breach of any obligation hereunder. Upon receipt of notice of termination, Seller shall immediately discontinue performance and shall comply with Buyer's instructions concerning disposition of completed and partially completed Items, work in progress and materials acquired pursuant to this Order. In the event of such termination, Seller shall be paid an amount in settlement to be mutually agreed upon by the parties which shall cover Seller's reasonable costs of performance incurred prior to termination in connection with the Items for which this Order is terminated plus a reasonable profit based upon such costs. This amount will not include costs which reasonably could have been avoided. In no event, however, shall the said payment exceed the price specified herein for such Items.

Seller shall advise Buyer, in writing, of Seller's claim, if any, for termination costs within thirty (30) days after receipt of the notice of termination. Seller shall provide to Buyer any assistance necessary to pursue Buyer's recovery of Seller's termination settlement amount with Buyer's customer, including certification of settlement proposals and claims if necessary and support in negotiation, litigation and settlement. Termination in accordance with this Article shall not affect Buyer's obligation to pay for Items accepted by Buyer prior to such termination, which payment shall be made according to the unit or other prices included in the Order.

- (b) Nothing contained in paragraph (a) hereof shall in any way limit or affect Buyer's right to terminate this Order for Seller's default.
- (c) If this Order is issued under a U.S. Government contract and Buyer notifies Seller in writing that the termination was directed by the U.S. Government, the termination settlement will be in accordance with Section 52.249-2 of the Federal Acquisition Regulations which is incorporated by reference as set forth in ITEM 2 of these Terms and Conditions.

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

39. TOOLS, MATERIALS AND INFORMATION: Refer also to Articles 12 (Right to Use Information) and 32 (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. Seller shall maintain a current inventory list of the foregoing. Any such item or any materials or any engineering data or other technical or proprietary information related thereto furnished by or paid for by Buyer shall: (a) become and shall be identified as property of Buyer, (b) be held by Seller on consignment at Seller's risk, (c) be used exclusively in the production for Buyer of Items 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.

40. WARRANTY:

- (a) Seller warrants that all the Items furnished hereunder shall:
 - (1) conform fully with all requirements of this Order;
 - (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; and
 - (4) be free from defects in material, workmanship, design and fabrication.
- (b) Except for latent defects, Seller guarantees all 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, the 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 Item(s) and an equitable adjustment will be made in the Order price, or
 - (2) reject such defective Item(s) and require Seller to promptly remove and repair or replace such defective Item(s) at Seller's sole expense (including shipping costs), with risk of loss and damage for the rejected, corrected or replacement Item(s) while in transit borne by Seller; or
 - (3) correct or replace such defective Item(s) with similar Item(s) and recover the total cost (including shipping costs) thereof from Seller. 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 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 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 herein includes parts, components, assemblies, materials, equipment, services and data required under this Order.
- (g) Any Item(s) corrected or replaced pursuant to this Article shall be subject to all provisions of this Article to the same extent as Item(s) initially delivered.
- (h) The aforesaid warranties shall survive acceptance and payment and shall run to Buyer, its customers and the users of these 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 40 warranty conditions upon Buyer's request.

41. FOREIGN TRANSACTIONS AND EXPORT CONTROL: Seller, at its sole expense, agrees to comply with all laws and regulations of the United States and other countries related to exports and imports including obtaining all required authorizations from the U.S. or other applicable governments. Seller shall immediately notify the Buyer's Procurement 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, Default.

- (a) **ITAR CONTROLLED HARDWARE, TECHNICAL DATA OR SERVICES.** Seller is hereby notified that certain hardware (e.g., finished goods, parts, components, accessories, attachments, samples, prototypes, test equipment, firmware, software, or systems), technical data (e.g., technical specifications, drawings, photos, instructions, or other technical information in any form), and/or services provided by Buyer for purposes of this Order are or may be subject to the International Traffic in Arms Regulations (ITAR) (22 C.F.R. §§ 120-130). In addition, Seller is hereby notified that hardware, technical data, and/or services sold by Seller that are designed, developed, modified, adapted or configured from hardware, technical data, and/or services provided by Buyer are or may also be subject to the ITAR. The ITAR is accessible at the U.S. Department of State, Directorate of Defense Trade Controls (DDTC) website at <http://www.pmddtc.state.gov>.
 - (1) If the Seller is a manufacturer and/or exports Defense articles or Defense services, Seller represents that it is registered with the U.S. Department of State and will maintain said registration in order to be eligible to engage in the manufacture and/or export of defense articles and defense services as required by the ITAR (22 C.F.R. § 122.1(a)).
 - (2) The ITAR restricts access to Buyer's and Seller's controlled hardware, technical data, or services to U.S. citizens and permanent residents (i.e., U.S. person) only. Seller is advised and acknowledges that controlled hardware, technical data, and/or services shall not be exported out of the U.S. or transferred to a non-US person inside the U.S. without prior authorization of the U.S. Government. Seller will be informed by Buyer of the export control status of all hardware, technical data, and/or services provided to Seller by Buyer. Hardware and technical data will be clearly marked as export controlled or not. Seller agrees that it will not transfer or provide access to any ITAR-controlled hardware, technical data, or services provided by Buyer to non-US persons employed by or associated with Seller, whether

- located in the U.S. or not, without U.S. Government authorization and permission from Buyer.
- (3) If this Order is in an amount of \$500,000 or more, or if this Order is amended so that the total amount of the Order is in an amount of \$500,000 or more, Seller shall, within fifteen (15) days of the date of this Order, or such amendment, inform Buyer in a written statement if Seller has paid, offered or agreed to pay, in respect of the sale for which the items will be used, political contributions or fees or commissions, within the meaning of 22 C.F.R. Part 130. Seller's statement shall conform to the requirements of 22 C.F.R. Part 130. Failure of the Seller to provide Buyer with such a statement within the specified time-frame, or any extension thereof, shall constitute a certification by Seller that it has not paid, offered, or agreed to pay such political contributions, fees or commissions.
- (4) Seller shall indemnify Buyer and be solely responsible for all losses, costs, claims, causes of action, damages, liabilities and expense, including attorneys' fees, all expense of litigation and/or settlement, and court costs, arising from any act or omission of Seller, its officers, employees, agents, suppliers, or subcontractors at any tier, in the performance of any of its obligations under this clause.
- (b) **GOODS, TECHNOLOGY, SOFTWARE SUBJECT TO U.S. EXPORT ADMINISTRATION REGULATIONS.** Seller is hereby notified that certain hardware (e.g., finished goods, parts, components, accessories, attachments, samples, prototypes, test equipment, firmware, software, or systems), technology (e.g., technical specifications, drawings, photos, instructions, or other technical information in any form), and/or software provided by Buyer for purposes of this Order are or may be subject to the Export Administration Regulations (EAR). In addition, Seller is hereby notified that the hardware, technology, and/or software sold by Seller that is derived from hardware, technology, and/or software provided by Buyer are or may also be subject to the EAR. The EAR is accessible at the U.S. Department of Commerce, Bureau of Industry and Security website at <http://www.bis.doc.gov>.
- (1) The EAR restricts access to Buyer's and Seller's controlled hardware, technology, or software to U.S. citizens and permanent residents only. Seller is advised and acknowledges that controlled hardware, technology, and/or software may not be exported out of the U.S. or to a non-US person inside the U.S. without prior authorization of the U.S. Government. Seller will be informed by Buyer of the export control status of all hardware, technology, and/or software provided to Seller by Buyer. Hardware and technology will be clearly marked as export controlled or not. Seller agrees that it will not transfer or provide access to any EAR-controlled hardware, technology or software provided by Buyer to non-US persons employed by or associated with Seller, whether located in the U.S. or not, without U.S. Government authorization and permission from Buyer.
- (2) Seller agrees that it will inform Buyer of the export control status of all hardware, technical data, technology, software, and/or services sold to Buyer under this Order to include clearly marking all hardware and/or technical data.
- (3) Where Seller is a signatory under a Buyer export authorization, Seller shall provide prompt notification to the Buyer's Procurement Representative in the event of changed circumstances including, but not limited to, ineligibility, a violation or potential violation of applicable export regulations that could affect the Seller's performance under this Contract.
- (4) Seller shall indemnify Buyer and be solely responsible for all losses, costs, claims, causes of action, damages, liabilities and expense, including attorneys' fees, all expense of litigation and/or settlement, and court costs, arising from any act or omission of Seller, its officers, employees, agents, suppliers, or subcontractors at any tier, in the performance of any of its obligations under this clause.
- (c) **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.
- (d) **IMPORTS APPEARING ON THE U.S. MUNITIONS IMPORT LIST.** If performance under this Purchase Order requires the 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>.
- (e) **ITEMS REQUIRING APPROVED BATF PERMITS.** If performance under this Purchase Order requires the 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 ODTIC may also be required pursuant to the relevant requirements of the ITAR.
- (f) **RECORD KEEPING.** Seller agrees to bear sole responsibility for all regulatory record keeping associated with the use of licenses and license exceptions/exemptions. Without limiting the foregoing, Seller agrees that it will not transfer any export controlled item, data, or services, to include transfer to foreign persons employed by or associated with, or under contract to Seller or Seller's lower-tier suppliers, without the authority of an export license, agreement, or applicable exemption or exception. Seller agrees to notify Buyer if any deliverable under this Contract is restricted by export control laws or regulations. Seller shall immediately notify the Buyer's Procurement 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.
- 42. 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 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.dss.mil/isp/odaa/nispom06.html>.
- 43. CUSTOMS:**
- (a) **Credits and Refunds.** Transferable credits or benefits associated with or arising from Items purchased under this Order, including trade credits, export credits or rights to the refund of duties, taxes or fees, belong to Buyer. Seller will, at its expense, provide all information necessary (including written documentation and electronic transaction records in Buyer-approved formats) to permit Buyer to receive these benefits, credits, or rights. Seller will furthermore, at its expense, provide Buyer will all information, documentation, and electronic transaction records relating to the items necessary for Buyer to fulfill any customs-related obligations, origin marking or labeling requirements and certification or local content reporting requirements, to enable Buyer to claim preferential duty treatment for Items eligible under applicable trade preference regimes, and to make all arrangements that are necessary for the Items to be covered by any duty deferral or free trade zone programs(s) of the country of import. Seller will, at its expense, provide Buyer or Buyer's nominated service provider with export documentation to enable the Items to be exported, and obtain all export licenses or authorizations necessary for the export of the Items unless otherwise indicated in this Order, in which event Seller will provide all information as may be necessary to enable Buyer to obtain such licenses or authorization(s).
- (b) **Customs-Trade Partnership Against Terrorism.** To the extent any item covered by this Order is to be imported into the United States of America, if requested by Buyer, Seller shall comply

with all applicable recommendations or requirements of the Bureau of Customs and Border Protection's Customs-Trade Partnership Against Terrorism ("C-TPAT") initiative. Upon request, Seller shall certify in writing its compliance with all applicable recommendations or requirements of the C-TPAT initiative.

44. NEW MATERIAL:

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

45. PROHIBITED SOFTWARE:

- (a) This clause only applies to Services/Items that includes the delivery of software.
- (b) As used herein, "Prohibited License" means the General Public License ("GPL") or Lesser/Library GPL, the Artistic License (e.g., PERL), the Mozilla Public License, the Netscape Public License, the Sun Community Source License, the Sun Industry Standards License, or variations thereof, including without limitation licenses referred to as "GPL-Compatible, Free Software License."
- (c) As used herein, "Prohibited Software" means software that incorporates or embeds software in, or integrates software in connection with, as part of, bundled with, or alongside any
 - (1) open source, publicly available, or "free" software, library or documentation, or
 - (2) software that is licensed under a Prohibited License, or
 - (3) software provided under a license that
 - (i) subjects the delivered software to any Prohibited License, or
 - (ii) requires the delivered software to be licensed for the purpose of making derivative works or be redistributable at no charge, or
 - (iii) obligates Buyer to sell, loan, distribute, disclose or otherwise make available or accessible to any third party
 - i. the delivered software, or any portion thereof, in object code and/or source code formats, or
 - ii. any Items incorporating the delivered software, or any portion thereof, in object code and/or source code formats.
- (d) Unless Seller has obtained Buyer's prior written consent, which Buyer may withhold in its sole discretion, Seller shall not use in connection with this Order, or deliver to Buyer, any Prohibited Software.
- (e) Seller agrees to defend, indemnify, and hold harmless Buyer, its customers and suppliers from and against any claims, damages, losses, costs, and expenses, including reasonable attorneys' fees, to the extent Seller caused Buyer's use or the delivery of Prohibited Software in connection with this Order.

46. COMPLIANCE WITH HAZARDOUS SUBSTANCES AND WASTE RECYCLING LAWS:

- (a) Seller warrants that the sale, resale, supply, export or delivery of any Item (whether used as a component or otherwise) by Buyer in any market will not violate any law or regulation in any jurisdiction world-wide on the use of hazardous substances, or the recycling or treatment of waste equipment including, but not limited to the laws implementing the European Directive (2002/95/EC) on the Restriction on the Use of Certain Hazardous Substances in Electronic and Electrical Equipment "RoHS Directive" and European Directive (2002/96/EC) on Waste Electrical and Electronic Equipment ("WEEE Directive"), the U.S. Environmental Protection Act ("EPA") and the European regulation EC 1907/2006 on the Registration, Evaluation, Authorization and Restriction of Chemicals (REACH) (together, "Environmental Laws").

- (b) Seller hereby represents and warrants that the Items contain no asbestos containing materials or mercury.
- (c) Buyer may sell products containing Seller's Items in California, and Seller shall disclose in writing to Buyer all materials and components in the Items, and the amounts therein, that require labeling under California Proposition 65 or the laws of other states.
- (d) As soon as Seller is aware of any non-compliance but in no event any later than prior to the delivery of any Item, Seller shall identify in writing to Buyer (e.g., in a Material Safety Data Sheet):
 - (1) any and all components and materials contained in the Items that may require recycling or other treatment during the product lifecycle under the laws and regulations implementing the Environmental Laws, and
 - (2) the location of any component or material that is hazardous within the meaning of the WEEE Directive or other Environmental Laws, and any Item that is required by the Environmental Laws to be marked shall be so marked by Seller.
- (e) Seller shall, upon request, provide Buyer with written confirmation of its compliance with the Environmental Laws, in the form, manner and within the timeframe reasonably directed by Buyer, including but not limited to, evidence that Supplier has registered, notified and communicated supplied materials for Buyer's intended use as required by REACH.
- (f) Buyer shall have the right to audit the Seller's compliance with the Environmental Laws. Seller shall provide Buyer with all such information and documentation that it may reasonably require (including access to its staff and facilities) to enable Buyer to satisfy itself of the Seller's compliance with all Environmental Laws and that the warranty contained in subsection (a) above remains true and accurate.
- (g) Seller shall bear all costs and expenses, including those related to recycling or taking back the Items, arising out of or related to either Buyer or Seller complying with the Environmental Laws and placing the Items on, or their importation into, any jurisdiction worldwide.
- (h) Seller shall indemnify and hold Buyer harmless from any cost, expense, liability or damage suffered by Buyer by reason of any breach or alleged breach of any of the Environmental Laws arising out of or related to the Items.

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

- (a) Seller represents and warrants that the following are not prohibited by any laws or regulations of any country or other jurisdiction in the world:
 - (1) the Items, and substances contained therein including parts, subparts, components, and chemical constituents;
 - (2) substances used in the manufacture of the Items, including parts, subparts, components and chemical constituents;
 - (3) use of the Items in the manner intended, and
 - (4) substances required for the maintenance of the Items provided under this Order.
- (b) Laws and regulations referenced in subparagraph (a) above include, without limitation, those of:
 - (1) The United States through a Department or Agency such as the Environmental Protection Agency acting under the Toxic Substances Control Act (15 U.S.C., § 2601 et seq.) or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. § 121 et seq.) or any other statute or regulation;
 - (2) Individual states in the U.S.;
 - (3) The European Community through European Communion Council Directive of 27 July 1976 "on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and uses of certain dangerous substances and preparations" (76/769/EEC) and other Directives and Regulations
 - (4) The European Community through EC 1907/2006 Registration, Evaluation, Authorization and Restriction of Chemicals (REACH);
 - (5) Nations in the European Community that have implemented legislation concerning 76/769/EEC and other Directives; and
 - (6) Nations that are not in the European Community but which implement legislation similar to 76/769/EEC and other Directives.
- (c) Seller represents and warrants that:

- (1) each chemical substance, including chemicals substances contained in the Items delivered under this Order, is on the Inventory List (see 40 C.F.R. § 710) published by the Environmental Protection Agency pursuant to the Toxic Substances Control Act (15 U.S.C. § 2601 et seq.) at the time of such delivery;
- (2) delivery of any Items, including their chemical constituents, under this Order shall be made in accordance with transportation, labeling and other requirements enacted by any government or regulatory body anywhere in the world, and
- (3) the Items, including their chemical constituents, shall meet the environmental, health and safety requirements of all jurisdictions, including under any applicable exclusions, exceptions or waivers, such that Buyer may freely transport, export, import, use, maintain, market and sell the Item or article throughout the world.
- (d) Where there are regulations or restrictions pertaining to the Item, Seller shall:
 - (1) inform Buyer of such regulations or restrictions in writing, specifying the jurisdictions in which the Item is regulated,
 - (2) provide Buyer with a written copy of the appropriate compliance recommendations on handling or use, and
 - (3) obtain Buyer's written approval for the delivery of any Items that are regulated or restricted.
- (e) Seller certifies, based on its qualitative determination, that the Items or parts it manufactures for this Order do not contain asbestos or polychlorinated biphenyls (PCBs), nor were they manufactured with chlorofluorocarbons (CFCs), and Seller will not introduce into the Items or any replacements any materials that contain asbestos or PCBs, nor manufacture the Items with CFCs.
- (f) Seller shall establish a process to assure that current governmental and safety constraints on restricted, toxic and hazardous substances/materials are in compliance, relative to the purchased Items as stated on purchase orders.
- (g) If Seller provides Items under this Order which:
 - (1) contain a toxic or hazardous substance identified under Occupational Safety and Health Standards, 29 C.F.R. § 1919.20 or 29 C.F.R. § 1910.1000 et seq. (Subpart Z), or
 - (2) contain a carcinogenic substance,
 - (3) the use of which is regulated or restricted under 76/769/EC or other European Community Directive, or
 - (4) contain SVHCs or materials requiring registration, notification or communication under REACH,
 Seller shall provide Buyer with a Material Safety Data Sheet (meeting the requirements of 29 C.F.R. § 1910.1200(g), the latest revision of Federal Standard No 313 and REACH), that shall include information on the presence of all chemical substances in the Item, including concentrations of chemicals equal to or greater than 0.1% and any other information required by any applicable law. This information shall be provided with the initial shipment of the Item. When a change in formulations occurs Seller shall label each container of such Items in a clearly legible and conspicuous form, stating that a toxic or hazardous substance is contained therein, and providing Buyer with a copy of any existing or new restrictions on handling or use. Material Safety Data Sheets for all other materials shall be retained by Seller and made available to Buyer upon request.
- (h) Notwithstanding anything in this Order to the contrary, for Items supplied to Buyer's Defense unit as a defense contractor, nothing herein shall require or permit Seller to change in any manner the lead composition of any Item without the prior written approval of Buyer.

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

49. HAZARDOUS CONDITIONS/INDEMNIFICATION:

- (a) Seller shall comply with applicable occupational, health and safety laws and regulations, including any specifications included by Buyer as part of this Order. Seller shall comply with the appropriate revision and section of MIL-STD-882 or

- ITT equivalent, which Buyer will make available upon Seller's request. In the event that Seller or Buyer learns of any issue relating to a potential safety hazard or unsafe condition in any of the Items, materials or Services produced hereunder, or is advised of such by competent authorities of any government having jurisdiction over such Items, materials or Services, it will immediately advise the other party by the most expeditious means of communication.
- (b) Expenses associated with the correction of a safety hazard or unsafe condition, caused by or associated with Items or Services produced by Seller, including reasonable attorneys' fees, court costs, expenses, and the like, if they become necessary, shall be solely Seller's responsibility, subject only to any other arrangement negotiated by the parties in light of the particular facts and circumstances then existing.
- (c) Seller agrees to protect, defend, hold harmless, indemnify, and reimburse Buyer, its officers, directors, agents, employees, distributors, dealers, affiliates, insurers, and customers during the term of this Order and any time thereafter for any and all costs and expenses (including, but not limited to, reasonable attorneys' fees and expenses, overhead, settlements, judgments, and court costs) arising out of or related to any liability, demand, lawsuit, or claim alleging or asserting in whole or in part:
 - (1) any Failure of Items or Services to comply with applicable specifications, warranties, and certifications under this Order;
 - (2) the negligence or fault of Seller in design, testing, development, manufacture, or otherwise with respect to Items or parts thereof;
 - (3) claims, demands, or lawsuits that, with respect to the Items or any parts thereof allege product liability, strict product liability, or any variation thereof;
 - (4) any claim based on the death or bodily injury to any person, destruction or damage to property, or contamination of the environment and any associated clean up costs;
 - (5) Seller failing to satisfy the Internal Revenue Service's guidelines for an independent contractor; or
 - (6) any claim based on the negligence, omissions or willful misconduct of Seller or any of Seller's agents, subcontractors, employees or anyone acting on behalf of Seller.
- (d) Buyer agrees to protect, defend, hold harmless, and indemnify in a similar fashion from and against any liability, claim, demands, or cost or expense that is the result of design or other special requirements specified by Buyer and actually incorporated in the Items or Services over the written objection of Seller. Buyer also agrees to protect, defend, hold harmless, and indemnify Seller in a similar fashion from and against any liability, claim, demands, or cost or expense arising out of death of or injury to any person or damage to tangible property which is the result of the negligence or other fault of Buyer.
- (e) Should Buyer's use, or use by its distributors, subcontractors or customers, of any Items or Services purchased from Seller be enjoined, be threatened by injunction, or be the subject of any legal proceeding, Seller shall, at its sole cost and expense, either:
 - (1) substitute fully equivalent non-infringing Items or Services;
 - (2) modify the Items or Services so that they no longer infringe but remain fully equivalent in functionality;
 - (3) obtain for Buyer, its distributors, subcontractors or customers the right to continue using the Items or Services; or,
 - (4) if none of the foregoing is possible, refund all amounts paid for the infringing Items or Services.
- (f) Seller shall without limitation as to time, defend, indemnify and hold Buyer harmless from all liens which may be asserted against property covered hereunder, including without limitation mechanic's liens or claims arising under Worker's Compensation or Occupational Disease laws and from all claims for injury to persons or property arising out of or related to such property unless the same are caused solely and directly by Buyer's negligence.

50. LIMITATION OF LIABILITY: Except for any indemnification provided herein, in no event shall either party, their employees, agents or representatives be liable to the other party relating to this Order or for any acts or omissions of either party in connection with this Order for any indirect, special, punitive, incidental or consequential damages of any kind, however caused, or any claims or demands against either party by any other

entity, whether such remedy is sought in contract, tort (including without limitation negligence), strict liability or otherwise.

51. 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. 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 ITT Corporation Points of Contact (POCs). ITT Corporation's Code of Conduct contains listings of its POCs and is available on <http://www.itt.com/codeofconduct>. Seller's employees are required to conduct company business with integrity and maintain a high standard of conduct in all business-related activities. Seller shall not participate in any personal business, or investment activity that may be defined as a conflict of interest, whether real or perceived.
- (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.

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

When the items and/or services furnished are for use in connection with a U.S. Government prime contract or subcontract, in addition to the provisions of Item-1, the following provisions shall apply as required by the terms of the prime contract or by operation of law or regulation. Buyer is flowing down to Seller certain provisions and clauses from the Federal Acquisition Regulation (FAR), Department of Defense FAR Supplement (DFARS), or NASA FAR Supplement (NFS) (all herein "FAR Clauses"). These FAR Clauses are hereby incorporated by reference, as applicable, and in the manner set forth below (including any parenthetical information and Numbered Notes). FAR Clauses inapplicable to the performance of this Order under Buyer's Government Contract are self-deleting. If the date and/or substance of a FAR Clause is different than the date or substance of the clause incorporated in Buyer's Government Contract, then the date and/or substance of the clause incorporated in Buyer's Government Contract shall apply instead. The parties hereby agree to amend this ITEM 2 to include any additional or revised FAR Clauses incorporated in Buyer's Government Contract that are applicable to the performance of this Order. The parties shall handle any such amendments of this ITEM 2 under Article 14 "Changes" of this Order. Seller shall flow down to its lower-tier subcontractors all applicable FAR 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 FAR Clauses shall apply to Seller in such manner as is necessary to reflect the position of Seller as a subcontractor to Buyer, and to insure Seller's obligations to Buyer and to the Government, and to enable Buyer to meet its contract obligations to the Federal Government. Consequently, in interpreting and applying FAR 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 purchasing 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.

FAR 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 FAR 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 FAR 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 FAR 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

When the items and/or services furnished are for use in connection with a U.S. Government prime contract or subcontract, in addition to the provisions of Item-1, the following provisions shall apply as required by the terms of the prime contract or by operation of law or regulation. The following Federal Acquisition Regulation (FAR) Clauses are hereby incorporated by reference, as applicable, and made a part of this Order.

A. ALL ORDERS INCLUDE:

52.202-1 Definitions [JUL 2004]

52.203-3	Gratuities [APR 1984]
52.203-5	Covenant Against Contingent Fees [APR 1984]
52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity [JAN 1997]
52.203-10	Price or Fee Adjustment for Illegal or Improper Activity [JAN 1997]
52.204-2	Security Requirements (if access to classified information is involved) [AUG 1996]
52.204-9	Personal Identity Verification of Contractor Personnel (if work requires routine access to a Federally-controlled facility and/or to a Federal information system) [SEP 2007]
52.207-4	Economic Purchase Quantity – Supplies [AUG 1987]
52.208-8	Required Sources for Helium and Helium Usage Data (applies to orders involving major helium requirement) [APR 2002]
52.209-6	Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Para. (b) only) (Seller shall furnish to Buyer the information required by Para. (b)) [SEP 2006]
52.211-5	Material Requirements [AUG 2000]
52.211-15	Defense Priority and Allocation Requirements (applies to order that contain a contract number and DPAS rating) [APR 2008]
52.215-6	Place of Performance [OCT 1997]
52.215-16	Facilities Capital Cost of Money (applies to orders that meet FAR 15.408(h)) [JUN 2003]
52.215-17	Waiver of Facilities Capital Cost of Money (applies to orders that meet FAR 15.408(i)) [OCT 1997]
52.217-9	Option to Extend the Term of the Contract [MAR 2000]
52.219-8	Utilization of Small Business Concerns [MAY 2004]
52.219-22	Small Disadvantaged Business Status [OCT 1999]
52.222-1	Notice to the Government of Labor Disputes [FEB 1997]
52.222-3	Convict Labor [JUN 2003]
52.222-6	Davis-Bacon Act [JUL 2005]
52.222-18	Certification Regarding Knowledge of Child Labor for Listed End Products [FEB 2001]
52.222-41	Service Contract Act of 1965 (applies to orders subject to the Act) [NOV 2007]
52.222-50	Combating Trafficking in Persons [AUG 2007]
52.222-54	Employment Eligibility Verification (applies if this order (1) is for commercial or noncommercial services (except for commercial services that are part of the purchase of a COTS item (or an item that would be a COTS item, but for minor modifications), performed by the COTS provider, and are normally provided for that COTS item) or construction; (2) has a value of more than \$3,000; and (3) includes work performed in the United States) (applies to contracts executed on or after January 15, 2009) [JAN 2009]
52.223-3	Hazardous Material Identification and Material Safety Data (Seller shall furnish the information required by Para. (b) to Buyer) [JAN 1997]
52.223-5	Pollution Prevention and Right-To-Know Information [AUG 2003]
52.223-6	Drug-Free Workplace [MAY 2001]
52.223-7	Notice of Radioactive Materials (applies to orders meeting the criteria of Para. (a)) (Insert "60" in the first line of Para. (a)) [JAN 1997]
52.223-11	Ozone-Depleting Substances [MAR 2001]
52.224-2	Privacy Act [APR 1984]
52.225-1	Buy American Act – Supplies [JUN 2003]
52.225-2	Buy American Act Certificate [JUN 2003]
52.225-3	Buy American Act – Free Trade Agreements – Israel Trade Act [AUG 2007]
52.225-4	Buy American Act - Free Trade Agreements – Israel Trade Act Certificate [AUG 2007]
52.225-5	Trade Agreements [NOV 2007]
52.225-6	Trade Agreements Certificate [JAN 2005]
52.225-7	Waiver of Buy American Act for Civil Aircraft and Related Articles [FEB 2000]
52.225-8	Duty-Free Entry (applies to orders over \$10,000) (Change "20 calendar days" to "30 calendar days" in Para. (c) (1), and "10 calendar days" to "20 calendar days" in Para. (c) (2)) [FEB 2000]
52.225-9	Buy American Act – Construction Materials [JAN 2005]
52.225-10	Notice of Buy American Act Requirement – Construction Materials [MAY 2002]
52.225-11	Buy American Act – Construction Materials Under Trade Agreements [AUG 2007]
52.225-13	Restrictions on Certain Foreign Purchases [JUN 2008]

52.225-19	Contractor Personnel in a Designated Operational Area or Supporting a Diplomatic or Consular Mission Outside the United States (applies if this contract requires Seller to perform outside the United States (1) in a designated operational area during contingency operations or humanitarian or peacekeeping operations or (2) when supporting a diplomatic or consular mission that has been designated by the Department of State as a danger pay post or that the Contracting Officer has indicated is subject to this clause) [MAR 2008]	52.244-6	Subcontracts for Commercial Items [DEC 2008] (applies to contracts executed on or after December 12, 2008)
52.226-1	Utilization of Indian Organizations and Indian-Owned Economic Enterprises [JUN 2000]	52.245-1Alt. 1	Government Property (Note 4) [JUN 2007]
52.226-2	Historically Black College or University and Minority Institution Representation [OCT 2008]	52.245-9	Use and Charges [JUN 2007]
52.227-6	Royalty Information [APR 1984]	52.246-2	Inspection of Supplies – Fixed Price (this clause applies in lieu of the Inspection, Acceptance and Rejection clause in the body of the Terms and Conditions) (Note 2) [AUG 1996]
52.227-9	Refund of Royalties (if the amount of royalties reported during negotiation is over \$250) [APR 1984]	52.246-4	Inspection of Services – Fixed Price (Note 2) [AUG 1996]
52.227-10	Filing of Patent Applications – Classified Subject Matter [DEC 2007]	52.246-17	Warranty of Supplies of a Noncomplex Nature [JUN 2003]
52.227-11	Patent Rights – Ownership by the Contractor [DEC 2007]	52.246-18	Warranty of Supplies of a Complex Nature [MAY 2001]
52.227-13	Patent Rights – Ownership by the Government [DEC 2007]	52.246-20	Warranty of Services [MAY 2001]
52.227-14	Rights in Data – General (“Government” does not change and the term “Contractor” changes to “Seller” rather than “Buyer” in Para. (b) Allocation of Rights, and “Contracting Officer” does not change in the first sentence of Para. (c) (1) and Para. (e)) [DEC 2007]	52.246-24	Limitation of Liability – High Value Items (applicable only to those items identified in the Order as being subject to this clause, and only if the Government Contracting Officer has given advance written approval to include this clause) [FEB 1997]
52.227-15	Representation of Limited Rights Data and Restricted Rights Computer Software [DEC 2007]	52.246-25	Limitation of Liability – Services (applicable only to those items identified in the Order as being subject to this clause, and only if the Government Contracting Officer has given advance written approval to include this clause) [FEB 1997]
52.227-16	Additional Data Requirements [JUN 1987]	52.247-63	Preference for U.S.-Flag Air Carriers (applies to orders involving international air transportation) [JUN 2003]
52.227-17	Rights in Data – Special Works [DEC 2007]	52.247-64	Preference for Privately Owned U.S.-Flag Commercial Vessels [FEB 2006]
52.227-18	Rights in Data – Existing Works [DEC 2007]	52.247-68	Report of Shipment (REPSHIP) [FEB 2006]
52.227-19	Commercial Computer Software License [DEC 2007]	52.249-2	Termination for Convenience of the Government (Fixed-Price) (Change “120 days” to “60 days” in Para. (c); change “1 year” to “6 months” in Para. (e); change “90 days” to “45 days” in Para. 1) (Note 8) [MAY 2004]
52.227-20	Rights in Data – SBIR Program [DEC 2007]	52.250-1	Indemnification Under Public Law 85-804 (applies only if Buyer obtains advance written approval by Buyer’s Government Contracting Officer) [APR 1984]
52.227-21	Technical Data Declaration, Revision, and Withholding of Payment – Major Systems [DEC 2007]		
52.227-22	Major System – Minimum Rights [JUN 1987]		
52.227-23	Rights to Proposal Data (Technical) [JUN 1987]		
52.228-3	Worker’s Compensation Insurance (Defense Base Act) [APR 1984]		
52.228-4	Workers’ Compensation and War-Hazard Insurance Overseas [APR 1984]		
52.228-5	Insurance – Work on a Government Installation (kinds and amounts, if applicable, set forth in order) [JAN 1997]		
52.229-2	North Carolina State and Local Sales and Use Tax [APR 1984]		
52.229-3	Federal, State and Local Taxes (“Order date” means the effective date of this Order or modification thereto) [APR 2003]		
52.229-4	Federal, State and Local Taxes (State and Local Adjustments) [APR 2003]		
52.229-6	Taxes – Foreign Fixed Price Contracts [JUN 2003]		
52.229-7	Taxes – Fixed Price Contracts with Foreign Governments [JAN 1991]		
52.229-8	Taxes – Foreign Cost Reimbursement Contracts [MAR 1990]		
52.229-10	State of New Mexico Gross Receipts and Compensating Tax [APR 2003]		
52.232-1	Payments [APR 1984]		
52.232-9	Limitation on Withholding of Payments [APR 1984]		
52.232-11	Extras [APR 1984]		
52.232-16	Progress Payments (“Government” does not change in Paras. (d) and (g)) [APR 2003]		
52.232-17	Interest [JUN 1996]		
52.233-3	Protest After Award [AUG 1996] and Alternate I [JUN 1985]		
52.234-1	Industrial Resources Developed Under Defense Production Act Title III [DEC 1994]		
52.236-13	Accident Prevention [NOV 1991]		
52.237-2	Protection of Government Buildings, Equipment, and Vegetation [APR 1984]		
52.237-8	Restriction on Severance Payments to Foreign Nationals [AUG 2003]		
52.242-2	Production Progress Reports [APR 1991]		
52.242-13	Bankruptcy [JUL 1995]		
52.242-15	Stop-Work Order (“90 days” is modified to read “180 days” in Para. (a)) [AUG 1989]		
52.242-17	Government Delay of Work (“Contracting Officer” in Para. (a) includes Buyer. “Government” does not change) [APR 1984]		
52.243-6	Change Order Accounting [APR 1984]		
52.244-2	Subcontracts [JUN 2007]		
52.244-6	Subcontracts for Commercial Items [MAR 2007] (applies to contracts executed prior to December 12, 2008)		
		B. ORDERS EXPECTED TO EXCEED \$10,000 ALSO INCLUDE:	
		52.222-20	Walsh-Healey Public Contracts Act [DEC 1996]
		52.222-21	Prohibition of Segregated Facilities [FEB 1999]
		52.222-25	Affirmative Action Compliance [APR 1984]
		52.222-26	Equal Opportunity (exclude Para. (c)) [MAR 2007]
		52.222-29	Notification of Visa Denial [JUN 2003]
		52.222-36	Affirmative Action for Workers With Disabilities (Para.(b) (2) is revised to delete “provided by or through the Contracting Officer” and insert “provided upon request by the Contracting Officer through the Buyer.”) [JUN 1998]
		C. ORDERS EXPECTED TO EXCEED \$100,000 AND/OR THE SIMPLIFIED ACQUISITION THRESHOLD ALSO INCLUDE:	
		52.203-2	Certificate of Independent Price Determination [APR 1985]
		52.203-6	Restrictions on Subcontractor Sales to the Government [SEP 2006]
		52.203-7	Anti-Kickback Procedures (exclude paragraph (c)(1)) (In paragraph (c)(4) delete “[T]he contracting officer may” and replace with “[T]o the extent the Contracting Officer has made an offset in Buyer’s Government Contract or directed the Buyer to withhold an amount, the Buyer may ...”) [JUL 1995]
		52.203-12	Limitation on Payments to Influence Certain Federal Transactions (certifications and disclosures shall be submitted to Buyer) [SEP 2007]
		52.215-2	Audit and Records – Negotiation (applies to orders over the simplified acquisition threshold in FAR Part 2) [JUN 1999]
		52.215-14	Integrity of Unit Prices (applies to orders over the simplified acquisition threshold in FAR Part 2) (exclude Paragraph (b), but include Paragraph (b) in Alternate I) [OCT 1997]
		52.222-4	Contract Work Hours and Safety Standards Act – Overtime Compensation (applies to orders over the simplified acquisition threshold in FAR Part 2) (In addition, Buyer may withhold or recover from the Seller any sums the Contracting Officer withholds or recovers from the Buyer because of a violation of this provision by Seller or Seller’s subcontractor) [JUL 2005]
		52.222-35	Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (unless exempted by rules, regulations or orders of the Secretary of Labor) [SEP 2006] and Alternate I [DEC 2001]
		52.222-37	Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era and Other Eligible Veterans (unless exempted by rules, regulations or orders of the Secretary of Labor) [SEP 2006]

- 52.222-39 Notification of Employee Rights Concerning Payment of Union Dues or Fees (applies to orders over the simplified acquisition threshold in FAR Part 2) [DEC 2004]
- 52.223-14 Toxic Chemical Release Reporting (applies to orders over the simplified acquisition threshold in FAR Part 2 (including all options)) (exclude Para. (e)) [AUG 2003]
- 52.227-1 Authorization and Consent [DEC 2007] include Alternate I [APR 1984] or II [APR 1984] to the extent included in Buyer's Government Contract (applies to orders expected to exceed the simplified acquisition threshold in FAR Part 2)
- 52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement (applies to orders expected to exceed the simplified acquisition threshold in FAR Part 2) [DEC 2007]
- 52.227-3 Patent Indemnity [APR 1984] and Alternate III [JUL 1995] (applies to orders over the simplified acquisition threshold in FAR Part 2) (Note 2)
- 52.237-10 Identification of Uncompensated Overtime (applies to orders for professional or technical services exceeding the simplified acquisition threshold) [OCT 1997]
- 52.244-5 Competition in Subcontracting (applies to orders over the simplified acquisition threshold in FAR Part 2) [DEC 1996]
- 52.246-16 Responsibility for Supplies (applies to orders expected to exceed the simplified acquisition threshold in FAR Part 2) (Note 6) [APR 1984]
- 52.246-23 Limitation of Liability (applies to orders expected to exceed the simplified acquisition threshold in FAR Part 2) [FEB 1997]
- 52.248-1 Value Engineering (Note 7) [FEB 2000]

D. ORDERS EXPECTED TO EXCEED \$550,000 ALSO INCLUDE:

- 52.219-9 Small Business Subcontracting Plan [APR 2008]

E. ORDERS EXPECTED TO EXCEED \$650,000 AND/OR THE APPLICABLE COST OR PRICING DATA THRESHOLD ALSO INCLUDE:

- 52.214-26 Audit and Records – Sealed Bidding (applies to orders expected to exceed the threshold for submitting cost and pricing data in FAR 15.403-4(a)(1)) [OCT 1997]
- 52.214-27 Price Reduction for Defective Cost or Pricing Data – Modifications – Sealed Bidding (applies to orders expected to exceed the threshold for submitting cost and pricing data in FAR 15.403-4(a)(1)) (Note 1) [OCT 1997]
- 52.214-28 Subcontractor Cost or Pricing Data – Modifications – Sealed Bidding (applies to orders over the threshold for submitting cost and pricing data in FAR 15.403-4(a)(1)) [OCT 1997]
- 52.215-15 Pension Adjustments and Asset Reversions (applies to orders that meet FAR 15.408(g)) [OCT 2004]
- 52.215-18 Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other than Pensions (applies to orders that meet FAR 15.408(j)) [JUL 2005]
- 52.215-19 Notification of Ownership Changes (applies to orders that meet FAR 15.408(k)) [OCT 1997]
- 52.219-25 Small Disadvantaged Business Participation Program – Disadvantaged Status and Reporting [APR 2008]

F. ORDERS UNLESS OTHERWISE EXEMPT ALSO INCLUDE:

- 52.215-10 Price Reduction for Defective Cost or Pricing Data (Seller shall provide Buyer or, upon Buyer's request, the Government with cost or pricing data and execute a Certificate of Current Cost or Pricing Data in substantially the form prescribed in FAR 15.406-2) (Note 1) [OCT 1997]
- 52.215-11 Price Reduction for Defective Cost or Pricing Data – Modifications (Seller shall provide Buyer or, upon Buyer's request, the Government with cost or pricing data and execute a Certificate of Current Cost or Pricing Data in substantially the form prescribed in FAR 15.406-2) (Note 1) [OCT 1997]
- 52.215-12 Subcontractor Cost or Pricing Data (applies to orders over the threshold for submitting cost and pricing data in FAR 15.403-4) [OCT 1997]
- 52.215-13 Subcontractor Cost or Pricing Data – Modifications (applies to orders over the threshold for submitting cost and pricing data in FAR 15.403-4) [OCT 1997]

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

- 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) [DEC 2008] (applies to contracts executed on or after December 12, 2008)

- 52.203-14 Display of Hotline Poster(s) (applies unless this contract is for the acquisition of a commercial item or is performed entirely outside the United States) [DEC 2007]
- 52.222-24 Preaward On-Site Equal Opportunity Compliance Evaluation (applies to Orders over \$10,000,000 if Seller is a first-tier subcontractor) [FEB 1999]

H. CERTIFICATIONS: Seller, by accepting this Order, hereby certifies compliance with the following clauses and that it is, therefore, eligible for award of this Order under Buyer's Government Contract.

- 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (applies to orders expected to exceed \$100,000) [SEP 2007]
- 52.209-5 Certification Regarding Responsibility Matters (applies to orders expected to exceed the simplified acquisition threshold) [MAY 2008]
- 52.222-22 Previous Contracts and Compliance Reports (applies to orders expected to exceed \$10,000) [FEB 1999]
- 52.222-25 Affirmative Action Compliance [APR 1984]
- 52.223-13 Certification of Toxic Chemical Release Reporting (applies to orders expected to exceed \$100,000) [AUG 2003]

I. ADDITIONAL CLAUSES:

- 52.230-1 Cost Accounting Standards Notices and Certification [OCT 2008]
- 52.230-2 Cost Accounting Standards (applies to orders over \$650,000) (exclude Para. (b)) (see Para. (d) for effective date of clause) (Note 10) [OCT 2008]
- 52.230-3 Disclosure and Consistency of Cost Accounting Practices (applies to orders over \$650,000) (exclude Para. (b)) (Note 10) [OCT 2008]
- 52.230-4 Disclosure and Consistency of Cost Accounting Practices for Contracts Awarded to Foreign Concerns (Note 10) [OCT 2008]
- 52.230-5 Cost Accounting Standards – Educational Institution (applies to orders over \$650,000) (exclude Para. (b)) (Note 10) [OCT 2008]
- 52.230-6 Administration of Cost Accounting Standards (applies to orders over \$650,000) (Note 10) [MAR 2008]

2. DFARS CLAUSES

When the items and/or services furnished are for use in connection with a U.S. Government prime contract or subcontract, in addition to the provisions of Item-1, the following provisions shall apply as required by the terms of the prime contract or by operation of law or regulation. The following Defense FAR Supplement (DFARS) clauses, in addition to or in lieu of the FAR clauses set forth above, are hereby incorporated by reference, as applicable, and made a part of this Order.

A. ALL ORDERS INCLUDE:

- 252.204-7000 Disclosure of Information [DEC 1991]
- 252.204-7003 Control of Government Personnel Work Product [APR 1992]
- 252.204-7008 Requirements for Contracts Involving Export-Controlled Items (applies if this contract is expected to involve access to or generation of export-controlled items) [JUL 2008]
- 252.204-7009 Requirements Regarding Potential Access to Export-Controlled Items (applies if the parties do not expect to generate or need access to export-controlled items) [JUL 2008]
- 252.208-7000 Intent to Furnish Precious Metals as Government-Furnished Material [DEC 1991]
- 252.209-7001 Disclosure of Ownership or Control by the Government of a Terrorist Country [OCT 2006]
- 252.209-7002 Disclosure of Ownership or Control by a Foreign Government [JUN 2005]
- 252.209-7004 Subcontracting With Firms That Are Owned or Controlled by the Government of a Terrorist Country [DEC 2006]
- 252.211-7003 Item Identification and Valuation (include if Para. (c) (1) of this clause in Buyer's Government Contract applies) [AUG 2008]
- 252.211-7006 Radio Frequency Identification [FEB 2007]
- 252.211-7007 Item Unique Identification of Government Property (applies if this contract requires Government property in Seller's possession to contain unique item identification; "Government" does not change) [SEP 2007]
- 252.215-7000 Pricing of Adjustments [DEC 1991]
- 252.215-7004 Excessive Pass-Through Charges (applies unless this subcontract is a fixed price contract (with or without economic price adjustment) awarded on the basis of adequate price competition or a fixed price contract (with or

	without economic price adjustment) for acquisition of a commercial item) [MAY 2008]		operations; or other military operations or exercises designated by the Combatant Commander) [MAR 2008]
252.217-7026	Identification of Sources of Supply [NOV 1995]	252.225-7042	Authorization to Perform [APR 2003]
252.219-7004	Small Business Subcontracting Plan (Test Program) [APR 2007]	252.225-7043	Antiterrorism/Force Protection Policy for Defense Contractors Outside the United States (applies to orders inasmuch as all the terms and conditions apply to both Buyer and Seller unless the Seller is (1) a foreign government; (2) a representative of a foreign government; or (3) a foreign corporation wholly owned by a foreign government) [MAR 2006]
252.222-7000	Restrictions on Employment of Personnel (applies if noncontiguous state is identified in Buyer's Government Contract) [MAR 2000]	252.227-7013	Rights in Technical Data – Noncommercial Items (applies when technical data from the subcontractor is delivered to the Government by the prime contractor; deleted from (b) (1) (vi) "[T]o the Contractor" and from (b) (1) (ix) "contract or" and "thereunder"; add "[B]uyer or" before "Government" in (c) and (i); change the second and third occurrences of "Contracting Officer" to "Government" in (e) (4); add "[A]nd the Government" after "parties" in (h) (1); change in (h) (2) "sixty (60)" to "fifty (50)" days; no substitutions for "Government" have been made) [NOV 1995]
252.222-7002	Compliance With Local Labor Laws (Overseas) [JUN 1997]	252.227-7014	Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation (applicable when software and software documentation from the subcontractor are delivered to the Government by the prime contractor; delete from (b) (1) (iii) "[T]o the Contractor" and from (b) (1) (vi) "contract or" and "thereunder"; add "[B]uyer or" before "Government" in (i); change the second and third occurrences of "Contracting Officer" to "Government" in (e) (4); add "[A]nd the Government" after "parties" in (h) (1); change in (h) (2) "sixty (60)" to "fifty (50)" days; no substitutions for "Government" have been made) [JUN 1995]
252.223-7001	Hazard Warning Labels [DEC 1991]	252.227-7015	Technical Data – Commercial Items (in lieu of DFARS 252.227-7013 for Commercial Items; applicable only when commercial item (as defined in the FAR) technical data from the subcontractor is delivered to the Government by the prime contractor; no substitutions for "Contracting Officer" or "Government" have been made) [NOV 1995]
252.223-7002	Safety Precautions for Ammunition and Explosives [MAY 1994]	252.227-7016	Rights in Bid or Proposal Information (applies when Clause 252.227-7013 is used; no substitutions for "Government" or "Contracting Officer" are made) [JUN 1995]
252.223-7003	Change in Place of Performance – Ammunition and Explosives [DEC 1991]	252.227-7017	Identification and Assertion of Use, Release, or Disclosure Restrictions [JUN 1995]
252.223-7006	Prohibition on Storage and Disposal of Toxic and Hazardous Materials (applies to orders which require, may require or permit Seller to dispose of non-DoD owned toxic or hazardous materials as defined in this clause) [APR 1993]	252.227-7018	Rights in Noncommercial Technical Data and Computer Software – Small Business Innovation Research (SBIR) Program [JUN 1995]
252.223-7007	Safeguarding Sensitive Conventional Arms, Ammunition, and Explosives [SEP 1999]	252.227-7019	Validation of Asserted Restrictions - Computer Software (applies when clause 252.227-7014 is used; substitute "Buyer's Purchasing Representative" for "Contracting Officer" in paragraph (b), otherwise no substitutions are made for "Contracting Officer" or "Government"; in paragraphs (f)(5) and (f)(6), substitute "the prime contract" for "this contract") [JUN 1995]
252.225-7000	Buy American Act and Balance of Payments Program Certificate [JUN 2005]	252.227-7020	Rights in Special Works [JUN 1995]
252.225-7001	Buy American Act and Balance of Payments Program ("Government" is not changed in this clause) [JUN 2005]	252.227-7021	Rights in Data – Existing Works [MAR 1979]
252.225-7002	Qualifying Country Sources as Subcontractors [APR 2003]	252.227-7022	Government Rights (Unlimited) [MAR 1979]
252.225-7003	Report of Intended Performance Outside the United States and Canada – Submission with Offer [DEC 2006]	252.227-7023	Drawings and Other Data To Become Property of the Government [MAR 1979]
252.225-7007	Communist Chinese Military Companies (applies to items covered by the United States Munitions List) [SEP 2006]	252.227-7024	Notice and Approval of Restricted Designs [APR 1984]
252.225-7011	Restriction on Acquisition of Supercomputers (applies to orders for supercomputers) [JUN 2005]	252.227-7025	Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends (applies when Clause 252.227-7013 or 252.227-7014 are used; no substitution is made for "Government") [JUN 1995]
252.225-7012	Preference for Certain Domestic Commodities [MAR 2008]	252.227-7026	Deferred Delivery of Technical Data or Computer Software [APR 1988]
252.225-7013	Duty-Free Entry (this clause applies to DoD orders in lieu of FAR 52.225-8, involving supplies to be accorded duty-free entry under Buyer's Government Contract) (include information required by Para. (j)) [OCT 2006]	252.227-7027	Deferred Ordering of Technical Data or Computer Software [APR 1988]
252.225-7014	Preference for Domestic Specialty Metals [JUN 2005] and Alternate I [APR 2003] (If DFARS 252.225-7014 Alternate I applies to this Order, Seller shall document and retain for a period of three years following payment a description of the material used in manufacture of the articles delivered under this Order, the source of articles and the origin of the material (Specialty Metals Documentation), subject to audit by Buyer. Seller shall notify Buyer prior to the destruction of the Specialty Metals Documentation and upon request of Buyer forward the Specialty Metals Documentation to Buyer in lieu of destruction)	252.227-7028	Technical Data or Computer Software Previously Delivered to the Government [JUN 1995]
252.225-7015	Preference for Domestic Hand or Measuring Tools [JUN 2005]	252.227-7030	Technical Data – Withholding of Payment (applies when Clause 252.227-7013 is used; substitute "Buyer" for "Contracting Officer" in paragraph (a); add in paragraph (b), "or Buyer" after "Government") [MAR 2000]
252.225-7016	Restriction on Acquisition of Ball and Roller Bearings [MAR 2006]	252.227-7032	Rights in Technical Data and Computer Software (Foreign) [JUN 1975]
252.225-7018	Notice of Prohibition of Certain Contracts with Foreign Entities for the Conduct of Ballistic Missile Defense Research, Development, Test and Evaluation [JUN 2005]	252.227-7033	Rights in Shop Drawings [APR 1966]
252.225-7019	Restriction on Acquisition of Foreign Anchor and Mooring Chain (only applies to Orders requiring welded shipboard anchor or mooring chain four inches or less in diameter) [JUN 2005]	252.227-7037	Validation of Restrictive Markings on Technical Data (applies when Clause 252.227-7013, 252.227-7014 or 252.227-7015 are used; in paragraph (b), "Contractor's" remains in the clause with a lower case "c", insert in paragraphs (c) and (d)(1) "hereunder" after "subcontract";
252.225-7020	Trade Agreements Certificate [JAN 2005]		
252.252-7021	Trade Agreements (applies to orders for end products under Buyer's Government Contract) [MAR 2007]		
252.225-7025	Restrictions on Acquisition of Forgings [JUL 2006]		
252.225-7027	Restriction on Contingent Fees for Foreign Military Sales [APR 2003]		
252.225-7028	Exclusionary Policies and Practices of Foreign Governments [APR 2003]		
252.225-7030	Restriction of Acquisition of Carbon, Alloy, and Armor Steel Plate [DEC 2006]		
252.225-7031	Secondary Arab Boycott of Israel [JUN 2005]		
252.225-7032	Waiver of United Kingdom Levies – Evaluation of Offers (applies to orders with U.K. firms) [APR 2003]		
252.225-7035	Buy American Act - Free Trade Agreements - Balance of Payments Program Certificate [OCT 2006]		
252.225-7036	Buy American Act - Free Trade Agreement - Balance of Payments Program (applies to orders for end products under Buyer's Government Contract) [MAR 2007]		
252.225-7038	Restriction on Acquisition of Air Circuit Breakers [JUN 2005]		
252.225-7040	Contractor Personnel Authorized to Accompany U.S. Armed Forces Deployed Outside the United States (applies to orders that require Seller's personnel to accompany U.S. Armed Forces deployed outside the United States in contingency operations; humanitarian or peacekeeping		

- change in paragraphs (f) and (g) (2) (i) “this contract” to “the prime contract”; change in paragraph (l) “a contract” to “the prime contract”; no substitutions for “Government” or “Contracting Officer” are made.) [SEP 1999]
- 252.227-7038 Patent Rights – Ownership by the Contractor (Large Business) (applies if this contract is for experimental, developmental, or research work, unless the work is to be performed by a small business concern or nonprofit organization or a different patent rights clause is required by FAR 27.303; “Government” and “Contracting Officer” do not change) [DEC 2007]
- 252.227-7039 Patents – Reporting of Subject Inventions [APR 1990]
- 252.228-7000 Reimbursement for War Hazard Losses [DEC 1991]
- 252.228-7001 Ground and Flight Risk [SEP 1996]
- 252.228-7002 Aircraft Flight Risks [SEP 1996]
- 252.228-7003 Capture and Detention [DEC 1991]
- 252.228-7005 Accident Reporting and Investigation - Aircraft, Missiles, and Space Launch Vehicles [DEC 1991]
- 252.229-7000 Invoices Exclusive of Taxes or Duties [JUN 1997]
- 252.229-7001 Tax Relief [JUN 1997]
- 252.229-7002 Customs Exemptions (Germany) [JUN 1997]
- 252.229-7003 Tax Exemptions (Italy) [JAN 2002]
- 252.229-7004 Status of Contractor As A Direct Contractor (Spain) [JUN 1997]
- 252.229-7005 Tax Exemptions (Spain) [JUN 1997]
- 252.229-7006 Value Added Tax Exclusion (United Kingdom) [JUN 1997]
- 252.229-7007 Verification of United States Receipt of Goods [JUN 1997]
- 252.229-7008 Relief from Import Duty (United Kingdom) [JUN 1997]
- 252.229-7011 Reporting of Foreign Taxes – U.S. Assistance Programs [SEP 2005]
- 252.231-7000 Supplemental Cost Principles [DEC 1991]
- 252.232-7004 DoD Progress Payment Rates [OCT 2001]
- 252.235-7003 Frequency Authorization [DEC 1991]
- 252.236-7000 Modification Proposals – Price Breakdown [DEC 1991]
- 252.239-7016 Telecommunications Security Equipment Devices, Techniques and Services [DEC 1991]
- 252.243-7001 Pricing of Contract Modifications [DEC 1991]
- 252.244-7000 Subcontracts For Commercial Items and Commercial Components (DOD Contracts) [JAN 2007]
- 252.246-7001 Warranty of Data [DEC 1991] and Alternate I [DEC 1991] (applies to orders containing DFARS 252.227-7013) (Additional liability provisions at Para. (d) (3) are appropriate only if the Alternate I or II version of this clause is in Buyer’s Prime Contract) (In Para. (b), delete the parenthetical. In Para. (d) (1), including (iii), and (d) (2) “Buyer” is changed to “Contracting Officer.” Paras. (d) (3) (i) through (iii) are modified and deleted to read “The limit of Seller’s liability shall be ten percent of the total price.” In Para. (d) (3) (iv) (B), change the second “Government” to “Government or Buyer.”)
- 252.246-7003 Notification of Potential Safety Issues (applies if this contract is for parts identified as critical safety items; systems and subsystems, assemblies, and subassemblies integral to a system; or repair, maintenance, logistics support, or overhaul services for systems and subsystems, assemblies, subassemblies, and parts integral to a system; “Government” does not change) [JAN 2007]
- 252.247-7007 Liability and Insurance [DEC 1991]
- 252.247-7022 Representation of Extent of Transportation by Sea [AUG 1992]
- 252.247-7024 Notification of Transportation of Supplies by Sea (applies to orders when the prime’s original response to the solicitation stated that no transportation by sea was contemplated; modify paragraph (a) to read “[I]f, after the award of this order, the Seller learns that supplies” [MAR 2000])
- 252.249-7000 Special Termination Costs [DEC 1991]

B. ORDERS EXPECTED TO EXCEED \$100,000 AND/OR THE SIMPLIFIED ACQUISITION THRESHOLD ALSO INCLUDE:

- 252.203-7001 Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies (in first-tier orders exceeding simplified acquisition threshold in FAR Part 2) (“Government” is not changed in this clause) [DEC 2004]
- 252.247-7023 Transportation of Supplies by Sea (change “[P]rime contractor” in paragraph (a)(5) to “Seller” and “the prime contract” to “this order”; modify paragraph (c) to read “[T]he Seller and its subcontractors may request that the Buyer obtain Government authorization for shipment”; change in paragraph (d) “Contracting Officer” to “Buyer” in the second sentence; change “45” to “60” days in paragraph (c) and “30” to “25” in paragraph (d); delete in paragraph (e) “and the Maritime Administration Office of Cargo Preference, U.S. Department of Transportation, 400 Seventh

- Street, N.W., Washington, DC 20590”; delete in paragraph (g) “for the purposes of the Prompt Payment clause of this contract”) [MAY 2002]
- 252.249-7002 Notification of Proposed Program Termination or Reduction (substitute “Buyer” for “Contracting Officer” throughout; modify paragraph (d)(1) to read “[P]rovide notice of the proposed termination or reduction to each subcontractor with a subcontract of \$100,000 or more under the program”) [DEC 2006]

C. ORDERS EXPECTED TO EXCEED \$500,00 ALSO INCLUDE:

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

D. ORDERS EXPECTED TO EXCEED \$550,000 ALSO INCLUDE:

- 252.225-7006 Quarterly Reporting of Actual Contract Performance Outside the United States (applies to first tier orders over \$550,000) (see Para. (c) for exceptions to reporting) [MAY 2007]

E. ORDERS EXPECTED TO EXCEED \$650,000 AND/OR THE APPLICABLE COST OR PRICING DATA THRESHOLD ALSO INCLUDE:

- 252.215-7002 Cost Estimating System Requirements [DEC 2006]
- 252.219-7003 Small Business Subcontracting Plan (DoD Contracts) [APR 2007]
- 252.225-7004 Report of Intended Performance Outside the United States and Canada – Submission After Award (first tier subcontractor only) [MAY 2007]

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

- 252.211-7000 Acquisition Streamlining (“Government” is not changed in this clause) [DEC 1991]
- 252.225-7033 Waiver of United Kingdom Levies (applies to orders with UK firms) [APR 2003]

NUMBERED NOTES APPLICABLE TO FAR AND DFARS REGULATIONS

1. Excluded from such reduction, however, shall be Buyer’s burden and profit applied to defective cost and pricing data of Seller and its subcontractors and suppliers. (52.214-27, 52.215-10 and 52.215-11). In addition to any remedies provided by law, if Buyer is subjected to any liability as a result of Seller’s failure to comply with this requirement, then Seller agrees to indemnify and hold Buyer harmless to the full extent of any loss, damage or expense resulting from such failure.
2. The term “Government” in this clause shall be deemed to include both the Government and Buyer. (52.227-3, 52.246-2 and 52.246-4)
3. Reserved.
4. The rights and obligations of Seller with respect to Buyer Furnished Property, if any, shall be the same as those which Seller has with respect to Government Property under this FAR clause 52.245-1. (52.245-1)
5. Reserved.
6. The term “Government” in Para. (d) of this clause shall be deemed to include both the Government and Buyer. (52.246-16)
7. “Government” and “Contracting Officer” do not change in this clause. However all proposals under the FAR shall be submitted through Buyer. (52.248-1)
8. If this Order is terminated for convenience as a result of a termination for convenience issued by the Government, the term “Government” does not change in (b) (4), (6), (8) and (m). If this Order is terminated for convenience solely by Buyer, audits and examinations of records, as required by Buyer, shall be performed by an independent certified public accounting firm, mutually acceptable to Buyer and Seller. The cost of such audits and examinations of records shall be paid by Buyer. Notwithstanding anything to the contrary, Buyer shall not be liable for special or consequential damages. (52.249-2)
9. Reserved.

10. For Orders containing the clause or substance of the clause at FAR 52.230-2, FAR 52.230-3, or FAR 52.230-5, Seller shall comply with all Standards in effect on the date of award or of final agreement on price, as shown on the subcontractor's signed Certificate of Current Cost or Pricing Data, whichever is earlier (52.230-3 through 52.230-6). In addition to any remedies provided by law, if Buyer is subjected to any liability as a result of Seller's failure to comply with this requirement, then Seller agrees to indemnify and hold Buyer harmless to the full extent of any loss, damage or expense resulting from such failure.

3. NFS CLAUSES

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

A. ALL ORDERS INCLUDE:

- 1852.204-75 Security Classification Requirements [SEP 1989]
 1852.204-76 Security Requirements for Unclassified Information Technology Resources (applicable to Orders that meet the conditions of Para. (a) of this clause) [MAY 2007]
 1852.208-81 Restrictions on Printing and Duplicating (Seller shall include the provisions of this clause in any applicable lower tier Orders) [NOV 2004]
 1852.209-70 Product Removal from Qualified Products List [DEC 1988]
 1852.209-71 Limitation of Future Contracting [DEC 1988]
 1852.211-70 Packaging, Handling and Transportation (applicable to items that will be components of deliverable Class I, II or III items) [SEP 2005]
 1852.215-78 Make or Buy Program Requirements [FEB 1998]
 1852.215-79 Price Adjustments for "Make-or-Buy" Changes [DEC 1988]
 1852.219-74 Use of Rural Area Small Businesses (applicable to noncommercial item Orders that offer subcontracting possibilities to rural area small businesses) [SEP 1990]
 1852.219-75 Small Business Subcontracting Reporting (applicable to noncommercial item Orders that include FAR 52.219-9) [MAY 1999]
 1852.219-76 NASA 8 Percent Goal [JUL 1997]
 1852.223-70 Safety and Health (applicable to Orders when one or more of four conditions in Para. (g) exist) (Seller shall include the provisions of this clause in any applicable lower tier Orders) [APR 2002]
 1852.223-71 Frequency Authorization (applicable to Orders for which a radio frequency authorization is required) (Seller shall include the provisions of this clause in any applicable lower tier Orders) [DEC 1988]
 1852.223-72 Safety and Health (Short Form) (not applicable to Orders for commercial items) (applies to orders over the micro-purchase threshold) [APR 2002]
 1852.223-73 Safety and Health Plan [NOV 2004]
 1852.223-74 Drug and Alcohol-Free Workforce (not applicable to Orders for commercial items) (Seller shall include the provisions of this clause in any applicable lower tier Orders) [MAR 1996]
 1852.223-75 Major Breach of Safety or Security [FEB 2002]
 1852.225-8 Duty-Free Entry of Space Articles
 1852.225-70 Export Licenses [FEB 2000]
 1852.227-11 Patent Rights - Retention by the Contractor (Short Form)
 1852.227-14 Rights in Data - General
 1852.227-17 Rights in Data - Special Works
 1852.227-19 Commercial Computer Software – Restricted Rights
 1852.227-70 New Technology (applicable to Orders that meet the criteria of Para. (h) (1) (i)) (Seller shall include the provisions of this clause in any applicable lower tier Orders) [MAY 2002]
 1852.227-71 Requests for Waiver of Rights to Inventions [APR 1984]
 1852.227-72 Designation of New Technology Representative and Patent Representative [JUL 1997]
 1852.227-84 Patent Rights Clauses [DEC 1989]
 1852.227-85 Invention Reporting and Rights – Foreign (applicable to Orders for experimental, developmental or research work) (Buyer will provide the name and address of the Contracting Officer) [APR 1986]
 1852.227-86 Commercial Computer Software – Licensing [DEC 1987]
 1852.228-72 Cross-Waiver of Liability for Space Shuttle Services (Note 1) [SEP 1993]
 1852.228-75 Minimum Insurance Coverage [OCT 1988]
 1852.228-76 Cross-Waiver of Liability for Space Station Activities (Note 1) [DEC 1994]
 1852.228-78 Cross-Waiver of Liability for NASA Expendable Launch Vehicle (ELV) Launches (Note 1) [SEP 1993]

- 1852.231-71 Determination of Compensation Reasonableness (applicable to Orders meeting criteria of Subpara. (d)) [MAR 1994]
 1852.232-82 Submission of Requests for Progress Payments [MAR 1989]
 1852.234-2 Earned Value Management System [NOV 2006] and Alternate I [NOV 2006]
 1852.235-70 Center for Aerospace Information [DEC 2006]
 1852.237-71 Pension Portability (not applicable to Orders for commercial items) [JAN 1997]
 1852.237-72 Access to Sensitive Information (Seller shall include the provisions of this clause in any applicable lower tier Orders) [JUN 2005]
 1852.237-73 Release of Sensitive Information (Seller shall include the provisions of this clause in any applicable lower tier Orders) [JUN 2005]
 1852.242-70 Technical Direction ("COTR" shall be deemed to be Buyer's Purchasing Representative) [SEP 1993]
 1852.242-71 Travel Outside the U.S. [DEC 1988]
 1852.242-72 Observance of Legal Holidays [AUG 1992] and Alternate I [SEP 1989] (not applicable to Orders for commercial items) (Seller shall include the provisions of this clause in any applicable lower tier Orders)
 1852.242-73 NASA Contractor Financial Management Reporting [NOV 2004]
 1852.243-70 Engineering Change Proposals ("Contracting Officer" shall mean "Buyer's Purchasing Representative") [OCT 2001]
 1852.243-71 Shared Savings ("Contracting Officer" shall mean "Buyer's Purchasing Representative") [MAR 1997]
 1852.243-72 Equitable Adjustments [APR 1998]
 1852.244-70 Geographic Participation in the Aerospace Program (applicable to noncommercial item Orders of \$100,000 and over) [APR 1985]
 1852.245-70 Contractor Requests for Government-Owned Equipment [JUL 1997]
 1852.245-71 Installation-Accountable Government Property [NOV 2004]
 1852.245-72 Liability for Government Property Furnished for Repair or Other Services [MAR 1989]
 1852.245-73 Financial Reporting of NASA Property in the Custody of Contractors (reports shall be made directly to Buyer) [OCT 2003]
 1852.245-74 Contractor Accountable On-Site Government Property [MAR 1989]
 1852.245-75 Title to Equipment [MAR 1989]
 1852.245-76 List of Government Furnished Property [OCT 1988]
 1852.245-77 List of Installation-Accountable Property and Services [JUL 1997]
 1852.245-79 Use of Government-Owned Property [JUL 1997]
 1852.245-80 Use of Government Production and Research Property on a No- Charge Basis (All requests shall be made through and approved by Buyer) [MAR 1989]
 1852.246-70 Mission Critical Space System Personnel Reliability Program [MAR 1997]
 1852.246-73 Human Space Flight Item (applicable to lower tier Orders) [MAR 1997]
 1852.247-71 Protection of the Florida Manatee [MAR 1989]

NUMBERED NOTES APPLICABLE TO NASA FAR SUPPLEMENT REGULATIONS

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