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## Appendix F – Terms & Conditions, Supplier Flow Down

### Requirements; W56HZV24D0003

In consideration of the mutual promises, covenants, and agreements herein set forth, the Parties agree that the Seller shall furnish and deliver to the Buyer all the supplies and perform all the services set forth in this Agreement, for the consideration stated herein.

This Agreement sets forth the entire agreement and supersedes any and all prior agreements of the parties, whether written or oral, concerning the subject matter hereof.

If any of the standard clauses or any FAR/DFARS clauses contained herein do not apply to this Agreement due to the nature of the work performed (for instance, FAR 52.246-2, "Inspection of Supplies - Fixed-Price" does not apply if this Agreement is solely for Services), such clauses are considered not applicable to this Agreement.

#### 1. DEFINITIONS

- a. "Acceptance" or "Accept" means the verification by Buyer and/or Buyer's customer that the delivered Products and/or Services meet required specifications, standards and/or criteria as set forth in this Agreement.
- b. "Agreement" means the instrument of contracting, including these terms and conditions and attachments, exhibits, and other items specifically referenced in or attached to this Agreement, and any subsequent changes or modifications.
- c. "Authorized Representative" means the person authorized by Buyer's to administer and/or execute this Agreement and who has sole authority to make contractual commitments on behalf of Buyer, to provide contractual direction, and to change contractual requirements of this Agreement.
- d. "Buyer" means the legal entity identified on the face of this Agreement.
- e. "Classified Information" means any information or material, regardless of physical form or characteristics, that is owned by, produced or for, or under the control of the U.S.G., and determined pursuant to Executive Agreement 13526, December 29, 2009 (75 Federal Register 707, January 5, 2010) or prior Agreements to require protection against unauthorized disclosure, and is so designated as "Confidential," "Secret," or "Top Secret." See Federal Acquisition Regulation (FAR) 52.204-2, Security Requirements.
- f. "Data" means all financial information, business information, designs, dimensions, specifications, drawings, patterns, computer files or software, know how, reports, or other information, including but not limited to Technical Data used in the design and manufacture of Products or the provision of Services. Data may be recorded in a written or printed document, computer or electronically stored, software, or any other tangible form of expression.
- g. "Defense Article" shall have the meaning defined in ITAR 22 C.F.R. § 120.31.
- h. "Defense Service" shall have the meaning defined in ITAR 22 C.F.R. § 120.32.
- i. "Party/Parties" means Buyer and Seller individually/collectively.
- j. "Prime Contract" means the contracting instrument issued to Buyer or Buyer's higher tier customer by the U.S.G. for the acquisition of Products and/or Services.

- k. "Product(s)" means those goods, supplies, software licenses, Data, materials, articles, items, parts, components or assemblies, and any incidental Services described in this Agreement.
- l. "Seller" means the Party with whom Buyer is contracting under this Agreement.
- m. "Service(s)" means Seller's time and effort, including any items, articles, Data, or similar materials provided to Buyer which are incidental to the performance of the Service.
- n. "Technical Data" means recorded information, regardless of the form or method of the recording, of a scientific or technical nature (including computer software documentation). Technical Data also includes unclassified and Classified Information as defined in the International Traffic in Arms Regulations (ITAR) 22 Code of Federal Regulations (C.F.R.) § 120.33 and Technology, as defined in the Export Administration Regulations (EAR) Part 772 and Supplement 1 to Part 774.
- o. "U.S.G." means the federal government of the United States of America and its Executive Departments, Military Departments, Government Corporations, Independent Establishments, and Executive Agencies as defined in 5 U.S.C. Chapter 1.

## **2. AGREEMENT ACCEPTANCE**

- a. This Agreement is Buyer's offer to Seller to purchase the Products and/or Services described in this offer. Any additional terms proposed in Seller's acceptance of Buyer's offer including, but not limited to, shrink-wrapped or click-through terms not specifically negotiated and identified on this Agreement, which add to, vary from, or conflict with the terms herein are hereby objected to by Buyer. Any such proposed terms shall be void and the terms herein shall constitute the complete and exclusive statement of the terms and conditions of the contract between the Parties and may hereafter be modified only by written instrument executed by the authorized representatives of both Parties. If this Agreement carries a Defense Priorities & Allocations System (DPAS) rating, Seller shall provide unqualified written acceptance or rejection to Buyer's Authorized Representative within fifteen (15) working days after receipt of a DO rated Agreement and within ten (10) working days after receipt of a DX rated Agreement. For non-DPAS rated Agreements, any of the following shall constitute Seller's unqualified acceptance of this Agreement and these terms and conditions: (a) acknowledgement of this Agreement; (b) furnishing of any part of the Products and/or Services under this Agreement; (c) acceptance of any payment for the Products/Services under this Agreement; or (d) commencement of performance under this Agreement.
- b. After acceptance of this Agreement or at any time during the performance of this Agreement, if Seller identifies any portion of this Agreement is inaccurate, inconsistent, or incomplete, then Seller shall promptly notify Buyer in writing and work with Buyer to resolve such discrepancies in good faith.
- c. Seller shall not commence work until receipt of an Agreement from Buyer.

## **3. ASSIGNMENT**

- a. Seller shall not assign or transfer, in whole or in part, this Agreement or any of its rights, payments, claims or interest under this Agreement without Buyer's prior, written consent. Any purported assignment in contravention of this clause shall be deemed null and void.
- b. Buyer may make direct settlements or adjustments in price, or both, with Seller under the terms of this Agreement notwithstanding any assignment of claims for money due or to become due under this Agreement and without notice to the assignee.

## **4. SUBCONTRACTING**

- a. Seller shall not subcontract the entirety or any part of this Agreement without the prior written authorization of Buyer, and Seller shall require an agreement with conforming performance requirements from immediate and lower-tier suppliers. This restriction on subcontracting shall not apply to authorized distributors, dealers, jobbers, or industrial suppliers nor shall it apply to purchases of standard commercial articles, including electronic components or raw materials including castings, forgings, and rough welded structures on which Seller will perform further work.
- b. No subcontract placed under this Agreement shall provide for payment on a cost-plus-percentage-of-cost basis and Seller agrees to select subcontractors/suppliers on a competitive basis to the maximum practical extent consistent with the objectives and requirements of this Agreement.
- c. Any subcontract, assignment, or other transfer of rights or obligations arising under this Agreement and made to a foreign person, as defined in the International Traffic in Arms Regulations or the Export Administration Regulations, must comply with the Export and Import Compliance clause herein.

#### **5. PRICE, INVOICING AND PAYMENT**

- a. Prices for the Goods or Services delivered under this Subcontract are fixed as specified in the Purchase Order and constitute the total price for the manufacture and delivery of the Goods or Services. Seller is not entitled to adjustments in the purchase price except as expressly provided in the Purchase Order and will not add charges of any type to an invoice without prior written consent from Buyer, which consent would constitute an amendment to this Order.
- b. Payment terms will be stated at the beginning of this Agreement. Payment due dates, including discount periods, will be calculated from the date of Buyer's Acceptance of Product(s) or Service(s) or correct invoice, whichever is later. Any applicable discount will be taken on the full amount invoiced. Buyer has the right, without loss of discount privileges, to pay invoices covering Products shipped in advance of schedule on the normal maturity after the date specified for delivery. Payment shall not constitute Acceptance or approval of Products or Services rendered. At any time prior to final payment under this Agreement, Buyer may have invoices validated. Payment of Seller's invoices shall be subject to adjustment for any amounts found to have been improperly invoiced. Buyer shall be entitled at all times to set off (a) any amount owing at any time from Seller to Buyer or any of its affiliated companies; (b) any damages resulting from Seller's default under or breach of any contract (including any purchase Agreement and these terms); (c) any adjustment for shortage or rejection and any associated costs, against any amount payable at any time by Buyer or any of its affiliated companies to Seller.
- c. Release of Financial Liability and Claims. All amounts accrued and made payable by the Buyer to the Seller under this Agreement shall be invoiced in full no later than one hundred and eighty (180) days from the contractual end date of performance (The Limitation Period). Unless otherwise mutually agreed to by the parties, Seller hereby agrees to release and discharge the Buyer, its officers, agents, and employees, successors and assigns of and from all liabilities, obligations, and claims arising out of or under this Agreement, where such are submitted after the stated one hundred and eighty (180) day "Limitation Period".
- d. Payments to Seller shall be made to the designated financial account at an office or branch of a regulated bank located in the United States. To prevent and detect fraudulent and unauthorized payment instructions, Seller shall implement and maintain multifactor

authentication and other reasonable security measures on Seller's network systems accounts. Buyer shall not be responsible to pay Seller for any misdirected payments or other damages or losses attributable to Seller's failure to use multifactor authentication and other reasonable security measures.

## **6. DEFECTIVE WORK**

- a.** Notwithstanding any prior Acceptance, Buyer may reject or require prompt correction of any Products or Services which are, in Buyer's judgment, defective in material or workmanship or otherwise fail to meet the drawings, designs, statement of work, specifications or other technical documents, or other requirements of this Agreement.
- b.** If Seller delivers defective or nonconforming Products or Services, Buyer may take one of the following actions:
  - i.** Accept all or part of the defective or non-conforming Products or Services at an equitable price reduction or credit against any amounts that may be owed to Seller under this Agreement or otherwise.
  - ii.** Reject all or any part of a delivery or performance of defective or non-conforming Products or Services and demand delivery of conforming Products or re-performance of Services. All rejected Products shall be shipped back to Seller at Seller's expense and any re-performance of defective or nonconforming Services shall be at no cost to Buyer. All repair, replacement and other correction and redelivery shall be completed within the original delivery schedule unless otherwise directed by Buyer. Any rejected or corrected Products or Services shall not thereafter be tendered for Acceptance unless the former rejection or requirement for correction is disclosed.
  - iii.** If Seller is unable or unwilling to re-perform or correct defective or nonconforming Products or Services, Buyer may:
    - 1.** Make or perform, or have a third party make or perform, all repairs, modifications, or replacements necessary to enable such Product or Service to comply in all respects with Agreement requirements and charge the expense incurred to Seller; or
    - 2.** Terminate this Agreement for default in whole or in part.
  - iv.** Seller shall immediately notify Buyer upon discovery of actual or potential defects or non-conformance affecting delivered Product or performed Service.

## **7. WARRANTY**

- a.** Seller expressly warrants that all Product(s) delivered and Service(s) performed hereunder shall be free from defects, shall be of good materials and workmanship, shall conform to all requirements of this Agreement, and shall be free of any claim of any third party.
- b.** The foregoing warranties shall survive inspection and Acceptance of, and payment for, the Product(s) delivered and Service(s) performed hereunder and shall remain in effect as to each Product furnished or Service performed and shall run to Buyer, its successors, assigns, and customers. These warranties shall not be deemed to limit any warranties of additional scope given to Buyer by Seller, nor limit Buyer's rights or Seller's obligations under any other provision of this Agreement, at law or in equity. No warranties are waived by Buyer supplying, reviewing, commenting upon, or approving plans, specifications, or Data, issuing changes to this Agreement, or inspecting or Acceptance of the Product(s) or Service(s) or both.

- c. If Buyer determines the Product(s) or Service(s) or both do not to meet the warranties and guarantees specified herein, Buyer may, within its sole discretion, return such Product(s) to Seller at Seller's expense, for correction, replacement, or credit, plus transportation charges, or refuse to confirm satisfactory completion of Service(s) and require Seller re-perform such Service(s). If repair, replacement, or re-performance of the Product(s) or Service(s) or both is not timely, Buyer may elect to return, repair, replace, or re-procure the non-conforming Work at Seller's expense. Any corrected, replaced, or repaired Product(s) or re-performed Service(s) shall be subject to the provisions of this Clause. Should Buyer's customer require Acceptance of the Product(s) or Service(s) or both not conforming to this warranty, the Parties will mutually agree on consideration to Buyer, including but not limited to a refund or equitable reduction in price.

## **8. CHANGES**

- a. Buyer's Authorized Representative may at any time, by written Agreement, and without notice to sureties or assignees, if any, make changes within the general scope of this Agreement in (1) drawings, designs, statement of work, specifications, planning and /or other technical documents; (2) method of shipment, packaging, or packing; (3) time and place of inspection, delivery or Acceptance; (4) reasonable adjustments in quantities and/or delivery schedules; (5) place of performance of the Service; (6) the amount of Buyer/Government furnished property; and (7) terms and conditions required to meet Buyer's obligations under its Prime Contracts, including, but not limited to, any mandatory flow-down clauses.
- b. If any authorized change causes an increase or decrease in the cost or time required to perform this Agreement, Buyer and Seller shall negotiate an equitable adjustment in the price and/or schedule, to reflect the increase or decrease. Buyer shall modify this Agreement in writing accordingly.
  - i. Any claim for adjustment shall be unconditionally waived unless: (i) asserted in writing and delivered to Buyer's Authorized Representative within fifteen (15) days of the date of the written change Agreement and (ii) a fully supported proposal is delivered to Buyer's Authorized Representative within thirty (30) days of the date of the written change Agreement.
  - ii. If Seller claims the cost of any Product made obsolete or excess, Buyer shall have the right to prescribe the manner of disposition of the Product to include the right to acquire that Product for cost claimed.
  - iii. Buyer, its Authorized Representatives, and its customer have the right to examine any of Seller's pertinent books and records for the purpose of verifying Seller's claim. However, at Seller's request, in lieu of Buyer, a mutually agreeable third party can examine books and records to verify Seller's claim.
  - iv. Failure to agree to any adjustment shall be a dispute within the meaning of the "Disputes" clause hereof. However, Seller shall not be excused from proceeding with this Agreement as changed.
- c. Buyer's engineering, technical personnel and other representatives may from time to time render assistance or give technical advice or discuss issues or engage in an exchange of information with Seller's personnel concerning the Products or Services hereunder. No such action shall be deemed to be a change, nor shall it be the basis for an equitable adjustment, and no such action shall relieve Seller of its obligations under this Agreement.

## **9. GOVERNING LAW**

- a. Both Parties agree that, irrespective of the place of performance of this Agreement, this Agreement will be governed, construed, and interpreted according to the law of the State of

Michigan, without regard to its conflict of laws or choice of law rules or principles, except that any provision of this Agreement incorporated from the Federal Acquisition Regulation (FAR) or any agency regulation that supplements the FAR shall be governed by the federal common law of government contracts. The 1980 United Nations Convention on Contracts for the International Sale of Goods and its related instruments will not apply to this Agreement.

## **10. DISPUTES**

- a. Any dispute arising under or in connection with this Agreement with respect to the rights, duties, or obligations of the Parties shall be submitted in writing for resolution to ascending levels of management of the respective Parties.
- b. If a dispute cannot be resolved to both Parties' mutual satisfaction, after good faith negotiations, within ninety (90) days from the date the written claim is received by the other Party, or such additional time as the Parties agree upon in writing, either Party may bring suit only in the state or federal court located in the State of Michigan. Seller consents to personal jurisdiction for this purpose in the State of Michigan.
- c. Pending any prosecution, appeal, or final decision referred to in this clause, or the settlement of any dispute arising under this Agreement, both Parties shall proceed diligently, with their respective obligations under this Agreement.
- d. To the maximum extent permitted by law, the Parties waive any right to a jury trial.
- e. In no event shall Buyer be liable for anticipated profits, incidental or consequential damages. Buyer's liability on any claim, of any kind and for any loss or damage arising out of, connected with or resulting from this Agreement, or from the performance or breach thereof shall, in no case, exceed the price allocable to the Products and/or Services, or unit thereof, which gives rise to the claim. Buyer shall not be liable for penalties of any description. Any action resulting from any breach on the part of Buyer as to the Products and/or Services delivered hereunder must be commenced within one year after the cause of action has accrued.
- f. In no event shall Seller acquire any direct claim, or direct course of action against the U.S.G. except as otherwise authorized by law.

## **11. TERMINATION FOR CONVENIENCE**

- a. Buyer may at any time terminate all or any part of this Agreement in accordance with the contract clause entitled "Termination for Convenience of the Government (Fixed-Price)" set forth at 52.249-2 of the FAR, which clause is hereby incorporated herein and made a part hereof by this reference, except that the term "contract" therein shall mean "this Agreement", the term "Contracting Officer" therein shall mean "Buyer", the term "Government" therein shall mean "Buyer" except that in subparagraph (b) (8) and at the first occurrence thereof in paragraph (h) it shall mean "Buyer or the Government" and in paragraph (n) it shall mean "Buyer and the Government", the term "Contractor" therein shall mean "Seller", paragraphs (d) and (j) thereof are deleted, the period "120 days" in paragraph (c) is changed to "60 days", the period "1 year" in paragraph (e) is changed to "3 months" and the period "90 days" in paragraph (l) is changed to "45 days"; provided, however, that if this Agreement is a first-tier subcontract under a U.S.G. Prime Contract, the period "1 year" in paragraph (e) is changed to "180 days."

## **12. TERMINATION FOR DEFAULT**

- a. The FAR 52.249-8 "Default (Fixed Price Supply and Service)" clause is by this reference incorporated herein and made a part hereof except that the term "contract" therein shall mean "this Agreement", the term "Contractor" therein shall mean "Seller", the term

“Contracting Officer” therein shall mean “Buyer”, the term “Government” in all paragraphs thereof except paragraph (c) shall mean “Buyer” and all reference therein to “Disputes” shall mean the “Disputes” clause of this Agreement. Buyer may terminate this Agreement in whole, or in part, for Seller’s default in accordance with this clause. In addition, Buyer may terminate this Agreement in whole, or in part, in the event one of the following occurs, is threatened, or is imminent with respect to Seller: insolvency; bankruptcy; suspension of business; sale of a substantial part of Seller’s assets; filing for dissolution; liquidation proceedings; appointment of a trustee or receiver for Seller’s property or business; or assignment.

### **13. GOVERNMENT OR BUYER PROPERTY**

- a. Title to all property furnished to Seller by Buyer, Buyer’s customer, or U.S.G., or paid for by Buyer or U.S.G. shall remain with Buyer or U.S.G., as applicable. Seller shall not alter or use such property for any purpose or for any other Party other than that specified by Buyer or U.S.G., without the prior written consent of Buyer or U.S.G. If Buyer or U.S.G. agrees to pay Seller for acquisition of tooling and equipment, either separately or as a stated part of the unit price of Products purchased herein, title to the same shall pass to Buyer or U.S.G., as applicable, upon (i) commencement of processing for use in performance of this Agreement, or (ii) Buyer payment therefore, whichever occurs first.
- b. Seller shall assume the risk of, and be responsible for, any loss, theft, destruction of or damage to Buyer property while in Seller’s possession or control. If Seller damages any property, Seller shall be responsible for making repairs, or replacement, at no cost to Buyer.
- c. Seller shall assume full risk of loss, and be responsible for, any loss, theft, destruction of or damage to U.S.G. property while in Seller’s possession or control and shall be responsible for making repairs or replacing the item at no cost to the U.S.G. when FAR 52.245-1, Alternate 1, applies to this Agreement (Reference Section 58 of the terms and conditions for applicability). If FAR 52.245-1 is applicable, then Seller shall have limited risk of loss for lost or damaged U.S.G. property and shall seek relief of accountability to the Buyer in accordance with FAR 52.245-1 (f)(1)(vii).
- d. Upon Buyer’s or U.S.G.’s written request to Seller for any property under this clause, if Seller cannot locate Buyer or U.S.G. property within five (5) days, Seller shall notify Buyer or U.S.G. that the item was not located and Seller subsequently has twenty (20) days to find the misplaced property. After such period, if it has not been located, the property shall be deemed “lost” and at Buyer’s or U.S.G.’s election, Seller shall either reimburse Buyer or U.S.G. for the replacement and all related delay costs, or remake the lost property at no cost to Buyer or U.S.G., or seek relief of accountability depending the applicable risk of loss provisions of this Agreement.
- e. Seller shall return all Buyer or U.S.G. owned property in a condition as good as when received except for reasonable wear and tear. Seller shall establish and maintain a property control system approved by Buyer and in accordance with the provisions of FAR 52.245-1 for the control of U.S.G. or Buyer owned property. Seller shall also notify Buyer if its property system is deemed inadequate by the U.S.G. If Seller’s property control system is deemed inadequate at the time of award of this Agreement or becomes disapproved anytime during performance of this Agreement, then the provisions FAR 52.245-1 Alternate 1 shall automatically apply and Seller shall assume full risk of loss for U.S.G. property regardless of the contract type of this Agreement or the basis of award. At all times, Buyer and the U.S.G., as applicable, shall have access to Seller’s facilities for the purpose of reviewing its compliance with the management of U.S.G. or Buyer property related to this Agreement.

### **14. SELLER-PROVIDED MATERIALS**

- a. Buyer may provide raw materials or other subcomponents (“Materials”) to Seller for use in Seller’s work under this Agreement. Seller will in all instances segregate, protect, and insure the Materials.
- b. Seller will also industry best-practices to ensure that no more Materials are used than are necessary to complete the Agreement. Any excess Materials and scrap remaining after the completion of the Agreement will be returned to Buyer at Seller’s expense. Seller will keep records as to the use of the Materials and allow timely access for Buyer to such records upon Buyer’s request.

#### **15. TAXES AND DUTIES**

- a. The price of this Agreement includes all applicable foreign and domestic federal, state, and local taxes, duties, tariffs, and similar fees (“Taxes”) levied upon, or measured by, the sale, the sales price, or use of Products and/or the performance of Services associated with this Agreement. Seller shall separately list on its invoice (or voucher) any Taxes. Seller shall comply with any reasonable request by Buyer regarding Tax payments under protest and shall make appropriate adjustments to afford Buyer the benefit of any refund or reduction in Taxes.

#### **16. INFORMATION OF BUYER AND SELLER**

- a. Unless expressly stated otherwise herein, the exchange of information under this Agreement shall be governed by this Agreement and, in particular this Clause, which supersedes any prior agreement between Buyer and Seller to protect information relating to the purpose of this Agreement.
- b. “Proprietary Information” means information disclosed by the Parties to support performance of this Agreement that is provided or otherwise made available by the disclosing Party (hereinafter the “Disclosing Party”) to the receiving Party (hereinafter the “Receiving Party”) and is marked proprietary or bears a marking of like import. Proprietary Information includes any information marked with a restrictive legend as prescribed in DFARS 252.227-7013 or 252.227-7014 or in FAR 52.227-14. Information accessed or made available in electronic form shall be considered Proprietary Information if: (i) any display of the information also displays a proprietary legend or (ii) if such information is accessed or made available to the Receiving Party via a secure website or portal. Orally or visually disclosed information shall be deemed Proprietary Information only if identified as proprietary at the time of disclosure and summarized and confirmed in a written and labeled description delivered to the Receiving Party within thirty (30) days.
- c. The Receiving Party shall hold all Proprietary Information in confidence and restrict disclosure thereof to only its employees, contract labor, subcontractors, advisors, and agents who have a need to know so that the Receiving Party may perform its obligations under this Agreement and are under obligations to hold such information in confidence under terms and conditions at least as restrictive as the terms and conditions of this Agreement.
- d. Seller agrees to use Buyer’s Proprietary Information only for purposes necessary for performing Seller’s obligations under this Agreement and shall not use Buyer’s Proprietary Information for any other purpose without the prior written consent of Buyer. Upon Buyer’s request, Seller shall destroy or transfer to Buyer all existing copies of Buyer’s Proprietary Information. If the Proprietary Information is copied or reproduced in whole or in part, the copy or reproduction shall carry the same marking as that which appears on the original.
- e. Seller agrees that Buyer may share Seller’s information with other contractors under Buyer’s higher tier contract or Prime Contract, and any follow-on contracts to such



agreements, if the other contractors need to use Seller's information to complete their contracts provided that (1) any restrictive markings remain on the information, (2) the other contractor is under an obligation to protect Seller's Proprietary Information to the same degree as provided herein, and (3) the other contractor's use of the information is limited to performance of a contract under Buyer's higher tier contract or Prime Contract, and any follow-on contracts to such agreements.

- f. Seller hereby grants to Buyer and Buyer's higher tier customer a non-exclusive, irrevocable, worldwide, right and license to copy, modify, use and disclose to the U.S.G. or any higher tier contractor any information received from Seller, including Seller's Proprietary Information, for the performance of this Agreement and any higher tier contract or Prime Contract from which this Agreement is issued, and any follow-on contracts to such agreements.
- g. The Receiving Party agrees to use at least the same degree of care in safeguarding the Disclosing Party's Proprietary Information, including during storage and transmittal, as it uses for its own Proprietary Information, but in no case less than reasonable care. Promptly upon discovery of an unauthorized disclosure, access, or use, the Receiving Party shall: (a) notify the Disclosing Party; (b) make reasonable attempts to retrieve the Proprietary Information; (c) comply with any reasonable written requests of Disclosing Party regarding such unauthorized disclosure, access, or use; and (d) review and take other reasonable action as appropriate to prevent any future unauthorized disclosures, accesses, or uses.
- h. Exceptions.
  - i. The Receiving Party shall not be liable hereunder for use or disclosure of Proprietary Information which occur after such Proprietary Information:
    - 1. is or becomes publicly known through no wrongful act of the Receiving Party; or
    - 2. is known to or in the possession of the Receiving Party without restriction on disclosure or use through no wrongful act of the Receiving Party, as evidenced by competent proof; or
    - 3. is rightfully received by the Receiving Party from a third party without restriction and without breach of this Agreement; or
    - 4. is independently developed by the Receiving Party without the use of or reference to the Proprietary Information.
  - ii. In addition, the Receiving Party shall not be liable hereunder for use or disclosure of Proprietary Information if such Proprietary Information is disclosed to satisfy a legal Agreement by a court of competent jurisdiction or U.S.G. action; provided, however, that the Receiving Party shall first advise the Disclosing Party within sufficient time prior to the disclosure so that the Disclosing Party has the opportunity to seek appropriate relief from the court or governmental Agreement, and provided further that the Receiving Party shall disclose only those portions of the Proprietary Information legally required to be disclosed and request confidential treatment of the Proprietary Information by the court or governmental entity.
- i. All documents and other tangible media transferred in connection with this Agreement, together with any copies thereof, are and remain the property of Buyer.
- j. Neither the existence of this Agreement nor the disclosure hereunder of Buyer information or any other information shall be construed as granting expressly, by implication, by estoppel or otherwise, a license under any invention or patent now or

hereafter owned or controlled by Buyer or Buyer's customer, except as specifically set forth herein.

- k. The Receiving Party agrees that the Proprietary Information of the Disclosing Party is valuable and unique, and that the loss resulting from unauthorized disclosure thereof may cause irreparable injury to the Disclosing Party, which may not be adequately compensated in money damages. The Receiving Party, therefore, expressly agrees that the Disclosing Party shall be entitled to seek injunctive and/or other equitable relief, in addition to any other remedies available to the Disclosing Party for breach of this clause.
- l. A Party's obligations with respect to information or Data disclosed hereunder prior to the performance in full or termination of this Agreement shall not, except as expressly set forth herein, be affected by such performance in full or termination.
- m. Notwithstanding the foregoing, nothing in this clause is intended to affect the rights or exercise of rights, if any, obtained by the U.S.G. under the "Rights in Technical Data – Noncommercial Items" clause DFARS 252.227-7013 and "Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation" clause DFARS 252.2277014, or any similar or successor clauses, or other clauses that may be contained in any contracts or subcontracts between Buyer and Seller and any customer.
- n. Defend Trade Secrets Act provision – applicable only to individuals or to be flowed down to individuals. Pursuant to the Defend Trade Secrets Act of 2016, if Seller is an individual, Seller acknowledges that he/she shall not have criminal or civil liability under any Federal or State trade secret law for the disclosure of a trade secret that (a) is made (i) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (b) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. In addition, if Seller files a lawsuit for retaliation by Buyer for reporting a suspected violation of law, then Seller may disclose the trade secret to Seller's attorney and may use the trade secret information in the court proceeding, provided Seller both files any document containing the trade secret under seal and does not disclose the trade secret, except pursuant to court Agreement. Seller agrees to flow down this provision to all contract labor and agents of Seller who are authorized under this Agreement to receive Buyer's Proprietary Information and who are individuals.
- o. Buyer's right to use and disclose information provided under this Clause 22 shall not be affected by termination or completion of this Agreement and remains in effect until performance in full of all contracts and agreements through which Buyer needs to use Seller's information to perform under Buyer's higher tier contract or Prime Contract, and any follow-on contracts to such agreements. The limitations on the scope of use of information under this Clause 22 shall not be affected by termination or completion of this Agreement.

## **17. SUBCONTRACT DELIVERABLES**

- a. Seller agrees and acknowledges that all deliverables, or portions thereof, under this Agreement ("Deliverable Materials") may be incorporated into deliverables under Buyer's higher tier contract or Prime Contract. Seller agrees to timely deliver all Deliverable Materials to Buyer and mark all Deliverable Materials containing Technical Data and computer software in strict accordance with FAR 52.227-14, DFARS 252.227-7013 or 252.227-7014, or other special clauses, such as H-clauses, which apply to this Agreement (collectively referred to as "Government Rights Clauses"). Seller will not apply any markings or legends that are inconsistent with or otherwise prohibited by the Government Rights Clauses or deemed by the U.S.G. to restrict the rights of the U.S.G.

(“Prohibited Markings”). If Seller’s Deliverable Materials contain any legends that are not specifically authorized in the Government Rights Clauses, Buyer will formally accept Seller’s Deliverable Materials only after obtaining U.S.G. acceptance of such legends. Upon Buyer’s written request, Seller, at Seller’s sole expense, will, within thirty (30) days of receiving Buyer’s written request, remove or correct any Prohibited Markings from its Technical Data and computer software and will promptly resubmit the revised Technical Data and computer software to Buyer. If Seller does not remove or correct the Prohibited Markings and resubmit the revised Technical Data and computer software to Buyer within the allotted thirty (30) day period, Buyer may remove or correct Seller’s Prohibited Markings on the copies of the Deliverable Materials for delivery to the U.S.G. under Buyer’s higher tier contract or Prime Contract. This Clause shall survive termination or completion of this Agreement.

## **18. INTELLECTUAL PROPERTY RIGHTS**

- a. “Intellectual Property” means ideas, inventions, information, works of authorship, and symbols, names, images, and designs embodied in for example, Technical Data, designs, computer software, mask works, computer models, Data, drawings, formulae, specifications, diagrams, processes, know-how, procedures and technology, and all legal rights therein.
- b. “Work” means physical manifestations of Intellectual Property created under this Agreement.
- c. “Background Intellectual Property” means Intellectual Property that is (i) in existence prior to the effective date of this Agreement or (ii) is designed, developed or licensed by a Party after the effective date of this Agreement independently of both (A) the Work undertaken or in connection with this Agreement and (B) the Proprietary Information and Intellectual Property of the other Party to this Agreement.
- d. “Foreground Intellectual Property” means all Intellectual Property conceived, created, acquired or initially reduced to practice in connection with this Agreement.
- e. Each Party shall retain and exclusively own all rights in its Background Intellectual Property and in all Foreground Intellectual Property that it creates. Foreground Intellectual Property jointly generated by employees of more than one Party shall be jointly owned. Neither Party shall have any obligation to account to the other Party for income arising from use of the jointly owned Foreground Intellectual Property. Nothing in this clause shall modify or alter any rights that the U.S.G. may have in any Products and/or Services, including Data or software deliverables to the U.S.G.
- f. Seller hereby grants to Buyer a non-exclusive, worldwide, right and license to copy, modify, use, sell, offer for sale and disclose any Work or other deliverable delivered by Seller under this Agreement for the performance of this Agreement and any higher tier contract or Prime Contract, and any follow-on contracts to such agreements. Notwithstanding the above license, Buyer shall not have the right to copy or modify any Seller hardware, except as provided by the Defective Work Clause and Warranty Clause. If the Work or other deliverable contains third party intellectual property, Seller agrees to obtain the rights from the third party that are sufficient for Seller to grant Buyer the rights in the above license. Seller warrants that it has the rights in the Work or other deliverable sufficient to grant to Buyer the above license.
- g. The terms of this Clause shall survive termination or completion of this Agreement.

## **19. INTELLECTUAL PROPERTY INFRINGEMENT WARRANTY AND INDEMNITY**

- a. Seller warrants that the performance of Seller under this Agreement, including any Services provided by Seller to Buyer, and the sale, use, or incorporation into manufactured Products of all machines, devices, material, software, and firmware which are not of Buyer's design, composition, or manufacture shall be free and clear of infringement of any valid patent, copyright, trademark, mask works, or other proprietary rights.
- b. Seller shall indemnify, defend, and hold harmless Buyer, its directors, officers, employees, consultants, agents, affiliates, successors, permitted assigns and customers ("Indemnitees") from and against all claims, suits, actions, awards (including, but not limited to, awards based on intentional infringement of patents known at the time of such infringement, exceeding actual damages and/or including attorney's fees and/or costs), liabilities, damages, costs and attorney's fees related to the actual or alleged infringement of any U.S. or foreign intellectual property right (including, but not limited to, any right in a patent, trademark, copyright, industrial design or semiconductor mask work, or based on misappropriation or wrongful use of information or documents) and arising out of the performance of Seller under this Agreement or the manufacture, sale or use of Products delivered by Seller under this Agreement, or the provision of Services by Seller under this Agreement, by either Buyer or Buyer's customer ("Infringement Claims"). Buyer and/or its customer will duly notify Seller of any such Infringement Claim and Seller will, at its own expense, fully defend such Infringement Claim on behalf of the Indemnitees. Seller will have no obligation under this clause with regard to any infringement arising from (a) the compliance of Seller's new Product design with formal specifications issued by Buyer where infringement could not be avoided in complying with such specifications or (b) use or sale of Products for other than their intended application in combination with other items when such infringement would not have occurred from the use or sale of those Products solely for the purpose for which they were designed or sold by Seller.
- c. If the manufacture, use or sale of a Product delivered by Seller under this Agreement is likely to be or is enjoined as a result of a suit, Seller, at no expense to Buyer, shall obtain for Buyer and its customer the right to use and sell the Product or shall substitute an equivalent Product acceptable to Buyer, at its sole discretion, and extend this indemnification thereto.
- d. Notwithstanding the foregoing, when this Agreement is performed under the authorization and consent of the U.S.G. to infringe U.S. Patents, Seller's liability for U.S. patent infringement under this Agreement shall be coextensive with Buyer's liability.
- e. For purposes only of this Clause and the Indemnification Clause below, the term "Buyer" will include Buyer and all Buyer's subsidiaries and all directors, officers, agents and employees of Buyer or any Buyer subsidiary.

## **20. INDEMNIFICATION**

- a. Seller shall indemnify, defend, and hold harmless the Indemnitees, as defined above, from and against all costs, losses, expenses, damages, claims, suits, or any liability whatsoever (including attorneys' fees), arising out of or in connection with the work to be performed hereunder, including the Products to be sold hereunder, or any act or omission, or any violation of any applicable law, executive Agreement, or regulation, of or by Seller, its agents, employees, or subcontractors, except to any extent otherwise expressly provided for elsewhere within this Agreement. Buyer will inform Seller of any claim, demand or suit asserted or instituted against it and, with Buyer's consent, permit Seller to defend the same or make settlement in respect thereof. Buyer shall have the right to participate in

the defense of any such claim, demand or suit with counsel of its choosing at Buyer's expense and Seller may not settle, compromise or consent to the entry of any judgment in respect thereof, without Buyer's prior written consent, unless such settlement, compromise or consent: (i) includes an unconditional release of Buyer from all liability arising out of such claim, demand or suit; (ii) is solely monetary in nature; and (iii) does not include an admission of fault by Buyer or otherwise adversely affect Buyer. If Seller fails to indemnify, defend and hold harmless Buyer as provided in this clause, then Seller shall pay for any damages, attorney's fees, and any other fees, costs, and expenses that may be incurred by Buyer in the prosecution of any action to enforce the provisions of this clause.

## **21. INSURANCE**

- a.** Seller and its subcontractors, at their sole cost and expense, will at all times, prior to commencement and throughout the period of performance of this Agreement, maintain with reputable insurance companies that are authorized to do business under the laws of the state(s) in which the work is being performed, insurance coverage in the minimum amounts as indicated below:
  - i.** Worker's Compensation insurance coverage (or DBA, LS&H, or local equivalent outside the U.S.) as required by the laws of the state in which the work is performed and such insurance shall provide waiver of subrogation against Buyer.
  - ii.** Employer Liability insurance in the amount of \$1,000,000.
  - iii.** Commercial General Liability (CGL) (ISO form CG 0001 12/04 or equivalent) with a Combined Single Limit (CSL) of \$2,000,000 bodily injury and/or property damage. Coverage shall include, but not necessarily be limited to, premises and operations, Products and completed operations, and contractual liability.
  - iv.** Automobile Liability (AL) with a CSL of \$2,000,000 bodily injury and/or property damage covering all owned, hired and non-owned vehicles.
  - v.** If work involves Aviation or Spacecraft Products, Aviation Products Liability with a CSL of \$100,000,000. In addition, for any Seller who will be responsible for aircraft in their care, custody and control, hangarkeepers liability insurance with adequate limits to cover all such aircraft at any one location.
  - vi.** If project involves ownership or lease of an aircraft, on Buyer's behalf, Aviation Hull and War Risk for Replacement Cost or Agreed Value.
  - vii.** For foreign direct sales, such insurance as mandated by the country involved.
  - viii.** Additional insurance types and/or limits will be necessary if the work involves special or hazardous operations. The special or hazardous operations include, but are not limited to: information technology/cyber risk, dispensing of medical care, operations involving the nuclear hazard, providing professional engineering advice, large construction projects (above \$5,000,000) hazardous waste, food service (including liquor liability), crane operation, work above ground, work below ground, and operations involving demolition or explosives. Following are examples for additional types of insurance:
    - 1.** Errors and omissions or professional liability.
    - 2.** Commercial Crime, including employee dishonesty coverage, and if relevant, computer crime and wire transfer coverage, with limits of at least \$5 million per occurrence. Coverage must apply to loss or damage to Buyer (or to third parties for whom Services are performed), that is caused by Seller's employees.

- 3. Environmental impairment liability or pollution liability insurance with a minimum limit of \$10 million per event, \$10 million aggregate covering the Seller's relevant locations under this agreement.
- 4. Warehouse liability insurance with a minimum limit of \$10 million, covering the Seller's relevant locations under this agreement. Coverage must not contain exclusions for financial records of any kind.
- ix. Such other insurance as Buyer may require as set forth in this Agreement or an attachment hereto.
- x. Limits required may be met by any combination of primary and umbrella/excess insurance.
- xi. Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Seller.
- xii. The insurance required under this Agreement must be placed with insurers rated "A-" or better by A.M. Best Company, Inc.
- xiii. The duty to defend, indemnify, and hold harmless Buyer under this agreement shall not be limited by the insurance required in this Agreement.
- b. The insurance required in this Agreement shall include the following provisions:
  - i. Seller shall waive the insurer's rights of recovery and subrogation against Buyer;
  - ii. The insurance required in subparagraphs A2, A3, A4, and A5 above, shall name Buyer as an additional insured;
  - iii. Seller's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by Buyer and any insurance, self-insurance or self-retention maintained by Buyer shall be excess of Seller's insurance;
  - iv. Severability of interests wording in all policies and endorsements where Buyer is named as an additional insured;
  - v. The legal defense provided to Buyer under the policy and any endorsements where Buyer is named as an additional insured must be free of any conflicts of interest, even if retention of separate legal counsel for Buyer is necessary; and
  - vi. The insolvency or bankruptcy of the insured Seller shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Seller from meeting the retention limit under the policy.
- c. If requested, Seller shall provide a Certificate of Insurance to the Buyer's Authorized Representative evidencing Seller's compliance with these requirements. Seller shall also furnish renewed certificates upon request of Buyer's Authorized Representative.

## **22. EXCUSABLE DELAY – FORCE MAJEURE**

- a. Except for a default of Seller's subcontractor at any tier, neither Buyer nor Seller shall be liable for any failure to perform due to any cause beyond its reasonable control and without its fault or negligence. Such causes include, but are not limited to: (1) acts of God or of the public enemy; (2) acts or failure of any government in either its sovereign or contractual capacity; (3) fires, floods, epidemics, terrorism, quarantine restrictions, strikes, freight embargoes, nuclear incident, or any other act or event beyond reasonable control and without the fault of either Party or its subcontractors. In the event that performance of this Agreement is hindered, delayed, threatened to be delayed, or adversely affected by causes of the type described above, then the Party whose performance is so affected shall immediately notify the other Party's Authorized Representative in writing, including all relevant information with respect thereof, and shall likewise notify promptly of any subsequent change in the circumstances, and at Buyer's sole option, this Agreement shall be completed with such

adjustments to delivery schedule as are reasonably required by the existence of such cause or this Agreement may be terminated for convenience.

### **23. LABOR DISPUTES**

- a. Whenever Seller has knowledge that any actual or potential labor dispute is delaying or threatens to delay timely performance of this Agreement, Seller shall immediately give notice to Buyer' Authorized Representative and provide all relevant information including, but not limited to, nature of dispute, labor organizations involved, contingency plans regarding the protection of Buyer's Agreement, and estimated duration. Seller shall also provide updated reports throughout the dispute duration. Seller agrees to insert the substance of this clause, including this sentence, in any lower-tier subcontract where a labor dispute might delay timely performance of this Agreement.

### **24. COMPLIANCE WITH LAWS**

- a. Seller shall comply with all applicable federal, state, and local laws, rules, regulations, and ordinances.
- b. Environmental Health and Safety Performance. Seller shall maintain environmental, health and safety management systems as appropriate to ensure compliance with applicable federal, state, and local requirements. Seller further agrees to continuously promote a safe and healthy workplace and a sustainable environment related to water and air quality, water and energy conservation, greenhouse gas emission reductions, solid and hazardous waste reductions. Seller shall convey the requirements of this Clause to its suppliers.
- c. Anti-Corruption Compliance. Seller represents, warrants, and covenants that:
  - i. It has not and will not, directly or indirectly, pay, promise, offer, or authorize the payment of any money or anything of value in connection with this Agreement to: (i) an officer, employee, agent or representative of any government, including any department, agency, or instrumentality thereof or any person acting in an official capacity thereof; (ii) a candidate for political office, any political party or any official of a political party; or (iii) any other person or entity while knowing or having reason to know that all or any portion of such payment or thing of value will be offered, given or promised, directly or indirectly, to any person or entity for the purpose of assisting Buyer in obtaining or retaining business, or an improper business advantage. Without limiting the generality of the foregoing, Seller shall not directly or indirectly, pay, promise, offer, or authorize the payment of any facilitating payment intended to expedite or secure performance of a routine governmental action, such as, customs clearance on behalf of Buyer.
  - ii. No gifts, travel expenses, business courtesies, hospitalities or entertainment of any nature have been or will be accepted or made in connection with this Agreement where the intent of was, or is, to unlawfully influence the recipient of the gift, travel expense, business courtesy, hospitality or entertainment. Seller also represents that any gifts, travel expenses, business courtesies, hospitalities or entertainment offered or provided shall meet the following conditions:
    1. be permitted under the U.S. Foreign Corrupt Practices Act (FCPA) and the laws and regulations of the country in which this Agreement will be performed;
    2. be consistent with applicable social and ethical standards and accepted business practices;

- 3. be of such limited value as not to be deemed a bribe, payoff or any other form of improper inducement or payment; and
  - 4. be of such nature that its disclosure will not cause embarrassment for Buyer.
- iii. Upon written notice, Buyer or its authorized representatives may audit all pertinent books, records, work sites, offices, and documentation of Seller in Agreement to verify compliance with this clause.
  - iv. Breach of any of the foregoing provisions of this clause by Seller shall be considered an irreparable material breach of this Agreement and shall entitle Buyer to terminate this Agreement immediately without compensation to Seller.
- d. Seller shall comply with the requirements of 41 CFR 60-1.4(a). This regulation applies regardless of value of this Agreement, and Seller shall flow this clause to all lower tier suppliers. This regulation prohibits discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, or national origin.

## **25. EXPORT/IMPORT AND SANCTIONS COMPLIANCE**

- a. Export and Sanctions Compliance. General. Performance of this Agreement may involve the use of or access to articles, Technical Data or software that is subject to export controls under 22 United States Code 2751 – 2799aa-2 (Arms Export Control Act) and 22 C.F.R. 120-130 (International Traffic in Arms Regulations or “ITAR”) or 50 United States Code 4801 – 4826 (Export Control Reform Act of 2018), 15 C.F.R. 730-774 (Export Administration Regulations), 50 United States Code 17011708, (International Emergency Economic Powers Act, as amended), and their successor and supplemental laws and regulations, or may implicate U.S. sanctions laws and regulations, including those administered by the U.S. Department of Treasury Office of Foreign Assets Control in 31 C.F.R. 500-599, and their successor and supplemental laws and regulations (collectively hereinafter referred to as the “Export and Sanctions Laws and Regulations”). Seller shall comply with any and all Export and Sanctions Laws and Regulations, and any authorization(s) issued thereunder.
- i. Registration. If Seller is a U.S. entity and is engaged in the business of either exporting or manufacturing (whether exporting or not) Defense Articles or furnishing Defense Services, Seller represents that it shall maintain an active registration with the U.S. Department of State’s Directorate of Defense Trade Controls, as required by the ITAR, throughout the performance of this Agreement, and that it maintains an effective export and import compliance program in accordance with the ITAR.
  - ii. Seller shall not re-transfer any export-controlled articles or information (e.g. Technical Data or software) to any other non-U.S. person or entity (including Seller’s dual and/or third-country national employees) without first complying with all the requirements of the applicable Export and Sanctions Laws and Regulations. Prior to any proposed re-transfer, Seller shall first obtain the written consent of Buyer. No consent granted by Buyer in response to Seller’s request shall relieve Seller of its obligations to comply with the provisions of paragraph A. of this clause or the Export and Sanctions Laws and Regulations, nor shall any such consent constitute a waiver of the requirements of paragraph A. hereinabove, nor constitute consent for Seller to violate any provision of the Export and Sanctions Laws and Regulations.
- b. Political Contributions, Fees and Commissions.
- i. If this Agreement is valued in an amount of \$500,000 or more, then in performance of this Agreement, Seller shall not directly or indirectly pay, offer or agree to pay any political contributions or any fees or commissions, in each case as defined below.



1. For purposes of this clause and pursuant to 22 C.F.R. 130.6, “political contribution” means any loan, gift, donation or other payment of \$1,000 or more made, or offered or agreed to be made, directly or indirectly, whether in cash or in kind, which is:
  - a. To or for the benefit of, or at the direction of, any non-U.S. candidate, committee, political party, political faction, or government or governmental subdivision, or any individual elected, appointed or otherwise designated as an employee or officer thereof; and
  - b. For the solicitation or promotion or otherwise to secure the conclusion of a sale of Defense Articles or Defense Services to or for the use of the armed forces of a non-U.S. country or international organization. Taxes, customs duties, license fees, and other charges required to be paid by applicable law or regulation are not regarded as political contributions.
2. For purposes of this clause and pursuant to 22 C.F.R. 130.5, “fee or commission” means any loan, gift, donation or other payment of \$1,000 or more made, or offered or agreed to be made directly or indirectly, whether in cash or in kind, and whether or not pursuant to a written contract, which is:
  - a. To or at the direction of any person, irrespective of nationality, whether or not employed by or affiliated with Seller; and
  - b. For the solicitation or promotion or otherwise to secure the conclusion of a sale of Defense Articles or Defense Services to or for the use of the armed forces of a non-U.S. country or international organization.
  - ii. Seller agrees to provide prompt notification to Buyer’s Authorized Representative should any offer, agreement or payment of political contributions, fees or commissions (as defined herein and pursuant to this Agreement) be made in contravention of the prohibition in this Section B.
- c. Export Jurisdiction/Classification. Seller shall provide the applicable Export Control Classification Number (“ECCN”) or ITAR categorization for all Products furnished by Seller to Buyer, except when Seller is manufacturing to Buyer’s design. If Seller is not the original equipment manufacturer, Seller shall obtain the ECCN or ITAR classification information from its source of supply. Seller will include the ECCN or ITAR designation on its packing slips and shipping documentation and also provide to Buyer on Buyer’s request.
- d. Import Compliance. Seller shall comply with all U.S. Customs and Border Protection laws and regulations (e.g., 19 C.F.R.) and all other applicable U.S.G. regulations pertaining to importations of Products and materials into the United States under this Agreement. Seller shall assume all U.S. import responsibilities, to include designation as U.S. Importer of Record, Customs clearance, duty, permits, licenses, taxes, and fees for Products entering into the United States under this Agreement. Unless otherwise agreed in writing, Buyer will not assume any import liabilities for Products and materials procured through this Agreement. Seller shall obtain the written consent of Buyer prior to causing Products to be shipped directly (i.e., “drop shipped”) from the premises of any non-U.S. supplier to Buyer’s facility.

## 26. NOTIFICATION OF STATUS CHANGES

- a. By accepting this Agreement, Seller certifies that all Seller qualification and business information, representations and certifications applicable to this Agreement remain valid. If Seller's status under any of the applicable representations and certifications has changed, Seller must complete and submit to Buyer's Authorized Representative revised representations and certifications prior to taking any action indicating acceptance as stated on the face of this Agreement.
- b. Seller agrees to provide prompt notification to Buyer's Authorized Representative of any event or change in circumstances that could affect Seller's performance under this Agreement such as ineligibility to contract with U.S.G., debarment, assignment of consent agreement, designation under U.S. or foreign sanctions laws and regulations, expiration or cancellation of ITAR registration, potential violation of Export and Sanctions Laws and Regulations (or authorizations issued thereunder), initiation or existence of a U.S.G. investigation, change in place of performance, decrease in manufacturing capacity, diminishing manufacturing sources or material shortages, increase in production requirements, labor reductions, financial or organizational conflicts of interest, and significant financial conditions requiring any of the preceding changes.
- c. Sellers that have provided anti-corruption compliance due diligence information (e.g., related to Seller's ownership and personnel, subsidiaries and third parties, including but not limited to Buyer's due diligence questionnaire, and related certifications) to a Buyer representative shall provide Buyer with prompt notification and details of any changes to its owners, officers, directors or other information contained in such due diligence materials, and agrees to promptly cooperate with Buyer and provide additional information reasonably requested related to such changed information. In the event of a material change to the owners, offices, directors or other information contained in the due diligence material supplied to Buyer, Buyer reserves the right to suspend performance under this Agreement by providing written notice to Seller in Agreement for Buyer to conduct anti-corruption due diligence upon such changed circumstances.
- d. Seller shall notify Buyer of any proposed change in Control within thirty (30) days prior to such event. The notice shall describe in reasonable detail the proposed transaction structure and any proposed changes to management, operations, domicile, key locations, the board of directors and/or ownership (along with a commitment to cooperate with Buyer and provide additional information reasonably requested related to such proposed change in Control). Seller shall not effect a change in Control without prior, written consent from Buyer, such consent not to be unreasonably withheld. For purposes of this Agreement, "Control" means the power, directly or indirectly, to (a) vote more than fifty percent of the securities that have ordinary voting power for the election of Seller's directors; or (b) direct, or cause the direction of, the management and policies of Seller whether by voting power, contract, or otherwise. If a Person or Entity obtains "Control" by acquiring more than fifty percent of the securities that have ordinary voting power for the election of Seller's directors, that acquisition may be accomplished by one or multiple transfers. For purposes of this Agreement, "Person or Entity" means a natural person, corporation, limited partnership, general partnership, limited liability company, limited liability partnership, joint stock company, joint venture, association, company, trust, or other organization, whether or not a legal entity, and a government or agency or political subdivision of that entity.
- e. Seller shall provide written notification to Buyer prior to making any changes to Seller's tooling, facilities, materials, or processes, and/or shall provide written notification to Buyer upon becoming aware of any such changes by Seller's subcontractors at any tier, that could affect Seller's performance under this Agreement. This requirement includes changes to fabrication, assembly, handling, inspection, Acceptance, testing, manufacturing location,

parts, materials, or suppliers. Seller shall notify Buyer of any pending or contemplated future action to discontinue Products purchased pursuant to this Agreement and shall allow Buyer to submit a forecast of expected annual usage prior to Seller finalizing its decision to discontinue the Products. Seller shall provide Buyer with a “Last Time Buy Notice” at least twelve (12) months prior to the actual discontinuance. Seller shall extend opportunities to Buyer to place last time buys of such Products with deliveries not to exceed one hundred eighty (180) days after the last time buy date. Seller shall flow down to subcontractor(s) the requirements of this Clause and all other applicable flow down provisions.

- f. Failure to provide the notice under this clause shall be deemed a material breach of this Agreement.

## **27. PROHIBITED ACTIVITIES AND CONTACTS**

- a. Activity Prohibitions. For Sellers delivering Products or performing Services outside of the U.S., unless specifically authorized in writing by Buyer, Seller shall not engage in any of the following activities on behalf of Buyer under this Agreement: acting as an agent of Buyer; marketing or sales promotion; lobbying; freight forwarding; consulting Services; performing offset (industrial participation) consulting or brokering Services; acting as a distributor or reseller; or activity as a joint venture party.
- b. Contact Prohibitions. For Sellers delivering Products or performing Services outside of the U.S., unless specifically authorized in writing by Buyer, Seller shall not contact, either directly or indirectly, public officials of any country other than the U.S., United Kingdom, Canada, Australia, Belgium, Denmark, Netherlands, New Zealand, Norway, Sweden, Germany, France, or Italy in furtherance of its performance on behalf of Buyer under this Agreement.

## **28. RELEASE OF INFORMATION AND ADVERTISING**

- a. Except as required by law, Seller shall not release to anyone outside Seller’s organization any information, or confirmation or denial of same, with respect to this Agreement or the subject matter hereof without the prior written approval of Buyer. Requests for approval shall be made at least fifteen (15) days before the proposed date for release and shall identify the specific information to be released, the medium to be used, and the purpose for the release. Additionally, Seller shall not use Buyer’s name or any other Buyer trade name, any Products, parts thereof or replicas of Products, or in any other way identify Buyer in any advertisement, display, news release, or other disclosure without Buyer’s prior written consent. The Parties agree that in the event a news release is so approved and made, such news will recognize Buyer and Seller.
- b. The Seller agrees to insert the substance of this clause, including this sentence, in any lower tier subcontract. Seller shall submit requests for authorization to the Buyer.

## **29. PARTIAL INVALIDITY, NONWAIVER, REMEDIES**

- a. If any provision in this Agreement is or becomes void or unenforceable by force or operation of law, or is deemed invalid, the void, unenforceable or invalid portion shall be severable, and the remaining terms and conditions shall remain in full force and effect.
- b. A Party’s failure at any time to enforce any provision of this Agreement shall not constitute a waiver of the provision or prejudice a Party’s right to enforce that provision at any subsequent time.
- c. Each of the rights and remedies reserved by Buyer in this Agreement shall be cumulative and additional to any other or further remedies provided in law or equity or in this Agreement.

### **30. RELATIONSHIP OF THE PARTIES**

- a. The relationship of Seller to Buyer shall be that of an independent contractor and nothing herein contained shall be construed as creating any employer/employee, agency, or other relationship of any kind. Seller's employees, agents and/or representatives (hereinafter "Employees") performing under this Agreement shall at all times be under Seller's direction and control and Seller shall so inform them. Seller shall pay all wages, salaries, and other amounts due its Employees in connection with this Agreement and shall be responsible for all reports and obligations for its Employees, including, but not limited to, social security and income tax withholdings, unemployment compensation, worker's compensation, and equal employment opportunity reporting. Under no circumstance shall Seller be deemed an agent or representative of Buyer or authorized to commit Buyer in any way.

### **31. ANTI-TRAFFICKING IN PERSONS**

- a. Seller is prohibited from engaging in activities that support or promote trafficking in persons, including, but not limited to, any of the following:
  - i. Trafficking in persons, including, but not limited to the following:
    - 1. sex trafficking; or
    - 2. the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, debt bondage, or slavery.
  - ii. The procurement of a commercial sex act;
  - iii. The use of forced labor in the performance of company business;
  - iv. The use of misleading or fraudulent recruitment activities;
  - v. Charging employees recruitment fees;
  - vi. Failing to pay for the return transportation at the end of employment for an employee who is not a national of the country in which the work is taking place and who was brought into that country for the purpose of working;
  - vii. Providing or arranging housing that fails to meet the host country housing and safety standards; or
  - viii. If required, failing to provide an employment contract, recruitment agreement, or similar work document in writing, in the individual's native language and prior to the individual departing from his or her country of origin.
- b. Seller represents and warrants that it shall abide by and comply with the requirements of this clause. Further, Seller shall require its employees, agents, contract laborers and subcontractors to abide by and comply with the requirements of this clause.
- c. Upon written notice, Buyer or its Authorized Representatives may audit all pertinent books, records, work sites, offices, and documentation of Seller in Agreement to verify compliance with this clause. Seller agrees to cooperate with and provide Buyer with any information reasonably requested in support of Buyer's due diligence or other efforts and in Agreement to verify compliance with this clause. Seller will, in all of its lower-tier subcontracts and contracts relating to this or any other Buyer Agreement with Seller, include provisions which secure for Buyer all of the rights and protections provided for within this clause.
- d. Seller acknowledges that if Seller or any of its employees, agents, contract laborers or subcontractors engages in any of the prohibited activities in this clause, this Agreement is subject to termination.
- e. Whenever Seller has knowledge, whether substantiated or not, that any actual or suspected violation of this clause has occurred, Seller shall immediately give written notice to Buyer's

Authorized Representative and provide all relevant information including, but not limited to, the nature of the actual or suspected violation.

- f. Seller shall provide its full cooperation during any subsequent investigation of the actual or suspected violation by Buyer, Buyer's representative, or cognizant government agency. Seller's cooperation shall include, but not be limited to, permitting inspection of its work sites, offices, and documentation, as necessary to support any investigation.
- g. Seller agrees to insert the substance of this clause, including this sentence, in any lower-tier subcontract and in all contracts with agents.

### **32. FACILITY SECURITY AND SAFETY**

- a. If this Agreement requires Seller's personnel, including its employees and subcontractors ("Seller Engaged Personnel"), to enter premises which are owned, operated or managed by Buyer or its customer, Seller shall (1) comply with all safety rules and requirements as may be prescribed by Buyer or Buyer's customer, as well as the laws of the State where such premises are located; and (2) take such additional precautions as Buyer may reasonably require for safety and accident prevention purposes, including safety training. Seller agrees to take all reasonable steps and precautions to prevent accidents and preserve the life and health of Seller, US Government, and Buyer personnel performing or in any way coming in contact with Seller's performance of this Agreement. Any violation of such rules and requirements, unless promptly corrected as directed by Buyer, shall be grounds for termination of this Agreement in accordance with the Termination for Default clause herein. Seller Engaged Personnel, including delivery personnel, may not bring firearms, cameras, alcohol, illegal drugs, or unauthorized passengers onto any Buyer premises, nor bring matches or lighters into Buyer secured areas. Seller Engaged Personnel may not enter areas or perform any work where explosives or other serious hazards are present without Buyer's advanced written approval.
- b. Seller is responsible for ensuring that Seller Engaged Personnel entering premises which are owned, operated or managed by Buyer or its customer (1) are properly badged and made aware of applicable security requirements, and (2) at all times display identification badges approved by Buyer. Seller is required to notify Buyer whenever it terminates any Seller Engaged Personnel issued a badge by Buyer, a Buyer badge is lost, or if a problem arises involving Buyer's security requirements. Seller Engaged Personnel obtaining a badge must be capable of reading and understanding Buyer's processes and procedures relevant to duties that Seller Engaged Personnel is to perform on Buyer's premises.

### **33. SUSPECT/COUNTERFEIT PARTS**

- a. This clause is applicable to all Agreements. If DFARS 252.246-7007 and DFARS 252.246-7008 are also applicable to this Agreement, the provisions of paragraphs (a) – (e) of DFARS 252.246-7007, including its definition of "electronic parts," are incorporated in this paragraph by reference and "Contracting Officer" shall mean "Buyer". Seller shall establish and maintain a material authenticity process that ensures the requirements of these clauses or other authenticity requirements in this Agreement are met. Seller's obligation to substantiate authenticity shall survive Acceptance of and payment for Products delivered under this Agreement.
- b. Seller shall not furnish suspect counterfeit or counterfeit parts to Buyer under this Agreement. All material delivered under this Agreement shall be authentic and traceable to the original manufacturer. Seller shall provide authenticity and traceability records to Buyer upon request. Electronic parts shall not be acquired from brokers unless approved in advance in writing by Buyer. Seller shall immediately notify Buyer if Seller cannot

provide parts, components, and/or assemblies traceable to the original component manufacturer or the original equipment manufacturer. Upon receipt of such notification, Buyer reserves the right to terminate this Agreement at no cost to Buyer or require specific material validation test and inspection protocol requirements to Seller.

- c. If suspect counterfeit or counterfeit parts are furnished under this Agreement and are found in any of the Products delivered hereunder, such items will be impounded by Buyer. Seller shall promptly replace such suspect/counterfeit parts with parts acceptable to the Buyer. Seller shall be liable for all costs relating to the removal and replacement of said parts, including without limitation Buyer's external and internal costs of removing such suspect/counterfeit parts, of reinserting replacement parts and of any testing or validation necessitated by the reinstallation of Seller's Products after suspect/counterfeit parts have been exchanged. Buyer's remedies described herein shall not be limited by any other clause agreed upon between Buyer and Seller in this Agreement and are in addition to any remedies Buyer may have at law, equity or otherwise under this Agreement. At Buyer's request, Seller shall return any removed suspect counterfeit or counterfeit parts to Buyer in Agreement that Buyer may turn such parts over to its U.S.G. customer for further investigation. For purposes of this clause, Seller agrees that any U.S.G. directive/information or GIDEP alert, indicating that such parts are suspect counterfeit or counterfeit, shall be deemed definitive evidence that Seller's Products contain suspect counterfeit or counterfeit parts.
- d. Seller agrees to insert the substance of this clause, including this sentence, in any lower tier subcontract.

#### **34. COMPLETE AGREEMENT**

- a. This Agreement is the Parties' final expression of their agreement and is the complete and exclusive statement of all terms and conditions of agreement. This Agreement supersedes and cancels all prior understandings, proposals, communications, whether oral or written, and agreements between the Parties, whether such understandings, proposals, communications, and agreements were written or oral, concerning the matters addressed in this Agreement. No course of prior dealings between the Parties, and no usage of trade, shall be relevant to supplement or explain any term used in this Agreement. The descriptive headings contained in this Agreement are for convenience of reference only and in no way define, limit or describe the scope or intent of this Agreement.

#### **35. RESPONSE TO AUDIT**

- a. Buyer shall not be prohibited from providing copies of this Agreement, including any other document incorporated into this Agreement, to federal, state, or other regulatory agencies as requested by either Buyer's or government auditors to comply with auditing procedures.

#### **36. DELIVERY, TITLE, SOURCING**

- a. All Parties expressly agree that time is and shall remain a material element of this Agreement and no acts of Buyer, including without limitation, modifications to this Agreement or Acceptance of late deliveries, shall constitute a waiver of this provision.
- b. Title free of liens or encumbrances shall pass to Buyer upon Acceptance (except as otherwise specified within this Agreement); however, passing of title shall not relieve Seller of any other obligations under this Agreement.
- c. All deliveries shall be strictly in accordance with the applicable quantities and schedules set forth in this Agreement. Buyer reserves the right to (i) return over shipments and early

shipments at Seller's expense, (ii) have payment therefore withheld by Buyer until the date that Products or Services are actually scheduled for delivery, or (iii) be placed in storage, for which Seller shall be liable for the cost, until the delivery date specified herein. Unless otherwise provided in this Agreement, delivery in whole or part shall not be made more than ten (10) days prior to required delivery dates.

- d. Whenever it appears Seller will not meet the delivery schedule, Seller shall immediately notify Buyer of the reason and estimated length of the delay. If Seller's delivery shall fail to meet the delivery schedule, Buyer, without limiting its other rights or remedies, may direct expedited routing, and any excess cost incurred thereby shall be debited to Seller's account.
- e. If Seller is unable to meet the required delivery schedules for any reason, other than a change directed by Buyer, Buyer shall have the option to (1) terminate this Agreement, or (2) fill such Agreement or any portion thereof, from sources other than Seller and to reduce Seller's Agreement quantities accordingly at no increase in unit price, without any penalty to Buyer, or (3) Accept late delivery and recover from Seller any costs Buyer incurs caused by the late delivery. This condition shall not limit Buyer's other rights and remedies Buyer may otherwise have under this Agreement or applicable law.
- f. If Seller intends to source or ship direct from outside of the U.S. to Buyer then, in addition to complying with all applicable Export Regulations, Seller shall provide the name, country and contact information of the non-U.S. sources within ten (10) days after Agreement acceptance. Seller proposed sources outside of the U.S. must have a reputation for honesty and a company policy prohibiting bribes and facilitating payments intended to expedite or secure performance of a routine governmental action, such as, customs clearance. Buyer retains the right to deny Seller's use of Seller proposed sources within thirty (30) days of Seller notification. Seller shall ensure that Buyer's purchase does not transit through one of the proscribed countries listed in U.S. ITAR, 22 C.F.R. 126.1.

### **37. PACKAGING, PACKING, MARKING**

- a. Seller shall be responsible for ensuring the proper packaging, packing, and marking of Product(s) delivered hereunder in accordance with this Agreement. Packaging, packing, and marking will conform to the instructions specified or provided by Buyer. Seller must assure package integrity throughout the shipping cycle. Each package and pack shall provide physical, chemical, and cleanliness protection to prevent damage or deterioration of the Product during handling, shipment and storage under anticipated environmental conditions. All materials, fabrication techniques and workmanship shall conform to the requirements specified herein or, if not specified, otherwise meet or exceed good commercial quality and practice. Damage resulting from improper Product packaging will be charged to Seller. Seller must comply with all applicable carrier regulations, including National Motor Freight Classification and Department of Transportation Regulations. No extra charge for packaging or insurance shall be allowed unless specifically noted herein. Products received without proper packaging, packing, marking and/or bar coding as set forth herein may be rejected by Buyer and returned to Seller at Seller's expense.
- b. All goods shall be prepared (cleaned, preserved, etc.) and packed per Military Standard Packaging, when required, or best commercial practice for export shipment in a manner to comply with carrier regulations and to prevent damage or deterioration during handling, shipment and indoor storage for up to ninety (90) days at destination. Wood Packaging Materials must meet International Standards for Phytosanitary Measures (ISPM) No. 15. If requested, Seller shall submit two (2) copies of its proposed packaging procedure and packing design to Buyer for review not less than sixty (60) days prior to the

fabrication of the container required for first shipment, and shall prepare and package in accordance with said procedure and design.

### **38. SHIPPING AND TRANSPORTATION**

- a. Unless otherwise noted on this Agreement, when shipping F.O.B. Shipping Point (Seller's Dock), Seller shall utilize Buyer's authorized carrier. Buyer reserves the right to debit Seller's account for excessive charges relating to Seller's failure to comply with Buyer's routing instructions.

### **39. INSPECTION**

- a. Buyer and its customer may inspect and test material, work in progress, Products and/or Services at all times and places during manufacture and otherwise. No inspection (including source inspection), test, approval (including design approval), or Acceptance of Products or Services, or failure to inspect and Accept or reject Products or Services, shall relieve Seller from responsibility for any defects or other failure to meet the requirements of this Agreement, or for latent defects, fraud, such gross mistakes that amount to fraud, or Seller's warranty obligations, nor impose liability on Buyer.
- b. Seller shall not substitute materials or accessories, even if Seller believes they are of superior quality, without written consent of Buyer.
- c. Unless otherwise stated in Buyer's specifications, the latest revision of applicable standards, specifications, or similar documents as of the date of this Agreement shall apply. If the Products are specifically manufactured for Buyer in accordance with drawings, designs, or specifications furnished by Buyer:
  - i. Seller shall provide and maintain an inspection and quality control system acceptable to Buyer and provide access to Seller's facilities and applicable documented information including all lower-tier subcontractors' facilities used in performance of this Agreement at all reasonable times, and without additional charge, for inspection by Buyer's agents, employees, Buyer's customer and any applicable regulatory authority, and shall provide all tools, facilities, and assistance reasonably necessary for inspection relating to the performance of this Agreement; Seller shall maintain adequate and authenticated inspection and test documents which relate to work performed under this Agreement for a period of three (3) years after completion of this Agreement or as otherwise specified in this Agreement, and shall make such records available to Buyer upon request;
  - ii. Seller shall supply Buyer with inspection and test reports, affidavits, certifications, technical documents generated or related to this Agreement, or any other documents as may reasonably be requested by Buyer;
  - iii. Seller shall notify Buyer's Authorized Representative in writing of any changes in Product and/or process definition and obtain Buyer's written approval prior to proceeding; and
  - iv. Seller agrees to insert the substance of this clause, including this sentence, in any lower-tier subcontract.
- d. Final inspection and Acceptance by Buyer shall be at point of receipt by Buyer, unless otherwise specified in this Agreement.

### **40. CONFLICT MINERALS**

- a. If Seller is providing Products to Buyer under this Agreement, Seller shall use commercially reasonable efforts to:
  - i. identify whether such Products contain tin, tantalum, gold or tungsten;



- ii. determine whether any such minerals originated in covered countries, as defined in Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Act”); and
  - iii. perform appropriate due diligence on its supply chain in support of Buyer’s obligations under the Act.
- b. In addition, Seller shall, as soon as reasonably practicable following the completion of the calendar year, provide a completed Conflict Minerals Reporting Template, using the form found at <https://www.responsiblemineralsinitiative.org/conflict-minerals-reporting-template/>. If requested, Seller will promptly provide information or representations that Buyer reasonably believes are required to meet Buyer’s conflict minerals compliance obligations.

#### **41. DISPOSAL OF PRODUCTS**

- a. Upon completion or termination of this Agreement and as directed by Buyer, any excess Products, or parts thereof, shall be delivered free of charge to Buyer at the designated delivery point at Seller’s risk and expense or, if requested by Buyer, destroyed and the destruction certified by Seller. Seller shall not sell, or otherwise dispose of as scrap or otherwise, any completed or partially completed or defective Products without defacing or rendering such Products unsuitable for use.

#### **42. SELLER’S EMPLOYEES**

- a. Employees of Seller who perform Services under this Agreement shall be citizens of the U.S., its possessions or territories, or lawful permanent residents as defined by 8 U.S.C. 1101(a)(20), or protected individuals as defined by 8 U.S.C. 1324b(a)(3). Seller shall provide certification of compliance upon Buyer request. Seller shall promptly notify Buyer of any changes to the certification. Failure to provide the certification, or notice of changes, may result in termination of this Agreement for default.
- b. Seller represents and warrants that Seller is an expert, fully competent in all phases of the work involved in producing and supporting all Products and performing all Services purchased under this Agreement. Buyer may require Seller to remove from Buyer’s or Buyer’s customer’s premises any employee, agent, or representative of Seller, or any of its subcontractors and Buyer shall have the right to request and have replaced any personnel who fail to perform to Buyer’s satisfaction.

#### **43. INFORMATION SECURITY**

- a. Definitions
  - i. “Countermeasures” means actions, devices, procedures, techniques, or other measures that reduce the vulnerability of an Information System.
  - ii. “Information Security Incident” means (i) any actual or suspected incident involving Seller Information System that may involve Buyer’s Sensitive Information, or (ii) any actual or suspected unauthorized access to, use, or disclosure of Buyer’s Sensitive Information.
  - iii. “Information” means any communication or representation of knowledge such as facts, data, or opinions, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual.
  - iv. “Information System” means a discrete set of Information resources that collect, process, maintain, use, share, disseminate, or dispose Information.
  - v. “Seller Information System” is defined as any Information System owned and/or operated by Seller or owned/operated by a third party on behalf of Seller that

collects, processes, maintains, uses, shares, disseminates, or disposes Information.

- vi. "Sensitive Information" means any Information that is collected, processed, maintained, used, shared, or disseminated in connection with this Agreement that requires protection to ensure its confidentiality, integrity and availability including, but not limited to, any Buyer Proprietary Information and third party proprietary Information (identified as such), Personal Information, Covered Defense Information as defined in DFARS 252.204-7012, and Controlled Unclassified Information (CUI) defined in the National Archives and Records Administration (NARA) Registry, available at <https://www.archives.gov/cui/registry/category-list>.

**b. Reasonable and Appropriate Security Controls**

- i. Seller shall apply reasonable and appropriate administrative, technical, physical, organizational, and operational safeguards and operations, including Countermeasures, to protect Sensitive Information against accidental and unlawful destruction, alteration, and unauthorized or improper disclosure or access regardless of whether such Sensitive Information is on Seller's internal systems or a cloud environment.
- ii. If Seller's performance of this Agreement involves the transmission, storage, or processing of Sensitive Information on an Information System, the Seller shall at a minimum apply the following security controls:
  - 1. Basic Safeguarding Controls from FAR 52.204-21, regardless of whether FAR 52.204-21 applies to this Agreement:
    - a. Limit Information System access to authorized users, processes acting on behalf of authorized users, or devices (including other Information Systems).
    - b. Limit Information System access to the types of transactions and functions that authorized users are permitted to execute.
    - c. Verify and control/limit connections to and use of external Information Systems.
    - d. Control Information posted or processed on publicly accessible Information Systems.
    - e. Identify Information System users, processes acting on behalf of users, or devices.
    - f. Authenticate (or verify) the identities of those users, processes, or devices, as a prerequisite to allowing access to organizational information systems.
    - g. Sanitize or destroy Information System media containing Sensitive Information before disposal or release for reuse.
    - h. Limit physical access to organizational information systems, equipment, and the respective operating environments to authorized individuals.
    - i. Escort visitors and monitor visitor activity; maintain audit logs of physical access; and control and manage physical access devices.
    - j. Monitor, control, and protect organizational communications (i.e., Information transmitted or received by organizational information systems) at the external boundaries and key internal boundaries of the Information Systems.

- k. Implement subnetworks for publicly accessible system components that are physically or logically separated from internal networks.
  - l. Identify, report, and correct Information and Information System flaws in a timely manner.
  - m. Provide protection from malicious code at appropriate locations within information systems.
  - n. Update malicious code protection mechanisms when new releases are available.
  - o. Perform periodic scans of the Information System and real-time scans of files from external sources as files are downloaded, opened, or executed.
2. Additional Basic Security Controls
- a. Establish and enforce security configuration settings for information technology Products employed in Seller's Information Systems.
  - b. Establish and maintain data protection processes and systems to adequately protect Sensitive Information, including pertaining to destruction methods employed, how audit and system log information is protected, and having the capability to encrypt Sensitive Information during transmission.
  - c. Ensure that risks identified in scans performed under paragraph B.2.a.xv of this clause are promptly addressed.
- c. Information Security Incident Response and Notification
- i. Seller must have documented processes that address Information Security Incidents. These processes should be a set of written instructions and Countermeasures that include, but are not limited to: detecting, responding to, and limiting the effects of an Information Security Incident.
  - ii. Within 72 hours of discovery of an Information Security Incident, Seller will notify Buyer's Authorized Representative any Information Security Incident. At Seller's expense, Seller will (i) immediately investigate any Information Security Incident, (ii) make all reasonable efforts to secure Sensitive Information and mitigate the impact of the Information Security Incident, (iii) provide timely and relevant information to Buyer about the Information Security Incident on an ongoing basis, and (iv) cooperate as applicable with Buyer to provide notice to affected third parties.
  - iii. This clause does not relieve Seller of any other applicable safeguarding requirements, remedies, or obligations regarding the protection of Sensitive Information required by this Agreement or local, federal, state, or other governmental agencies or departments, including but not limited to FAR 52.204-21 or DFARS 252.204-7012.
- d. Seller shall respond promptly and appropriately to any inquiries from Buyer related to compliance with this clause to include documentation and/or independent evidence of the effectiveness of implemented controls, processes and Countermeasures discussed above.
- e. Seller shall provide prior written notification of material changes to any Seller Information System that affect Seller's compliance with this clause, 'including any new third party agreements that will store, process or transmit Buyer's Sensitive Information on behalf of Seller.
- f. For contracts requiring access to classified information, Seller shall be responsible for safeguarding all classified information in accordance with all applicable Government requirements including FAR 52.204-2, "Security Requirements," and customer classification specifications (e.g. DD254).

**44. FEDERAL ACQUISITION REGULATION (FAR) AND DEFENSE FAR SUPPLEMENT (DFARS) FLOWDOWN CLAUSES AND PROVISIONS**

- a. The following clauses set forth in the FAR and DFARS as in effect on the date of this Agreement, unless otherwise noted, are incorporated herein by reference. The listed FAR and DFARS clauses are incorporated herein as if set forth in full text unless made inapplicable by its corresponding note, if any. Seller shall include the appropriate FAR and DFARS clauses as required in any lower-tier subcontract. Whenever said clauses include a requirement for the resolution of disputes between the Parties in accordance with the FAR “Disputes” clause, the dispute shall instead be disposed of in accordance with the clause entitled “Disputes” in these terms and conditions. Where necessary to derive proper meaning in a subcontract situation from these clauses and any other program-specific clauses incorporated into this Agreement, “Contractor” means “Seller,” “Contracting Officer” means “Buyer,” “Contract” means this Agreement and “Government” means “Buyer or the Government.” However, the words “Government” and “Contracting Officer” do not change: (1) when a right, act, authorization or obligation can be granted or performed only by the Government or the Prime Contract Contracting Officer or duly authorized representative, (2) when title to property is to be transferred directly to the Government, and (3) in FAR 52.227-1, 52.2272, and DFARS 252.227-7013 and 252.227-7014.

**45. Terms and Conditions Precedence**

- a. The terms and conditions contained in Appendix F, if applicable, shall take precedence over the Standard Terms and Conditions published to Mettleops.com.

<b>Clause Title</b>	<b>FAR Reference</b>
<b>Gratuities</b> .....	<b>52.203-3</b>
NOTE: As used in this clause, “Government” means “Buyer” (except “Government” means “Buyer or Government” in the phrase “to any Officer, official or employee of the Government”), “hearing” means opportunity to be heard, and “in any competent court”, means “pursuant to the Disputes clause contained herein”.	
<b>Restrictions on Subcontractor Sales to the Government</b> .....	<b>52.203-6</b>
NOTE: Applicable to any Agreement greater than the simplified acquisition threshold.	
<b>Anti-Kickback Procedures</b> .....	<b>52.203-7</b>
NOTE: The substance of this clause, except subparagraph (c)(1), is applicable to any Agreement and all lower-tier subcontracts which exceed \$150,000. Seller shall immediately notify Buyer of any alleged violations involving any of Buyer’s or Seller’s employees.	
<b>Limitation on Payments to Influence Certain Federal Transactions</b> .....	<b>52.203-12</b>
NOTE: Applicable to any Agreement greater than \$150,000.	
<b>Contractor Code of Business Ethics and Conduct</b> .....	<b>52.203-13</b>
NOTE 1: Applicable to any Agreement greater than \$6,000,000 and period of performance greater than 120 days. NOTE 2: Notwithstanding any alterations to this clause to reflect the relationship between Buyer and Seller, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the Office of the Inspector General of the agency issuing the Prime Contract under which this Agreement is being issued, with a copy to the Contracting Officer of the Prime Contract.	
<b>Display of Hotline Poster(s)</b> .....	<b>52.203-14</b>
NOTE: Applicable to any Agreement greater than \$6,000,000 and period of performance greater than 120 days (commercial items exempt).	
<b>Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009</b> .....	<b>52.203-15</b>
<b>Preventing Personal Conflicts of Interest</b> .....	<b>52.203-16</b>
NOTE: Applicable to any Agreement greater than the simplified acquisition threshold.	
<b>Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights</b> .....	<b>52.203-17</b>
NOTE: Applicable to any Agreement greater than the simplified acquisition threshold.	
<b>Prohibition on Contracting with Entities that Require Certain Internal Confidentiality</b>	

<b>Agreements or Statements-Representation .....</b>	<b>52.203-18</b>
NOTE: This is not applicable to solicitations for a personal services contract with an individual if the services are to be performed entirely by the individual, rather than by an employee of the contractor or a subcontractor.	
<b>Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements .....</b>	<b>52.203-19</b>
NOTE: Applicable in all solicitations and resultant contracts, other than personal services contracts with individuals.	
<b>Security Requirements .....</b>	<b>52.204-2</b>
NOTE 1: Delete paragraph (c).	
NOTE 2: Applicable if this Agreement involves access to Classified Information.	
<b>Personal Identity Verification of Contractor Personnel.....</b>	<b>52.204-9</b>
<b>Reporting Executive Compensation and First-Tier Subcontract Awards .....</b>	<b>52.204-10</b>
<b>Basic Safeguarding of Covered Contractor Information Systems.....</b>	<b>52.204-21</b>
NOTE: Applicable to all Agreements at any tier for other than commercially available off-the-shelf items.	
<b>Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities .....</b>	<b>52.204-23</b>
<b>Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment .....</b>	<b>52.204-24</b>
NOTE: Not including (b)(2) or (d)(2).	
<b>Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment .....</b>	<b>52.204-25</b>
NOTE: Pursuant to (e), not including (b)(2).	
<b>Prohibition on a ByteDance Covered Application .....</b>	<b>52.204-27</b>
<b>Protecting the Government’s Interest When Subcontracting with Contractors Debarred, Suspended or Proposed for Debarment .....</b>	<b>52.209-6</b>
<b>Material Requirements.....</b>	<b>52.211-5</b>
<b>Defense Priority and Allocation Requirements.....</b>	<b>52.211-15</b>
NOTE: Clause is applicable unless this Agreement provides no DPAS rating.	
<b>Audit and Records – Negotiation .....</b>	<b>52.215-2</b>
NOTE: Applicable to any Agreement greater than the simplified acquisition threshold.	
<b>Price Reduction for Defective Certified Cost or Pricing Data .....</b>	<b>52.215-10</b>
NOTE: Applicable to any Agreement when cost or pricing data are required.	
<b>Price Reduction for Defective Certified Cost or Pricing Data - Modifications .....</b>	<b>52.215-11</b>
NOTE: Applicable if FAR 52.215-10 is not applicable to this Agreement.	
<b>Subcontractor Certified Cost or Pricing Data .....</b>	<b>52.215-12</b>
NOTE: Applicable to any Agreement when cost or pricing data are required.	
<b>Subcontractor Certified Cost or Pricing Data - Modifications .....</b>	<b>52.215-13</b>
NOTE: Applicable if FAR 52.215-12 is not applicable to this Agreement.	
<b>Integrity of Unit Prices.....</b>	<b>52.215-14</b>
NOTE 1: Delete paragraph (b)	
NOTE 2: Applicable to any Agreement greater than the simplified acquisition threshold.	
<b>Pension Adjustments and Asset Reversions .....</b>	<b>52.215-15</b>
NOTE: Applicable to any Agreement when cost or pricing data are required or for which any pre-award or post-award cost determinations will be subject to FAR Part 31.	
<b>Facilities Capital Cost of Money .....</b>	<b>52.215-16</b>
NOTE: Applicable only if this Agreement is subject to the Cost Principles at FAR Subpart 31.2 and Seller proposed Facilities Capital Cost of Money in its offer.	
<b>Waiver of Facilities Capital Cost of Money .....</b>	<b>52.215-17</b>
NOTE: Applicable only if this Agreement is subject to the Cost Principles at FAR Subpart 31.2 and Seller did not propose Facilities Capital Cost of Money in its offer.	

<b>Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other than Pensions .....</b>	<b>52.215-18</b>
NOTE: Applicable to any Agreement when cost or pricing data are required or for which any pre-award or post-award cost determinations will be subject to FAR Part 31.	
<b>Notification of Ownership Changes.....</b>	<b>52.215-19</b>
NOTE: Applicable to any Agreement when cost or pricing data are required or for which any pre-award or post-award cost determinations will be subject to FAR Subpart 31.2.	
<b>Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data.....</b>	<b>52.215-20</b>
<b>Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data – Modifications</b>	<b>52.215-21</b>
<b>Limitation on Pass-Through Charges .....</b>	<b>52.215-30</b>
NOTE: Applicable to any Agreement when the total estimated Agreement value exceeds the threshold for obtaining cost or pricing data in FAR 15.4034 and the contemplated contract type is expected to be any contract type except those contract types listed in FAR 15.408(n)(2)(i)(B)(2). Seller shall notify Buyer in writing if:	
(1) Seller changes the amount of subcontract effort after award such that it exceeds 70 percent of the total cost of work to be performed under this Agreement. The notification shall identify the revised cost of the subcontract effort and shall include verification that Seller will provide added value; or	
(2) Any subcontractor changes the amount of lower-tier subcontractor effort such that it exceeds 70 percent of the total cost of the work to be performed under its subcontract. The notification shall identify the revised cost of the subcontract effort and shall include verification that the subcontractor will provide added value as related to the work to be performed by the lower-tier subcontractor(s).	
<b>Incentive Price Revision – Firm Target.....</b>	<b>52.216-16</b>
NOTE: Applicable to any FPIF Agreement or line item.	
<b>Incentive Price Revision – Successive Targets.....</b>	<b>52.216-17</b>
NOTE: Applicable to any FPIS Agreement or line item.	
<b>Utilization of Small Business Concerns .....</b>	<b>52.219-8</b>
NOTE: Applicable unless contract is for personal services, or the contract, together with all of its subcontracts, will be performed entirely outside the U.S. and its outlying areas.	
<b>Small Business Subcontracting Plan .....</b>	<b>52.219-9</b>
NOTE: Applicable to any Agreement greater than \$750,000 or lower threshold if effective under older higher-tier contract.	
<b>Notice to the Government of Labor Disputes .....</b>	<b>52.222-1</b>
<b>Contract Work Hours and Safety Standards – Overtime Compensation .....</b>	<b>52.222-4</b>
NOTE: Applicable to Agreements at any tier greater than \$150,000.	
<b>Contracts for Materials, Supplies, Articles and Equipment Exceeding \$15,000. ....</b>	<b>52.222-20</b>
NOTE: Applicable to any Agreement greater than \$15,000 or lower threshold if effective under older, higher-tier contract.	
<b>Prohibition of Segregated Facilities.....</b>	<b>52.222-21</b>
NOTE: Applicable if Equal Opportunity clause has been determined to apply to this Agreement.	
<b>Equal Opportunity.....</b>	<b>52.222-26</b>
NOTE: Applicable only (i) if this Agreement is not exempted by Secretary of Labor under Executive Agreement 11246 as amended per FAR 22.807, and (ii) then only with respect to provisions of subparagraphs (b)(1) through (b)(11) [binding Seller thereto].	
<b>Equal Opportunity for Veterans.....</b>	<b>52.222-35</b>
NOTE 1: Applicable to any Agreement of \$150,000 or more.	
NOTE 2: The clause at 41 CFR 60-300.5(a) is incorporated herein by reference. Buyer and Seller shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.	
<b>Equal Opportunity for Workers with Disabilities .....</b>	<b>52.222-36</b>
NOTE 1: Applicable to any Agreement greater than \$15,000 or lower threshold if effective under older, higher-tier contract.	
NOTE 2: The clause at 41 CFR 60-741.5(a) is incorporated herein by reference. Buyer and Seller shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.	
<b>Employment Reports on Veterans .....</b>	<b>52.222-37</b>
NOTE: Applicable to any Agreement at or over the Simplified Acquisition Threshold.	
<b>Notification of Employee Rights Under the National Labor Relations Act.....</b>	<b>52.222-40</b>
NOTE: Applicable to any Agreement greater than \$10,000.	

<b>Service Contract Labor Standards .....</b>	<b>52.222-41</b>
NOTE: Applicable only to the extent that such clause is in Buyer’s higher-tier contract and this Agreement is subject to the Service Contract Labor Standards statute.	
<b>Combating Trafficking in Persons.....</b>	<b>52.222-50</b>
<b>Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment - Requirements.....</b>	<b>52.222-51</b>
<b>Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services – Requirements .....</b>	<b>52.222-53</b>
<b>Employment Eligibility Verification .....</b>	<b>52.222-54</b>
NOTE: Applicable to any Agreement greater than \$3,500 with a period of performance of 120 days or greater.	
<b>Minimum Wages Under Executive Agreement 13658.....</b>	<b>52.222-55</b>
NOTE: Applicable to Agreements subject to the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute.	
<b>Certification Regarding Trafficking in Persons Compliance Plan .....</b>	<b>52.222-56</b>
<b>Paid Sick Leave Under Executive Agreement 13706.....</b>	<b>52.222-62</b>
NOTE: Applicable to Agreements subject to the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute.	
<b>Hazardous Material Identification and Material Safety Data .....</b>	<b>52.223-3</b>
NOTE: Entry is considered to be “none” unless Seller explicitly states otherwise within its quotation or proposal. ALT I applies if procurement is for other than the Department of Defense.	
<b>Notice of Radioactive Materials.....</b>	<b>52.223-7</b>
<b>Ozone-Depleting Substances .....</b>	<b>52.223-11</b>
<b>Encouraging Contractor Policies to Ban Text Messaging While Driving .....</b>	<b>52.223-18</b>
<b>Privacy Act .....</b>	<b>52.224-2</b>
<b>Buy American – Supplies .....</b>	<b>52.225-1</b>
<b>Duty-Free Entry .....</b>	<b>52.225-8</b>
NOTE: Applicable only if such clause is contained in Buyer’s higher-tier contract under which any reduced duty-free entry thresholds shall apply. Under paragraph (c)(1), change “20 days” to “30 days.” Under paragraph (c)(2), change “10 days” to “20 days”.	
<b>Restrictions on Certain Foreign Purchases.....</b>	<b>52.225-13</b>
NOTE: Clause is applicable if purchased item is other than commercial item or component per clause at FAR 52.244-6.	
<b>Contractors Performing Private Security Functions Outside the United States .....</b>	<b>52.225-26</b>
<b>Authorization and Consent.....</b>	<b>52.227-1</b>
NOTE: Applicable only if contained in the controlling Prime Contract and to any Agreement greater than the simplified acquisition threshold.	
<b>Notice and Assistance Regarding Patent and Copyright Infringement.....</b>	<b>52.227-2</b>
NOTE: Applicable to any Agreement greater than the simplified acquisition threshold.	
<b>Refund of Royalties .....</b>	<b>52.227-9</b>
<b>Filing of Patent Applications – Classified Subject Matter .....</b>	<b>52.227-10</b>
<b>Patent Rights – Ownership by the Contractor .....</b>	<b>52.227-11</b>
<b>Insurance – Work on a Government Installation .....</b>	<b>52.228-5</b>
NOTE: Applicable on any Agreement that requires work on a Government installation.	
<b>Cost Accounting Standards .....</b>	<b>52.230-2</b>
<b>Disclosure and Consistency of Cost Accounting Practices .....</b>	<b>52.230-3</b>
<b>Administration of Cost Accounting Standards .....</b>	<b>52.230-6</b>
<b>Interest .....</b>	<b>52.232-17</b>

<b>Unenforceability of Unauthorized Obligations .....</b>	<b>52.232-39</b>
<b>Providing Accelerated Payments to Small Business Subcontractors .....</b>	<b>52.232-40</b>
<b>Industrial Resources Developed Under Defense Production Act Title III.....</b>	<b>52.234-1</b>
NOTE: Applicable only if this Agreement is identified elsewhere herein as stemming from a major system Prime Contract.	
<b>Accident Prevention .....</b>	<b>52.236-13</b>
<b>Protection of Government Buildings, Equipment, and Vegetation .....</b>	<b>52.237-2</b>
NOTE: Applicable to any work performed on a Government installation. "Government" thereunder means Buyer, Prime Contractor [if not Buyer], and any upper-tier subcontractor.	
<b>Bankruptcy.....</b>	<b>52.242-13</b>
NOTE: Any such notification shall be to Buyer. After "for all Government contracts," insert "with Seller".	
<b>Stop-Work Agreement.....</b>	<b>52.242-15</b>
NOTE: The 90 day period in the first and fourth sentences of paragraph (a) is changed to 120 days.	
<b>Competition In Subcontracting .....</b>	<b>52.244-5</b>
<b>Subcontracts for Commercial Items .....</b>	<b>52.244-6</b>
<b>Government Property or Alternate I .....</b>	<b>52.245-1</b>
NOTE 1: Applicable to any Agreement if Government property is furnished to Seller.	
NOTE 2: The basic clause (non-Alt 1 version) applies in most instances except for conditions referenced in Note 3 below.	
NOTE 3: The Alternate 1 version of FAR 52.245-1 shall apply if; this Agreement was issued to Seller as a Firm Fixed Price type contracts not awarded on the basis of submission of certified cost or pricing data, Buyer's Prime Contract contains the Alternate 1 provisions, or if Seller has a disapproved property control system at the time of Agreement award. Under the Alternate 1 clause Seller shall assume Full Risk of Loss for Government Property under Seller's accountability during performance of this Agreement.	
NOTE 4: In the phrases "Government Property", "Government-furnished property", and in references to title to property, "Government" shall not mean "Buyer".	
NOTE 5: Seller shall provide Buyer immediate notice of any disapproval, withdrawal of approval, or non-acceptance by the Government of its property control system. In the event of any of the aforementioned conditions Seller shall immediately assume Full Risk of Loss for all loss or damage to Government property commencing on the day Seller's property system approval was withdrawn or rescinded.	
<b>Inspection of Supplies - Fixed-Price.....</b>	<b>52.246-2</b>
<b>Inspection of Services - Fixed-Price .....</b>	<b>52.246-4</b>
<b>Preference for U.S. - Flag Air Carriers .....</b>	<b>52.247-63</b>
NOTE: Applicable to any Agreement and lower-tier subcontracts that involve international air transportation and are greater than the simplified acquisition threshold.	
<b>Preference for Privately Owned U.S. - Flag Commercial Vessels .....</b>	<b>52.247-64</b>
<b>Value Engineering .....</b>	<b>52.248-1</b>
NOTE 1: Applicable to any Agreement of \$150,000 or more except as specified in FAR 48.201(a).	
NOTE 2: In paragraph (j), "Contracting Officer" means the U.S.G. Contracting Officer, and, in the legend of paragraph (m), "Government" means both the U.S.G. and Buyer. DOD deviation applies if this Agreement stems from higher-tier contract with DOD.	

**Clause Title**

**DFARS Reference**

<b>Prohibition on Persons Convicted of Fraud or Other Defense Contract Related Felonies.....</b>	<b>252.203-7001</b>
NOTE: Applicable to all first-tier Agreements greater than the simplified acquisition threshold.	
<b>Requirement to Inform Employees of Whistleblower Rights .....</b>	<b>252.203-7002</b>
<b>Agency Office of the Inspector General .....</b>	<b>252.203-7003</b>
NOTE: Applicable when Agreement contains FAR 52.203-13, Contractor Code of Business Ethics and Conduct.	
<b>Display of Fraud Hotline Poster(s).....</b>	<b>252.203-7004</b>
NOTE: Applicable to Agreements greater than \$6,000,000, except for Agreements for commercial items or lower-tier subcontracts performed entirely outside the U.S.	
<b>Disclosure of Information .....</b>	<b>252.204-7000</b>



<b>Anti-Terrorism Awareness Training for Contractors .....</b>	<b>252.204-7004</b>
NOTE: Applicable when performance requires routine physical access to a Federally-controlled facility or military installation. Information and guidance pertaining to DoD antiterrorism awareness training is available at <a href="https://jko.jten.mil/">https://jko.jten.mil/</a> or as otherwise identified in the performance work statement.	
<b>Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information .....</b>	<b>252.204-7009</b>
<b>Safeguarding Covered Defense Information and Cyber Incident Reporting .....</b>	<b>252.204-7012</b>
NOTE: Applicable to all Agreements, at any tier, including Agreements for commercial items, for operationally critical support, or for which performance will involve covered defense information, unless this Agreement is solely for commercially available off-the-shelf items.	
<b>Limitations on the Use or Disclosure of Information by Litigation Support Contractors .....</b>	<b>252.204-7014</b>
<b>Notice of Authorized Disclosure of Information for Litigation Support .....</b>	<b>252.204-7015</b>
<b>Covered Defense Telecommunications Equipment or Services—Representation .....</b>	<b>252.204-7016</b>
<b>Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services—Representation .....</b>	<b>252.204-7017</b>
<b>Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services .....</b>	<b>252.204-7018</b>
<b>Notice of NIST SP 800-171 DoD Assessment Requirements .....</b>	<b>252.204-7019</b>
<b>NIST SP 800-171 DoD Assessment Requirements .....</b>	<b>252.204-7020</b>
<b>Intent to Furnish Precious Metals as Government-Furnished Material .....</b>	<b>252.208-7000</b>
NOTE: Applicable to any Agreement and all lower-tier subcontracts unless it is known that the item being purchased contains no precious metals.	
<b>Subcontracting with Firms that are Owned or Controlled by the Government of a Country that is a State Sponsor of Terrorism .....</b>	<b>252.209-7004</b>
NOTE: Applicable to any Agreement of \$150,000 or more.	
<b>Item Unique Identification and Valuation .....</b>	<b>252.211-7003</b>
NOTE: Applicable if included in Buyer’s higher tier contract or Prime Contract.	
<b>Reporting of Government-Furnished Property .....</b>	<b>252.211-7007</b>
NOTE: Applicable if prime contract requires, may require, or permits contractor access to a DoD installation.	
<b>Use of Government Assigned Serial Numbers .....</b>	<b>252.211-7008</b>
NOTE: Applicable if flow down required in accordance with DFARS 211.274-6(c).	
<b>Small Business Subcontracting Plan (DOD Contracts) .....</b>	<b>252.219-7003</b>
NOTE: Applicable to any Agreement anticipated to be valued at \$750,000 or lower threshold if effective under older, higher-tier contract.	
<b>Restrictions on the Use of Mandatory Arbitration Agreements .....</b>	<b>252.222-7006</b>
NOTE: Failure to comply with this provision will be considered a material breach and, at the sole discretion of Buyer, may result in termination for default or cause. ....	
<b>Hazard Warning Labels .....</b>	<b>252.223-7001</b>
NOTE: Applicable to any Agreement which requires delivery of hazardous materials.	
<b>Safety Precautions for Ammunition and Explosives .....</b>	<b>252.223-7002</b>
NOTE: Applicable to any Agreement involving articles furnished containing ammunition or explosives. Government safety representatives may evaluate Seller compliance.	
<b>Change in Place of Performance - Ammunition and Explosives .....</b>	<b>252.223-7003</b>
NOTE: Applicable if DFARS 252.223-7002 applies to this Agreement.	
<b>Prohibition on Storage, Treatment, and Disposal of Toxic or Hazardous Materials .....</b>	<b>252.223-7006</b>
NOTE: Applicable if prime contract requires, may require, or permits contractor access to a DoD installation.	
<b>Safeguarding Sensitive Conventional Arms, Ammunition, and Explosives .....</b>	<b>252.223-7007</b>
NOTE: Applicable to any Agreement and all lower-tier subcontracts involving arms, ammunition and explosives.	

<b>Prohibition of Hexavalent Chromium</b> .....	<b>252.223-7008</b>
NOTE: Applicable to any Agreement for Products, maintenance and repair Services, or construction materials unless the exceptions listed in DFARS 223.7304 apply.	
<b>Buy American and Balance of Payments Program</b> .....	<b>252.225-7001</b>
<b>Qualifying Country Sources as Subcontractors</b> .....	<b>252.225-7002</b>
<b>Prohibition on Acquisition of United States Munitions List Items from Communist Chinese Military Companies</b> .....	<b>252.225-7007</b>
<b>Restriction on Acquisition of Certain Articles Containing Specialty Metals</b> .....	<b>252.225-7009</b>
NOTE 1: Exclude paragraphs (d) and (e)(1); paragraph (c)(6) is hereby deleted.	
NOTE 2: Upon Seller notification of noncompliance with the terms of this clause and the provision of specific information related to the source of the noncompliance, Buyer will facilitate management of the allowance for up to 2% otherwise noncompliant specialty metal content in the end item. The 2% minimal content exception does not apply to and cannot be used to exempt specialty metals contained in high performance magnets.	
<b>Preference for Certain Domestic Commodities</b> .....	<b>252.225-7012</b>
NOTE: Applicable to any Agreement greater than the simplified acquisition threshold.	
<b>Duty – Free Entry</b> .....	<b>252.225-7013</b>
<b>Restriction on Acquisition of Hand or Measuring Tools</b> .....	<b>252.225-7015</b>
<b>Restriction on Acquisition of Ball and Roller Bearings</b> .....	<b>252.225-7016</b>
NOTE: Applicable to any Agreement and all lower-tier subcontracts if Product supplied contains ball or roller bearings.	
<b>Trade Agreements</b> .....	<b>252.225-7021</b>
<b>Restriction on Acquisition of Forgings</b> .....	<b>252.225-7025</b>
<b>Exclusionary Policies and Practices of Foreign Governments</b> .....	<b>252.225-7028</b>
<b>Restriction on Acquisition of Carbon, Alloy, and Armor Steel Plate</b> .....	<b>252.225-7030</b>
<b>Waiver of United Kingdom Levies</b> .....	<b>252.225-7033</b>
<b>Buy American – Free Trade Agreements – Balance of Payments Program</b> .....	<b>252.225-7036</b>
<b>Contractor Personnel Supporting U.S. Armed Forces Deployed Outside the United States</b> .....	<b>252.225-7040</b>
NOTE: Applicable to all Agreements where subcontractor personnel are supporting U.S. Armed Forces deployed outside the U.S.	
<b>Antiterrorism/Force Protection for Defense Contractors Outside the United States</b> .....	<b>252.225-7043</b>
<b>Export Controlled Items</b> .....	<b>252.225-7048</b>
<b>Restriction on the Acquisition of Certain Magnets, Tantalum, and Tungsten</b> .....	<b>252.225-7052</b>
<b>Prohibition Regarding Business Operations with the Maduro Regime</b> .....	<b>252.225-7056</b>
<b>Post-Award Disclosure of Employment of Individuals Who Work in the People’s Republic of China</b> .....	<b>252.225-7058</b>
NOTE: Applicable to all Agreements with a value in excess of \$5 million.	
<b>Prohibition on Certain Procurements from the Xinjiang Uyghur Autonomous Region</b> .....	<b>252.225-7060</b>
<b>Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns</b> .....	<b>252.226-7001</b>
<b>Rights in Technical Data – Noncommercial Items</b> .....	<b>252.227-7013</b>
<b>Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation</b> .....	<b>252.227-7014</b>
<b>Technical Data - Commercial Items</b> .....	<b>252.227-7015</b>
<b>Rights in Bid or Proposal Information</b> .....	<b>252.227-7016</b>
<b>Validation of Asserted Restriction – Computer Software</b> .....	<b>252.227-7019</b>

<b>Limitations on the Use or Disclosure of Government-Furnished Information</b>	
<b>Marked with Restrictive Legends</b> .....	<b>252.227-7025</b>
<b>Deferred Delivery of Technical Data or Computer Software</b> .....	<b>252.227-7026</b>
<b>Deferred Agreeing of Technical Data or Computer Software</b> .....	<b>252.227-7027</b>
<b>Technical Data – Withholding of Payment</b> .....	<b>252.227-7030</b>
<b>Validation of Restrictive Markings on Technical Data</b> .....	<b>252.227-7037</b>
<b>Patent Rights-Ownership by the Contractor (Large Business)</b> .....	<b>252.227-7038</b>
<b>Patents – Reporting of Subject Inventions</b> .....	<b>252.227-7039</b>
<b>Ground and Flight Risk</b> .....	<b>252.228-7001</b>
NOTE: Applicable if included in Buyer’s higher-tier contract.	
<b>Mishap Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles</b> .....	<b>252.228-7005</b>
<b>Supplemental Cost Principles</b> .....	<b>252.231-7000</b>
<b>Accelerating Payments to Small Business Subcontractors - Prohibition on Fees and Consideration</b> .....	<b>252.232-7017</b>
<b>Frequency Authorization and Alternate I</b> .....	<b>252.235-7003</b>
NOTE: Authorization shall be through or coordinated with Buyer’s Authorized Representative.	
<b>Protection Against Compromising Emanations</b> .....	<b>252.239-7000</b>
NOTE: Applicable to Agreements for computer equipment or systems to process Classified Information.	
<b>Cloud Computing Services</b> .....	<b>252.239-7010</b>
<b>Telecommunications Security Equipment, Devices, Techniques and Services</b> .....	<b>252.239-7016</b>
<b>Pricing of Contract Modifications</b> .....	<b>252.243-7001</b>
<b>Requests for Equitable Adjustment</b> .....	<b>252.243-7002</b>
<b>Subcontracts for Commercial Items</b> .....	<b>252.244-7000</b>
<b>Warranty of Data</b> .....	<b>252.246-7001</b>
<b>Notification of Potential Safety Issues</b> .....	<b>252.246-7003</b>
<b>Contractor Counterfeit Electronic Part Detection and Avoidance System</b> .....	<b>252.246-7007</b>
NOTE 1: The provision of paragraphs (a) – (e), including its definition of “electronic parts,” are incorporated herein by reference. This clause is applicable to all Agreements for electronic parts or assemblies containing electronic parts.	
NOTE 2: This clause is applicable to all Agreements in support of Department of Defense Prime Contracts.	
<b>Sources of Electronic Parts</b> .....	<b>252.246-7008</b>
NOTE 1: This clause is applicable to all Agreements for electronic parts or assemblies containing electronic parts.	
NOTE 2: This clause is applicable to all Agreements in support of Department of Defense Prime Contracts.	
<b>Transportation of Supplies by Sea</b> .....	<b>252.247-7023</b>
NOTE 1: Applicable in any Agreement and all lower-tier subcontracts for ocean transportation of supplies. Paragraphs (f) and (g) shall not apply if this Agreement or any lower-tier subcontract is at or below the simplified acquisition threshold.	
NOTE 2: Paragraph (c), first sentence has been modified as to read “Seller and its subcontractors may request that Buyer obtain Government authorization for shipment...” “45” is changed to “60” days in paragraph (d) and “30” to “20” in paragraph (e). In paragraph (e), delete “and the division of National Cargo, Office of Market Development, Maritime Administration, U.S. Department of Transportation, Washington, DC 20590.” In paragraph (g) “for the purposes of the Prompt Payment clause of this contract” is deleted.	
NOTE 3: Seller agrees to indemnify and hold Buyer harmless against any loss, damage or expense suffered by Buyer as a result of Seller’s failure to comply with the requirements of this clause.	
<b>Notification of Anticipated Contract Termination or Reduction</b> .....	<b>252.249-7002</b>