

General Provisions and FAR Flowdown Provisions for Commercial Items Under a U.S. Government Prime Contract

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SECTION I: GENERAL PROVISIONS

1. Formation of Contract and Terms and Conditions

(a) This Contract presents BUYER's offer to SELLER. SELLER's signature of acknowledgment, acceptance of payment, or commencement of performance shall constitute SELLER's acceptance of this Contract. SELLER's acceptance of this Contract creates a binding agreement between BUYER and SELLER, which shall be governed by the provisions of this Contract.

(b) This Contract integrates, merges, and supersedes any prior offers, negotiations, and agreements concerning the subject matter hereof and constitutes the entire agreement between the parties.

(c) Additional or differing terms or conditions proposed by SELLER or included in SELLER's acknowledgment hereof are hereby objected to by BUYER and have no effect unless accepted in writing by BUYER.

2. Applicable Laws

(a) This Contract shall be governed by the laws of the State of Nevada, except that any provision in this Contract that is (i) incorporated in full text or by reference from the Federal Acquisition Regulation (FAR), (ii) incorporated in full text or by reference from any agency regulation that implements or supplements the FAR, or (iii) that is substantially based on any such agency regulation or FAR provision shall supersede any State laws and be construed and interpreted according to the federal common law of government contracts as enunciated and applied by federal judicial bodies, Boards of Contracts Appeals, and quasi-judicial agencies of the federal government.

(b) (1) SELLER agrees to comply with all applicable laws, orders, rules, regulations, and ordinances of the United States and the country where SELLER will be performing the Contract. The provisions of the United Nations Convention for International Sale of Goods shall not apply to this Contract.

(2) If, as a result of any violation of applicable laws, orders, rules, regulations, or ordinances by SELLER, its officers, employees, agents, suppliers, or subcontractors at any tier, (i) BUYER's Contract price or fee is reduced; (ii) BUYER's costs are determined to be unallowable; (iii) any fines, penalties, or interest are assessed on BUYER; or (iv) BUYER incurs any other costs or damages, BUYER may proceed as provided for in (3) below.

(3) Upon the occurrence of any of the circumstances identified in (2) above, BUYER may make a reduction of corresponding amounts (in whole or in part) in the price, or in the costs and fee, of this Contract or any other contract with SELLER, or may demand payment (in whole or in part) of the corresponding amounts. SELLER shall promptly pay amounts so demanded.

(4) These rights and obligations shall survive the termination or completion of this Contract.

(c) If the Work is to be shipped to or performed in the United States:

(1) SELLER represents that each chemical substance constituting or contained in Work sold or otherwise transferred to BUYER hereunder is on the list of chemical substances compiled and published by the Administrator of the Environmental Protection Administration pursuant to the Toxic Substances Control Act (15 U.S.C. Sec. 2601 et seq.) as amended.

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

3. Assignment and Subcontracting

(a) Any assignment of SELLER's contract rights or delegation of duties shall be void, unless prior written consent is given by BUYER, consent will not be unreasonably withheld. However, SELLER may assign rights to be paid amounts due, or to become due, to a financing institution if BUYER is promptly furnished a signed copy of such assignment reasonably in advance of the due date for payment of any such amounts. Amounts assigned to an assignee shall be subject to setoffs or recoupment for any present or future claims of BUYER against SELLER. BUYER shall have the right to make settlements and adjustments in price with SELLER without notice to the assignee.

(b) Without BUYER's written consent, SELLER will not subcontract for the design, development, or procurement of any portion of goods or services under this Contract. This limitation does not apply to SELLER's purchases of standard commercial supplies or raw materials.

4. Changes

(a) BUYER may at any time, by written notice, and without notice to sureties or assignees, make changes within the general scope of this Contract in any one or more of the following: (i) drawings, designs, or specifications; (ii) method of shipping or packing; (iii) place of inspection, acceptance, or point of delivery; (iv) reasonable adjustments in quantities or delivery schedules or both; (v) amount of BUYER-furnished property; and, if this Contract includes services, (vi) description of services to be performed; (vii) quantity of services (i.e., hours to be worked); (viii) time of performance (e.g., hours of the day, days of the week); and (ix) place of performance. SELLER shall comply immediately with such direction.

(b) If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of this Contract, BUYER shall make an equitable adjustment in the Contract price or delivery schedule or both, and modify the Contract accordingly. Changes to the delivery schedule will be subject to a price adjustment.

(c) Any claim for an equitable adjustment by SELLER must be submitted in writing to the BUYER Procurement Representative within thirty (30) days from the date of notice of the change, unless the BUYER and SELLER agree in writing to a longer period.

(d) Failure to agree to any adjustment shall be resolved in accordance with the Section I Part 13 Disputes clause of this Contract. However, nothing contained in this Section I Part 4 Changes clause shall excuse SELLER from proceeding without delay in the performance of this Contract as changed.

5. Commercial Computer Software

(a) As used in this clause, “restricted computer software” means computer program, computer database, or related documentation that has been developed at private expense and is a trade secret, is commercial or financial and confidential or privileged, or is published and copyrighted, and so marked when delivered or otherwise furnished.

(b) Notwithstanding any provisions to the contrary contained in any SELLER’s standard commercial license or lease agreement, SELLER agrees that any restricted computer software delivered under this Contract shall provide the following rights to BUYER and the U.S. government.

(1) The restricted computer software may be:

(i) Used or copied for use in or with the computer or computers for which it was acquired, including use at any government installation to which such computer or computers may be transferred;

(ii) Used or copied for use in or with a backup computer if any computer for which it was acquired is inoperative;

(iii) Reproduced for safekeeping (archives) or backup;

(iv) Modified, adapted, or combined with other computer software, provided that the modified, combined, or adapted portions of the derivative software incorporating any of the delivered, restricted computer software shall be subject to the same restrictions set forth in this Purchase Order or Contract;

(v) Disclosed to and reproduced for use by support service contractors or their subcontractors, subject to the same restrictions set forth in this Purchase Order or Contract; and

(vi) Used, copied for use in, or transferred to a replacement computer.

(c) **Release From Liability.** The SELLER agrees that the government or BUYER, and other persons to whom the government or BUYER may have released or disclosed commercial computer software delivered or otherwise furnished under this Contract, shall have no liability for any release or disclosure of such commercial computer software that are not marked to indicate that the software is licensed with data, modification, reproduction, release, performance, display, or disclosure restrictions.

6. Communication with BUYER’s Customer

(a) BUYER shall be solely responsible for all liaison and coordination with the BUYER’s customer, including the U.S. government, as it affects the applicable Prime Contract, this Contract, and any related contract.

(b) Unless otherwise directed in writing by the authorized BUYER Procurement Representative, all documentation requiring submittal to, or action by, the government or the Contracting Officer shall be routed to, or through, the BUYER Procurement or Contracts Representative, or as otherwise permitted by this Contract.

7. Compliance with Laws

SELLER agrees to comply fully with all applicable laws, ordinances, rules, regulations, and orders of all foreign

nations (or governmental subdivision thereof) and all applicable domestic (United States of America) federal, state, and local laws, ordinances, rules, regulations, and orders pertaining to the production and sale of the goods or services ordered, and, upon request, SELLER shall furnish BUYER certificates of compliance. These laws shall include, without limitation, the following: The Fair Labor Standards Act of 1938, as amended; Federal and State OSHA requirements; the equal opportunity clause in §202 of Executive Order (E.O.) #11246 as amended; Veterans Employment and Readjustment Act of 1972 (amending the Vietnam Era Veterans Readjustment Assistance Act of 1972); the rules and regulations of the Office of Federal Contract Compliance; §503 of the Rehabilitation Act, Toxic Substances Control and The Federal Hazardous Substances Act.

With specific references to the Toxic Substances Control Act, SELLER warrants that each chemical substance delivered under this Purchase Order shall be on the list of chemical substances compiled and published by the Administrator of the Environmental Protection Agency pursuant to §8 of the Toxic Substances Act. If this PO is placed, directly or indirectly, under a contract to which the United States or any state or other governmental authority is a party, then all terms and conditions required by law or regulation or contained in the government contract with respect to this PO are incorporated herein by reference. SELLER expressly agrees to indemnify and hold harmless BUYER, its successors, assigns, customers, and users of its products from any costs, losses, expenses, damages, claims, suits, fines, penalties, or any liability whatsoever, including attorney's fees, resulting from the failure of SELLER to comply, in the furnishing of goods or services under this PO, with all applicable foreign or domestic federal, state, or local laws, ordinances, rules, or regulations, or orders as set out herein.

8. Confidentiality of BUYER's Information

Information provided by BUYER to SELLER remains the property of BUYER. SELLER agrees to comply with the terms of any confidential disclosure agreement with BUYER and to comply with all proprietary information markings and restrictive legends applied by BUYER to anything provided hereunder to SELLER. SELLER agrees not to use any BUYER-provided information for any purpose except to perform this Contract and agrees not to disclose such information to third parties without the prior written consent of BUYER.

9. Confidentiality of SELLER's Information

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

10. Contract Direction

(a) Only the BUYER Procurement or Contracts Representative has authority to amend this Contract. Such amendments must be in writing.

(b) BUYER engineering and technical personnel may render assistance or give technical advice or discuss or exchange information with SELLER's personnel concerning the Work hereunder. Such actions shall not be deemed to be a change under the Section I Part 4 Changes clause of this Contract and shall not be the basis for equitable adjustment.

(c) Action or direction by any of the BUYER's customers shall not be deemed to be a change under the Section I Part 4 Changes clause of this Contract and shall not be the basis for equitable adjustment.

(d) Except as otherwise provided herein, all notices to be furnished by the SELLER shall be sent to the BUYER Procurement Representative.

11. Default

(a) BUYER, by written notice, may terminate this Contract for default, in whole or in part, if SELLER fails to comply with any of the terms of this Contract, fails to make reasonable progress in its performance of this Contract, or fails to provide adequate assurance of future performance. SELLER shall have ten (10) days (or a longer period, which BUYER may authorize in writing) to cure any such failure after receipt of notice from BUYER. Defaults involving delivery schedule delays shall not be subject to the cure provision.

(b) BUYER shall not be liable for any Work not accepted; however, BUYER may require SELLER to deliver to BUYER any supplies and materials, manufacturing materials, and manufacturing drawings that SELLER has specifically produced or acquired for the terminated portion of this Contract. BUYER and SELLER shall agree on the amount of payment for these other deliverables.

(c) SELLER shall continue all Work not terminated.

(d) If after termination under paragraph (a), it is later determined that SELLER was not in default, such termination shall be deemed a Termination for Convenience.

12. Definitions

The following terms shall have the meanings set forth below:

- (a) “Contract” means the instrument of contracting (e.g., PO, Purchase Order, Subcontract, or other such designation), including all referenced documents, exhibits, and attachments. If these terms and conditions are incorporated into a master agreement that provides for releases (in the form of a Purchase Order or other such document), the term “Contract” shall also mean the release document for the Work to be performed.
- (b) “FAR” means the Federal Acquisition Regulation, issued as Chapter 1 of Title 48, Code of Federal Regulations.
- (c) “BUYER” means HSG.
- (d) “BUYER Procurement or Contracts Representative” means the person authorized by BUYER’s cognizant procurement or contracts organization to administer this Contract.
- (e) “PO” or “Purchase Order” as used in any document constituting a part of this Contract shall mean this Contract.
- (f) “SELLER” means the party identified on title page of the Contract, with whom BUYER is contracting.
- (g) “Work” means all required articles, materials, supplies, goods, and services constituting the subject matter of this Contract.

13. Disputes

Any dispute shall be settled in the following manner:

- (a) BUYER and SELLER agree to enter negotiations to resolve any dispute. Both parties agree to negotiate in good faith to reach a mutually agreeable settlement within a reasonable amount of time.
- (b) If negotiations are unsuccessful, the dispute may be decided by a court of competent jurisdiction. Pending final resolution of any dispute, SELLER shall proceed with performance of this Contract according to BUYER’s instructions so long as Buyer continues to pay amounts not in dispute.
- (c) Pending any decision, appeal, or judgement referred to in this provision or the settlement of any dispute arising under this Contract, SELLER shall proceed diligently with the performance of this Contract.

14. Equipment, BUYER’s Property

All equipment, tools, materials, vehicles, and/or other articles required for SELLER’s performance of this Purchase Order shall be furnished by Seller, maintained in good condition, and replaced when necessary at the Seller’s expense. Title to and a right of immediate possession of any property of any nature whatsoever furnished or paid for by BUYER shall remain in BUYER’s possession.

15. Export Control

- (a) SELLER agrees to comply fully with all applicable U.S. export control laws and regulations as they may apply to any hardware, software, information, or the direct product of such information, furnished to SELLER under this Contract. SELLER agrees that it will not permit the re-export of any of the above—including to foreign nationals employed by, associated with, or under contract to SELLER or SELLER’s lower-tier suppliers—without the authority of an Export License or applicable License Exception.
- (b) SELLER agrees to notify BUYER if any deliverable Work under this Contract is restricted by export control laws or regulations.

(c) SELLER shall immediately notify the BUYER Procurement Representative if SELLER is listed in any Denied Parties List or if SELLER’s export privileges are otherwise denied, suspended, or revoked in whole or in part by any U.S. government entity or agency. At BUYER’s request, SELLER will provide BUYER with all data BUYER may need to apply for and obtain an Export License or applicable License Exemption.

16. Extras

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

17. Force Majeure

In the event of fire, accidents, abnormal weather conditions, governmental acts, pandemics, strikes or other labor disputes, Acts of God, war, riots, and other civil disturbances, or any other conditions beyond either party’s reasonable control which prevent manufacture, transportation, delivery, acceptance, or BUYER’s prompt use of the goods or services covered by this Purchase Order, the affected party may, without any liability or penalty, delay delivery, manufacture, transportation, acceptance, or use by written notice

effective when received by the other party until such event and the consequences of such event of force majeure have terminated. Said notice of an event of force majeure shall contain the reason for any delay which the notifying party considers to be an event of force majeure under the provisions of this paragraph. An event of force majeure shall not include events within the total or partial control of the party giving notice, including, but not limited to, poor business judgement or estimates, material or labor shortages, or unanticipated engineering or technical difficulties. To be excused from performance under this clause, the affected party shall submit, within ten (10) calendar days of the start of the qualifying event, a written notice stating a complete and detailed description of such event, the date of commencement, an estimate of the probable period of delay, and an explanation indicating how such event was beyond the party's control.

18. Furnished Property

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

(b) Title to Furnished Property shall be retained by BUYER or its customer. SELLER shall clearly mark (if not already marked) all Furnished Property to show ownership.

(c) Except for reasonable wear and tear, SELLER assumes all risk of loss, destruction, or damage of Furnished Property while in SELLER's possession, custody, or control. Upon request, SELLER shall provide BUYER with adequate proof of insurance against such risk of loss. SELLER shall promptly notify BUYER of, any loss or damage. Without additional charge, SELLER shall manage, maintain, and preserve Furnished Property in accordance with good commercial practice.

(d) At BUYER's request or at completion of this Contract the SELLER shall submit, in an acceptable form, inventory lists of Furnished Property and shall deliver or make such other disposal as may be directed by BUYER.

19. Gratuities and Kickbacks

(a) No gratuities (in the form of entertainment, gifts, or otherwise) or kickbacks shall be offered or given by SELLER to any employee of BUYER with a view toward securing favorable treatment as a supplier.

(b) By accepting this Contract, SELLER certifies and represents that it has not made or solicited and will not make or solicit kickbacks in violation of FAR 52. 203-7 or the Anti-Kickback Act of 1986 (41 U.S.C. 51-58), both of which are incorporated herein by this specific reference, except that paragraph (c)(1) of FAR 52. 203-7 shall not apply.

20. Importer of Record

(Applies only if the Contract involves importation of Work into the United States).

(a) If elsewhere in the Contract BUYER is indicated as Importer of Record, SELLER warrants that all sales hereunder are or will be made at not less than fair value under the U.S. Anti-Dumping Laws (19 U.S.C. 1673 et seq.).

(b) If elsewhere in the Contract BUYER is not indicated as Importer of Record, then SELLER agrees that:

(i) BUYER will not be a party to the importation of Works, the transactions represented by this Contract will be consummated after importation, and SELLER will neither cause nor permit BUYER's name to be shown as "Importer of Record" on any customs declaration; and

(ii) Upon request and where applicable, SELLER will provide to BUYER a properly executed Customs Form 7501, Customs Entry.

21. Indemnification

(a) The SELLER shall indemnify BUYER against all liability that may result from any claim, action, or suit by any person, based on any alleged injury to or death of any person or damage to or loss of any property that may occur or that may be alleged to have been caused by the SELLER in the course of performance of this Contract by the SELLER. The SELLER shall pay all charges of attorneys in connection therewith and, if any judgement shall be rendered against BUYER in any such action or actions, the SELLER shall satisfy and discharge the same without cost or expense to BUYER. However, this indemnity shall not apply to claims, actions, or suits resulting from BUYER's negligence.

(b) BUYER shall indemnify the SELLER against all liability that may result from any claim, action, or suit by any person, based on any alleged injury to or death of any person or damage to or loss of any property that may occur or that may be alleged to have been caused by BUYER in the course of performance of this Contract. BUYER shall pay all charges of attorneys in connection therewith and, if any judgement shall be rendered

against the SELLER in any such action or actions, BUYER shall satisfy and discharge the same without cost or expense to the SELLER. However, this indemnity shall not apply to claims, actions, or suits resulting from SELLER's negligence.

22. Independent Contractor Relationship

(a) SELLER is an independent contractor in all its operations and activities hereunder. The employees used by SELLER to perform Work under this Contract shall be SELLER's employees exclusively, without any relation whatsoever to BUYER, and shall not be entitled to participate in or receive any of BUYER's employee benefits.

(b) SELLER shall be responsible for any costs or expenses including attorneys' fees, all expenses of litigation and settlement, and court costs, arising from any act or omission of SELLER, its officers, employees, agents, suppliers, or subcontractors at any tier, relating in any way to or affecting the performance of any of its obligations under this Contract.

23. Inspection and Acceptance

(a) BUYER and its customer may inspect all Work at reasonable times and places, including, when practicable, during manufacture and before shipment, SELLER shall provide all information, facilities, and assistance necessary for safe and convenient inspection without additional charge.

(b) No such inspection shall relieve SELLER of its obligations to furnish all Work in accordance with the requirements of this Contract. BUYER's final inspection and acceptance shall be at destination unless otherwise specified in this Contract.

(c) SELLER shall not retender rejected Work without disclosing the corrective action taken.

24. Insurance or Entry on BUYER's Property

In the event that SELLER, its employees, agents, or subcontractors enter BUYER's or its customer's premises for any reason in connection with this Contract, SELLER, as well as any of its subcontractors, shall procure and maintain:

(a) Worker's compensation and employer's liability insurance as required by applicable Federal and state workers' compensation and occupational disease statutes. If occupational diseases are not compensable under those statutes, they shall be covered under the employer's liability section of the insurance policy,

except when contract operations are so commingled with the SELLER's commercial operations that it would not be practical. The employer's liability coverage shall be at least \$1,000,000, except in States with exclusive or monopolistic funds that do not permit workers' compensation to be written by private carriers.

(b) Comprehensive General Liability Insurance of at least \$1,000,000 per occurrence and \$2,000,000 aggregate. Coverage shall include a "per project aggregate" endorsement granting dedicated ongoing protection for this project. Additional Insured Endorsement on an ISO form CG 2010 and CG 2037 (or substitute forms providing equivalent coverage) is required.

(c) Automobile liability insurance written on the comprehensive form of policy which provides for bodily injury and property damage liability covering the operation of all motor vehicles used in connection with performing the contract. Policies covering motor vehicles operated in the United States shall provide coverage of at least \$1,000,000 per accident.

(d) Umbrella liability insurance policy with minimum limits of \$5,000,000 per occurrence and \$5,000,000 aggregate to cover the damages that become due in case of bodily injury, property damage, and personal and advertising injury with, at least, the same terms and conditions as the policies mentioned above.

(e) Environmental liability insurance written on a comprehensive form policy which shall maintain insurance applicable to the Scope of Requirements as set forth in this Agreement, with limits of not less than \$5,000,000 for each occurrence and \$6,000,000 policy aggregate. This coverage should be maintained for a period of not less than two years after completion of SELLER's Work as set forth in this Contract.

(f) Professional liability insurance written on a comprehensive form policy, which shall maintain insurance applicable to the Work that applies to this Contract, with limits of not less than \$1,000,000 for each occurrence and \$3,000,000 policy aggregate. This coverage should be maintained for a period of not less than two years after completion of SELLER's Work as set forth in this Contract.

(g) Cyber liability and/or third-party crime insurance written on a comprehensive form policy, which shall maintain insurance applicable to the Work that applies to this Contract, with limits of not less than \$2,000,000 for each occurrence and \$2,000,000 policy aggregate

All coverage must be placed with insurance companies duly admitted in the respective state of operation and must be reasonably acceptable to BUYER. And all SELLER insurance carriers must maintain an A.M. Best rating of "A-" or better.

SELLER's policy must name HSG as an additional insured on all applicable insurance coverages required and set forth in this Contract. Coverage must be afforded to HSG as an additional insured whether or not a claim is in litigation. Additional insured coverage must apply as primary insurance, not contributory, with respect to any other insurance afforded to the owner and HSG.

Each certificate of insurance must provide that the insurer grant to HSG written notice of cancellation and termination of Contractor's coverage within three (3) days of SELLER's notification by their carrier but no later than twenty (20) days prior. SELLER shall have its insurance carrier furnish to HSG certificates that all insurance required under this Contract is in force for each performance period. Such certificates shall indicate any deductible and/or self-insured retention.

At least two weeks prior to the expiration, cancellation or termination of any policy required by this Contract, SELLER must give to HSG new and replacement certificates of insurance and additional insured endorsements.

SELLER must provide HSG with a waiver of subrogation from each of SELLER's insurers on commercial general liability, automobile liability, workers' compensation, and umbrella/excess liability (along with any other required insurance coverage afforded per written agreement) in favor of HSG with respect to losses arising out of or in connection with the work.

The insurance coverage required must be of sufficient type, scope, and duration to ensure HSG is covered for the liability related to any manifestation date within the applicable statutes of limitation and/or response to any work performed by or on behalf of HSG in relation to the project. SELLER agrees to maintain the required insurance for the benefit of HSG for a period of three (3) years or the expiration of any statute of limitation as may be applicable, whichever is later.

25. Intellectual Property

(a) Unless otherwise agreed by BUYER and SELLER, SELLER agrees and understands that the Work performed hereunder is Work for Hire and as such SELLER agrees that BUYER shall be the owner of all

inventions, technology, designs, works of authorship, mask works, technical information, computer software, business information, and other information conceived, developed, or otherwise generated in the performance of this Contract by or on behalf of SELLER. SELLER hereby assigns and agrees to assign all right, title, and interest in the foregoing Work to BUYER, including (without limitation) all copyrights, patent rights, and other intellectual property rights therein and further agrees to execute, at BUYER's request and expense, all documentation necessary to execute and deliver perfect title of such property to the BUYER. SELLER agrees that it will maintain and disclose to BUYER written records of, and otherwise provide BUYER with full access to, the subject matter covered by this clause and that all such subject matter will be deemed the BUYER's information and subject to the protection provisions of Section I Part 8 Confidentiality of BUYER's Information. SELLER agrees to assist BUYER, at BUYER's request and expense, in every reasonable way, in obtaining, maintaining, and enforcing patent and other intellectual property protection on the subject matter covered by this clause.

(b) If SELLER and BUYER agree that performance under this Contract requires the provision or use of any proprietary programs of SELLER or of SELLER's suppliers such that BUYER and SELLER agree that paragraph (a) of this clause is not applicable to a portion of the Work, then, absent agreement of BUYER and SELLER to the contrary, SELLER shall specifically identify such proprietary programs to BUYER and shall grant to BUYER a perpetual worldwide, paid-up license or sublicense to use, copy, modify, sublicense, and create derivative works from any such proprietary programs. Upon request by BUYER, SELLER shall provide all documentation supporting such licensing rights, including copies of licenses granted by SELLER's suppliers to SELLER. SELLER shall defend and hold BUYER harmless from any and all claims arising in whole or in part from SELLER's failure to comply with this section. There shall be no additional charge for such license or sublicense beyond the price for the Work to be performed under this Contract.

(c) SELLER warrants that the Work performed and delivered under this Contract will not infringe or otherwise violate the intellectual property rights of any third party in the United States or any foreign country. SELLER agrees to defend, indemnify, and hold harmless BUYER and its customers from and against any claims, damages, losses, costs, and expenses, including

reasonable attorneys' fees, arising out of any action by a third party that is based on a claim that the Work performed or delivered under this Contract infringes or otherwise violates the intellectual property rights of any person or entity.

(d) Unless otherwise specified in this Contract, commercial-off-the-shelf software delivered hereunder shall be the most recent revision issued by SELLER. If SELLER issues a new version within 120 days after delivery to BUYER, SELLER shall provide to BUYER at no additional charge a usable copy of the new version and an equivalent license.

26. Language and Standards

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

27. Limitation of Funds

(Applicable if this contract is incrementally funded.)

(a) The parties estimate that performance of this Contract will not cost BUYER more than the estimated cost specified in the Order. The SELLER agrees to use its best efforts to perform the Work specified in the Order and to meet all obligations under this Contract within the estimated cost.

(b) The Order specifies the amount presently available for payment by BUYER and allotted to this Contract, the items covered, and the period of performance that the allotted amount is estimated to cover. The parties contemplate that BUYER will, from time to time, allot additional funds to the Contract up to the full estimated cost specified in the Order, inclusive of any fee. The SELLER agrees to perform, or have performed, Work on the Contract up to the point at which the total amount, including fee, paid and payable by BUYER under the Contract approximates but does not exceed the total amount actually allotted by BUYER to the Contract.

(c) The SELLER shall notify BUYER in writing whenever it has reason to believe that the costs it expects to incur under this Contract plus allocable fee in the next sixty (60) days, when added to all costs previously incurred and allocable fee, will exceed seventy-five percent (75%) of the total amount then allotted to the Contract. The notice shall state the estimated amount of

additional funds required to continue performance for the period specified in the Order.

(d) Sixty (60) days before the end of the period specified in the Order, the SELLER shall notify BUYER in writing of the estimated amount of additional funds, if any, required to continue timely performance under the Contract or for any further period specified in the Order or otherwise agreed upon and when the funds will be required.

(e) If, after notification, additional funds are not allotted by the end of the period specified in the Order or another agreed-upon date, upon the Seller's written request, BUYER will terminate this Contract on that date in accordance with the provisions of Section I Part 39 Termination for Convenience clause of this Contract (FAR 52. 249-6).

28. New Materials

The Work to be delivered hereunder shall consist of new materials, as defined in FAR 52. 211-5 (not used, reconditioned, remanufactured, or of such age as to impair usefulness or safety).

29. Packing and Shipment

(a) Unless otherwise specified, all Work is to be packed in accordance with good commercial practice to prevent damage and deterioration during shipping, handling, and storage.

(b) A complete packing list shall be enclosed with all shipments. SELLER shall mark containers or packages with necessary lifting, loading, and shipping information, including the BUYER contract number, item number, dates of shipment, and the names and addresses of consignor and consignee. Bills of lading shall include the Purchase Order number.

(c) For Work shipped within the United States, unless otherwise specified, delivery shall be Freight On Board (FOB) Destination. For Work imported into the United States, unless otherwise specified, delivery shall be Delivered Duty Paid (DDP) to BUYER's facility indicated on the title page of the Contract.

(d) BUYER may invoke and SELLER shall pay a late delivery penalty if SELLER is delinquent in meeting the delivery as agreed to on any Purchase Order. SELLER shall be charged at the rate of one percent (1%) of the price of delayed item(s) per day, to a maximum of five percent (5%) of the total Purchase Order value. Any applicable late delivery penalty will be deducted from future invoice payments.

30. Payments, Taxes, and Duties

(a) Unless otherwise provided on the face of the Purchase Order, terms of payment shall be Net sixty (60) days from the latest of the following: (i) BUYER's receipt of the SELLER's accurate and approved invoice; (ii) scheduled delivery date of the Work; (iii) actual delivery date of the Work; or (iv) receipt of payment from the customer. BUYER shall have a right of setoff against payments due or at issue under this Contract or any other Contract between the parties.

(b) All invoices must be received within ten (10) days after the end of each month in which the Work was performed. There shall not be a lapse of more than thirty (30) calendar days between performance and submission of an invoice. SELLER shall not backdate any invoices.

(c) Unless otherwise instructed by the terms of the Purchase Order, invoices will be submitted electronically to invoices@herndon-group.com. Each invoice shall include: (i) Purchase Order number and line number; (ii) line description (as referenced on the Purchase Order); (iii) the unit price and total price; (iv) SELLER's invoice number and date; and (v) a description of the work performed. Upon BUYER's request, SELLER shall provide a reconciliation of all invoices submitted to BUYER.

(d) Payment shall be deemed to have been made as of the date of BUYER's mailed payment or electronic funds transfer.

(e) Unless otherwise specified, prices include all applicable federal, state, and local taxes, as well as duties, tariffs, and similar fees imposed by any government, all of which shall be listed separately on the invoice. Prices shall not include any taxes, impositions, charges, or exactions for which BUYER has furnished a valid exemption certificate or other evidence of exemption.

(f) All taxes, assessments and similar charges levied with respect to or upon any such products or Work owned by BUYER while in SELLER's possession or control, and for which no exemption is available, shall be borne by SELLER.

(g) The prices stated in the Contract are firm, fixed prices in United States dollars.

31. Precedence

Any inconsistencies in this Contract shall be resolved in accordance with the following (in descending order of

precedence): (1) face of the Purchase Order, Release Document, or Schedule (which shall include continuation sheets), as applicable, including any special terms and conditions; (2) any master agreement, such as corporate, sector, or blanket agreements; (3) these General Provisions; and (4) Statement of Work.

32. Priority Rating

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

33. Quality Control System

When the Purchase Order requires:

(a) SELLER shall provide and maintain a quality control system to an industry-recognized quality standard for the Work covered by this Contract.

(b) Records of all quality control inspection work by SELLER shall be kept complete and made available to BUYER and its customers during the performance of this Contract and for such longer periods as may be specified.

34. Release of Information

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

35. Severability

The terms and conditions of this Contract are severable, and if any terms and conditions or portions of any terms and conditions herein are stricken or declared illegal, invalid, or unenforceable for any reason whatsoever, the legality, validity, or enforceability of the remaining terms and conditions shall not be affected thereby.

36. Stop Work Order

(a) SELLER shall stop Work for up to ninety (90) days in accordance with the terms of any written notice received from BUYER, or for such longer period of time as the parties may agree, and shall take all reasonable steps to minimize the incurrence of costs allocable to the Work covered by this Contract during the period of Work stoppage.

(b) Within such period, BUYER shall either terminate or continue the Work by written order to SELLER. In the event of a continuation, an equitable adjustment, in

accordance with the principles of the Section I Part 4 Changes clause, shall be made to the price, delivery schedule, or other provision affected by the Work stoppage, if applicable, provided that the claim for equitable adjustment is made within thirty (30) days after such continuation.

37. Survivability

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

(a) Applicable Laws, Clause No. 2; Confidentiality of BUYER's Information, Clause No. 8; Export Control, Clause No. 15; Independent Contractor Relationship, Clause No. 22; Insurance or Entry on BUYER Property, Clause No. 24; Intellectual Property, Clause No. 25; Release of Information, Clause No. 34; Warranty, Clause No. 42; and

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

38. Termination for Convenience

(a) For specially performed Work, BUYER may terminate part or all this Contract for its convenience by giving written notice to SELLER. BUYER's only obligation shall be to pay SELLER a percentage of the price reflecting the percentage of the Work performed prior to the notice of termination, plus reasonable charges that SELLER can demonstrate to the satisfaction of BUYER using generally accepted accounting principles, that have resulted from the termination. SELLER shall not be paid for any Work performed or costs incurred that reasonably could have been avoided.

(b) In no event shall BUYER be liable for lost or anticipated profits, unabsorbed indirect costs or overhead, or any sum more than the total Contract price. SELLER's termination claim shall be submitted within ninety (90) days from the effective date of the termination.

(c) For other than specially performed Work, BUYER may terminate part or all this Contract for its convenience by giving written notice to SELLER and BUYER's only obligation to SELLER shall be payment of a mutually agreed-upon restocking or service charge.

(d) SELLER shall continue all Work not terminated.

39. Timely Performance

(a) Time is of the essence in this Contract. SELLER's timely performance is a critical element of this Contract.

(b) Unless advance shipment has been authorized in writing by BUYER, BUYER may store, at SELLER's expense, or return, shipping charges collect and at SELLER's risk, all Work received in advance of the scheduled delivery date.

(c) If SELLER becomes aware of difficulty in performing the Work, SELLER shall promptly notify BUYER, in writing, giving pertinent details. This notification shall not change any delivery schedule.

(d) In the event of a termination for convenience or change, no claim will be allowed for any manufacture or procurement in advance of SELLER's normal flow time unless BUYER has given prior written consent.

40. Use of Information

The SELLER agrees that all information furnished or disclosed to BUYER by SELLER in connection with this Contract is furnished or disclosed as part of the consideration of this Contract. Notwithstanding the foregoing, if SELLER clearly identifies in writing information which SELLER considers to be confidential or proprietary, BUYER will protect and not disclose such information except for information: (a) which is already known to BUYER through Buyer's own development prior to Buyer's first receipt of information relating to SELLER's development from Seller, (b) which is or generally becomes available to the public through no fault of BUYER, or (c) which is properly obtained from a third party who has the right to make such disclosure.

41. Waiver, Approval, and Remedies

(a) Failure by BUYER to enforce any of the provisions of this Contract shall not be construed as a waiver of the requirements of such provisions, or as a waiver of the right of BUYER thereafter to enforce each such provision.

(b) BUYER's approval of documents shall not relieve SELLER from complying with any requirements of this Contract.

(c) The rights and remedies of BUYER in this Contract are cumulative and in addition to any other rights and remedies provided by law or in equity.

42. Warranty

(a) In addition to SELLER's standard warranty, SELLER warrants that all Work furnished pursuant to this Contract shall strictly conform to applicable specifications, drawings, samples, descriptions, and other requirements of this Contract and be free from

defects in design, material, and workmanship. All warranties shall survive inspection, test and acceptance of, and payment for the Work. All warranties shall apply to BUYER and its successors, assigns, and customers. The warranty shall extend for a period of one (1) year after BUYER's final acceptance unless a different period is set forth elsewhere in this Contract. If any nonconformity of the Work appears within that time, SELLER shall promptly repair, replace, or reperform the Work, at BUYER's option. Transportation of replacement Work, return of nonconforming Work, and repeat performance of Work shall be at SELLER's expense. Work required to be corrected or replaced shall be subject to this provision and the Inspection and Acceptance provision of this Contract in the same manner and to the same extent as work originally delivered under this Contract. If repair, replacement, or reperformance of Work is not timely, BUYER may elect to return the nonconforming Work or repair, replace Work, or reprocur the Work at SELLER's expense.

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

(1) In the event of a discovery of any date-dependent functionality noncompliance, the discovering party shall notify the other party within five (5) business days. At BUYER's option, the noncompliant products shall be repaired or replaced by SELLER within ten (10) business days of such notice at no cost to BUYER. The date-dependent functionality warranty shall run to BUYER and its successors, assigns, and customers, and shall extend indefinitely after BUYER's final acceptance.

(2) Nothing in this provision shall be construed to limit any other rights under this Contract, at law or in equity that BUYER may have with respect to date-dependent functionality compliance.

SECTION II: FAR AND DFARS FLOWDOWN PROVISIONS

A. Incorporation of FAR, DFARS, and NFS Clauses

The Federal Acquisition Regulation (FAR) clauses, Defense Federal Acquisition Regulation Supplement (DFARS), and NASA FAR Supplement (NFS) clauses referenced below are incorporated herein by reference, with the same force and effect as if they were given in full text, and are applicable, including any notes following the clause citation, to this Contract. If the date or substance of any of the clauses listed below is different than the date or substance of the clause actually incorporated in the Prime Contract referenced by number herein, the date or substance of the clause incorporated by said Prime Contract shall apply instead. SELLER shall flow down to its lower-tier subcontractors all applicable clauses and any other requirements of the Purchase Order to enable and ensure that BUYER and SELLER comply with all applicable requirements of BUYER's Government Contract. The effective version of the clauses shall be the version in effect as of the date the Purchase Order is issued, unless a different version appears in BUYER'S Government Contract, in which case the version in BUYER'S Government Contract applies.

B. Government Subcontract

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

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

1. "Commercial Item" means a commercial item as defined in FAR 2. 101.
2. "Contract" means this Contract.
3. "Contractor" means the SELLER, as defined previously in Section I Part 12 Definitions provision of this document, acting as the immediate (first-tier) subcontractor to BUYER.
4. "Order" means a Purchase Order, PO or this Contract.
5. "Prime Contract" means the Contract between BUYER and the U.S. government or between BUYER and its higher-tier contractor who has a contract with the U.S. government.
6. "Subcontract" means any Contract placed by the Contractor or lower-tier subcontractors under this Contract.

C. Notes

1. Substitute “BUYER” for “government” or “United States” as applicable throughout this Section III.
2. Substitute “BUYER Procurement Representative” for “Contracting Officer,” “Administrative Contracting Officer,” and “ACO” throughout this Section III
3. Insert “and BUYER” after “government” or “Contracting Officer,” as appropriate, throughout this Section III.
4. Insert “or BUYER” after “government” throughout this Section III.
5. Communication and notification required under this Section III from or to the Contractor and to or from the Contracting Officer shall be through BUYER.

D. Amendments Required by Prime Contract

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

E. FAR/DFARS/NASA FAR Supplement (NFS) Flowdown Clauses

The following FAR clauses apply to this Contract:

52. 203-12 Limitation on Payments to Influence Certain Federal Transactions (Applies to Orders over \$150,000.)
52. 203-13 Contractor Code of Business Ethics and Conduct (Applies to Orders over \$6M where the performance period is more than 120 days. “Government” and “Contracting Officer” do not change. Disclosures made under this clause shall be made directly to the government entities identified in the clause.)
52. 203-15 Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Applies if the Order is funded in whole or in part with Recovery Act funds.)
52. 203-17 Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower

Rights (Applies to Orders expected to exceed the simplified acquisition threshold.)

52. 203-19 Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements
52. 204-21 Basic Safeguarding of Covered Contractor Information Systems (Applies if the Order may result in federal contract information residing in or transiting through SELLER’s information system, unless SELLER is furnishing commercial off-the-shelf [COTS] items.)
52. 204-23 Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities
52. 204-24 Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment
52. 204-25 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment
52. 204-26 Covered Telecommunications Equipment or Services – Representation (Applies to solicitations.)
52. 209-6 Protecting the Government’s Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed For Debarment (Applies to Orders that exceed \$35,000, unless the Order is for COTS items. SELLER shall furnish to BUYER the information required by para.[d].)
52. 211-15 Defense Priority and Allocation Requirements (Applies to Orders that contain a DPAS rating.)
52. 212-3 Offer Representations and Certifications, Commercial Items (This provision provides a single, consolidated list of representations and certifications for the acquisition of commercial items. Use the provision with its Alternate I in solicitations issued by DoD, NASA, or the Coast Guard.)
52. 212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders – Commercial Items
52. 219-8 Utilization of Small Business Concerns (Applies to Orders with further subcontracting opportunities. SELLER must include this clause in all lower-tier subcontracts that offer subcontracting opportunities.)
52. 222-21 Prohibition of Segregated Facilities (Applies if the Order includes FAR 52. 222-26.)
52. 222-26 Equal Opportunity (Applies unless the Order is exempt from all requirements of E.O. 11246. Alt I applies

if Order is exempt from one but not all requirements of E.O. 11246.)

52. 222-35 Equal Opportunity for Veterans (Applies to Orders over \$150,000, unless exempted by rules, regulations, or orders of the Secretary of Labor.)

52. 222-36 Equal Opportunity for Workers with Disabilities (Applies to Orders that exceed \$15,000)

52. 222-37 Employment Reports On Veterans (Applies to all Orders that exceed \$150,000 and contain the clause FAR 52. 222-35.)

52. 222-40 Notification of Employee Rights Under the National Labor Relations Act (Applies to Orders that will be performed wholly or partially in the United States, unless exempt by E.O. 13496.)

52. 222-41 Service Contract Labor Standards (Applies if the Order is for services, exceeds \$2,500, and is subject to the Service Contract Labor Standards statute.)

52. 222-50 Combating Trafficking in Persons (Alt I applies if included in BUYER'S Government Contract.)

52. 222-54 Employment Eligibility Verification (Applies to Orders over \$3,500 for work performed in the U.S. and is for commercial or non-commercial services, except for commercial services that are part of the purchase of a COTS item, performed by the COTS provider, and are normally provided for that COTS item.)

52. 222-55 Minimum Wages Under E.O. 13658 (Applies to Orders subject to the Service Contract Labor Standards statute or the Wage Rate Requirements [Construction] statute and is to be performed in whole or in part in the United States.)

52. 222-62 Paid Sick Leave Under E.O. 13706 (Applies if the Order is subject to the Service Contract Labor Standards statute or the Wage Rate Requirements [Construction] statute and is to be performed in whole or in part in the United States.)

52. 223-18 Encouraging Contractor Policies to Ban Text Messaging While Driving (Applies to Orders that exceed the micro-purchase threshold.)

52. 223-99 Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors (Applies if the clause is included in the Prime Contract.)

52. 224-3 Privacy Training (Applies to the Order if SELLER employees will have access to a system of records; handle personally identifiable information; or design, develop, maintain, or operate a system of records. Alt I applies if

the agency specifies that only its agency-provided training is acceptable.)

52. 225-1 Buy American Act – Supplies 52. 225-5 Trade Agreements

52. 225-13 Restrictions on Certain Foreign Purchases

52. 225-26 Contractors Performing Private Security Functions Outside the United States (Applies to Orders that will be performed outside the United States in areas of combat operations or other significant military operations.)

52. 227-1 Authorization and Consent (Applies to Orders expected to exceed the simplified acquisition threshold only if in BUYER'S Government Contract. No substitution of parties for "government" and "Contracting Officer" apply.)

52. 227-9 Refund of Royalties (Applies if the amount of royalties reported during negotiation of the subcontract exceeds \$250.)

52. 228-3 Workers' Compensation Insurance (Defense Base Act) (Applies if the Order is subject to the Defense Base Act.)

52. 232-40 Providing Accelerated Payments to Small Business Subcontractors

52. 244-6 Subcontracts for Commercial Items

52. 245-1 Government Property (Applies if government property is furnished in the performance of the Order. Alt I and II apply if included in BUYER'S Government Contract.)

52. 245-9 Use and Charges (Applies if the Order includes FAR 52. 245- 1.)

52. 247-64 Preference for Privately Owned U.S. -Flag Commercial Vessels (Alt I applies if in BUYER'S Government Contract. In para. (c)(2)(i), change "20" to "10" and change "30" to "20" in para. (c)(2)(ii).)

The following DFARS clauses apply to this Contract:

If the Purchase Order identifies a DoD contract number, the following DFARS clauses, in addition to or in lieu of the FAR clauses set forth above, are hereby incorporated by reference, as applicable, and made a part of the Purchase Order:

252. 203-7002 Requirements to Inform Employees of Whistleblower Rights 252. 203-7003 Agency Office of the Inspector General (Applies to Orders over \$6M that include FAR 52. 203-13.)

252. 204-7000 Disclosure of Information (Applies when SELLER will have access to or generate unclassified information that may be sensitive and inappropriate for release to the public. Change “45” to “60” in para. [b]).

252. 204-7008 Compliance with Safeguarding Covered Defense Information Controls (Applies in all contracts, including those using FAR Part 12 procedures for the acquisition of commercial items, except for solicitations solely for the acquisition of COTS items.)

252. 204-7009 Limitations On The Use And Disclosure Of Third-Party Contractor Reported Cyber Incident Information (Applies to Orders for services that include support for the government’s activities related to safeguarding covered defense information and cyber incident reporting.)

252. 204-7012 Safeguarding Covered Defense Information And Cyber Incident Reporting (Applies to Orders for operationally critical support or for which performance will involve covered defense information, except for Orders for COTS items.)

252. 204-7014 Limitations on the Use or Disclosure of Information by Litigation Support Contractors (Applies if the Order involves litigation support services.)

252. 204-7015 Notice of Authorized Disclosure of Information for Litigation Support

252. 204-7018 Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services

252. 204-7019 Notice of NIST SP800-171 DoD Assessment Requirements (Not applicable to Orders for COTS items.)

252. 204-7020 NIST SP 800–171 DoD Assessment Requirements (Applies to all Orders except Orders for COTS items.)

252. 204-7021 Cybersecurity Maturity Model Certification (CMMC) Requirements (Prior to September 30, 2025, this clause is only applicable if the requirement document or Statement of Work requires SELLER to have a specific CMMC level. Not applicable to Orders for COTS items.)

252. 209-7004 Subcontracting With Firms That Are Owned or Controlled by the Government of a Country that is a State Sponsor of Terrorism (Applies to Orders over \$150,000.)

252. 211-7003 Item Unique Identification and Valuation (Applies to Orders that require Items to contain unique item identification.)

252. 211-7007 Reporting of Government-Furnished Equipment in the DoD Item Unique Identification (Applies if Order includes FAR 52. 245-1. “Government” does not change.)

252. 223-7002 Safety Precautions for Ammunition and Explosives (Applies if Order involves furnishing of ammunition or explosives, including liquid and solid propellants.)

252. 223-7003 Change in Place of Performance – Ammunition and Explosives (Applies if the Order is subject to mandatory safety requirements regarding arms, ammunition, and explosives.)

252. 223-7008 Prohibition of Hexavalent Chromium (Applies to Orders for supplies, maintenance or repair services, or construction materials.)

252. 223-7999 Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors (Applies if the clause is included in the Prime Contract.)

252. 225-7001 Buy American and Balance of Payments Program (Applies to the Order in lieu of FAR 52. 225-1 if work contains other than domestic components. “Government” is not changed in this clause.)

252. 225-7007 Prohibition on Acquisition of United States Munitions List Items From Communist Chinese Military Companies (Applies to Orders for Items covered by the United States Munitions List.)

252. 225-7008 Restriction on Acquisition of Specialty Metals (Applies if the Order exceeds the simplified acquisition threshold and requires delivery of specialty metals as end items to the government.)

252. 225-7009 Restriction on Acquisition of Certain Articles Containing Specialty Metals (Applies if Order exceeds the simplified acquisition threshold for delivery of aircraft, missile or space systems, ships, tank or automotive items, weapon systems, or ammunition and such items or components contain specialty metals. Exclude paras. (d) and (e)(1))

252. 225-7010 Commercial Derivative Military Article– Specialty Metals Compliance Certificate (Applies to solicitations expected to exceed the simplified acquisition threshold that include DFARS 252. 225-7009.)

252. 225-7012 Preference for Certain Domestic Commodities

252. 225-7021 Trade Agreements (Applies in lieu of FAR 52. 225-5 to Orders for end products under BUYER’S Government Contract.)

252. 225-7039 Defense Contractors Performing Private Security Functions Outside the United States (Applies to Orders when private security functions will be performed outside the United States in the areas of contingency operations, combat operations, other significant military operations as designated by the Secretary of Defense, peace operations, or other military operations or military exercises when designated by the Combatant Commander.)

252. 225-7048 Export-Controlled Items

252. 225-7052 Restriction on the Acquisition of Certain Magnets, Tantalum, and Tungsten (Applies if Order is for items containing a covered material and expected to exceed the simplified acquisition threshold, unless an exception in the clause applies.)

252. 226-7001 Utilization Of Indian Organizations, Indian-Owned Economic Enterprises And Native Hawaiian Small Business Concerns (Applies to Orders over \$500,000.)

252. 227-7013 Rights In Technical Data—Noncommercial Items (Applies to Orders in lieu of FAR 52. 227-14 when technical data from SELLER is delivered to the BUYER. Alt I and/or II apply if included in BUYER’S Government Contract. Delete from para. (b)(1)(vi) “to the Contractor” and from para. (b) (1) (ix) “contract or” and “thereunder”; add “BUYER or” before “government” in paras. (c) and (i); change the second and third occurrences of “Contracting Officer” to “government” in para. (e) (4); add “and the government” after “parties” in para. (h) (1); change in para. (h) (2) “sixty (60)” to “fifty (50)” days. No substitutions for “government” are made.)

252. 227-7015 Technical Data—Commercial Items (Applies if BUYER will obtain technical data related to commercial items developed in any part at private expense from SELLER for delivery to the BUYER’s customer.)

252. 227-7037 Validation of Restrictive Markings on Technical Data (Applies if the Order includes DFARS 252. 227-7013, 252. 227-7014 or 252. 227-7015 when the SELLER will be required to deliver technical data. In paragraph (b), “Contractor’s” remains in the clause with a lower case “c,” insert in paragraphs (c) and (d)(1) “hereunder” after “subcontract”; change in paras (f) and (g) (2) “this contract” to “the government contract”; change in para. (i) “a contract” to “BUYER’s Government Contract”; no substitutions for “government” or “Contracting Officer” are made.)

252. 229-7014 Taxes—Foreign Contracts in Afghanistan (Applies if the Order involves performance in Afghanistan, unless DFARS 252. 229-7015 is used.)

252. 229-7015 Taxes—Foreign Contracts in Afghanistan (North Atlantic Treaty Organization Status of Forces Agreement) (Applies in lieu of DFARS 252. 229-7014 if the Order involves performance in Afghanistan and was awarded on behalf of the North Atlantic Treaty Organization [NATO].)

252. 232-7017 Accelerating Payments to Small Business Subcontractors- Prohibition on Fees and Consideration (Applies if the Order includes FAR 52. 232-40.)

252. 239-7010 Cloud Computing Services (Applies if the Order involves or may involve using cloud computing to provide information technology services.)

252. 239-7018 Supply Chain Risk (Applies if the Order involves the development or delivery of any information technology that is a covered system, is a part of a covered system, or is in support of a covered system, as defined at DFARS 239. 7301.)

252. 244-7000 Subcontracts for Commercial Items

252. 245-7001 Tagging, Labeling, and Marking of Government-Furnished Property (Applies if the Order includes FAR 52. 245-1.)

252. 245-7003 Contractor Property Management System Administration (Applies if the Order includes FAR 52. 245-1.)

252. 246-7003 Notification of Potential Safety Issues (Applies if the Order is for parts identified as critical safety items; systems and subsystems, assemblies, and subassemblies integral to a system; or repair, maintenance, logistics support, or overhaul services for systems and subsystems, assemblies, subassemblies, and parts integral to a system. “Government” does not change.)

252. 246-7007 Contractor Counterfeit Electronic Part Detection and Avoidance System (Applies if the Order is for electronic parts or assemblies containing electronic parts.)

252. 246-7008 Sources of Electronic Parts (Applies to Orders for electronic parts or assemblies containing electronic parts, unless SELLER is the Original Manufacturer.)

252. 247-7023 Transportation of Supplies by Sea (Applies in lieu of FAR 52. 247-64 to an Order requiring the ocean transportation of supplies. In para. (a)(5), change “prime

contractor” to “SELLER” and “the Prime Contract” to “the Order”; modify para. (c) to read “SELLER and its subcontractors may request that BUYER obtain government authorization for shipment...”; in para. (d), change “Contracting Officer” to “BUYER” in the second sentence; in para. (d), change “45” to “60” days; in para. (e), change “30” to “25”; in para. (e), delete “and the Maritime Administration Office of Cargo Preference, U.S. Department of Transportation, 400 Seventh Street, N.W., Washington, DC 20590”; paras (f) thru (h) only apply if the Order exceeds the simplified acquisition threshold; in para. (g), delete “for the purposes of the Prompt Payment clause of this contract.” Alt I–II apply if included in BUYER’S Government Contract.)

252. 249-7002 Notification of Anticipated Contract Termination or Reduction (Applies if the Order is under a major defense program. Delete para. (d)(1) and the first five words of para. (d)(2))

The following NFS Clauses for Commercial Items apply to this Contract:

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

1852. 204-75 Security Classification Requirements (Applies if work to be performed under an Order requires a security clearance.)

1852. 203-71 Requirement to Inform Employees of Whistleblower

1852. 204-75 Security Classification Requirements

1852. 204-76 Security Requirements for Unclassified Information Technology Resources (Applies if the Order requires contractors to have physical or electronic access to NASA’s computer systems, networks, IT 1852. 204-76 infrastructure or use information systems to generate store, process, or exchange data with NASA.)

1852. 208-81 Restrictions on Printing and Duplicating

1852. 209-70 Product Removal from Qualified Products List

1852. 209-71 Limitation of Future Contracting

1852. 211-70 Packaging Handling and Transportation

1852. 215-78 Make-or-Buy Program Requirements

1852. 215-79 Price Adjustments for “Make-or-Buy” Changes

1852. 219-74 Use of Rural Area Small Businesses

1852. 219-75 Small Business Subcontracting Reporting

1852. 219-76 NASA 8 Percent Goal

1852. 223-70 Safety and Health Measures and Mishap Reporting (Applies if the Order exceeds the simplified acquisition threshold and the work will be conducted completely or partly at federally controlled facilities.)

1852. 223-71 Authorization for Radio Frequency Use (Applies when radio frequency equipment authorization is required for a device involved in contract performance.)

1852. 223-72 Safety and Health (Short Form) (Applies if the Order exceeds the simplified acquisition threshold and work will be conducted completely or partly at a federally controlled facility.)

1852. 223-73 Safety and Health Plan (Applies if the Order exceeds the simplified acquisition threshold, the work will be conducted completely or partly at a federally controlled facility, and the safety and health plan will be evaluated in source selection as approved by the source selection authority.)

1852. 223-74 Drug and Alcohol-Free Workforce

1852. 223-75 Major Breach of Safety or Security

1852. 225-70 Export Licenses (Not applicable to Orders with foreign entities.)

1852. 225-71 Restriction on Funding Activity with China

1852. 225-8 Duty Free Entry of Space Articles

1852. 227-11 Patent Rights – Retention by the Contractor (Short Form)

1852. 227-14 Rights in Data – General

1852. 227-17 Rights in Data – Special Works

1852. 227-19 Commercial Computer Software – Restricted Rights

1852. 227-70 New Technology

1852. 227-71 Requests for Waiver of Rights to Inventions

1852. 227-72 Designation of New Technology Representative and Patent Representative

1852. 227-84 Patent Rights Clauses

1852. 227-85 Invention Reporting and Rights – Foreign

1852. 227-86 Commercial Computer Software – Licensing

1852. 228-75 Minimum Insurance Coverage

1852. 228-76 Cross-Waiver of International Space Station Activities (Applies if the Order involves Protected Space Operations relating to the International Space Station and the value is above the simplified acquisition threshold.)

1852. 228-78 Cross-Waiver of Liability for Science or Space Exploration Activities Unrelated to International Space Station (Applies if the Order involves launches for science or space exploration activities unrelated to the International Space Station and the value is above the simplified acquisition threshold.)

1852. 231-71 Determination of Compensation Reasonableness

1852. 232-82 Submission of Requests for Progress Payments

1852. 234-1 Notice of Earned Value Management System

1852. 235-70 Center for Aerospace Information

1852. 237-70 Emergency Evacuation Procedures (Applies if the Order involves on-site support services where emergency evacuations of the NASA installation may occur, e.g., snow, hurricanes, tornadoes, earthquakes, or other emergencies.)

1852. 237-71 Pension Portability (Applies to a service Order if the Prime Contract requires pension portability.)

1852. 237-72 Access to Sensitive Information (Applies if the Order involves access to sensitive information.)

1852. 237-73 Release of Sensitive Information (Applies to Order that may involve access to sensitive information.)

1852. 242-70 Technical Direction

1852. 242-71 Travel Outside the U.S.

1852. 242-72 Denied Access to NASA Facilities

1852. 242-73 NASA Contractor Financial Management Reporting

1852. 243-70 Engineering Change Proposals

1852. 243-71 Shared Savings

1852. 243-72 Equitable Adjustments

1852. 244-70 Geographic Participation in the Aerospace

1852. 245-70 Contractor Requests for Government-Owned Equipment

1852. 245-71 Installation-Accountable Government Property

1852. 245-72 Liability for Government Property Furnished for Repair or Other Services

1852. 245-73 Financial Reporting of NASA Property in the Custody of Contractors

1852. 245-74 Identification and Marking of Government Equipment

1852. 245-75 Property Management Changes

1852. 245-76 List of Government-Furnished Property

1852. 245-77 List of Installation-Accountable Property and Services

1852. 245-79 Records and Disposition Reports for Government Property with Potential Historic or Significant Real Value

1852. 245-80 Government Property Management Information

1852. 246-70 Mission Critical Space System Personnel Reliability Program

1852. 246-72 Material Inspection and Receiving Report (Applies if the Order that provides for separate and distinct deliverables, even if the deliverables are not separately priced.)

1852. 246-73 Human Space Flight Item

1852. 247-71 Protection of the Florida Manatee (Applies if the Order involves deliveries or vessel operations, dockside work, or disassembly functions that involve the use of waterways inhabited by manatees.)

The following U.S.C. applies to this Contract:

(a) 41U.S.C. Chapter 87, Kickbacks

F. Certifications and Representations

SELLER acknowledges and confirms that BUYER will rely upon SELLER certifications and representations completed and submitted with any written offer, proposal or quote, or company profile submission to include SAM.gov, which results in award of a contract to SELLER. By entering into such contract, SELLER republishes the certifications and representations submitted with its written offer, including company profile information and oral offers/quotations made at the request of BUYER, and SELLER makes those certifications and representations set forth and incorporated herein by reference. SELLER shall immediately notify BUYER of any change of status regarding any certification or representation.