

**MEGGITT DEFENSE SYSTEMS, INC.**  
**PURCHASE ORDER TERMS AND CONDITIONS-FIXED PRICE CONTRACT**

**EFFECTIVE November 18, 2020**

**Section 1-Articles Applicable to All Orders**

1. **DEFINITIONS.** As used in these Terms and Conditions: "Buyer" means Meggitt Defense Systems, Inc.; "Purchasing Representative" means Buyer's authorized representative whose name appears on the face of an Order; "Order" means this purchase order or any written order issued by Buyer which incorporates these terms and conditions; "Seller" means the person(s) or company to whom an Order is issued; "FAR" means the Federal Acquisition Regulations (Title 48 CFR Chapter 1) and "DFARS" means the Department of Defense FAR Supplement (Title 48 CFR Chapter 2) in effect on the date of this Order unless a revision date is specified. "Item" means goods, parts, components, supplies, or items including, without limitation, those part numbers, model numbers, and/or descriptions set forth on the face of this Order, and shall also include computer software or hardware (including any software, firmware or other hardwired logic embedded within the hardware) delivered or to be delivered under this Order.

2. **CONTENTS AND ORDER OF PRECEDENCE.** This Order integrates, merges, and supersedes any prior offers, negotiations, and agreements concerning the subject matter hereof and constitutes the entire agreement between the Parties and shall govern the performance and/or delivery of Items and/or Services provided pursuant to the Order. Seller expressly represents that in accepting this Order it does not rely and has not relied upon any written or oral representation, warranty, or statement not set forth in the Order and that it will not have any right or remedy arising out of any representation, warranty, or other statement not expressly set out in this Order. The provisions of this Order shall be construed and interpreted as consistent whenever possible. Any conflicts in this Order shall be resolved by giving precedence in the following order:

- a. the Purchase Order;
- b. these Terms and Conditions (which are incorporated by reference in any Purchase Order issued hereunder);
- c. the Statement of Work; and
- d. Specifications, drawings or other requirements attached hereto or incorporated by reference.

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

3. **ACCEPTANCE AND AGREEMENT.** These terms and conditions apply to, and are agreed to be incorporated in, any Order issued by Buyer to Seller. An Order becomes a binding contract either upon acknowledgement in writing or commencement of performance. Any additional or different terms appearing in Seller's acceptance are hereby expressly rejected.

4. **DPAS RATED ORDER.**

a. If so identified, this Contract is a "rated order" certified for national defense use, emergency preparedness, and energy program use, and the SELLER shall follow all the requirements of the Defense Priorities and Allocation System (DPAS) Regulation (15 C.F.R. Part 700). Unless an exemption applies.(Reference FAR 11.600 Priorities and Allocations).

b. IAW 15 CFR § 700.13, seller must accept or reject a rated order in writing (hard copy), or in electronic format, within fifteen (15) working days after receipt of a DO rated order and within ten (10) working days after receipt of a DX rated order. If the order is rejected, the Seller must give reasons in writing or electronically for the rejection.

5. **DELIVERY.** Unless otherwise stated on the face of an Order, delivery shall be to Buyer's facility (F.O.B Destination).

a. Time is of the essence in the performance of an Order.

b. Delivery shall be in strict accordance with the schedule and quantity specified in an Order. ***Seller is on notice that delays in delivery may result in damages assessments including price reduction under Buyer's prime contracts; Seller shall be liable for any such assessments or price reductions.*** Seller shall not ship to arrive earlier than 7 days in advance of the specified schedule unless authorized in writing. Buyer may return goods at Seller's expense or payment may be deferred until the date payment would become due according to the specified schedule. Per DFAR 252.244-7001, ensure that all applicable purchase orders and subcontracts contain all flow down clauses, as required by the FARS and DFARS, including terms and conditions and any other clauses needed to carry out the requirements of the prime contract.

c. Seller at the request of Buyer, shall provide a written explanation for the root cause of the delay, Seller's corrective action plan to address the late deliveries and assurances that Seller will make all future deliveries in accordance with the Order requirements and schedule.

d. If it appears Seller will not meet schedule or if Seller's deliveries fail to meet the schedule, then in addition to any other right or remedy that Buyer has under law or this Order, Buyer may require Seller to ship via expedited means at Seller's expense.

e. If the delivery delay was as a result of any action taken on the part of Buyer, Seller shall notify Buyer in writing at the time the delay occurs and request that Buyer waive liquidated damages provided herein.

f. Buyer reserves the right to assess liquidated damages for any deliveries more than five (5) working days beyond the contracted delivery date. Penalties will consist of 1.0 percent of the value of the late item(s) per working day (Monday through Friday) late, calculated beginning the sixth day after the due date, and accruing daily each working day thereafter up to a maximum of 15.0 percent of the value of the delinquent item(s). The liquidated damages amount shall be subtracted from the line item value.

g. Buyer's right hereunder to recover liquidated damages for Seller's delayed performance is not an exclusive remedy for delay and shall be in addition to all other rights and remedies that Buyer has under this Order and at law and equity.

6. **QUALITY CONTROL.** Seller and its suppliers shall establish and maintain a quality management, inspection and counterfeit parts program acceptable to Buyer and consistent with current industry standards (e.g., ISO9001, AS9100, AS9115, AS9120, AS5553, AS6496, AS6174, etc.) unless a specific system of quality control or other standard of quality is specified in an Order or document incorporated by reference. Seller shall permit Buyer to review procedures, practices, processes and related documents to determine such acceptability. Seller shall have a continuing obligation to promptly notify Buyer of any violation or deviation from Seller's approved inspection/quality control system and to advise Buyer of the quantity and specific identity of any Items or Services provided to Buyer during the period of any such violation or deviation.

7. **INSPECTION AND ACCEPTANCE.** All materials, articles, work or services performed by Seller shall be made available for inspection or test at Seller's plant or that of Seller's subcontractor by authorized representatives of Buyer or Buyer's customer, or both. No inspection or test prior to final inspection and acceptance shall relieve Seller

from responsibility for defects or other failure to meet the requirements of an Order. All materials, articles, work or services shall be subject to final inspection and acceptance by Buyer after delivery to destination, notwithstanding prior payment. Acceptance shall not be final with respect to latent defects, fraud, or such gross mistakes as amount to fraud, or as to Seller's warranty obligations.

8. **PACKING AND SHIPPING.** Seller shall pack, mark and ship all goods in accordance with specific requirements of an Order, and in a manner which complies with transportation regulations and good commercial practice for protection and shipment of goods. No separate or additional charge is payable by Buyer for containers or any other aspect of packing and shipping to the F.O.B. Point unless specifically stated in an Order. Seller shall mark the number of an Order on each container and include a packing slip with each shipment, listing Order and line item numbers.

9. **PRODUCT SAFETY.** The supplier/organization shall plan, implement, and control the processes needed to assure product safety during the entire product life cycle, as appropriate to the organization and to the product.

10. **FORCE MAJEURE.** If Seller's delay is due to causes beyond Seller's control and without Seller's fault or negligence, and if Seller has exercised due diligence by promptly notifying Buyer in writing of the conditions which will result in delay, then Seller shall not be liable for delay. If Seller's delay is caused by the default of a subcontractor or supplier, and such default arises out of causes beyond the control of both Seller and its subcontractor or supplier, and without the fault or negligence of either of them, and if the supplies or services to be furnished by Seller's subcontractor or supplier are not obtainable from another source in sufficient time to permit Seller to meet the required schedule, Seller shall have no liability for delay. Notification of delay pursuant to this clause shall not constitute a waiver of any of Seller's other obligations nor a waiver by Buyer of any right under an Order.

11. **INVOICES AND PAYMENT.** Unless otherwise provided, terms of payment shall be net sixty (60) days upon Buyer's receipt of a proper invoice. Seller will be paid the price stated in an Order for supplies delivered and accepted, or services rendered and accepted, less deductions if any as provided by the Order. Cash discounts are determined by receipt date of supplies or services, or of a proper invoice, whichever is later. Payment is subject to setoff of any claim of Buyer against Seller, arising from this or any other transaction. Upon Buyer's request, Seller shall provide a reconciliation of all invoices submitted to Buyer.

12. **TAXES.** Unless otherwise specified in writing on the face of an Order, the prices stated include all applicable state, federal and local taxes, duties, tariffs, transportation taxes, or other similar taxes or fees which are required to be imposed upon the Items or Services ordered hereunder by Buyer or Buyer's customer, unless Seller obtains any applicable exemptions. Seller represents that its price does not include any taxes, impositions, charges or exactions for which it is eligible to obtain and/or has obtained a valid exemption certificate or other evidence of exemption. Any taxes included in this Order shall be itemized separately in Seller's invoice.

### 13. CHANGES

a. This Order may not be changed except by written modification signed by Buyer's Purchasing Representative. Buyer may at any time by written notice and without notice to sureties, make changes in any one or more of the following: (i) drawings, designs, or specifications; (ii) method of packing or shipment; (iii) place of inspection, acceptance or point of delivery; (iv) delivery schedule.

b. Should any such change cause an increase or decrease in the cost of or time required for performance of an Order, an equitable adjustment shall be negotiated and the Order shall be modified accordingly. If no agreement is reached, the equitable adjustment due shall be resolved pursuant to the "Disputes" clause below. Any claim by Seller for such adjustment shall be submitted to Buyer in writing within 15 days of Buyer's written notice of such change. If not submitted within 15 days, the claim is waived. Seller must proceed without delay in performing the Order as changed, even if a "Dispute" is pending and not resolved.

14. **BUYER'S PROPERTY.** All tools, dies, jigs, patterns, equipment, material, industrial property or other items purchased, furnished, charged to or paid for by Buyer, and any replacement thereof, shall remain the property of Buyer. If any designs, sketches, drawings, blueprints, patterns, dies, molds, models, tools, gauges, equipment or special appliances should be made or procured by Seller especially for producing the Items covered by this Order, then immediately upon manufacture or procurement they shall become the property of Buyer or Buyer's customer. Such property shall be plainly marked to evidence that it is Buyer's property and shall be stored safely apart from Seller's other property. Seller shall not substitute other property for Buyer's property and shall not use such property except to fill Buyer's orders. Seller shall hold such property at its own risk and upon Buyer's written request shall return the property to Buyer at its expense in the same condition as originally received, reasonable wear and tear excepted.

15. **TITLE AND RISK OF LOSS.** Unless otherwise specified in the Order, Seller shall bear the risk of loss and damage to all Items to be supplied hereunder until final acceptance by Buyer, Buyer's Customer, or the United States Government. Buyer shall have equitable title to all Items for which interim, partial or progress payments have been furnished to Seller.

16. **WARRANTY.** Seller warrants that all materials, articles, work and services furnished will be free from defects in material and workmanship, will conform to all applicable specifications, drawings, samples and descriptions, that goods of Seller's design or selection will be free from design defects, and that the goods will be fit for their intended use. Seller warrants that all items or components supplied under an Order shall be new, that is, not used or reconditioned. All warranties and guarantees shall run to Buyer and Buyer's customers, for a period of 18 months after final acceptance by Buyer, or 12 months after the item in which Seller's goods are incorporated is accepted by Buyer's customer, whichever is later. Seller agrees to repair or replace at its cost any item which does not conform to this warranty, as Buyer directs. These warranties are in addition to any standard warranty or guarantee of Seller, and any warranty and related remedy otherwise created by operation of law.

17. **TERMINATION/CANCELLATION/STOP WORK**

**a. Termination for Convenience.** The performance of work under an Order may be terminated in whole or in part by Buyer for Buyer's convenience, at any time and without regard to whether Buyer's contract with its customer may have been terminated. The rights, duties and obligations of the parties including compensation to be paid to Seller shall be in accordance with FAR Subparts 49.1 and 49.2 as if Buyer was in the position of the Government, Buyer's Purchasing Representative was the Termination Contracting Officer, and Seller was in the position of Contractor, as those terms are used in those FAR subparts. Seller shall immediately stop work and limit costs incurred on the terminated work. Seller's settlement proposal shall be submitted to Buyer's Representative within thirty (30) days, unless otherwise extended in writing, with full supporting documentation for all costs claimed. Upon termination for convenience, Buyer, after deducting any amount(s) previously paid, shall reimburse Seller for the actual, reasonable, substantiated, and allowable costs with the total amount to be paid by the Buyer, being determined by Buyer, and not to exceed the value of the Agreement. Payment for completed Items delivered to and accepted by Buyer shall be at the price set out in the Order.

**b. Termination for Default.** Buyer may, by written notice to Seller, terminate this Order in whole or in part for Default if Seller fails to (i) deliver supplies or perform services within the time specified, (ii) make progress so as to endanger performance of an Order and fails, within 10 days of written notice of such failure, to cure that failure or otherwise provide adequate assurance of performance, or to (iii) perform any other provision of this Order. If Buyer terminates in whole or in part for default, Buyer may acquire under terms that Buyer considers appropriate materials or services similar to those terminated. Seller shall be liable to Buyer for any excess costs for reprocurement of supplies or services. At the time of termination or thereafter, Buyer may at its option also require Seller to transfer title and deliver to Buyer any completed supplies, partially completed supplies, or materials, parts, tools, dies, jigs, fixtures and the like that Seller has specifically produced or acquired for the terminated portion of this Order. Subject to Buyer's right of setoff for excess re-procurement costs or other damages, Buyer shall pay Seller the contract price

for completed supplies delivered and accepted by Buyer. Buyer and Seller shall agree on the amount of payment for partially completed supplies, or materials delivered to Buyer at Buyer's specific direction. Buyer's rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this Order. In the event it is later determined by a court or other tribunal with jurisdiction that Seller was not in default, the termination shall be deemed to have been for the convenience of Buyer and Seller's exclusive remedy will be for payment as provided in subparagraph a. above.

**c. Stop Work.** By written notice Buyer may require Seller to stop work for a period not to exceed 90 days in accordance with the clause at FAR 52.242-15 "Stop Work Order (Aug 1989)", incorporated by reference and altered to insert "Buyer" and "Buyer's Purchasing Representative" for "Government" and "Contracting Officer", and to substitute "Seller" for "Contractor."

## **18. INDEMNIFICATION**

a. In addition to, and without limiting, Buyer's rights under other indemnifications available under statute or common law, Seller shall indemnify, hold harmless, and at Buyer's request, defend Buyer, its officers, directors, customers, agents and employees, against all claims, liabilities, damages, losses and expenses, including attorneys' fees and cost of suit arising out of or in any way connected with the Goods or Services provided under this Order, including, without limitation: (i) the breach of any warranty contained herein; (ii) any claim based on the death or bodily injury to any person, destruction or damage to property, or contamination of the environment and any associated clean-up costs; (iii) Seller failing to satisfy the Internal Revenue Service's guidelines for an independent contractor; (iv) any claim based on the negligence, omissions or willful misconduct of Seller or any of Seller's agents, subcontractors, employees or anyone acting on behalf of Seller; and (v) violation of federal, state, or local laws, including but not limited to export control, hazardous substance, toxic substance, and hazardous conditions laws. Seller shall not settle any such suit or claim without Buyer's prior written approval. Seller agrees to pay or reimburse all costs that may be incurred by Buyer in enforcing this indemnity, including attorneys' fees.

b. Seller shall reimburse Buyer for any loss or damage in the event that Buyer's customer makes a determination that Seller failed to furnish Buyer with any certified cost or pricing data or failed to provide the current, accurate and complete version of such data; failed to provide or comply with certifications as required by the Section 2 Flow-down Clause; or failed to take any such other action required by the Flow-down Clauses. Except as may be expressly set forth herein, the Subcontractor shall not acquire any direct claim or direct course of action against the US Government.

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

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

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

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

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

19. **DISPUTES.** If Buyer's contract with its customer contains a "Disputes" clause or procedure, any claim or demand by Seller which derives or results in any way from an act or omission of Buyer's customer which is not resolved by agreement may, at Buyer's election, be submitted for resolution pursuant to the customer contract "Disputes" clause. In that event, Seller's sole remedy will be the "Disputes" procedure in Buyer's contract with its customer, and Seller's recovery is limited to the amount if any recovered from Buyer's customer on Seller's behalf. Pending resolution, Seller shall not take any another action, including but not limited to pursuit of independent litigation with respect to any claim or demand, pending final determination under Buyer's prime contract "Disputes" provision. Seller shall not be entitled to receive from Buyer any amount greater than Buyer actually receives from Buyer's customer on account of Seller's claim, less any markups and costs incurred by Buyer. All claims and disputes between Buyer and Seller not originating with acts or omissions of Buyer's customer and not settled by mutual agreement, shall be decided by arbitration conducted in accordance with California Code of Civil Procedure Part III, Title 9 (without discovery). The arbitration proceeding shall be conducted in Orange County, California by a single arbitrator agreed upon by the parties or appointed pursuant to California Code of Civil Procedure Section 1281.6. This agreement to arbitrate shall be specifically enforceable under prevailing arbitration law.

## 20. RIGHTS IN DATA AND INVENTIONS

a. Grant of Right to Use: Seller grants to Buyer the right to use any technical data provided by Seller to the extent necessary for Buyer's performance of Buyer's prime contract or higher-tier subcontract, including the right to provide Seller's technical data to Buyer's customer. (2) Agreement to Indemnify: Seller agrees to indemnify and hold harmless Buyer and Buyer's customers from any expense (including attorneys' fees and costs) or loss, damage or liability on account of any infringement or claim of infringement of any U.S. or foreign patent, copyright or trademark, or on account of any misappropriation or claim of misappropriation of trade secrets or proprietary data, arising out of or resulting from the sale or use of the materials, articles, services or technical data provided by Seller. Seller also agrees at its own expense to defend any actions, lawsuits or claims in which such infringement or misappropriation is alleged, provided that Seller has first been notified as to the existence of such action, lawsuit or claim.

b. The ideas, information, designs, drawings, specifications and any other data or business and manufacturing information supplied by Buyer shall remain Buyer's property. Such data shall be retained in confidence by Seller and shall not be disclosed to any other person or entity, and shall not be used or incorporated into any product or item that is manufactured for or supplied to anyone other than Buyer. Seller shall not use any Buyer's part number for any purpose other than performance of this Order.

- c. Seller grants to Buyer the right to use any technical data provided by Seller to the extent necessary for Buyer's performance of Buyer's prime contract or higher-tier subcontract, including the right to provide Seller's technical data to Buyer's customer.
- d. Intellectual Property Rights. All FAR 52.27/DFARS 252.227 terms on intellectual property are as defined in FAR 27 or DFARS 227 or applicable agency regulations. Seller acknowledges and agrees that any rights in Technical Data and Computer Software to be granted to the U.S. Government will be determined in accordance with the regulations set forth in FAR Part 27 and DFARS Part 227 based upon the specific Technical Data, Computer Software and Goods to be performed under this Order and the assertions of restrictions on use, release or disclosure of Seller's Intellectual Property that are provided to Buyer for delivery to the U.S. Government, in order to fulfill Buyer's obligations under Buyer's customer's contract.
- e. Rights Assertions. Seller shall identify and assert prior to Order award any Seller's rights in Technical Data and software delivered with other than unlimited rights as required by the applicable FAR or DFARS provision.
- f. Under any referenced FAR 52.227 or DFARS 252.227 provision below, the rights granted are vested in the U.S. Government, except that Seller grants Buyer an irrevocable, nonexclusive royalty-free worldwide license to sell and use Seller's technical data and computer software delivered in the performance of this Order, to the extent needed to fulfill Buyer's obligations under its customer's U.S. Government contract or subcontract pursuant to which this order is issued.
- g. Agreement to Indemnify: Seller agrees to indemnify and hold harmless Buyer and Buyer's customers from any expense (including attorneys' fees and costs) or loss, damage or liability on account of any infringement or claim of infringement of any U.S. or foreign patent, copyright or trademark, or on account of any misappropriation or claim of misappropriation of trade secrets or proprietary data, arising out of or resulting from the sale or use of the materials, articles, services or technical data provided by Seller. Seller also agrees at its own expense to defend any actions, lawsuits or claims in which such infringement or misappropriation is alleged, provided that Seller has first been notified as to the existence of such action, lawsuit or claim.

## **21. INSURANCE**

- a. If this Order is for the performance of Services on Buyer's premises or Buyer's customer's premises, or, Seller utilizes their own vehicles to deliver Goods to Buyer's facility, Seller shall maintain the following insurance in at least the minimum amounts stated herein. Seller shall also maintain, and Seller shall cause its subcontractors to maintain, such general liability, property damage, employers' liability, and worker's compensation insurance, professional errors and omissions insurance, motor vehicle liability (personal injury and property damage) insurance and aviation liability as are maintained in their normal and ordinary course of business. Upon request by the Buyer, Seller shall provide certificates of insurance evidencing limits of not less than the following:
1. Commercial General Liability ("GCL") insurance, with limits of at least \$5,000,000 combined single limit for bodily injury and property damage per occurrence and \$5,000,000 annual aggregate.
  2. Workers' Compensation Statutory for the jurisdiction where the work is to be performed, including Federal Acts if applicable Employers' Liability, \$1,000,000 each person/accident. In states where Workers' Compensation insurance is a monopolistic state-run system (e.g., Ohio, Washington, North Dakota, and Wyoming), Seller shall add Stop Gap Employers Liability with limits not less than \$500,000 for each accident or disease. To the extent that any work to be performed is subject to the Jones Act, the Longshore and Harbor Workers' Compensation Act,

or the Defense Base Act, the Workers' Compensation policy must be endorsed to cover such liability under such Act.

3. Automobile Liability insurance shall be for an amount of at least \$5,000,000 combined single limit for bodily injury and property damage per accident. Employer's Liability with limits of at least \$2,000,000 for each occurrence.
- b. Some or all of the following additional insurance coverages may be required, depending upon the nature of the work to be performed. These additional insurance requirements, if, any will be identified in the Order.
1. Professional Liability \$5,000,000 per claim.
  2. Internet Liability and Network Protection (Cyber-risk) insurance with limits of at least \$2,500,000 each claim or wrongful act.
  3. Media Liability insurance with limits of at least \$2,500,000 each claim or wrongful act.
  4. All Risk Property Insurance Replacement Value (covering property of Buyer or Buyer's customer in the care, custody or control of Seller and include Buyer as Loss Payee.
  5. Fidelity or Crime insurance covering employee dishonesty, including but not limited to dishonest acts of Seller, its employees, agents, subcontractors and anyone under Seller's supervision or control. The Seller shall be liable for money, securities or other property of Buyer. Seller shall include a client coverage endorsement written for limits of at least \$1,000,000 and shall include Buyer as Loss Payee.
  6. Environmental Insurance (Contractor's Pollution Liability) with limits of at least \$5,000,000 each occurrence, claim, or wrongful act and \$10,000,000 aggregate. The policy must include Buyer, its Affiliates, and their directors, officers, and employees as Additional Named Insured's. Seller shall provide a copy of the Additional Insured endorsement to Buyer. If required within the scope of Seller's work to be performed, the insurance required herein cannot exclude coverage for bodily injury, property damage, pollution or environmental harm resulting from or arising out of the work to be performed, asbestos, lead or silica-related claims, claims arising out of microbial matter or bacteria, testing, monitoring, measuring operations or laboratory analyses, or liability arising out of the operation of a treatment facility. The policy must contain a separation of insured's clause. If a motor vehicle is used in connection with the work to be performed, the Business Automobile Liability policy will include coverage at least as broad as Insurance Services Office (ISO) CA 99 48 and be endorsed to include Motor Carrier Act endorsement MCS 90.
  7. Pollution Legal Liability with limits of at least \$3,000,000 each occurrence, claim, or wrongful act and \$6,000,000 aggregate.
- c. The above limits may be satisfied by any combination of both primary and excess limits. Seller shall arrange a waiver of subrogation for the above. Except for Workers' Compensation, All Risk Property, and Fidelity or Crime, Seller shall name Buyer as an additional insured under each of the above policies and shall provide to Buyer, within fifteen (15) days of Buyer's issuance of a SOW, a Certificate of Insurance evidencing compliance with this Section. Seller shall notify Buyer when cancellation or any material change in the policies adversely affect the interests of Buyer in such insurance, and such changes shall not become effective until thirty (30) days after written notice is provided to Buyer.



- d. Seller and Seller's subcontractors shall furnish, prior to the start of work or at such other time as Buyer requires, certificates or adequate proof of the foregoing insurance. The policies shall be endorsed to provide thirty (30) days written notice of cancellation to Buyer. Any other coverage available to Buyer shall apply on an excess basis.
- e. Seller agrees that Seller, Seller's insurer(s) and anyone claiming by, through, under or on Seller's behalf shall have no claim, right of action or right of subrogation against Buyer and Buyer's Customer based on any loss or liability insured against under the foregoing insurance.

22. **ASSIGNMENTS AND SUBCONTRACTING.** Seller may not assign an Order or any portion thereof without the written consent of Buyer. Seller agrees to obtain Buyer's written approval before subcontracting performance of an Order or any substantial portion thereof. Buyer's approval of any such subcontractor shall not relieve Seller from any obligations imposed by these terms.

23. **COMPLIANCE WITH LAWS AND REGULATIONS.** Seller, in the performance of this Order, shall comply with all applicable local, state, and federal laws, orders, rules, regulations, ordinances, guidelines, directives, FAA, DOT and other transportation regulations and Hazard Communication Standards promulgated pursuant to the Occupational Health and Safety Act. Seller shall procure all licenses/permits, pay all fees, and other required charges.

24. **AUDIT.** Seller agrees that its books, records and facilities or such parts of its facilities as may be engaged in the performance of this Order, shall at all reasonable times be subject to inspection and audit by Buyer and, to the extent provided by the Flow-down Clauses, any authorized representatives of the U.S. Government. Seller hereby grants to Buyer the right to examine at reasonable times its relevant books, records and data that permit the adequate evaluation of (1) cost and pricing data and of any claims/proposals submitted by Seller pursuant to the Flow-down Clauses, (2) its security and data protection procedures and (3) its quality, testing and inspection procedures. Seller shall allow Buyer and Buyer's customer to reasonably review Seller's compliance with the FAR and DFARS provisions below, upon request.

25. **ETHICAL BEHAVIOR.** The supplier/organization shall have and adhere to a code of ethical standards and ensure that persons doing the work under the organizations' control are aware of the importance of ethical behavior. If Seller has cause to believe that Buyer or any employee or agent of Buyer has behaved improperly or unethically under this contract, Seller shall report such behavior to appropriate Buyer Points of Contact ("POCs").

26. **PUBLICITY.** Except as required by law, Seller or its subcontractors shall not publicly release, confirm or deny any information related to this Order (including the end customer or the program,) without Buyer's prior written consent. Seller shall not use any name, logo or trademark owned or used by Buyer, in whatever form or shape, without Seller's prior written consent. Seller shall be liable to Buyer for any breach of such obligation by Buyer's subcontractor.

27. **REMEDIES AND NON-WAIVER.** The remedies reserved to Buyer by these terms are not exclusive and shall be cumulative and in addition to any other right or remedy provided by law or equity. No waiver of a breach, or a failure to enforce any provision of an Order, shall constitute a waiver of any subsequent breach or of any other provision. If any provision of an Order is void or becomes void or unenforceable, by operation of law, all other provisions shall remain in full force and effect.

28. **ADDITIONAL GOODS GUARANTEE.** As part of the consideration for this Order, Seller agrees that it will accept future orders for additional quantities of the goods procured by this Order. If Seller plans to discontinue the sale of the goods purchased by this Order, Seller shall so notify Buyer no less than one year prior to any such discontinuance. In the event Seller discontinues manufacturing, dealing, or reselling the aforementioned Items, subassemblies and spare parts, and does not provide for another qualified source, Seller shall give Buyer not less than twelve (12) months' notice of such decision to discontinue and thereupon make available to Buyer all drawings,

specifications, data, and know-how which will enable Buyer or its customers to manufacture or procure said Items, subassemblies and spare parts under a royalty free license which is hereby granted.

29. **COST OR PRICING DATA INDEMNITY.** If Seller submitted cost or pricing data as defined at FAR 15.401, as part of the process of award of this Order, or if Seller submits such data in connection with any change order or other modification, Seller acknowledges that it is aware of Buyer's potential liability to the Government or to Buyer's customer if the ultimate customer is the Government, in the event that any of Seller's data were not current, complete or accurate. Seller warrants that all cost or pricing data submitted, including data obtained from its subcontractors or suppliers, shall be complete, accurate and current at the time of agreement between Buyer and Seller to the price of this Order or of any modification. Seller agrees to indemnify and save Buyer harmless from any and all loss and expense (including the total of any reduction to Buyer's prime contract or higher-tier subcontract price) and attorney's fees caused by any breach of this warranty.

30. **PROHIBITION OF GRATUITIES TO BUYER'S PERSONNEL.** This Order serves as notice to Seller that Buyer's personnel owe complete loyalty to Buyer and are forbidden to accept money or things of value from any supplier of goods, materials or services to Buyer, regardless whether such acceptance would constitute an act prohibited by Anti-Kickback laws and regulations. Seller for itself and its principal owners, shareholders, and officers warrants and represents that no employee of Buyer has any financial interest in Seller except such as has been disclosed in writing to Buyer's Chief Executive Officer. Further, Seller has not and will not give anything of value to any employee of Buyer, except promotional or commemorative items having a value of less than \$25, and food and refreshments served during business meetings. Breach of the foregoing warranty and covenant shall entitle Buyer, in addition to any other rights and remedies, immediately to terminate for default any and all Orders to Seller existing at the time that Buyer learns of any such breach, and regardless of when such breach occurred.

31. **INDEMNITY FOR ILLEGAL OR IMPROPER ACTIVITY.** If the face of an Order identifies a prime contract with the United States, or if Seller is otherwise advised that the Order is in furtherance of a prime contract with the United States, then Seller warrants that Seller has not solicited, induced, committed, or participated in any violation of subsection 27(a), (b), or (c) of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 423), as implemented in FAR Section 3.104. A breach of that warranty shall be a material breach of the Order and Seller shall indemnify and save Buyer harmless from any and all loss and expense (including the total of any reduction to Buyer's prime contract price, cost, or fee and any other costs and losses incurred by Government invocation of remedies under FAR 52.203-8 or FAR 52.203-10, or both) and attorneys' fees caused by any breach of this warranty.

## 32. **U.S. EXPORT CONTROLS**

a. Seller shall comply with all U.S. export control laws and regulations, including the International Traffic in Arms Regulations (ITAR), 22 CFR Parts 120 through 130, and the Export Administration Regulations (EAR), 15 CFR Parts 730 through 799, in the performance of this contract. Unless otherwise granted an exemption, Seller shall be responsible for obtaining the appropriate licenses or other approvals, if required, for exports of hardware, technical data, and software, or for the provision of technical assistance.

b. Seller shall be responsible for obtaining export licenses, if required, before utilizing foreign persons in the performance of this contract, including instances where the work is to be performed on-site at any Government installation, where the foreign person will have access to export-controlled technical data or software.

c. Seller shall be responsible for all regulatory record keeping requirements associated with the use of licenses and license exemptions/exceptions.

d. Lower Tier Subcontracts. Seller shall flow-down Export Compliance provisions to suppliers and subcontractors in all purchase orders and subcontracts.

e. Information furnished by one Party to the other may contain data subject to U.S. Export Laws and Regulations. Such data shall not be exported or re-exported to foreign persons inside or outside the United States without prior written consent from the Party furnishing the information and under authority of a U.S. Government approved export license or applicable license exemption. Should Seller have non-US employees or visitors at any location where Buyer drawings or other technical data and/or information is stored or maintained, prior to performing work against this purchase order or subcontract, Seller shall immediately submit for Buyer approval, a Technology Control Plan (TCP) detailing how access to Export Controlled data is properly handled.

f. By law, each Party must control access to export controlled technical data within its facilities. Therefore, a Party shall only assign personnel to perform work in the other Party's facilities who are either U.S. citizens or who have been granted Permanent Resident Alien status in the U.S. A Party's personnel will be required to furnish documentary evidence of citizenship or immigration status to the other Party's Security Badge and ID Personnel at the time of badge pick-up. Acceptable documentary evidence of citizenship or immigration status includes U.S. Passport, Certificate of U.S. Citizenship, Certificate of Naturalization, certified copy of U.S. Birth Certificate, U.S. Alien Registration Receipt Card with Photo, unexpired foreign passport with INS-551 stamp of Certificate of Birth Abroad issued by the U.S. Department of State. Nothing in this clause shall be construed as requiring or encouraging violation of the labor laws of the United States, including without limitation, those pertaining to equal employment opportunity.

### **33. OFFICE OF FOREIGN ASSETS CONTROL (OFAC)**

a. U.S. Economic and Trade Sanctions. Seller understands that the Office of Foreign Assets Control ("OFAC") of the U.S. Department of the Treasury administers and enforces economic and trade sanctions based on US foreign policy and national security goals against targeted foreign countries and regimes, terrorists, international narcotics traffickers, those engaged in activities related to the proliferation of weapons of mass destruction, and other threats to the national security, foreign policy or economy of the United States. Seller warrants that it is not (1) a person or entity whose name appears on the list of Specially Designated Nationals and Blocked Persons published by the OFAC ("Listed Person") or (2) a department, agency, or instrumentality of, or otherwise controlled by or acting on behalf of any OFAC Listed Person or the government of a country subject to U.S. economic sanctions administered by OFAC. Seller further warrants that it will immediately notify Buyer if it becomes subject to any of the foregoing lists or sanctions.

b. Seller agrees that it will comply with these OFAC administered regulations and policies, and will not transfer any Items or Services to or from, or otherwise engage with entities or persons listed on the Specially Designated Nationals ("SDN") List. The SDN List is accessible at <http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>. Seller further agrees that it will not engage in unauthorized transactions, including the transfer any Items or Services to or from, with persons or entities identified on any other U.S. government screening list, including those identified on the U.S. government's Consolidated Screening List.

34. **NON-FOREIGN CERTIFICATION AND REPRESENTATION.** Seller, by acceptance of this purchase order or subcontract, confirms that:

- i. it is not a foreign corporation, and
- ii. it is not a Representative of a Foreign Interest, and
- iii. it is not an inverted domestic corporation (as defined at FAR 52.209-10); and
- iv. Seller agrees to immediately notify Buyer of any change in status set forth above.

35. **APPLICABLE LAW.** This Order, irrespective of the place of performance, shall be governed by, subject to, and construed in accordance with the laws of the State of California, excluding its choice of law rules, except that any provision in this Order that is (i) incorporated in full text or by reference from the Federal Acquisition Regulations (FAR); (ii) incorporated in full text or by reference from any agency regulation that implements or supplements the

FAR or; (iii) that is substantially based on any such agency regulation or FAR provision, shall be construed and interpreted according to the federal common law of government contracts as enunciated and applied by federal judicial bodies, boards of contracts appeals, and quasi-judicial agencies of the federal Government.

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

37. **NO WAIVER OF CONDITIONS.** Buyer's failure to insist upon or enforce strict compliance by Seller with any aspect of this Order shall not be deemed a waiver or relinquishment to any extent of any of Buyer's rights; rather, the same shall remain in full force and effect. Waiver of a right under this Order shall not constitute a waiver of any other right, waiver or default under this Order.

38. **SEVERABILITY.** If any part, term, or provision of this Order shall be held void, illegal, unenforceable, or in conflict with any law of a federal, state, or local government having jurisdiction over this Order, the validity of the remaining portions of provisions shall not be affected thereby. In the event that any part, term or provision of this Order is held void, illegal, unenforceable, or in conflict with law, Seller agrees to negotiate a replacement provision, construed to accomplish its originally intended effect.

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

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

- (a) Seller and/or any of its principles are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any federal agency (FAR 52.209-5);
- (b) there is no litigation or proceeding pending, and that none are anticipated (e.g. claims of fraud, waste or abuse, debarment proceedings, or criminal allegations, against it or any of its officers or employees that may restrict, invalidate or void the Items or Services contemplated by this Order or render the continuation of such Order inadvisable);
- (c) Seller has reviewed the Order and that no person that it provides to perform any services included therein has any legal restrictions as result of government service that would be pertinent to the Order that would prevent such person from reasonably performing the work contemplated (e.g., post-employment restrictions related to representing a company to the Government, accepting compensation for these services or improperly using or disclosing non-public information in these duties);
- (d) If this effort includes support for a competitive proposal, that no person Seller provides for performance of this Order will have worked on the same or a directly related effort for any company in competition with Buyer for this work;

- (e) Seller has taken reasonable steps to identify and prevent the conflicts referenced above related to Seller or the personnel Seller provides for performance of this Order;
- (f) Seller does not provide covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument (FAR 52.204-24), and
- (g) Seller complies with all Annual Representations and Certifications as required by FAR 52.204-8. Seller further agrees to furnish to Buyer or directly to Buyer's Customer, upon Buyer's request, any certificate required to be furnished FAR 52.204-8, 52.212-3 (commercial items), or under any provisions of this Order, including the clauses set forth and incorporated in Section 2 of this Order.

#### **41. LIMITATION OF LIABILITY**

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

**SECTION 2– FAR AND DFARS CLAUSES APPLICABLE TO THIS ORDER**

- a. The following Flow-down Clauses apply to this Purchase Order. The definitions of FAR 2-101 shall apply to these clauses, including to determinations of commercial items and Simplified Acquisition Threshold (SAT).
- b. Seller shall comply with all U.S. Government provisions and clauses identified by Buyer as flow-down provisions for any order ("Flow-down Clauses"), including Federal Acquisition Regulation (FAR), Department of Defense FAR Supplement (DFARS), or other agency supplement contract provisions (together "FAR Clauses") incorporated by reference.
- c. These FAR and DFARS clauses are available at [www.acquisition.gov](http://www.acquisition.gov).
- d. By acceptance of this Order, Seller acknowledges and agrees to such incorporation by reference. Flow-down Clauses are incorporated by reference, with the same force and affect as if they were given full text.
- e. Seller shall incorporate these Flow-Down Clauses into each lower-tier subcontract placed in support of this Order, as required by the individual clause. The applicable version date of such provisions is as specified below; if no version date is specified, then the version date as of the date the Order is executed shall apply, unless otherwise specified in the Order. To the extent there is a conflict or overlap between the Flow-down Clauses and Section 1, the language shall be read to the maximum extent possible to render the clauses compatible, including by using the interpretation most restrictive of the requirements in Buyer's favor.
- f. Except as otherwise provided in this provision, whenever necessary to make the context of the clauses applicable to this Order, the term "Contractor" shall mean Seller, the term "Contract" shall mean this Order, the term "Government," "Contracting Officer," and equivalent phrases shall mean Buyer, except that the terms "Government" and "Contracting Officer" shall not change in the Government Property, patent, intellectual property or data rights clauses incorporated herein, or when a right, act, authorization or obligation can be granted or performed only by the U.S. Government or the Contracting Officer or a duly authorized representative, in which case Seller grants Buyer such additional rights as are needed to perform such clause under Buyer's contract with its customer. These FAR and DFARS clauses apply to Seller in a manner which reflects the position of Seller as a subcontractor to Buyer, to ensure Seller's obligations to Buyer and to the U.S. Government and to enable Buyer to meet its obligations under its contract or subcontract with Buyer's customer.
- g. Notwithstanding any FAR/DFARS provision below, the Contract Disputes Act shall not apply to this Order. Any reference to a "Disputes" clause shall mean the disputes provision of this Order. Seller shall be conclusively bound by any decision made through the disputes process of the Buyer's customer. Pending resolution of any dispute arising under this Order, which incorporates FAR or DFARS clauses, Seller will proceed diligently as directed by Buyer with the performance of this Order. Notwithstanding any choice of law provision, any provision in this Order that is: (i) incorporated in full text or by reference below to FAR or DFARS, or (ii) that is substantially based on any FAR or DFARS provision below or on any agency regulation interpreting such FAR or DFARS provisions, shall be construed and interpreted according to the federal common law of government contracts as enunciated and applied by federal judicial bodies, boards of contracts appeals, and quasi-judicial agencies of the United States Government. No FAR or DFARS provision herein shall establish privity between Seller and Buyer's customer. Notwithstanding any FAR or DFARS provisions below, the Contract Disputes Act shall not apply to this Order, except as permitted by Buyer for disputes with Buyer's customer.

**These clauses shall be applicable for simplified acquisitions (\$250,000.00) exceeding the micro-purchase threshold (\$10,000.00) that are for other than commercial items**

FAR 52.213-4

Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items) (Nov 2020)

**These clauses shall be applicable for commercial items (52.212-5 (e)(1)Contract Terms and Conditions Required to Implement Statutes or Executive Orders-Commercial Items**

52.203-13	Contractor Code of Business Ethics and Conduct (Jun 2020) (41 U.S.C. 3509)
52.203-19	Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (Jan 2017) (section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions))
52.204-23	Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (Jul 2018) (Section 1634 of Pub. L. 115-91)
52.204-25	Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (Aug 2020) (Section 889(a)(1)(A) of Pub. L. 115-232)
52.219-8	Utilization of Small Business Concerns (Oct 2018) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds the applicable threshold specified in FAR 19.702(a) on the date of subcontract award, the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.
52.222-21	Prohibition of Segregated Facilities (Apr 2015)
52.222-26	Equal Opportunity (Sep 2015) (E.O.11246)
52.222-35	Equal Opportunity for Veterans (Jun 2020) (38 U.S.C. 4212)
52.222-36	Equal Opportunity for Workers with Disabilities (Jun 2020) (29 U.S.C. 793)
52.222-37	Employment Reports on Veterans (Jun 2020) (38 U.S.C. 4212)
52.222-40	Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496). Flow down required in accordance with paragraph (f) of FAR clause 52.222-40.
52.222-41	Service Contract Labor Standards (Aug2018) (41 U.S.C. chapter 67)
52.222-50	Combating Trafficking in Persons (Oct 2020) (22 U.S.C. chapter 78 and E.O 13627)
52.222-51	Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (May2014) (41 U.S.C. chapter 67)
52.222-53	Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Requirements (May2014) (41 U.S.C. chapter 67)
52.222-54	Employment Eligibility Verification (Oct 2015) (E.O. 12989)
52.222-55	Minimum Wages Under Executive Order 13658 (Nov 2020)
52.222-62	Paid Sick Leave Under Executive Order 13706 (Jan 2017) (E.O. 13706)
52.224-3	Privacy Training (Jan 2017) (5 U.S.C. 552a)
52.225-26	Contractors Performing Private Security Functions Outside the United States (Oct 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).
52.226-6	Promoting Excess Food Donation to Nonprofit Organizations (Jun 2020) (42 U.S.C. 1792). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.
52.247-64	Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx. 1241(b) and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.
DFARS 252.204-7020	NIST SP 800-171 DoD Assessment Requirements. (Nov 2020)
DFARS 252-204-7021	Contractor Compliance with the Cybersecurity Maturity Model Certification Level Requirement. (Nov 2020)

**These clauses shall be applicable for acquisitions exceeding the simplified acquisition threshold that are for other than commercial items (see 12.301).**

FAR 52.211.15	Priorities and Allocations
FAR 52.202-1	Definitions (Jun 2020)
FAR 52.203-3	Gratuities (Apr. 1984)
FAR 52.203-6	Restrictions on Subcontractor Sales to the Government (Jun 2020) (No substitution for "Government") (Applicable if Order exceeds \$150,000)
FAR 52.203-6 (Alt I)	Restrictions on Subcontractor Sales to the Government (Jun 2020) (No substitution for "Government") (Applicable for contracts for commercial items exceeding the Simplified Acquisition Threshold(SAT))
FAR 52.203-7	Anti-Kickback Procedures (May 2014) (Applicable if Order exceeds \$150,000) (Excluding (c)(1) and "Prime Contractor" shall mean Buyer; no substitutions for Contracting Officer; "Subcontractor" shall mean Seller and Seller's Sellers)
FAR 52.203-10	Price or Fee Adjustment for Illegal or Improper Activity (May 2014)
FAR 52.203-11	Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (Sep 2007)
FAR 52.203-12	Limitation on Payments to Influence Certain Federal Transactions (Jun 2020) (Applicable if Order exceeds \$150,000)
FAR 52.203-17	Contractor Employee Whistleblower Rights and Requirement To Inform Employees Of Whistleblower Rights (Jun 2020) (Applicable if Order exceeds \$150,000)
FAR 52.203-19	Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (Jan 2017)
FAR 52.203-6	Restrictions on Subcontractor Sales to the Government (Sep 2006) (Applicable if Order exceeds simplified acquisition threshold (SAT))
FAR 52.204-10	Reporting Executive Compensation and First-Tier Subcontract Awards (Jun 2020)
FAR 52.204-18	Commercial and Government Entity Code Maintenance (Aug 2020)
FAR 52.204-21	Basic Safeguarding of Covered Contractor Information Systems (June 2016)
FAR 52.204-23	Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (July 2018)
FAR 52.204-25	Prohibition of Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (Aug 2020)
FAR 52.208-8	Required Sources for Helium and Helium Usage Data (Aug 2018)
FAR 52.209-6	Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Jun 2020) (Applicable if Order exceeds \$35,000) (But not applicable to commercial or commercial off the shelf products) (No substitution for "Government")
FAR 52.215-2	Audit and Records – Negotiation (Jun 2020) (Applicable if Order exceeds simplified acquisition threshold (SAT))
FAR 52.215-14	Integrity of Unit Prices (Jun 2020) (Applicable if Order exceeds simplified acquisition threshold (SAT)) (Not applicable to commercial items)
FAR 52.222-50	Combating Trafficking in Persons (Jan 2019)
FAR 52.223-3	Hazardous Material Identification and Material Safety Data (Jan 1997)
FAR 52.223-7	Notice of Radioactive Materials (Jan 1997) (The blank in paragraph (a) shall be "60") (Applicable only to Orders for radioactive materials)
FAR 52.223-18	Encouraging Contractor Policies to Ban Text Messaging While Driving (Jun 2020) (Applicable if Order exceeds \$10,000 (The micro-purchase threshold pursuant to DoD Class Deviation 2018-O0018, Aug 31, 2018)
FAR 52.225-8	Duty-Free Entry (Oct 2010) (Applicable to Orders with supplies identified as duty-free entry that will be imported into the United States or foreign supplies in excess of \$20,000)
FAR 52.225-13	Restrictions on Certain Foreign Purchases (Jun 2008)



FAR 52.225-20	Prohibition on Conducting Restricted Business Operations in Sudan – Certification (Aug 2009)
FAR 52.225-25	Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran—Representation and Certifications (Dec 2012)
FAR 52.227-1	Authorization and Consent (Dec 2007) (Applicable if Order exceeds simplified acquisition threshold (SAT))Not applicable if both complete performance and delivery are outside of the U.S.)
FAR 52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement (Jun 2020)(Applicable if Order exceeds simplified acquisition threshold (SAT)) (Not applicable if both complete performance and delivery are outside the U.S.)
FAR 52.227-9	Refund of Royalties (Apr 1984) (Applicable if royalties exceed \$250)
FAR 52.227-11	Patent Rights—Ownership by the Contractor (May 2014) (Applicable if Order is for experimental, developmental, or research work)
FAR 52.232-40	Providing Accelerated Payments to Small Business Subcontractors (Dec 2013) (Applicable if Seller is a small business concern)
FAR 52.234-1	Industrial Resources Developed Under Title III, Defense Production Act (Sep 2016)
FAR 52.242-15	Stop-Work Order (Aug 1989)
FAR 52.243-1	Changes – Fixed Price (Aug 1987)
FAR 52.244-6	Subcontracts for Commercial Items (Nov 2020)
FAR 52.245-1	Government Property (Jan 2017) (Applicable to Orders where Seller is furnished U.S. Government property for performance)
FAR 52.246-11	Higher-Level Contract Quality Requirement (Dec 2014)
FAR 52.246-26	Reporting Nonconforming Items (Dec 2019)
FAR 52.247-63	Preference for U.S.-Flag Air Carriers (Jun 2003)
FAR 52.247-64	Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006)
FAR 52.248-1	Value Engineering (Jun 2020) (Applicable if Order exceeds \$150,000)
DFARS 252.203-7001	Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies (Dec 2008) (Applicable if Order exceeds simplified acquisition threshold (SAT))( (Not applicable if Order is for commercial items)
DFARS 252.203-7002	Requirement to Inform Employees of Whistleblower Rights (Sep 2013)
DFARS 252.204-7000	Disclosure of Information (Oct 2016)
DFARS 252.204-7012	Safeguarding Covered Defense Information and Cyber Incident Reporting (Dec 2019)(Applicable where unclassified controlled defense information is utilized, transmitted or stored)
DFARS 252.204-7015	Disclosure of Information to Litigation Support Contractors (May 2016)
DFARS 252.208-7000	Intent to Furnish Precious Metals as Government-Furnished Material (Dec 1991)
DFARS 252.209-7004	Subcontracting With Firms That are Owned or Controlled by the Government of a Terrorist Country (Oct 2015)
DFARS 252.211-7003	Item Unique Identification and Valuation (Mar 2016) (Applicable if Order requires unique item identification)
DFARS 252.215-7010	Requirements for Certified Cost or Pricing Data Other than Certified Cost or Pricing Data (July 2019)
DFARS 252.223-7001	Hazard Warning Labels (Dec 1991)
DFARS 252.223-7008	Prohibition of Hexavalent Chromium (Jun 2013)
DFARS 252.225-7000	Buy American – Balance of Payments Program Certificate (Nov 2014)
DFARS 252.225-7001	Buy American and Balance of Payments Program (Dec 2017)
DFARS 252.225-7002	Qualifying Country Sources as Subcontractors (Dec 2017)
DFARS 252.225-7012	Preference for Certain Domestic Commodities (Dec 2017)
DFARS 252.225-7004	Report of Intended Performance Outside of the United States and Canada – Submission After Award (May 2019) (Contract value exceeding \$13.5 million, except those that are for commercial items, construction, ores, natural gas, utilities, petroleum products and crudes, timber (logs), or subsistence.)
DFARS 252.225-7007	Prohibition on Acquisition of United States Munitions List Items from Communist Chinese Military Companies (Dec 2018)
DFARS 252.225-7008	Restriction on Acquisition of Specialty Metals (MAR 2013)

DFARS 252.225-7009	Restriction on Acquisition of Certain Articles Containing Specialty Metals. (Dec 2019)
DFARS 252.225-7012	Preference for Certain Domestic Commodities (Dec 2017)
DFARS 252.225-7013	Duty-Free Entry (Jul 2020)
DFARS 252.225-7016	Restriction on Acquisition of Ball and Roller Bearings (Jun 2011) (Not applicable if Order is for commercial items or for supplies not containing ball or roller bearings)
DFARS 252.225-7048	Export-Controlled Items (Jun 2013)
DFARS 252.225-7972	Prohibition on the Procurement of Foreign-Made Unmanned Aircraft Systems) (DEVIATION 2020-O0015) (May 2020)
DFARS 252.225-7973	Prohibition on the Procurement of Foreign-Made Unmanned Aircraft Systems—Representation. (DEVIATION 2020-O0015) (May 2020)
DFARS 252.225-7974	Representation Regarding Persons that have Business Operations with the Maduro Regime (DEVIATION 2020-O0005) (Feb 2020)
DFARS 252.227-7013	Rights in Technical Data–Noncommercial Items (Feb 2014) (Applicable if Order requires delivery of Seller technical data pertaining to non-commercial items or commercial items for which the U.S. Government will have paid for any portion of the development costs)
DFARS 252.227-7014	Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation (Feb 2014) (Applicable if Order requires delivery of computer software or computer software documentation)
DFARS 252.227-7015	Technical Data–Commercial Items (Feb 2014) (Applicable if Order requires delivery of technical data pertaining to commercial items)
DFARS 252.227-7016	Rights in Bid or Proposal Information (Jan 2011)
DFARS 252.227-7017	Identification and Assertion of Use, Release, or Disclosure Restrictions (Jan 2011)
DFARS 252.227-7019	Validation of Asserted Restrictions—Computer Software (Sep 2016) (Applicable if Order requires delivery of computer software)
DFARS 252.227-7026	Deferred Delivery of Technical Data or Computer Software (Apr 1988)
DFARS 252.227-7027	Deferred Ordering of Technical Data or Computer Software (Apr 1988)
DFARS 252.227-7028	Technical Data or Computer Software Previously Delivered to the Government (Jun 1995)
DFARS 252.227-7030	Technical Data–Withholding of Payment (Mar 2000)
DFARS 252.227-7037	Validation of Restrictive Markings on Technical Data (Sep 2016) (Applicable if Order requires delivery of technical data)
DFARS 225.228-7001	Ground and Flight Risk (Jun 2010)
DFARS 252.228-7005	Mishap Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles (NOV 2019) (Applicable if Order involves the manufacture, modification, overhaul, or repair of aircrafts, missiles, and space launch vehicles or components thereof)
DFARS 252.235-7003	Frequency Authorization. (Mar 2014) (Applicable only to Orders for developing, producing, constructing, testing, or operating a device requiring a frequency authorization)
DFARS 252.239-7018	Supply Chain Risk (Nov 2013) (Applicable to Orders involving the development or delivery of any information technology whether acquired as a service or as a supply)
DFARS 252.243-7001	Pricing of Contract Modifications (Dec 1991)
DFARS 252.243-7999	Section 3610 Reimbursement (DEVIATION 2020-O0021) (Aug 2020) Use this clause when modifying contracts, task orders, or delivery orders, including those using part 12 procedures for the acquisition of commercial items, to provide for the reimbursement of paid leave to an affected contractor (COVID-19) pursuant to Class Deviation 2020-O0021.
DFARS 252.244-7000	Subcontracts for Commercial Items (Oct 2020)
DFARS 252.246-7000	Material Inspection and Receiving Report (Mar 2008) (Seller shall cooperate with Buyer to ensure that necessary reports are provided to the Government)
DFARS 252.246-7003	Notification of Potential Safety Issues (Jun 2013) (Applicable if 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

	the foregoing items; Notice in (c) shall be to Buyer and notice shall be as provided in (f)(2) without modification of terms)
DFARS 252.247-7023	Transportation of Supplies by Sea—Basic (Apr 2014) (Applicable if Order exceeds \$150,000)
DFARS 252.247-7024	Notification of Transportation of Supplies by Sea (Mar 2000)
DFARS 252.249-7002	Notification of Anticipated Contract Termination or Reduction (Jun 2020) (Applicable if Order exceeds \$150,000)

**Additional FAR/DFARS for Firm Fixed Priced Orders to Sellers Performing in the United States**

FAR 52.210-1	Market Research (Jun 2020) (Applicable if Order exceeds \$5.5M)
FAR 52.211-15	Defense Priority and Allocation Requirements (Apr 2008)
FAR 52.219-08	Utilization of Small Business Concerns (Oct 2018) )
FAR 52.219-09	Small Business Subcontracting Plan (DEVIATION) 2018-O0018 (Mar 2020) (Applicable if Order exceeds \$700,000)
FAR 52.219-16	Liquidated Damages—Subcontracting Plan (Jan 1999) (Applicable if Order exceeds \$700,000)
FAR 52.219-33	Non-Manufacturer Rule (DEVIATION 2020-O0008) (Mar 2020)
FAR 52.222-04	Contract Work Hours and Safety Standards— Overtime Compensation (May 2018) (Applicable if Order involves employment of laborers and mechanics)
FAR 52.222-19	Child Labor—Cooperation with Authorities and Remedies ( Jan 2020)
FAR 52.222-20	Contracts for Materials, Supplies, Articles and Equipment Exceeding \$15,000 (Jun 2020)
FAR 52.222-21	Prohibition of Segregated Facilities (Apr 2015)
FAR 52.222-26	Equal Opportunity (Sep 2016)
FAR 52.222-35	Equal Opportunity for Veterans (Jun 2020) (Applicable if Order exceeds \$150,000)
FAR 52.222-36	Equal Opportunity for Workers with Disabilities (Jun 2020) (Applicable if Order exceeds \$15,000)
FAR 52.222-37	Employment Reports on Veterans (Jun 2020) (Applicable if Orders exceeds \$150,000)
FAR 52.222-40	Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (Applicable if Order exceeds \$10,000)
FAR 52.222-41	Service Contract Labor Standards (Aug 2018) (Applicable if Order is subject to the Service Contract Labor Standards)
FAR 52.222-51	Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (May 2014)
FAR 52.222-53	Exemption From Application of the Service Contract Labor Standards to Contracts for Certain Services-Requirements (May 2014)
FAR 52.222-54	Employment Eligibility Verification (Oct 2015) (Not applicable if Order is under \$3,500)
FAR 52.223-18	Encouraging Contractor Policies to Ban Text Messaging While Driving (Jun 2020) (Applicable if Order exceeds \$3,500)
FAR 52.225-1	Buy American – Supplies (May 2014)
DFARS 252.222-7006	Restrictions on the Use of Mandatory Arbitration Agreements (Dec 2010) (Applicable if Order exceeds \$1,000,000 and is for a non-commercial product)
DFARS 252.225-7052	Restriction on the Acquisition of Certain Magnets and Tungsten (Oct 2020)
DFARS 252.226-7001	Utilization of Indian Organizations and Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns (Sep 2004) (Applicable if Order exceeds \$500,000)
DFARS 252.246-7007	Contractor Counterfeit Electronic Part Detection and Avoidance System (Aug 2016)
DFARS 252.246-7008	Sources of Electronic Parts (May 2018)

**Additional FAR/DFARS For Firm Fixed Price Seller Orders expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403-4 U.S.D.**

FAR 52.203-13	Contractor Code of Business Ethics and Conduct (Jun 2020) (Applicable if Order exceeds \$5,500,000)
FAR 52.203-14	Display of Hotline Poster(s) (Jun 2020) (Applicable if Order exceeds \$5,500,000) (Not applicable if Order is for commercial items or for performance entirely outside the United States)
FAR 52.215-10	Price Reduction for Defective Certified Cost or Pricing Data (Aug 2011)
FAR 52.215-11	Price Reduction for Defective Certified Cost or Pricing Data—Modifications (Jun 2020)
FAR 52.215-12	Subcontractor Certified Cost or Pricing Data (Jun 2020) (Applicable if Order is expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403-4 unless otherwise exempt from certified cost/pricing data under FAR 15.403-1.)

FAR 52.215-13	Subcontractor Certified Cost or Pricing Data—Modifications (DEVIATION 2018-O0015) (Applicable if Order is expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403 unless otherwise exempt from certified cost or pricing data under FAR 15.403-1)
FAR 52.215-15	Pension Adjustments and Asset Reversions (Oct 2010) (Applicable if is expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403 unless otherwise exempt from certified cost or pricing data under FAR 15.403-1)
FAR 52-215-18	Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions (Jul 2005) (Applicable if Order is expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403 unless otherwise exempt from certified cost or pricing data under FAR 15.403-1)
FAR 52.215-19	Notification of Ownership Changes (Oct 1997) (Applicable if Order is expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403 unless otherwise exempt from certified cost or pricing data under FAR 15.403-1)
FAR 52.215-21	Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data—Modifications (Jun 2020)
FAR 52.215-23	Limitations on Pass-Through Charges (Jun 2020) (Applicable if Order is expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403 unless otherwise exempt from certified cost or pricing data under FAR 15.403-1) (Jun 2020)
FAR 52.222-24	Preaward On-Site Equal Opportunity Compliance Evaluation (Feb 1999)
FAR 52.230-02	Cost Accounting Standards (Jun 2020) (Applicable if Order is expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403 and not otherwise exempt under FAR 15.403-1)
FAR 52.230-03	Disclosure and Consistency of Cost Accounting Practices (Jun 2020) (Applicable if Order exceeds \$750,000 and not otherwise exempt under FAR 15.403-1)
FAR 52.230-04	Disclosure and Consistency of Cost Accounting Practices—Foreign Concerns (Oct 2015) (Applicable if Order exceeds \$750,000 unless otherwise exempt from certified cost or pricing data under FAR 15.403-1)
FAR 52.230-06	Administration of Cost Accounting Standards (Jun 2010) (Applicable if Order is expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403)
DFARS 252.203-7004	Display of Fraud Hotline Poster(s) (Oct 2015) (Applicable if Order exceeds \$5,500,000) (Not applicable if Order is for commercial items or will be performed entirely outside of the U.S.)
DFARS 252.211-7000	Acquisition Streamlining (Oct 2010) (Applicable if Order exceeds \$1,500,000)
DFARS 252.215-7000	Pricing Adjustments (Dec 2012)
DFARS 252.225-7033	Waiver of United Kingdom Levies (Apr 2003) (Applicable if Seller expects to issue lower-tier orders to a U.K. firm exceeding \$1,000,000)