

**The following US Government FARs / DFARs / CLAUSES are applicable to all purchase orders referencing**

**Prime Contract EB-17-C-2100**

**AND**

**HII/NNS PO# 4500762516.**

**Please visit**

**<https://www.acquisition.gov/browse/index/far>**

**for full text of Part 52**

**<https://www.acquisition.gov/dfars>**

**for full text of Part 252**



The following are vendor specific flowdowns from General Dynamics – Electric Boat/Huntington Ingalls Industries – Newport News Shipbuilding. They apply to all Purchase Orders received from Seemann Composites LLC that reference **US GOVERNMENT PRIME CONTRACT NUMBERS EB-17-C-2100 / HII NNS-PO 4500762516** in addition to the FARS and DFARS that have been flowed down.

You can access the specific text of each flowdown by visiting General Dynamics – Electric Boat iSupplier Portal at <https://www.gdeb.com/suppliers/stdcls/> and searching by the clause number.

15-116	LOGISTICS AND DESIGN VERIFICATION DRAWIN
38-4	NEWPORT NEWS USE ONLY THE PURCHASING ORI
50-1	MERCURY CONTAMINATION PROHIBITED, AND AS
53-7	PRESERVATION, PACKING & PACKAGING REQS
60-11D	EFFECTIVE DATE OF SPECIFICATIONS INVOKED
60-29	QUALITY CONTROL REQS EBDIV SPEC 2678
60-58	VENDOR INSPECTION SYSTEM
72-10	SAFEGUARDING DISTRIBUTION STATEMENT D DO



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**ADDITIONAL PROVISIONS FOR ORDERS UNDER U.S. GOVERNMENT CONTRACTS  
 NEWPORT NEWS SHIPBUILDING DIVISION SUPPLEMENT**

*(This document is to be used in conjunction with Huntington Ingalls Incorporated GENERAL PROVISIONS FOR ORDERS UNDER U.S. GOVERNMENT CONTRACTS for Orders issued by the Newport News Shipbuilding Division.)*

**PROVISION NUMBER AND HEADING:**

4	<a href="#">ACCESS TO ON-LINE ADP SYSTEMS</a>
3	<a href="#">ADDITIONAL SECURITY REQUIREMENTS</a>
24	<a href="#">ANTI-TERRORISM STANDARDS</a>
17	<a href="#">COMPLIANCE WITH WORKSITE RULES</a>
15	<a href="#">DELIVERY</a>
11	<a href="#">DOMESTIC BARGE SHIPMENTS</a>
26	<a href="#">FAR/DFARS CLAUSES/PROVISIONS</a>
10	<a href="#">FREIGHT CHARGES</a>
21	<a href="#">GOVERNMENT TITLE (COST-REIMBURSEMENT AND TIME-AND-MATERIALS ORDERS)</a>
12	<a href="#">HEAVY MATERIAL</a>
20	<a href="#">INVOICE PROCESSING</a>
5	<a href="#">JOINT CERTIFICATION PROGRAM REQUIREMENT</a>
25	<a href="#">MAINTENANCE STATUS REPORTING</a>
6	<a href="#">MANUFACTURE OF REPAIR PARTS</a>
7	<a href="#">NOTICE OF PRIOR WAIVERS AND DEVIATIONS</a>
13	<a href="#">PACKING AND CRATING</a>
22	<a href="#">PAYMENTS FOR TIME-AND-MATERIALS/LABOR-HOUR ORDERS</a>
1	<a href="#">QUALITY REQUIREMENTS FOR SOURCING CERTAIN PERVASIVE COMMODITIES</a>
18	<a href="#">RESTRICTION ON CERTAIN PAYMENTS (ORDERS OR PURCHASE ORDER LINE ITEM NUMBERS TO WHICH THE COST PRINCIPLES AT FAR PART 31 APPLY)</a>
27	<a href="#">RESTRICTIVE MARKINGS FOR IDENTIFICATION OF NON-TECHNICAL TRADE SECRETS</a>
9	<a href="#">SHIPPING AND LABELING INSTRUCTIONS</a>
23	<a href="#">SPECIAL CLAUSE FOR THE CONSTRUCTION, ALTERATION OR REPAIR OF PUBLIC BUILDINGS AND PUBLIC WORKS</a>
16	<a href="#">SUBCONTRACTING</a>
2	<a href="#">TRANSMISSION ABROAD OF NAVAL NUCLEAR PROPULSION INFORMATION</a>

14	<a href="#">VALUE DECLARATION</a>
8	<a href="#">VENDOR INFORMATION REQUEST</a>
19	<a href="#">WARRANTIES (COST-REIMBURSEMENT ORDERS)</a>

**1. QUALITY REQUIREMENTS FOR SOURCING CERTAIN PERVASIVE COMMODITIES. [\(back to top\)](#)**

- A. Approved supplier sources from which Seller shall procure pervasive commodities can be accessed here: [http://supplier.huntingtoningalls.com/sourcing/res\\_technical.html](http://supplier.huntingtoningalls.com/sourcing/res_technical.html). Mandatory source requirements are provided below.
- B. Seller shall provide all required certifications, test reports, and/or other non-hardware deliverables as specified in the Order.
- C. Seller shall flow down the substance of this provision to all subcontractors for the procurement of any materials covered under this provision, and shall require its subcontractors to flow down the substance of this provision to any sub-tier providing materials covered by this provision.
- D. If Seller submits a Vendor Information Request (“VIR”) to Buyer requesting use of a supplier source other than those listed at the link above, the Seller shall provide the following objective quality evidence (“OQE”) in support of the VIR:
- i. Documentation that Seller’s proposed supplier source is capable of attaining and maintaining a quality system that is acceptable to the Buyer in accordance with the Order requirements (e.g., a copy of the source’s quality manual and applicable work instructions);
  - ii. All inspections, tests, and/or certifications that demonstrate the furnished material/service is in full compliance with all Order requirements, including any inspection data with inspection results supporting the certificate of conformance. For foundries that produce 70/30 copper nickel castings, additional testing requirements stated herein at (F)(iii) apply;
  - iii. Audit documentation of proposed supplier sources including, but not limited to:
    - a. A completed checklist of audit elements based on contract requirements,
    - b. An audit report indicating the level of compliance found during the audit, and
    - c. Any corrective action reports related to the non-conformance documented during the audit with required follow-up actions and completion of those actions.
  - iv. Any records of the proposed supplier source’s performance for a period of one year; and
  - v. Any records of surveillance of the proposed supplier source’s product quality activities to assure satisfactory performance and compliance to the Order requirements.
- E. Seller’s use of an approved supplier source does not relieve Seller of its responsibility to ensure that all technical, service, and Order requirements are met in performance of this Order.
- F. *Mandatory Source Requirements.* The Seller and its subcontractors shall ensure that Level I, Copper Nickel 70/30 castings (CuNi), Butt Weld and Socket Weld pipe fittings, and submarine forging products are obtained only from Buyer approved sources as listed by commodity. All material procured from supplier sources shall be compliant with the material control and traceability requirements of the Order. Approval is provided for the supplier source, supplier number, and location identified as listed by commodity. If a location is not listed, that location is not approved.
- i. *Level I (MC-I or CM-I) Source Suppliers.* The Seller shall perform on-site audits of supplier sources of Level I material unless one of the following applies:
    - a. The supplier source is a Buyer-approved Level I source supplier (i.e. EB or HII-NNS);

- b. The starting material is sample tested (one sample per heat/lot) after receipt for both chemistry and mechanical properties by a test lab, other than the supplier source or mill, and compared to the applicable specification for acceptance;
- c. The process requires the finished product to be subsequently tested for chemistry and mechanical properties, by a test lab other than the supplier source or mill and compared to the applicable specification for acceptance;
- d. Material or product in inventory purchased prior to 3/29/10 is sample tested (one sample per heat/lot) for chemistry by a test lab other than the supplier source or mill and compared to the applicable specification for acceptance.

**Note:** Test reports showing the quantitative results of tests noted in b, c, and d above as applicable are required to be submitted with the certification package.

- ii. *Level I Fastener Source Suppliers and Distributors.* Supplier sources for Level I Fasteners (MC-I or CM-I) shall meet the requirements identified and can be accessed at: [http://supplier.huntingtoningalls.com/sourcing/res\\_technical.html](http://supplier.huntingtoningalls.com/sourcing/res_technical.html)
- iii. *Foundries Approved to Produce 70/30 Copper Nickel (CuNi).* In addition to testing required elsewhere in this Order, Seller shall invoke the following requirements on orders for CuNi 70/30 castings from a foundry approved by Buyer:
  - a. For each heat, the foundry shall analyze and provide a chemical composition test report from an “A” (beginning of pour) and “B” (end of furnace charge pour) chemistry test coupon. Test reports and chemistry coupons shall be identified as “A” and “B” in addition to the heat number traceability;
  - b. Mechanical test bars shall be poured no sooner than 50% through the furnace charge pour;
  - c. The foundry or sub-tier subcontractor shall maintain, for a period of at least seven years, the “A” and “B” chemistry coupons and the mechanical test specimens, and their respective test results as OQE, subject to audit and further analysis by the Buyer. Buyer shall be notified prior to disposition of any records and specimens;
  - d. Buyer’s products may be poured in the same heat; however, the heat shall be unique to Buyer. No other customer’s product shall be included in the heat; and
  - e. Chemistry and mechanical test report submittal shall be in accordance with the requirements contained elsewhere in this Order. Unless specified elsewhere in the Order, the “B” coupon chemistry test results shall be submitted.
- iv. *Butt Weld and Socket Weld Fitting Suppliers.* Supplier Sources for Butt Weld and Socket Weld pipe fittings shall meet the requirements identified and can be accessed at: [http://supplier.huntingtoningalls.com/sourcing/res\\_technical.html](http://supplier.huntingtoningalls.com/sourcing/res_technical.html).
- v. *Submarine Forgings (EB2678).* Supplier sources for forgings or forgings used in an assembly shall meet the requirements identified and can be accessed at: [http://supplier.huntingtoningalls.com/sourcing/res\\_technical.html](http://supplier.huntingtoningalls.com/sourcing/res_technical.html).

**2. TRANSMISSION ABROAD OF NAVAL NUCLEAR PROPULSION INFORMATION. [\(back to top\)](#)**

- A. This provision applies only if, during the performance of this Order, Seller will have access to Naval Nuclear Propulsion Information (“NNPI”) as defined in OPNAVINST N9210.3. All defined terms in this provision shall have the same meaning as those terms are defined in Part I of SBF P9152 (<https://spars.huntingtoningalls.com/procurement/procforms.html>). Seller shall review OPNAVINST

N9210.3 and DoD Pamphlet 5230.25PH and indicate willingness to abide by the applicable requirements of those publications by signing Form NN9540. A signed Form NN9540 is required for:

- i. Access to NNPI by the Seller, whether at the Seller's facility or Newport News Shipbuilding; or
  - ii. Unescorted access to Newport News Shipbuilding's premises; or
  - iii. Access to the Newport News Shipbuilding computer network.
- B. If Seller has Foreign Nationals and/or Representatives of a Foreign Interest who work within or have access to its premises, Seller shall have a Technology Access Control Plan which:
- i. Denies Foreign Nationals, Representatives of a Foreign Interest, and unauthorized U.S. Citizens and/or U.S. Nationals access to NNPI; and
  - ii. Restricts access to NNPI and/or Technical Data only to U.S. Citizens and U.S. Nationals who have a need-to-know.
- C. Seller shall not disclose NNPI to Foreign Nationals. U.S. Citizens and U.S. Nationals representing a foreign government, foreign private interest or other Foreign Nationals, are considered to be included in the definition of Foreign Nationals for industrial security purposes and the purpose of the restrictions contained in this provision.
- D. Disclosure of Restricted Data as defined in the Atomic Energy Act of 1954 as amended, relating to the Naval Nuclear Propulsion Program to employees of Seller granted Limited Clearances under the provisions of 32CFR117, National Industrial Security Program Operating Manual (NISPOM) is denied.
- E. Any issue or release of NNPI beyond parties with a need to know and necessary for the performance of this Order, whether or not ordered through an administrative or judicial tribunal, shall be brought to the attention of Buyer.
- F. Buyer shall be immediately notified of any litigation, subpoenas, or requests which either seek or may result in the release of NNPI. If a court or administrative order makes immediate review by Buyer impractical, Seller will take all necessary steps to notify the court or administrative body of the Navy's interest in controlling the release of such information through review and concurrence in any release.
- G. In addition to the requirements of this provision 3, the Seller shall comply with all other requirements relative to Naval Nuclear Propulsion Information (NNPI) wherever located in this Order.
- H. Seller agrees to insert this "Transmission Abroad of Naval Nuclear Propulsion Information" clause including this paragraph I in all of its subcontracts issued under this Order.

**3. ADDITIONAL SECURITY REQUIREMENTS. ([back to top](#))** In addition to complying with any other security requirements contained in this Order, Seller shall not disclose "Restricted Data" as defined in the Atomic Energy Act of 1954 as amended, relating to Navy Nuclear Propulsion Program to employees who have been granted Limited (interim) Clearances except under the provisions of 32CFR117, National Industrial Security Program Operating Manual (NISPOM).

**4. ACCESS TO ON-LINE ADP SYSTEMS. ([back to top](#))** Subcontractors involved in the design and fabrication of FORD Class Ship's hull structure units shall provide representatives of the Government, at the subcontractor's facility, a computer workstation and access, on a not-to-interfere basis, to the Subcontractor's internal Automatic Data Processing (ADP) system in order for the Government to perform its inspection and oversight responsibilities of construction of a hull structure. System accessibility will be limited to viewing data as established between the subcontractors and the Government. The subcontractors involved shall provide the necessary training to enable two (2) Government representatives to operate the computer workstation and competently access and review the subcontractor's computer-aided design products and drawings.

**5. JOINT CERTIFICATION PROGRAM REQUIREMENT. ([back to top](#)) (*applies if Seller will have access to unclassified technical data in performance of the Order*)** Seller shall have an active number under the

U.S./Canada Joint Certification Program (JCP) pursuant to DoD Directive 5230.25 and shall provide the active certification number and expiration date to the Buyer. Buyer may terminate this Order for default if Seller fails to maintain an active JCP.

**6. MANUFACTURE OF REPAIR PARTS. [\(back to top\)](#)**

- A. If:
  - i. The Seller is providing a ship component or equipment; and
  - ii. The Order specification, by reference to a Military Specification or otherwise, specifies repair parts or stock components (collectively “repair parts”), and
  - iii. The Seller intends the manufacturing of the ship component or equipment to be outside the United States or Canada;
  - iv. Then Seller agrees that, in addition to any other data required by this Order, Seller shall furnish sufficient data so that the repair parts can be produced in the United States or Canada.
- B. The requirements of this provision shall not apply if Seller has made arrangements satisfactory to the Buyer and approved by the Government for the manufacturing of repair parts in the United States or Canada. For the purposes of this provision, the term “sufficient data” means detail drawings and other technical information sufficiently extensive in detail to show design, construction, dimensions, and operation or function, manufacturing methods or processes, treatment or chemical composition of materials, plant layout, and tooling. Seller shall provide all data in English and according to the United States system of weights and measures.
- C. All drawings for components, assemblies, subassemblies and parts protected by U.S. patents shall contain a prominent notation to that effect fully identifying the patent or patents involved, and bearing the number of this contract. Unless Seller has made arrangements satisfactory to the Buyer and approved by the Government for the manufacturing of repair parts in the United States or Canada, Seller shall grant to the United States Government for a period of seven (7) years, Government Purpose Rights as defined in the clause of this Order entitled *Rights in Technical Data – Non Commercial Items* (DFARS 252.227-7013).

**7. NOTICE OF PRIOR WAIVERS AND DEVIATIONS. [\(back to top\)](#)** In the event the Seller is providing or proposing to provide to the Buyer an item:

- A. That has previously been provided to the Navy for inclusion as Government Furnished Material (GFM) on ENTERPRISE or previous NIMITZ Class Ships, or
- B. Seller is developing for the Navy under another Government program; then the Seller shall immediately notify Buyer in writing indicating any specification differences, waivers and/or deviations that were or are in effect for the item(s).

**8. VENDOR INFORMATION REQUEST. [\(back to top\)](#)**

- A. Seller shall make no changes to the requirements of the Order without the prior written consent of the Buyer. Seller may submit requests for changes to the specifications or plans only on Buyer's Vendor Information Request (VIR) Form, No. NN3409. Changes that affect the price or delivery schedule or both shall only be made through written modification of this Order. A dispositioned VIR applies only to the item for which it is submitted; the resolution may not be extended to any other item under the same or another Order without Buyer's explicit written consent. Notwithstanding the foregoing, if complete details for the manufacture of a component are not provided by the Buyer or its customer, Seller shall have internal corrective action authority for updating or changing piece part drawings or for resolving departures from Seller's piece part drawings or internal procedures without VIR submittal to the Buyer ONLY if the corrective action does not depart from or affect in any manner the following:

- i. Order, Appendices, Terms and Conditions, requirements, including listed specification effectivity dates;
    - ii. Material specification requirements;
    - iii. Drawings or procedures issued by or subject to approval by the Buyer or its customer;
    - iv. Safety, reliability, interchangeability, form, fit, or function of the component or component parts; or
    - v. Shock or vibration integrity of qualified designs.
  - B. Any corrective action taken as a result of Seller's internal review and disposition shall meet sound engineering principles, and records of all corrective actions must be maintained and made available to Buyer or its customer upon request. Copies of approved VIRs shall be sent with the material.
- 9. SHIPPING AND LABELING INSTRUCTIONS. ([back to top](#))** Unless otherwise provided in the Order, Seller shall ship material to: Huntington Ingalls Incorporated, Main Distribution Center, 2175 Aluminum Avenue, Bldg. 872, Hampton, VA 23661. Seller shall clearly mark each shipping package, container label and all shipping documents with the Order number (P. O. #XXXXXXXXXX), the item number, the Newport News Part number (if applicable), Seller's invoice number, and the release number (if applicable). For container labels, Seller shall provide the following additional information: Shipper's name and address; Consignee Name; number of packages; gross and net weight and number of pieces per carton. Sellers shall go to the routing guide at: <http://supplier.huntingtoningalls.com> for complete shipping instructions. Use the carrier in the guide for the shipping location. The Buyer's routing requirements shall flow down to the Seller's suppliers. In those instances when the Seller's supplier must ship to the Buyer, the sub-supplier must contract the NNS Traffic Office at [NNSTrafficOffice@hii-nns.com](mailto:NNSTrafficOffice@hii-nns.com) or (800) 426-1910 for assistance.
- 10. FREIGHT CHARGES. ([back to top](#))** Unless otherwise specified in this Order, the Buyer will pay freight charges and insurance, and Seller shall ship to Buyer on a freight collect basis using Buyer's preferred carrier. Buyer will not accept C.O.D. shipments unless expressly provided for in the Order. If the buyer does accept C.O.D. shipments and the freight cost is \$200 or more, the seller shall ensure a copy of the freight bill from the freight carrier is provided as back up documentation when the invoice is submitted to Accounts Payable. If the freight bill is not submitted with the invoice, the entire invoice will be rejected and the Seller will need to resubmit the invoice with the proper documentation.
- 11. DOMESTIC BARGE SHIPMENTS. ([back to top](#))** Seller shall notify the Traffic Section of Buyer at 1-800-426-1910 at least 30 calendar days prior to shipment by domestic barge.
- 12. HEAVY MATERIAL. ([back to top](#))** Seller shall mark *DELIVER ON FLAT BED TRAILER* when shipping single articles that exceed 4,000 pounds or that do not adapt to safe unloading with a standard forklift truck.
- 13. PACKING AND CRATING. ([back to top](#))** Seller shall, when practicable, ship in packages or loose pieces for unloading by a standard 4,000-pound forklift truck. Unless otherwise provided in the Order, Seller's price includes all charges for packing and crating.
- 14. VALUE DECLARATION. ([back to top](#))** Seller shall not insure for excess value via any mode of transportation. For shipments at Buyer's risk in which freight rates are based on *released value* Seller shall declare the lowest value on the bill of lading. For shipments at Buyer's risk via domestic air freight, air freight forwarder, and Parcel Post, Seller shall insert the notation *NVD* (no value declared).
- 15. DELIVERY. ([back to top](#))** These requirements are in addition to those contained in the "Delivery, Title" clause in the "*General Provisions for Orders under U.S. Government Contracts.*" All deliveries shall be strictly in accordance with the applicable quantities and schedules set forth in this Order. Unless otherwise specified in this Order, Seller shall not:



- A. Make partial shipments of individual line items; or
- B. Make shipments more than 90 days in advance.

**16. SUBCONTRACTING. ([back to top](#))** No subcontract at any tier placed under this Order shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-reimbursement type subcontracts shall not exceed the fee limitations in paragraph 15.404-4(c)(4)(i) of the Federal Acquisition Regulation (FAR).

**17. COMPLIANCE WITH WORKSITE RULES. ([back to top](#))** *(applicable only if Seller will be performing work on Buyer's property, a worksite under Buyer's control, or a third party's worksite in connection with performance under this Order)*

- A. While on Buyer's property/worksite, Seller shall comply with all of Buyer's safety and security rules and regulations to include, but not limited to, the most recent version of Buyer's safety handbook. A copy of this handbook can be obtained from Buyer's purchasing representative.
- B. If required, Seller will obtain a background check, at Seller's expense, for all employees as outlined at <https://supplier.huntingtoningalls.com/sourcing/AccessNNS.html>. Background checks shall be obtained through <https://ca.fadv.com/CA/newportnews>.
- C. Prior to performing Production Work on Buyer's Newport News, Virginia, property, or at other locations if informed by Buyer that Seller must be "safety qualified" to perform the work, Seller shall also coordinate with Buyer's Environmental, Health, and Safety (EH&S) Department (O27) to complete the qualification process, and comply with the requirements of Buyer's "Contractor EH&S Resource Manual" which is available under Supplier Resources at this web site: [http://supplier.huntingtoningalls.com/sourcing/Contractor\\_Safety/index.html](http://supplier.huntingtoningalls.com/sourcing/Contractor_Safety/index.html). "Production Work" is defined as operations that involve hazards to personnel, including but not limited to construction, demolition, "hot work," work in enclosed and confined spaces, blasting, painting, material handling, working with hazardous materials or equipment, efforts in direct support of Buyer's Production Work, and similar operations.
- D. If in performance of this order Seller performs work at a third party's worksite, Seller shall comply with all rules and regulations of that worksite, including safety and health rules and procedures, and the use of required personal protective equipment. Seller guarantees strict compliance by all its employees, agents and lower tier subcontractors while on the third party's premises.
- E. In addition to any other remedies Buyer may be entitled to, Buyer may, without notice and an opportunity to cure:
  - i. Terminate this Order for default if Seller fails to comply with any part of provision 17; or
  - ii. Expel from Buyer's property/work site, any employee, subcontractor or agent of Seller found violating any part of provision 17.
- F. Access by non-U.S. citizens to Buyer's property/worksite is prohibited unless approved in writing by Buyer.

**18. RESTRICTION ON CERTAIN PAYMENTS. ([back to top](#))** *(orders or purchase order line item numbers to which the cost principles at FAR Part 31 apply)* Seller shall obtain Buyer's written permission prior to requiring employees to perform work under this Order for which the employees will be eligible to receive overtime premium pay as defined in FAR 22.103-1. Any overtime premium pay that is paid to Seller's employees for work performed under this Order for which Seller has failed to obtain Buyer's prior written approval shall be an unallowable cost under this Order. Employees and Subcontractors' employees performing work under this Order will complete a full shift at the worksite. Man-hour costs (whether straight-time or overtime) and transportation costs for Seller personnel or Seller's subcontractor personnel traveling to or from worksites,

including travel to worksites other than the Seller's facility for performance of the work shall not be an allowable cost under this Order. The restriction on travel costs contained in the previous sentence shall apply only to payments for travel time before or after the workers' regular shifts and does not apply to legitimate travel costs incurred during normal working hours, provided that those costs meet the following conditions:

- A. Unless the travel is directed by Buyer, Seller will obtain Buyer's prior written approval before engaging in travel related to this Order. In requesting approval, Seller will fully disclose all facts regarding the proposed trip, including, but not limited to: the employee(s) involved, the purpose of the trip and destination, the dates, and the proposed mode(s) of transportation.
- B. Costs incurred by Seller personnel on travel ("Travel Costs") must comply with the Federal Acquisition Regulations ("FAR") and in particular FAR 31.205-46. Unless otherwise provided, the amounts that the Seller can invoice for lodging, meals, and incidental expenses is limited to the maximum per diem rate for the locality of travel specified in the Federal Travel Regulations, prescribed by the General Services Administration ("GSA"), for travel in the contiguous United States. Except as provided in this paragraph B, Buyer will not be liable to Seller for invoiced Travel Costs that exceed the prevailing GSA per diem rates. At the Buyer's absolute discretion, Buyer may reimburse Seller lodging and meal expenses in excess of the prevailing GSA per diem rate when: (i) costs have escalated because of special events (e.g., missile launching periods, sporting events, World's Fair, conventions, natural or manmade disasters); (ii) lodging and meal expenses within prescribed allowances cannot be obtained nearby; and (iii) costs to commute to/from the nearby location consume most or all of the savings achieved from occupying less expensive lodging. Buyer will not be liable to Seller for any Travel Costs incurred in connection with travel not pre-approved or directed by Buyer in accordance with paragraph A of this provision 19.
- C. Except as provided in this paragraph C, Buyer will not be liable to Seller for airfare costs in excess of the lowest priced airfare available to Seller during normal business hours ("Lowest Fare"). Buyer may at its absolute discretion reimburse Seller for airfare in excess of the Lowest Fare when use of the Lowest Fare would: (i) require circuitous routing, (ii) require travel during unreasonable hours, (iii) excessively prolong travel, (iv) result in increased cost that would offset transportation savings, (v) not reasonably accommodate the physical or medical needs of the traveler, or (vi) not reasonably meet Order requirements. If requested by Buyer, Seller will provide documentation supporting Seller's selection of the Lowest Fare.
- D. For vehicle transportation by Seller's personnel using their personally owned vehicles, Buyer will reimburse Seller at the prevailing Internal Revenue Service standard mileage rates for taxpayers to use in computing the deductible costs of operating an automobile for business, charitable, medical, or moving expense purposes. Seller shall provide the MapQuest showing the start and stop location and the number of miles for the trip. If the start location cannot be provided due to employee confidentiality, the Seller shall provide the start city, zip code and state.
- E. Tips for meals will be included in the meal cost and subject to the prevailing GSA per diem meal rate. Tips for baggage handling (e.g. skycaps, bellhops, etc.) and maids will be included in the lodging cost and subject to the prevailing GSA lodging per diem rate. Tips for transportation and taxis required for business purposes are not included in and subject to the per diem caps. Buyer will reimburse Seller for reasonable amounts for such tips provided they are adequately explained in Seller's expense report.
- F. Rental car costs will be reimbursed for a standard size vehicle only. Use of luxury cars and sports utility vehicles are not authorized. The gas tank will be full before returning vehicle.
- G. All fines for traffic or parking violations are the sole responsibility of Seller and are not reimbursable as travel costs or otherwise. Costs for alcoholic beverages consumed during meals or otherwise are not reimbursable.

- H. Seller will itemize all travel expenses utilizing the NNS Travel Expense Form located at [https://supplier.huntingtoningalls.com/sourcing/accounts\\_payable.html](https://supplier.huntingtoningalls.com/sourcing/accounts_payable.html) for which it will be claiming reimbursement and include a copy of receipts for any single expense in excess of \$75.00. Notwithstanding the immediately preceding sentence, Seller will provide receipts, regardless of value, for air or rail transportation, lodging, car rentals, and gasoline purchased for rental vehicles. Failure to provide the required receipts will result in non-payment of invoice until all documentation is received. If the Seller does not itemize all travel expenses on the invoice and/or provide the required receipts, the entire invoice will be rejected and the Seller will need to resubmit with the necessary documentation.
- I. Paragraphs A through H apply only to costs incident to travel for temporary job assignments, i.e. assignments to a work location for a period of less than 12 months. Buyer will not reimburse Seller for costs incident to travel for assignments more than 12 months unless specifically identified by Seller and agreed to in writing by Buyer prior to the travel's occurring.
- J. Seller's obligation to perform this order is in no way conditioned upon the providing by the Buyer or its customer of any facilities, except as may be otherwise expressly provided herein. Accordingly, no such facilities shall be either acquired by the Seller for the account of the Buyer or its customer or furnished to the Seller by the Buyer or its customer hereunder. For the purpose of this requirement, facilities means industrial property (other than material, special tooling, military property, and special test equipment) for production, maintenance, research, development or test, including real property and rights therein, buildings, structures, improvements, and plant equipment as defined in FAR 2.101, FAR 45.101 and DFARS 245.101.

**19. WARRANTIES (COST-REIMBURSEMENT ORDERS).** [\(back to top\)](#) Paragraph C of the "Warranty" clause is changed to read as follows: For all deficiencies that arise during the warranty period, Seller shall promptly remedy the deficiency for no additional fee. If Seller fails to remedy the deficiency within a reasonable time after having been notified of the deficiency, Buyer may, at its option, remedy the deficiency by contract or otherwise and charge to the Seller any increased costs or make an equitable reduction in any fixed fee paid or payable under the Order.

**20. INVOICE PROCESSING.** [\(back to top\)](#) Unless Seller is part of Buyer's Invoiceless Payment System, Seller shall email a PDF version of all invoices showing the Order number and Order Item Number to the Huntington Ingalls Incorporated email address on the first page of this Order. If Buyer does not fully pay Seller's original invoice because of a performance deficiency, Seller must submit a new invoice for any remaining amounts due after Seller corrects the deficiency that caused the partial payment. The Seller shall ensure the purchase order line item is clearly referenced on each item being invoiced. The Seller shall also ensure the invoice is submitted in the same unit of measure as the purchase order. If the purchase order line items are not referenced and the unit of measure is different from the purchase order, the entire invoice will be rejected and the Seller will need to resubmit the invoice with the proper criteria. If the invoice is for a down payment/milestone payment, the invoice must be submitted with the waiver of lien, insurance papers and Application for Partial Payment and Certification of Milestone Completion and Incurred Cost Form (NN9626). If these documents are not submitted with the invoice, the entire invoice will be reject and the Seller will need to resubmit the invoice with the proper documentation.

**21. GOVERNMENT TITLE (COST-REIMBURSEMENT AND TIME-AND-MATERIALS ORDERS).** [\(back to top\)](#)

- A. Title to all property purchased by Seller from a vendor for which Seller is entitled to be reimbursed as a direct item of cost under this Order shall pass to and vests in the Government upon the vendor's delivery of such property to Seller. Title to all other property, the cost of which is reimbursable to Seller, shall pass to and vest in the Government upon:

- i. Issuance of the property for use in Order performance;
  - ii. Commencement of processing of the property for use in Order performance; or
  - iii. Reimbursement of the cost of the property pursuant to the terms of this Order, whichever occurs first.
- B. Upon the Government's acquiring title to property under this provision, the provisions of the BUYER OR GOVERNMENT PROPERTY provision contained in the "*General Provisions for Orders under U.S. Government Contracts*" shall apply to such property.

**22. PAYMENTS FOR TIME-AND-MATERIALS/LABOR-HOUR ORDERS. ([back to top](#))** Buyer will pay Seller as follows upon the submission of proper invoices:

**A. Hourly rate.**

- i. The amounts shall be computed by multiplying the appropriate hourly rates prescribed in this Order by the number of direct labor hours performed. The rates shall include wages, indirect costs, general and administrative expense, and profit. Fractional parts of an hour shall be payable on a prorated basis. Unless otherwise specified, invoices may be submitted once each month to Buyer. Seller shall substantiate invoices by evidence of actual payment and by individual daily job timecards, or other substantiation approved by Buyer.
- ii. Buyer may unilaterally issue a modification requiring the Seller to withhold amounts from its billings until a reserve is set aside in an amount that the Buyer considers necessary to protect the Buyer's interests. Buyer may require a withhold of 5 percent of the amounts due under this provision, but the total amount withheld for this Order shall not exceed \$50,000. The amounts withheld shall be retained until final payment under this Order.
- iii. Unless otherwise specified, the hourly rates in the Order shall not be varied by virtue of Seller having performed work on an overtime basis. If no overtime rates are provided in this Order and overtime work is approved in advance by the Buyer, overtime rates shall be negotiated. Failure to agree upon these overtime rates shall be treated as a dispute under the Disputes provision. If this Order provides rates for overtime, the premium portion of those rates will be reimbursable only to the extent the overtime is approved by the Buyer.

**B. Materials and subcontracts (if specified in this Order).**

- i. Buyer will determine allowable costs of direct materials in accordance with Subpart 31.2 of the Federal Acquisition Regulation (FAR) in effect on the date of this Order. Direct materials, as used in this provision, are those materials that enter directly into the end product, or that are used or consumed directly in connection with the furnishing of the end product or service.
- ii. Seller may include reasonable and allocable material handling costs in the charge for material to the extent they are clearly excluded from the hourly rate. Material handling costs are comprised of indirect costs, including, when appropriate, general and administrative expense allocated to direct materials in accordance with the Seller's usual accounting practices consistent with Subpart 31.2 of the FAR. Seller shall not charge Buyer for profit or fee on materials on time and material/labor-hour orders.
- iii. Buyer will reimburse Seller for supplies and services purchased directly for this Order when Seller has made payments of cash, checks, or other forms of payment for these purchased supplies or services; or will make these payments determined due in accordance with the terms and conditions of a subcontract or invoice.
- iv. Buyer will not reimburse Seller for any costs arising from the letting, administration, or supervision of performance of the subcontract, if the costs are included in the hourly rates payable under this provision.

- v. Seller shall give credit to Buyer for cash and trade discounts, rebates, scrap, commissions, and other amounts that have accrued to the benefit of Seller, or would have accrued except for the fault or neglect of Seller.
  - vi. If the nature of the work to be performed requires Seller to furnish material that Seller regularly sells to the general public in the normal course of business, the price to be paid for such material, notwithstanding the other requirements of this provision, shall be on the basis of an established catalog or list price, in effect when the material is furnished, less all applicable discounts to the Buyer, provided that in no event shall such price be in excess of the Seller's sales price to its most favored customer for the same item in like quantity, or the current market price, whichever is lower.
- C. **Total Cost.** It is estimated that the total cost to Buyer for the performance of this Order shall not exceed the ceiling price set forth in the Order and the Seller agrees to use its best efforts to perform the work specified in this Order and all obligations under this Order within such ceiling price. If at any time Seller has reason to believe that the hourly rate payments and material costs that will accrue in performing this Order in the next succeeding 30 days, if added to all other payments and costs previously accrued, will exceed 75 percent of the ceiling price in this Order, Seller shall notify Buyer giving a revised estimate of the total price to the Buyer for performing this Order with supporting reasons and documentation.
- D. **Ceiling price.** Buyer shall not be obligated to pay Seller any amount in excess of the ceiling price in this Order, and Seller shall not be obligated to continue performance if to do so would exceed the ceiling price set forth in this Order, unless and until Buyer shall have notified Seller in writing that the ceiling price has been increased and shall have specified in the notice a revised ceiling that shall constitute the ceiling price for performance under this Order. When and to the extent that the ceiling price set forth in this Order has been increased, any hours expended and material costs incurred by Seller in excess of the ceiling price before the increase shall be allowable to the same extent as if the hours expended and material costs had been incurred after the increase in the ceiling price.

**23. SPECIAL CLAUSE FOR THE CONSTRUCTION, ALTERATION OR REPAIR OF PUBLIC BUILDINGS AND PUBLIC WORKS.** [\(back to top\)](#) The following clauses are incorporated by reference and subject to the introductory paragraph of provision 27, FAR/DFARS Clauses/Provisions, and shall apply only to the construction, alteration or repair, including painting and decorating of public buildings and works: (i) 52.222-6 Construction Wage Rate Requirements (MAY 2014); 52.222-7 Withholding of Funds (MAY 2014); 52.222-8 Payrolls and Basic Records (MAY 2014); 52.222-9 Apprentices and Trainees (JUL 2005); 52.222-10 Compliance with Copeland Act Requirements (FEB 1988); 52.222-11 Subcontracts (Labor Standards) (MAY 2014); 52.222-12 Contract Termination-Debarment (MAY 2014); 52.222-13 Compliance with Construction Wage Rate Requirements and Related Regulations (MAY 2014); 52.222-14 Disputes Concerning Labor Standards (FEB 1988); 52.222-15 Certification of Eligibility (MAY 2014). For the purposes of this clause, a Navy vessel is not considered a public building or public work.

**24. ANTI-TERRORISM STANDARDS.** [\(back to top\)](#) Seller shall ensure that any services to be delivered in a Department of Defense ("DoD") occupied space or ship are governed by the requirements set forth in DoD Instruction 2000.16, DoD Antiterrorism Standards.

**25. MAINTENANCE STATUS REPORTING.** [\(back to top\)](#) When Seller will be performing maintenance work on a Navy vessel, Seller will attend maintenance status meetings when requested by Buyer and provide maintenance status reports in a form and frequency acceptable to Buyer.

**26. FAR/DFARS CLAUSES/PROVISIONS. [\(back to top\)](#)**

- A. The below listed FAR and DFARS clauses are incorporated by reference and made part of this Order with the same force and effect as though set forth in full text.
- B. Unless the text in these clauses clearly reserves rights in the Government only or as otherwise noted, the terms “Contractor” means “Seller,” “Contracting Officer” means “Buyer,” “Contract” means this Order and “Government” means “Buyer or the Government.” However, the words “Government” and “Contracting Officer” do not change when a right, act, authorization or obligation can be granted or performed only by the Government or the Prime Contract contracting officer or duly authorized representative.
- C. Unless a clause or parenthetical specifies or references a monetary threshold, thresholds for Truthful Cost and Pricing Data (referred to as “TCPD,” and formerly known as TINA), the Simplified Acquisition Threshold (SAT), and the Micro Purchase Threshold (MPT) are those found in the definitions at FAR 2.101. Applicable thresholds are those in effect in the FAR on the date of Order award unless otherwise indicated.
- D. Whenever the FAR or DFARS clauses include a requirement for the resolution of disputes between the Parties in accordance with the “Disputes clause,” the dispute shall be disposed of in accordance with the provision entitled “Disputes” in this Order.
- E. The full text of a clause may be accessed electronically at <https://www.acquisition.gov/?q=browsefar>.

FAR CLAUSES/PROVISIONS		
CLAUSE NUMBER	CLAUSE NAME	CLAUSE DATE
52.216-7	Allowable Cost and Payment <i>(cost-reimbursement Orders only)</i>	(Aug 2018)
52.227-11*	Patent Rights -- Ownership by the Contractor <i>(Orders for experimental, developmental, or research work with small businesses, except for work in connection with the nuclear propulsion plant, its associated components and systems which are under the cognizance of NAVSEA 08; for such Orders FAR 52.227-13 applies.)</i>	(May 2014)
52.227-13	Patent Rights -- Ownership by the Government <i>(Orders for work in connection with the nuclear propulsion plant, its associated components and systems which are under the cognizance of NAVSEA 08)</i>	(Dec 2007)
52.232-20	Limitation of Cost <i>(except that "60" is changed to "75" in paragraph (b)(1) (cost-reimbursement Orders that are fully funded)</i>	(Apr 1984)
52.232-22	Limitation of Funds <i>(except that "60" is changed to "75" in paragraph (c) (cost-reimbursement Orders that are incrementally funded)</i>	(Apr 1984)
52.237-2	Protection of Government Buildings, Equipment and Vegetation <i>(this clause shall apply to both Buyer's and its customer's property)</i>	(Apr 1984)
52.239-1	Privacy or Security Safeguards	(Aug 1996)
52.242-3	Penalties For Unallowable Costs <i>(cost-reimbursement Orders only)</i>	(Dec 2022)
52.242-4	Certification of Final Indirect Costs <i>(cost-reimbursement Orders only)</i>	(Jan 1997)
52.243-2	Changes -- Cost-Reimbursement & Alt II (Apr 1984) <i>(except that para. (c) is changed from "30" to "15")</i>	(Aug 1987)



FAR CLAUSES/PROVISIONS		
CLAUSE NUMBER	CLAUSE NAME	CLAUSE DATE
	<i>(cost-reimbursement Orders only)</i>	
52.243-3	Changes -- Time-and-Materials or Labor-Hours <i>(applies to Orders or portions thereof for time-and-materials or labor-hours)</i>	(Sep 2000)
52.243-6	Change Order Accounting	(Apr 1984)
52.246-26*	Reporting of Nonconforming Items <i>(applies to Orders (i) for items subject to higher level quality standards in accordance with FAR 52.246-11; (ii) for items that Buyer determines to be critical items pursuant to the definition in the clause; (iii) Orders over the simplified acquisition threshold , as defined in FAR 2.101 on the date of Order award for electronic parts or end items, components, parts or materials containing electronic parts; or (iv) for services where the Seller will furnish any items identified in (i)-(iii) above; does not apply to commercial items)</i>	(Nov 2021)

DFARS CLAUSES/PROVISIONS		
CLAUSE NUMBER	CLAUSE NAME	CLAUSE DATE
252.204-7003	Control of Government Personnel Work Product	(Apr 1992)
252.204-7005	Oral Attestation of Security Responsibilities	(Nov 2001)
252.204-7010*	Requirement for Contractor to Notify DoD if the Contractor's Activities are Subject to Reporting Under the U.S.-International Atomic Energy Agency Additional Protocol <i>(applicable only to orders that are subject to the provisions of the U.S.-IAEA AP)</i>	(Jan 2009)
252.217-7003	Changes <i>(except that paragraph (b) (1) is changed from ten to five days)</i> <i>(Orders issued for the performance of repair work on non-nuclear vessels)</i> <i>(Included in Master Shipbuilding Agreement)</i>	(Dec 1991)
252.217-7005	Inspection and Manner of Doing Work	(Jul 2009)
252.227-7010	License to Other Government Agencies	(Aug 1984)
252.227-7017	Identification and Assertion of Use, Release, or Disclosure Restrictions	(Jan 2011)
252.227-7020	Rights in Special Works	(Jun 1995)
252.227-7028	Technical Data or Computer Software Previously Delivered to the Government	(Jun 1995)
252.235-7010	Acknowledgment of Support and Disclaimer <i>(applies only to Orders for research &amp; development work)</i>	(May 1995)
252.239-7001	Information Assurance Contractor Training and Certification	(Jan 2008)

**27. RESTRICTIVE MARKINGS FOR IDENTIFICATION OF NON-TECHNICAL TRADE SECRETS. [\(back to top\)](#)**

- A. GENERAL. This clause specifies the required format for restrictive markings on non-technical data items delivered under this Order. This clause is applicable only to data which are not covered by DFARS provisions and which include information asserted by the Seller to be non-technical trade secrets. The standard markings specified in this clause shall be used to notify the Buyer of the Seller's assertions regarding the presence of non-technical trade secrets in data items and to identify exactly the information to which the restrictive markings refer. This clause does not modify the rights and obligations of any party to this Order or the Government with respect to the technical data, computer software, and computer software documentation which are within the scope of the clauses at Defense Acquisition Regulation Supplement (DFARS) 252.227-7013 "Rights in Technical Data – Noncommercial

Items (FEB 2014),” DFARS 252.227-7014 “Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation (FEB 2014),” DFARS 252.227-7015 “Technical Data – Commercial Items (FEB 2014),” DFARS 252.227-7019 “Validation of Asserted Restrictions – Computer Software (DEC 2011),” and DFARS 252.227-7037 “Validation of Restrictive Markings on Technical Data (JUN 2013).”

B. DEFINITIONS. Terms which are defined in this clause are indicated with a bold font. As used in this clause:

- (i) **Non-technical data** means information, in any format and recorded on any media, which is not technical data, computer software or computer software documentation as defined in DFARS 252.227-7013 and DFARS 252.227-7014.
- (ii) **Non-technical trade secret** means any item of non-technical data, including but not limited to, a formula, pattern, compilation, program, device, method, technique, or process, that:
  - (a) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and
  - (b) is the subject of efforts by the Seller, that are reasonable under the circumstances, to maintain its secrecy; and
  - (c) is not "technical data," "computer software," or "computer software documentation," as those terms are defined in DFARS 252.227-7013 and DFARS 252.227-7014; and
  - (d) is not bid or proposal information or source selection information subject to the requirements of FAR 3.104-4; and
  - (e) is not Buyer furnished information or information previously provided by the Seller to the Buyer without restriction; and
  - (f) is not information available to the Buyer without restriction from other sources.
- (iii) **Nonconforming trade secret marking** means any restrictive legend or marking that is placed on a document or within an electronic file that does not comply with the requirements of this clause but appears to assert restrictions on the Buyer's or Government's rights to use, modify, reproduce, release, perform, display, or disclose non-technical data.

C. PERMISSABLE RESTRICTIVE MARKINGS ON NON-TECHNICAL DATA. The following types of notices or markings are permitted by law on non-technical data delivered under this Order: copyright notices pursuant to 17 U.S.C. §§ 401 – 404; patent markings pursuant to 35 U.S.C. § 287(a); trademark registration notices pursuant to 15 U.S.C. § 1111; common law trademark notices ("TM"); and the distribution statements required by DOD Directive 5230.24. Only the following markings are authorized for the purpose of asserting restrictions on the Buyer's or Government's rights to use, modify, reproduce, release, perform, display, or distribute non-technical trade secrets disclosed in non-technical data delivered under this Order.

(i) The following legend shall be placed on the cover page and title page of any document, near the title block of any drawing, and on the label of any computer disc, digital tape or other storage device:

*[Insert Seller Name] Trade Secret*

*This [document, drawing or file] contains non-technical information that is a trade secret of [insert Seller name]. This trade secret information is specifically identified as such within the body of this [document, drawing or file]. This [document, drawing or file] is not to be disclosed to persons who are not employed by [insert Seller name], Huntington Ingalls Incorporated, or the United States Government without the prior written permission of [insert Seller name], unless the identified trade secret is completely deleted and otherwise removed from this [document, drawing or file] before disclosure.*



In addition, for electronic files that contain non-technical trade secrets, the above legend shall appear on the computer screen or other user display upon initial access to the file.

- (ii) In addition to the legend prescribed by paragraph (c)(1) above, each individual page of a document (other than the cover or title page), or separable portions of an electronic file, that contains a non-technical trade secret shall have the following legend as a footer:

*[Insert Seller Name] Trade Secret -- refer to cover page for restrictions*

This footer is permitted only on those pages that actually include non-technical trade secrets

- (iii) Where individual pages of a document, or separable portions of an electronic file, contains both nontechnical trade secret(s) and other information not subject to restrictions, the non-technical trade secret(s) shall be clearly identified by notes or markings indicating specifically which paragraphs, figures, tables, etc. the restrictive markings refer to.
- (iv) Reproductions of any portion of an original document, drawing, electronic file or database that contains non-technical trade secret(s) shall include reproductions of the legend(s) specified in this clause only if the reproduced portions include non-technical trade secret(s).

**D. CORRECTION AND JUSTIFICATION OF RESTRICTIVE MARKINGS ON NON-TECHNICAL DATA.**

- (i) The restrictive markings authorized by this clause are the sole means by which the Seller may give notice to the Buyer and Government of its assertions about non-technical trade secret(s). Nothing in this Order limits the Buyer's or Government's rights to challenge the validity or accuracy of those assertions at any time after delivery of the data item with restrictive markings.
- (ii) If an item of non-technical data is delivered with nonconforming trade secret marking(s), the Buyer or Government may require the Seller to resubmit that data at its own expense with markings that conform to the requirements of this clause. If the Buyer or Government notifies the Seller of a nonconforming trade secret marking and the Seller fails to remove or correct such marking and resubmit the data within sixty (60) days, the Buyer and Government may ignore or, at the Seller's expense, remove or correct the nonconforming trade secret marking.
- (iii) The Buyer or Government may request information needed to evaluate the validity of assertions made by the Seller with the markings authorized by this clause. For this purpose the Seller will provide a detailed listing which identifies the specific non-technical trade secret(s) which are the basis for the restrictive markings.

**E. APPLICABILITY TO SUBCONTRACTORS.** This clause shall be included in all subcontracts at any tier which will require delivery of non-technical data to the Buyer or Government.

**F.** The requirements of this clause apply both to non-technical data delivered in hard copy and to non-technical data delivered on the IDE or any other electronic media.

**General Provisions for Orders under U.S. Government Contracts**

 NNS: Appendix A-DOD CONTRACTS  
 INGALLS: Form SBF P9328

Provision Number and Heading:

4	<a href="#">Acceptance of Offer and Buyer Authorization</a>	16	<a href="#">Government-Industry Data Exchange Program (GIDEP)</a>
43	<a href="#">Additive Manufacturing (A.K.A., 3D Printing)</a>	30	<a href="#">Hazardous Materials</a>
6	<a href="#">Assignment</a>	2	<a href="#">Headings</a>
39	<a href="#">Bankruptcy</a>	31	<a href="#">Indemnification</a>
36	<a href="#">Business Conduct</a>	33	<a href="#">Independent Contractor</a>
23	<a href="#">Buyer or Government Property</a>	28	<a href="#">Information Security</a>
18	<a href="#">Changes</a>	22	<a href="#">Insurance</a>
35	<a href="#">Compliance with Laws</a>	14	<a href="#">Invoices</a>
26	<a href="#">Computer Software and Databases</a>	3	<a href="#">Language and Currency</a>
15	<a href="#">Conflict Minerals Disclosure</a>	12	<a href="#">Liens</a>
37	<a href="#">Continuing Terms and Severability</a>	38	<a href="#">Non-Waiver</a>
44	<a href="#">Cybersecurity</a>	42	<a href="#">Obsolescence</a>
1	<a href="#">Definitions</a>	5	<a href="#">Order of Precedence</a>
11	<a href="#">Delivery of Seller Data</a>	9	<a href="#">Packing and Shipping</a>
10	<a href="#">Delivery, Title</a>	40	<a href="#">Program Management</a>
21	<a href="#">Disputes</a>	25	<a href="#">Proprietary Information</a>
8	<a href="#">DoD Rated Order</a>	34	<a href="#">Release of Information and Advertising</a>
7	<a href="#">Entire Agreement</a>	24	<a href="#">Representations and Certifications</a>
41	<a href="#">Equal Employment Opportunities</a>	29	<a href="#">Site Conditions</a>
19	<a href="#">Equitable Adjustments</a>	13	<a href="#">Taxes</a>
27	<a href="#">Export and Import Compliance</a>	20	<a href="#">Termination for Default</a>
45	<a href="#">FAR/DFARS Clauses/Provisions</a>	17	<a href="#">Warranty</a>
32	<a href="#">Force Majeure</a>		

**1. DEFINITIONS. [\(back to top\)](#)**

- A. BUYER means Huntington Ingalls Incorporated, a subsidiary of Huntington Ingalls Industries (HII), acting through Buyer’s authorized purchasing representative at its Ingalls or Newport News Shipbuilding divisions.
- B. DFARS means the Defense Federal Acquisition Regulation Supplement.
- C. FAR means the Federal Acquisition Regulation.
- D. ORDER means the instrument of contracting including the order form and all documents it references (including but not limited to these general provisions, plans, specifications, and regulations).
- E. PARTIES means Buyer and Seller collectively.
- F. PRIME CONTRACT means the U.S. Government’s contract for the acquisition of Products.
- G. PRODUCT means those goods, supplies, reports, computer software, parts list, data, materials, articles, items, parts, components or assemblies, drawings, procedures, manuals, forms, test reports, and any Services described in this Order. For purposes of the “Inspection” provision, the term “Product” also includes but is not limited to raw materials, components, and intermediate assemblies that comprise the Product.
- H. SELLER means the party with whom Buyer is contracting.
- I. SERVICES means Seller’s time and effort, including any Products, supplies, materials, articles, items, parts, components, or assemblies incidental to the performance of the Service.

**2. HEADINGS. [\(back to top\)](#)**

Headings in this Order are for reference only and shall not limit or affect the meaning or interpretation of this Order.

**3. LANGUAGE AND CURRENCY. [\(back to top\)](#)**

All communications and submittals shall be in English and all payments, rebates, credits, other financial transactions or dollar amounts related to or referenced in this Order shall be in United States Dollars.

**4. ACCEPTANCE OF OFFER AND BUYER AUTHORIZATION. [\(back to top\)](#)**

- A. This Order is Buyer's offer to Seller and is limited to the terms and conditions herein. Seller's acknowledgement, acceptance of payment, or commencement of performance shall be conclusive evidence of acceptance of this offer as written.
- B. Buyer's authorized purchasing representative has sole authority to make contractual commitments on behalf of Buyer, to provide contractual direction, and to change this Order's requirements by written modification.
- C. Buyer's engineering, technical personnel, and other representatives are not authorized to make contractual changes or provide contractual direction for this Order.
- D. Any additional or different terms in Seller's acceptance are hereby rejected and shall not apply to this Order.

**5. ORDER OF PRECEDENCE. [\(back to top\)](#)**

- A. Any inconsistency between parts of this Order shall be resolved by giving precedence in the following order:
  - (i) The purchase order form as issued to Seller and any subsequent modifications or changes thereto, exclusive of items (ii) through (vi).
  - (ii) Any HII division supplement or program-specific "Additional Provisions" (including regulations referenced therein), or other special provisions to these General Provisions (also referred to as terms and conditions) as invoked in this Order.
  - (iii) These General Provisions (including referenced regulations herein).
  - (iv) Statement of Work.
  - (v) Specification/Drawing.
  - (vi) Other referenced documents.
- B. Seller shall immediately bring any inconsistencies in the Order documents to Buyer's attention in writing. Unless Seller timely notifies Buyer of inconsistencies in the Order documents and Buyer fails to resolve such inconsistencies, Seller shall not use such inconsistencies as a defense against a breach of contract claim by Buyer for Seller's failure to perform under this Order, nor shall Seller use any such inconsistencies as a basis for any claim of any kind by Seller against Buyer.

**6. ASSIGNMENT. [\(back to top\)](#)**

Seller shall not assign this Order without Buyer's prior written consent, which will not be unreasonably withheld. Prior to any sale or merger of Seller to an unrelated third party, Seller will execute any documents requested by Buyer in connection with the transfer of any rights or obligations under this Order.

**7. ENTIRE AGREEMENT. [\(back to top\)](#)**

This Order constitutes the entire agreement between the Parties. The Parties shall not be bound by any other statements or understandings, oral or written, not set forth in this Order.

**8. DOD RATED ORDER. [\(back to top\)](#)**

- A. This is a rated Order certified for national defense use and supports Buyer's work under a Prime Contract with the U.S. Government. The applicable priority rating is as stated in the header text of this Order. Seller shall comply with the defense priorities and allocation system regulation (15 CFR Part 700) and all other applicable regulations for obtaining controlled Products and other Products and Services needed to fill this Order.
- B. Seller shall include the substance of this provision in all subcontracts Seller places in support of this Order.

**9. PACKING AND SHIPPING. ([back to top](#))**

- A. Seller shall ensure the Product is properly packed and shipped pursuant to Buyer's carrier routing/shipping instructions, which are incorporated herein and available at:  
*Newport News Shipbuilding* – <http://supplier.huntingtoningalls.com/sourcing/index.html>  
*Ingalls Shipbuilding* – <https://spars.huntingtoningalls.com/procurement/index.html>
- B. Seller shall be liable to Buyer for any damage resulting from improper Product packaging. Seller will not pack or ship items corresponding to multiple Orders or multiple line items within a single Order unless Seller has separately identified the packing and shipping costs of each line item being shipped.

**10. DELIVERY, TITLE. ([back to top](#))**

- A. The Free On Board (FOB) point shall be as designated in this Order. Title shall pass to Buyer upon delivery; however, passing of title shall not relieve Seller of any other obligations under this Order.
- B. All deliveries shall comply with the applicable quantities and schedules set forth in this Order. Seller shall not ship quantities in excess of those specified in this Order, and Buyer shall have no obligation to return or pay for any excess quantities. Buyer may return non-conforming shipments or store early deliveries at Seller's cost.
- C. Whenever it appears Seller will not meet the delivery schedule, Seller shall immediately notify Buyer in writing of the reason and estimated length of the delay. This notice shall not affect Buyer's rights or remedies. Seller shall make every effort to avoid or minimize the delay and shall pay any additional cost incurred by either party because of late delivery.
- D. If Seller is unable to meet the required delivery schedules for any reason other than a change directed by Buyer, Buyer shall have the option to terminate the Order or obtain the Products from sources other than Seller and to reduce Seller's Order quantities accordingly at no increase in unit price, without any penalty to Buyer. The rights accorded Buyer pursuant to this paragraph D shall not limit Buyer's rights under the "Termination for Default" provision of this Order.
- E. All Parties expressly agree that time is and shall remain of the essence in performing this Order. No acts of Buyer, including, without limitation, modifications to this Order or acceptance of late deliveries, shall constitute a waiver of this provision.

**11. DELIVERY OF SELLER DATA. ([back to top](#))**

All drawings, procedures, manuals, forms, test reports, software (including software documentation) and other data required under this Order ("Seller Data") shall comply with the terms of this Order. Seller Data shall be delivered to Buyer on or before the time specified in this Order, or if no time is specified, upon Product delivery. Seller shall submit Seller Data to the Buyer address on the first page of this Order unless otherwise specified. Buyer may withhold payment if Seller fails to deliver any Seller Data required by this Order. If Seller includes Seller Data with the Product shipment, Seller shall enclose all required Seller Data in the first box of the shipment and mark the shipment, *CERTIFICATES AND/OR TEST REPORTS ENCLOSED*.

**12. LIENS. ([back to top](#))**

All Products furnished under this Order shall be free of all liens, claims, charges, and encumbrances of any kind. Upon request, Seller shall provide formal releases from Seller's subcontractors to Buyer. Buyer may discharge any lien, claim, charge, or encumbrance if Seller, at Buyer's request, fails to do so and Seller shall reimburse Buyer for the reasonable costs thereof.

**13. TAXES. ([back to top](#))**

Seller shall not collect any sales or use taxes inasmuch as Buyer has direct pay permits held for Mississippi and Virginia. Seller shall pay all other State, Federal, and local taxes, assessments and duties applicable to Products or Seller's performance hereunder.

#### **14. INVOICES. ([back to top](#))**

Unless otherwise specified in this Order, payment shall be made before the later of (A) the 30th day after the designated billing office receives a proper invoice from Seller or (B) the 30th day after Buyer's receipt of (i) supplies delivered at Buyer's facility or such other facility as designated by Buyer or (ii) services performed. Any prompt payment or other discounts offered by Seller shall be specified in the Order. For Orders issued by the Newport News Shipbuilding division, Seller shall submit invoices electronically in PDF format to [Invoices@hii-nns.com](mailto:Invoices@hii-nns.com). For Orders issued by the Ingalls Shipbuilding division, Seller shall submit invoices electronically in PDF format to [AccountsPayableBox@hii-ingalls.com](mailto:AccountsPayableBox@hii-ingalls.com). For Ingalls Shipbuilding division Orders only: if Seller is unable to submit invoices electronically and is authorized by Buyer to submit hard copy invoices, the invoices shall include the Order number and Order Item Number and be mailed to Ingalls Shipbuilding, Attn: Accounts Payable, M/S 1090-41, 1000 Access Road, Pascagoula, MS 39567. Buyer may set-off any amount(s) due from Seller to Buyer, liquidated or unliquidated, against payments due to Seller under this or any other Order. At any time, Buyer or its customer may audit Seller's invoices to verify their accuracy, completeness, and compliance with the terms of this Order. Buyer may adjust Seller's invoices for any amounts found upon audit or otherwise to have been improperly invoiced. For progress payments, the Seller shall certify that invoiced amounts are commensurate with the value of the work accomplished, and Seller shall note "Final Invoice" on the final billing documents sent to Buyer.

#### **15. CONFLICT MINERALS DISCLOSURE. ([back to top](#))**

Pursuant to Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 and its implementing regulations, Buyer is required to identify the presence and source of Conflict Minerals (gold, tantalum, tin or tungsten) contained in Buyer's manufactured products. Buyer's Conflict Minerals compliance program information is located here: <https://hii.com/legal/conflict-minerals-report/>. Seller shall be familiar with this information and make all reasonable efforts to assist Buyer in identifying the presence and source of Conflict Minerals contained in the products sold by Seller to Buyer.

- A. If Seller's Products contain gold, tantalum, tin, or tungsten, Seller agrees to provide Buyer with a completed Conflict Minerals Reporting Template ("CMRT") version 6.3 or later, available at <http://www.responsiblemineralsinitiative.org/reporting-templates/cmrt/>, with "Product" selected under the "Declaration Scope or Class" field.
- B. Seller shall submit any CMRT on the Source Intelligence web platform. If Seller has previously registered with Source Intelligence, Seller may use its existing username and password at [www.sourceintelligence.net](http://www.sourceintelligence.net). If Seller is not registered, instructions may be obtained by emailing [hii@sourceintelligence.com](mailto:hii@sourceintelligence.com) or by calling toll free in the United States 1-855-207-8015.
- C. If the status of any Product(s) changes during performance of this Order, then Seller must within 30 days complete and submit updated information as provided in paragraph A above.
- D. If Buyer determines that any representation made by Seller pursuant to this provision is inaccurate or incomplete in any respect, or Seller fails to timely submit the information required by this provision, then Buyer may, at its option, either withhold up to 10% of the Order price until such information is provided or terminate this Order pursuant to the provision of this Order titled "Termination for Default."

#### **16. GOVERNMENT-INDUSTRY DATA EXCHANGE PROGRAM (GIDEP). ([back to top](#))**

If this Order is over \$500,000, Seller shall participate in the appropriate interchange of the GIDEP in accordance with GIDEP S0300-BU-GYD-010 dated April 2008. Data entered will be retained by the program and provided to qualified participants. Compliance with this requirement shall not relieve Seller from complying with any other requirements of this Order. GIDEP materials, software and information are available without charge from the GIDEP Operations Center, P.O. Box 8000, Corona, California 92878. For further information, see this web site: <http://www.gidep.org>.

## **17. WARRANTY. ([back to top](#))**

- A. Seller warrants that all Products delivered under this Order will:
  - (i) Be free from defects in materials, workmanship, and manufacturing processes; and
  - (ii) Conform to all requirements of this Order.
- B. The warranty period shall begin upon Buyer's acceptance of the Product and end 12 months after preliminary acceptance by Buyer's customer of the end product incorporating the Product provided by Seller under this Order. In computing the warranty period, any time that a Product delivered under this Order is prevented from entering service or is taken out of service on account of any Product deficiency shall be excluded from the warranty period.
- C. Seller's Products are deficient if they fail to meet any of the performance obligations set forth in paragraph A of this provision.
- D. Seller shall promptly remedy all deficiencies that arise during the warranty period at no cost to Buyer. If Seller fails to remedy the deficiency within a reasonable time after having been notified, Buyer may remedy the deficiency and charge to Seller any increased costs Buyer or its customer incurs or make an equitable reduction in the Order price. If Buyer corrects deficiencies in the Product, Seller shall pay Buyer's actual costs and Buyer's labor at Buyer's fully-burdened hourly rates (as appropriate) utilizing the then-current Government-approved rate set authorized for change-order activity.
- E. Buyer's approval of any documentation prepared by Seller or Buyer's participation in design reviews or first article approval process shall not relieve Seller of any obligation under this warranty.
- F. Buyer's rights under this provision shall be assignable to and enforceable by Buyer's successors and customers.
- G. Seller shall immediately notify Buyer of any deficiencies during the performance of this Order and the warranty period. Seller shall promptly provide a written notice to Buyer's authorized purchasing representative describing the deficiency and Seller's plan to remedy the deficiency. Seller's notice shall in no way affect the rights and remedies of Buyer.
- H. Nothing herein shall relieve Seller of its liability for latent defects, fraud or such gross mistakes amounting to fraud, regardless of when such defects or deficiencies are discovered. The rights of Buyer set forth in this provision shall be in addition to, and not in lieu of, any other right Buyer has under this Order, by law, or in equity.

## **18. CHANGES. ([back to top](#))**

- A. Buyer may at any time by written order make changes within the general scope of this Order including, but not limited to, the following items:
  - (i) drawings, designs, specifications, planning, and/or other technical documents;
  - (ii) method of shipment, packaging, or packing;
  - (iii) place of delivery;
  - (iv) reasonable adjustments in quantities or delivery schedules or both;
  - (v) place of inspection;
  - (vi) place of acceptance;and, if services are procured:
  - (vii) description of services to be performed;
  - (viii) time of performance (*i.e.*, hours of the day, days of the week, etc.) of the services; and
  - (ix) place of performance of the services.
- B. If the change causes an increase or decrease in the cost or time required to perform this Order, the Parties shall negotiate an equitable adjustment in the price or schedule, or both, to reflect the increase or decrease. Buyer shall modify this Order in writing accordingly.
- C. Seller must submit any claim for adjustment within 15 days of the receipt of the written Order in writing to Buyer or Seller unconditionally waives such claim. If Seller claims the cost of any property made obsolete or excess by the change, Buyer shall have the right to prescribe the manner of disposition of the property to include the right to acquire that property for the cost claimed.
- D. Buyer may examine any of Seller's pertinent books and records to verify Seller's claim.



- E. Seller shall immediately proceed with the performance of this Order as changed. Failure to agree to any adjustment shall be a dispute within the meaning of the “Disputes” provision. Seller shall not be entitled to any claim for changes unless authorized in writing by Buyer.

## **19. EQUITABLE ADJUSTMENTS. [\(back to top\)](#)**

A request for equitable adjustment submitted by Seller shall include the legal basis for the request and all types of adjustments in the total amounts to which Seller asserts entitlement. Seller shall provide Buyer sufficient detail to reasonably support Seller’s proposal for a request for equitable adjustment or for which Buyer’s customer may require in evaluating such request. Further, Seller agrees that, if required by Buyer, it will execute a release, in form and substance satisfactory to Buyer, as part of the settlement of a request for equitable adjustment. Failure of Seller and Buyer to agree on any proposed adjustment or change claimed by Seller shall not excuse Seller from diligently proceeding with performance of this Order.

## **20. TERMINATION FOR DEFAULT. [\(back to top\)](#)**

- A. Buyer may terminate this Order in whole or in part at any time without liability if Seller:
- (i) Fails to deliver the Products within the time specified in this Order, or
  - (ii) Fails to perform any of the other provisions of this Order or so fails to make progress as to endanger performance of this Order in accordance with its terms, including the completion of Products within the time set forth in this Order, and in either of these two circumstances does not cure such failure within a period of ten days (or such longer period as Buyer may authorize in writing) after receipt of notice from Buyer specifying such failure, or
  - (iii) Becomes insolvent or fails to provide additional assurances of financial solvency when it reasonably appears that Seller is or will not be financially solvent and additional assurances are requested by Buyer.
- If Buyer terminates part of the work under this Order, Seller shall continue performance of this Order to the extent not terminated.
- B. Refund of Payments. Seller shall, upon termination by Buyer due to default by Seller, return any payments Seller received under this Order for the terminated (unperformed) work.
- C. If, after a default termination, it is determined that Seller was not in default, or that the default was excusable, the rights and obligations of the Parties shall be the same as if the termination had been issued for the convenience of Buyer.
- D. The rights and remedies of Buyer provided in this provision shall not be exclusive and are in addition to any other rights and remedies provided by law or in equity or otherwise provided under this Order.

## **21. DISPUTES. [\(back to top\)](#)**

- A. The Parties shall submit any dispute arising under or related to this Order in writing to equivalent ascending levels of management of the respective Parties up to the Senior Executive of the Supply Chain Management organization placing the Order and Seller’s equivalent executive level. If the Parties cannot resolve a dispute after good faith negotiations, within 90 days from the date the written dispute is properly received by the other party, or such additional time as the Parties agree upon, in writing, either party may bring suit against the other in accordance with paragraph B.
- B. Exclusive venue for suits at law or equity arising under or related to this Order shall be:
- (i) United States District Court for the Eastern District of Virginia or Newport News Circuit Court for orders issued by Huntington Ingalls Incorporated-Newport News Shipbuilding division.
  - (ii) United States District Court for the Southern District of Mississippi or the Circuit Court of Jackson County, Mississippi for orders issued by Huntington Ingalls Incorporated-Ingalls Shipbuilding division.
- C. Irrespective of the place of contracting or performance, this Order shall be construed and interpreted according to the law of the state of the Huntington Ingalls Incorporated facility issuing this Order, as identified in the Order, without regard to that state’s conflict of laws principles.

- D. Seller shall proceed diligently with performance of the Order, as directed by Buyer, pending any informal resolution, lawsuit, appeal, or final decision referred to in this provision, or the settlement of any dispute.
- E. Seller shall file suit for breach or any other dispute arising under or related to this Order within two years after the cause of action accrues, or by the otherwise applicable statute of limitations, whichever period is shorter.
- F. If the Government:
- (i) makes a decision or determination,
  - (ii) takes an action, or,
  - (iii) in the case of a claim filed with the Contracting Officer, fails to take an action within the time limits specified in the "Disputes" clause in Buyer's Prime Contract ("deemed denial"), on a matter arising under or related to the Buyer's Prime Contract, and such decision, determination, action, or deemed denial relates to or affects the Parties' rights and interests under this Order ("Government Action"), then any dispute between Buyer and Seller as relates to the Government Action shall be resolved under paragraph G, which shall be Seller's sole remedy for such disputes. Except as otherwise provided in paragraph G, all other disputes between Buyer and Seller will be resolved under paragraph A of this provision.
- G. Notwithstanding any provisions herein to the contrary, Government Actions shall be final and binding on Seller, and Seller shall have no recourse against Buyer for such Government Action or Buyer's implementation thereof, except for Buyer or Seller appeals pursuant to the terms of this provision.
- (i) If Buyer elects to appeal a Government Action pursuant to the "Disputes" clause in Buyer's Prime Contract, whether at Buyer's election or at Seller's request, Seller shall:
    - (a) assist Buyer in every reasonable manner; and
    - (b) be afforded a reasonable opportunity to participate in the prosecution of the appeal to the extent Seller's interest may be affected thereby. Buyer will not enter into an agreement to settle an appeal that affects Seller's interest without Seller's written consent.
  - (ii) If Buyer does not appeal a Government Action, Buyer will promptly notify Seller. In such case, Buyer may, in its sole and absolute discretion, permit Seller to prosecute the appeal of the Government Action for Buyer and reasonably assist Seller in prosecuting the appeal if requested by Seller. Seller shall keep Buyer informed of the progress of any such appeal by providing Buyer with copies of all pleadings and other relevant documents. Seller shall provide Buyer drafts of pleadings or other documents within sufficient time for Buyer to review before the filing deadline.
  - (iii) Any decision on or settlement of an appeal brought pursuant to subparagraphs G(i) or G(ii) of this provision shall be binding upon Seller insofar as it relates to or affects the Parties' rights and interests under this Order, and Seller shall have no recourse against Buyer as a result of the decision or settlement or Buyer's implementation thereof. Further, if as a result of any decision or settlement described in the immediately preceding sentence, Buyer is unable to obtain reimbursement from the Government under the Prime Contract for, or is required to refund or credit to the Government, any amount with respect to any item of cost or fee for which Buyer has reimbursed Seller, Seller shall, on demand, promptly repay such amount to Buyer.
  - (iv) Each party shall bear its own costs for prosecuting appeals brought pursuant to subparagraph G(i) of this provision. Seller shall bear the cost of prosecuting appeals brought pursuant to subparagraph G(ii) of this provision (including reasonable attorney fees) and any other costs incurred by Buyer:
    - (a) in assuring itself of the validity of Seller's appeal; and
    - (b) assisting Seller in the prosecution of the appeal.
  - (v) Before submitting a claim under this paragraph (G), Seller shall:
    - (a) certify its claim in the same manner and format as required of Buyer under its Prime Contract with the Government; and
    - (b) provide Buyer with such other assurances as Buyer may require.
  - (vi) Nothing in this provision nor any authorization or offer that may be made shall be deemed to constitute acceptance or acknowledgment by Buyer of the validity of Seller's claim or any part thereof, nor be deemed



to limit or in any way restrict Buyer from taking any actions, including available remedies, it deems appropriate to protect its own interests.

## 22. INSURANCE. [\(back to top\)](#)

- A. During the period of performance and any associated warranty periods of this Order, Seller and its subcontractors (collectively, "Seller" for purposes of this provision) shall, at their sole cost and expense, procure and maintain all required insurance policies as set forth below.
- B. For all Orders, Seller shall maintain (i) Employer Liability insurance in the amount of at least \$1,000,000, (ii) Workers' Compensation insurance with coverage as required by the most current laws of the state or foreign jurisdiction in which the work is performed, and (iii) Commercial General Liability insurance with coverage having a minimum combined single limit of \$2,000,000 per occurrence and \$4,000,000 in the aggregate for bodily injury and property damage.
- C. Insurance coverage described herein must be in place and effective prior to commencement of any activity that is the subject of this Order and Seller shall provide evidence that the required insurance is in place in the form of a certificate of insurance (COI). COIs are required to be submitted for the following:
- (i) Commercial General Liability Insurance: Whenever performance requires work on a Government installation, Buyer's premises or premises under the care, custody or control of Buyer or Buyer's customer, Seller and its subcontractors shall, at their sole cost and expense, procure and maintain Commercial General Liability Insurance with coverage having a minimum combined single limit of \$2,000,000 per occurrence and \$4,000,000 in the aggregate for bodily injury and property damage. Coverage shall include but not necessarily be limited to, premises and operations, products and completed operations and contracts.
  - (ii) Automobile Liability Insurance: When Seller's performance requires driving onto a U.S. Government installation, Buyer's premises or premises under the care, custody or control of Buyer or Buyer's customer, Seller shall procure and maintain Automobile Liability Insurance with coverage having at least a Combined Single Limit of \$2,000,000 for bodily injury and property damage covering all owned, hired and non-owned vehicles.
  - (iii) United States Longshore & Harbor Workers' Compensation Act Insurance: Seller shall procure and maintain appropriate coverage under the Longshore and Harbor Workers' Compensation Act if any Seller employee will be performing work over water or within any adjacent jurisdiction of the LHWCA.
  - (iv) Defense Base Act Workers' Compensation Insurance: Seller shall maintain Defense Base Act Workers' Compensation if work hereunder is being performed in connection with public work contracts, or with any United States Government Agency where physical work occurs on United States military bases or on any lands used by the United States for military purposes outside of the United States.
  - (v) Professional Liability Insurance: Whenever Seller provides design and/or engineering services, Seller shall, in addition to the other applicable insurance noted herein, procure and maintain professional liability (errors and omissions) insurance with coverage having minimum limits of \$1,000,000 per claim and \$2,000,000 in the aggregate.
  - (vi) [Reserved].
  - (vii) Cargo and Builder's All Risk Property Insurance: If this Order includes ship-in-place terms, milestone payments, and/or Buyer provides material to Seller, Seller shall procure and maintain Cargo Insurance if Seller is responsible for the risk of transportation and/or Builder's All Risk Property Insurance, or All Risk Property Insurance, with coverage having minimum limits equivalent to the value of the Product(s) or shipment, as applicable, and naming Buyer as loss payee.
  - (viii) [Reserved].
  - (ix) Pollution Liability Insurance: If this Order is for transportation, handling and/or disposal of asbestos, radiological or any other hazardous waste, material or substances, Seller shall procure and maintain Pollution Liability Insurance with coverage having a minimum limit of \$5,000,000.

- (x) Marine Insurance: If this Order is for water-based work, such as but not limited to dredging services, tugs, ship towing services, ship pilots or crews, Seller shall procure and maintain Vessel Pollution Liability Insurance with coverage having a minimum limit of \$5,000,000, Marine General Liability Insurance with coverage having a minimum limit of \$5,000,000, Protection and Indemnity Insurance with coverage having a minimum limit of \$5,000,000, and Marine Hull and Machinery Insurance with coverage having a minimum limit of the agreed value of the vessel.
  - (xi) Construction-Related Insurance: If this Order is for facility construction, renovation or excavation services, Seller shall procure and maintain Builder's All Risk Property Insurance with coverage having a limit equal to the construction value of the project.
- D. If a COI is required to be submitted for any insurance coverage required in paragraph C above, a COI shall also be submitted for the insurance coverages required in paragraph B above.
  - E. No later than fifteen (15) days prior to the expiration of any insurance policy required by this provision, Seller shall provide to Buyer a COI evidencing the renewal of such policy. Seller shall cause its insurers to provide Buyer with thirty (30) days' prior written notice of cancellation of, or material change to, any insurance policy required hereunder.
  - F. Coverage shall not exclude claims brought in the United States and all insurance required as a part of this Order shall be placed with insurance companies that are authorized to do business under the laws of the state(s) or foreign jurisdiction in which the work is being performed and shall be in a form reasonably acceptable to Buyer with a current A.M. Best financial rating of no less than A-, VIII.
  - G. All liability coverage required hereunder shall be primary and not contributory to any other insurance available to Buyer, and Seller's insurers shall provide a waiver of subrogation in favor of Buyer for each required liability coverage hereunder. Seller shall add Buyer as loss payee as Buyer's interests may appear to Seller's Cargo, All Risk Property and Builder's All Risk Property Insurance coverages. In addition, Seller shall add Buyer as an additional insured to all liability insurance policies required hereunder except Workers' Compensation, Employer's Liability and Professional Liability.
  - H. Seller agrees to defend, indemnify and hold Buyer harmless in connection with any claim or suit by any employee of Seller against Buyer, its employees, agents and assigns to the maximum extent permitted by law; in addition, Seller's Liability Insurance will insure Seller's indemnity and defense obligation with respect to such claim or suit. Seller waives any statutory or common law protections that would otherwise protect it against all such obligations listed in this paragraph.

### **23. BUYER OR GOVERNMENT PROPERTY. [\(back to top\)](#)**

- A. If Buyer or Government property (which includes Government property furnished to or acquired by Seller) is used by Seller in conjunction with this Order, Seller shall maintain such property in accordance with a system that meets the requirements of FAR 52.245-1 (as invoked in the provision of this Order titled "FAR/DFARS Clauses/Provisions"). Seller shall assume the risk of, maintain adequate insurance, and be responsible for, any loss, theft, destruction of or damage to all such property while such property is in Seller's possession or control.
- B. Seller shall use Buyer and Government property only for performing this Order. Seller shall not modify, cannibalize, or make alterations to Buyer or Government property unless this Order specifically identifies the modifications, alterations, or improvements as work to be performed. Excluding property authorized to be consumed in the performance of this Order, Seller shall return such property in as good a condition as when received except for reasonable wear and tear, or in the case of property to be overhauled or repaired, in such better condition as may be required by the terms of this Order.
- C. Any Buyer or Government property that is furnished to Seller under this Order shall be furnished "as is." Accordingly, Buyer disclaims any warranty of suitability and or serviceability.
- D. Buyer and Government shall retain title to all Buyer or Government property used by Seller in connection with this Order. Title to such property shall not be affected by its incorporation into or attachment to any property not

owned by Buyer or the Government, nor shall Buyer or Government property become a fixture or lose its identity as personal property by being attached to any real property.

- E. Seller shall immediately discharge any lien, other than a lien held by Buyer or the Government, on Buyer or Government property.
- F. The requirements related to accounting for Buyer or Government property used by Seller in connection with this Order also shall apply to scrap generated from Seller's use of such property; provided, however, that Buyer may authorize or direct Seller to omit such scrap from inventory disposal schedules.

#### **24. REPRESENTATIONS AND CERTIFICATIONS. [\(back to top\)](#)**

- A. As of the time it accepts this Order, Seller represents and warrants that:
  - (i) Seller has submitted to Buyer Form SBF P9152, Huntington Ingalls Incorporated Supplier Data & Certifications, which is incorporated herein by reference; and
  - (ii) Seller's information disclosed on SBF P9152 is current, accurate and complete.
- B. If Seller's information as disclosed in the SBF P9152 changes prior to acceptance of this Order or during performance of this Order, Seller shall complete and submit to Buyer a revised SBF P9152.

#### **25. PROPRIETARY INFORMATION. [\(back to top\)](#)**

- A. For purposes of this Order, "Proprietary Information" means all information Buyer furnishes to Seller that is marked or identified as proprietary. Proprietary Information includes any Personal Information provided to or used by Seller in performance of the Order. Personal Information is any information from or about a person that either identifies that person directly or that makes that person identifiable when it is combined with other information from or about that person from any source.
- B. Seller will treat all Proprietary Information (including, but not limited to, all copies, improvement, modifications, and derivations) as Buyer's property regardless of the medium on which such Proprietary Information is stored or communicated. In making copies of Proprietary Information, Seller will preserve any legend, marking, or stamp contained on the Proprietary Information that identifies the data as Proprietary Information. Seller further agrees to affix the following legend "HII Proprietary" on:
  - (i) all improvements, modifications, and derivations of Proprietary Information; and
  - (ii) any Proprietary Information extracted from Buyer's computer systems or otherwise provided by Buyer to Seller if not already marked.
- C. Seller may disclose Proprietary Information to its subcontractors as required for the performance of this Order, provided each such subcontractor first assumes by written agreement the same obligations imposed on Seller under this Order relating to Buyer's Proprietary Information.
- D. If a separate proprietary information or non-disclosure agreement relating to the subject matter of this Order exists between the Parties, all Proprietary Information shall be protected pursuant to such proprietary information or non-disclosure agreement.
- E. If no separate proprietary information or non-disclosure agreement exists between the Parties, Seller will keep Proprietary Information confidential and, except as provided herein, (i) not disclose such Proprietary Information to any other person except to its officers, agents and employees who are under an obligation to keep such Proprietary Information confidential and have a need to know such Proprietary Information to fulfill Seller's obligation under this Order, and (ii) treat such Proprietary Information with the same degree of care as Seller uses in handling its own proprietary or confidential information and – in all events – with not less than reasonable care. Seller will use Proprietary Information only for purposes necessary for performing this Order and will return Proprietary Information to Buyer upon completion of the work to be performed under this Order unless Buyer expressly agrees to the contrary in writing.
- F. Upon discovery by Seller of any inadvertent or accidental disclosure of Proprietary Information, Seller shall notify Buyer promptly and take all commercially reasonable steps to retrieve such disclosed Proprietary Information and to cease and prevent any further disclosure of the Proprietary Information.

## **26. COMPUTER SOFTWARE AND DATABASES. [\(back to top\)](#)**

Seller shall test all computer software and/or databases (including the media it is delivered on) for computer viruses before delivery of such software and/or databases in any medium or in any system. All software and/or databases delivered by Seller shall contain no known viruses that are detectable with the latest version of commercially available virus detection software. In addition, Seller shall test any software and/or databases received from Buyer or Buyer's customer for viruses prior to use in performing this Order. Seller shall provide Buyer with immediate, written notice of any viruses detected in Buyer-provided software and/or databases. Unless otherwise agreed in writing, any license agreement covering the use of any computer software and/or databases delivered under this Order must be paid-up and perpetual, shall not contain any routine to disable the computer software and/or databases in the future, and shall permit transfer to Buyer's customer. No copy-protection devices, codes, or systems shall be used that would prevent Buyer or Buyer's customer from copying delivered software and/or data; however, a license agreement or other Order terms may specify a maximum number of copies that may be made. Any limited rights or other legend(s) permissibly applied under this Order shall be digitally included on the same media as the delivered software and/or databases, and also displayed in human-readable form on a visible surface of the media carrying the digital software and/or databases.

## **27. EXPORT AND IMPORT COMPLIANCE. [\(back to top\)](#)**

- A. Seller's performance of this Order may involve the use of or access to articles, technical data, or software subject to export controls under 22 United States Code 2751 – 2796 (Arms Export Control Act) and 22 Code of Federal Regulations 120-130 (International Traffic in Arms Regulations) or 50 United States Code 2401 – 2420 (Export Administration Act) and 15 Code of Federal Regulations 768 – 799 (Export Administration Regulations) and their successor and supplemental laws and regulations (collectively hereinafter referred to as the "Export Laws and Regulations"). Seller represents and warrants that it is either:
  - (i) A U.S. Person as that term is defined in the Export Laws and Regulations; or
  - (ii) That it has disclosed to Buyer's Representative in writing the country in which it is incorporated or otherwise organized to do business, or if a natural person, all citizenships and U.S. immigration status.
- B. Seller shall comply with all Export Laws and Regulations and any license(s) issued thereunder.
- C. Seller shall not give any Foreign Person (including Seller's own non-U.S. employees or affiliates) access to Technical Data, software or Defense Articles, or provide an unauthorized Defense Service as those terms are defined in the applicable Export Laws and Regulations, without the prior written consent of Buyer. Any request for such consent must state the intended recipient's citizenship(s), and status under 8 U.S.C. 1101 and 8 U.S.C. 1324 (the "Immigration and Naturalization Act"), and such other information as Buyer may reasonably request. No consent granted by Buyer in response to Seller's request under this paragraph C shall relieve Seller of its obligations to comply with paragraph B of this provision, nor shall any such consent constitute a waiver of the requirements of paragraph B, nor constitute consent for Seller to violate any requirement of the Export Laws and Regulations. All capitalized terms in this paragraph not otherwise defined in this Order shall have the meaning set forth in the Export Laws and Regulations.
- D. Seller shall place the following statement on documents containing technical data controlled by either the Arms Export Control Act or the Export Administration Act: "WARNING – This document contains technical data whose export is restricted by the Arms Export Control Act (Title 22, U.S.C. Sec. 2751, et seq.) or the Export Administration Act of 1979, as amended, Title 50, U.S.C., App 2401, et seq. Violations of these export laws can result in severe criminal penalties. Disseminate in accordance with terms of OPNAVINST 5510.161." Additional marking requirements may be included elsewhere in this Order.
- E. The substance of this provision shall be incorporated into any lower-tier subcontract entered into by Seller for the performance of any part of the work under this Order involving export-controlled information.

## 28. INFORMATION SECURITY. [\(back to top\)](#)

- A. Seller shall implement administrative, physical and technical safeguards to adequately protect Buyer-provided information (“Buyer Information”) in accordance with any law, regulation or contractual obligations applicable to such information. For Buyer Information stored in an electronic database or transmitted electronically, Seller shall comply with any Buyer-specified safeguards set forth in this Order, or if no such safeguards are specified herein, Seller’s safeguards shall be no less rigorous than the Center for Internet Security’s CIS Controls™, found at <https://www.cisecurity.org/controls/>.
- B. If Seller becomes aware of any compromise of Buyer Information (an “Incident”), Seller shall take appropriate immediate actions to investigate and contain the Incident and any associated risks, including notification to Buyer within seventy-two (72) hours after learning of the Incident. As used in this clause, “compromise” means that information has been exposed to unauthorized access, inadvertent disclosure, known misuse, loss, destruction, or alteration other than as required to perform this Order.
- C. Upon request, Seller shall provide reasonable assurances to Buyer of compliance with the requirements of this provision, and reasonable cooperation in connection with an investigation regarding the nature and scope of any Incident. Any costs incurred by Buyer or Seller in investigating or remedying Incidents shall be borne by Seller.
- D. All Buyer Information shall be encrypted (i) if transmitted externally by Seller via any electronic network, or (ii) during electronic storage if potentially accessible by any electronic network external to Seller or otherwise by non-authorized users.
- E. This provision is intended to set forth minimum information security requirements and does not alter, change or supersede any more stringent information security requirements found in other contractual obligations agreed to between the parties.

## 29. SITE CONDITIONS. [\(back to top\)](#)

If Seller is required to perform work at Buyer’s or its customer’s site, Seller shall inspect the location of the work and be familiar with its condition at the time of Order award. Seller will not be entitled to a claim for increased cost or schedule adjustment if Seller failed to inspect the site prior to the award of this Order or for any circumstance that Seller should reasonably have discovered through such site inspection.

## 30. HAZARDOUS MATERIALS. [\(back to top\)](#)

“*Hazardous material*” means any material defined as hazardous under the latest version of Federal Standard No. 313 as maintained by the General Services Administration (GSA).

### A. Safety Data Sheets (SDS):

Seller shall not provide any hazardous materials or products containing hazardous materials unless Buyer has approved the Safety Data Sheet (SDS) for the product. SDS provided by Seller shall meet requirements of the United States Occupational Safety and Health Administration (OSHA) Hazard Communication Standard. **Placement of this Order does not constitute approval. If no SDS was approved prior to Order placement, then no hazardous material may be delivered to the Buyer unless and until the Buyer approves the SDS.**

If at any time during performance of this Order, there is a change in the composition of the products or a revision to Federal Standard No. 313, which renders incomplete or inaccurate the submitted SDS, Seller shall promptly notify the Buyer and resubmit the SDS.

Shipments of hazardous materials or products containing hazardous materials shall have a copy of most recent SDS securely attached to external packaging.

Seller must ensure that the most current SDS for its product has been provided to Buyer’s technical authority and that the SDS provided to Buyer’s technical authority matches the subsequent hazardous material shipping



documents. Seller shall notify Buyer and obtain Buyer’s approval prior to shipment if the SDS for a shipment is different than the SDS previously provided for the same product. Delay to Buyer’s receipt of shipment and any transportation costs due to return of product for reasons of an unapproved, inconsistent or incomplete SDS/MSDS are at Seller’s expense.

**B. Prohibited Hazardous Material Constituents:**

This section applies to the extent that a Product does not require an SDS because it is considered an “article” by the OSHA Hazard Communication Standard. Except as agreed to in writing by Buyer, or as specified in this Order, the hazardous material constituents in Prohibited Hazardous Material Constituents Table shall not be included in or come in direct contact with any products furnished under this Order. This requirement applies to all ingredients in such Products (e.g., newly formulated coatings) and all materials of construction in such Product, including sub-component materials (e.g., batteries, circuit boards), applied coatings, applied primers, lubricants, adhesives, and any other consumables that remain on the delivered product. A hazardous material constituent that is an impurity, i.e., a trace amount that is not an ingredient and does not contribute to the function or usefulness of the product, is excluded from these requirements.

<b>Prohibited Hazardous Material Constituents Table</b>		
Asbestos	Lead & Lead Compounds	Beryllium and Beryllium Compounds
Barium & Barium Compounds, including Barium Sulfate	Mercury & Mercury Compounds	Methylene Chloride
Brass and Bronze w/ >1% Lead	Ozone Depleting Substances (ODS) Class 1	Arsenic & Arsenic Compounds in Coatings
Boron Trifluoride	Polychlorinated Biphenyls (PCBs)	Benzene in Coatings
Cadmium & Cadmium Compounds	Selenium & Selenium Compounds	Organometallic Compounds in Coatings
Chromium & Chromium Compounds	Silver & Silver Compounds	

Seller may use “readily available information” to determine whether the product furnished under this Order includes or has come in direct contact with the hazardous material constituents identified in Prohibited Hazardous Material Constituents Table. “Readily available information” sources include:

- (i) Actual knowledge or process knowledge
- (ii) SDS
- (iii) Technical data sheets
- (iv) Manufacturing data.

Except as specified in this Order, chemical analysis, testing, monitoring or certification is not required to determine whether the product includes or has come in direct contact with the hazardous material constituents identified in the Prohibited Hazardous Materials Table. At Buyer’s request, Seller’s “readily available information” shall be made available to the Buyer’s technical authority.

**C. Notifications and Processes for Hazardous Materials:**

Seller shall obtain approval from Buyer’s technical authority (for Orders issued by the Newport News Shipbuilding (NNS) division, via the [Vendor Information Request \(VIR\)](#) or similar process as applicable to this Order) in the following circumstances:

- (i) If there is a change to the product involving the hazardous material constituents identified in the Prohibited Hazardous Materials Table, including the addition, deletion, or change in the type, concentration, usage, or location of a hazardous material constituent.

(ii) If Seller becomes aware that the product to be delivered under this Order includes or has come in direct contact with any of the hazardous material constituents identified in the Prohibited Hazardous Materials Table, based on “readily available information.”

(iii) If the product specifications allow for an alternative that includes a hazardous material constituent identified in the Prohibited Hazardous Materials Table and the Seller desires to select such alternative.

For Orders issued by NNS, the VIR shall include in form [NN9168](#) or similar document a description of the new or changed information, the source of the “readily available information,” and how to physically distinguish between the old and new product (serial numbers, model numbers, physical appearance, etc.).

**D. Services on Site:**

Buyer will not accept or manage hazardous materials unless otherwise specified in this Order. In no event shall title to hazardous material pass to Buyer. Seller shall be responsible for the cost of proper management of hazardous material and hazardous waste that results from the Work. Unless otherwise specified in their Order, all hazardous waste that arises out of or results from any work on Buyer’s property shall be provided to Buyer’s collection area in accordance with site rules. Hazardous waste that arises out of or results from any work on Buyer’s customer’s property will be handled in accordance with site rules. Upon request Seller shall submit to Buyer upon work completion a summary report which shall detail all waste generated at Buyer’s or Buyer’s customer’s property.

Buyer shall not be liable for any personal injury, disease or death, loss or damage, or any claim of any party, including, but not limited to the Seller’s employees or agents, in any way arising out of or resulting from any exposure or claimed exposure to any hazardous or toxic material (for example, without limitation, asbestos) that is present at the work site.

**E. Additional Prohibitions:**

(i) PROHIBITION OF YELLOW WRAPPINGS OR PROTECTION DEVICES. Seller shall not use yellow wrapping material or attached yellow protection devices such as caps or plugs.

(ii) BRASS AND COPPER BLACK OXIDE COATED THREADED FASTENER PROHIBITION. Seller shall not use brass or copper black oxide coated threaded fasteners when installing or replacing threaded fasteners in the accomplishment of any work required by this Order.

**31. INDEMNIFICATION. ([back to top](#))**

Seller shall indemnify and hold harmless Buyer, Buyer’s parent and affiliates, and their respective directors, officers, and employees (collectively, for the purposes of this provision, “Buyer”), from and against any and all liabilities, claims, losses, and expenses arising out of Seller’s performance of this Order in each of the following instances:

A. For the acts and omissions of Seller, its employees, subcontractors, or agents, except where Buyer is solely negligent.

B. For the failure of Seller, its employees, subcontractors or agents:

(i) to comply with any cost principles, Cost Accounting Standards, or disclosed accounting practices,

(ii) to furnish complete, accurate or current cost or pricing data when such data were required by law or regulation in support of any Truthful Cost and Pricing Data (TCPD) certification made by Buyer to the Government or in the negotiation of this Order or any modifications thereto; or

(iii) To comply with any other laws, regulations or ordinances.

C. When Buyer sponsors a claim on Seller’s behalf as provided for in the Disputes provision of this Order, for any misrepresentation of fact or fraud made by Seller, its employees, subcontractors, or agents in connection with such claim, or a defect in Seller’s certification in relation to Buyer’s sponsorship of such claim.

D. For any allegation of patent, copyright, or trademark infringement or allegation of trade secret misappropriation arising from Seller’s work or the Products.

E. For failure by Seller, its subcontractors, employees, or agents, to comply with the requirements of the Export and Import Compliance provision, including breach of the warranty in paragraph A of that provision.

In any of the above instances, Seller shall, at its own cost, defend Buyer against such claims, losses, and liabilities, and, it shall pay Buyer's reasonable attorney fees and expenses, related to carrying out and enforcing the terms of this provision, as those costs are incurred. Buyer has the right to conduct such defenses if it so chooses.

**32. FORCE MAJEURE. ([back to top](#))**

Neither party shall be liable to the other for delays resulting from causes beyond its control and without its fault or negligence including, but not restricted to, acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, inability of the Government to pay the prime contractor timely, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or unusually severe weather (each, a "Force Majeure Event"). Seller shall not be liable for its subcontractor's delays if arising from causes beyond the control and without the fault or negligence of both Seller and such subcontractor and only when Seller could not have obtained the supplies or services from other sources in sufficient time to permit Seller to meet the required delivery schedule. Upon the occurrence of a Force Majeure Event, the affected party shall notify the other party as soon as possible in writing. Any relief shall be limited to an extension of delivery dates or times of performance to the extent caused by the Force Majeure Event.

**33. INDEPENDENT CONTRACTOR. ([back to top](#))**

Seller is an independent contractor. Seller shall have exclusive control and direction over its employees' performance of the work and be responsible for all payroll functions for its employees. No persons employed by Seller or Seller's subcontractors shall be deemed an employee or agent of Buyer for any purpose.

**34. RELEASE OF INFORMATION AND ADVERTISING. ([back to top](#))**

Except as required by law, Seller shall not publicly release any information with respect to this Order or its subject matter without the prior written approval of Buyer. Additionally, Seller shall not use Buyer's name or in any other way identify Buyer in any advertisement, display, news release, or other public disclosure without Buyer's prior written consent.

**35. COMPLIANCE WITH LAWS. ([back to top](#))**

Seller shall comply with all applicable foreign and United States federal, state and local laws, statutes, rulings, ordinances, orders, and regulations in performing this Order.

**36. BUSINESS CONDUCT. ([back to top](#))**

Buyer has implemented a comprehensive Ethics and Business Conduct Program, which includes a "Supplier Code of Conduct." The Supplier Code of Conduct is available at: [https://supplier.huntingtoningalls.com/wp-content/uploads/2022/11/HII-SUPPLIER-Code-of-Ethics-Booklet\\_2022.pdf](https://supplier.huntingtoningalls.com/wp-content/uploads/2022/11/HII-SUPPLIER-Code-of-Ethics-Booklet_2022.pdf). Seller shall have management systems in place to support compliance with the principles addressed in the Supplier Code of Conduct. Buyer shall have the right to pursue corrective actions, up to and including termination of this Order, for Seller's violation of any of the principles set forth in the Supplier Code of Conduct.

**37. CONTINUING TERMS AND SEVERABILITY. ([back to top](#))**

The "Proprietary Information," "Insurance," "Indemnification," "Release of Information and Advertising," and "Warranty" provisions shall survive termination or cancellation of this Order. If any provision in this Order is or becomes void or unenforceable by force or operation of law, all other provisions shall remain valid and enforceable.



**38. NON-WAIVER. ([back to top](#))**

Buyer's failure to enforce any provision of this Order shall not constitute a waiver of the provision or prejudice Buyer's right to enforce that provision at any subsequent time against Seller. Buyer's payment shall not be deemed an acceptance or approval of any defective or unsatisfactory material or workmanship, or a waiver of Buyer's right to later reject the same. The rights and remedies conferred upon Buyer under this Order shall be cumulative and in addition to the rights and remedies granted by law for Seller's breach of contract.

**39. BANKRUPTCY. ([back to top](#))**

If Seller enters into voluntary or involuntary proceedings relating to bankruptcy or insolvency, Seller shall provide notice to Buyer by email and certified mail within five days of the initiation of such proceedings. Seller's notice shall include the date of filing, the identity of the court in which the petition was filed, and a listing of all of Buyer's Orders against which final payment has not been made. This obligation remains in effect until final payment under this Order. In the event Seller enters into proceedings relating to bankruptcy or insolvency, whether voluntary or involuntary, ceases operations, or fails to respond to notices under this Order, Buyer may, at Buyer's sole discretion, pay to Seller's subcontractors at any tier those amounts Seller owes to such subcontractors under this Order to obtain such subcontractor's performance owed to Seller in connection with this Order, and Buyer shall be entitled to set-off such amounts Buyer pays to such subcontractors from any amount owed to Seller under this Order.

**40. PROGRAM MANAGEMENT. ([back to top](#))**

- A. Project Management. Seller will develop and submit a written project plan within 30 days of Buyer's request that, in a format specified by Buyer, outlines tasks, sub-tier deliverables, and detailed schedules for Order performance. Seller shall update the project plan at regular intervals but no less than monthly. Seller shall immediately notify Buyer if Seller becomes aware it will not meet project plan deadlines.
- B. Program Reviews. Buyer may request a program review to assess Seller's performance of this Order. Program reviews will be held at mutually agreed upon locations and each party will bear its own costs and expenses in connection therewith.
- C. No Waiver. Any project management assistance provided to Seller by Buyer or acceptance by Buyer of deficient performance is solely for the purpose of mitigating risk to Order performance. In providing project management assistance, Buyer does not waive any of its rights under the other provisions of this Order.

**41. EQUAL EMPLOYMENT OPPORTUNITIES. ([back to top](#))**

The requirements in 41 CFR 60-1.4 (a)(1)-(8) are incorporated into this Order. Seller and Seller's subcontractors at every tier shall comply with the requirements found therein.

**42. OBSOLESCENCE. ([back to top](#))**

By accepting this Order, Seller represents that it has in its possession or has the ability to obtain all necessary equipment, subassemblies, material, components, and items (collectively referred to as "Parts") required to perform the Order. If during the performance of this Order Seller becomes aware that any Products or Parts will be going out of production or will no longer be commercially available in the future, Seller shall notify the Buyer of such obsolescence. Seller shall specifically identify those Products or Parts by name or title, part number(s), function, and name and location of manufacturer. Should any Parts that Seller intended to use in performance of this Order become obsolete and unavailable to Seller, Seller shall identify and propose alternative Parts for approval by Buyer and, if necessary, the Government, and Seller shall be responsible for any increase in cost necessary to obtain and qualify such alternative Parts to ensure full compliance with the requirements of this Order.

**43. ADDITIVE MANUFACTURING (A.K.A., 3D PRINTING). ([back to top](#))**

Seller shall provide advance written notice and obtain Buyer's written approval for additively manufactured parts or supplies that Seller intends to provide under this Order. Seller shall flow down the substance of this clause to its

subcontractors under this Order.

**44. CYBERSECURITY. [\(back to top\)](#)**

Buyer has implemented a Supply Chain Cybersecurity Compliance and Risk Mitigation Program (SC3RMP) to assess and mitigate cybersecurity risks, raise awareness, and develop proportionate and effective defenses of and across Buyer’s subcontractors. A critical element of SC3RMP is Buyer’s use of Exostar’s Onboarding Module (OBM), which provides a secure platform to report the status of a company’s compliance with DFARS 252.204-7012, and more specifically the security requirements of NIST SP 800-171. Upon request of Buyer, Seller agrees to register and maintain an active account with Exostar OBM (located at [https://www.myexostar.com/?ht\\_kb\\_category=onboarding-module](https://www.myexostar.com/?ht_kb_category=onboarding-module)) and to complete the Exostar OBM cybersecurity questionnaire. Seller also agrees to provide Buyer with information reasonably required by Buyer to assess and address any cybersecurity risks identified by SC3RMP.

**45. FAR/DFARS CLAUSES/PROVISIONS. [\(back to top\)](#)**

- A. The FAR and DFARS clauses listed below are incorporated by reference and made part of this Order with the same force and effect as though set forth in full text.
- B. The terms “Contractor” means “Seller,” “Contracting Officer” means “Buyer,” “Contract” means this Order and “Government” means “Buyer or the Government.” However, the words “Government” and “Contracting Officer” do not change when a right, act, authorization or obligation can be granted or performed only by the Government or the Prime Contract contracting officer or duly authorized representative.
- C. Unless a clause or parenthetical specifies or references a monetary threshold, thresholds for Truthful Cost and Pricing Data (referred to as “TCPD,” and formerly known as TINA), the Simplified Acquisition Threshold (SAT), and the Micro Purchase Threshold (MPT) are those found in the definitions at FAR 2.101. Applicable thresholds are those in effect in the FAR on the date of Order award unless otherwise indicated.
- D. Whenever the FAR or DFARS clauses include a requirement for dispute resolution in accordance with the “Disputes clause,” the dispute shall be disposed subject to the provision entitled “Disputes” in this Order.
- E. The full text of a clause may be accessed electronically at <https://www.acquisition.gov/>.

FAR CLAUSES/PROVISIONS		
CLAUSE NUMBER	CLAUSE NAME	CLAUSE DATE
52.202-1	Definitions <i>(“solicitation” means the Buyer’s customer’s solicitation under which this Order is issued)</i>	(Jun 2020)
52.203-3	Gratuities <i>(“Government” means “Buyer” (except “Government” means “Buyer or Government” in the phrase “to any officer or employee of the Government”))</i>	(Apr 1984)
52.203-6*	Restrictions on Subcontractor Sales to the Government <i>(applies to Orders over the SAT(ALT I applies to commercial items)</i>	(Jun 2020)
52.203-7*	Anti-Kickback Procedures <i>(except subparagraph (c)(1)) (applies to Orders over the threshold at FAR 3.502-2(i))</i>	(Jun 2020)
52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity	(May 2014)
52.203-10	Price or Fee Adjustment for Illegal or Improper Activity	(May 2014)
52.203-12*	Limitation on Payments to Influence Certain Federal Transactions <i>(applies to Orders that exceed the threshold at FAR 3.808)</i>	(Jun 2020)

FAR CLAUSES/PROVISIONS		
CLAUSE NUMBER	CLAUSE NAME	CLAUSE DATE
52.203-13*	Contractor Code of Business Ethics and Conduct <i>(applies to Orders that exceed the threshold at FAR 3.1004(a) and that have a performance period of more than 120 days) (The Parties shall make all disclosures of violation of the civil False Claims Act or of Federal criminal law to the Office of the Inspector General of the agency issuing the prime contract under which this Order is issued with a copy to the Contracting Officer of the prime contract.)</i>	(Nov 2021)
52.203-14*	Display of Hotline Poster(s) <i>(applies to Orders over \$5.5 million except for commercial items or Orders performed entirely outside United States)</i>	(Oct 2015)
52.203-15*	Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 <i>(applies to ARRA funded Orders only)</i>	(Jun 2010)
52.203-16*	Preventing Personal Conflicts of Interest <i>(applicable only to Orders that exceed \$150,000 and in which Seller employees will perform "acquisition functions closely associated with inherently governmental functions")</i>	(Dec 2011)
52.203-19*	Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements	(Jan 2017)
52.204-2*	Security Requirements <i>(applies to Orders requiring access to classified information, delete paragraph (c))</i>	(Mar 2021)
52.204-9*	Personal Identity Verification of Contractor Personnel <i>(applies to Orders requiring access to a Federally-controlled facility or information system; contact Buyer for procedures)</i>	(Jan 2011)
52.204-10	Reporting Executive Compensation and First-Tier Subcontract Awards <i>(unless already provided, Seller shall provide Buyer with the information contained in subparagraph (d)(2) and (d)(3) as applicable; no other terms of the clause apply)</i>	(Jun 2020)
52.204-21*	Basic Safeguarding of Covered Contractor Information Systems <i>(applies to Orders (including those for acquisition of commercial items, other than commercially available off-the-shelf items), in which the Seller may have "Federal contract information," as that term is defined in paragraph (a) of this clause, residing in or transiting through its information system)</i>	(Nov 2021)
52.204-23*	Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities	(Nov 2021)
52.204-25*	Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment	(Nov 2021)
52.204-27*	Prohibition on a ByteDance Covered Application	(Jun 2023)
52.209-6*	Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment <i>(applies to Orders over the threshold specified in FAR 9.405-2(b) for other than commercially available off-the-shelf items)</i>	(Nov 2021)
52.211-5	Material Requirements <i>(the clause's requirement that Contracting Officer approval be obtained before using "surplus property" applies also to residual inventory resulting from terminated Government contracts or purchase orders awarded thereunder)</i>	(Aug 2000)

FAR CLAUSES/PROVISIONS		
CLAUSE NUMBER	CLAUSE NAME	CLAUSE DATE
52.211-15*	Defense Priority and Allocation Requirements	(Apr 2008)
52.215-2*	Audit and Records — Negotiation <i>(applies to Orders over the SAT)</i>	(Jun 2020)
52.215-12*	Subcontractor Certified Cost or Pricing Data <i>(applies to Orders over the TCPD threshold at FAR 15.403-4(a)(1))</i>	(Jun 2020)
52.215-13*	Subcontractor Certified Cost or Pricing Data – Modifications <i>(applies to Orders over the TCPD threshold at FAR 15.403-4(a)(1) on the date of Order modification)</i>	(Jun 2020)
52.215-14*	Integrity of Unit Prices and Alt I (Oct 1997) <i>(applies to Orders over the SAT, delete paragraph(b))</i>	(Nov 2021)
52.215-15*	Pension Adjustments and Asset Reversions <i>(applies to Orders over the TCPD threshold)</i>	(Oct 2010)
52.215-18*	Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions <i>(applies to Orders over the TCPD threshold)</i>	(Jul 2005)
52.215-19*	Notification of Ownership Changes <i>(applies to Orders over the TCPD threshold)</i>	(Oct 1997)
52.215-21	Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data – Modifications	(Nov 2021)
52.215-22	Limitations on Pass-Through Charges – Identification of Subcontract Effort	(Oct 2009)
52.215-23*	Limitations on Pass-Through Charges <i>(applies to cost reimbursable Orders over the TCPD threshold and fixed price Orders over the TCPD threshold at FAR 15.403-2 unless the Order meets an exception at FAR 15.408(n)(2)(i)(B)(2))</i>	(Jun 2020)
52.219-8*	Utilization of Small Business Concerns	(Oct 2018)
52.219-9*	Small Business Subcontracting Plan and Alt II (Nov 2016) <i>(applies to Orders over the threshold at FAR 19.702(a) except commercial items and small businesses)</i>	(Oct 2022)
52.222-1	Notice to the Government of Labor Disputes	(Feb 1997)
52.222-4*	Contract Work Hours and Safety Standards - Overtime Compensation	(May 2018)
52.222-19	Child Labor - Cooperation with Authorities and Remedies <i>(except paragraph (a))</i>	(Dec 2022)
52.222-20	Contracts for Materials, Supplies, Articles and Equipment <i>(applies to Orders exceeding the threshold specified in FAR 22.602)</i>	(Jun 2020)
52.222-21*	Prohibition of Segregated Facilities	(Apr 2015)
52.222-24	Preaward On-Site Equal Opportunity Compliance Evaluation <i>(applies to Orders over \$10 million)</i>	(Feb 1999)
52.222-26*	Equal Opportunity	(Sep 2016)
52.222-35*	Equal Opportunity for Veterans <i>(applies to Orders valued at or above the threshold at FAR 22.1303(a))</i>	(Jun 2020)
52.222-36*	Equal Opportunity for Workers With Disabilities <i>(applies to Orders over the threshold at FAR 22.1408(a))</i>	(Jun 2020)
52.222-37*	Employment Reports on Veterans <i>(applies to Orders valued at or above the threshold at FAR 22.1303(a))</i>	(Jun 2020)
52.222-40*	Notification of Employee Rights Under the National Labor Relations Act <i>(applies to Orders over \$10,000)</i>	(Dec 2010)

FAR CLAUSES/PROVISIONS		
CLAUSE NUMBER	CLAUSE NAME	CLAUSE DATE
52.222-50*	Combating Trafficking in Persons	(Nov 2021)
52.222-54*	Employment Eligibility Verification <i>(applies to Orders for services over \$3,500 for work performed in the United States)</i>	(May 2022)
52.223-7*	Notice of Radioactive Materials	(Jan 1997)
52.223-14*	Toxic Chemical Release Reporting <i>(applies to Orders over \$100,000 except paragraph (e))</i>	(Aug 2003)
52.223-18*	Contractor Policy to Ban Text Messaging While Driving <i>(applies to Orders over the MPT)</i>	(Jun 2020)
52.225-13*	Restrictions on Certain Foreign Purchases	(Feb 2021)
52.227-1*	Authorization and Consent <i>(applies to Orders that exceed the SAT; Alt I applies to Research and Development Orders; Alt II applies to communication services)</i>	(Jun 2020)
52.227-2*	Notice and Assistance Regarding Patent and Copyright Infringement <i>(applies to Orders over the SAT)</i>	(Jun 2020)
52.227-9*	Refund of Royalties <i>(applies when reported royalties exceed \$250)</i>	(Apr 1984)
52.227-10*	Filing of Patent Applications - Classified Subject Matter <i>(applies to Orders that cover or are likely to cover classified subject matters)</i>	(Dec 2007)
52.228-3*	Workers' Compensation Insurance (Defense Base Act) <i>(applies only to work outside the United States subject to the Defense Base Act)</i>	(Jul 2014)
52.228-5*	Insurance - Work on a Government Installation <i>(applies to Orders requiring work on a Government installation)</i>	(Jan 1997)
52.230-2*	Cost Accounting Standards <i>(except paragraph "(b)")</i>	(Jun 2020)
52.230-3*	Disclosure and Consistency of Cost Accounting Practices <i>(except paragraph "(b)")</i>	(Jun 2020)
52.230-6*	Administration of Cost Accounting Standards <i>(applies to Orders with CAS covered Sellers)</i>	(Jun 2010)
52.232-17	Interest	(May 2014)
52.232-40*	Providing Accelerated Payments to Small Business Subcontractors <i>(applies only to Orders with small business concerns)</i>	(Mar 2023)
52.234-1*	Industrial Resources Developed Under Title III, Defense Production Act	(Sep 2016)
52.242-5	Payments to Small Business Subcontractors <i>(applies to Orders over \$700,000 except commercial items and small businesses)</i>	(Jan 2017)
52.242-14	Suspension of Work <i>(change 20 days to 10 days)</i>	(Apr 1984)
52.243-7	Notification of Changes <i>(insert "five (5)" in paragraph (b))</i>	(Jan 2017)
52.244-6*	Subcontracts for Commercial Items	(Jun 2023)
52.245-1	Government Property & Alt I (Aug 2010) <i>(excluding any warranty of suitability/serviceability contained in paragraph (d)(2) and (d)(2)(iii))</i>	(Jan 2017)
52.246-2	Inspection of Supplies – Fixed Price	(Aug 1996)
52.246-4	Inspection of Services – Fixed Price	(Aug 1996)



FAR CLAUSES/PROVISIONS		
CLAUSE NUMBER	CLAUSE NAME	CLAUSE DATE
52.246-6	Inspection – Time-and Material and Labor Hour	(May 2001)
52.247-63*	Preference for U.S.-Flag Air Carriers <i>(applies to any Orders and lower-tier subcontracts that involve international air transportation)</i>	(Jun 2003)
52.247-64*	Preference for Privately Owned U.S.-Flag Commercial Vessels	(Feb 2006)
52.248-1*	Value Engineering <i>(applies to Orders exceeding the SAT, except as specified in FAR 48.201(a)) (substitute “Buyer” for “Contracting Officer” and “Government” throughout, except where used in the term “Government costs” and in paragraph (m) where “Government” shall mean “Government and/or Buyer” )</i>	(Jun 2020)
52.249-2	Termination for Convenience of the Government (Fixed-Price) <i>(in paragraph “c” change from “120” to “60” and paragraph “e” change from “1 year” to “six months”)</i>	(Apr 2012)
52.249-6	Termination (Cost-Reimbursement) <i>(except that paragraph “(d)” is changed from “120” to “60” and paragraph (f) is changed from “1 year” to “six months,” and except that all references to default are deleted) (cost-reimbursement Orders only) (for Time and Material orders use Alt. IV)</i>	(May 2004)

DFARS CLAUSES/PROVISIONS		
CLAUSE NUMBER	CLAUSE NAME	CLAUSE DATE
252.203-7001*	Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies <i>(applies to Orders over the SAT except commercial items)</i>	(Jan 2023)
252.203-7002*	Requirement to Inform Employees of Whistleblower Rights	(Dec 2022)
252.203-7003	Agency Office of the Inspector General	(Aug 2019)
252.203-7004*	Display of Hotline Posters <i>(applies to Orders that exceed the threshold specified in DFARS 203.1004(b)(2)(ii) on the date of Buyer’s prime contract award)</i>	(Jan 2023)
252.204-7000*	Disclosure of Information	(Dec 1991)
252.204-7004*	Antiterrorism Awareness Training for Contracts <i>(applies to all Orders under which Seller will require routine physical access to a Federally-controlled facility or military installation)</i>	(Jan 2023)
252.204-7012*	Safeguarding Covered Defense Information and Cyber Incident Reporting <i>(applies if covered defense information is provided to, or delivered by, Seller under this Order; Seller shall also provide Buyer with any reports it receives from lower tier subcontractors pursuant to this clause)</i>	(Jan 2023)
252.204-7015*	Notice of Authorized Disclosure of Information for Litigation Support	(Jan 2023)
252.204-7018*	Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services	(Dec 2019)
252.204-7020*	NIST SP 800-171 DoD Assessment Requirements	(Nov 2020)
252.208-7000*	Intent to Furnish Precious Metals as Government-Furnished Material	(Dec 1991)
252.211-7003*	Item Unique Identification and Valuation <i>(applies to Orders when any item is listed as requiring unique item identification)</i>	(Jan 2023)
252.211-7007	Reporting of Government-Furnished Property	(Mar 2022)

DFARS CLAUSES/PROVISIONS		
CLAUSE NUMBER	CLAUSE NAME	CLAUSE DATE
252.215-7000	Pricing Adjustments <i>(applies when it is contemplated that Cost or Pricing Data will be required)</i>	(Dec 2012)
252.219-7003	Small Business Subcontracting Plan (DoD Contracts)-Basic <i>(supplements FAR 52.219-9)</i>	(Dec 2019)
252.219-7004	Small Business Subcontracting Plan (Test Program) <i>(applies to Orders expected to exceed \$700,000 for subcontractors that participate in the Test Program described in DFARS 219.702-70)</i>	(Apr 2018)
252.222-7006	Restrictions on the Use of Mandatory Arbitration Agreements <i>(applies to Orders over \$1 million, except commercial items)</i>	(Jan 2023 )
252.223-7006*	Prohibition on Storage, Treatment, and Disposal of Toxic or Hazardous Materials—Basic <i>(applies only when performing work on a DoD facility)</i>	(Sep 2014)
252.223-7008*	Prohibition of Hexavalent Chromium <i>(applies to Orders for supplies, maintenance and repair services, or construction materials)</i>	(Jan 2023)
252.225-7001	Buy American and Balance of Payments Program-Basic	(Jan 2023)
252.225-7002	Qualifying Country Sources as Subcontractors	(Mar 2022)
252.225-7004	Report of Intended Performance Outside the United States and Canada – Submission After Award <i>(applies to Seller only for Orders that exceed the threshold specified in DFARS 225.7201(a) on the date of award of Buyer's prime contract that could be performed in the United States or Canada)</i>	(Oct 2020)
252.225-7007*	Prohibition on Acquisition of Certain Items from Communist Chinese Military Companies <i>(applies to Orders for items covered by the United States Munitions List and 600 series of the Commerce Control List)</i>	(Dec 2018)
252.225-7008	Restriction on Acquisition of Specialty Metals	(Mar 2013)
252.225-7009*	Restriction on Acquisition of Certain Articles Containing Specialty Metals <i>(except paragraphs (d) and (e)(1); Sellers using the minimal content exception in paragraph (c)(6) shall submit a "Good Faith Estimate" on a form designated by Buyer)</i>	(Dec 2019)
252.225-7012	Preference for Certain Domestic Commodities	(Apr 2022 )
252.225-7013*	Duty-Free Entry	(Apr 2020)
252.225-7015	Restriction on Acquisition of Hand or Measuring Tools	(Jun 2005)
252.225-7016*	Restriction on Acquisition of Ball and Roller Bearings <i>(except for commercial items and items not containing ball or roller bearings)</i>	(Jan 2023 )
252.225-7019*	Restriction on Acquisition of Anchor and Mooring Chain <i>(applies to items containing welded shipboard anchor and mooring chain, four inches or less in diameter)</i>	(Dec 2009)
252.225-7021	Trade Agreements-Basic	(Jan 2023)
252.225-7025*	Restriction on Acquisition of Forgings <i>(applies to forged items or items containing forged items)</i>	(Dec 2009)
252.225-7030	Restriction on Acquisition of Carbon, Alloy, and Armor Steel Plate	(Dec 2006)
252.225-7033*	Waiver of United Kingdom Levies <i>(applies to Orders with UK firms exceeding \$1 million)</i>	(Apr 2003)

DFARS CLAUSES/PROVISIONS		
CLAUSE NUMBER	CLAUSE NAME	CLAUSE DATE
252.225-7038	Restriction on Acquisition of Air Circuit Breakers	(Dec 2018)
252.225-7043	Antiterrorism/Force Protection Policy for Defense Contractors Outside the United States	(Jun 2015)
252.225-7048*	Export-Controlled Items	(Jun 2013)
252.225-7052*	Restriction on the Acquisition of Certain Magnets, Tantalum, and Tungsten	(Jan 2023)
252.226-7001*	Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns <i>(applies to Orders exceeding \$500,000)</i>	(Jan 2023)
252.227-7013*	Rights in Technical Data - Noncommercial Items & Alt II (Mar 2022) <i>(applies only to technical data if any portion was developed at Government expense)</i>	(Feb 2014)
252.227-7014*	Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation <i>(applies only to computer software or computer software documentation if any portion was developed at Government expense)</i>	(Feb 2014)
252.227-7015*	Technical Data – Commercial Items & Alt. I (Mar 2022) <i>(applies to Orders for technical data for commercial items developed in any part at private expense)</i>	(Feb 2014)
252.227-7016*	Rights in Bid or Proposal Information	(Jan 2023)
252.227-7019*	Validation of Asserted Restrictions - Computer Software <i>(applies to Orders with deliverables for computer software)</i>	(Sep 2011)
252.227-7025	Limitations on the Use or Disclosure of Government-Furnished Information Marked With Restrictive Legends	(Jan 2023)
252.227-7037*	Validation of Restrictive Markings on Technical Data	(Jan 2023)
252.227-7038*	Patent Rights—Ownership by the Contractor (Large Business) <i>(applies to Orders for experimental, developmental, or research work)</i>	(Jun 2012)
252.227-7039	Patents - Reporting of Subject Inventions	(Apr 1990)
252.231-7000	Supplemental Cost Principles	(Dec 1991)
252.232-7017*	Accelerating Payments to Small Business Subcontractors—Prohibition on Fees and Consideration	(Apr 2020)
252.234-7004*	Cost and Software Data Reporting System—Basic <i>(applies to Orders over \$50 million)</i>	(Nov 2014)
252.235-7003*	Frequency Authorization – Basic <i>(applies to Orders requiring radio frequency authorization)</i>	(Mar 2014)
252.239-7016*	Telecommunications Security Equipment, Devices, Techniques, and Services <i>(applies to Orders that require securing telecommunications)</i>	(Dec 1991)
252.243-7001	Pricing of Contract Modifications	(Dec 1991)
252.244-7000*	Subcontracts for Commercial Items and Commercial Components (DoD Contracts) <i>(supplements FAR 52.244-6)</i>	(Jan 2023)
252.245-7001	Tagging, Labeling, and Marking of Government-Furnished Property	(Apr 2012)
252.245-7002	Reporting Loss of Government Property <i>(Seller shall forward the information required by the clause to Buyer)</i>	(Dec 2017)
252.245-7003	Contractor Property Management System Administration	(Apr 2012)



DFARS CLAUSES/PROVISIONS		
CLAUSE NUMBER	CLAUSE NAME	CLAUSE DATE
252.245-7004	Reporting, Reutilization, and Disposal <i>(Seller shall provide inventory disposal schedules to Buyer)</i>	(Dec 2017)
252.246-7001	Warranty Of Data–Basic	(Mar 2014)
252.246-7003*	Notification of Potential Safety Issues <i>(applies to Orders for Products identified as: (i) critical safety items; (ii) systems and subsystems, assemblies, and subassemblies integral to a system; or (iii) repair, maintenance, logistics support, or overhaul services for systems and subsystems, assemblies, subassemblies, and parts integral to a system)</i>	(Jan 2023)
252.246-7007*	Contractor Counterfeit Electronic Part Detection and Avoidance System <i>(excluding the introductory text and including only paragraphs (a) through (e)) (applies to Orders requiring delivery of electronic parts or assemblies containing electronic parts)</i>	(Jan 2023)
252.246-7008*	Sources of Electronic Parts <i>(applies to Orders for electronic parts or assemblies containing electronic parts, unless Seller is the original manufacturer)</i>	(Jan 2023)
252.247-7023*	Transportation of Supplies by Sea - Basic <i>(applies to Orders over the SAT; if this Order is below the SAT, only paragraphs (a) through (e), and paragraph (i), apply)</i>	(Jan 2023)
252.249-7002	Notification of Anticipated Contract Termination or Reduction <i>(applies to Orders that equal or exceed the threshold specified in DFARS 249-7003 (c)(1) at the time of the notice; delete paragraph (d)(1) and the first five words of paragraph (d)(2))</i>	(Dec 2022)

\* Denotes mandatory flow down where applicable.