

**GENERAL PROVISIONS – COST REIMBURSEMENT CONTRACT  
U.S. GOVERNMENT CONTRACT**

- 1. Definitions** As used throughout this Contract, including provisions incorporated by reference, the following terms shall have the meaning set forth below:
- (a) "Buyer" means General Dynamics C4 Systems, Inc., the legal entity issuing this order.
  - (b) "Buyer's Authorized Procurement Representative" means the authorized Purchasing Agent, Subcontract Manager, or Contract Manager representing Buyer.
  - (c) "Contract" means the contractual instrument (e.g. Agreement, Purchase Order or Subcontract) into which these General Provisions are incorporated.
  - (d) "Contractor" means "Seller".
  - (e) "Goods" means supplies or services provided by Seller.
  - (f) "Government" means the Government of the United States of America.
  - (g) "Seller" means the person, firm or corporation executing this Contract with Buyer and which will furnish the Goods provided for herein.

**2. Formation of Contract** This is Buyer's offer to purchase the Goods described in this Contract. Acceptance is strictly limited to the terms and conditions included in this document. Buyer objects to, and is not bound by, any term or condition that differs from or adds to this offer, unless specifically agreed to in writing by Buyer's Authorized Procurement Representative. Seller's acceptance of this offer shall be evidenced by commencement of performance or by acceptance of this offer in writing.

**3. Changes** Buyer's Authorized Procurement Representative may, in writing, direct changes in: (i) drawings, designs and specifications, to include technical requirements and descriptions included in the statement of work, (ii) reasonable adjustments in quantities and/or delivery schedules, (iii) place of delivery, inspection or acceptance, (iv) shipment or packing methods, (v) amount of Buyer-furnished property; and, if this Contract includes services, (vi) description of services, place, and / or time of performance of the services, within the general scope of this Contract. If the Buyer's Authorized Procurement Representative directed change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the directed change, Seller must assert any claim in writing within twenty-five (25) days and deliver a fully supported proposal to Buyer's Authorized Procurement Representative within sixty (60) days after Seller's receipt of such a directed change. Buyer and Seller shall negotiate an equitable adjustment in the price and / or schedule to reflect the increase or decrease. Failure of the parties to agree upon any adjustment shall not excuse Seller from performing in accordance with Buyer's direction. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the article of this contract entitled "Dispute Resolution." Buyer may, at its sole discretion, consider any claim regardless of when asserted. If Seller's proposal includes the cost of property made obsolete or excess by the change, Buyer may direct the disposition of the property. Seller shall use its best efforts to mitigate damages by attempting to sell obsolete or excess supplies to other customers.

Buyer's engineering and technical personnel may from time to time render assistance or give technical advice to, or discuss or affect an exchange of information with the Seller's personnel concerning the work hereunder. Such actions shall not be deemed to be a change under this article and shall not vest Seller with authority to change the work hereunder. In the event Seller receives an instruction, order, or advice that Seller deems to be a change from anyone other than Buyer's Authorized Procurement Representative, Seller shall immediately advise Buyer's Authorized Procurement Representative of that instruction, order, or advice. Seller shall not be entitled to any adjustment of the contract price, delivery schedule or other contract provisions because of actions taken by the Seller pursuant to said instruction, order or advice without a written Purchase Order Revision, Change Order, or Supplemental Agreement to this Contract issued by Buyer's Authorized Procurement Representative.

The Seller shall not make any changes in the work or end items (including assemblies, subassemblies, parts and components thereof) that do not conform to the requirements of this contract without the prior written consent of Buyer. Seller may prescribe a procedure for the reporting and approval of changes initiated by the Seller.

**4. Rights and Use of Proprietary Information and Materials** All (a) proprietary and/or trade secret information; (b) tangible items containing, conveying or embodying such information; and (c) tooling identified as being subject to this clause and obtained, directly or indirectly, from Buyer in connection with this Contract that are clearly marked as “Proprietary” (collectively referred to as “Proprietary Information and Materials”) shall remain Buyer’s property and shall be protected from unauthorized use and disclosure.

Seller shall use Proprietary Information and Materials only in the performance of and for the purpose of this Contract. The restrictions on disclosure or use of Proprietary Information and Materials by Seller shall apply to all materials derived by Seller or others from Buyer's Proprietary Information and Materials.

Upon the completion, termination or cancellation of this Contract, or upon Buyer's request at any time, Seller shall return to Buyer all of Buyer's Proprietary Information and Materials and all materials derived there from, unless specifically directed otherwise in writing by Buyer. Seller shall not, without the prior written authorization of Buyer, sell or otherwise dispose of (as scrap or otherwise) any parts or other materials containing, conveying, embodying or made in accordance with or by reference to any Proprietary Information and Materials of Buyer. Prior to disposing of such parts or other materials as scrap, Seller shall render them unusable. Buyer shall have the right to audit Seller’s compliance with this article.

Seller may disclose Proprietary Information and Materials of Buyer to its subcontractors as required for the performance of this Contract, provided that each such subcontractor first agrees in writing to the same obligations imposed upon Seller under this article relating to Proprietary Information and Materials. Seller shall be liable to Buyer for any breach of such obligation by such subcontractor.

The provisions of this article are effective in lieu of any restrictive legends or notices applied to Proprietary Information and Materials. The provisions of this article shall survive the performance, completion, termination or cancellation of this Contract for a period of two (2) years.

**5. Work Performed on Buyer Premises or on Premises of Buyer’s Customer(s) or Access to Buyer’s Information Systems**

a) If this Agreement involves work by Seller on the premises of Buyer or Buyer’s Customer(s), Seller shall comply with and take all precautions required by any safety and security regulations and Buyer internal policies or procedures to prevent the occurrence of any injury to person or property during the performance and progress of such Work. Seller shall promptly notify Buyer of any such injury or damage. In addition to any other indemnification obligations in this Agreement, Seller hereby assumes entire responsibility and liability for any and all damage or injury of any kind or nature whatsoever to all persons, whether employees of Seller, or otherwise, and to all property, caused by, resulting from, or arising out of Seller's negligence or that of its agents or employees when performing work on the premises of Buyer or Buyer’s Customer(s).

b) Seller shall at all times enforce strict discipline and good conduct among its employees, and shall not employ in connection with the services covered by this Agreement any unqualified or unfit person or anyone not skilled in the work assigned to him or her. Seller also agrees that any employee, subcontractor, or agent provided under this Agreement to Buyer will abide by and perform in accordance with the employment policies of Buyer, which address mandatory internal dispute resolution of all covered claims, sexual and other unlawful harassment, drug and alcohol abuse, and equal employment opportunity. Seller shall indemnify and hold Buyer harmless against any liability arising from a violation of such policies by Seller's employee, subcontractor, or agent. In addition to any other remedies available to Buyer, Buyer may, without notice and an opportunity to cure, expel from its property/worksites, or the property or worksite of Buyer’s Customer(s), any employee, subcontractor or agent of Seller found violating any Buyer policy.

c) Seller must receive written permission from Buyer or Buyer’s Customer(s) before storing any materials upon the premises or constructing any temporary workshop or other apparatus on the premises. Seller agrees to keep the premises free from accumulations of waste material or rubbish caused by its employees, subcontractors, or agents during performance, and at the completion of performance, Seller shall remove from the premises all rubbish, implements, and surplus materials and leave the premises broom clean, unless otherwise instructed by Buyer or Buyer’s Customer(s). Seller shall properly store all loose tools and materials.

d) Prior to Buyer issuing any “No-Escort” badges to Seller’s employees performing work in the operating areas of Buyer’s premises or facilities for a period of 45 days or more within a 365 day period, or having any access to Buyer computer information systems for any period of time, Seller, shall, at its own expense, obtain a

Background Investigation (BI) on the Seller's employee in accordance with standards established by Buyer's Security Organization.

**6. Warranty** Seller warrants that: (a) each of its employees assigned to perform the Services hereunder shall have the proper skill, training and background so as to be able to perform in a competent and professional manner and that all work will be performed in accordance with the applicable statement of work; and (b) Buyer will receive free, good and clear title to all deliverables developed under this Agreement. In addition to the foregoing warranties, any applicable Statement of Work may contain additional warranties that specifically apply to such Statement of Work. If the Goods or any part of the Goods is a commercial item then the commercial warranty shall be transferred to the Buyer.

**7. Schedule** Seller shall strictly adhere to the shipment or delivery schedules specified in this Contract. Failure of the Seller to meet shipment or delivery schedules may constitute grounds for termination. In the event of any anticipated or actual delay, Seller shall: (i) promptly notify Buyer in writing of the reasons for the delay and the actions being taken to overcome or minimize the delay; (ii) provide Buyer with a written recovery schedule; and (iii), if requested by Buyer, ship via air or expedited routing to avoid or minimize delay to the maximum extent possible, unless Seller is excused from prompt performance as provided in the "Force Majeure" clause. The added premium transportation costs are to be borne by Seller.

Seller shall not deliver Goods prior to the scheduled delivery dates unless authorized by Buyer.

**8. Inspection/ Quality Control** Seller shall establish and maintain a Quality assurance system that is acceptable to Buyer and complies with the Contract's requirements, including Purchase Order notes and the Statement of Work.

**9. Seller Notice of Discrepancies** Seller shall immediately notify Buyer in writing when discrepancies in Seller's process, materials, or approved inspection/quality control system are discovered or suspected which may affect the Goods delivered or to be delivered under this Contract.

**10. Plant Visits** During performance of this contract, authorized representatives of Buyer, Buyer's customer, or the Government shall have the right to visit Contractor's facilities involved in the performance hereunder at any time during normal business hours to review, monitor, coordinate or expedite performance and to secure necessary information for such purposes. Such visits will be coordinated with Contractor's cognizant personnel to minimize any effect on Contractor's normal operations.

**11. Packing and Shipping** All delivered supplies shall be preserved, packaged, packed and marked in accordance with instructions or specifications referred to or incorporated by reference in this Contract. In the absence of such instructions or specifications, for domestic shipments, the shipment shall be made FOB (Buyer's Facility) utilizing best commercial practice adequate (i) to assure safe arrival at destination; (ii) for storage and for protection against the elements and transportation, (iii) to comply with carrier regulations appropriate to the method of shipment used, and (iv) to secure lowest transportation cost.

All shipments against this Contract to be forwarded on one day via the same route must be consolidated. A packing list, showing Buyer's purchase order/subcontract number, Contract item number and description of contents must be included in each package. Buyer's purchase order /subcontract number must appear on all packages, boxes, bills of lading, invoices, correspondence and other documents pertaining to this Contract. The Government Contract number shown in the Schedule must appear on all of the Contractor's purchase orders and subcontracts hereunder.

If Contractor's deliveries fail to meet schedule, Contractor at its expense will use an expedited method of shipment requested and specified by Buyer's until all deficiencies are corrected and deliveries are on schedule.

**12. Acceptance and/or Rejection** Buyer shall accept the Goods or give Seller notice of rejection within thirty (30) days after delivery, notwithstanding any payment or prior test or inspection. No inspection, test, delay, or failure to inspect/test or failure to discover any defect or other nonconformance shall relieve Seller of any of its obligations under this Contract or impair any rights or remedies of Buyer or Buyer's customers. Buyer may revoke acceptance of Goods if the Goods are not conforming and if Buyer's acceptance was reasonably induced either by the difficulty of discovery before acceptance or by the Seller's assurances.

If Seller delivers nonconforming Goods, Buyer may require Seller to promptly correct or re-perform the nonconforming Goods. The cost of replacement or correction shall be included in allowable cost, determined as provided in the Allowable Cost and Payment clause, but no additional fee shall be paid. Seller shall disclose any corrective action taken. All repair, replacement and other correction and redelivery shall be completed within the original delivery schedule or such later time as Buyer's Authorized Procurement Representative may reasonably direct.

Notwithstanding the paragraph above of this clause, the Buyer may at any time require the Seller to remedy by correction or replacement, without cost to the Buyer, any failure by the Seller to comply with the requirements of this contract, if the failure is due to (1) Fraud, lack of good faith, or willful misconduct on the part of the Seller's managerial personnel; or (2) The conduct of one or more of the Seller's employees selected or retained by the Seller after any of the Seller's managerial personnel has reasonable grounds to believe that the employee is habitually careless or unqualified. See FAR 52.246-3 "Inspection of Supplies-Cost Reimbursement" and FAR 52.246-5 "Inspection of Services-Cost Reimbursement for additional requirements.

**13. Suspension of Work** Buyer's Authorized Procurement Representative may, by written order only, suspend part or all of the work to be performed under this Contract for a period not to exceed 90 calendar days unless the parties mutually agree to an extension. Within this 90 day period of work suspension, the Buyer shall (i) cancel the suspension of work order; (ii) terminate this contract in accordance with the "Termination" article of this Contract; or (iii) extend the stop work period.

If the Buyer cancels the suspension of work order by written notification, Seller shall resume work. The Buyer and Seller shall negotiate an equitable adjustment in the price or schedule or both if (i) the suspension results in a change in Seller's cost of performance or ability to meet the contract delivery schedule; and (ii) Seller submits a claim for adjustment within twenty (20) days after the suspension is canceled.

**14. Termination** Buyer may terminate all or any part of this Contract by written notice to Seller if (i) termination is in the best interest of the Buyer, (ii) Seller fails to deliver the Goods within the time specified by this Contract or any written extension; (iii) Seller fails to perform any other provision of this Contract or fails to make progress, so as to endanger performance of this Contract, and, in either of these two circumstances, does not cure the failure within ten (10) days after receipt of notice from Buyer specifying the failure; or (iv) in the event Seller declares bankruptcy, suspension of business, or initiates any reorganization and/or arrangement for the benefit of its creditors. In the event of such termination, Seller shall immediately cease all work terminated hereunder and cause any and all of its suppliers and subcontractors to cease work. Seller must submit all claims within sixty (60) days after the effective date of termination. Buyer shall determine the amount due Seller on the Termination in accordance with FAR 52.249-6. In no event shall Buyer be obligated to pay Seller any amount in excess of the Contract price. Seller shall continue work not terminated.

**15. Invoices and Payment** Payment of the Contract price or any portion thereof for Goods delivered shall not constitute acceptance. Seller shall be paid upon submission of invoices, which shall be sent to Buyer twice monthly. Buyer shall pay for all Goods within thirty (30) days from date of a receipt of an acceptable invoice. Payment due date, including discount periods, shall be computed from this date. All Payments by Buyer under this Contract shall be made by electronic funds transfer (EFT). In the event Buyer is unable to release one or more payments by EFT, payment shall be deemed to have been made on the date the Buyer's check is mailed or payment is otherwise tendered. Seller shall promptly repay to Buyer any amounts paid in excess of amounts due Seller. Allowable cost shall be determined in accordance with FAR 52.216-7 "Allowable Cost and Payment".

**16. Taxes** The costs invoiced under this Contract include, and Seller is liable for and shall pay, all taxes, impositions, charges and exactions imposed on or measured by this Contract except for applicable sales and use taxes that are separately stated on Seller's invoice. Prices shall not include any taxes, impositions, charges or exactions for which Buyer has furnished a valid exemption certificate or other evidence of exemption.

**17. Records and Audit** Seller agrees to maintain accurate records in support of effort spent in the performance of this Contract, including, but not limited to, the number of hours worked and costs and expenses claimed for reimbursement. Seller's records shall be maintained in conformance with recognized accounting principles.

Seller shall maintain these records for a period of three (3) years from the date of final payment under this Contract.

At any time before final payment, Buyer may audit the Seller's invoices, bills, and statements of cost for the purposes of determining whether Seller's costs are allocable and allowable to this contract. Proprietary rate information withheld from Buyer's audit must be made available for audit by either an independent third party auditor or Government auditors (including, but not limited to, the Comptroller General, the acquiring agency, and audit agencies such as the DCAA). Any payments to Seller will be reduced by amounts found not to constitute allocable and allowable costs. Furthermore, payments may be adjusted for prior overpayments or underpayments."

**18. Governing Law and Venue** This Contract shall be interpreted using the law of federal government contracts as determined by agency Boards of Contract Appeals and Federal Courts. In the absence of such applicable Federal law, this Contract shall be interpreted using the Law of the State of Arizona without resort to Arizona's conflict of laws rules. Venue shall be in a court of competent jurisdiction in Maricopa County within the State of Arizona.

#### **19. Compliance with Applicable Laws**

**Federal, State, and Local** Seller agrees to comply with all applicable laws, orders, rules, regulations, and ordinances. Seller shall procure all licenses/permits, pay all fees, and other required charges and shall comply with all applicable guidelines and directives of any local, state, and/or federal governmental authority.

**Export and National Security Laws** Seller shall not export, directly or indirectly, any hardware, software, technology, information or technical data disclosed under this Contract to any individual or country for which the U.S. Government requires an export license or other government approval, without first obtaining such license or approval.

Seller further understands that Buyer is a defense contractor providing work for the United States Government, and as such, is under certain mandatory security obligations with regard to access to its facilities and technology. Due to the fact that disclosure of certain information to any individual may be deemed an export, Seller agrees that it will not assign any worker to perform services under this Agreement (including the Seller him or herself) unless that person qualifies as a "U.S. person," defined as:

- i. U.S citizen;
- ii. U.S. nationals, including an alien lawfully admitted for permanent resident (those possessing a valid Form I-550 or "green card");
- iii. Alien admitted following a 1986 amnesty statute;
- iv. Asylee or refugee as defined in 8 U.S.C. 1324(b)(a)(3); or
- v. Alien lawfully admitted for temporary agricultural employment.

Seller further agrees that, should Buyer determine that the work performed under this Agreement will enable persons working for the Seller (including the Seller) to have access to unclassified information that relates to a U.S. Government classified program, or other information regulated by the National Industrial Security Program Operating Manual ("NISPOM"), Seller will not assign any worker to perform services under this Agreement (including the Seller) unless such persons are citizens of the United States.

In addition to the foregoing requirements, Seller will comply with the Immigration Reform and Control Act of 1986 ("IRCA") and in particular, have all of its workers fill out an I-9 form, verifying their authorization to work in the United States.

**Foreign Corrupt Practices Act and Anti-Bribery Laws** Seller agrees that in connection with activities under this Agreement it shall not make or promise to make any improper payments, or provide or offer to provide anything of value, directly or indirectly, to government officials or other parties in violation of the Foreign Corrupt Practices Act or other applicable anti-bribery laws.

**Indemnification** Seller shall indemnify and hold Buyer harmless for all claims, demands, damages, costs, fines, penalties, attorneys' fees, and other expenses arising from Seller's failure to comply with this clause.

**20. Rights and Remedies** Any failures, delays or forbearances of either party in insisting upon or enforcing any provisions of this Contract, or in exercising any rights or remedies under this Contract, shall not be construed as a waiver or relinquishment of any such provisions, rights or remedies; rather, the same shall remain in full force and effect. Except as otherwise limited in this Contract, the rights and remedies set forth herein are cumulative and in addition to any other rights or remedies that the parties may have at law or in equity. If any provision of this Contract is or becomes void or unenforceable by law, the remainder shall be valid and enforceable.

**21. Dispute Resolution** In the event of any dispute, claim, question, or disagreement arising from or relating to this agreement or the breach thereof, the parties hereto shall attempt to settle the dispute, claim, question, or disagreement. To this effect, the parties shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties. If the parties do not reach such solution (or agree in writing to mediate the dispute) within a period of 30 days, then, upon notice by either party to the other, all disputes, claims, questions, or differences shall be finally settled by arbitration administered by the American Arbitration Association in accordance with the provisions of its Commercial Arbitration Rules and Mediation Procedures. The American Arbitration Association will select one arbitrator to resolve the dispute and the arbitration will be held in Phoenix, Arizona.

Disputes, claims, questions, or disagreement that are based on intellectual property rights (including, but not limited to patent validity and infringement, trademark or copyright infringement, and misuse or disclosure of trade secrets) shall be submitted to a court of competent jurisdiction and are not subject to the arbitration procedures mandated by this clause.

The arbitrator will have no authority to award punitive or other damages not measured by the prevailing party's actual damages, except as may be required by statute.

The arbitrator shall award to the prevailing party, if any, as determined by the arbitrator, all of its costs and fees. "Costs and fees" mean all reasonable pre-award expenses of the arbitration, including the arbitrators' fees, administrative fees, travel expenses, out-of-pocket expenses such as copying and telephone, court costs, witness fees, and attorneys' fees.

The procedures set forth in this Article shall be the sole and exclusive procedures for the resolution of disputes between the parties arising out of or relating to this Agreement; provided, however, that a party may seek a preliminary injunction or other provisional judicial relief if, in its sole judgment, such action is necessary. Despite such action, the parties will continue to participate in good faith in the procedures specified in this Article. All applicable statutes of limitations and defenses based upon the passage of time shall be tolled while the procedures (including optional mediation) specified in this Article are pending. The parties will take necessary action that is required to effectuate such tolling. Each party is required to continue to perform its obligations under this contract pending resolution of any dispute arising out of the contract unless to do so would be impossible under the circumstances. The requirements of this Article shall not be deemed to constitute a waiver of any right of termination under this contract.

**22. Assignment, Delegation, and Subcontracting** Seller shall not assign any of its rights or interests in this Contract and/or all or substantially all of its performance of this Contract without Buyer's prior written consent. Seller shall not delegate any of its duties or obligations under this Contract. Seller may assign its right to monies due or to become due. No assignment, delegation or subcontracting by Seller, with or without Buyer's consent, shall relieve Seller of any of its obligations under this Contract or prejudice any of Buyer's rights against Seller whether arising before or after the date of any assignment. This article does not limit Seller's ability to purchase standard commercial supplies or raw materials.

**23. Gratuities** Seller warrants that neither it nor any of its employees, agents or representatives have offered or given, or will offer or give, any gratuities to Buyer's employees, agents or representatives for the purpose of securing this Contract or securing favorable treatment under this Contract.

**24. Publicity** Except as required by law, Seller shall not issue any press release or make any other public statement relating to this Agreement, any work done under this Agreement or any of the transactions contemplated by this Agreement without obtaining the prior written approval of Buyer as to the contents and the manner of presentation and publication of such press release or public statement.

**25. Order of Precedence** The rights and obligations of the parties to this contract shall be subject to and governed by the Statement of Work, these Terms and Conditions, and any proposals, specifications or other documents or provisions which are made a part of this contract by reference or otherwise. To the extent of any inconsistency between (i) the Statement of Work and these Terms and Conditions and (ii) proposals, specifications or other documents or provisions which are made a part of this contract by reference or otherwise, the Statement of Work and these Terms and Conditions shall control. To the extent of any inconsistency between (i) the Statement of Work and (ii) these Terms and Conditions, the Statement of Work shall control.

**26. Organizational Conflict of Interest** Seller certifies that to the best of its knowledge performance of this Contract does not constitute an organizational conflict of interest as defined in FAR Part 9.5. If during the course of performance Seller becomes aware of any possible organizational conflict of interest due to its performance or the SOW under this Contract, Seller shall promptly notify Buyer.

**27. Intellectual Property Indemnity** Seller agrees to not incorporate Seller or third party intellectual property into the work product of this Contract without the express prior written permission of Buyer.

Seller will indemnify, defend and hold harmless Buyer and its customer from all claims, suits, actions, awards, liabilities, damages, costs and attorneys' fees related to the actual or alleged infringement of any United States or foreign intellectual property right and arising out of the Goods provided by Seller. Buyer and/or its customer will duly notify Seller of any such claim, suit or action; and Seller will, at its own expense, fully defend such claim, suit or action on behalf of indemnitees.

Seller will have no obligation under this article with regard to any infringement arising from (a) Seller's compliance with formal specifications issued by Buyer where infringement could not be avoided in complying with such specifications or (b) use or sale of Goods in combination with other items when such infringement would not have occurred from the use or sale of those Goods solely for the purpose for which they were designed or sold by Seller.

For purposes of this article only, the term Buyer will include the General Dynamics Corporation, all of its subsidiaries, all officers, agents, and employees of Buyer.

## **28. Insurance and Indemnification**

**Minimum Insurance requirements** Unless higher amounts or additional coverage are stated elsewhere in this agreement, during the performance of this contract or order, Seller shall maintain the following types of insurance coverage in the minimum amounts stated:

Workman's Compensation, Jones Act or similar - Statutory limits

Employer Liability - \$1,000,000 per occurrence

Comprehensive General Liability - \$1,000,000 for personal injury and property damage – Combined single limit per occurrence.

Comprehensive Automobile Liability (If motor vehicles are used during performance of this contract) - \$1,000,000 for personal injury and property damage – Combined single limit per occurrence

### **Additional Requirements**

- i. Seller shall provide a certificate of insurance on request by Buyer from a carrier reasonably acceptable to Buyer (Minimum A.M. Best rating of A- or better).
- ii. Upon request of Buyer, Seller shall add the General Dynamics Corporation and General Dynamics C4 Systems, Inc. as additional insureds and cancellation notice recipients.
- iii. Seller shall immediately notify Buyer in writing of any cancellation of coverage required under Section 28 above, any reduction in Seller's coverage below the minimum requirements set forth in Section 28, or any material change in the terms and conditions of Seller's coverage.

- iv. Seller shall cause its Workers Compensation carrier to waive in writing its right of subrogation against Buyer.
- v. Buyer may, in its discretion, accept Seller's self-insurance program in lieu of coverage required under this clause.
- vi. Seller agrees that Seller, Seller's insurer(s) and anyone claiming by, through, under or in Seller's behalf shall have no claim, right of action or right of subrogation against Buyer and its customers.

**Indemnification** Seller agrees to indemnify and hold harmless Buyer, its affiliates, subsidiaries, directors, officers, employees and agents from and against all actions, causes of action, liabilities, claims, suits, judgments, liens, awards and damages of any kind and nature whatsoever for (a) property damage, (b) personal injury, (c) death (including without limitation injury to or death of employees of Seller or any of its suppliers thereof), (d) expenses, (e) costs of litigation, or (f) legal counsel fees which arise out of, or are in any way related to Seller's or any of its suppliers' 1) breach of obligations or responsibilities arising from this contract or order, or 2) failure to comply with all applicable local, state and Federal Laws and regulations in the performance of this Contract. Seller's obligation hereunder is not limited to insurance available to or provided by Seller or any of its suppliers. Seller expressly waives any immunity under industrial insurance, however arising, to the extent of the indemnity set forth in this paragraph.

**29. Protection of Property.** At all times Seller shall, and ensure that any of Seller's suppliers shall, use suitable precautions to prevent damage to Buyer's property. If any such property is damaged by the fault or negligence of Seller or any Seller thereof, Seller shall, at no cost to Buyer, promptly and equitably reimburse Buyer for such damage or repair or otherwise make good such property to Buyer's satisfaction. If Seller fails to do so, Buyer may perform the repairs and recover from Seller the cost thereof.

**30. LIMITATION OF LIABILITY – IN ADDITION TO ANY OTHER LIMITATIONS ON BUYER'S LIABILITY SET FORTH HEREIN, IN NO EVENT SHALL BUYER, ITS EMPLOYEES, AGENTS OR REPRESENTATIVES BE LIABLE BY REASON OF BUYER'S BREACH OR TERMINATION OF THIS ORDER OR FOR ANY BUYER ACTS OR OMISSIONS IN CONNECTION WITH THIS ORDER FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, HOWEVER CAUSED, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUE, LOSS OF DATA, WORK INTERRUPTION, OR ANY CLAIMS OR DEMANDS AGAINST SELLER BY ANY OTHER ENTITY, WHETHER SUCH REMEDY IS SOUGHT IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE. IN NO EVENT SHALL BUYER'S LIABILITY FOR DAMAGES IN ANY CIRCUMSTANCES SET FORTH IN THIS CLAUSE EXCEED THE PRICE PAYABLE FOR THE WORK TO BE PERFORMED BY SELLER UNDER THE ORDER. THIS ORDER SHALL NEITHER CREATE FOR NOR GIVE TO ANY THIRD PARTY ANY CLAIM OR RIGHT OF ACTION AGAINST SELLER OR BUYER WHICH WOULD NOT OTHERWISE ARISE WITHOUT THIS ORDER.**

**31. FORCE MAJEURE –** Buyer shall not be liable for delay or failure of performance occasioned by causes beyond its control, including, but not limited to, acts of God or the public enemy, actions or decrees of governmental entities, civil unrest, riots, acts of terrorism, organized labor strikes, declared or undeclared war, fire, floods, unusually severe weather, earthquakes, or volcanoes ("Force Majeure Event"). If Buyer is affected by a Force Majeure Event, Buyer shall give written notice to Seller, which shall cause, without penalty to Buyer, all obligations under this Order to be immediately suspended for a period of sixty (60) days. If the period of suspension caused by the Force Majeure Event exceeds that first sixty-day period, Buyer either may terminate the Order for convenience in accord with subparagraph 14 or suspend the Order for an additional period under paragraph 13. Any termination settlement or equitable adjustment sought by Seller following the termination for convenience or suspension may not include any costs incurred during the first sixty-day suspension.

**32. Certification of Authenticity and Traceability.** Seller certifies to Buyer that all material furnished under this purchase order is genuine, new and unused. Seller certifies that all material is traceable to the point of manufacture and that complete material pedigree is known and can be furnished to Buyer upon request. Seller will have a documented procedure that defines the method for controlling records that are created by and /or retained by Seller.

**33. Counterfeit Parts Prevention**



**A. DEFINITIONS:** (1) Authentic shall mean (A) genuine; (B) purchased from the Original Equipment Manufacturer ("OEM"), Original Component Manufacturer ("OCM") or through the OEM's/OCM's authorized dealers; and (C) manufactured by, or at the behest and to the standards of, the manufacturer that has lawfully applied its name and trademark for that model/version of the material.

(2) Authorized Dealer — A dealer or distributor that purchases directly from the OEM or OCM and is authorized or franchised by the OEM or OCM to sell or distribute the OEM's/OCM's products.

(3) Counterfeit Part — A part that is an unauthorized copy or substitute that has been identified, marked, and/or altered by a source other than the item's legally authorized source and has been misrepresented to be an authorized part of the legally authorized source. This definition includes used parts represented as new parts.

(4) Original Component Manufacturer (OCM), Original Equipment Manufacturer (OEM) — An organization that designs and/or engineers a part or equipment and is pursuing or has obtained the intellectual property rights to that part or equipment.

(5) Non-Franchised Source — Any source that is not authorized by the OEM or OCM to sell its product lines. Non-franchised sources may also be referred to as brokers or independent distributors.

(6) Suspect Counterfeit Part — A part that Buyer becomes aware, or has reason to suspect, meets the definition of "counterfeit part", as defined above. For purposes of this document, the terms "counterfeit part" and "suspect counterfeit part" will be used interchangeably. If any individual part from a lot is determined to be counterfeit or suspect counterfeit, the entire lot of parts will be considered to be suspect counterfeit.

**B. TERMS AND CONDITIONS:** (1) Seller represents and warrants that only new and authentic materials are used in products required to be delivered to Buyer and that the Work delivered contains no Counterfeit Parts. No material, part, or component other than a new and authentic part is to be used unless approved in advance in writing by Buyer. To further mitigate the possibility of the inadvertent use of Counterfeit Parts, Seller shall only purchase authentic parts/components directly from the Original Equipment Manufacturers ("OEMs"), Original Component Manufacturers ("OCMs") or through the OEM's/OCM's authorized dealers. Seller represents and warrants to Buyer that all parts/components delivered under this contract are traceable back to the OEM/OCM. SELLER must maintain and make available to Buyer at Buyer's request, OEM/OCM documentation that authenticates traceability of the parts/components to the applicable OEM/OCM. Purchase of parts/components from Non-Franchised Sources is not authorized unless first approved in writing by Buyer. Seller must present complete and compelling support for its request and include in its request all actions to ensure the parts/components thus procured are legitimate parts. Buyer's approval of Seller request(s) does not relieve Seller's responsibility to comply with all Contract requirements, including the representations and warranties in this paragraph.

(2) Seller shall maintain a documented system (policy, procedure, or other documented approach) that provides for prior notification and Buyer's approval before parts/components are procured from sources other than OEMs/OCMs or the OEM's/OCM's authorized dealers. Seller shall provide copies of such documentation for its system for Buyer's inspection upon Buyer's request.

(3) Seller must maintain a counterfeit detection process that complies with SAE standard AS5553, Counterfeit Electronic Parts, Avoidance, Detection, Mitigation, and Disposition.

(4) If it is determined that counterfeit parts or suspect counterfeit parts were delivered to Buyer by Seller, the suspect counterfeit parts will not be returned to the supplier. Buyer reserves the right to quarantine any and all suspect counterfeit parts it receives and to notify the Government Industry Data Exchange Program (GIDEP) and other relevant government agencies. Seller shall promptly reimburse Buyer for the full cost of the suspect counterfeit parts and Seller assumes responsibility and liability for all costs associated with the delivery of suspect counterfeit parts, including, but not limited to, costs for identification, testing, and any corrective action required to remove and replace the suspect counterfeit parts. The remedies in this section shall apply regardless of whether the warranty period or guarantee period has ended, and are in addition to any remedies available at law or in equity.

(5) If the procurement of materials under this contract is pursuant to, or in support of, a contract, subcontract, or task order for delivery of goods or services to the Government, the making of a materially false, fictitious, or fraudulent statement, representation or claim or the falsification or concealment of a material fact in connection with this contract may be punishable, as a Federal felony, by up to five years' imprisonment and/or substantial monetary fines. In addition, trafficking in counterfeit goods or services, to include military goods or services, constitutes a Federal felony offense, punishable by up to life imprisonment and a fine of fifteen million dollars.

(6) Seller shall flow the requirements of this section ("COUNTERFEIT PARTS PREVENTION") to its subcontractors and suppliers at any tier for the performance of this Contract.

**34. Required U. S. Government Clauses.** The following Federal Acquisition Regulation (FAR) and Department of Defense FAR Supplement (DFARS) clauses are incorporated herein by reference. The date of the FAR/DFARS clause in effect as of the date of the Prime Contract execution shall apply unless otherwise specified. In all FAR/DFARS clauses below, the term “Contractor” shall mean “Seller”, the term “Contract” shall mean this Agreement and the terms “Government”, “Contracting Officer” and equivalent phrases as used in the FAR/DFARS clauses below mean Buyer and Buyer’s Authorized Procurement Representative, respectively. It is intended that the referenced clauses shall apply to Seller in such manner as is necessary to reflect the position of Seller as a subcontractor to Buyer, to ensure Seller’s obligations to Buyer and to the United States Government, and to enable Buyer to meet its obligations under its Prime Contract or Subcontract. The extent and scope of applicability to this contract shall be in accordance with the terms, requirements, guidelines, and limitations stated in each clause. DFARS 227.7202, entitled Commercial Computer Software and Commercial Computer Software Documentation, shall govern the acquisition of Commercial Computer Software.

If the Government Contracting agency is other than the Department of Defense, the applicable clauses of such Contracting agency that supplement the FAR clauses cited below are hereby incorporated by reference, and the DFARS clauses cited below are hereby deemed deleted.

Exceptions to the clauses below are noted as follows:

Note 1 - This clause applies only if the Seller is supplying an item, which is an end product under the Buyer’s prime Contract.

Note 2 - “Contracting Officer” means only “U.S. Government Contracting Officer”.

Note 3 – “Government” as used in this clause means only “U. S. Government”.

#### **FAR Clauses**

#### **FAR Clauses Applicable to This Order Irrespective of the Amount of the Order (Exceptions as noted).**

52.202-1 Definitions

52.203-15 Whistleblower Protections under the American Recovery and Reinvestment Act of 2009

52.204-2 Security Requirements

52.209-10 Prohibition on Contracting With Inverted Domestic Corporations

52.211-5 Material Requirement

52.211-15 Defense Priority and Allocation Requirements

52.216-7 Allowable Cost and Payment

52.222-1 Notice to the Government of Labor Disputes

52.222-21 Prohibition of Segregated Facilities

52.222-26 Equal Opportunity

52.222-50 Combating Trafficking In Persons

52.223-3 Hazardous Material Identification and Material Safety Data (Alternate I applies only to Non-DoD Contracts)

52.223-6 Drug Free Workplace

52.223-7 Notice of Radioactive Materials (In paragraph (a), insert "thirty (30)" in the blank.)

52.223-11 Ozone-Depleting Substances

52.223-12 Refrigeration Equipment and Air Conditioners

52.223-18 Encouraging Contractor Policies to Ban Text Messaging While Driving

52.225-1 Buy American Act – Supplies (Note 1)

52.225-2 Buy American Act Certificate (Applies to Solicitations only) (If listing is required, it shall be included in the Proposal submission)

52.225-8 Duty-Free Entry (If contained in the Buyer’s contract)

52.225-13 Restrictions on Certain Foreign Purchases

52.226-1 Utilization of Indian Organizations and Indian-Owned Economic Enterprises

52.227-1 Authorization and Consent (Buyer specify Alt I or Alt II, as applicable in Prime Contract)

52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement (Applicable if 52.227-1 is included)

52.227-10 Filing of Patent Applications - Classified Subject Matter

52.227-11 Patent Rights – Ownership by the Contractor

- 52.227-14 Rights in Data - General (Non DoD only) (Note 3)
- 52.227-19 Commercial Computer Software- (Non DoD only)
- 52.228-5 Insurance-Work on a Government Installation
- 52.228-7 Insurance-Liability to Third Persons
- 52.232-20 Limitation of Cost
- 52.232-22 Limitation of Funds
- 52.233-3 Protest After Award (Alt I)
- 52.233-4 Applicable Law For Breach Of Contract Claim
- 52.242-15 Stop-Work Order (Paragraph (b)(2)-change 30 days to 20 days), with Alternate I
- 52.244-6 Subcontracts for Commercial Items
- 52.245-1 Government Property
- 52.245-9 Use and Charges
- 52.246-3 Inspection of Supplies – Cost Reimbursement
- 52.247-34 F.O.B. Destination
- 52.247-63 Preference for U.S.-Flag Air Carriers
- 52.247-64 Preference for Privately Owned U.S.-Flag Commercial Vessels
- 52.249-6 Termination
- 52.249-14 Excusable Delays

**FAR Clauses Applicable if this Order Exceeds \$2,500**

- 52.222-41 Service Contract Act of 1965
- 52.222-42 Statement of Equivalent Rates for Federal Hires
- 52.222-43 Fair Labor Standards Act and Service Contract Act – Price Adjustment (Multiyear and Option Contracts)

**FAR Clauses Applicable if this Order Exceeds \$3,000**

- 52.222-3 Convict Labor.
- 52.222-19 Child Labor- Cooperation with Authorities and Remedies

**FAR Clauses Applicable if this Order Exceeds \$15,000**

- 52.222-20 Walsh-Healey Public Contracts Act
- 52.222-36 Affirmative Action for Workers with Disabilities

**FAR Clauses Applicable if this Order Exceeds \$25,000**

- 52.204-10 Reporting Executive Compensation and First-Tier Subcontract Awards (Does not apply to classified contracts)
- 52.225-3 Buy America Act –Free Trade Agreement- Israeli Trade Act

**FAR Clauses Applicable if this Order Exceeds \$30,000**

- 52.209-6 Protecting the Government’s Interest When Subcontracting with Contractors Debarred, Suspended or Proposed for Debarment

**FAR Clauses Applicable if this Order Exceeds \$100,000**

- 52.222-35 Equal Opportunity for Veterans
- 52.222-37 Employment Reports on Veterans

**FAR Clauses Applicable if this Order Exceeds \$150,000**

- 52.203-3 Gratuities
- 52.203-5 Covenant Against Contingent Fees
- 52.203-6 Restrictions on Subcontractor Sales to the Government
- 52.203-7 Anti-Kickback Procedures
- 52.203-8 Cancellation, Rescission and Recovery of Funds for Illegal or Improper Activity
- 52.203-10 Price or Fee Adjustment for Illegal or Improper Activity
- 52.203-12 Limitation on Payments to Influence Certain Federal Transactions
- 52.203-16 Preventing Personal Conflicts of Interest
- 52.215-2 Audit and Records - Negotiation

52.215-14 Integrity of Unit Prices  
52.215-23 Limitations of Pass through Charges (Non-DoD only)  
52.219-8 Utilization of Small Business Concerns  
52.222-40 Notification of Employee Rights under the National Labor Relations Act  
52.222-44 Fair Labor Standards Act and Service Contract Act – Price Adjustment  
52.222-54 Employment Eligibility Verification (Does not apply to commercial off the self items)  
52.232-17 Interest  
52.233-2 Service of Protest  
52.242-13 Bankruptcy  
52.244-5 Competition in Subcontracting  
52.246-23 Limitation of Liability ("Acceptance of supplies delivered under this Contract" shall mean acceptance by the Government under the prime Contract of the supplies delivered hereunder or as incorporated in supplies delivered to Buyer.)  
52.246-25 Limitation of Liability - Services  
52.248-1 Value Engineering

**FAR Clauses Applicable if this Order Exceeds \$650,000**

52.219-9 Small Business Subcontracting Plan (If FAR 52.219-9 is applicable to this Contract, Seller's Subcontracting Plan shall be incorporated into this Contract, and Seller shall submit Small Business Subcontracting Reports (Individual Subcontracting Report (IRS)).

52.219-16 Liquidated Damages -- Subcontracting Plan (Applies only if FAR 52.219-9 is applicable)

**FAR Clauses Applicable If This Order Exceeds \$700,000**

{This dollar value does not always apply. If the dollar value is different then move FAR 52.215-10 thru 52.215-23 below to the dollar value applicable to the Prime Contract. }.

52.215-10 Price Reduction for Defective Cost or Pricing Data  
52.215-11 Price Reduction for Defective Cost or Pricing Data – Modifications  
52.215-12 Subcontractor Cost or Pricing Data  
52.215-13 Subcontractor Cost or Pricing Data Modifications  
52.215-15 Pension Adjustments and Asset Reversions  
52.215-18 Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions  
52.215-19 Notification of Ownership Changes  
52.215-20 Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data  
52.215-21 Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data – Modifications  
52.215-23 Limitations of Pass through Charges (DoD only)  
52.230-2 Cost Accounting Standards (Large Businesses only)  
52.230-3 Disclosure and Consistency of Cost Accounting Practices  
52.230-6 Administration of Cost Accounting Standards

**FAR Clauses Applicable if this Order Exceeds \$1,000,000 (Exceptions as noted)**

52.243-7 Notification of Changes (Insert "10 calendar days" in the spaces provided in paragraphs (b) and (d))

**FAR Clauses Applicable if this Order Exceeds \$5,000,000**

52.203-13 Contractor Code of Business Ethics and Conduct (Not applicable if the performance period is less than 120 days). All disclosures of violation of the civil False Claims Act or of the Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.)

52.203-14 Display of Hotline Poster(s) (except when the Contract is (1) for the acquisition of a commercial item; or (2) performed entirely outside the United State.) Included in all lower tier subcontracts that exceeds \$5,000,000,

**DFARS Clauses**

**DFAR Clauses Applicable to this Contract Irrespective of the Amount of the Contract (Exceptions as noted)**

252.203-7000 Requirements Relating to Compensation of Former DoD Officials

252.203-7002	Requirement to Inform Employees of Whistleblower Rights
252.204-7000	Disclosure of Information (In paragraph (b) change "45" days to "60")
252.204-7003	Control of Government Personnel Work Product
252.204-7005	Oral Attestation of Security Responsibilities
252.204-7008	Export-Controlled Items
252.211-7003	Item Identification and Valuation
252.211-7008	Use of Government-Assigned Serial Numbers
252.223-7001	Hazard Warning Labels
252.223-7006	Prohibition on Storage and Disposal of Toxic and Hazardous Materials
252.223-7008	Prohibition of Hexavalent Chromium
252.225-7001	Buy American Act and Balance Of Payments Program
252.225-7002	Qualifying Country Sources as Sellers
252.225-7013	Duty Free Entry
252.227-7013	Rights in Technical Data- Noncommercial Items (Note 3)
252.227-7014	Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation (Note 3)
252.227-7015	Technical Data – Commercial Items
252.227-7016	Rights in Bid or Proposal Information
252.227-7017	Identification and Assertion of Use, Release, or Disclosure Restrictions
252.227-7019	Validation of Asserted Restrictions – Computer Software
252.227-7025	Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends
252.227-7026	Deferred Delivery of Technical Data or Computer Software
252.227-7027	Deferred Ordering of Technical Data or Computer Software
252.227-7028	Technical Data or Computer Software Previously Delivered to the Government
252.227-7030	Technical Data-Withholding of Payment
252.227-7037	Validation of Restrictive Markings on Technical Data
252.227-7038	Patent Rights – Ownership by the Contractor (Large business) (Replaces FAR 52.227-11 for DOD contracts only)
252.227-7039	Patents-Reporting of Subject Inventions (Applicable to Small Businesses only)
252.231-7000	Supplemental Cost Principles
252.235-7003	Frequency Authorization
252.239-7016	Telecommunications Security Equipment, Devices, Techniques, and Services
252.245-7001	Tagging, Labeling, and Marking of Government-Furnished Property
252.245-7002	Reporting Loss of Government Property
252.245-7003	Contractor Property Management System Administration
252.245-7004	Reporting, Reutilization, and Disposal
252.246-7001	Warranty of Data
252.246-7003	Notification of Potential Safety Issues
252.249-7002	Notification of Proposed Program Termination or Reduction

**FAR Clauses Applicable if this Order Exceeds \$25,000**

252.225-7036	Buy American Act – North American Free Trade Agreement Implementation Act– Balance of Payments Program
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**DFARS Clauses Applicable if this Order Exceeds \$150,000**

252.203-7001	Prohibition on Persons Convicted of Fraud or Other Defense-Contractor Related Felonies.
252.208-7000	Intent to Furnish Precious Metals as Government-Furnished Material
252.225-7009	Restriction on Acquisition of Certain Articles Containing Specialty Metals
252.247-7023	Transportation of Supplies by Sea

**FAR Clauses Applicable if this Order Exceeds \$500,000**

252.226-7001	Utilization of Indian Organizations and Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns – DOD Contracts
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**DFARS Clauses Applicable if this Order Exceeds \$650,000**

252.219-7003 Small Business Subcontracting Plan  
252.225-7006 Quarterly Reporting of Actual Contract Performance outside the United States

**DFARS Clauses Applicable if this Order Exceeds \$700,000**

{This dollar value does not always apply. If the dollar value is different then move FAR 52.215-10 thru 52.215-23 below to the dollar value applicable to the Prime Contract. }.

252.215-7000 Pricing Adjustments  
252.215-7002 Cost Estimating Systems Requirements (If contract awarded on basis of cost and pricing data)

**DFARS Clauses Applicable if this Order Exceeds \$1,000,000**

252.225-7033 Waiver of United Kingdom Levies (UK contracts only)

**DFARS Clauses Applicable if this Order Exceeds \$1,500,000**

252.211-7000 Acquisition Streamlining

**DFARS Clauses Applicable if this Order Exceeds \$5,000,000**

252.203-7003 Agency Office of the Inspector General  
252.203-7004 Display of Fraud Hotline Poster(S) (Replaces FAR 52.203-14)

**DFARS Clauses Applicable if this Order Exceeds \$12,500,000**

252.225-7004 Report of Intended Performance outside the United States and Canada – Submission after Award

**33. Additional Flowdown Clauses.** Additional clauses identified in the Prime Contract may be added to this Contract as an attachment.

**34. Entire Agreement.** This Contract contains the entire agreement of the parties and supersedes any and all prior agreements, understandings and communications between Buyer and Seller related to the subject matter of this Contract. No amendment or modification of this Contract shall bind either party unless it is in writing and is signed by Buyer's Authorized Procurement Representative and an authorized representative of Seller.

*For General Dynamics C4 Systems, Inc., General Dynamics Information Technology, Inc., and General Dynamics Advanced Information Systems, Inc.*

**E1008-07  
22 AUG 12 THRU 08 JUL 13**