

**GENERAL PROVISIONS FOR TIME AND MATERIALS PURCHASE ORDERS FOR NON-COMMERCIAL  
ITEMS IN SUPPORT OF A U. S. GOVERNMENT CONTRACT**

**1.0 DEFINITIONS** - As used throughout this Order, including provisions incorporated by reference, the following terms shall have the meaning set forth below:

- (a) "BUYER" means General Dynamics Mission Systems, Inc., the legal entity issuing this order.
- (b) "BUYER's Supply Chain Team Member" means the authorized Purchasing Agent representing BUYER.
- (c) "Order" means the purchase order in which these General Provisions are incorporated.
- (d) "Deliverable" means products, supplies, engineering support, data or services (including software and software documentation) provided by SELLER.
- (e) "Government" means the Government of the United States of America.
- (f) "SELLER" means the person, firm or corporation which will furnish the Deliverables required under this Order.
- (g) "SELLER's Contract Representative" means the authorized Purchasing Agent or Contract Manager representing SELLER.

**2.0 ACCEPTANCE OF ORDER** - Seller shall accept this Order by signing the acceptance copy and returning it promptly to Buyer or by providing to Buyer any of the services specified herein. By Seller's acceptance of this Order, Seller agrees to the terms, conditions, and specifications of this Order. Buyer hereby objects to and rejects any terms, conditions, or specifications contained in Seller's acceptance of this Order (or any other form or paper submitted by Seller) which differ from or add to the terms, conditions, and specifications of the Order. Seller agrees that the terms, conditions, and specifications of the Order shall prevail over any inconsistent provisions in any form or other paper submitted by Seller.

**3.0 WAIVER** - Buyer's failure to enforce any provision of the Order or to protest any breach or default of the Order by Seller shall not be construed as evidence of (or evidence to interpret) the rights or obligations of the parties, or as a waiver of any Seller obligation or Buyer right provided under the Order or by law. No right or remedy of Buyer shall be deemed waived or released unless such waiver or release is in writing and signed by an authorized representative of Buyer.

**4.0 DELIVERY/ PERFORMANCE**

**4.1 Place of Performance.** If this procurement is from a source located outside the United States (including the 50 states and U.S. territories or possessions) or from a U.S. based source with foreign manufacturing locations that will ship directly to Buyer in the United States, such shipments are subject to INCOTERMS 2020 DAP or other mutually agreed upon INCOTERMS Rule.

**4.1.1** SELLER shall strictly adhere to the time and place of delivery specified in this Order. Failure of the SELLER to meet delivery schedules is grounds for default termination. The term "delivery" means completion of all requirements set forth in the Order to include all inspection, test and acceptance.

**4.1.2** The BUYER shall not be obligated to reimburse the SELLER for any work performed or charges incurred before or after this time period, unless agreed to in writing by the BUYER's designated Supply Chain Team Member.

**4.1.3** The Parties agree that the SELLER shall perform reasonable and necessary closeout duties after the performance period end date noted herein. Any extension of this performance period requires BUYER's written approval.

**4.2 Notice of Delays.** 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. SELLER shall bear the added premium transportation costs. SELLER shall not deliver Deliverables prior to the scheduled delivery dates unless authorized by BUYER in writing.

#### 4.3 Force Majeure -

4.3.1 Neither Party shall be liable for any excess costs or other damages if the failure to perform arises out of causes beyond the reasonable control and without the fault or negligence of the party alleging an event of Force Majeure. Force Majeure causes may include, but are not limited to (a) acts of God or of the public enemy, (b) war (whether an actual declaration thereof or not), (c) acts of terrorism or threats thereof, (d) acts of the U. S. Government in either its sovereign or contractual capacity, (e) sabotage, (f) insurrection, (g) riot or other act of civil disobedience, (h) atmospheric disturbances, (i) fires, (j) floods, (k) plagues or epidemics, (l) quarantine restrictions, (m) labor disputes or strikes, (n) failure or delay in transportation due to transportation workers strike or freight embargoes, (o) worldwide parts shortage(s) or rationing allocations, (p) shortage of labor, fuel, raw material or machinery, or (q) violent storms or unusually severe weather. In each instance, the failure to perform must be beyond the control and without the fault or negligence of the party. For delays in delivery of an Item, Seller must make best efforts to avoid or reduce the effects of a Force Majeure event and in no instance may Seller reprioritize deliveries among its customers. Seller shall notify Buyer in writing within ten calendar days after it becomes aware of any such cause. If the original delivery schedule is overcome by the Force Majeure event then the Parties agree to negotiate in good faith a revised delivery schedule.

4.3.2 Should either Party be unable to fulfill a material part of its obligations under an Order for a period in excess of sixty calendar days due to circumstances beyond its reasonable control as described above, the other Party may at its sole discretion terminate the Order by written notice. Upon either resolution of the Force Majeure event or termination as described, the Parties shall proceed in good faith to negotiate a termination settlement proposal covering the performance of the Order performed prior to the effective date of the termination

#### 5.0 INSPECTION AND ACCEPTANCE

5.1 BUYER and the Government have the right to inspect and test all materials furnished and services performed under this Order, to the extent practicable at all places and times, including the period of performance, and in any event before acceptance. BUYER and the Government may also inspect the plant or plants of SELLER or any lower tier subcontractor engaged in performance of this Order. BUYER and the Government will perform inspections and tests in a manner that will not unduly delay the work.

5.2 If BUYER and the Government perform inspection or tests on the premises of SELLER or a lower tier subcontractor, SELLER shall furnish and shall require lower tier subcontractors to furnish all reasonable facilities and assistance for the safe and convenient performance of these duties.

5.3 Unless otherwise specified in this Order, BUYER will accept or reject services and materials at the place of delivery as promptly as practicable after delivery, and they will be presumed accepted sixty (60) days after the date of delivery, unless accepted earlier.

5.4 At any time during performance of this Order, but not later than six (6) months after acceptance of the services or materials last delivered under this Order, BUYER may require SELLER to replace or correct services or materials that at time of delivery failed to meet contract requirements. Except as otherwise specified in paragraph 5.6 of this clause, the cost of replacement or correction shall be determined under the Payments clause of this Order, but the "hourly rate" for labor hours incurred in the replacement or correction shall be reduced to exclude that portion of the rate attributable to profit. Unless otherwise specified in the pricing provisions of this Order the portion of the "hourly rate" attributable to profit shall be ten (10) percent. SELLER shall not tender for acceptance materials and services required to be replaced or corrected without disclosing the former requirement for replacement or correction, and, when required, shall disclose the corrective action taken.

5.5 If SELLER fails to proceed with reasonable promptness to perform required replacement or correction, BUYER may terminate this Order for default.

5.6 Notwithstanding paragraphs 5.4 and 5.5 above, BUYER may at any time require SELLER to remedy by correction or replacement, without cost to BUYER, any failure by SELLER to comply with the requirements of this

Order, if the failure is due to (i) Fraud, lack of good faith, or willful misconduct on the part of SELLER's managerial personnel; or (ii) the conduct of one or more of SELLER's employees selected or retained by SELLER after any of SELLER's managerial personnel has reasonable grounds to believe that the employee is habitually careless or unqualified.

5.7 This clause applies in the same manner and to the same extent to corrected or replacement materials or services as to materials and services originally delivered under this Order.

5.8 SELLER has no obligation or liability under this Order to correct or replace materials and services that at time of delivery do not meet contract requirements, except as provided in this clause or as may be otherwise specified in this Order.

5.9 Unless otherwise specified in this Order SELLER's obligation to correct or replace Government-furnished property shall be governed by the clause pertaining to Government property.

## **6.0 FACILITIES, TOOLS, AND PLANT VISITS**

6.1 Unless otherwise specified herein, Seller shall supply all necessary services, facilities, materials, and equipment (including, but not limited to, tools, test apparatus, etc.).

6.2 During performance of this Order, authorized representatives of Buyer or Buyer's customer shall have the right to visit Seller's facilities involved in the performance hereunder at any time during normal business hours to conduct reviews, monitor, coordinate, or expedite performance and to secure necessary information for such purposes. Such visits will be coordinated with Seller's appropriate personnel to minimize any effect on Seller's normal operations.

## **7.0 WARRANTY**

7.1 SELLER warrants that (a) each of its employees assigned to perform 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 Order. 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 Deliverables or any part of the Deliverables is a commercial item then the commercial warranty shall be transferred to the BUYER.

7.2 Deliverables must be in accordance with their stated specifications or GDMS specification and drawing requirements in order to meet product safety requirements. Deliverables must perform to their designed or intended purpose without causing unacceptable risk of harm to persons or damage to property.

## **8.0 CHANGES**

8.1 Only the BUYER's Supply Chain Team Member 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 Order includes services, (vi) description of services, place, and / or time of performance of the services, within the general scope of this Order. If the BUYER's Supply Chain Team Member 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 Order, whether or not changed by the directed change, SELLER must assert any claim in writing within twenty-five calendar days and deliver a fully supported proposal to BUYER's Supply Chain Team Member within sixty calendar 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

Section of this Order entitled "Disputes". 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.

8.2 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 Order without the prior written consent of BUYER.

8.3 The SELLER shall notify BUYER's Supply Chain Team Member of any unauthorized Order changes in accordance with the following prescribed procedure for the reporting and approval of changes initiated by the SELLER.

8.3.1 The SELLER shall promptly reporting of conduct by any BUYER employee, including BUYER's engineering and technical personnel who 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, that the SELLER considers to constitute a change to this Order. Such actions shall not be deemed to be a change under this Section and shall not vest Seller with authority to change the work hereunder except for Order changes identified as such in writing and signed by the BUYER's Supply Chain Team Member. The SELLER shall notify the BUYER's Supply Chain Team Member in writing within five calendar days from the date that the SELLER identifies any BUYER conduct (including actions, inaction's, and written or oral communications) by any BUYER employee (including the BUYER's Supply Chain Team Member, that the SELLER regards as a change to the Order terms and conditions. On the basis of the most accurate information available to the SELLER, the notice shall state:

- a. The date, nature, and circumstances of the conduct regarded as a change;
- b. The name, function, and activity of each BUYER individual and SELLER official or employee involved in or knowledgeable about such conduct;
- c. The identification of any documents and the substance of any oral communication involved in such conduct.
- d. In the instance of alleged acceleration of schedule performance or delivery, the basis upon which it arose;
- e. The particular elements of Order performance for which the SELLER may seek an equitable adjustment under this clause, including:
  - (i) What Order line items have been or may be affected by the alleged change;
  - (ii) What labor or materials or both have been or may be added, deleted, or wasted by the alleged change;
  - (iii) To the extent practicable, what delay and disruption in the manner and sequence of performance and effect on continued performance have been or may be caused by the alleged change;
  - (iv) What adjustments to Order price, delivery schedule, and other provisions affected by the alleged change are estimated; and
- f. The SELLER's estimate of the time by which the BUYER must respond to the SELLER's notice to minimize cost, delay or disruption of performance.

8.3.2 Continued Performance: Following submission of the notice required above, the SELLER shall diligently continue performance of this Order to the maximum extent possible in accordance with the terms and conditions as construed by the SELLER, unless the notice reports a contrary direction from the BUYER's Supply Chain Team Member in which event the SELLER shall continue performance; provided, however, that if the SELLER regards the direction or communication as a change as described in above, notice shall be given in the manner provided above. All directions, communications, interpretations, orders and similar actions shall be reduced to writing promptly and copies furnished to the SELLER and to the BUYER's Supply Chain Team Member.

8.3.3 BUYER Response: The BUYER's Supply Chain Team Member shall promptly, within ten calendar days after receipt of notice, respond to the notice in writing. In responding, BUYER's Supply Chain Team Member shall either:

- a. Confirm that the conduct of which the SELLER gave notice constitutes a change, and when necessary direct the mode of further performance;
- b. Countermand any communications regarded as a change;

- c. Deny that the conduct of which the SELLER gave notice constitutes a change and when necessary direct the mode of further performance; or
- d. In the event the SELLER's notice information is inadequate to make a decision under (1), (2) or (3) above, advise the SELLER what additional information is required, and establish the date by which it should be furnished and the date thereafter by which the BUYER will respond.

#### 8.3.4 Equitable Adjustments

8.3.4.1 If the BUYER's Supply Chain Team Member confirms that BUYER conduct effected a change as alleged by the SELLER, and the conduct causes an increase or decrease in the SELLER's cost of, or the time required for, performance of any part of the work under this Order, whether changed or not changed by such conduct, an equitable adjustment shall be made:

- a. In the Order price or delivery schedule or both; and
- b. In such other provisions of the Order as may be affected.

8.3.4.2 In the case of drawings, designs or specifications which are defective and for which BUYER is responsible, the equitable adjustment shall include the cost and time extension for delay reasonably incurred by the SELLER in attempting to comply with the defective drawings, designs or specifications before the SELLER identified, or reasonably should have identified, such defect. When the cost of property made obsolete or excess as a result of a change confirmed by the BUYER's Supply Chain Team Member under this clause is included in the equitable adjustment, the BUYER's Supply Chain Team Member shall have the right to prescribe the manner of disposition of the property. The equitable adjustment shall not include increased costs or time extensions for delay resulting from the SELLER's failure to provide notice or to continue performance as provided for above.

### 9.0 RIGHTS AND USE OF BUYER'S PROPRIETARY INFORMATION AND MATERIALS

Seller, if required, shall use Seller's Proprietary Information only in the performance of and for the purpose of performing this Order. The restrictions on disclosure or use of Proprietary Information by SELLER shall apply to all materials derived by SELLER or others from BUYER's Proprietary Information. Upon the completion, termination, or cancellation of this Order, or upon BUYER's request at any time, SELLER shall return to BUYER all of BUYER's Proprietary Information and all materials derived therefrom, unless specifically directed otherwise in writing by BUYER.

### 10.0 INTELLECTUAL PROPERTY / PROPRIETARY INFORMATION

#### 10.1 Definitions

10.1.1 "Proprietary Information" means all information (Intellectual Property) that is identified as Proprietary Information by the disclosing Party and is disclosed by the disclosing Party under this Order. Proprietary Information does not include information that was:

- (i) published or otherwise is, or becomes, available to the public other than by breach of this Order;
- (ii) lawfully received from a third party without restriction on disclosure and without breach of this Order;
- (iii) disclosed to a third party without a similar restriction on the rights of such third party;
- (iv) already known by the recipient and the recipient can demonstrate that the information was known without breach of this Order;
- (v) developed independently within the recipient's organization without access to or use of the Proprietary Information; or
- (vi) approved in writing by the discloser for public release or disclosure by the Recipient.

10.1.2 "Background Intellectual Property" means all intellectual property worldwide including, but not limited to, patents, copyrights, trademarks, mask works, trade secrets, know-how and all other forms of intellectual property which

are owned or controlled by the disclosing Party prior to this Order, or contemporaneously with this Order but not arising from the performance of work under this Order and not embodied in deliverables under this Order.

10.1.3 "Foreground Intellectual Property" means all intellectual property worldwide including, but not limited to, patents, unpatented inventions, copyrights, trademarks, mask works, trade secrets, know-how and all other forms of intellectual property conceived or first reduced to practice, or to a tangible medium of expression, or made during the performance of work under this Order and all intellectual property embodied in deliverables under this Order.

10.2 The Parties agree to protect Proprietary Information as follows unless otherwise agreed by the Parties in a separate Nondisclosure Agreement:

10.2.1 It is agreed for a period of five years following the receipt of Proprietary Information that the receiving Party shall use such information only for the purpose of performing the Statement of Work under this Order and shall take reasonable efforts to preserve in confidence such Proprietary Information and prevent disclosure thereof to third parties. Each Party agrees that it shall use the same standard of care to protect disclosing party's Proprietary Information as it uses to protect its own information of like kind but, in any event, shall employ at least reasonable care. Disclosures of such Proprietary Information shall be restricted to those individuals of the receiving Party who are directly participating in the efforts relating to this Order, who have a need to know such information and who have been made aware of and consent in writing to abide by the restrictions contained in this Order which concern the use of such information.

10.2.2 The Parties agree that in order to identify Proprietary Information for protection under this Order, the disclosing Party shall clearly and conspicuously mark written or documentary, recorded, machine readable and other information in a tangible form using an appropriate legend. Proprietary Information stored in electronic form on disk, tape, or other storage media shall be considered to be adequately marked if a legend indicating the information is proprietary displays when the information originally runs on a computer system and when the information is printed from its data file. The disclosing Party shall identify Proprietary Information originally disclosed in some other form (e.g., orally or visually) by (a) identifying the information as proprietary at the time of original disclosure, (b) summarizing the Proprietary Information in writing sufficiently specific to enable the receiving Party to identify the information considered proprietary by the disclosing Party, (c) marking the written summary clearly and conspicuously with an appropriate proprietary legend, and (d) delivering the written summary to the receiving Party within thirty calendar days following the original disclosure.

10.3 The disclosing Party warrants that it shall not provide any Proprietary Information to the receiving Party for which the disclosing Party does not own or control the intellectual property rights, or under which disclosing Party does not have a right to grant to receiving Party a license to such intellectual property rights, and agrees to defend, indemnify and hold the receiving Party harmless from and against any cost, expenses or other liability arising from any claim or cause of action brought against receiving Party arising from the disclosing Party's breach of this warranty.

#### 10.4 Ownership of Intellectual Property

10.4.1 Seller shall assign and transfer, and does hereby assign and transfer to Buyer the entire right, title and interest, worldwide, in all Foreground intellectual property including but not limited to all copyrights, inventions, and patents, including copyright renewal rights, and such Foreground Intellectual Property shall from time of creation be and shall remain the sole and exclusive property of Buyer and its nominees throughout the world, whether or not patented or copyrighted, and without regard to any expiration or termination of this Order. Seller agrees to exercise reasonable care to avoid making any Foreground Intellectual Property assigned to Buyer available to any third party. Seller is liable to the Buyer for all damages, including reasonable attorneys' fees, in the event any Foreground Intellectual Property is made available to third parties by the Seller in any manner not authorized by the Buyer.

10.4.2 Seller shall communicate in writing to Buyer promptly and describe fully all Foreground Intellectual Property whether made solely by Seller or jointly with others. On the first business day of every calendar quarter after execution of this Order, Seller shall submit a written report to Buyer reporting the Foreground Intellectual Property conceived, reduced



to practice or to a tangible medium of expression, or made by Seller during the previous quarter and any previously unreported items. The written report shall contain a description of the Foreground Intellectual Property and those responsible for it. Buyer shall have the right to audit annually the Seller to determine whether the Seller has disclosed to Buyer all of the Foreground Intellectual Property in accordance with this Section 10.4.2.

10.4.3 Seller, at Buyer's request and expense, shall assist Buyer and its nominees in every reasonable way during and subsequent to the Period of Performance of this Order to obtain for Buyer or its nominees' benefit, patents, copyrights, or other forms of legal protection on such Foreground Intellectual Property throughout the world.

10.4.4 Nothing in this clause shall modify or alter any rights that the Government may have in any Deliverables, works, and/or services, including data or software deliverables to the Government.

## 10.5 Intellectual Property Indemnity

10.5.1 Seller agrees not to knowingly incorporate Seller or third party intellectual property, excluding commercial computer software acquired with Buyer's written consent into the work product of this Order.

10.5.2 Seller agrees to indemnify, defend and hold harmless Buyer, its affiliates, its parent, its parent's subsidiaries and their respective customers, subsidiaries, directors, officers, employees and agents 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 services performed by Seller. Buyer and/or its customer shall notify Seller of any such claim, suit or action; and Seller shall, at its own expense, fully defend such claim, suit or action on behalf of indemnities.

10.5.3 Seller shall have no liability under this article with regard to any infringement to the extent 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) Buyer's use or sale of Deliverables in combination with other items when such infringement would not have occurred from the use or sale of those services solely for the purpose for which they were designed or sold by Seller.

10.5.4 For purposes of this Article 10.0 only, the term Buyer shall include the General Dynamics Corporation, all of its subsidiaries, all officers, agents, and employees of Buyer.

## 11.0 TITLE TO INVENTIONS AND WORK PRODUCT

11.1 Subject to the limitations of Buyer's use of Seller's Background Intellectual Property as stated in Section 11.2 below, all data, designs, drawings, tracings, plans, layouts, programs, flow charts, specifications, software, documentation, work product and any and all other memoranda, including but not limited to any and all written information which may be or has been furnished to Seller or which may be produced, prepared, or designed by Seller in connection with the Deliverables hereunder, shall be, become, and remain the exclusive property of Buyer, and shall be available to Buyer at all times. Such materials shall be subject to the provision of Section 10.0 above or such other non-disclosure terms executed by the parties hereto. Upon the termination or completion of the Deliverables hereunder, any and all material referred to in this Section 11.1, together with all copies and reprints in Seller's possession, custody, or control, shall be promptly transferred and delivered to Buyer and Seller shall thereafter make no further use, either directly or indirectly, of such material.

11.2 Seller grants and agrees to grant to Buyer a non-exclusive, transferable, royalty-free, paid-up, worldwide license without right of sublicense, under all of Seller's Background Intellectual Property necessary to use and freely exploit Foreground Intellectual Property without restriction, including but not limited to rights under Seller's patents, copyrights and know-how, for Buyer to make, have made, use, copy, modify, sell, lease or otherwise market and dispose of products and services and to practice processes or methods related thereto. If Seller's Background Intellectual Property includes computer software, Seller grants and agrees to grant to Buyer the right to sublicense Seller's computer software to its

sublicenses under the same rights as granted to Buyer when the Seller's software is necessary to be used in conjunction with the Foreground Intellectual Property conceived during the performance of the Deliverables under this Order.

## **12.0 TERMINATION**

12.1 BUYER may terminate all or any part of this Order by written notice to SELLER if (a) termination is in the best interest of the BUYER; (b) SELLER fails to deliver the Deliverable within the time specified by this Order or any written extension; (c) SELLER fails to perform any other provision of this Order or fails to make progress, so as to endanger performance of this Order, and does not cure the failure within ten calendar days after receipt of notice from BUYER specifying the failure; or (d) in the event SELLER declares bankruptcy, suspension of business, or initiates any reorganization and/or arrangement for the benefit of its creditors.

12.2 In the event of such termination, SELLER shall immediately cease all work terminated hereunder and cause any and all of its suppliers and SELLERS to cease work. SELLER must submit all claims within sixty calendar days after the effective date of termination. BUYER shall determine the amount due SELLER on the Termination in accordance with FAR 52.249-6, Termination (Cost-Reimbursement) including Alternate IV. SELLER shall continue work not terminated.

## **13.0 GOVERNING LAW AND VENUE**

13.1 The Parties agree that this Order shall be governed by and construed in accordance with the laws of the State of New York and without regard to its conflict of laws rules.

13.2 All claims or disputes arising under or in any way related to this Agreement shall be resolved through good faith negotiations between authorized representatives of each Party. In the event that such negotiations do not lead to a written settlement signed by a duly authorized representative of each Party within thirty calendar days or such longer period of time as may be mutually agreed, then either Party may elect to resolve the matter through the state or federal courts. Venue for any action brought under or relating to this Agreement shall exclusively be in the State of New York. The Parties hereby irrevocably waive any right to challenge such venue on the basis of forum non conveniens or otherwise. THE PARTIES HEREBY IRREVOCABLY WAIVE ANY AND ALL RIGHTS THEY MAY HAVE TO A TRIAL BY JURY IN ANY ACTION ARISING OUT OF OR RELATING TO THIS ORDER.

13.3 The Parties further agree and consent to accept service of process by certified or registered United States mail, return receipt requested, addressed as provided herein. In the event that legal action is commenced by either Party, the substantially prevailing Party shall be entitled to recover its costs and attorneys' fees from the other Party.

13.4 Notwithstanding the foregoing or anything herein to the contrary, for matters where the dispute between the Parties is based upon a decision made by the U.S. Government and/or the U.S. Government may become a party to the proceedings, this Order shall be governed by and construed in accordance with United States federal law and the U.S. Federal Courts shall have exclusive jurisdiction over any such claim arising under this Order.

**14.0 SEVERABILITY** - If a court of competent jurisdiction determines one or more provisions of this Order illegal or invalid, that determination shall not affect the enforceability of the remaining provisions to the extent they can be given effect without the illegal or invalid provision. In the event that any provision of this Order is held invalid or unenforceable, the Parties shall make every effort to mutually agree to a new provision in regard to the same subject.

## **15.0 COMPLIANCE WITH APPLICABLE LAWS**

15.1 United States Law: Seller, at its sole expense, shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations which may be applicable to the Item and Seller's performance under this Order, including, without limitation, all laws, regulations, and rules related to the safety and conditions of each job site, including but not limited to those promulgated or prescribed pursuant to the Occupational Safety and Health Act of 1970, and any amendment thereto. Seller agrees to comply with any applicable provisions of the Rehabilitation Act of 1973,



the Veteran's Readjustment Act of 1974, and implementing regulations of the U.S. Department of Labor, which embody governmental policy on equal employment opportunity. To the extent applicable: This contractor and subcontractor shall abide by the requirements of 41 CFR 60–300.5(a) and 60–741.5(a). These regulations prohibit discrimination against qualified protected veterans and qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and qualified individuals with disabilities. Seller also agrees that in connection with activities under this Order 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.

15.2 Foreign Corrupt Practices Act and Anti-Bribery Laws: Seller agrees to comply with the Foreign Corrupt Practices Act, the UK Bribery Act of 2010, and all applicable anti-bribery laws. Seller specifically represents and warrants that, in connection with the performance of its activities under this Order, neither it, nor anyone acting on its behalf, has or will, directly or indirectly, offer, pay, promise to pay, or authorize the giving of, any money or thing of value to any Government Official or to any person, while knowing that all or a portion of such money or thing of value will be offered, given or promised, directly or indirectly, to a Government Official, for the purpose of influencing any act or decision of such Government Official, including any act or decision to fail to perform his/her lawful duty, or for the purpose of inducing such Government Official to use his/her influence with any government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality to obtain or retain business for any person. "Government Official" means any officer, employee, agent, representative, or any other person acting in an official capacity for or on behalf of a government, government-owned or –controlled entity or instrumentality, public international organization, political party, party official or political candidate.

15.3 Export: SELLER shall not export, directly or indirectly, any hardware, software, technology, information or technical data disclosed under this Order 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 Order (including but not limited to accessing SELLER's web based portal for the applicable program) unless that person either receives a license for the export at issue or 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-551); or
- iii. Asylee or refugee as defined in 8 U.S.C. 1324(b)(a)(3).

15.4 National Security SELLER further agrees that, should BUYER determine that the work performed under this Order 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 Order (including the SELLER) unless such persons are citizens or nationals of the United States.

15.5 Employment Verification 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.

15.6 Compliance with Office of Federal Contract Compliance Programs ("OFCCP") Rules To the extent applicable.

15.7 The SELLER and its subcontractors shall abide by the requirements of 41 CFR 60–300.5(a) and 60–741.5(a). These regulations prohibit discrimination against qualified protected veterans and qualified individuals on the basis of

disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and qualified individuals with disabilities.

**16.0 RIGHTS AND REMEDIES** - Any failures, delays or forbearances of either Party in insisting upon or enforcing any provisions of this Order, or in exercising any rights or remedies under this Order, 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. The rights and remedies set forth herein are cumulative and in addition to any other rights or remedies that the Parties may have in law or in equity except as otherwise limited in this Order. If any provision of this Order is or becomes void or unenforceable by law, the remainder shall be valid and enforceable.

## **17.0 DISPUTES**

### **17.1 Disputes under this Order**

17.1.1 "Dispute" as used herein shall mean (i) any and all claims or disputes that in any way arise out of or relate to this Order, the negotiation or execution thereof, its performance, or the breach or enforcement thereof; (ii) any claims or disputes that in any way concern the conduct of any Party in connection with this Order or the relationship or duties of the parties contemplated under this Order; or (iii) claims or disputes concerning the validity or scope of the terms and conditions of this Order (including, but not limited to, this Section). BUYER and SELLER intend that the definition of "Dispute" shall have the broadest scope permitted by law and that, without limiting the generality of the foregoing, shall be deemed to include all claims between the Parties, including, but not limited to, any claims for fraud, misrepresentation, negligence, libel and slander, misuse or theft of trade secrets or other confidential information, unfair competition, unfair trade practices, or other tort law claims.

17.1.2 The Parties agree that any Dispute between them or against any agent, employee, successor, or assign of the other shall be settled, to the extent possible by good faith negotiations. Any Dispute which the parties cannot resolve by good faith negotiations within thirty calendar days or such longer period as the Parties may mutually agree to shall be submitted and finally resolved by a court of competent jurisdiction.

17.1.3 Until final resolution of any Dispute hereunder, SELLER shall proceed diligently with the performance of this Order unless otherwise directed by BUYER in writing.

17.1.4 BUYER's rights under the terms and conditions of this Order are cumulative and in addition to any other rights available at law or equity.

### **17.2 Disputes under Prime Contract Provision**

17.2.1 Notwithstanding Section 17.1, any Dispute arising under or related to this Order, which BUYER could include in a claim or other demand under the disputes provisions of the prime contract shall be resolved, at SELLER's option, as follows: (i) SELLER shall provide BUYER with a fully supported written claim, properly certified, within twenty calendar days after the claim accrues; (ii) SELLER shall cooperate with BUYER in prosecuting SELLER's timely made claim or demand and will be bound by the resulting decision; and (iii) SELLER shall pay its proportional costs in pursuing the claim. If SELLER fails to provide BUYER with a written claim for any Dispute that could fall within this Section within twenty days calendar after the claim arises, SELLER is deemed to have waived the claim and may not bring the claim under Section 17.1 or 17.2.

17.2.2 BUYER's entire liability to SELLER with respect to any matter prosecuted under the prime contract disputes clause shall be limited to the recovery obtained against the Government (or prime contractor) for SELLER's claims, less markups specifically allowed BUYER. If SELLER is affected by the resulting decision and SELLER requests BUYER appeal, SELLER shall pay to BUYER SELLER's proportion of the appeal costs. If BUYER elects not to appeal the decision, BUYER shall notify SELLER of such decision within thirty calendar days. If SELLER submits a timely request to BUYER to appeal such decision, BUYER shall file an appeal, at SELLER's sole cost, if BUYER may do so in good

faith. BUYER has the right to review, prior to submission, any pleading or other papers SELLER wants to file in such appeal. SELLER agrees to delete any admissions or statements in the pleadings or papers to which BUYER reasonably objects. If BUYER appeals such decision, whether or not at SELLER's request, any decision regarding such appeal shall be binding on BUYER and SELLER as it relates to this Order. Sections 17.1 and 17.2 do not apply to disputes and appeals prosecuted under the prime contract.

17.3 Until final resolution of any Dispute hereunder, SELLER shall proceed diligently with the performance of this Order unless otherwise directed by BUYER in writing.

17.4 SELLER is expressly precluded from filing a direct claim or direct course of action against the U. S. Government as a result of this Order.

17.5 BUYER's rights under the terms and conditions of this Order are cumulative and in addition to any other rights available at law or equity.

## **18.0 LITIGATION AND CLAIMS**

18.1 The SELLER shall give BUYER immediate notice in writing regarding the following:

- a. Any action, including any proceedings before a federal, state, or local governmental or civilian agency, filed against the SELLER arising out of the performance of this Order; and,
- b. Any claim by a third party against the SELLER, the cost and expense of which is, or may be, allowable under this Order.
- c. Any notice action, proceeding or suit where patent infringement is alleged of any item, component or process related to the Order.

18.2 In the event of the occurrence of any of the above, the SELLER shall immediately furnish to BUYER copies of all pertinent papers and documents received by the SELLER with respect to such action or claim.

## **19.0 INSURANCE AND INDEMNIFICATION**

19.1 Minimum Insurance requirements Unless higher amounts or additional coverage are stated elsewhere in this Order, during the performance of this Order or order, SELLER shall maintain the following types of insurance coverage in the minimum amounts stated on an occurrence basis:

<u>Type of Insurance</u>	<u>Minimum Coverage</u>
Workman's Compensation, Jones Act or similar	Statutory limits
Employer Liability	\$2,000,000 per occurrence
Comprehensive General Liability	\$2,000,000 for personal injury and property damage – Combined single limit per occurrence.
Comprehensive Automobile Liability – If motor vehicles are used during performance of this Order.	\$2,000,000 for personal injury and property damage – Combined single limit per occurrence.

19.2 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), with a thirty-day advance written notice of changes in coverage to BUYER.
- ii. Upon request of BUYER, SELLER shall add the General Dynamics Corporation and General Dynamics Mission Systems, Inc. as additional insured.

- iii. SELLER shall cause its Workers Compensation carrier to waive in writing its right of subrogation against BUYER.
- iv. BUYER may, in its discretion, accept SELLER's self-insurance program in lieu of coverage required under this clause.

**19.3 INDEMNIFICATION BY SELLER** – Seller agrees to indemnify, defend and hold harmless Buyer, its affiliates, subsidiaries, directors, officers, employees and agents from and against any and all actions, causes of action, liabilities, claims, expenses (including reasonable attorneys' fees and court costs), losses, damages, penalties, fines, forfeitures, suits, judgments, liens, awards and damages of any kind and nature whatsoever for (a) property damage, (b) personal injury, including death, and (c) all violations of applicable laws, and (d) breaches of Seller's or any of its suppliers' obligations arising from this Order. 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, whether arising out of statute or common law, to the extent of the indemnity set forth in this Article 19.0. This duty to defend, indemnify, and hold harmless extends to any suit, liability, claim, judgment, or demand that may arise out of or in connection with the performance or nonperformance of this Order by Seller or its agents, breach of warranty by Seller or its agents, any defective Item performed or delivered by Seller or its agents, any patent infringement or misappropriation of trade secrets by Seller or its agents, any failure of Seller or its agents to pay royalties, any assertion under workers' compensation or similar acts by persons furnished by Seller or its agents, or any other breach of Seller's obligations hereunder, whether such suit, liability, claim, judgment, or demand is based upon contract, warranty, strict liability in tort, negligence, or other legal theory, and extends not only to "third party claims" but also to any direct loss suffered by Buyer. Buyer will inform Seller of any claim, demand, judgment, or suit asserted or instituted against it to which this provision may apply. "Agents" as used herein includes, but is not limited to, Seller's employees, subcontractors, and suppliers.

**20.0 CERTIFICATIONS AND REPRESENTATIONS** - All certifications and representations, which the SELLER submitted to BUYER in connection with the award of this Order, are incorporated herein and made a part hereof and BUYER has relied such upon in issuing this Order. The SELLER shall promptly advise BUYER should there be any change in SELLER's status with respect to these certifications and representations.

**21.0 PUBLICITY** - Neither Party shall issue any press release or make any other public statement relating to this Order, any work done under this Order or any of the transactions contemplated by this Order without obtaining the prior written approval of the other Party as to the contents and the manner of presentation and publication of such press release or public statement. This restriction applies to all releases of information to the public, industry, or Government organizations except (a) information for actual or potential Orders or vendors necessary for the SELLER to accomplish this Program, (b) information to be supplied to a duly authorized representative of BUYER project office, and (c) information necessary for BUYER to provide to its Government customer.

**22.0 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 Order or securing favorable treatment under this Order.

**23.0 IDENTIFICATION OF TECHNICAL DATA, COMPUTER SOFTWARE, AND COMPUTER SOFTWARE DOCUMENTATION - DOD**

**23.1** All technical data delivered by the SELLER to BUYER pursuant to this Order shall be marked with the name and address of the SELLER and all such documents shall include an identification/drawing number and a current revision number and date. If any rights are claimed by the SELLER, the data or software shall be marked with the appropriate Federal Acquisition Regulation (FAR) or Department of Defense Federal Acquisition Regulation Supplement (DFARS) rights notice (DFARS 252.227-7013, entitled "Rights in Technical Data - Noncommercial Items"; DFARS 252.227-7014, entitled "Rights in Noncommercial Computer Software and Noncommercial Software Documentation"; or DFARS 252.227-7015, entitled "Technical Data - Commercial Items").

23.2 The SELLER asserts, in accordance with DFARS 252.227-7017, entitled "Identification and Assertion of Use, Release or Disclosure Restrictions", for itself or the persons identified below, that the Government's rights to use, release, or disclose the following technical data, computer software and/or computer documentation is furnished with restrictions.

**Listing of Technical Data, Computer Software, or Computer Software Documentation to be Delivered to the Government with Restrictions**

Technical Data or Computer Software to be Furnished With Restrictions	Basis for Assertion	Asserted Rights Category	Name of Person Asserting Restrictions
(LIST)	(LIST)	(LIST)	(LIST)

23.3 The license(s) for Commercial Computer Software and documentation is/are attached to this Order.

**24.0 RECORDS AND AUDIT** - In addition to the rights accorded to the United States under FAR 52.215-2, BUYER may audit the records of the SELLER during SELLER's normal business hours. In the event, BUYER and SELLER are competitors on other contracts, such audit will be conducted either by an independent third party agreeable to both Parties or, in the case where Deliverables are being procured for a U.S. Government contract, by the Comptroller General, the procuring agency, or representatives or auditors of the procuring agency such as the DCAA.

**25.0 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.

**26.0 USE OF FREE AND OPEN SOURCE SOFTWARE (FOSS)**

26.1 This clause only applies to Work that includes the delivery of software (including software residing on hardware).

26.2 SELLER shall disclose to BUYER in writing any FOSS that will be used or delivered in connection with this Order and shall obtain BUYER's prior written consent before using or delivering such FOSS in connection with this Order. BUYER may withhold such consent in its sole discretion.

26.3 As used herein, "FOSS License" means, but is not limited to, the General Public License ("GPL"), Lesser/Library GPL, (LGPL), the Affero GPL (APL), the Apache license, the Berkeley Software Distribution ("BSD") license, the MIT license, the Artistic License (e.g., PERL), the Mozilla Public License(MPL), or variations thereof, including without limitation licenses referred to as "Free Software License," "Open Source License," "Public License," or "GPL Compatible License."

26.4 As used herein, "FOSS" means software that incorporates or embeds software in, or uses software in connection with, as part of, bundled with, or alongside any (1) open source, publicly available, or "free" software, library or documentation, or (2) software that is licensed under a FOSS License, or (3) software provided under a license that (a) subjects the delivered software to any FOSS License, or (b) requires the delivered software to be licensed for the purpose of making derivative works or be redistributable at no charge, or (c) obligates BUYER to sell, loan, distribute, disclose or otherwise make available or accessible to any third party (i) the delivered software, or any portion thereof, in object code and/or source code formats, or (ii) any products incorporating the delivered software, or any portion thereof, in object code and/or source code formats.

26.5 SELLER agrees to defend, indemnify, and hold harmless BUYER, its customers and suppliers from and against any claims, damages, losses, costs, and expenses, including reasonable attorney's fees, relating to use in connection with this Order or the delivery of FOSS.

## **27.0 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 BY REASON OF ANY 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, SERVICE INTERRUPTION, INCREASED COST OF SERVICES, 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 DIRECT DAMAGES IN ANY CIRCUMSTANCES SET FORTH IN THIS CLAUSE EXCEED THE PRICE PAYABLE FOR THE DELIVERABLE TO BE PROVIDED BY SELLER UNDER THIS ORDER. THIS ORDER SHALL NOT CREATE FOR NOR GIVE TO ANY THIRD PARTY ANY CLAIM OR RIGHT OF ACTION AGAINST BUYER WHICH WOULD NOT ARISE WITHOUT THIS ORDER.

## **28.0 REPORTING EXECUTIVE COMPENSATION AND FIRST –TIER SUBCONTRACT AWARDS**

28.1 Unless already registered the SELLER shall register within thirty calendar days of award of this Order with the System for Award Management ("SAM"), available at [www.sam.gov](http://www.sam.gov), if this Order has a value of \$30,000 or more and the SELLER, during its preceding fiscal year, received: 1) eighty percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and 2) \$25,000,000 or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance. If the SELLER is required to register with SAM pursuant to this clause, the SELLER shall report in SAM the compensation of its five most highly compensated executives as determined under subsection (a) of FAR 52.204-10. The SELLER shall update the executive compensation information in SAM annually so long as this Order remains in effect.

28.2 The SELLER shall certify in writing to the BUYER that the compensation of its five most highly compensated executives that it has reported in SAM is accurate and in compliance with FAR 52.204-10.

28.3 The SELLER is hereby advised that executive compensation information as well as certain past performance information entered in SAM will be made publicly available by the Government.

## **29.0 CONFLICT MINERALS**

29.1 SELLER represents that, regardless of whether SELLER is publicly traded or not, SELLER does not procure Conflict Minerals from Covered Countries, as those terms are defined by and consistent with the Securities and Exchange Commission's final rule on Conflict Minerals, 17 CFR Parts 240 and 249(b), promulgated pursuant to Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. (the "Rule").

29.2 SELLER represents and warrants that all products that will be delivered to BUYER by SELLER under this Order are Democratic Republic of the Congo (DRC) Conflict Free, as defined by and consistent with the Rule, including "Adjoining Countries." "Adjoining Countries" are Angola, Burundi, Central African Republic, the Republic of Congo, Rwanda, South Sudan, Tanzania, Uganda, and Zambia.

29.3 SELLER agrees that, if required by the Rule, it has made, and will continue to make, good faith inquiries reasonably designed to determine whether any Conflict Mineral that is included in any product delivered to BUYER



pursuant to this Order originated in the DRC or an Adjoining Country, or is from Recycled or Scrap Sources, as defined in the Rule. SELLER further agrees that, if required by the Rule, it has performed, and will continue to perform, due diligence on the source and chain of custody of any Conflict Mineral that is included in any product delivered to BUYER pursuant to this Order, and that such due diligence conforms to a nationally or internationally recognized due diligence framework, if such a framework is available for the Conflict Mineral. SELLER agrees that all inquiries and diligence performed shall be consistent with the requirements of the Rule.

29.4 SELLER agrees that it shall require its own subcontractors and suppliers (at any tier in the supply chain for a product delivered to BUYER under this Order) to furnish information to SELLER necessary to support SELLER's obligations under this Section H.29.

29.5 SELLER will maintain records reviewable by BUYER to support its certifications above.

29.6 SELLER acknowledges that BUYER may utilize and disclose Conflict Minerals information provided by SELLER in order to satisfy its disclosure obligations under the Rule.

29.7 If BUYER determines that any certification made by SELLER under this Section 29 is inaccurate or incomplete in any respect, then BUYER may terminate this Order pursuant to the provision per Section 12.0 "TERMINATION" above.

**30.0 CERTIFICATION OF AUTHENTICITY AND TRACEABILITY-** SELLER certifies to BUYER that all material furnished under this 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. The SELLER shall notify BUYER thirty calendar days prior to the destruction or disposal of records associated with this order.

**31.0 IMPORTED ALUMINUM -** If this Order includes Goods that include imported aluminum, Seller shall ensure such aluminum is not of Russian origin and special duties have not been paid. In the event the Seller is providing Goods that include aluminum that is of Russian origin, Seller shall pay the special duties prior to delivery to Buyer in accordance with the Presidential Proclamation 10522 on Adjusting Imports of Aluminum into the United States and shall provide Buyer with documentation of the (i) Primary country of smelt; (ii) Secondary country of smelt; and (iii) Country of cast at the time of delivery of the Products to Buyer.

## **32.0 COUNTERFEIT PARTS PREVENTION**

### **32.1 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.

## 32.2 Terms and Conditions

- (1) SELLER represents and warrants that only new and authentic materials (including embedded software and firmware) 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 Order 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 Order requirements, including the representations and warranties in this Section.
- (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 Order is pursuant to, or in support of, a contract, Order, or task order for delivery of a Deliverable 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 Order may be punishable, as a Federal felony, by up to five years' imprisonment and/or substantial monetary fines. In addition, trafficking in counterfeit Deliverables, 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 Order.

## 32.3 Electronic Part Detection and Avoidance

SELLER must comply with the requirements set forth in DFARS clause 252.246-7007 "Contractor Counterfeit Electronic Part Detection and Avoidance System".

**33.0 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 materially affect the Deliverable delivered or to be delivered under this Order.

### **34.0 COST OR PRICING DATA**

34.1 SELLER shall submit cost or pricing data prior to the execution of this Order and the pricing of any Order change or other modification which involves aggregate increases or decreases, or both, in costs plus applicable profits expected to exceed [Insert the amount applicable to the prime contract], except where the price adjustment is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

34.2 SELLER shall certify, in the same form as that used in the certificate by BUYER to the Government, that, to the best of its knowledge and belief, the cost or pricing data submitted under H.31.1 above is accurate, complete and current as of the date prescribed by the Truth in Negotiations Act, 10 U.S.C. 2306a, and FAR Subpart 15.4.

34.3 SELLER agrees to indemnify and hold harmless BUYER from damages resulting from SELLER or SELLER's subcontractors (i) submission and/or certification of cost or pricing data that is defective; (ii) failure to comply with FAR 52.215-12, and FAR 52.215-13; (iii) submission of cost or pricing data that is not accurate, current and complete as of the date of price agreement between BUYER and BUYER's customer, provided BUYER advised SELLER of such date; or (iv) claim that an exception to the requirement to submit cost or pricing data applies when such exception is invalid. As used herein, "damages" shall mean the dollar amount by which the total Order price of the prime contract is reduced, or the amount of BUYER's costs that are disallowed, plus interest and penalties assessed in connection therewith.

34.4 The price of this Order shall be equitably reduced by the amount of damages as defined herein, at such time as the Contracting Officer of the prime contract reduces the price of the prime contract, disallows BUYER's costs, or demands payment from the prime SELLER for damages in a final decision, whichever occurs first, based on findings that SELLER or any lower tier SELLER failed to supply current, accurate and complete cost or pricing data as provided in this provision. In the event SELLER has been paid the entire Order price, then, upon written notice by BUYER, SELLER immediately shall remit to BUYER the amount of damages.

### **35.0 GOVERNMENT / BUYER PROPERTY INCLUDING SOFTWARE**

35.1 Except as may be otherwise expressly stated below in this provision the SELLER's obligation to perform this Order shall in no way be conditioned upon BUYER furnishing any Government / BUYER property or facilities.

35.2 The SELLER shall be responsible for and accountable for all Government / BUYER furnished property provided under the Order and shall comply with FAR Subpart 45.5 in the control and maintenance of the property. The SELLER shall submit to BUYER either a copy of the notice that the U S Government has approved their Property Management System or a copy of the SELLER's procedures for a property management and control system to comply with the requirements of FAR Part 45 for SELLER's approval. SELLER shall establish and execute a maintenance plan, to include written records of preventive maintenance and repairs, for any BUYER-furnished and Government- furnished tooling and equipment provided to SELLER under this Order. Such maintenance records shall be provided to BUYER's Property Management Organization (PMO) upon request

35.3 BUYER shall deliver to the SELLER, for use only in conjunction with the performance of this Order, unless otherwise directed by a modification to the Order, the following property:

#### **BUYER Furnished Property**

Item	Quantity	Delivery Location	Delivery Date
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If none, say none.

Government Furnished Property

Item	Quantity	Delivery Location	Delivery Date
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If none, say none.

Information or Documents to be provided by BUYER/ Government

Description	Quantity	Date To Be Returned
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If none, say none.

35.4 If the property is not received by the date specified in this provision, the SELLER shall notify the BUYER contract representative within five calendar days. The SELLER shall inspect all property within (BUYER to insert required number of days) calendar days of receipt and shall notify the BUYER's Supply Chain Team Member of any damage or discrepancies.

35.5 The BUYER or the U.S. Government shall retain title to all furnished property, as applicable. Title to furnished property shall not be affected by its incorporation into or attachment to any property not owned by BUYER or U.S. Government. Upon completion of this Order or at such time as specified elsewhere in this Order, the SELLER agrees to report to the BUYER all excess property not consumed in the performance of the Order. The SELLER shall provide to the BUYER an inventory disposal schedule, identifying excess property including description, quantity, condition code, and location. The SELLER shall retain the property until disposition instructions are received from the BUYER and carry out any instructions as may be directed by the BUYER in accordance with FAR 52.245-1(j).

35.6 Records: SELLER shall maintain inventory records for BUYER-furnished and Government-furnished property and material upon receipt. BUYER-furnished and Government-furnished tooling and equipment provided to the SELLER shall be identified / labeled with a unique tracking number (Asset Number). Such inventory records shall be provided to BUYER PMO upon request. SELLER shall have an acceptable system to enter all required data elements for property accountability in accordance with FAR 52.245-1.

35.7 Reporting: The SELLER shall have a process to create and provide to BUYER, on request, the following reports related to property:

- A. Discrepancies incident to shipment and receipt;
- B. Periodic physical inventory of property on hand reports and related discrepancies to be submitted in accordance with SELLER's procedures;
- C. U.S. Government written notification of System Adequacy (summary of findings) or Inadequacy System Rating and Corrective Actions, if applicable;
- D. Listings of excess property (BUYER will provide template when required);
- E. Any specific reports as identified in the contract;
- F. If a Loss report is required for Customer property, the BUYER shall be notified in writing within a reasonable period of time with a preliminary report or as soon as the facts become known, a formal Loss report will be submitted to the BUYER in accordance with FAR 52.245-1 (1)(vi)(B);
- G. IUID reporting requirements to the BUYER as specified in the Order.
- H. SELLER shall report any BUYER-furnished and Government-furnished property which is "Lost, Stolen, Damaged, or Destroyed" (LTDD) while in SELLER's possession immediately after the incident occurs and in no event later than five business days after the occurrence. SELLER shall be responsible and liable for the LTDD items unless BUYER receives relief of responsibility and liability from its Customer. SELLER shall identify and report all excess BUYER-furnished and Government-furnished property to BUYER PMO and request disposition instructions. SELLER shall dispose of any excess BUYER -furnished and Government-furnished property only as directed by the BUYER's Supply Chain Team Member.

35.8 Excess and Residual Property: SELLER shall report to the BUYER any excess property no longer required for performance on this Order. SELLER shall retain all excess or residual property intact pending disposition instructions from the BUYER and shall be accountable and responsible for the property until final disposition is concluded or other arrangements are negotiated. SELLER shall be responsible for carrying out the disposition instructions provided. Property may not be used for other SELLER activities unless authorization has been received from the BUYER. For DoD contracts, material may be handled in accordance with the MMAS clause (DFARS 252.242-7004).

35.9 Oversight: SELLER will appoint a point of contact that enables communication for matters of property management, as required. BUYER property oversight may be dependent upon: adequacy of SELLER's documented property plan, procedures or self-assessment; SELLER/BUYER history; SELLER's Property Management System reviews; and SELLER's ability to provide BUYER timely and accurate inventory and property reports. The BUYER shall have the right, at all reasonable times, to visit the SELLER's premises, for the purpose of verification or determining continued adequacy of the SELLER's Management System. BUYER shall provide prior written notice to SELLER before scheduling any visit.

35.10 The requirements of this clause also apply to all equipment, tooling, and material acquired by the SELLER in the performance of this Order provided the equipment, tooling, and material is directly funded by this Order.

35.11 SELLER shall submit all required property-related reports on the schedule specified by BUYER. Such reports include, but are not limited to, the BUYER Customer Property Questionnaire, and a "Physical Inventory Report" by December 1st or each year, and an "Annual Financial Report" (DD Form 1662 or equivalent form) by October 15th of each year for the period ending September 30th, or as otherwise specified by the BUYER PMO.

35.12 All notifications and reports required by this clause shall be submitted in duplicate to the BUYER Supply Chain Team Member and also to BUYER PMO at the following addresses:

- (1) General Dynamics Mission Systems, Inc. Address  
Address  
Attention: [Name of BUYER's designated Supply Chain Team Member]  
Location/Department/Bldg.:
- (2) General Dynamics Mission Systems, Inc. Address  
Address  
Attention: [Name of BUYER's designated Property Management Administrator] Location/Department/Bldg.:

**36.0 NOTIFICATION OF SUBCONTRACT CONTENT EXCEEDING SEVENTY PERCENT** - In compliance with DFARS 252.244-7001, SELLER shall maintain procedures to timely notify BUYER, in writing, if SELLER changes the amount of lower-tier SELLER effort after award such that it exceeds seventy percent of the total cost of the work to be performed under its Order. The notification shall identify the revised cost of the Order effort and shall include verification that the SELLER will provide added value as related to the work to be performed by the lower-tier subcontractor(s). This requirement is applicable to each of the SELLER's lower-tier cost-reimbursement subcontracts no matter the value and all letter subcontracts, fixed-price subcontracts, time and materials subcontracts and labor hour subcontracts if the subcontract exceeds the simplified acquisition threshold. SELLER shall include the substance of this clause in all sub-tier subcontracts.

## **37.0 SECURITY AND ACCESS TO BUYER'S FACILITIES WHILE VISITING OR WORKING AT BUYER'S FACILITIES**

37.1 Compliance with Rules and Regulations

37.1.1 SELLER agrees that, while visiting or working at BUYER's facilities, SELLER and its personnel shall comply with all facility rules and regulations of which they have notice, including, but not limited to, the security requirements set forth in the Department of Defense Industrial Security Program Operating Manual or National Security Agency Industrial Communications Security Guidelines.

37.1.2 Recording Devices. SELLER understands and agrees that SELLER and SELLER's personnel shall not use (1) the built-in audio or video capability of any smart phone, tablet or laptop computer or (2) thumb drive, external hard drive, digital or analog audio recorders or any still or video camera, whether using photographic film or digital technology on BUYER's property without the prior express written permission of the BUYER's Security Department. SELLER understands and agrees to inform SELLER's personnel that in the event BUYER's policy is violated, BUYER may suffer irreparable harm with no adequate remedy at law. Accordingly, SELLER agrees that if SELLER or Seller's personnel should violate BUYER's policy, SELLER's property or equipment and/or personal property of Seller's personnel and any recorded material shall be subject to confiscation and BUYER shall be entitled to temporary and permanent injunctive relief with respect to any SELLER and SELLER personnel recordings in violation of BUYER's policy stated above. BUYER also reserves its right to seek monetary damages with respect to any violation of BUYER's policy by SELLER and/or SELLER's personnel.

## 37.2 Facility Access

37.2.1 SELLER and SELLER's personnel shall be granted access to BUYER facilities only during BUYER's normally scheduled business hours or as otherwise specifically agreed in writing between the Parties.

37.2.2 SELLER shall be required to provide information concerning citizenship or immigrant status of SELLER's personnel entering the premises of BUYER. SELLER agrees to furnish this information before commencement of work and at any time thereafter before substituting or adding new personnel to work on BUYER's premises. Information submitted by SELLER shall be certified by an authorized representative of SELLER as being true and correct. SELLER shall comply with all the rules and regulations established by BUYER for access to and activities in and around premises controlled by BUYER or BUYER's customer.

## 37.3 Escort / Unescorted Access to Facilities

37.3.1 SELLER, and SELLER's personnel, after providing the information required by Section 35.2.2, shall be given escort only access to operating facility(ies) of the BUYER and no access to the BUYER's computer networks if the individual shall require access of forty-five calendar days or less in any three hundred sixty-five day period.

37.3.2 SELLER and SELLER's personnel may request unescorted access to operating facility (ies) of the BUYER if the individual shall require access of more than forty-five calendar days in any three hundred sixty-five day period and / or access to any of the BUYER's computer networks. Access to the BUYER's facilities on an unescorted basis and/or access to any of the BUYER's computer networks shall not be granted, unless and until SELLER, at its own expense, complies with the BUYER's policies regarding background screening and provides the necessary reports to BUYER. This requirement maybe waived by the Security Department at their discretion. These background screening requirements are as follows and the checks/test must have been accomplished after the BUYER initiated discussions of engagement:

### 37.3.2.1 Background Screening Requirement – Background Check

To ensure compliance to this requirement, SELLER agrees that, prior to assigning any SELLER Employee to perform services for BUYER it shall, at its own expense, conduct the following background checks on any individual it seeks to place at BUYER, to cover the previous seven years. The check shall be conducted in accordance with the provisions of the federal Fair Credit Reporting Act, 15 U.S.C. Section 1681 et seq.:

1. Social Security Number or Registration Number;
2. Verification of name and address;



3. A consumer credit history check, excluding any credit score, from a national credit bureau is required for SELLER and SELLER's Employees who will be placed in any position in the following job categories: Finance, Procurement (Supply Chain), or IT. Positions requiring a credit check will be identified as such on the labor requisition;
4. Employment History
  - a. Dates of employment (seven years);
  - b. Job title (seven years);
  - c. Reason for termination (prior employer – if disclosed);
  - d. Salary verification (prior employer – if disclosed);
5. Education – all degrees listed, certification/professional licenses, etc.;
6. A criminal records check that includes a search of federal and state criminal records (by county if statewide data is unavailable) for each address at which the SELLER's Employee resided or was employed at any time in the seven years immediately preceding the date of his/her assignment under this Order. In order to ensure that all the proper jurisdictions are checked, a preliminary address check should be run (using the social security number) prior to the criminal records check. If additional or different addresses are found, then criminal records checks should be done for the appropriate states/counties for the relevant time period. Where a single search of a statewide database shall accurately encompass criminal records for all non-federal jurisdictions within that state, it is not necessary to conduct separate county-specific searches for work or residential addresses within those counties.

SELLER agrees not to assign any individual to perform services on BUYER' premises who has been convicted of any serious crime involving violence or threat of violence, theft or other dishonest conduct, drugs or controlled substances, computer-related crimes, or similar crimes which create an increased risk to persons or property without prior written approval from a BUYER authorized Human Resources Manager. BUYER reserves the right to broaden the scope of these requirements with appropriate notice to SELLER.

7. Driving Records – Positions for which one of the primary functions requires driving a company vehicle;
8. Citizenship Status
9. Verification that the Individual is not on the National Sex Offenders Registry.

SELLER agrees to retain all documents relating to above verifications for individuals who are or were assigned to perform services on BUYER' premises while this Order is in effect, for at least two years from the date of last assignment at BUYER's premises. Upon request by BUYER, SELLER agrees to provide BUYER with a copy of such documents for any individual assigned to perform services on BUYER' premises within one business day.

#### 37.3.2.2 Background Screening Requirement – Employee Drug Testing.

SELLER must conduct a Substance Abuse and Mental Health Services Administration (SAMHSA)-certified drug test on its employees assigned to perform work for BUYER under this Order, and may only assign individuals who successfully pass the test. The drug test must be conducted at a Health and Human Services Certified Laboratory and must include the "five panel test" criteria of (a) Amphetamines, (b) Cannabinoids (Marijuana), (c) Cocaine, (d) Opiates (heroin, morphine), and (e) Phencyclidine (PCP). SELLER agrees to make the necessary arrangements for the laboratory conducting the drug test and shall furnish BUYER with a copy of the drug test results upon request.

#### 37.3.2.3 Background Screening Requirement – Employment Eligibility Verification.

SELLER will take all actions required by law in order to ensure that all workers assigned to perform services under this Order are authorized to engage in such employment in accordance with the Immigration Reform and Control Act of 1986, completing the required I-9 form. SELLER further agrees that SELLER shall confirm employment eligibility as follows:

1. SELLER shall confirm the employment eligibility using the DHS E-Verify Program of all SELLER Employees assigned to perform work at BUYER's premises, prior to assigning the employee.

2. SELLER Employees who hold an active confidential, secret, or top secret security clearance in accordance with the National Industrial Security Program Operating Manual (NISPOM) and SELLER Employees for whom background investigations have been completed and credentials issued under Homeland Security Presidential Directive-12 (HSPD-120 are excluded from this requirement.
3. Upon request by BUYER, SELLER shall certify to BUYER that Form I-9s were completed and are on file and that it has confirmed employment eligibility using E-Verify for any of its employees assigned to perform services under this Agreement. As allowed by applicable law, BUYER reserves the right to inspect and audit the records of SELLER for compliance with this requirement.

#### 37.3.2.4 Background Screening Requirements – Responsibility.

SELLER shall be responsible for procuring the criminal records checks, credit check and drug test, for obtaining all employee consents and authorizations required. SELLER also shall be responsible for all other notices that must be provided to SELLER's Employees in connection with the criminal records check or credit check under the Fair Credit Reporting Act or any other applicable state or federal law. BUYER shall have the right to deny access to its facility of any SELLER's Employees based upon BUYER's review of the background screening or drug test results.

#### 37.3.2.5 Background Screening Requirements – Exception.

If a specific employee of SELLER holds an active U.S. Government security clearance at or above the Secret level, then the background screening required in this Section 36 is limited to (1) verification of the U. S. Government security clearance status, (2) conduct of a criminal records check , and (3) conduct of an Employee Drug Test.

#### 37.4 Access to Classified or Restricted Data

Any classified or restricted data, information, or item required by SELLER or SELLER's personnel in the performance of Deliverables under this Order shall be furnished only after receipt by BUYER of proof that SELLER and SELLER's personnel have the necessary security clearance, and the execution of any requisite nondisclosure agreement(s).

#### 37.5 Use of BUYER's Computers or Computer Networks

37.5.1 In the event SELLER and/or SELLER's personnel are provided access to BUYER's computer networks, or are provided with a computer by BUYER for the purposes of performing work under this Order (collectively "computer resources"), SELLER and SELLER's personnel agree to comply with BUYER's policy on appropriate use of computer resources and must ensure that all software stored in or executed on BUYER's computer resources are in accordance with applicable license agreements. BUYER expressly reserves the right to audit, access, monitor, and inspect electronic communications and data created, stored or transmitted on its computer resources in accordance with applicable law. Access to BUYER's computer or computer networks by SELLER and or SELLER's personnel may be terminated at BUYER's will.

37.5.2 The security requirements as set forth in FAR 52.204-2 and incorporated herein are a material condition of this Order. Failure of the SELLER to maintain and administer a security program, fully compliant with the security requirements of this Order, constitutes grounds for termination for default.

37.5.3 This Order is subject to immediate termination for default, without the requirement for a ten calendar day cure notice, if BUYER determines that a failure to fully comply with the security requirements of this Order resulted from the willful misconduct or lack of good faith on the part of the SELLER.

37.5.4 If deficiencies in the SELLER's security program are noted, which do not warrant immediate termination for default, the SELLER shall be provided a written notice of any security-related deficiencies and be given a period of thirty calendar days in which to take corrective action including, but not limited to, removal of SELLER employees who violate

the security requirements of this Order. If the SELLER fails to take the necessary corrective action, BUYER may terminate the whole or any part of this Order for default.

37.5.5 SELLER agrees to provide only US citizens on US soil to accomplish the task under Order unless specifically approved in writing through contractual authorization to do otherwise.

37.5.6 Information Technology ("IT") Security Requirements for SELLER.

General Dynamics ("GD") corporate policy requires the implementation of Information Technology ("IT") Security requirements for all SELLERs/vendors/SELLERs that handle, store, or send/receive to/from BUYER. Therefore, to implement this requirement, SELLER shall impose the following on its systems and services:

37.5.6.1 The SELLER shall protect Information Assets from threats or unauthorized access including, but not limited to: criminal activity, error, sabotage, terrorism, industrial espionage, privacy violation, service interruption, and natural disaster; as well as from accidental or unintentional damage or inappropriate disclosure;

37.5.6.2 BUYER's information, systems access, or data excerpts will only be provided to U.S. citizens on U.S. soil;

37.5.6.3 Upon detection of an incident or potential incident involving BUYER's data that has or may have been lost, stolen, improperly changed, or otherwise accessed or compromised, the SELLER shall notify BUYER, within twenty-four (24) hours of detection or according to appropriate laws. The initial notification to BUYER shall include all relevant details of the incident. Follow-up reporting will include the details that led to the incident and the SELLER's remediation plan and its status;

37.5.6.4 The SELLER must use virus protection and maintain current updated signatures on all assets containing or processing BUYER's Data;

37.5.6.5 The SELLER shall limit the access to BUYER's data based on job function using least privilege principles;

37.5.6.6 Logon credentials and passwords employed in systems accessed by BUYER employees must meet BUYER's requirements;

37.5.6.7 The SELLER shall dispose of information assets containing BUYER's data in such a way that BUYER's data is no longer recoverable (e.g., overwriting, degaussing). Simply deleting the data is not sufficient;

37.5.6.8 If BUYER's data (e.g., laptop, CD USB memory stick, PC hard drive, Internet transmission, wireless transmission) leaves the SELLER's facility, the data must be encrypted at 128-bit or higher; BUYER's data will not be shared with SELLER without prior approval by BUYER's Information Security Officer ("ISO"); and

37.5.6.9 If the data is covered under laws and/or is critical such as HIPAA, Engineering Data, Customer Databases, or Sarbanes-Oxley data, the SELLER shall:

- (1) Perform vulnerability assessments of its networks processing BUYER's information at least quarterly and make a copy available for inspection.
- (2) Allow BUYER access to review any Information Technology security related third party accreditation reports that relate to the services provided by SELLER to BUYER.
- (3) Encrypt data at rest.
- (4) Encrypt backups for the protection of data at offsite storage.

37.5.7 SELLER agrees that, while visiting or working at BUYER's facilities, SELLER and its agents and employees will comply with all facility rules and regulations of which they have notice, including, but not limited to, the security requirements set forth in the Department of Defense National Industrial Security Program Operating Manual.

37.5.8 SELLER and any of its agents and employees shall be granted access to BUYER facilities only during BUYER' normally scheduled business hours or as otherwise specifically agreed in writing between the Parties.

37.5.9 SELLER and any of its agents and employees will not be given unescorted access to operating facility(ies) of BUYER (if the individual will require access of more than thirty calendar days in any three hundred sixty-five day period) or access to any BUYER's Information Processing Resources (computer networks), unless and until SELLER complies with BUYER' policies regarding background screening and provides the necessary reports to BUYER. These background screening requirements are as follows:

37.5.9.1 A criminal records check that includes a search of federal and state criminal records (by county if statewide data is unavailable) for each address at which the SELLER's employee or agent resided or was employed at any time in the seven years immediately preceding the date of his/her assignment under this Order. In order to ensure that all the proper jurisdictions are checked, a preliminary address check should be run (using the social security number) prior to the criminal records check. If additional or different addresses are found, then criminal records checks should be done for the appropriate states/counties for the relevant time period. Where a single search of a statewide database will accurately encompass criminal records for all non-federal jurisdictions within that state, it is not necessary to conduct separate county-specific searches for work or residential addresses within those counties.

37.5.9.2 A consumer credit history check from a national credit bureau is required for any of SELLER's employees or agents who: (a) have some responsibility for administration of the BUYER's Information Processing Resources (computer networks), (b) have access to non-public financial performance data of BUYER or (c) perform functions determined by BUYER's Security Director to protect the company and its assets.

37.5.9.3 When requested by BUYER, SELLER will conduct a drug test on its employees or agents assigned to perform work for BUYER under this Order. The drug test must include the "five panel test" criteria of (a) Amphetamines, (b) Cannabinoids (Marijuana), (c) Cocaine, (d) Opiates (heroin, morphine), and (e) Phencyclidine (PCP).

37.5.9.4 Authorizations and Consents. SELLER will be responsible for procuring the criminal records checks and credit check (if necessary), for obtaining all consents and authorizations required to provide such documentation to BUYER for review, and for all other notices that must be provided to SELLER's employees or agents in connection with the criminal records check or credit check under the Fair Credit Reporting Act or any other applicable state or federal law. When applicable, SELLER must obtain the individual's authorization to provide the drug screen results to BUYER.

## 37.6 Safety

SELLER agrees to comply with the federal Occupational Safety and Health Act (OSHA), all applicable OSHA regulations or standards, and all BUYER's safety rules of which SELLER has notice, regarding the performance of services under this Order.

## 37.7 Hazardous Substances

37.7.1 BUYER uses a number of "hazardous substances", as defined in 29 C.F.R. 1910.1200, and some of these substances are used in work areas where SELLER may perform services. The Material Safety Data Sheet ("MSDSs") kept on file by BUYER for any hazardous substances which are present in such work areas shall be made available for review by SELLER upon request.

37.7.2 SELLER agrees not to deliver or transport any hazardous substances or materials, as defined in 29 C.F.R. Section 1910.1200, onto BUYER's property without having first obtained prior written approval from the BUYER's Environmental, Health and Safety Department, and SELLER agrees to comply with any instructions from such Department regarding such substances and materials.

37.7.3 SELLER agrees to immediately report any known spill of hazardous materials, hazardous substances, or hazardous wastes on BUYER's property whether caused or not by SELLER. In addition, for spills of hazardous materials, hazardous substances, or hazardous wastes which are owned or controlled by SELLER, SELLER agrees that containment and cleanup shall be at the sole expense of SELLER and shall be performed to the satisfaction of BUYER's Environmental, Health and Safety Department.

#### 37.8 Emergency Medical Aid

SELLER authorizes BUYER to administer minor first aid to SELLER or SELLER's agents or employees for injuries incurred on BUYER's property. In the event of a serious injury or if immediate emergency care is believed necessary for an illness, SELLER authorizes BUYER to arrange for emergency response services at SELLER's expense.

**38.0 ASSIGNMENT, TRANSFER, DELEGATION, AND SUBCONTRACTING** - No right or interest of SELLER or BUYER hereunder or arising out of this Order may be assigned or transferred, whether by operation of law or otherwise, and/or all or substantially all of its performance of this Order without the prior written consent of BUYER or SELLER, respectively, which shall not be unreasonably withheld. Notwithstanding the foregoing, BUYER may assign this Order without SELLER's consent to a successor company resulting from a restructuring, consolidation, merger or other combination within General Dynamics. SELLER shall not delegate any of its duties or obligations under this Order. SELLER may assign its right to monies due or to become due. No assignment, transfer, delegation or subcontracting by SELLER, with or without BUYER's consent, shall relieve SELLER of any of its obligations under this Order or prejudice any of BUYER's rights against SELLER whether arising before or after the date of any assignment or transfer. Any unauthorized assignment, transfer or delegation is void. This Section does not limit SELLER's ability to purchase standard commercial supplies or raw materials.

**39.0 INDEPENDENT CONTRACTOR** - It is the intention of BUYER and SELLER that for all purposes SELLER is and shall be an independent contractor and the sole employer and/or principal of any and all persons assigned by SELLER to provide services under this Order. SELLER is obligated to perform all requirements of an employer under federal, state, and local laws and ordinances (or foreign law, if applicable). Such compliance shall include, but not be limited to, laws regarding minimum wages, social security, unemployment insurance, federal and state income taxes and workers' compensation insurance. SELLER, not BUYER, is the "common law employer" within the meaning of Treas. Reg. § 31.3401(c)-1(c) of employees of all persons assigned by Subcontractor to provide services under this Agreement. Under no circumstances shall SELLER or its employees or agents be construed to be employees, representatives, or agents of BUYER for any purpose, including but not limited to record keeping obligations under state or federal OSHA and Worker's Compensation Laws. SELLER's employees and agents shall not be entitled to participate in the profit sharing, pension, or other plans established for the benefit of BUYER's employees. If required by federal or state law, SELLER agrees to comply with the Family and Medical Leave Act ("FMLA") for its employees and agrees that with regard to such employees, it is the primary employer as defined by the FMLA regulations.

**40.0 SURVIVAL** - The provisions of this Order, which by their very nature would continue beyond the termination, cancellation, or expiration of this Order, including, without limitation, Sections 2, 4, 5, 7, 8, 9, 10, 11, 12, 15, 16, 23, 26 and 32 shall continue as valid and enforceable rights and obligations of the Parties and survive termination, cancellation, or expiration of this Order.

#### 41.0 PAYMENT

41.1 Allowable Costs. Buyer shall pay Seller as follows upon the submission of invoices or vouchers approved by BUYER's Supply Chain Team Member:

(a) Hourly rate.

(1) The amounts shall be computed by multiplying the appropriate hourly rates described in the Schedule 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.

Vouchers may be submitted once each month to BUYER. Seller shall substantiate vouchers by evidence of

actual payment and by individual daily job timecards, or other substantiation approved by BUYER's Supply Chain Team Member.

- (2) BUYER may withhold five percent (5%) of the amounts due under this paragraph (a) until completion of work by Seller.
  - (3) Unless the Schedule prescribes otherwise, the hourly rates in the Schedule shall not be varied by virtue of the Contractor having performed work on an overtime basis. If the Schedule provides rates for overtime, the premium portion of those rates will be reimbursable only to the extent that the overtime is approved in advance by BUYER's Supply Chain Team Member.
- (b) Materials and subcontracts
- (1) Reasonable and allocable costs of direct materials and (to the extent that they are clearly excluded from the hourly rate) material handling costs comprising, where appropriate, general and administrative expenses allocated by direct materials in accordance with Seller's usual accounting practices; provided, however, Seller regularly sells such materials to members of the general public in the normal course of its business, Seller shall invoice BUYER at no higher than its established catalog price, less discounts to its most favored customer.
  - (2) The cost of subcontracts that are authorized under the subcontracts clause hereof shall be reimbursable costs under this clause.
  - (3) To the extent able, Seller shall:
    - (i) obtain materials at the most advantageous prices available with due regard to securing prompt delivery of satisfactory materials, and
    - (ii) take all cash and trade discounts, rebates, allowances, credits, salvage, commission, and other benefits.

**41.2 Total Cost and Ceiling Price.**

- (a) If at any time Seller has reason to believe that the Allowable Costs that will accrue in performing this subcontract/PO in the next succeeding 30 days, if added to all other payments and costs previously accrued, will exceed 85 percent of the ceiling price in the Schedule, Seller shall notify BUYER's Buyer giving a revised estimate of the total price to BUYER for performing the contract with supporting reasons and documentation.
- (b) BUYER shall not be obligated to pay Seller any amount in excess of the ceiling price in the Schedule, and Seller shall not be obligated to continue performance, if to do so would exceed such ceiling price, unless and until BUYER's Supply Chain Team Member shall have specified in writing a revised ceiling price.

**41.3 Audit.** At any time before final payment, BUYER's Supply Chain Team Member may conduct either directly or have an agents audit the invoices or vouchers and substantiating material.

**42.0 WITHHOLDING** - In addition to all other remedies provided by law and stated in this Order, BUYER may withhold payment of an invoice if SELLER has not complied with any of its obligations under this Order and BUYER shall not be required to make any payment until SELLER completely satisfies the obligation(s) at issue. SELLER is not entitled to interest on any withheld payments.

**43.0 HEADINGS** - The headings used in this Order are inserted for the convenience of the Parties and shall not define, limit, or describe the scope or the intent of the provisions of this Order.

**44.0 ORDER OF PRECEDENCE** – The rights and obligations of the parties shall be subject to and governed by the Order. In the event of an inconsistency between the provisions of the Order, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order from the highest to lowest degree of precedence: (1) The FAR/DFARS, (2) Government Contract Provisions, if any, (3) Typed Provisions in the Schedule of this Order; (4) Special Provisions or Terms and Conditions, if any; (5) General Terms and Conditions of Purchase; (6) Specifications, drawings, statement of work, or other attachments or documents incorporated by reference.

**45.0 Report of Intended Performance Outside the United States and Canada** - As required by DFARS 252.225-7003 Report of Intended Performance Outside the United States and Canada-Submission with Offer and DFARS 252.225-7004



Report of Intended Performance Outside the United States and Canada-Submission after Award, the Supplier or Subcontractor shall report if it intends to perform or performs any part of the purchase order or subcontract outside the United States and Canada that 1) exceeds \$750,000 in value; and 2) could be performed inside the United States or Canada. The Supplier or Subcontractor shall use DD Form 2139, Report of Contract Performance Outside the United States; or a computer-generated report that contains all information required by DD Form 2139. Copies of DD Form 2139 are available at <https://www.esd.whs.mil/Directives/forms/>. Reports shall be submitted with the proposal submission or as soon as practical after the information is known after contract award.

#### Section I - Government Contract 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 Order and the terms "Government", "Contracting Officer" and equivalent phrases as used in the FAR/DFARS clauses below mean BUYER and BUYER's Supply Chain Team Member, 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 SELLER 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 Order 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 - The term "Contracting Officer" shall retain its original meaning. If the Government is unable or unwilling in a timely manner to conduct any audit of SELLER's books and records, an audit may be conducted by a mutually acceptable Independent Certified Public Accounting Firm.
- Note 3 - "Government" as used in the clause means only "U. S. Government".

*SELLER SHALL COMPLY WITH THE FOLLOWING FAR/DFARS AND INCLUDE THE SAME IN EACH LOWER-TIER SUBCONTRACT. THE MOST CURRENT VERSIONS OF THE FOLLOWING CLAUSES APPLY UNLESS OTHERWISE STATED. IF ANY OF THE BELOW CLAUSES ARE NOT APPLICABLE DUE TO THE NATURE OF THIS ACQUISITION OR BY THEIR EXPRESS TERMS, THEY SHALL BE OF NO FORCE OR EFFECT.*

#### **FAR/DFARS Clauses - Applicable to Solicitation**

- 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (applicable if Solicitation Exceeds \$150,000)
- 52.203-18 Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements or Statements-Representation
- 52.204-24 Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment
- 52.204-29 Federal Acquisition Supply Chain Security Act Orders—Representation and Disclosures
- 52.215-22 Limitations on Pass-Through Charges – Identification of Subcontract Effort
- 52.222-56 Certification Regarding Trafficking in Persons Compliance Plan (Applicable if at least \$500,000 of the value of the Subcontract will be performed outside the United States; and the acquisition is not entirely for commercially available off-the-shelf items).

52.225-2	Buy American Certificate (applies to solicitations only) if listing is required, it shall be included in the Proposal submission)
52.225-6	Trade Agreements Certificate (If the Seller is supplying other than U.S.-made or designated country end products, the required listing shall be included in the proposal submission. )
252.203-7005	Representation Relating to Compensation of Former DoD Officials
252.204-7008	Compliance with Safeguarding Covered Defense Information Controls
252.204-7016	Covered Defense Telecommunications Equipment or Services—Representation
252.204-7017	Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services—Representation
252.204-7019	Notice of NIST SP 800-171 DoD Assessment Requirements (applicable if over micro purchase threshold)
252.225-7000	Buy American – Balance of Payments Program Certificate (replaces FAR 52.225-2)
252.225-7003	Report of Intended Performance Outside the United States and Canada – Submission with Offer.
252.225-7020	Trade Agreements Certificate (If the Seller is supplying an end product other than U.S.-made, qualifying country, or designated country end products, the required listing shall be included in the proposal submission. Applies in lieu of FAR 52.225-6.)
252.225-7046	Exports by Approved Community Members in Response to the Solicitation
252.225-7051	Prohibition on Acquisition of Certain Foreign Commercial Satellite Services
252.225-7053	Representation Regarding Prohibition on Use of Certain Energy Sourced from Inside the Russian Federation
252.225-7055	Representation Regarding Business Operations with the Maduro Regime
252.225-7057	Preaward Disclosure of Employment of Individuals Who Work in the People’s Republic of China
252.225-7973	Prohibition on the Procurement of Foreign-Made Unmanned Aircraft Systems--Representation
252.239-7009	Representation of Use of Cloud Computing
252.239-7017	Notice of Supply Chain Risk
252.247-7022	Representation of Extent of Transportation by Sea

**FAR Clauses** Applicable to This Order (Exceptions as noted).

52.202-1	Definitions
52.203-3	Gratuities (If Order exceeds \$250,000)
52.203-5	Covenant Against Contingent Fees (If Order exceeds \$250,000)
52.203-6	Restrictions on Subcontractor Sales to the Government (If Order exceeds \$250,000)
52.203-7	Anti-Kickback Procedures (If Order exceeds \$150,000)
52.203-8	Cancellation, Rescission and Recovery of Funds for Illegal or Improper Activity (If Order exceeds \$250,000)
52.203-10	Price or Fee Adjustment for Illegal or Improper Activity (If Order exceeds \$250,000)
52.203-12	Limitation on Payments to Influence Certain Federal Transactions. (If order exceeds \$150,000)
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.) (If Order Exceeds \$6,000,000)
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.) Include in all lower tier subcontracts that exceeds \$6,000,000.
52.203-15	Whistleblower Protections under the American Recovery and Reinvestment Act of 2009
52.203-16	Preventing Personal Conflicts of Interest (If Order exceeds \$250,000)
52.203-17	Contractor Employee Whistleblower Rights (in all solicitations and contracts that exceed the simplified acquisition threshold)
52.203-19	Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements
52.204-2	Security Requirements (applies if the Work requires access to classified information.)
52.204-9	Personal Identity Verification of Contractor Personnel

52.204-10	Reporting Executive Compensation and First-Tier Subcontract Awards (if the order exceeds \$30,000)
52.204-21	Basic Safeguarding of Covered Contractor Information Systems
52.204-23	Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities
52.204-25	Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment
52.204-27	Prohibition on a ByteDance Covered Application
52.204-28	Federal Acquisition Supply Chain Security Act Orders—Federal Supply Schedules, Governmentwide Acquisition Contracts, and Multi-Agency Contracts
52.204-30	Federal Acquisition Supply Chain Security Act Orders—Prohibition
52.208-8	Required Sources for Helium and Helium Usage Data
52.209-6	Protecting the Government’s Interest When Subcontracting with Contractors Debarred, Suspended or Proposed for Debarment (If Order exceeds \$35,000)
52.209-10	Prohibition on Contracting With Inverted Domestic Corporations
52.211-5	Material Requirements
52.211-15	Defense Priority and Allocation Requirements
52.215-2	Audit and Records – Negotiation (If Order exceeds the Simplified Acquisition Threshold)
52.215-12	Subcontractor Cost or Pricing Data (If Order Exceeds \$750,000)
52.215-13	Subcontractor Cost or Pricing Data Modifications (If Order Exceeds \$750,000)
52.215-14	Integrity of Unit Prices (If Order exceeds the Simplified Acquisition Threshold)
52.215-15	Pension Adjustments and Asset Reversions (If Order Exceeds \$750,000)
52.215-17	Waiver of Facilities Capital Cost Of Money (Applies only if this Contract is subject to the Cost Principles at FAR Subpart 31.2 and Subcontractor did not propose facilities capital cost of money in its offer.)
52.215-18	Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions
52.215-19	Notification of Ownership Changes (If Order Exceeds \$750,000)
52.215-20	Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data (If Order Exceeds \$750,000)
52.215-21	Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data – Modifications (If Order Exceeds \$750,000)
52.215-23	Limitations of Pass through Charges (Non-DoD only) (If Order exceeds the Simplified Acquisition Threshold)
52.216-7	Allowable Cost and Payment
52.219-8	Utilization of Small Business Concerns (If Order exceeds the Simplified Acquisition Threshold)
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 Subcontract, and SELLER shall submit Small Business Subcontracting Reports (Individual Subcontracting Report (IRS)). (This Clause does not apply to Small Businesses). (If Order exceeds \$750,000)
52.219-16	Liquidated Damages -- Subcontracting Plan (Applies only if FAR 52.219-9 is applicable) (If Order exceeds \$750,000)
52.222-1	Notice to the Government of Labor Disputes
52.222-3	Convict Labor (If the Order Exceeds \$3,500)
52.222-4	Contract Work Hours and Safety Standards Act – Overtime Compensation (If Order exceeds \$150,000)
52.222-19	Child Labor- Cooperation with Authorities and Remedies
52.222-20	Contracts for Materials, Supplies, Articles and Equipment Exceeding \$15,000 (If Order exceeds \$15,000)
52.222-21	Prohibition of Segregated Facilities
52.222-22	Previous Contracts and Compliance Reports
52.222-26	Equal Opportunity
52.222-35	Equal Opportunity for Veterans (If Order exceeds \$150,000)
52.222-36	Affirmative Action for Workers with Disabilities (If Order exceeds \$15,000)
52.222-37	Employment Reports on Veterans (If Order exceeds \$150,000)

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52.222-40	Notification of Employee Rights under the National Labor Relations Act (If Order exceeds \$10,000)
52.222-41	Service Contract Labor Standards (If Order Exceeds \$2,500)
52.222-42	Statement of Equivalent Rates for Federal Hires (If Order Exceeds \$2,500)
52.222-44	Fair Labor Standards Act and Service Contract Labor Standards – Price Adjustment (If Order exceeds \$150,000)
52.222-50	Combating Trafficking In Persons
52.222-51	Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment – Requirements (If Order Exceeds \$2,500)
52.222-53	Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services – Requirements (If Order Exceeds \$2,500)
52.222-54	Employment Eligibility Verification (Does not apply to commercial off the self-items) (If the Order Exceeds \$3,500)
52.222-55	Minimum Wages Under Executive Order 13658 (applicable if FAR 52.222-41 applies and the work will be performed, in whole or in part, in the United States) (If Order Exceeds \$2,500)
52.222-62	Paid Sick Leave Under Executive Order 13706
52.223-3	Hazardous Material Identification and Material Safety Data (Alternate I applies only to Non-DoD Contracts which involves hazardous materials.)
52.223-6	Drug Free Workplace
52.223-7	Notice of Radioactive Materials (In paragraph (a), insert "thirty (30)" in the blank) (applies if this Subcontract involves radioactive material.)
52.223-11	Ozone-Depleting Substances (Applies if the Work was manufactured with or contains ozone- depleting substances.)
52.223-18	Encouraging Contractor Policies to Ban Text Messaging While Driving
52.223-23	Sustainable Products and Services
52.224-3	Privacy Training
52.225-1	Buy American– Supplies (Note 1)
52.225-3	Buy America Act –Free Trade Agreement- Israeli Trade Act (If Order exceeds \$25,000)
52.225-5	Trade Agreements
52.225-8	Duty-Free Entry (If contained in the BUYER’s contract)
52.225-13	Restrictions on Certain Foreign Purchases
52.225-19	Contractor Personnel in a Designed Operational Area or Supporting a Diplomatic or Consular Mission outside the United States
52.226-1	Utilization of Indian Organizations and Indian-Owned Economic Enterprises
52.227-1	Authorization and Consent
52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement
52.227-3	Patent Indemnity
52.227-9	Refund of Royalties (Applies when reported royalty exceeds \$250)
52.227-10	Filing of Patent Applications - Classified Subject Matter
52.227-11	Patent Rights - Ownership by the Contractor (DOD Large Businesses only see DFARS 252.227-7038)
52.227-14	Rights in Data - General (non DoD only) (does not apply if DFARS 252.227-7013 applies.)
52.228-3	Workers’ Compensation Insurance (Defense Base Act)
52.228-4	Workers’ Compensation and War-Hazard Insurance Overseas
52.228-5	Insurance-Work on a Government Installation
52.229-3	Federal, State, and Local Taxes
52.230-2	Cost Accounting Standards (Large Businesses only) (If Order Exceeds \$750,000)
52.230-3	Disclosure and Consistency of Cost Accounting Practices (If Order Exceeds \$750,000)
52.230-4	Disclosure and Consistency of Cost Accounting Practices – Foreign Concerns (Large Business only) (If Order Exceeds \$750,000)
52.230-5	Cost Accounting Standards- Educational institution (If Order Exceeds \$750,000)
52.230-6	Administration of Cost Accounting Standards (If Order Exceeds \$750,000)
52.232-17	Interest (If Order exceeds the Simplified Acquisition Threshold)

52.232-40	Providing Accelerated Payments to Small Business Subcontractors (Applies if SELLER is a small business concern. This clause does not apply if General Dynamics does not receive accelerated payments under the prime contract. Not all agencies provide accelerated payments.)
52.233-2	Service of Protest (if the contract is expected to exceed the simplified acquisition threshold)
52.233-3	Protest After Award (If Order exceeds the Simplified Acquisition Threshold)
52.233-4	Applicable Law for Breach of Contract Claim
52.237-2	Protection of Government Buildings, Equipment and Vegetation (applies if Work is performed on a Government installation.
52.237-7	Indemnification and Medical Liability Insurance
52.242-5	Payments to Small Business Subcontractors
52.242-13	Bankruptcy (in contracts exceeding the simplified acquisition threshold)
52.242-15	Stop-Work Order (Paragraph (b)(2)-change 30 days to 20 days), with Alternate I
52.243-7	Notification of Changes (Insert "10 calendar days" in the spaces provided in paragraphs (b) and (d)) ( If Order Exceeds \$1,000,000)
52.244-5	Competition in Subcontracting (If Order exceeds the Simplified Acquisition Threshold)
52.244-6	Subcontracts for Commercial Items
52.245-1	Government Property (applies only if Government Property is provided.)
52.245-9	Use and Charges (applies only if Government Property is provided.)
52.246-5	Inspection of Services –Cost Reimbursement
52.246-6	Inspection – Time-and-Material and Labor-Hour
52.246-25	Limitation of Liability - Services (If Order exceeds the Simplified Acquisition Threshold)
52.247-63	Preference for U.S.-Flag Air Carriers (applies only if U S Government financed international air transportation of personnel (and their personal effects or property will occur in the performance of this Subcontract.)
52.247-64	Preference for Privately Owned U.S.-Flag Commercial Vessels (applies only if ocean transport maybe involved.)
52.248-1	Value Engineering (If Order exceeds \$150,000)
52.249-2	Termination For Convenience of the Government (Fixed Price) (Paragraph (d) is deleted and Paragraph (e) is modified by changing "1 year" to "2 months" in all places.)
52.249-6	Termination including Alternate IV
52.249-14	Excusable Delays

## **DFARS Clauses**

### **DFARS Clauses Applicable to This Order (Exceptions as noted).**

252.203-7000	Requirements Relating to Compensation of Former DoD Officials
252.203-7001	Prohibition on Persons Convicted of Fraud or Other Defense-Contractor Related Felonies. (If Order Exceeds the Simplified Acquisition Threshold)
252.203-7002	Requirements to Inform Employees of Whistleblower Rights
252.203-7003	Agency Office of the Inspector General (If Order Exceeds \$6,000,000)
252.204-7000	Disclosure of Information (In paragraph (b) change "45" days to "60")
252.204-7003	Control of Government Personnel Work Product
252.204-7004	Antiterrorism Awareness Training for Contractors
252.204-7005	Oral Attestation of Security Responsibilities
252.204-7009	Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information
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
252.204-7012	Safeguarding Covered Defense Information and Cyber Incident Reporting (Include this clause in all contractual instruments for operationally critical support, or for which performance will involve a covered contractor information system, including agreements for commercial products and commercial services, without alteration, except to identify the parties.) The Seller shall rapidly report cyber incidents to the GDMS Security Operations Center (SOC) hotline at (210) 638-7050 and directly to DoD at



<https://dibnet.dod.mil> within 72 hours of discovery and shall rapidly report cyber incidents to Buyer's authorized Supply Chain Professional by a method(s) that ensures receipt by Buyer's authorized Supply Chain Professional within 48 hours of discovery, e.g., email, and must confirm receipt by Buyer's authorized Supply Chain Professional within that time period. The Seller shall also provide the Buyer with the incident report number, automatically assigned by DoD, as soon as practicable. In addition to the foregoing, in the event that Seller experiences a cyber incident it shall provide Buyer with a written status report, no less than monthly, detailing the remediation of the incident until such incident has been fully rectified. (This clause is not applicable to acquisitions of solely "COTS items" as defined in FAR 2.101.)252.204-7015 Notice of Authorized Disclosure of Information for Litigation Support

- 252.204-7018 Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services. In the event the Seller identifies covered defense telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, the Seller shall report at <https://dibnet.dod.mil> and the Buyer the information contained in (d)(2) of this clause within three business days from the date of such identification or notification. The Seller shall also provide the information required in (d)(2)(ii) of the clause to the Government and the Buyer within thirty business days of submitting the initial report required in (d)(2)(i).
- 252.204-7020 NIST SP 800-171 DoD Assessment Requirements (applicable if over micro purchase threshold)
- 252.205-7000 Provision of information to Cooperative Agreement Holders Agreements (If Order Exceeds \$6,000,000)
- 252.208-7000 Intent to Furnish Precious Metals as Government-Furnished Material . (If Order Exceeds the Simplified Acquisition Threshold)
- 252.209-7004 Subcontracting with Firms That Are Owned or Controlled by the Government of a Country that is a State Sponsored of Terrorism (If Order Exceeds \$150,000)
- 252.211-7003 Item Identification and Valuation
- 252.211-7008 Use of Government-Assigned Serial Numbers
- 252.215-7002 Cost Estimating Systems Requirements (If contract awarded on basis of cost and pricing data)
- 252.219-7003 Small Business Subcontracting Plan (DoD Contracts)
- 252.219-7004 Small Business Subcontracting Plan (Test Program)
- 252.222-7000 Restrictions on Employment of Personnel
- 252.222-7006 Restrictions on the Use of Mandatory Arbitration Agreements (If Order Exceeds \$1,000,000)
- 252.223-7001 Hazard Warning Labels
- 252.223-7006 Prohibition on Storage and Disposal of Toxic and Hazardous Materials
- 252.223-7007 Safeguarding Sensitive Conventional Arms, Ammunition, and Explosives
- 252.223-7008 Prohibition of Hexavalent Chromium
- 252.225-7001 Buy American and Balance of Payments Program
- 252.225-7002 Qualifying Country Sources as Subcontractors
- 252.225-7004 Report of Intended Performance outside the United States and Canada – Submission after Award (If Order Exceeds \$15,000,000)
- 252.225-7007 Prohibition on Acquisition of United States Munitions List Items from Communist Chinese Military Companies
- 252.225-7008 Restriction on Acquisition of Specialty Metals . (If Order Exceeds the Simplified Acquisition Threshold)
- 252.225-7009 Restriction on Acquisition of Certain Articles Containing Specialty Metals (If Order Exceeds \$250,000)
- 252.225-7012 Preference for Certain Domestic Commodities (If Order Exceeds \$150,000)
- 252.225-7013 Duty Free Entry
- 252.225-7015 Restriction on Acquisition of Hand or Measuring Tools (If Order Exceeds \$150,000)
- 252.225-7016 Restriction on Acquisition of Ball and Roller Bearings
- 252.225-7017 Photovoltaic Devices (If Order Exceeds \$150,000)
- 252.225-7019 Restriction on Acquisition of Anchor and Mooring Chain
- 252.225-7021 Trade Agreements (Add Alternate II if appropriate)
- 252.225-7025 Restriction on Acquisition of Forgings
- 252.225-7027 Restriction on Contingent Fees for Foreign Military Sales



252.225-7028	Exclusionary Policies and Practices of Foreign Governments
252.225-7033	Waiver of United Kingdom Levies (UK contracts only) Agreements (If Order Exceeds \$1,000,000)
252.225-7038	Restriction on Acquisition of Air Circuit Breakers
252.225-7040	Contractor Personnel Authorized to Accompany U. S. Armed Forces Deployed Outside the United States.
252.225-7043	Anti-Terrorism/Force Protection Policy for Defense Contractors Outside The United States (Applies where Seller will be performing or traveling outside the U.S. under this Subcontract.
252.225-7047	Exports by Approved Community Members in Performance of the Contract
252.225-7048	Export-Controlled Items
252.225-7052	Restriction on the Acquisition of Certain Magnets, Tantalum, and Tungsten
252.225-7054	Prohibition on Use of Certain Energy Sourced from Inside the Russian Federation
252.225-7055	Representation Regarding Business Operations with the Maduro Regime
252.225-7056	Prohibition Regarding Business Operations with the Maduro Regime
252.225-7057	Preaward Disclosure of Employment of Individuals who Work in the People's Republic of China (If Order Exceeds \$5,000,000)
252.225-7058	Postaward Disclosure of Employment of Individuals who Work in the People's Republic of China (If Order Exceeds \$5,000,000)
252.225-7060	Prohibition on Certain Procurements from the Xinjiang Uyghur Autonomous Region
252.225-7972	Prohibition on the Procurement of Foreign-Made Unmanned Aircraft Systems
252.226-7001	Utilization of Indian Organizations and Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns Metals (If Order Exceeds \$500,000)
252.226-7003	Drug-Free Work Force (If the Order Exceeds \$250,000)
252.227-7013	Rights in Technical Data- Noncommercial Items (Note 3)
252.227-7014	Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation
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)
252.228-7001	Ground and Flight Risk
252.228-7005	Accident Reporting and Investigation involving Aircraft, Missiles, and Space Launch Vehicles
252.231-7000	Supplemental Cost Principles
252.235-7003	Frequency Authorization
252.239-7010	Cloud Computing Services
252.239-7016	Telecommunications Security Equipment, Devices, Techniques, and Services
252.239-7018	Supply Chain Risk
252.243-7002	Request for Equitable Adjustment. (If Order Exceeds the Simplified Acquisition Threshold)
252.244-7000	Subcontracts for Commercial Items
252.244-7001	Contractor Purchasing System Administration
252.245-7003	Contractor Property Management System Administration (Applies only if Government Property is provided.)
252.245-7005	Management and Reporting Government Property

252.246-7001	Warranty of Data
252.246-7003	Notification of Potential Safety Issues
252.246-7004	Safety of Facilities, Infrastructure, and Equipment for Military Operations
252.246-7007	Contractor Counterfeit Electronic Part Detection and Avoidance System
252.246-7008	Sources of Electronic Parts
252.247-7003	Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer
252.247-7023	Transportation of Supplies by Sea . (If Order Exceeds the Simplified Acquisition Threshold)
252.247-7024	Notification of Transportation of Supplies by Sea. (If Order Exceeds the Simplified Acquisition Threshold)