

Common Terms and Conditions Guide
Section 5 – Government Contract Requirements

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MODIFICATIONS TO GENERAL TERMS AND CONDITIONS
GFY 2001 INERTIAL EQUIP/HDWE/TECH SUPPORT PROGRAM
PRIME CONTRACT N00030-01-C-0004

If Form GP1 is applicable to this procurement, this Attachment constitutes the Government clauses contemplated by Article 29. If Form GP2 is applicable to this procurement, this Attachment constitutes the Government clauses contemplated by Article 27. If Form GP3 is applicable to this procurement, this Attachment constitutes the Government clauses contemplated by Article 40. If Form GP4 is applicable to this procurement, this Attachment constitutes the Government clauses contemplated by Article 31.

- (A) The following contract clauses are incorporated by reference from the Federal Acquisition Regulation and apply to the extent indicated. In all of the following clauses, “Contractor” and “Offeror” mean Seller.

52.203-6 Restrictions on Subcontractor Sales to the Government (JUL 1995). This Clause applies only if this Contract exceeds \$100,000.

52.203-7 Anti-Kickback Procedures (excluding subparagraph (c)(1)) (JUL 1995). Buyer may withhold sums owed Seller in the amount of any kickback paid by Seller or its subcontractors at any tier if (a) the Contracting Officer so directs, or (b) the Contracting Officer has offset the amount of such kickback against money owed Buyer under the prime contract. This Clause applies only if this Contract exceeds \$100,000

52.203-8 Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity (JAN 1997). This Clause applies to this Contract if the Seller, its employees, officers, directors or agents participated personally and substantially in any part of the preparation of a proposal for this Contract. The Seller shall indemnify Buyer for any and all losses suffered by the Buyer due to violations of the Act (as set forth in this Clause) by Seller or its subcontractors at any tier.

52.203-10 Price or Fee Adjustment for Illegal or Improper Activity (JAN 1997). This Clause applies only if this Contract exceeds the simplified acquisition threshold. If the Government reduces Buyer’s price or fee for violations of the Act by Seller or its subcontractors at any tier, Buyer may withhold from sums owed Seller the amount of the reduction.

52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (APR 1991)

52.203-12 Limitation on Payments to Influence Certain Federal Transactions (JUN 1997). This Clause applies only if this Contract exceeds \$100,000.

52.204-2 Security Requirements (AUG 1996)). “Changes clause” means the changes clause of this Contract. This Clause applies only if access to classified

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material is required.

52.211-5 New Material (AUG 2000). Any notice will be given to Buyer rather than the Contracting Officer.

52.211-15 Defense Priority and Allocation Requirements (SEP 1990). This Clause is applicable if a priority rating is noted in this Contract.

52.215-2 Audit and Records – Negotiation (Jun 1999). This Clause applies only if this Contract exceeds the simplified acquisition threshold.

52.215-10 Price Reduction for Defective Cost or Pricing Data (OCT 1997) with the following changes: (a) In subdivision (3) of paragraph (a) insert "of this Contract" after "price or cost", (b) In paragraph (c) "Contracting Officer" means "Contracting Officer or Buyer", (c) In paragraphs (c)(1)(ii) and (c)(2)(i) "Contracting Officer" means Contracting Officer or Buyer. In paragraph (c)(2)(i)(A) delete "to the Contracting Officer". In paragraph (c)(2)(ii)(B) "Government" means Government or Buyer. This Clause applies only if this Contract exceeds \$500,000 unless otherwise exempt.

52.215-12. Subcontractor Cost or Pricing Data (OCT 1997). The certificate required by paragraph (c) is that set forth in FAR 15.406-2, substituting Buyer's name for "Contracting Officer". This Clause applies only if this Contract exceeds \$500,000 unless otherwise exempt.

52.215-14 Integrity of Unit Prices (OCT 1997) (excluding subparagraph (b)). This Clause applies except for contracts at or below the simplified acquisition threshold (as defined in FAR Part 2; construction or architect-engineer services under FAR Part 36; utility services under FAR Part 41; services where supplies are not required; commercial items; and petroleum products.

52.215-15 Asset Adjustments and Asset Reversions (DEC 1998). This Clause applies to this Contract if it meets the requirements of FAR 15.408(g).

52.215-18 Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions (OCT 1997). This Clause applies to this Contract if it meets the requirements of FAR 15.408(j).

52.219-8 Utilization of Small Business Concerns (OCT 1999).

52.219-9 Small Business Subcontracting Plan (OCT 1999). In paragraph (c), "Contracting Officer" means Buyer. Paragraph (j)(1) is modified to read as follows: "Standard Form 294, Subcontracting Report for Individual Contracts. This report shall be submitted to the Government and the Buyer, in accordance with the instructions on the form or as provided in agency regulations, semiannually and at contract completion. The report covers subcontract award data related to this Contract. This report is not required for commercial plans." This Clause applies

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only if this Contract exceeds \$500,000. and Seller is not a small business concern.

52.222-1 Notice to Government of Labor Disputes (FEB 1997). “Contracting

52.222-4 Contract Work Hours and Safety Standards Act — Overtime Compensation (JUL 1995). This Clause applies only if this Contract exceeds \$100,000. Buyer may withhold or recover from Seller the amount of any sums the Contracting Officer withholds or recovers from Buyer because of liabilities of Seller or its subcontractors under this Clause.

52.222-20 Walsh-Healy Public Contracts Act (DEC 1996). This Clause applies only if this Contract exceeds \$10,000.

52.222-26 Equal Opportunity (subparagraph (b)(1) through (11)) (FEB1999).

52.222-35 Affirmative Action for Special Disabled and Vietnam Era Veterans (APR 1998). This Clause applies only if this Contract exceeds \$10,000.

52.222-36 Affirmative Action for Workers with Disabilities (JUN 1998). This Clause applies only if this Contract exceeds \$2,500.

52.222-37 Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era (JAN 1999). This Clause applies only if this Contract exceeds \$10,000.

52.222-41 Service Contract Act of 1965, As Amended (MAY 1989). This Clause only applies to contracts which are subject to this act.

52.223-7 Notice of Radioactive Materials (JAN 1997). The period for giving the notice is 60 days.

52.223-14 Toxic Chemical Release Reporting (OCT 1996) (excluding subparagraph (e)). This Clause applies only if this Contract exceeds \$100,000.

52.224-2 Privacy Act (APR 1984). This Clause applies only if Seller is required to design, develop, or operate a system of records contemplated by this Clause.

52.225-8 Duty-free Entry (FEB 2000). This Clause applies only if this Contract identifies supplies to be afforded duty-free entry or if foreign supplies in excess of \$10,000 may be imported into the customs territory of the United States.

52.225-13 Restrictions on Certain Foreign Purchases (JUL 2000).

52.227-1 Authorization and Consent (JUL 1995).

52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement

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(AUG 1996). A copy of each notice sent to the Government will be sent to Buyer. This Clause applies only if this Contract exceeds the simplified acquisition threshold.

52.227-10 Filing of Patent Applications — Classified Subject Matter (APR 1984).

52.227-12 Patent Rights - Retention by the Contractor (Long Form) (JAN 1997). This Clause only applies if this Contract is for experimental, developmental, or research work and Seller is other than a small business firm or nonprofit organization.

52.229-6 Taxes - Foreign Fixed-Price Contracts (JAN 1991). The terms "Contracting Officer" and "Government" mean Buyer.

52.229-8 Taxes - Foreign Cost-Reimbursement Contracts (MAR 1990).

52.230-6 Administration of Cost Accounting Standards NOV 1999). Add "Buyer and the" before "Contracting Officer" in paragraph (c). This Clause applies only if this Contract exceeds \$500,000 unless otherwise exempt.

52.234-1 Industrial Resources Developed Under Defense Production Act Title III (DEC 1994).

52.242-15 Stop Work Order (AUG 1989). The terms "Contracting Officer" and

52.244-6 Subcontracts for Commercial Items and Commercial Components (OCT 1998).

52.245-2 Government Property (APR 1989).

52.245-18 Special Test Equipment (FEB 1993).

52.247-63 Preference for U.S.-Flag Air Carriers (JAN 1997).

52.248-1 Value Engineering (FEB 2000) (excluding subparagraph (f)). The term "Contracting Officer" means Buyer. This Clause applies only if this Contract is for \$100,000 or more. If the Value Engineering Change Proposal is accepted by the Government, Seller's share will be 50% of the instant, concurrent and future contract net acquisition savings and collateral savings that Buyer receives from the Government. Seller's negotiated share of the net acquisition savings and collateral savings shall not reduce the Government's share of concurrent or future savings or collateral savings. Buyer's payments to Seller under this Clause are conditioned upon Buyer's receipt of authorization for such payments from the Government.

(B) DoD Contracts. If this Contract is placed under a Department of Defense Contract, the following contract clauses are incorporated by reference from the Department

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of Defense Federal Acquisition Regulation Supplement and apply to the extent indicated. In all of the following clauses, “Contractor” and “Offeror” mean Seller except as otherwise noted.

252.203-7001 Special Prohibition on Employment (MAR 1999) (excluding paragraph (g)). This Clause applies only if this Contract exceeds the FAR Part 13 simplified acquisition threshold and does not apply to the purchase of commercial items or commercial components.

252.204-7000 Disclosure of Information (DEC 1991). Seller will submit requests for authorization to release through Buyer.

252.209-7000 Acquisition From Subcontractors Subject to On-site Inspection Under the Intermediate-Range Nuclear Forces Treaty (NOV 1995). This Clause applies only if this Contract exceeds the FAR Part 13 simplified acquisition threshold and does not apply to the purchase of commercial items or commercial components.

252.223-7002 Safety Precautions for Ammunition and Explosives (MAY 1994). This Clause applies only if Seller delivers ammunition or explosives under this Contract.

252-223-7006 Prohibition on Storage and Disposal of Toxic and Hazardous Materials (APR 1993). This Clause applies to this Contract if it requires, may require, or permits Seller to treat or dispose of non-DoD-owned toxic or hazardous materials as defined in this Clause.

252.225-7001 Buy American Act and Balance of Payment Program (MAR 1998).

252.225-7009 Duty-free Entry — Qualifying Country End Products and Supplies (AUG 2000).

252.225-7010 Duty-free Entry — Additional Provisions (AUG 2000). This Clause applies in addition to FAR 52.225-10. Additional information referenced in this Clause is available on request.

252.225-7014 and Alt. 1 Preference for Domestic Specialty Metals (MAR 1998).

252.225-7016 Restriction on Acquisition of Ball and Roller Bearings (AUG 1998). This Clause does not apply to the purchase of commercial items other than ball or roller bearings or to items which contain no ball or roller bearings.

252.225-7026 Reporting of Contract Performance Outside the United States (JUN 2000). This Clause applies only if this Contract exceeds \$500,000.

252.225-7027 Limitation on Sales Commissions and Fees (MAR 1998). This Clause applies only if this Contract is for Foreign Military Sales.

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252.225-7028 Exclusionary Policies and Practices of Foreign Governments (DEC 1991). This Clause applies only if this Contract is for Foreign Military Sales.

252.225-7032 Waiver of United Kingdom Levies (OCT 1992). This Clause applies if this Contract is over \$1,000,000 and is with an United Kingdom firm.

252.227-7013 Rights in Technical Data - Noncommercial Items (NOV 1995). This Clause applies only if the delivery of data is required for noncommercial items under this Contract.

252.227-7014 Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation (JUN 1995). This Clause applies only if the delivery of noncommercial computer software or noncommercial computer documentation may be originated, developed or delivered under this Contract.

252.227-7016 Rights in Bid or Proposal Information (JUN 1995).

252.227-7017 Identification and Assertion of Use, Release, or Disclosure Restrictions (JUN 1995).

252.227-7019 Validation of Asserted Restrictions - Computer Software (JUN 1995). This Clause applies only if computer software may be originated, developed, or delivered under this Contract.

252.227-7026 Deferred Delivery of Technical Data or Computer Software (APR 1988). This Clause applies only if the delivery of data is required or if computer software may be originated, developed or delivered under this Contract.

252.227-7027 Deferred Ordering of Technical Data or Computer Software (APR 1988). This Clause applies only if technical data or computer software may be generated as part of the performance of this Contract.

252.227-7030 Technical Data — Withholding of Payment (MAR 2000). “Government” and “Contracting Officer” mean Buyer. This Clause applies only if the delivery of data is required by this Contract.

252.227-7036 Certification of Technical Data Conformity (JAN 1997). This Clause applies only if the delivery of data is required by this Contract.

252.227-7037 Validation of Restrictive Markings on Technical Data (SEP 1999). This Clause applies only if the delivery of data is required by this Contract.

252.228-7005 Accident Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles (DEC 1991).

252.235-7003 Frequency Authorization (DEC 1991). This Clause applies only if

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this Contract requires the development, production, construction, testing, or operation of a device for which a radio frequency authorization is required.

252.244-7000 Subcontracts for Commercial Items and Commercial Components (DoD Contracts) (MAR 2000).

252.245-7001 Reports of Government Property (MAY 1994).

252.247-7023 Transportation of Supplies by Sea (MAR 2000). This Clause applies only if this Contract exceeds the Simplified Acquisition Threshold in FAR Part 13.

252.247-7024 Notification of Transportation of Supplies by Sea (MAR 2000). "Contracting Officer" and, in the first sentence of paragraph (a), "Contractor" mean Buyer. This Clause does not apply to the procurement of commercial items or commercial components.

252.249-7002 Notification of Proposed Program Termination or Reduction (DEC 1996). This Clause applies only if this Contract is for \$500,000 or more.

- (C) If goods or services being procured under this Contract are for commercial items the foregoing Government clauses are deleted and the following FAR and DFARS clauses are inserted in lieu thereof:

52.222-26 Equal Opportunity (FEB 1999) (subparagraph (b)(1) through (11)).

52.222-35 Affirmative Action for Special Disabled and Vietnam Era Veterans (APR 1998). This Clause applies only if this Contract exceeds \$10,000.

52.222-36 Affirmative Action for Handicapped Workers (JUN 1998). This Clause applies only if this Contract exceeds \$2,500.

252.225-7014 and Alt. 1 Preference for Domestic Specialty Metals (MAR 1998).

THE FOLLOWING PROVISIONS ARE SET FORTH IN FULL TEXT

SSP 5252.225-9750 CONTRACTOR'S EMPLOYEES AND REPRESENTATIVES IN THE U.K. (SEP 1999) (modified for the Contractor/Subcontractor relationship)

1. If any work is performed in the U.K., the Contractor/Seller shall ensure that its employees and the employees of its subcontractors learn and comply with (a) the rules, regulations, and requirements of the place in the U.K. where the work is performed, and (b) the security regulations and requirements of the U.K. Ministry of Defense. If a Contractor/Seller or subcontractor employee is not qualified to perform the required work or is otherwise unsuitable, the Buyer or the Contracting Officer may direct that such employee be returned to the United States and replaced with a qualified and suitable employee.

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2. The United States has an obligation to assure that the work under this Contract for the benefit of the U.K. is consistent with the terms of this Contract and the Polaris Sales Agreement. Accordingly, Contractor/Seller representatives in the U.K. shall abide by the requirements of SSPINST 5450.8, as amended. If an amendment to SSPINST 5450.8 causes an increase or decrease in the cost of performing this Contract, an equitable adjustment shall be made in accordance with the procedures of the "Changes" clause. Such equitable adjustment shall include an adjustment in fee or profit only at the discretion of the Buyer.

SSP 5252.227-9750 NON-DISCLOSURE AGREEMENTS (SEP 1999)

The Trade Secrets Act, 18 U.S.C. 1905, prohibits Government employees from making unauthorized disclosures of a contractor's or proprietary information. Government employees shall not be required to sign a non-disclosure agreement or any other document, or furnish personal or biographical information or documents, as a condition to gain access to a contractor's or subcontractor's data or other information needed to perform their official duties. The Contractor and its subcontractors shall include, and ensure inclusion of, this Clause, suitably modified to identify the parties, in all subcontracts at all tiers.

THE FOLLOWING "DISPUTES" PROVISION APPLIES ONLY TO THE CLAUSES LISTED BELOW WHEN THE CLAUSE IS A REQUIRED GOVERNMENT PROVISION OF BOEING'S PRIME CONTRACT AND IS CITED ABOVE

PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA

PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA –
MODIFICATIONS

COST ACCOUNTING STANDARDS

DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES

1. Any dispute that arises under or is related to this Contract concerning the above named clauses that cannot be settled by mutual agreement of the parties may be decided by a court of competent jurisdiction. Pending final resolution of any dispute, Seller shall proceed with performance of this Contract according to Buyer's instructions so long as Buyer continues to pay amounts not in dispute.
2. If a decision arising under the prime contract is made by the Contracting Officer and such decision is also related to the above named clauses of this order, said decision, if binding upon Buyer under the prime contract, shall in turn be binding upon Buyer and Seller with respect to such decision insofar as it relates to this order; provided, however, that if Seller is adversely

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affected by any such decision made by the Contracting Officer, and if Buyer elects not to appeal such decision pursuant to the "Disputes" clause of the prime contract, Buyer shall promptly notify Seller. If Seller thereafter timely requests Buyer to appeal such decision, Buyer shall do so. If Buyer appeals such decision, whether at its election or at Seller's request, any decision upon such an appeal, if binding upon Buyer under the prime contract, shall in turn be binding upon Buyer and Seller under this order with respect to such decision insofar as it relates to this order.

3. If any such appeal is denied or otherwise decided adversely to Seller's interest, or if Seller is otherwise adversely affected by any decision made by any representative of the Government on any decision arising under the prime contract which is also related to this order, from which an appeal under the "Disputes" clause in the prime contract is not available, said decision, if binding upon Buyer under the prime contract, shall in turn be binding upon Buyer and Seller with respect to such decision insofar as it relates to this order; provided, however, that if Seller is adversely affected by any such decision, and if Buyer elects not to bring suit against the Government with respect to such decision, Buyer shall notify Seller with reasonable promptness. If Seller timely requests Buyer to bring suit against the Government, Buyer shall do so. If Buyer brings suit against the Government with respect to any such decision, whether at its election or at Seller's request, a final judgment in any such suit, if binding upon Buyer under the prime contract shall in turn be binding upon Seller and Buyer under this order with respect to the decision insofar as it relates to this order.
4. If necessary for jurisdiction under the Contract Disputes Act, Buyer shall certify Seller's claim and proceed with the appeal only if Buyer is satisfied that the Seller's claim is in good faith, that the supporting data are accurate and complete to the best of its knowledge and belief, and that the amount requested accurately reflects the contract adjustment for which the Buyer believes the Government is liable. Buyer's position on whether or not it is satisfied shall be reasonable and shall not be used to arbitrarily deny Seller certification. Seller shall indemnify Buyer against any liability incurred as a result of acting hereunder at Seller's request, including furnishing such certification.
5. If any such appeal or suit is taken or brought by Buyer, whether at its election or at Seller's request, Seller shall assist Buyer in its prosecution thereof in every reasonable manner and Seller shall be afforded reasonable opportunity to participate in the prosecution thereof to the extent Seller's interest may be affected. To the extent requested by Buyer, Seller shall prosecute for Buyer any appeal or suit taken or brought at Seller's request and, in such event, Buyer shall assist Seller in every reasonable manner. All costs and expenses incurred by Seller and Buyer in prosecuting any appeal or suit taken or brought at Seller's request shall be paid by Seller. Where possible, Buyer shall in good faith consult with Seller concerning the presentation to the

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Contracting Officer or other cognizant representatives of the Government of the matters referred to in Paragraphs B and C above to the extent they may affect Seller's interest.

6. If as a result of any decision or judgment which is binding upon seller and Buyer, as above provided, Buyer is unable to obtain reimbursement from the Government under the prime contract for, or is required to refund or credit to the Government, any amount with respect to any item of cost or fee for which Buyer has reimbursed Seller, Seller shall, on demand, promptly repay such amount to Buyer.
7. The rights and obligations described herein shall survive completion of and final payment under this order.

END