

Common Terms and Conditions Guide
Section 5 – Government Contract Requirements

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F42610-02-C-0006
(ICBM – Mod. 7)

SPECIAL U.S. GOVERNMENT PROVISIONS:

The following Federal Acquisition Regulations (FAR) and Federal Acquisition Regulation Supplement clauses, as in effect on the date of the Prime Contract are incorporated herein by reference. In such clauses, unless otherwise specifically stated, the term "Contractor" means Seller except in the term "prime contractor", "subcontractor" means Seller's subcontractor, "Contract" means this order, except in the term "prime contract" and both "Contracting Officer" and "Government" mean Buyer except in the terms "Government Property", "Government-Owned Property", and "Former Government Surplus Property", or as otherwise indicated.

In the event that a Government clause is incorporated by reference in Form GP1, GP2, GP3, or GP4, such clause's incorporation in this Flowdown Clause Attachment is solely for purposes of identifying the applicable clause's effectivity date.

For purposes of these prime contract terms and conditions, "contract" includes "order, purchase order, purchase contract or subcontract".

EXCEPT AS OTHERWISE NOTED, THE FOLLOWING FAR AND DFAR SUPPLEMENT CLAUSES APPLY TO ALL PURCHASE CONTRACTS ISSUED UNDER THE PRIME CONTRACT

FAR CLAUSES

FAR CLAUSES APPLICABLE TO THIS ORDER REGARDLESS OF THE AMOUNT OF THE ORDER (Except as noted)

- 52.211-5 (Aug 00) MATERIAL REQUIRMENTS
- 52.211-15 (Sep 90) DEFENSE PRIORITY AND ALLOCATION REQUIREMENTS
(Applies to rated orders certified for national defense use. In such event Seller is required to follow all the provisions of the Defense Priorities and Allocations System regulation (15CFR700)).
- 52.222-1 (Feb 97) NOTICE TO THE GOVERNMENT OF LABOR DISPUTES
- 52.222-26 (Apr 02) EQUAL OPPORTUNITY (subparagraph (b)(1) through (11))
- 52.225-13 (Jul 00) RESTRICTIONS ON CERTAIN FOREIGN PURCHASES
- 52.227-2 (Aug 96) NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT
- 52.244-6 (May 02) SUBCONTRACTS FOR COMMERCIAL ITEMS

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52.245-2 (Dec 89) GOVERNMENT PROPERTY (FIXED-PRICE CONTRACTS)

FAR CLAUSES APPLICABLE IF THIS ORDER EXCEEDS \$2,500 (Except as noted)

52.225-13 (Jul 00) RESTRICTIONS ON CERTAIN FOREIGN PURCHASES

FAR CLAUSES APPLICABLE IF THIS ORDER EXCEEDS \$10,000 (Except as noted)

52.222-20 (Dec 96) WALSH-HEALEY PUBLIC CONTRACTS ACT

52.222-36 (Jun 98) AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES

52.225-8 (Feb 00) DUTY-FREE ENTRY. (Applies if supplies are imported into the customs territory of the U.S. "Contractor" means "Subcontractor". Change "20 days" to "30 days" in paragraph (c)(1), and change "10 days" to "25 days" in paragraph (c)(2). "Government" means "Government" in paragraphs (c), (d) and (e). "Contracting Officer" means "Contracting Officer" except in paragraph (c)(1) where "Contracting Officer" shall mean Buyer's Purchasing Representative.)

FAR CLAUSES APPLICABLE IF THIS ORDER EXCEEDS \$25,000 (Except as noted)

52.222-35 (Dec 01) EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS

52.222-37 (Dec 01) EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS, VETERANS OF THE VIET- NAM ERA, AND OTHER ELIGIBLE VETERANS

FAR CLAUSES APPLICABLE IF THIS ORDER EXCEEDS \$100,000 (Except as noted)

52.203-6 (Jul 95) RESTRICTION ON SUBCONTRACTOR SALES TO THE GOVERNMENT

52.203-7 (Jul 95) ANTI-KICKBACK PROCEDURES (The following is added to paragraph (c)(2); "Seller shall notify Buyer when such action has been taken". In paragraph (c)(4)(i) "which in turn may be offset by Buyer under this order" is added after "the prime contract".)

52.203-8 (Jan 97) CANCELLATION, RESCISSION, and RECOVERY of FUNDS for ILLEGAL or IMPROPER ACTIVITY (This clause applies 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

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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 (Jan 97) PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY. 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 (Apr 91) CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS
- 52.203-12 (Jun 97) LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (In (c)(1), "Contractor who requests or receives from an agency a Federal contract shall file with that agency" is changed to "The Seller shall file with the Buyer". In (c)(2), "The Contractor shall file" is changed to "The Seller shall file with the Buyer". In (c)(3), "Contractor" is changed to "Seller".)
- 52.215-2 (Jun 99) AUDITS AND RECORDS--NEGOTIATION (This clause applies only if it (i) is a cost-reimbursement, incentive, time-and-materials, labor-hour, price-re-determinable or any combination of these types; (ii) Seller was required to provide cost or pricing data, or (iii) Seller is required to furnish reports as discussed in paragraph (e) of this clause.)
- 52.215-14 (Oct 97) INTEGRITY OF UNIT PRICES (less paragraph (b) and applicable in accordance with paragraph (c))
- 52.219-8 (Oct 00) UTILIZATION OF SMALL BUSINESS CONCERNS
- 52.248-1 (Feb 00) VALUE ENGINEERING (Applies if identified as applicable and share percentages are stated elsewhere in this order.)

FAR CLAUSES APPLICABLE IF THIS ORDER EXCEEDS \$500,000 (Except as noted)

- 52.215-10 (Oct 97) PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA (Applies if Certified Cost and Pricing Data is required. In subdivision (3) of paragraph (a), insert "of this order" after "price or cost". In paragraph (c), "Contracting Officer" means "Contracting Officer or Buyer". In paragraphs (c)(1), (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".)

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- 52.215-12 (Oct 97) SUBCONTRACTOR COST OR PRICING DATA (The certificate required by paragraph (b) is that set forth in FAR 15.804-4, substituting Buyer's name for "Contracting Officer".)
- 52.215-15 (Dec 98) PENSION ADJUSTMENTS AND ASSET REVERSIONS (Applies only if under this contract certified cost or pricing data is required or pre-award or post-award cost determinations are subject to FAR part 31. Buyer may withhold or recover from Seller such sums as the Contracting Officer withholds or recovers from Buyer because of liabilities of Seller or its subcontractors.)
- 52.215-18 (Oct 97) REVERSION OR ADJUSTMENT OF PLANS FOR POSTRETIREMENT BENEFITS (PRB) OTHER THAN PENSIONS (Applies to contracts that meet the requirements of FAR 15.408(j).)
- 52.215-19 (Oct 97) NOTIFICATION OF OWNERSHIP CHANGES
- 52.219-9 (Jan 02) SMALL BUSINESS SUBCONTRACTING PLAN
- 52.230-6 (Nov 99) ADMINISTRATION OF COST ACCOUNTING STANDARDS (Applies if Seller is subject to Cost Accounting Standards(CAS). Add "Buyer and the" before "Contracting Officer" in paragraph (e).)
Note: The version of FAR 52.230-2, Cost Accounting Standards, incorporated by clause 3050 is the version dated April 1998. The version of FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices, incorporated by clause 3051 is the version dated April 1998.

THE FOLLOWING SUPPLEMENT THE PREVIOUS FARs AND APPLY ONLY TO COST-REIMBURSEMENT ORDERS ISSUED UNDER DEPARTMENT OF DEFENSE (DoD) CONTRACTS

FAR CONTRACT CLAUSES

FAR CLAUSES APPLICABLE TO THIS CONTRACT REGARDLESS OF THE AMOUNT OF THE ORDER (Except as noted)

- 52.216-7 (Feb 02) ALLOWABLE COST AND PAYMENT
- 52.222-2 (Jul 90) PAYMENT FOR OVERTIME PREMIUMS (The amount in paragraph (a) is "zero".)
- 52.232-20 (Apr 84) LIMITATION OF COST (Applicable when order is fully-funded at commencement of performance)

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- 52.232-22 (Apr 84) LIMITATION OF FUNDS (Applicable when order is partially-funded at commencement of performance). "Schedule" means "order".)
- 52.242-15 (Aug 89) STOP WORK AND ALT. I (Apr 84) - (Change "90 days" and "30 days" to "100 days" respectively. The Termination for Convenience should refer to the Termination for Convenience clause of this contract. "CO" and Government" shall mean Buyer.)
- 52.245-5 (Jan 86) GOVERNMENT PROPERTY (COST-REIMBURSEMENT, TIME-AND-MATERIAL, OR LABOR-HOUR CONTRACTS)

DFARS CLAUSES

DFAR CLAUSES APPLICABLE TO THIS ORDER REGARDLESS OF THE AMOUNT OF THE ORDER (Except as noted)

- 252.204-7000 (Dec 91) DISCLOSURE OF INFORMATION (In paragraph (c) "Contracting Officer" means "Contracting Officer.")
- 252.225-7009 (Aug 00) DUTY-FREE ENTRY - Qualifying Country Supplies (End Products and Components).
- 252.225-7010 (Aug 00) DUTY-FREE ENTRY – ADDITIONAL PROVISIONS (This Clause applies only if FAR 52.225-8 is applicable.)
- 252.225-7012 (Apr 02) PREFERENCE FOR CERTAIN DOMESTIC COMMODITIES (In Paragraph (b) (1) "Government" means "Government".)
- 252.227-7013 (Nov 95) RIGHTS IN TECHNICAL DATA - NONCOMMERCIAL ITEMS. (This clause applies only if the delivery of data is required for noncommercial items under this contract.)
- 252.227-7016 (Jun 95) RIGHTS IN BID OR PROPOSAL INFORMATION
- 252.227-7030 (Mar 00) TECHNICAL DATA - WITHHOLDING OF PAYMENT. ("Government" and "Contracting Officer" mean Buyer. This clause applies only if the delivery of data is required by this contract.)
- 252.227-7036 (Jan 97) DECLARATION OF TECHNICAL DATA CONFORMITY. (This clause applies only if the delivery of data is required by this contract.)
- 252.227-7037 (Sep 99) VALIDATION OF RESTRICTIVE MARKINGS ON TECHNICAL DATA. (Applies only if DFARS 252.227-7013 applies.)

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252.242-7005 (Mar 98) COST/SCHEDULE STATUS REPORT (Applies when the subcontract is other than firm fixed price, is 12 months or more in duration, and has critical or significant tasks related to the prime contract.)

252.244-7000 (Mar 00) SUBCONTRACTS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS (DoD CONTRACTS)

252.245-7001 (May 94) REPORTS OF GOVERNMENT PROPERTY

DFAR CLAUSES APPLICABLE IF THIS ORDER EXCEEDS \$100,000 (Except as noted)

252.203-7001 (Mar 99) PROHIBITION ON PERSONS CONVICTED OF FRAUD OR OTHER DEFENSE-CONTRACT-RELATED FELONIES (This clause applies to all first-tier subcontracts over \$100,000, except those for commercial items or components. Paragraph (g) is excluded.)

252.209-7000 (Nov 95) ACQUISITION FROM SUBCONTRACTORS SUBJECT TO ON-SITE INSPECTION UNDER THE (INF) TREATY (Applies if the order is over \$100,000)

252.225-7001 (Mar 98) BUY AMERICAN ACT AND BALANCE OF PAYMENTS PROGRAM

252.225-7002 (Dec 91) QUALIFYING COUNTRY SOURCES AS SUBCONTRACTORS (This clause applies only if DFARS 252.225-7001 is applicable.)

252.226-7001 (Sep 01) UTILIZATION OF INDIAN ORGANIZATIONS AND INDIAN-OWNED ECONOMIC ENTERPRISES – DoD CONTRACTS (applicable at all tiers for subcontracts other than for commercial items.)

252.247-7023 (Mar 00) TRANSPORTATION OF SUPPLIES BY SEA (Applicable to orders over \$100,000. “Contract” is not changed in paragraph (a)(6)(i). In the first sentence of paragraph (d) “45 days” is changed to “60 days”. In paragraph (e), “30 days” is changed to “20 days”.)

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252.215-7000 (Dec 91) PRICING ADJUSTMENTS (Applies if the contracts exceeds \$500,000 and when FAR 52.215-11, -12, or -13 is applicable.)

252.225-7026 (Jun 00) REPORTING OF CONTRACT PERFORMANCE OUTSIDE THE UNITED STATES (Applicable in all first-tier subcontracts that exceed \$500,000. The prime contract number is on the faceplate of this Order. In paragraph (b) "30 days" is changed to "20 days".)

252.231-7000 (Dec 91) SUPPLEMENTAL COST PRINCIPLES (Clause is applicable when the allowability of subcontract costs is determined in accordance with FAR 31.)

THE FOLLOWING PRIME CONTRACT SPECIAL PROVISIONS APPLY TO THIS PURCHASE ORDER:

THE FOLLOWING FULL TEXT PROVISIONS APPLY TO THIS PURCHASE CONTRACT:

A. THE FOLLOWING "DISPUTES" PROVISION APPLIES ONLY TO THE CLAUSES OF THIS CONTRACT LISTED BELOW:

- 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 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

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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 Contracting Officer or other cognizant representatives of the Government of the matters referred to in Paragraphs 2. and 3. 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

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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.