

**CUSTOMER CONTRACT REQUIREMENTS**  
**Global Discovery**  
**CUSTOMER CONTRACT RFP T/ORP 0130**

CUSTOMER CONTRACT REQUIREMENTS

The following customer contract requirements apply to this contract to the extent indicated below. If this contract is for the procurement of commercial items under a Government prime contract, as defined in FAR Part 2.101, see Section 3 below.

**1. FAR Clauses** 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 (SEP 2006).**

This clause applies only if this contract exceeds \$100,000.

**52.203-6 Restrictions on Subcontractor Sales to the Government Alternate I (OCT 1995).** This clause applies only if this contract exceeds \$100,000.

**52.203-7 Anti-Kickback Procedures (JUL 1995).** Buyer may withhold from sums owed Seller 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 \$100,000. 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 (SEP 2005).** The clause applies only if the contract exceeds \$100,000.

**52.203-12 Limitation on Payments to Influence Certain Federal Transactions (SEP 2005).** This clause applies only if this Contract exceeds \$100,000. Paragraph (c)(4) is modified to read as follows: "(c)(4) Seller will promptly submit any disclosure required (with written notice to Boeing) directly to the PCO for the prime contract. Boeing will identify the cognizant Government PCO at Seller's request. Each subcontractor certification will be retained in the subcontract file of the awarding contractor.

**52.203-13 Contractor Code of Business Ethics and Conduct (DEC 2008).** This clause applies only if this contract is in excess of \$5,000,000 and has a period of performance of more than 120 days.

**52.203-14 Display of Hotline Poster(s) (DEC 2007).** This clause applies only if this contract is in excess of \$5,000,000 and is not for a commercial item or performed entirely outside the United States. For the purposes of this clause, the United States is defined as the 50 states, the District of Columbia, and outlying areas.

**52.204-2 Security Requirements** (AUG 1996). Changes clause means the changes clause of this contract. This clause applies only if access to classified material is required.

**52.204-9 Personal Identity Verification of Contractor Personnel.** (JAN 2006). This clause applies only if performance under this contract requires Seller to have physical access to a Federally-controlled facility or access to a Federally-controlled information system.

**52.211-5 Material Requirements** (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 \$100,000 and (i) is cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable type 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 the referenced clause.

**52.215-10 Price Reduction for Defective Cost or Pricing Data** (OCT 1997). This clause applies only if this contract exceeds the threshold set forth in FAR 15.403-4 and is not otherwise exempt. In subparagraph (3) of paragraph (a), insert "of this contract" after "price or cost." In Paragraph (c), "Contracting Officer" shall mean "Contracting Officer or Buyer." In Paragraphs (c)(1), (c)(1)(ii), and (c)(2)(i), "Contracting Officer" shall mean "Contracting Officer or Buyer." In Subparagraph (c)(2)(i)(A), delete "to the Contracting Officer." In Subparagraph (c)(2)(ii)(B), "Government" shall mean "Government or Buyer." In Paragraph (d), "United States" shall mean "United States or Buyer."

**52.215-11 Price Reduction for Defective Cost or Pricing Data -- Modifications** (OCT 1997). This clause applies only if this contract exceeds the threshold set forth in FAR 15.403-4 and is not otherwise exempt. "Contracting Officer" shall mean "Contracting Officer or Buyer." In subparagraph (d)(2)(i)(A), delete "to the Contracting Officer." In subparagraph (d)(2)(ii)(B), "Government" means "Government" or "Buyer." In Paragraph (e), "United States" shall mean "United States or Buyer."

**52.215-12 Subcontractor Cost or Pricing Data** (OCT 1997). This clause applies only if this contract exceeds the threshold set forth in FAR 15.403-4 and is not otherwise exempt. The certificate required by paragraph (b) of the referenced clause shall be modified as follows: delete "to the Contracting Officer or the Contracting Officer's representative" and substitute in lieu thereof "to The Boeing Company or The Boeing Company's representative (including data submitted, when applicable, to an authorized representative of the U.S. Government)."

**52.215-13 Subcontractor Cost or Pricing Data -- Modification** (OCT 1997). This clause applies only if this contract exceeds the threshold set forth in FAR 15.403-4 and is not otherwise exempt. The certificate required by paragraph (c) of the referenced clause shall be modified as follows: delete "to the Contracting Officer or the Contracting Officer's representative" and substitute in lieu thereof "to The Boeing Company or The Boeing Company's representative (including data submitted, when applicable, to an authorized representative of the U.S. Government)."

**52.215-14 Integrity of Unit Prices** (OCT 1997). This clause applies except for contracts at or below \$100,000; 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 Pension Adjustments and Asset Reversions** (OCT 2004). 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 Post-Retirement Benefits (PRB) Other Than Pensions (JUL 2005).** This Clause applies to this contract if it meets the requirements of FAR 15.408(j).

**52.215-19 Notification of Ownership Changes (OCT 1997).** This Clause applies to this contract if it meets the requirements of FAR 15.408(k).

**52.215-21 Requirement for Cost or Pricing Data or Information Other Than Cost and Pricing Data - Modifications (OCT 1997).** This clause applies only if this contract exceeds the threshold set forth in FAR 15.403-4. The term "Contracting Officer" shall mean Buyer.

**52.219-8 Utilization of Small Business Concerns (MAY 2004).**

**52.219-9 Small-Business Subcontracting Plan (JUL 2005).** This clause applies only if this contract exceeds \$500,000 and Seller is not a small business concern. Seller shall adopt a subcontracting plan that complies with the requirements of this clause. In addition, Seller shall submit to Buyer Form X31162, Small and Small Disadvantaged Business and Women-Owned Small Business Subcontracting Plan Certificate of Compliance.

As required by subparagraph (d)(10)(v), the following information is provided: (1) the prime contract number is TBD; (2) Buyer's DUNS number is TBD, and (3) the email address of the Government or Buyer official responsible for acknowledging or rejecting reports is TBD.

**52.219-9 Small-Business Subcontracting Plan Alternate II (OCT 2001).** This clause applies only if this contract exceeds \$500,000 and Seller is not a small business concern. Seller shall adopt a subcontracting plan that complies with the requirements of this clause. In addition, Seller shall submit to Buyer Form X31162, Small and Small Disadvantaged Business and Women-Owned Small Business Subcontracting Plan Certificate of Compliance.

**52.222-1 Notice to the Government of Labor Disputes (FEB 1997).** Contracting Officer shall mean Buyer.

**52.222-4 Contract Work Hours and Safety Standards Act-Overtime Compensation (JUL 2005).** 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.

**52.222-21 Prohibition of Segregated Facilities (FEB 1999).**

**52.222-26 Equal Opportunity (APR 2002).**

**52.222-35 Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (DEC 2001).** This clause applies only if this contract exceeds \$25,000.

**52.222-36 Affirmative Action For Workers With Disabilities (JUN 1998).** This clause applies only if this contract exceeds \$ 10,000.

**52.222-37 Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (DEC 2001).** This clause applies only if this contract exceeds \$25,000.

**52.222-39 Notification of Employee Rights Concerning Payment of Union Dues or Fees (DEC 2004).** This clause applies only if this contract exceeds \$100,000.

**52.223-13 Certification of Toxic Chemical Release Reporting (AUG 2003).** Except for commercial items as

defined in FAR Part 2, this clause applies to competitive procurements expected to exceed \$100,000 (including all options). If Seller is not subject to the Form R filing and reporting requirements, Seller shall inform Buyer which exemption or exemptions in subparagraph (b)(2) of this clause apply.

**52.223-14 Toxic Chemical Release Reporting** (AUG 2003). This clause applies only if this contract is not for commercial items as defined in FAR Part 2, was competitively awarded, and exceeds \$100,000 (including all options).

**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.

**52.225-1 Buy American Act- Supplies** (JUN 2003). This clause does not apply if this contract is placed under a Department of Defense contract.

**52.225-13 Restriction on Certain Foreign Purchases** (FEB 2006).

**52.227-1 Authorization and Consent Basic (JUL 1995), Alternate I (APR 1984)** .

**52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement** (AUG 1996). A copy of each notice sent to the Government will be sent to Buyer. "Contracting Officer" shall mean "Buyer". This clause applies only if this contract exceeds \$100,000.

**52.227-10 Filing of Patent Applications - Classified Subject Matter** (APR 1984). This clause applies only if this contract will involve access to classified information.

**52.227-11 Patent Rights-Retention by the Contractor (Short Form)** (JUN 1997). This clause only applies if this Contract is for experimental, developmental, or research work and Seller is a small business firm or nonprofit organization.

**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.

**52.227-13 Patent Rights-Acquisition by the Government** (JAN 1997).

**52.227-14 Rights in Data--General** (JUN 1987). This clause applies only if data will be produced, furnished or acquired under this contract.

**52.228-3 Workers' Compensation Insurance (Defense Base Act)** (APR 1984).

**52.228-4 Workers' Compensation and War Hazard Insurance Overseas** (APR 1984).

**52.228-5 Insurance - Work on a Government Installation** (JAN 1997). Seller shall provide and maintain insurance as set forth in this contract.

**52.230-6 Administration of Cost Accounting Standards** (APR 2005). Add "Buyer and the" before "CFAO" in paragraph (m). This provision applies if clause H001, H002, or H004 is included in this contract.

**52.237-2 Protection of Government Buildings, Equipment, and Vegetation** (APR 1984). This clause applies only if work will be performed on a Government installation. "Contracting Officer" shall mean Buyer.

**52.242-15 Stop-Work Order Basic (AUG 1989), Alternate I (APR 1984)** . Change "90 days" and "30 days" to "100 days" and "20 days" respectively. The terms "Contracting Officer" and "Government" shall mean Buyer.

**52.244-5 Competition in Subcontracting** (DEC 1996).

**52.244-6 Subcontracts for Commercial Items** (FEB 2006).

**52.245-2 Government Property (Fixed Price Contracts)** (DEC 1989). This clause is not applicable if this contract incorporates Form GP4. "Government" shall mean Government throughout except the first time it appears in paragraph (f) when "Government" shall mean the Government or the Buyer..

**52.245-18 Special Test Equipment** (FEB 1993). Change "30 days" to "45 days" in paragraph (b) and (c). The notice of intent to procure special test equipment required by this clause shall be forwarded to the Buyer.

**52.247-63 Preference for U.S.-Flag Air Carriers** (JUN 2003). This clause only applies if this contract involves international air transportation.

**52.248-1 Value Engineering** (FEB 2000). The term "Contracting Officer" means Buyer. This clause applies only if this contract is for \$100,000 or more. If 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.

**2. DoD FAR Supplement Clauses** DoD Contracts. The following contract clauses are incorporated by reference from the Department 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 Prohibition on Persons Convicted of Fraud or Other Defense-Contract Related Felonies (excluding paragraph (g))** (MAR 1999). This clause applies only if this contract exceeds \$100,000 and does not apply to the purchase of commercial items or commercial components. "Contractor" and "contract" are not changed in paragraphs (a) and (b). In paragraph (e), "Government" shall mean Government or Buyer. In paragraph (f), "through the Buyer" is inserted after "Contracting Officer". Paragraph (g) is deleted and "Contracting Officer" shall mean Contracting Officer.

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

**252.204-7008 Requirements for Contracts Involving Export-Controlled Items.** (JUL 2008).

**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 \$100,000 and does not apply to the purchase of commercial items or commercial components.

**252.211-7003 Item Identification and Valuation** (JUN 2005). Seller shall comply with the unique item identification requirements of this clause for those subassemblies, components, and parts specified elsewhere in this contract. Such identification and marking shall be a high-capacity 2D machine readable code to comply with the version of MIL-STD-130, Identification Marking of U.S. Military Property, set forth elsewhere in this contract; or if not so stated, then the Seller shall comply with MIL-STD-130 L. The code may include, as space is available, linear bar code and human readable characters. Unless otherwise specified in Boeing product drawings or specifications, the seller may use either Construct #1 or Construct #2. The Seller shall not be required to furnish item valuations as set forth in this clause.

**252.215-7000 Pricing Adjustments** (DEC 1991). This clause applies only if this contract exceeds \$650,000.

**252.219-7003 Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (DoD Contracts)** (APR 1996). Except paragraph (g) which is hereby deleted.

**252.223-7002 Safety Precautions for Ammunition and Explosives** (MAY 1994). This clause applies only if this contract involves ammunition or explosives. "Government" means Government or Buyer in paragraph (b)(2), each time it appears in (e), (f)(1), (f)(2), the first time it appears in (g)(1)(i), and in (g)(3). "Government" means Buyer in paragraphs (c)(3), (c)(4), (c)(5), and the second time it appears in (g)(1)(i). "Contracting Officer" means Contracting Officer and Buyer in paragraph (g)(4). "Contracting Officer" means Buyer in paragraphs (c)(1), (c)(2), (c)(3), (c)(4), (c)(5), and each time it appears in (d).

**252.223-7003 Change in Place of Performance-Ammunition and Explosives** (DEC 1991). This clause applies only if DFARS 252.223-7002 is applicable to this contract. The term "Contracting Officer" means Buyer.

**252.223-7006 Prohibition on Storage and Disposal of Toxic and Hazardous Materials** (APR 1993).

**252.223-7007 Safeguarding Sensitive Conventional Arms, Ammunition, and Explosives** (SEP 1999). This clause applies only if (1) this contract, or a subcontract at any tier, is for the development, production, manufacture, or purchase of arms, ammunition, and explosives (AA&E) or (2) AA&E will be provided to Seller, or to a subcontractor at any tier, as Government-furnished property. "Arms, ammunition, and explosives (AA&E)" means those items within the scope (chapter 1, paragraph B) of DoD 5100.76-M, Physical Security of Sensitive Conventional Arms, Ammunition, and Explosives.

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

**252.225-7002 Qualifying Country Sources as Subcontractors** (APR 2003).

**252.225-7004 Reporting Of Contract Performance Outside The United States And Canada, Submission After Award** (JUN 2005). The term "Contractor" in paragraph (a) and the term "Contracting Officer" in paragraphs (b) and (c) means "Buyer." This clause applies only if this contract exceeds \$500,000.

**252.225-7006 QUARTERLY REPORTING OF ACTUAL CONTRACT PERFORMANCE OUTSIDE THE UNITED STATES** (JUN 2005). This clause applies only if this contract exceeds \$500,000 and is not for commercial items, construction, ores, natural gases, utilities, petroleum products and crudes, timber (logs), or subsistence.

**252.225-7013 Duty Free Entry** (JUN 2006). This clause applies if Seller is located in a qualifying country (as defined in DFARS Part 225.8) or if Seller is located in any other country and the estimated U.S. duty for the deliverable items will exceed \$200 per unit. Seller shall include the prime contract number on all shipping documents submitted to Customs for supplies for which duty-free entry is claimed pursuant to this clause.

**252.225-7040 Contractor Personnel Authorized to Accompany U.S. Armed Forces Deployed Outside the United States** (JUN 2006).

**252.225-7043 Antiterrorism/Force Protection Policy for Defense Contractors Outside the United States** (MAR 2006). This clause applies only if this contract requires Seller to perform or travel outside the United States and Seller is not (i) a foreign government, (ii) a representative of a foreign government, or (iii) a foreign corporation wholly owned by a foreign government.

**252.226-7001 Utilization of Indian Organizations and Indian-Owned Economic Enterprises--DoD Contracts and Native Hawaiian Small Business Concerns** (SEP 2004). This clause applies only if this contract exceeds \$500,000.

**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).

**252.227-7019 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). In this clause, "Government" and "Contracting Officer" shall mean Buyer. This clause applies only if the delivery of technical data is required under 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).

**252.231-7000 Supplemental Cost Principles** (DEC 1991).

**252.237-7019 Training for Contractor Personnel Interacting with Detainees** (SEP 2005).

**252.239-7000 Protection Against Compromising Emanations** (JUN 2004). This clause applies only if computer equipment or systems that will be used to process classified information will be delivered under this contract.

**252.239-7016 Telecommunications Security Equipment, Devices, Techniques, and Services** (DEC 1991). This clause applies only if this contract requires securing telecommunications.

**252.244-7000 Subcontracts for Commercial Items and Commercial Components (DoD Contracts)** (NOV 2005).

**252.245-7001 Reports of Government Property** (MAY 1994). Seller will provide information that the Buyer may require to complete Buyer's annual report.

**252.247-7023 Transportation of Supplies by Sea** (MAY 2002). This clause applies only if the supplies are of a

type described in paragraph (b)(2) of this clause. In paragraph (d), "45 days" is changed to "60 days." In paragraph (g) "Government" means Buyer. If this contract is at or below \$100,000, paragraphs (f) and (g) are excluded.

**252.251-7000 Ordering From Government Supply Sources** (NOV 2004).

This clause applies only if Seller is notified by Buyer that Seller is authorized to purchase from Government supply sources in the performance of this contract.

**3. Commercial Items** If goods or services being procured under this contract are commercial items and Clause H203 is set forth in the purchase order, the foregoing Government clauses in Sections 1 and 2 above are deleted and the following FAR/DFARS clauses are inserted in lieu thereof:

**52.219-8 Utilization of Small Business Concerns** (MAY 2004).

This clause applies only if this contract offers further subcontracting opportunities. If this contract exceeds \$550,000 (\$1,000,000 for construction of any public facility) and Seller is not a small business concern, Seller must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

**52.222-26 Equal Opportunity (subparagraph (b)(1) through (11))** (APR 2002).

**52.222-35 Affirmative Action for Special Disabled and Vietnam Era Veterans** (DEC 2001). This clause applies only if this contract exceeds \$25,000.

**52.222-36 Affirmative Action For Workers With Disabilities** (JUN 1998).

**52.222-39 Notification of Employee Rights Concerning Payment of Union Dues or Fees** (DEC 2004).

**52.247-64 Preference for Privately-Owned U.S. Flag Commercial Vessels** (FEB 2006). In paragraph (C)(2) "20" and "30" are changed to 10 and 20 respectively.

**252.247-7023 Transportation of Supplies by Sea** (MAY 2002).

**4. Cost Accounting Standards**

**52.230-2 Cost Accounting Standards** (APR 1998). (1) (Applicable if this contract incorporates clause H001). The version of FAR 52.230-2, Cost Accounting Standards, incorporated by clause H001 is the version dated April 1998.

**52.230-3 Disclosure and Consistency of Cost Accounting Practices** (APR 1998). (2) (Applicable if this contract incorporates clause H002). The version of FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices, incorporated by clause H002 is the version dated April 1998.

**5. Prime Contract Special Provisions** The following prime contract special provisions apply to this purchase order

**1. ORGANIZATIONAL CONFLICT OF INTEREST**

(a) It is recognized by the parties hereto that the effort to be performed by the SELLER under this contract may include advisory and assistance services; a myriad of systems engineering efforts; support in the preparation of specifications and work statements; technical evaluation of other contractors products and services; and access to other contractors' proprietary information. Consequently, performance of this contract creates potential organizational conflicts of interest such as are contemplated by Federal Acquisition Regulation (FAR) 9.505. It is the intention of the parties that the SELLER will not engage in any other contractual or other activities which could create an organizational conflict of interest with its position under this contract; which might impair its ability to render unbiased advice and



recommendations; or in which it may derive an unfair competitive advantage as a result of knowledge, information, and experience gained during the performance of this contract. Therefore, the SELLER agrees that it will seek the prior written approval of BUYER on the present acquisition and the Contracting Officer on the other contract (if required) before participating in any CNTPO contract as a contractor, team member, subcontractor, or consultant to provide material, equipment or services. BUYER will consider the requests for written approval on a case-by-case basis. This provision shall have effect throughout the period of performance of this contract, any extensions thereto by change order or supplemental agreement, and for one (1) year thereafter. Participation in any acquisition described above, without express written approval from BUYER, may be grounds for termination of the CNTPO Program contract.

BUYER may terminate this contract for default, disqualify the SELLER for subsequent related contractual efforts, and pursue such other remedies as may be permitted by law or this contract, upon determination that an OCI has occurred.

(b) The effort to be performed under this contract may include providing systems engineering and technical direction; input to preparation of specifications and scopes of work; assistance to BUYER and the Government during technical evaluations of other contractor's offers and products; and access to third-party proprietary information. Such activities create a significant potential for certain conflicts of interest, as set forth in FAR 9.505-1, 9.505-2, 9.505-3, and 9.505-4. It is the intention of the parties hereto to prevent both the potential for bias in connection with the SELLER's performance of this contract, as well as the creation of any unfair competitive advantage as a result of knowledge gained through access to third-party proprietary information.

(c) Whenever performance of this contract requires access to another contractor's proprietary information, the SELLER shall (i) enter into a written agreement with the other entities involved, as appropriate, in order to protect such proprietary information from unauthorized use or disclosure for as long as it remains proprietary; and (ii) refrain from using such proprietary information other than as agreed to, for example to provide assistance during technical evaluation of other contractors' offers or products under this contract. An executed copy of all proprietary information agreements by individual personnel or on a corporate basis shall be furnished to BUYER within fifteen (15) calendar days of execution.

(d) In addition, the SELLER shall inculcate upon its employees, through appropriate means (such as formal training and promulgation of company policies and procedures) the principles of FAR Subpart 9.5. Such inculcation shall include, but not be limited to, training to ensure that employees refrain from using or disclosing proprietary information except as provided by executed agreement or as allowed by the contract. Further, the SELLER shall obtain from each of its employees, whose anticipated responsibility in connection with the work under this contract may be reasonably expected to involve access to such proprietary information, a written agreement, which, in substance, shall provide that such employee will not, during its employment by the SELLER, or thereafter, improperly disclose such data or information.

(e) The SELLER shall hold BUYER and the government harmless and will freely indemnify BUYER and the government as to any cost/loss resulting from the unauthorized use or disclosure of any third-party proprietary information by its employees, the employees of subcontractors, or by its agents.

(f) For breach of any of the above restrictions or for nondisclosure or misrepresentation of any relevant facts required to be disclosed concerning this contract, the government reserves the right to terminate this contract for default, disqualify the SELLER for subsequent related contractual efforts, and to pursue such other remedies as may be available under law. If in compliance with this clause, the SELLER discovers and promptly reports an organizational conflict of interest subsequent to contract award, BUYER may choose to undertake termination of this contract for convenience of BUYER and the government, when such termination is deemed to be in the best interest of BUYER and the government.

(g) The SELLER will include the same provisions as are expressed in this clause, including this paragraph, in all subcontracts and teaming arrangements awarded for performance of any portion of this requirement. Subcontract and teaming arrangement restrictions will be limited, however, to the technical area(s) addressed in the specific statements of work in the given task orders. The subcontractor or team member shall not participate in any CNTPO contract or task order in the applicable technical area(s) without written approval of the BUYER. This restriction is applicable throughout the period of performance of the subcontract or teaming arrangement, and any extensions thereof by change order or supplemental agreement, and for one (1) year thereafter. This clause shall be included in any subcontracts awarded under this Contract. The use of this clause in such subcontracts shall be read by substituting "your company name" for "BUYER" or "point of contact for contractual matters."

## **2. COMPLIANCE WITH EXPORT CONTROL REGULATIONS / DISCLOSURE OF CLASSIFIED INFORMATION**

(a) SELLER agrees to comply fully with all applicable U.S. export control laws, including but not limited to the US International Traffic in Arms Regulations and the US Export Administration Regulations.

- (b) Definitions: For the purposes of this contract and the contemplated work effort, subject to the definitions set forth in the US International Traffic in Arms Regulations, the following definitions apply. "Controlled Technology". Technical data, defense services, and defense articles as defined and identified under the US International Traffic In Arms Regulations (ITAR) and/or dual use articles as defined and identified under the US Export Administration Regulations (EAR). "Export". The delivery of controlled technology to a foreign person.
- "Foreign Person". Any natural person who is not a lawful permanent resident as defined by 8 U.S.C. 1101(a)(20) or who is not a protected individual as defined by 8 U.S.C. 1324b(a)(3), and any entity not incorporated or organized to do business in the United States.
- (c) The work effort contemplated under this Contract includes the export of controlled technology; i.e., defense services performed for a foreign person or entity, hardware on the US Munitions List (USML) or the Commodity Control List (CCL), and technical data associated with USML or CCL articles or services. Export authority shall be obtained by SELLER from the Department of State or the Department of Commerce, as applicable and in accordance with the separate regulations of each agency, prior to the export of controlled technology.
- (d) SELLER must be registered with the Directorate of Defense Trade Controls (DDTC) to perform work effort under this Contract. SELLER shall provide a written statement by the DDTC authorized Empowered Official certifying that SELLER has registered with DDTC and providing the expiration date of the SELLER'S registration. SELLER shall not be considered for work effort assignment under this Contract until said statement by its Empowered Official has been submitted to BUYER.
- SELLER shall provide BUYER with the name, position and contact information for its Empowered Official. SELLER shall notify BUYER of any change in SELLER'S registration with DDTC.
- (e) SELLER shall obtain authority before assigning any foreign persons or foreign sources to perform work under this Contract or before permitting any foreign persons or foreign sources to have access to any information, technical data, technology, services, software, equipment, or the direct product thereof, generated by or delivered SELLER under this Contract. "Foreign person" is any person who is not a citizen or national of the United States and includes individuals, foreign corporations, international organizations, and foreign governments.
- "Foreign source" includes vendors, subcontractors, and suppliers owned and controlled by a foreign person.
- (f) SELLER certifies that all SELLER employees are, and will be, a US Citizen, or a permanent resident as defined by 8 U.S.C. 1101(a)(20) or a protected individual as defined by 8 U.S.C. 1324b(a)(3) except as approved by BUYER in writing.
- (g) SELLER certifies that SELLER will not employ foreign persons to perform work under this Contract, or permit foreign persons to have access to controlled data without first obtaining written permission from BUYER and export authority as required by US regulations.
- (h) SELLER shall immediately notify BUYER in writing when work effort involving controlled technology is assigned to SELLER. The written notification to BUYER shall state the type of controlled technology involved, the type of export authority required or to be relied on in compliance with US export control law or regulations, and the proposed date of export. SELLER, upon the request of BUYER and without additional cost, shall provide such information as may be required by BUYER to support necessary applications for export authority covering any services, data or articles provided by SELLER.
- (i) SELLER shall provide BUYER with a monthly report of all exports of services, data or hardware made under this Contract, regardless of whether the export thereof is controlled by the US Government.
- (j) SELLER shall consult with BUYER regarding export authority requirements for SELLER'S work effort, comply with BUYER decisions regarding the necessity for Technical Assistance Agreements and Export Licenses, and either obtain necessary export authority or participate in export authority request by BUYER, as determined by BUYER.
- (k) SELLER shall establish a written procedure for compliance with US export control regulations and provide BUYER with a copy of said procedure on request.
- (l) With notice and within regular business hours, SELLER shall permit BUYER to conduct an audit of export compliance documentation relative to the work effort under this Contract.
- (m) SELLER shall timely comply with BUYER requests for the delivery of documentation related to the export or licensing of controlled technology arising under this Contract.
- (n) SELLER shall notify BUYER in writing of any known or suspected violation of any US export control law or regulation immediately upon becoming aware of said known or suspected violation.
- (o) SELLER shall immediately notify the BUYER Procurement Representative if SELLER is listed in any government list of persons or entities who are denied or restricted from exercising US export privileges, including but not limited to a Denied Parties List or Restricted Parties List; or, if SELLER's export privileges are otherwise denied, suspended, or revoked in whole or in part by the U.S. Government or any agency thereof.
- (p) SELLER is solely liable for its obligation to comply with US Export Control laws and regulations and may not defend its failure to fully comply with US Export Control laws and regulations on the basis of decisions, actions,

determinations, or directives made by BUYER. BUYER has no liability for SELLER'S failure to fully comply with US Export Control laws or regulations.

(q) SUBCONTRACTORS: In the event SELLER proposes to, or does, retain the services of a sub-contractor, SELLER shall notify BUYER in writing of the Subcontractors name, address, contact information, and DDTC registration status. Each subcontractor arising from sublicensing under this Contract shall be required to comply with the terms and conditions of this provision. SELLER is hereby notified that Technical Assistance Agreements may prohibit sublicensing.

(r) DISCLOSURE COMPLIANCE OF CLASSIFIED ARTICLES, SERVICES OR INFORMATION

Any potential disclosure regarding defense articles, defense services and/or technical data to a foreign source or foreign party under the resultant contracts, the awardees must comply with the National Disclosure Policy-1 (NDP-1) and National, DoD and Army security regulations, including the National Industrial Security Policy Manual (NISPOM).

### **3. TRANSPORTATION SECURITY REQUIREMENTS FOR SELLER -TO-CONTRACTOR SHIPMENTS**

(a) Supplies procured or furnished under this contract/subcontract, which are shipped between two or more contractors, and which are qualified as sensitive in accordance with Department of Defense (DoD) Regulation 5100.76-M, Physical Security of Sensitive Conventional Arms, Ammunition and Explosives, dated Aug 2000, or are shipped as DOT Class A or B Explosives, require special Transportation Protective Service (TPS) during shipment from all points of origin to all destinations. TPS will be equivalent to the DoD security standard for the applicable sensitivity category or explosive class identified under DoD 4500.9, Part II, Chapter 203, dated May 2003, as added to or amended by applicable military service policies in accordance with guidance provided by Defense Logistics Agency (DLA)/Defense Contract Management Agency (DCMA).

(b) Shipper's DCMA transportation offices will furnish assistance in providing the sensitive category of items to be shipped, determining the TPS required, and obtaining the TPS from commercial carriers as necessary.

(c) This clause must be entered in all contracts/subcontracts at any tier.

### **4. TRANSPORTATION SECURITY REQUIREMENTS FOR GOVERNMENT OWNED/ SELLER OPERATED SHIPMENTS**

(a) Supplies procured or furnished under this contract/subcontract, which are shipped between two or more contractors, and which are qualified as sensitive in accordance with Department of Defense (DoD) Regulation 5100.76-M, Physical Security of Sensitive Conventional Arms, Ammunition and Explosives, dated Aug 2000, or are shipped as DOT Class A or B Explosives, require special Transportation Protective Services (TPS) during shipment from all points of origin to all destinations. TPS will be equivalent to the DoD security standard for the applicable sensitivity category or explosive class identified under DoD 4500.9, Part II, Chapter 203, dated May 2003, as added to or amended by applicable customer/military service policies in accordance with guidance provided by the Contracting Officer Representative (COR), Technical Monitor (TM) or the Administrative Contracting officer (ACO).

(b) Transportation officers/offices will furnish assistance in providing the sensitive category of items to be shipped, determining the TPS required, and obtaining the TPS from commercial carriers as necessary.

(c) This clause must be entered in all contracts/subcontracts at any tier.

### **5. ARMING FOR DOD SELLERS**

U.S. CENTCOM PERSONAL PROTECTION ARMING FOR DOD CONTRACTORS (13 June 2007)

SELLER agrees to comply with, and to insert into all subcontracts where persons will be armed for personal protection, this contract

clause and its requirements as provided below. Applicable U.S. CENTCOM arming requests shall include this clause. All required SELLER deliverables and reporting requirements under this contract clause shall be provided to BUYER for this contract.

(a) Definitions and personal protection arming.

(1) Definitions. In reference to the arming of SELLER provisions of this contract, the term SELLER means all persons or entities, including subcontractors at any tier, who have entered into a contract with BUYER where said SELLER has employees who request arming for personal protection and are present in Iraq pursuant to such contract.

(2) Personal protection arming. SELLER employees in Iraq may request personal protection arming only as provided pursuant to U.S. CENTCOM or delegee orders, guidance or instructions. All personal protection arming requests shall be voluntary and will contain information required by U.S. CENTCOM or subordinate commands' orders or regulations, as well as the endorsement of/coordination with the supported DoD command. (b) U.S. CENTCOM Compliance. SELLER shall comply with all

procedures and requirements contained within U.S. CENTCOM messages.

(1) A lapse in training required by this contract voids any existing arming approval for the individual whose training has lapsed. A SELLER employee whose training has lapsed shall not carry a weapon until training is accomplished and BUYER has been notified and determined that all required training has been completed.

(2) SELLER agrees to obey U.S. CENTCOM, Multi-National Force Commander and Multi-National Corps Commander orders, instructions and directives, including orders pertaining to arming of private security companies. SELLER will ensure that all SELLER employees, including employees at any tier of subcontracting relationships, armed under the provisions of this contract have been trained or documentation has been completed.

(c) Authorized Weapons and Ammunition List. The items authorized for use by the SELLER shall be defined by the U.S. CENTCOM or designee (MNF-I or MNC-I at present) weapons authorization in accordance with U.S. CENTCOM policy, orders and regulations. The weapons and ammunition authorization shall be incorporated as a part of this contract and all of its provisions shall be complied with by the SELLER and its employees receiving such authorization.

(d) Background and Qualification Investigations. SELLER agrees to undertake investigations of background and qualifications of SELLER personnel and certify that all persons armed under this contract are not prohibited under U.S. law to possess firearms, to include compliance with the Gun Control Act of 1968, paragraph (g) and (d). (1) The SELLER shall provide BUYER with a plan for accomplishing background checks within 15 days after request is made to arm an employee for personal protection, to include compliance with applicable provisions of the Gun Control Act of 1968, paragraph (g) and (d). BUYER may require the SELLER to make changes or additions to the proposed background check plan until it is found acceptable to BUYER.

(2) SELLER shall verify with MNC-I Provost Marshal that no employee has been barred by any commander from any installation or major subordinate command within Iraq prior to hiring any employee.

(e) Written Acknowledgement of Liability. SELLER acknowledges, by signing this contract or subcontract, that employees armed in relation to this contract and the use of weapons could subject the SELLER and their employees to United States and Host Nation prosecution and civil liability. The term Host Nation refers to nation or nations where services under this contract are performed. The SELLER shall obtain an acknowledgement from all employees armed under this contract within 10 days of award to its subcontractor(s) that violations of applicable rules for the use of force or that the use of weapons can result in termination of authorization to carry weapons on this contract and subject SELLER and SELLER's employees to United States and Host Nation criminal and/or civil liability. SELLER shall verify that all subcontractors insert this acknowledgement of liability clause and the clause regarding written acknowledgement clause, in the paragraph immediately following in all subcontracts at any tier to this contract. SELLER further acknowledges in accordance with paragraph 6.3.5.3.7 of DoDI 3020.41 that proof of authorization must be carried by each employee or subcontractor carrying weapons under this contract; that contingency SELLER personnel may possess only U.S. Government-issued and/or approved weapons and ammunition for which they have been qualified under the provisions of this contract; personnel armed for personal protection were briefed and understand limitations on the use of force; and authorization to possess weapons and ammunition may be revoked for non-compliance with established rules for the use of force.

(f) Written Acknowledgements. SELLER will comply with the acknowledgement and training requirements in DoDI 3020.41, SELLER Personnel Authorized to Accompany the U.S. Armed Forces, and other training or requirements specified by BUYER for this contract. SELLER hereby agrees that it will comply with the following requirements for all employees, employed at the time of signing this contract and subsequently hired.

(1) Weapons Training. The SELLER will provide individual weapons familiarization training for all employees who will carry weapons under this contract to include battle sight zero (on weapons capable of such adjustment) that each SELLER will be utilizing. Training will be accomplished to U.S. Army weapons qualification standards and will be communicated to the SELLER by BUYER, unless another standard of qualification substantially meeting U.S. Army weapons qualification standard is agreed in advance (e.g., for AK-47s). This training may be specified by BUYER or designated representative. Weapons training will be documented on a weapons qualification forms DA Form 88-R and DA Form 3595-R or such records or forms that may be specified by BUYER or designated representative. This training shall be conducted on a repetitive basis at least every twelve months.

(2) Law of Armed Conflict (LOAC) and Rules for the Use of Force (RUF).

(i) The SELLER will provide training on LOAC and RUF as specified by BUYER or designated representative. SELLERS who are armed under this contract will obtain a signed written acknowledgement form for each of their employees authorized to bear weapons under this contract that they have been briefed on LOAC, RUF and understand the differences between rules of engagement (ROE) and RUF, namely that RUF controls the use of weapons by SELLERS employed by the United States Government and that the SELLER may not use ROE at any time for use of force decisions.

(ii) LOAC and RUF training will be documented as specified by BUYER or designated representative. The SELLER

shall brief RUF to its employees armed under this contract not less than on a weekly basis, and such training shall be documented and made available to BUYER upon request within 24 hours of such request. SELLER shall provide refresher LOAC training to its employees armed under this contract every six months. In particular, LOAC training will include restrictions on firing on persons who have surrendered or are out of combat due to wounds/injuries. LOAC training will also will discuss requirement to render first aid to the best of the SELLER's ability and contact medical response units to obtain medical care for wounded, safety permitting. LOAC training will also include training contractors armed under this contract on requirement to report all escalation of force incidents pursuant to current MNF-I and MNC-I orders. SELLERS will train all employees armed under this contract that they must comply the provisions of the Geneva Convention Relative to the Treatment of Prisoners of War, August 12, 1949 (see <http://www.unhcr.ch/html/menu3/b/91.htm>) in accordance with DoDI 3020.41. A copy of the Geneva Convention Relative to the Treatment of Prisoners of War, August 12, 1949, must be given to all employees authorized to carry weapons.

(3) Screening of Employees. The Contractor will perform background checks and screening of their employees to include determining if any employee is prohibited from possessing or carrying a weapon or ammunition under applicable United States law. This determination will include an individual certification that each employee has not been convicted of a domestic violence crime on DD Form 2760, Qualification to Possess Firearms or Ammunition, or other forms specified by the Government Contracting Officer or designated representative.

(4) Documentation/Inspection. SELLER will provide copies of documentation and acknowledgements to BUYER for inspection as soon as possible but not later than 15 days after an employee has been approved for arming and such approval has been communicated to the SELLER. SELLER shall not be permitted to carry weapons until required acknowledgements, forms and information is received, found acceptable by BUYER and arming authorization is granted. SELLER will provide required training, documentation and acknowledgements for each employee subsequently hired after contract award within 15 days of their arrival in Iraq unless otherwise agreed by BUYER.

(5) Retention and Review of Records. The SELLER shall maintain records on weapons training, LOAC, RUF and screening of employees for the duration of this contract and a six month time period after contract termination or expiration. The SELLER shall make records relating to weapons training, LOAC, RUF and screening of employees available to BUYER at no additional cost to BUYER within 24 hours of any request.

(g) Communication Plan. The SELLER shall describe a communications plan to include a description of how relevant threat information will be shared between SELLER security personnel and U.S. military forces, including how appropriate assistance will be provided to SELLER security personnel who become engaged in hostile situations in accordance with DoDI 3020.41, paragraph 6.3.5.3.3. The SELLER shall also include a proposed plan to coordinate transportation with appropriate military authorities in accordance with DoDI 3020.41, paragraph 6.3.5.3.2 requirements concerning same. The communication plan will be coordinated with military units responsible for areas that SELLER will be transiting through.

(h) Reporting. SELLER will report quarterly to BUYER the number of civilians and contractors armed under this contract, general scope of work of the armed employees and the contract number of their current contract or subcontracts that have employees armed under this contract or arming authorization. The information under this reporting requirement will be due not later than 1 January, 1 April, 1 July, 1 October and 31 December of each year, and will commence on the first reporting date (above) that occurs after arming authorization is granted by the appropriate authority (e.g., U.S. CENTCOM, MNF-I or other organization authorized under the provisions of DoDI 3020.41).

(i) Jurisdiction. The SELLER shall comply with all notification requirements of DoD Instruction 5525.11, Criminal Jurisdiction Over Civilians Employed By or Accompanying the Armed Forces Outside the United States, Certain Service Members, and Former Service Members. Each employee shall execute a written acknowledgement of receipt of notification. The SELLER shall maintain a copy of each employee's written acknowledgement of receipt of the notification and shall provide the same upon request by the Government Contracting Officer. Questions concerning the applicability of this clause should be directed to BUYER.

(j) Law of War Reporting Requirements. SELLER must comply with the provisions of DoD Directive 2311.01, DoD Law of War Program, 9 May 2006, stating policies and responsibilities ensuring DoD compliance with the law of war responsibilities of the United States. The reporting requirements for this program are in addition to the escalation of force reporting requirements. Provisions of this Directive that are applicable to the SELLER include:

(1) Compliance with the law of war: paragraph 4.1 provides that the DoD Contractor complies with the law of war during all armed conflicts, however such conflicts are characterized, and in all other military operations.

(2) Definition of Reportable Incident: paragraph 3.2 provides criteria for reportable incidents, e.g., that a reportable incident shall be based on credible information.

(3) Application of Policy to SELLER's: DoDD 2311.01 extends reporting requirements and compliance with specified policies contained in the Directive to SELLERS in paragraph 4.2. This Directive also includes several provisions

requiring oversight of SELLERs, including paragraph 5.7.4 (work statements must comply with the policies in this Directive and SELLERs must have programs to prevent violations of the law of war by their employees and subcontractors); paragraph 5.8.7 (incident reports must be forwarded for review for prosecutory action); and paragraph 6.3 (requiring incident reporting through the chain of command and to the commander of the unit they are accompanying or the installation to which they are assigned, or to the Combatant Commander).

(4) DoDD 2311.01 can be found at the following link:

<http://www.dtic.mil/whs/directives/corres/html/231101.htm>.

(k) Firing of weapons, reporting and investigations. SELLER shall comply with reporting and investigation requirements regarding SELLER employees' firing of their weapon per MNF-I and MNC-I Commanders orders and guidance and have each employee execute a written acknowledgement of receipt of notification. Reports will be submitted to BUYER.

(l) Contractor Employee Acknowledgment. SELLER shall require all employees to review, understand/comprehend and sign the following items as discussed above, which are incorporated by reference to this contract.

(1) The U.S. CENTCOM Message, MNF-I and MNC-I FRAGOs (current at the execution or modification of this contract) regarding civilian arming.

(2) Individual acknowledgements for each employee.

(3) U.S. CENTCOM Rules for the use of Force (RUF).

(4) DD Form 2760, Qualification to Possess Weapons and Ammunition.

(5) LOAC Training.

## **6. PARTS OBSOLESCENCE**

BUYER may desire to place additional orders for items purchased hereunder. SELLER shall provide BUYER with a Last Time Buy Notice at least twelve (12) months prior to any action to discontinue any item purchased under this Contract.

## **7. COMMERCIAL COMPUTER SOFTWARE LICENSES**

Unless otherwise approved by BUYER, commercial computer software licenses shall designate the U.S. Government (represented by BUYER) as a contingent licensee, able to replace the SELLER as the primary licensee upon notifying the licensor. A copy of the negotiated license shall be furnished to BUYER. Per DFARS 227.7202, the terms of the licenses cannot be inconsistent with Federal procurement law and must satisfy user needs. This includes the SELLER's / subcontractor's needs for the software to perform this contract and BUYER and the Government's needs for the software to accomplish BUYER and the Government's ultimate objectives. At a minimum, this shall include the rights to make an archive copy of the software, to relocate the computer on which the software resides, to re-host the software on a different computer, to permit access by support contractors, and to permit BUYER or the Government to transfer the license to another contractor.