

# T-8A

## NORTHROP GRUMMAN SYSTEMS CORPORATION

### PURCHASE ORDER TERMS AND CONDITIONS SERVICES CONTRACT – GOVERNMENT IN-PLANT LABOR – TIME BASIS

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#### 1. DEFINITIONS.

- A. BUYER means Northrop Grumman Systems Corporation including its subsidiaries, sectors, and divisions as identified on the face of the Order.
- B. BUYER'S AUTHORIZED PURCHASING REPRESENTATIVE means the person authorized by Buyer's cognizant procurement organization to administer and/or execute the Order.
- C. ORDER means the instrument of contracting including the Purchase Order and all referenced documents, exhibits, drawings, and attachments.
- D. SELLER means the party with whom Buyer is contracting.
- E. DATA means all designs, dimensions, specifications, drawings, patterns, know how, or other information concerning, methods, manufacturing processes, equipment, gauges and tools used in

the design and manufacture of Products. Data may be recorded in a written or printed document, computer or electronic file, electromagnetic tape or disc, software, or any other tangible form of expression.

- F. DAY means a calendar day consisting of a twenty-four (24) hour period unless otherwise specifically stated.
- G. DIRECT LABOR HOURLY RATE means the hourly rate that the Seller will pay employees who perform Service, as defined below, for Buyer.
- H. MARK-UP PERCENTAGE RATE means the percentage rate charged by Seller for performing Services for Buyer.
- I. MARK-UP RATE means the rate which Buyer shall pay Seller over and above the Direct Labor Hourly Rate. The Mark-Up Rate is computed by

multiplying the Direct Labor Hourly Rate by the Mark-Up Percentage Rate.

- J. OVERTIME is defined as hours worked in excess of forty (40) hours in a pay week. Such hours must have prior approval of the cognizant Northrop Grumman manager. Non-exempt personnel will receive a Direct Labor Rate of time-and-a-half for overtime. Exempt personnel will receive the straight time Direct Labor rate for overtime. Under certain circumstances, contract labor personnel may receive Double Time for certain hours worked.
- K. OVERTIME BILLING RATE (Non-exempt personnel) means one-half the Direct Labor Hourly Rate plus the Straight Time Billing Rate. Overtime Billing Rate (Exempt personnel) is the same as the Straight Time Billing Rate. Double Time Billing Rate is twice the Direct Labor Hourly Rate plus the Straight Time Billing Rate.
- L. PARTIES means Buyer and Seller collectively.
- M. PAYROLLED means a Seller employee referred to Seller by Buyer, including former employees of Buyer, former Contract Labor employees (from other sellers, or from Seller when more than six months have passed since date of last assignment to Buyer), individuals who sought direct employment with Buyer, or individuals recruited by Buyer.
- N. PRIME CONTRACT means the contracting instrument issued to Buyer or Buyer's higher tier customer by its customer for the acquisition of Products or Services.
- O. PROPRIETARY INFORMATION includes any confidential or proprietary data, designs, drawings, processes, computer software, engineering instructions, models, specifications and other information, business information related to the production costs, sales, and marketing of Buyer's or Buyer's Customers' products, and any other such confidential or proprietary information received from the other Party, whether written, in some otherwise tangible medium, visual, or oral. All Proprietary Information in written or tangible form shall be marked with a suitable restrictive legend that identifies the source of information.
- P. RECRUITED means a Seller employee identified and employed by Seller without referral by Buyer.
- Q. SERVICE means Seller's time and effort as set forth in the Order rather than the direct sale and purchase of goods, supplies, reports, computer software, data, materials, articles, items, parts, components or assemblies.
- R. STRAIGHT TIME BILLING RATE means the Direct Labor Hourly Rate plus the Mark-Up Rate for all authorized Service performed.
- S. SUB-SELLER means any person or supplier, at any tier, who performs Services for Seller, except for employees of Seller.
- T. WORK means all Services to be performed or other things required to be furnished or performed by Seller in order to properly perform

and fulfill the obligations and requirements of the Purchase Order.

- U. Unless the context otherwise requires, words importing the singular number include the plural and in the plural include the singular.

## **2. ACCEPTANCE.**

This Order is Buyer's offer to Seller. Acceptance of this offer is strictly limited to the terms and conditions in this offer. Modifications hereto, to be binding, must be in writing and signed by Buyer's Authorized Purchasing Representative. Seller's acknowledgement, acceptance of payment, or commencement of performance, shall conclusively evidence acceptance of this offer as written. Buyer hereby objects to any additional or different terms contained in Seller's acceptance.

## **3. ORDER OF PRECEDENCE.**

In the event of any inconsistency between any parts of this Order, the inconsistency shall be resolved by giving precedence in the following order:

- A. Change Order Document
- B. Purchase Order Document
- C. Purchase Order Terms and Conditions.
- D. FAR/DFARS Clauses
- E. Statement of Work.
- F. Specification/Drawing
- G. Supplier Quality Assurance Requirements (SQAR)
- H. Supplier Data Requirements List (SDRL)/Data Item Description (DID).
- I. Other Referenced Documents.

## **4. - 5. RESERVED.**

## **6. PAYMENT.**

As specified by Buyer's Contract Labor Administrator, at the time of personnel selection, one of the following processes will be used:

- A. Once each month (or at more frequent intervals, if approved by Buyer), Seller may submit to Buyer, in such form and reasonable detail as Buyer may require, an invoice for Services furnished under this Order to the date of such invoice. The invoice shall include the following certification made by one (1) officer or other responsible official of Seller, who shall be a person supervising accounting with respect to the Order:  
"The undersigned certifies that payment requested herein is correct and just, that the statement of time expended is true, and that payment therefore has not been received and the undersigned has complied with all applicable Federal, state, and local laws, ordinances and regulations, including Equal Employment Opportunity."  
or
- B. Once each month (or at more frequent interval's at Buyer's discretion), Buyer will make payments of amounts due to Seller that are not already paid. Payments shall be based on Buyer's internal record keeping system as described below and referred to as "Reverse Billing." Under this "Reverse Billing" system, each of Seller's employees, assigned at Buyer's facility, will be

required to complete a job card or automated time keeping system entry each week and have it approved by the manager to which assigned. Seller's employee will send a duplicate copy of the job card or automated time keeping system entry to Seller. The original job card or automated time keeping system entry will be processed through Buyer's data processing system. The resulting computer generated listing will be provided to Seller weekly and will include a record of straight time and overtime hours worked together with the applicable rates. Seller shall, within seven (7) working days of receipt, report any discrepancies to Buyer's representative and negotiate in good faith to resolve such discrepancies.

Any amounts owing to Buyer by Seller may be set off against amounts otherwise due to Seller under this Order.

**7. - 9. RESERVED.**

**10. WARRANTY.**

Seller warrants that all Services to be performed under this Order will be performed by skilled, qualified and competent personnel and that such Services shall be provided in accordance with the standard practices of Buyer.

**11. CHANGES.**

Buyer may, at any time, by issuance of a Change Order, or by other written order, make changes in the nature, scope and extent of the Work set forth in any Order and Seller, without delay, shall promptly comply therewith; provided, however, that Seller shall not be obligated to comply with any change ordered by Buyer which will require: (1) expenditures in excess of the total amount set forth on the face of the Order, or (2) personnel in excess of the requirements contemplated by this Order.

**12. BUYER AUTHORIZATION.**

- A. The Buyer's Authorized Purchasing Representative has sole authority to make contractual commitments on behalf of the Buyer, to provide contractual direction, and to change contractual requirements as defined in the Order.
- B. Buyer's engineering, technical personnel and other representatives may from time to time render assistance or give technical advice or discuss or effect an exchange of information with Seller's personnel concerning the Product hereunder. No such action shall be deemed to be a change under the "Changes" clause of this Order and shall not be the basis for an equitable adjustment.

**13. DISPUTES.**

- A. Any dispute that may arise under or in connection with this Order with respect to the rights, duties, or obligations of the Parties shall be submitted in writing for resolution to ascending levels of management of the respective Parties up to the Senior Executive of the Global Supply Chain organization placing the Order, and Seller's equivalent executive level.
- B. If a dispute cannot be resolved to both Parties' mutual satisfaction, after good faith negotiations,

within ninety (90) calendar days from the date the written claim is received by the other Party, or such additional time as the Parties agree upon, in writing, either Party may only bring suit in federal or state court in the state from which this Order is issued. Seller consents to personal jurisdiction for this purpose in the forum state from which this Order is issued.

- C. Pending any prosecution, appeal, or final decision referred to in this clause, or the settlement of any dispute arising under this Order, Seller shall proceed diligently, as directed by Buyer, with performance of the Order.
- D. To the maximum extent permitted by law, the parties waive any right to a jury trial and agree that such dispute shall be decided by a judge only.

**14. TERMINATION FOR CONVENIENCE.**

- A. Buyer may, from time to time, at its sole option, terminate, in whole or in part, the Services to be furnished under any Order, whenever, for any reason, Buyer shall deem any such termination is in its best interest. Any such termination shall be effected by delivery to Seller of a written notice of termination, specifying the extent to which the Services are terminated and the dates upon which such termination shall become effective.
- B. Buyer's obligation resulting from such termination shall be limited to making payments to Seller, in accordance with the rates established in the Order for each labor-hour expended for Services performed under the terminated Order to the date upon which the termination becomes effective.

**15. TERMINATION FOR DEFAULT.**

- A. The FAR 52.249-8 "Default (Fixed Price Supply and Service)" clause is by this reference incorporated herein and made a part hereof except that the term "contract" therein shall mean this Order, the term "Contractor" therein shall mean "Seller", the term "Contracting Officer" therein shall mean "Buyer", the term "Government" in all paragraphs thereof except paragraph (c) shall mean "Buyer" and all reference therein to "Disputes" shall mean the Disputes clause of this Order. Buyer may terminate this Order in whole, or in part, for Seller's default in accordance with this clause. In addition, Buyer may terminate this Order in whole, or in part, in the event one of the following occurs, is threatened, or is imminent with respect to Seller: insolvency; bankruptcy; suspension of business; sale of a substantial part of Seller's assets; filing for dissolution; liquidation proceedings; appointment of a trustee or receiver for Seller's property or business; or assignment.
- B. As set forth in FAR 52.249-8 the Parties agree that in the event a determination is made whether by the Parties or a court that the default termination was inappropriate, the Parties' rights and obligations shall be solely governed by the Termination for Convenience clause contained herein and Seller shall be entitled to a recovery

no greater than that permitted in said Termination for Convenience clause.

**16. - 18. RESERVED.**

**19. NOTIFICATION OF STATUS CHANGES.**

By accepting this Order, Seller certifies that all representations and certifications applicable to this Order included in the Corporate Form C-833 "Subcontractor Annual Compliance Certification", and the Corporate Form C-832 "Supplier Profile Capability, Quality System and Capacity Questionnaire", both available on the Buyer's OASIS Website, remain valid. If Seller's status under any of the applicable representations and certifications has changed, Seller must complete and submit to Buyer a new "Subcontractor Annual Compliance Certification" or "Supplier Profile Capability, Quality System and Capacity Questionnaire" prior to taking any action indicating acceptance as stated on the face of the Order.

**20. TAXES.**

The price of this Order includes all applicable Federal, State, and Local taxes, duties, tariffs, and similar fees imposed by any government, all of which shall be listed separately on the invoice. Use or sales taxes for which Buyer has furnished a valid exemption certificate or a direct pay permit shall not be included.

**21. ASSIGNMENT.**

A. Seller shall not assign any of its rights under this Order without Buyer's prior, written consent, except as specifically stated in this clause. Seller may assign to a bank, trust company, or other financing institution including any Federal lending agency, claims for money due or to become due to Seller from Buyer under this Order, provided:

1. The assignment is limited to one party, covers all amounts payable under the Order and not already paid, is not subject to further assignment, and is made specifically subject to reduction and setoff or recoupment for any present or future claim or claims or indebtedness which Buyer may have against Seller;
2. Seller furnishes to Buyer written notice of assignment and a true copy of the instrument of assignment.

B. Buyer may make direct settlements or adjustments in price, or both, with Seller under the terms of this Order notwithstanding any assignment of claims for money due or to become due under this Order and without notice to the assignee.

C. Seller shall not furnish or disclose to any assignee under this Order or any other person not entitled to receive the same, any classified document or any of Buyer's Proprietary Information (including this Order) until and unless authorized to do so by Buyer's Authorized Purchasing Representative.

**22. SUBCONTRACTING.**

A. When reasonable recruiting efforts fail to provide suitable candidates in a timely manner, Seller may utilize subcontract labor; provided, Buyer

provides prior authorization. Seller shall include terms and conditions substantially the same as those contained herein in each subcontract agreement.

B. Any subcontract awarded to a foreign person, as defined in the International Traffic in Arms Regulations (ITAR) or the Export Administration Regulations (EAR), must comply with the "Eligibility Requirements" clause herein.

**23. INFORMATION OF BUYER AND SELLER.**

A. Unless expressly stated otherwise herein, the exchange of information under this Order shall be governed by this Order and, in particular this Clause 23, which supersedes any prior agreement between Buyer and Seller to protect information relating to the purpose of this Order.

B. Seller shall keep confidential all information, drawings, specifications, or data and return, upon request, all documents furnished by Buyer and shall not divulge or use such information, drawings, specifications or data for the benefit of any other party. Except as required for the efficient performance of this Order, Seller shall not make copies or permit copies to be made without the prior written consent of Buyer. Seller shall make no use, either directly or indirectly, of any such data or any information derived therefrom, except in performing this Order, without obtaining Buyer's written consent.

C. Seller agrees that all information heretofore or hereafter furnished or disclosed to Buyer by Seller in connection with the placing or performance of this Order is furnished or disclosed as a part of the consideration for this Order; that such information is not, unless otherwise agreed to by Buyer in writing, to be treated as confidential or proprietary; and that Seller shall assert no claims (other than for patent infringement) by reason of the use or disclosure of such information by Buyer, its assigns, or its customers and Seller shall not place any restrictive markings on such information. Any agreement purporting to provide for the confidential treatment of, or limiting the use of or disclosure of, information so furnished or disclosed, must be in writing and signed by Buyer.

D. If this Order is issued under a U.S. Government contract, subsections B. and C. above shall be deemed deleted and this clause D. shall apply. Each Party agrees to keep confidential and not to disclose to any other person (unless permitted below or elsewhere in this Order) any Proprietary Information received from the other Party in connection with this Order. Proprietary Information shall be all information exchanged under this Order in written or other permanent form which is clearly and conspicuously marked as being proprietary using an appropriate legend. Proprietary Information shall also include information originally disclosed in some other form (e.g., orally or visually) to the extent that the disclosing Party: 1. Identifies the information as proprietary at the time of original disclosure;

2. Summarizes the Proprietary Information in writing; 3. Marks the writing clearly and conspicuously with an appropriate proprietary legend; and 4. Delivers the writing to the receiving party within thirty (30) days of the original disclosure. The foregoing limitation on disclosure and use shall not apply to data or information which (i) was in the rightful possession of a receiving Party without restriction, prior to the first receipt from the disclosing Party; or (ii) now or hereafter, through no act or failure to act on the part of a receiving Party, becomes generally known and available to the public without restriction; or (iii) is hereafter disclosed and made available to a receiving Party without restriction by others having the right to make such disclosure.

- E. If this Order is issued under a U.S. Government contract, Seller agrees to use Buyer's Proprietary Information only for purposes necessary for performing this Order, without first obtaining Buyer's written authorization. Seller further hereby grants to Buyer a non-exclusive, irrevocable, worldwide, right and license to copy, modify, use and disclose to the U.S. Government or any higher tier contractor, any information received from Seller, including Proprietary Information, for the performance of this Order and any higher tier contract from which this Subcontract is issued.
- F. All documents and other tangible media (excluding Products) transferred in connection with this Subcontract, together with any copies thereof, are and remain the property of Buyer.
- G. Neither the existence of this Order nor the disclosure hereunder of Proprietary Information or any other information shall be construed as granting expressly, by implication, by estoppel or otherwise, a license under any invention or patent now or hereafter owned or controlled by Buyer or Buyer's customer, except as specifically set forth herein.
- H. Seller's obligations with respect to information or data disclosed hereunder prior to the performance in full, termination or cancellation of this Order shall not, except as expressly set forth herein, be affected by such performance in full, termination, or cancellation.
- I. Notwithstanding, the foregoing, nothing in this clause is intended to affect the rights or exercise of rights, if any, obtained by the U.S. Government under the "Rights in Technical Data – Noncommercial Items" clause DFARS 252.227-7013 and "Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation" clause DFARS 252.227-7014, or any similar or successor clauses, or other clauses that may be contained in any contracts or subcontracts between Buyer and Seller and any customer.

#### **24. SUBCONTRACT DELIVERABLES.**

Seller agrees and acknowledges that all deliverables, or portions thereof, under this Order ("Deliverable Materials") may be incorporated into deliverables under the next higher tier or prime contract. Seller

hereby grants Buyer the right to deliver the Deliverable Materials or any portion thereof under the next higher tier or prime contract. Seller further hereby agrees to deliver the Deliverable Materials under this Order with the appropriate markings required by the Government regulations incorporated into this Order.

#### **25. INFRINGEMENT INDEMNIFICATION.**

- A. In lieu of any other warranty by Seller to Buyer against intellectual property infringement, statutory or otherwise, expressed or implied, Seller will defend, indemnify, and hold harmless Buyer, Buyer's officers, agents, employees, and customers against all suits or actions, claims and liabilities, including costs, based on a claim that use or sale of any Products delivered under this Order infringes any patent, trade secret, copyright, or other intellectual property right of third parties.
- B. Buyer shall notify Seller in writing of such claim and Buyer shall provide Seller with reasonable information and assistance, at Seller's expense, for the defense thereof.
- C. If the use or sale of the Product is enjoined as a result of a suit, Seller, at no expense to Buyer, shall obtain for Buyer and its customer the right to use and sell the Product or shall substitute an equivalent Product acceptable to Buyer and extend this indemnification thereto.
- D. Seller's obligation shall not apply to Products manufactured by Seller pursuant to detailed designs developed by Buyer and furnished to Seller under an Order, which does not require research, development, or design work by Seller. Seller's obligation shall also not apply to any infringement arising from the use or sale of Products in combination with Products not delivered by Seller if such infringement would not have occurred but for such combined use unless such combination was reasonably foreseeable.
- E. Notwithstanding the foregoing, when this Order is performed under the authorization and consent of the U.S. Government to infringe United States Patents, Seller's liability for Seller's patent infringement under this Order shall be coextensive with Buyer's liability.

#### **26. INSURANCE.**

- A. During the entire Order period Seller and its subcontractors shall, at their sole cost and expense, procure and maintain Worker's Compensation insurance coverage as required by the laws of the state in which the work is performed and such insurance shall provide waiver of subrogation against Buyer. Seller shall also maintain, at their sole cost and expense, Employer Liability insurance in the amount of \$1,000,000.
- B. Seller and its subcontractors shall, at their sole cost and expense, procure and maintain the following insurance coverage in the minimum limits indicated:
  - 1. Commercial General Liability (CGL) – Combined Single Limit (CSL) \$2,000,000

bodily injury and/or property damage. Coverage shall include but not necessarily be limited to, premises and operations, products and completed operations and contracts.

2. Automobile Liability (AL) – Combined Single Limit (CSL) \$2,000,000 bodily injury and/or property damage covering all owned, hired and non-owned vehicles.
- C. All insurance required as a part of this Order shall be placed with insurance companies that are authorized to do business under the laws of the state or states in which the work is being performed and shall be in a form reasonably acceptable to Buyer.
- D. General Liability and Automobile Liability insurance coverage shall provide that Buyer is named as an additional insured and if requested by Buyer, Seller shall provide evidence that the required insurance is in place in the form of insurance certificates.
- E. Insurance coverage described herein must be in place and effective prior to commencement of any activity that is the subject of this Order. Renewal insurance certificates, if applicable, shall be provided to Buyer at least 15 days prior to the expiration date of the insurance under each required coverage.
- F. Buyer and Seller agree to defend, indemnify, and save harmless the other from all damages and liabilities arising out of or in connection with presence on the other's premises pursuant to this Order; provided, however, that such damage and liability shall not have been caused by the negligence of the agents, subcontractors or employees of the indemnified parties.
- G. Additional insurance types and/or limits will be necessary if the work involves extra hazardous operations. The extra hazardous operations include dispensing of medical care, operations involving the nuclear hazard, providing professional engineering advice, large construction projects (above \$5,000,000) hazardous waste, food service, crane operation, work above ground, work below ground, and operations involving demolition or explosives.
- H. If work involves non-U.S. military aviation products, Aviation Products Liability: \$100,000,000.
- I. If project involves ownership or lease of an aircraft, Aviation Hull and War Risk for Replacement Cost or Agreed value.
- J. Foreign Direct Sale Insurance mandated by the country involved.

#### **27. LABOR DISPUTES.**

Whenever Seller has knowledge that any actual or potential labor dispute is delaying or threatens to delay timely performance of this Order, Seller shall immediately give notice to Buyer including all relevant information including, but not limited to, nature of dispute, labor organizations involved, estimated impact on Seller's performance of Buyer's order and estimated duration. Seller shall also provide updated

reports throughout the dispute duration. Seller agrees to insert the substance of this clause, including this sentence, in any lower-tier subcontract where a labor dispute might delay timely performance of this Order.

#### **28. COMPLIANCE WITH LAWS.**

- A. Seller warrants that it shall comply with all applicable Federal, State and Local laws, rulings, and regulations in effect on the date of this Order.
- B. Seller shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.
- C. During the performance of this Order, Seller agrees to comply with all provisions of the following:
  1. Executive Order 11246 of Sept. 24, 1965, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor;
  2. Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era in accordance with 38 U.S.C. 4212(a); and
  3. Affirmative Action for Handicapped Workers in accordance with 29 U.S.C. 793.
- D. FAIR LABOR STANDARDS. Seller shall warrant that the Services furnished hereunder have been or will be performed in compliance with the Fair Labor Standards Act of 1938, 29 U.S. Code 201-219, as amended, and, insofar as applicable hereto, the Walsh-Healey Public Contracts Act, 41 U.S. Code 35-45, and any amendments thereto, as well as with the provisions of any other Federal labor law or regulation now in effect or hereafter enacted. Seller agrees that this warranty may be considered as the certificate contemplated by the October 26, 1949, amendment to the Fair Labor Standards Act of 1938.
- E. Seller shall obtain at Seller's expense, all permits, licenses and authorizations required to perform this Order.
- F. Seller agrees to include the requirements of this clause, including this subparagraph F, in every subcontract or purchase order placed hereunder, unless otherwise exempt.

#### **29. CHOICE OF LAW.**

Both Parties agree that, irrespective of the place of performance of this Order, this Order will be construed and interpreted according to the law of the state from which this Order is issued, as identified in the Order, excepting that state's laws on conflict of law.

#### **30. - 31. RESERVED.**

#### **32. EXPORT AND IMPORT COMPLIANCE.**

- A. Export Compliance  
General. Performance of this Order may involve the use of or access to articles, technical data or software that is subject to export controls under 22 United States Code 2751 – 2799 (Arms Export Control Act) and 22 Code of Federal Regulations 120-130 (International Traffic in Arms Regulations or "ITAR") or 50 United States Code 2401-2420 (Export Administration Act of 1979, as amended), 50 United States Code 1701-1706, (International Emergency Economic Powers Act,

as amended), and 15 Code of Federal Regulations 768 – 799 (Export Administration Regulations) and their successor and supplemental laws and regulations (collectively hereinafter referred to as the “Export Laws and Regulations”). Seller represents and warrants that it is either 1) a U.S. Person as that term is defined in the Export Laws and Regulations, or 2) a Foreign Person as that term is defined in the Export Laws and Regulations and has disclosed to Buyer’s Representative in writing the country in which it is incorporated/authorized/ organized to do business, and all nationalities of any dual or third-country national employees who will require access to the data, articles or services provided hereunder. Seller shall comply with any and all Export Laws and Regulations, and any license(s) issued there under.

1. **Registration.** If Seller is a U.S. entity and is engaged in the business of either exporting or manufacturing (whether exporting or not) defense articles or furnishing defense services, Seller represents that it is registered with the U.S. Department of State’s Directorate of Defense Trade Controls, as required by the ITAR, and it maintains an effective export and import compliance program in accordance with the ITAR.

2. **Foreign Persons.** Seller shall not re-transfer any export-controlled information (e.g. technical data or software) to any other non-US person or entity (including the Seller’s dual and/or third-country national employees) without first complying with all the requirements of the applicable Export Laws and Regulations. Prior to any proposed re-transfer, Seller shall first obtain the written consent of the Buyer. No consent granted by Buyer in response to Seller’s request shall relieve Seller of its obligations to comply with the provisions of paragraph A. of this Clause or the Export Laws and Regulations, nor shall any such consent constitute a waiver of the requirements of paragraph A. hereinabove, nor constitute consent for Seller to violate any provision of the Export Laws and Regulations.

**B. Political Contributions, Fees and Commissions.**

If this Purchase Order is valued in an amount of \$500,000 or more, then in performance of this Purchase Order, Seller shall not directly or indirectly pay, offer or agree to pay any political contributions or any fees or commissions.

1. For purposes of this section and pursuant to 22 CFR 130.6, political contribution means any loan, gift, donation or other payment of \$1,000 or more made, or offered or agreed to be made, directly or indirectly, whether in cash or in kind, which is:

- (a) To or for the benefit of, or at the direction of, any non-U.S. candidate, committee, political party, political faction, or government or governmental

subdivision, or any individual elected, appointed or otherwise designated as an employee or officer thereof; and

- (b) For the solicitation or promotion or otherwise to secure the conclusion of a sale of defense articles or defense services to or for the use of the armed forces of a non-U.S. country or international organization. Taxes, customs duties, license fees, and other charges required to be paid by applicable law or regulation are not regarded as political contributions.

2. For purposes of this section and pursuant to 22 CFR 130.5, fee or commission means any loan, gift, donation or other payment of \$1,000 or more made, or offered or agreed to be made directly or indirectly, whether in cash or in kind, and whether or not pursuant to a written contract, which is:

- (a) To or at the direction of any person, irrespective of nationality, whether or not employed by or affiliated with the Seller; and
- (b) For the solicitation or promotion or otherwise to secure the conclusion of a sale of defense articles or defense services to or for the use of the armed forces of a non-U.S. country or international organization.

C. **Import Compliance.** Both parties shall comply with all U.S. Customs laws and regulations (e.g., 19 CFR) and all other applicable U.S. government regulations pertaining to importations of goods and materials into the United States.

1. **For International Orders** (Purchase orders issued to entities addressed in foreign countries): Specifically, without excluding other regulations, Seller shall comply with and adhere to the commercial invoice requirements detailed in 19 CFR 141 subpart F of the regulations, and provide additional information as requested by the Buyer. Seller shall immediately upon discovery, notify Buyer of any change to the shipment data related to product valuation, quantities shipped, country of origin, port of export and any additional information directed by the Buyer. Seller will timely provide pre-alert shipping information and documentation prior to shipment arrival to the U.S. Buyer will direct Seller where to send pre-alert shipping information and documentation. Pre-alert shipping documentation includes, but is not limited to, a commercial invoice, airway bill, bill of lading, and other required documentation as directed by U.S. regulations and Buyer.

2. **For Domestic Orders** (Purchase orders issued to entities addressed in the United States): Seller shall assume all U.S. import responsibilities, to include designation as U.S. Importer of Record, Customs clearance, duty, taxes, and fees for goods entering into the

United States. Unless otherwise agreed in writing, NGC will not assume any import liabilities for goods procured through a domestic purchase order.

**D. Indemnification.**

Seller shall indemnify and save harmless Buyer from and against any and all damages, liabilities, penalties, fines, costs, and expenses, including attorney's fees, arising out of claims, suit, allegations or charges of Seller's failure to comply with the provisions of this Clause and breach of the warranty set forth in paragraph A or B. Any failure of Seller to comply with the requirements or any breach of the warranty contained in this Clause shall be a material breach of this Order.

**E. Subcontracts.**

The substance of this Clause shall be incorporated into any lower-tier subcontract or purchase order entered into by the Seller for the performance of any part of the work under this Order.

**F. Notification**

Seller agrees to provide prompt notification to Buyer in the event of changes in circumstances such as ineligibility to contract with US Government, debarment, assignment of consent agreement, and initiation or existence of a US Government investigation, that could affect Seller's performance under this order. Seller further agrees to provide prompt notification to Buyer should any offer, agreement or payment of political contributions, fees or commissions (as defined herein and pursuant to this Order) be made in contravention of the prohibition in Section B.

**33. RELIANCE.**

Seller represents and warrants that Seller is an expert fully competent in all phases of the work involved in producing and supporting all Products and performing all services purchased under this Order.

**34. RELEASE OF INFORMATION AND ADVERTISING.**

Except as required by law, no public release of any information, or confirmation or denial of same, with respect to this Order or the subject matter hereof, will be made by Seller without the prior written approval of Buyer. Additionally, Seller shall not use the name "Northrop Grumman" or in any other way identify Buyer in any advertisement, display, news release, or other public disclosure without Buyer's prior written consent.

**35. COMPLIANCE WITH AND APPLICABILITY OF THE OFFICE OF FEDERAL PROCUREMENT POLICY (OFPP) ACT OF 1988 (41 USC 423).**

Seller represents that during the conduct of the procurement of which this Order forms a part, it has complied with and will continue to comply with the requirements of FAR 52.203-10 and Section 27 of the OFPP Act as implemented in FAR. Seller further agrees that it shall indemnify and hold harmless Buyer from and against any loss, cost or damage incurred by

Buyer under Buyer's contract with its customers as a result of or in connection with Seller's violation of the OFPP Act.

**36. INDEMNITY FOR DEFECTIVE CERTIFIED COST OR PRICING DATA.**

Seller hereby indemnifies and agrees to hold Buyer harmless from any and all price or cost reductions made pursuant to the FAR 52.215-10 "Price Reduction for Defective Cost or Pricing Data" clause or the FAR 52.215-11 "Price Reduction for Defective Cost or Pricing Data – Modifications" clause, or any other provisions of the prime contract or higher-tier subcontract under which this Order is issued, and from and against any and all cost disallowances or non-recognitions of costs under such prime contract or subcontract, if such price or cost reduction, cost disallowance or non-recognition of costs arises or results directly or indirectly because:

A. Seller, or any Seller subcontractor at any tier or prospective subcontractor hereunder, furnished cost or pricing data that were not complete, accurate and current as certified in Seller's Certificate of Current Cost or Pricing Data; or

B. Seller, or any Seller subcontractor or prospective subcontractor at any tier hereunder, furnished data of any description that were not accurate.

Accordingly, without limitation of the foregoing, the price of this Order shall be reduced and the Order shall be modified in writing as necessary to reflect the full amount of any and all such price or cost reductions and any and all such cost disallowances or non-recognitions of costs. The rights and remedies of Buyer under or pursuant to this indemnity shall be cumulative and additional to any other or further rights and remedies provided under this Order or at law or in equity.

**37. HEADINGS.**

The descriptive headings contained in this Order are for convenience of reference only and in no way define, limit or describe the scope or intent of this Order.

**38. PARTIAL INVALIDITY.**

If any provision in this Order is or becomes void or unenforceable by force or operation of law, all other provisions shall remain valid and enforceable.

**39. NONWAIVER.**

A Party's failure at any time to enforce any provision of any Order shall not constitute a waiver of the provision or prejudice a Party's right to enforce that provision at any subsequent time.

**40. COMPLETE AGREEMENT.**

This Order is the Parties' final expression of their agreement and is the complete and exclusive statement of all terms and conditions of agreement. This Order supersedes and cancels all prior understandings, proposals, communications, whether oral or written, and agreements between the Parties, whether such understandings, proposal, communications, and agreements were written or oral, concerning the matters addressed in this Order. No course of prior dealings between the Parties, and no usage of trade, shall be relevant to supplement or explain any term used in this Order.



**41. RESPONSIBILITY FOR CLAIMS/INDEMNITY.**

- A. Seller shall, at its own expense, defend, indemnify and hold harmless Buyer from any claims or suits brought and liabilities and losses sustained by any third party for injury to persons or damage to property, arising in whole or in part out of the acts or omissions of Seller, its subcontractors, agents, or employees in the performance of this Order. If Seller fails to defend, hold harmless, and indemnify Buyer as provided in this clause, then Seller shall pay for any damages, attorney's fees, and any other fees, costs, and expenses that may be incurred by Buyer in the defense of any action related to this Order and/or in the prosecution of any action to enforce the provisions of this clause.
- B. Seller shall secure and protect itself, and shall secure, indemnify and defend Buyer, its officers, agents, and employees from any liability, claim of liability, expense, cause of action, loss or damage whatsoever, arising out of or in connection with withholding tax payments for the Seller's personnel, or any personal injury or any claimed personal injury, including death, to any person or party whatsoever in the performance of this Order.

**42. - 46. RESERVED.**

**47. RELATIONSHIP OF THE PARTIES.**

- A. Personnel assigned by Seller shall be employees of Seller. Nothing herein shall be construed as creating an employer – employee or other relationship between Buyer and such personnel. Seller's employees shall be assigned to this Order pursuant to Seller's direction and employed by Seller under the terms and conditions detailed by Seller. Buyer shall also provide direction to Seller's employees while they are on assignment to Buyer pursuant to this Order. Seller understands and agrees that neither Seller nor any of its employees shall act, in any sense, as agents or representatives of Buyer; furthermore, Seller agrees to refrain, directly or indirectly, from initiating or engaging on behalf of Buyer or for Buyer's benefit, in activities which are not authorized by Buyer.
- B. Seller's employees shall be paid exclusively by Seller for all Services performed and Seller shall be responsible and shall actually comply with all requirements and obligations relating to such employees under local, state or federal law (or foreign law as applicable), including but not limited to minimum wage, social security, unemployment insurance, local, state, and federal income tax, and Worker's Compensation. Buyer has no responsibility for withholding any portion of salary or wages due employees of Seller to comply with any taxes aforementioned.
- C. Seller shall ensure the following certification statement is submitted to Buyer annually, by 31 January:  
“\_\_\_\_\_ (Seller) certifies that the personnel supplied under this Order for the calendar year ending December 31, \_\_\_\_\_, are

employees of Seller or employees of authorized Sub-Sellers and that Seller and its authorized Sub-Sellers will properly file all reports and will meet all employment obligations respecting them, including, but not limited to withholding and paying applicable income and employment taxes, unemployment compensation and workers compensation, as well as compliance with all applicable labor and employment laws, both foreign and domestic. Seller shall indemnify and hold Northrop Grumman Systems Corporation harmless against any and all liability imposed or claimed, including attorney's fees and other legal expenses, arising directly or indirectly from any failure of Seller or its authorized Sub-Sellers to file reports and/or to meet Seller's or Sub-Sellers' obligations as set forth herein.”

**48. RESERVED.**

**49. CITIZENSHIP ELIGIBILITY REQUIREMENTS.**

- A. Employees of Seller who perform Services under this Order shall be citizens of the United States of America (U.S.), its possessions or territories, or lawful permanent residents as defined by 8 United States Code (U.S.C.) 1101(a)(20), or protected individuals as defined by 8 U.S.C. 1324b(a)(3). Seller shall provide Corporate C-609A, Non-Employee OneBadge Request, not later than 10 days after notice of award of a purchase order. Seller shall promptly notify Buyer of any changes to the Certification. Failure to provide the Certification, or notice of changes, may result in termination of the purchase order for default.
- B. Upon the request of Buyer, Seller shall submit verification of citizenship, lawful permanent resident status, protected individual status, or employment eligibility status to Buyer for each employee who will perform Services under this Order. Examples of documents that may be considered satisfactory are state birth certificates, U.S. passports, U.S. naturalization papers, and “green” cards (I-551) issued by the U.S. Department of Immigration and Naturalization. Consistent with Immigration Reform and Control Act (IRCA), the order of presentment of such documents shall be the sole prerogative of Seller's employees. If these documents are not available, a compilation of other evidence may suffice.
- C. Employees of Seller not listed on the Certification of Employees or providing individual proof of U.S. citizenship, or other status as described in subparagraph B. above, may be denied access to Buyer's premises.

**50. BADGES AND PLANT SECURITY.**

- A. Seller will require its personnel who perform Services for Buyer to comply with all rules for issuance, control and wearing of identification badges. Compliance with Buyer's rules will permit such personnel to enter and leave the premises where Work is performed. Seller further agrees to require its personnel to wear Buyer-issued badges in a conspicuous place upon

their person when they are in, on, or about the premises where Work is performed.

- B. Seller agrees to abide by and comply with Buyer's rules and regulations pertaining to plant security and plant protection promulgated at the location where Work is performed.
- C. Seller agrees to comply with all applicable fire safety requirements and to adhere to all rules, regulations, and laws pertaining to fire protection at the location where Work is performed.
- D. When performing Work in the U.S., Seller and Seller's personnel shall comply with all applicable rules, regulations and orders of the Occupational Safety and Health Act of 1970 (P.L. 91-596, 29 U.S.C. 651-678), as amended, and all applicable safety laws, rules, regulations and orders of the United States and the State wherein this Order is being performed. When performing Work at a location outside the U.S., Seller and Seller's personnel will comply with all applicable rules, regulations and orders of the foreign location pertaining to the occupational safety and health. Seller hereby indemnifies and holds Buyer harmless from and against any noncompliance by Seller or its personnel with any of the above laws, rules, regulations and orders as may be applicable.
- E. Buyer may, for any reason, require Seller to remove from Buyer's or any other facility where Work is performed for Buyer any employee, agent or representative of Seller, or any of its Sub-Sellers, Buyer deems incompetent, careless or otherwise objectionable. Seller will remove such employee, agent or representative from the premises immediately.

**51. RESERVED.**

**52. SERVICE RATES.**

- A. Seller will bill Buyer for Services furnished under this Order at the mark-up rates set forth in the Order. Shift Differential by site, if any, will be indicated in the Order.
- B. The Overtime Billing Rate will be paid for all authorized Work performed in excess of hours chargeable at the Straight Time Billing Rate.
- C. Seller agrees to provide its employees performing Services with the following paid holidays, when earned in accordance with Seller's policies: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. The cost of providing such holidays shall be included in the Seller's mark-up rate.
- D. Seller shall provide, as part of its mark-up rate, its employees performing Services for Buyer a minimum of five days paid vacation each year when earned in accordance with Seller's policies.
- E. When Buyer requires Seller personnel to perform travel, Buyer will notify Seller to request travel arrangements be made. Buyer will reimburse per diem, airfare or mileage (when authorized in writing in advance) as authorized pursuant to standard General Service Administration (GSA) rates. Travel costs will be reimbursed at actual cost, without addition of overhead, profit or

similar charges, upon receipt of an itemized invoice with receipts per the Payment clause herein. At Buyer's option, Buyer may ticket airfares and arrange hotel and rental car reservations.

- F. Seller's prices include applicable Federal, State and local taxes.

- G. All rates are in U.S. Dollars.

**53. SERVICES.**

- A. From time to time, Buyer may require Seller to provide a specific number and type of personnel for a specific number of hours between specific dates at specified sites, at the Mark-Up Percentage Rates set forth in the Order.
- B. Except as included as an element of Seller's mark-up rate, Buyer shall not be liable for payment for any hours not worked, including such times when Buyer's facility is closed due to holidays (including the holidays specified in the clause entitled "Service Rates" hereof), shutdowns, inclement weather, etc.

**54. SELECTION OF PERSONNEL.**

- A. All personnel assigned by Seller to perform Services hereunder shall be capable of performing such Services and will be qualified in accordance with the classifications assigned, or equivalent. If Buyer objects to the qualifications of Seller's personnel, Seller agrees to withdraw and replace immediately any personnel that Buyer deems unacceptable, even though such personnel have been approved previously by Buyer. If Seller's personnel, who are acceptable to Buyer, resign or discontinue employment for any reason, Seller shall immediately replace such personnel without additional cost to Buyer. Seller shall ensure that each person assigned to perform Services under this Order is qualified in accordance with the classifications assigned, if any, and possesses the items of personal equipment, if any, specified for the Services to be performed.
- B. Except for Seller's personnel whose Services Buyer determines may not exceed thirty (30) days in duration, Seller shall certify that each person assigned to perform Services under this Order are drug free as set forth in the clause entitled "Pre-Employment Drug Testing" herein below.
- C. Except for Seller's personnel whose Services Buyer determines may be less than sixty (60) days in duration, Seller shall certify that each person assigned to perform Services under this Order meet the criteria for assignment as specified in the clause entitled "Background Investigation" herein below.
- D. Seller shall certify that each person assigned to perform Services under this Order meets the requirements as set forth in the clause entitled "Eligibility Requirements" herein below.
- E. Buyer, in its sole discretion, may, at no charge to Buyer, reject any Seller personnel based upon the results of such test(s) and/or investigation, or who fails to cooperate with Buyer in conducting such

test(s) or investigation as Buyer deems appropriate.

- F. Seller has sole responsibility for ensuring that it shall only furnish to Buyer, personnel whose use by Buyer will not cause Buyer to be in violation of 10 U.S.C. 2408 applicable to the prohibition on employment of persons convicted of defense-contract related felonies and related criminal penalty by defense Sellers. Buyer agrees to supply any information requested by Seller reasonably necessary to permit the Parties to determine if Buyer may be in violation of such prohibition. Seller further recognizes that violation of such prohibition could result, among other things, in a breach of its contracts and possible Suspension or Debarment of Buyer from further Government and Government-related contracts. Seller specifically agrees to indemnify Buyer should Buyer be adversely impacted by any such violation.
- G. Seller shall send all submittal letters and resumes to the attention of Buyer's Contract Labor Administrator, as set forth in the clause entitled "Buyer's Contract Labor Administrator" below. Under no circumstances shall resumes be sent to any other department or section without the approval of Buyer.
- H. Buyer's Contract Labor Administrator will notify Seller of the personnel selected and establish individual labor rates at the time of hire, and any subsequent increases in the labor rates, if approved, as set forth in the clause entitled "Increase in Direct Labor Hourly Rate" set forth herein below. Seller is required to pay its personnel not less than the labor rate as established in agreement with Buyer.
- I. Seller shall promptly confirm availability of personnel and obtain approval of start date(s) from Buyer's Contract Labor Administrator.
- J. Nothing herein shall affect Buyer's rights, set forth elsewhere in this Agreement, to deem any of Seller's personnel unacceptable and to reject such personnel accordingly.

**55. PRE-EMPLOYMENT DRUG TESTING.**

Except for Seller's personnel whose Services Buyer determines may not exceed thirty (30) days in duration, Seller agrees each person assigned to perform Services hereunder shall be required to complete a drug test as set forth in Addendum A, entitled "Drug Free Workplace," which is by this reference made a part of this Order. The drug test must have been completed within one year from the date the individual begins performing Services for Buyer. If Seller's personnel are extended beyond thirty (30) days, Seller shall perform a drug test upon receipt of request from Buyer.

**56. BACKGROUND INVESTIGATIONS.**

See Addendum B.

**57. REASONABLE SUSPICION DRUG AND ALCOHOL TESTING.**

When the appearance or the behavior of Seller personnel causes Buyer to reasonably suspect the influence of drugs or alcohol (i.e., slurred speech,

body or breath odor, dilated or constricted pupils, unsteady gait, possession of drugs or alcohol, or other impairments), Buyer may direct Seller to perform drug/alcohol testing per Addendum A. Such testing shall be accomplished as soon as possible after Buyer makes a request, but not later than eight (8) hours after request by Buyer. Results shall be reported to Buyer within twenty-four (24) hours of receipt by Seller.

**58. DRUG TESTING, BACKGROUND INVESTIGATIONS AND OTHER MEDICAL SCREENING COSTS.**

- A. Buyer shall reimburse Seller for the actual amount paid by Seller for each drug test, background investigation, or other required medical screening; provided that:
  - 1. The individual performs services for Buyer pursuant to this Order; and
  - 2. Seller submits an invoice, along with supporting information from the provider of such services; and
- B. No overhead, profit or other costs shall be added to the invoice amount. All invoices must reflect reasonable and actual charges for the service(s) performed.

**59. RELEASE OF SELLER'S EMPLOYEES.**

Seller agrees that any Seller restrictions regarding Buyer's employment of personnel furnished to Buyer during the term of this Order will be waived upon Buyer's request and Seller will release, effective as of the date of Buyer's request, such personnel from any covenants in their individual employment agreements which prohibit for any specified period of time their subsequent employment in any manner by Buyer. No employment fee shall be assessed for release of employees.

**60. MILITARY SECURITY REQUIREMENTS.**

- A. The provisions of this clause shall apply to the extent that this Order involves access to information classified "Top Secret", "Secret", or "Confidential". If Seller's employees require access to classified material under the terms of any Order, a DD254 must be issued prior to personnel reporting to Buyer's facility.
- B. Seller agrees to provide and maintain a system of security controls within its own organization, in accordance with (i) the requirements of the current edition of the National Industrial Security Program Operating Manual ("NISPOM"), as in effect on the date of this Order, which manual is hereby incorporated by reference and made a part of this Order, and (ii) any amendments to said manual required by the demands of national security, as determined by the Government and made after the date of this Order, notice of which has been furnished to Seller.
- C. The Government has agreed that it shall indicate, when necessary, by classification ("Top Secret", "Secret", or "Confidential"), the degree of importance to the national defense of information pertaining to supplies, Services, and other matters to be furnished to Buyer by the Government, and Buyer shall give written notice of such classification to Seller and of any subsequent changes

thereto. Seller is authorized to rely on any letter or other written instrument signed by the Contracting Officer or Buyer changing the security classification of matter.

- D. Designated representatives of the Government responsible for inspection pertaining to industrial plant security shall have the right to inspect, at all reasonable times, the procedures, methods and facilities utilized by Seller in complying with the requirements of the terms and conditions of this clause. Should the Government, through its authorized representatives, determine that Seller's security methods, procedures, or facilities do not conform to such requirements, it shall submit a written report to Seller advising of the proper actions to be taken in order to effect compliance with such requirements.

**61. WORKING CONDITIONS AND PERSONAL PROPERTY.**

- A. Buyer shall furnish suitable working space and all necessary facilities and materials. Personal tools (if required) shall be furnished by Seller, or its personnel, unless otherwise agreed in writing by Buyer. All Work performed hereunder shall be subject to inspection by Buyer at all reasonable times.
- B. Upon completion or termination of this Order, or at such other times as Buyer may direct, Seller shall return to Buyer all supplies or any other property furnished by Buyer or produced or reproduced by Seller in connection with Work to be performed hereunder and remove from the premises where Work is performed any equipment or supplies belonging to Seller.

**62. REASSIGNMENT.**

- A. At the conclusion of any Order or this Order, whether by termination or expiration, all Seller personnel assigned by Seller to Buyer under the concluded Order may be solicited for either direct employment with Buyer or reassignment to Buyer pursuant to Orders awarded to another Supplier. Seller hereby waives and agrees not to assert any objection it may have to such direct employment or reassignment, based on Seller's employment agreement with its contract labor employees.
- B. If any Contract Labor personnel are reassigned pursuant to paragraph A above, Seller is responsible for payment of: (1) all year end holidays earned and (2) prorated vacation accrued through the last date the reassigned employee was employed by Seller.

**63. EXAMINATION OF RECORDS.**

- A. Seller agrees that Buyer or the Comptroller General of the United States, or any duly authorized representatives, shall, until the expiration of three (3) years after final payment under this Order, have access to and the right to examine any directly pertinent books, documents, papers and records of Seller involving transactions related to this Order.

- B. Buyer shall have the right to perform payroll audits from time to time. Seller shall have available, at a minimum, the following documents:

- 1. Each Contract Labor's W-2 form.
- 2. Each Contract Labor's W-2 form for prior years, if applicable.
- 3. Payroll checks and withholding information.
- 4. Canceled checks.
- 5. Employer Quarterly Report of Wages Paid to applicable personnel.

- C. Seller agrees to include, in all subcontracts issued hereunder, a provision to the effect that the Sub-Seller agrees Buyer or the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three (3) years after final payment under the subcontract, have access to and the right to examine any directly pertinent books, documents, papers, and records of such Sub-Seller involving transactions related to the subcontract.

**64. COMPOSITION OF SELLER.**

If Seller is comprised of more than one legal entity, each such entity shall be jointly and severally liable to Buyer under this Order.

**65. SUPERSEDITION.**

The terms and provisions herein contained constitute the entire agreement between the Parties and shall supersede all the printed terms and conditions appearing on the Orders issued hereunder, and all previous communications, representations or agreements, either oral or written, between the Parties hereto, with respect to the subject matter hereof, including, without limitation, any telegraphic authorizations issued by Buyer and accepted by Seller.

**66. INTELLECTUAL PROPERTY RIGHTS.**

Seller as part consideration for this Order and without further cost to Buyer hereby grants and agrees to grant to Buyer and its customers an irrevocable, non-exclusive, royalty-free right to license to use, sell, manufacture and cause to be manufactured products embodying any and all inventions and discoveries made, conceived or actually reduced to practice in connection with Seller's performance of this Order and Seller hereby grants to Buyer a license to repair, rebuild or relocate and to have repaired, rebuilt or relocated the Products purchased by Buyer under this Order.

**67. NOTICES.**

Any notices required or authorized to be given hereunder shall be in writing and sent by certified mail to the Buyer.

**68. - 95. RESERVED.**

**96. RESTRICTIONS ON THE USE OF MANDATORY ARBITRATION AGREEMENTS (DFARS 252.222-7006).**

(Applicable to all subcontracts, task orders and Purchase Orders at every tier that utilize funds appropriated or otherwise made available by the Fiscal Year 2010 Defense Appropriations Act or subsequent DoD appropriations acts for any contract (including task or delivery orders and bilateral modifications adding new work) in excess of \$1 million except for

commercial items and commercially available off-the-shelf items.)

A. Seller agrees not to –

1. Enter into any agreement with any of its employees or independent contractors that requires, as a condition of employment, that the employee or independent contractor agree to resolve through arbitration any claim under title VII of the Civil Rights Act of 1964 or any tort related to or arising out of sexual assault or harassment, including assault and battery, intentional infliction of emotional distress, false imprisonment, or negligent hiring, supervision, or retention; or
2. Take any action to enforce any provision of an existing agreement with an employee or independent contractor that mandates that the employee or independent contractor resolve through arbitration any claim under title VII of the Civil Rights Act of 1964 or any tort related to or arising out of sexual assault or harassment, including assault and battery, intentional infliction of emotional distress, false imprisonment, or negligent hiring, supervision, or retention.

B. Seller agrees to flow down, this provision in all subcontracts, task orders and Purchase Orders at every tier that will be funded with in excess of \$1 million of Fiscal Year 2010 funds, except for those for commercial items, including commercially available off-the-shelf items.

C. Failure to comply with this provision will be considered a material breach and, at the sole discretion of the Buyer, may result in termination for default or cause.

**97 - 198. RESERVED.**

**199. FAR/DFARS PROVISIONS/CLAUSES.**

- A. The FAR and DFARS clauses cited in paragraph C. below are incorporated herein by reference at the effective version found in Buyer's Prime Contract, or higher-tier subcontract under which this Order is a subcontract. The listed FAR and DFARS clauses are incorporated herein as if set forth in full text unless made inapplicable by its corresponding note, if any. Whenever said clauses include a requirement for the resolution of disputes between the parties in accordance with the "Disputes" clause herein, the dispute shall be disposed of in accordance with the clause entitled "Disputes" in these Terms and Conditions.
- B. Where necessary to derive proper meaning in a subcontract situation from these clauses, "Contractor" means "Seller," "Contracting Officer" means "Buyer," "Contract" means this Order and "Government" means "Buyer or the Government." However, the words "Government" and "Contracting Officer" do not change: (1) when a right, act, authorization or obligation can be granted or performed only by the Government or the prime contract Contracting Officer or duly authorized representative (2) when title to property is to be transferred directly to the

Government, and (3) in FAR 52.227-1, 52.227-2, and DFARS 252.227-7013 and 252.227-7014.

To implement the increase in the simplified acquisition threshold from \$100,000 to \$150,000 for orders under prime contracts issued on or after October 1, 2010, all references to the "simplified acquisition threshold" or the amount of \$100,000, shall mean the new threshold of \$150,000, except in FAR 52.222-35. Seller shall be responsible for confirming with Buyer whether new orders are under prime contracts issued on or after October 1, 2010.

C. FAR and DFARS clauses:

Clause	FAR Reference
Gratuities NOTE: As used in this clause, "Government" means "Buyer" (except "Government" means "Buyer or Government" in the phrase "to any officer or employee of the Government"), "hearing" means opportunity to be heard, and "in any competent court", means "pursuant to the Disputes clause contained herein."	52.203-3
Restrictions on Subcontractor Sales to the Government NOTE: Applicable to any Order greater than \$100,000.	52.203-6
Anti-Kickback Procedures NOTE: The substance of this clause, except subparagraph (c)(1), is applicable to any Order and all lower-tier subcontracts which exceed \$100,000. Seller shall immediately notify Buyer of any alleged violations involving any of Buyer's or Seller's employees.	52.203-7
Limitation on Payments to Influence Certain Federal Transactions NOTE: Applicable to any Order greater than \$100,000.	52.203-12
Contractor Code of Business Ethics and Conduct NOTE: Applicable to any Order greater than \$5,000,000 and period of performance greater than 120 days. NOTE: Notwithstanding any alterations to this clause to reflect the relationship between Buyer and Seller, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the Office of the Inspector General of the agency issuing the prime contract under which this subcontract is being issued, with a copy to the Contracting Officer of the prime contract.	52.203-13
Display of DoD Hotline Poster NOTE: Applicable to any Order greater than \$5,000,000 and period of performance greater than 120 days (commercial items exempt).	52.203-14
Contractor Employee Whistleblower Rights and Requirement To Inform Employees of Whistleblower Rights NOTE: Applicable to any Order greater than \$150,000.	52.203-17

Clause	FAR Reference
Security Requirements NOTE: Delete paragraph (c.) NOTE: Applicable if the Order involves access to classified information.	52.204-2
Personal Identity Verification of Contractor Personnel	52.204-9
Material Requirements	52.211-5
Defense Priority and Allocation Requirements	52.211-15
Audit and Records – Negotiation NOTE: Applicable to any Order greater than \$100,000.	52.215-2
Price Reduction for Defective Cost or Pricing Data NOTE: Applicable to any Order when cost or pricing data are required.	52.215-10
Price Reduction for Defective Cost or Pricing Data – Modifications NOTE: Applicable if FAR 52.215-10 is not applicable to this Order.	52.215-11
Subcontractor Cost or Pricing Data NOTE: Applicable to any Order when cost or pricing data are required.	52.215-12
Subcontractor Cost or Pricing Data – Modifications NOTE: Applicable if FAR 52.215-12 is not applicable to this Order.	52.215-13
Integrity of Unit Prices NOTE: Delete paragraph (b) NOTE: Applicable to any Order greater than \$100,000.	52.215-14
Pension Adjustments and Asset Reversions NOTE: Applicable to any Order when cost or pricing data are required or for which any pre-award or post-award cost determinations will be subject to FAR Part 31.	52.215-15
Facilities Capital Cost of Money NOTE: Applicable only if this Order is subject to the Cost Principles at FAR Subpart 31.2 and the Seller proposed Facilities Capital Cost of Money in its offer.	52.215-16
Waiver of Facilities Capital Cost of Money NOTE: Applicable only if this Order is subject to the Cost Principles at FAR Subpart 31.2 and the Seller did not propose Facilities Capital Cost of Money in its offer.	52.215-17
Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other than Pensions NOTE: Applicable to any Order when cost or pricing data are required or for which any pre-award or post-award cost determinations will be subject to FAR Part 31.	52.215-18

Clause	FAR Reference
Notification of Ownership Changes NOTE: Applicable to any Order when cost or pricing data are required or for which any pre-award or post-award cost determinations will be subject to FAR Subpart 31.2.	52.215-19
Requirements for Cost or Pricing Data or Information Other than Cost or Pricing Data – Modifications	52.215-21
Limitation on Pass-Through Charges NOTE: Applicable to any Order when the total estimated Order value exceeds the threshold for obtaining cost or pricing data in FAR 15.403-4 and the contemplated contract type is expected to be any contract type except those contract types listed in FAR 15.408(n)(2)(i)(B)(2). Seller shall notify Buyer in writing if: (1) Seller changes the amount of subcontract effort after award such that it exceeds 70 percent of the total cost of work to be performed under this Order. The notification shall identify the revised cost of the subcontract effort and shall include verification that Seller will provide added value; or; (2) Any subcontractor changes the amount of lower-tier subcontractor effort such that it exceeds 70 percent of the total cost of the work to be performed under its subcontract. The notification shall identify the revised cost of the subcontract effort and shall include verification that the subcontractor will provide added value as related to the work to be performed by the lower-tier subcontractor(s).	52.215-23
Allowable Cost and Payment	52.216-7
Incentive Price Revision – Firm Target NOTE: Applicable to any FPIF Order or line item.	52.216-16
Incentive Price Revision – Successive Targets NOTE: Applicable to any FPIS Order or line item.	52.216-17
Utilization of Small Business Concerns	52.219-8
Small Business Subcontracting Plan NOTE: Applicable to any Order greater than \$650,000 or lower threshold if effective under older higher-tier contract.	52.219-9
Notice to the Government of Labor Disputes	52.222-1
Contract Work Hours and Safety Standards– Overtime Compensation NOTE: Applicable to all subcontracts at any tier	52.222-4
Contracts for Materials, Supplies, Articles and Equipment Exceeding \$15,000. NOTE: Applicable to any Order greater than \$15,000.	52.222-20
Prohibition of Segregated Facilities	52.222-21
Equal Opportunity	52.222-26
Equal Opportunity for Veterans NOTE: Applicable to any Order of \$100,000 or more.	52.222-35

Clause	FAR Reference
Affirmative Action for Workers With Disabilities NOTE: Applicable to any Order greater than \$15,000.	52.222-36
Employment Reports on Veterans NOTE: Applicable to any Order of \$100,000 or more.	52.222-37
Notification of Employee Rights Under the National Labor Relations Act	52.222-40
Combating Trafficking in Persons	52.222-50
Employment Eligibility Verification NOTE: Applicable to any Order greater than \$3,000 with a period of performance of 120 days or greater.	52.222-54
Hazardous Material Identification and Material Safety Data	52.223-3
Notice of Radioactive Materials	52.223-7
Ozone-Depleting Substances	52.223-11
Encouraging Contractor Policies to Ban Text Messaging While Driving	52.223-18
Privacy Act	52.224-2
Buy American Act – Supplies	52.225-1
Balance of Payments Program	52.225-7
Duty-Free Entry	52.225-8
Restrictions on Certain Foreign Purchases	52.225-13
Utilization of Indian Organizations and Indian-Owned Economic Enterprises	52.226-1
Authorization and Consent NOTE: Applicable only if contained in the controlling prime contract and to any Order greater than \$100,000.	52.227-1
Notice and Assistance Regarding Patent and Copyright Infringement NOTE: Applicable any Order of \$100,000 or more except when both complete performance and delivery are outside the United States.	52.227-2
Refund of Royalties	52.227-9
Filing of Patent Applications – Classified Subject Matter	52.227-10
Patent Rights – Ownership by the Contractor	52.227-11
Insurance – Work on a Government Installation NOTE: Applicable on any Order that requires work on a Government installation.	52.228-5
Interest	52.232-17
Industrial Resources Developed Under Defense Production Act Title III	52.234-1
Accident Prevention	52.236-13

Clause	FAR Reference
Protection of Government Buildings, Equipment, and Vegetation	52.237-2
Bankruptcy	52.242-13
Stop-Work Order NOTE: The 90 day period in the first and fourth sentences of paragraph (a) is changed to 120 days.	52.242-15
Competition In Subcontracting	52.244-5
Subcontracts for Commercial Items	52.244-6
Government Property and Alternate I NOTE: Applicable to any Order if Government property is furnished to Seller. NOTE: In the phrases "Government Property", "Government-furnished property", and in references to title to property, "Government" shall not mean "Buyer". . The following is added as paragraph (n): "Contractor shall provide Buyer immediate notice of any disapproval, withdrawal of approval, or non-acceptance by the Government of its property control system."	52.245-1
Inspection – Time-and-Material and Labor-Hour	52.246-6
Preference for U.S. - Flag Air Carriers NOTE: Applicable to any Order and lower-tier subcontracts that involve international air transportation.	52.247-63
Preference for Privately Owned U.S. - Flag Commercial Vessels	52.247-64
Value Engineering NOTE: Applicable to any Order of \$100,000 or more except as specified in FAR 48.201(a). NOTE: Substitute "Buyer" for "Contracting Officer" and "Government" throughout, except where used in the term "Government costs" and in paragraph (m) where "Government" shall mean "Government and/or Buyer".	52.248-1

Clause	DFARS Reference
Prohibition on Persons Convicted of Fraud or Other Defense Contract Related Felonies NOTE: Applicable to any Order greater than \$100,000	252.203-7001
Display of Fraud Hotline Posters NOTE: Applicable to Orders greater than \$5,000,000, except for Orders for commercial items or lower-tier subcontracts performed entirely outside the United States.	252.203-7004
Safeguarding of Unclassified Controlled Technical Information	252.204-7012
Subcontracting with Firms That Are Owned or Controlled by the Government of a Terrorist Country.	252.209-7004
Acquisition Streamlining NOTE: Applicable to any Order of \$1,000,000 or more.	252.211-7000

Clause	DFARS Reference
Pricing Adjustments NOTE: Applicable when it is contemplated that Cost or Pricing Data will be required.	252.215-7000
Small Business Subcontracting Plan (DoD Contracts) NOTE: Applicable to any Order anticipated to be valued at \$650,000 or lower threshold if effective under older higher-tier contract.	252.219-7003
Hazard Warning Labels NOTE: Applicable to any Order which requires delivery of hazardous materials.	252.223-7001
Safety Precautions for Ammunition and Explosives NOTE: Applicable to any Order involving articles furnished containing ammunition or explosives.	252.223-7002
Change in Place of Performance – Ammunition and Explosives NOTE: Applicable if DFARS 252.223-7002 applies to the Order.	252.223-7003
Safeguarding Sensitive Conventional Arms, Ammunition, and Explosives NOTE: Applicable to any Order and all lower-tier subcontracts involving arms, ammunition and explosives.	252.223-7007
Prohibition of Hexavalent Chromium NOTE: Applicable to any Order for supplies, maintenance and repair services, or construction materials unless the exceptions listed in DFARS 223.7304 apply.	252.223-7008
Buy American and Balance of Payments Program	252.225-7001
Qualifying Country Sources As Subcontractors	252.225-7002
Quarterly Reporting of Actual Contract Performance Outside the United States NOTE: Applicable to any Order greater than \$650,000 or lower threshold if effective under older higher-tier contract.	252.225-7006
Prohibition on Acquisition of United States Munitions List Items From Communist Chinese Military Companies	252.225-7007
Restriction on Acquisition of Certain Articles Containing Specialty Metals NOTE: Applicable to Orders issued under prime contracts awarded on or after July 29, 2009. NOTE: Exclude paragraph(d).	252.225-7009
Preference for Certain Domestic Commodities NOTE: Applicable to any Order greater than \$100,000.	252.225-7012
Duty – Free Entry	252.225-7013

Clause	DFARS Reference
Preference for Domestic Specialty Metals and Alternate I NOTE: Applicable to Orders issued under prime contracts awarded before January 28, 2008.	252.225-7014
Preference for Domestic Specialty Metals (DEVIATION No. 2008-O0002) and Alternate I (DEVIATION No. 2008-O0002) NOTE: Applicable to Orders issued under prime contracts awarded on or after January 28, 2008 and before July 29, 2009.	252.225-7014
Restriction on Acquisition of Hand or Measuring Tools	252.225-7015
Restriction on Acquisition of Ball and Roller Bearings NOTE: Applicable to any Order and all lower-tier subcontracts if Product supplied contains ball or roller bearings.	252.225-7016
Trade Agreements	252.225-7021
Restriction on Acquisition of Forgings	252.225-7025
Exclusionary Policies and Practices of Foreign Governments	252.225-7028
Restriction on Acquisition of Carbon, Alloy, and Armor Steel Plate	252.225-7030
Waiver of United Kingdom Levies	252.225-7033
Buy American– Free Trade Agreements – Balance of Payments Program	252.225-7036
Contractor Personnel Supporting U.S. Armed Forces Deployed Outside the United States	252.225-7040
Antiterrorism/Force Protection Policy for Defense Contractors Outside the United States	252.225-7043
Export Controlled Items	252.225-7048
Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns	252.226-7001
Rights in Technical Data – Noncommercial Items	252.227-7013
Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation	252.227-7014
Technical Data - Commercial Items	252.227-7015
Rights in Bid or Proposal Information	252.227-7016
Validation of Asserted Restriction – Computer Software	252.227-7019
Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends	252.227-7025
Deferred Delivery of Technical Data or Computer Software	252.227-7026



Clause	DFARS Reference
Deferred Ordering of Technical Data or Computer Software	252.227-7027
Technical Data – Withholding of Payment	252.227-7030
Validation of Restrictive Markings on Technical Data	252.227-7037
Patent Rights--Ownership by the Contractor (Large Business)	252.227-7038
Patents – Reporting of Subject Inventions	252.227-7039
Ground and Flight Risk	252.228-7001
Accident Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles	252.228-7005
Supplemental Cost Principles	252.231-7000
Frequency Authorization and Alternate I	252.235-7003
Protection Against Compromising Emanations	252.239-7000
Telecommunication Security Equipment, Devices, Techniques and Services	252.239-7016
Pricing of Contract Modifications	252.243-7001
Subcontracts for Commercial Items and Commercial Components (DoD Contracts)	252.244-7000
Warranty of Data	252.246-7001
Notification of Potential Safety Issues	252.246-7003
Transportation of Supplies by Sea	252.247-7023
<p>NOTE: Applicable in any Order and all lower-tier subcontracts for ocean transportation of supplies. Paragraphs (f) and (g) shall not apply if this Order or any lower-tier subcontract is at or below \$100,000.</p> <p>NOTE: Paragraph (c), first sentence has been modified as to read “The Seller and its subcontractors may request that the Buyer obtain Government authorization for shipment...” “45” is changed to “60” days in paragraph (d) and “30” to “20” in paragraph (e). In paragraph (e), delete “and the division of National Cargo, Office of Market Development, Maritime Administration, U.S. Department of Transportation, Washington, DC 20590.” In paragraph (g) “for the purposes of the Prompt Payment clause of this contract” is deleted.</p> <p>NOTE: Seller shall complete Buyer’s Form P0-F126, Representation of Transportation of Supplies by Sea, and submit to Buyer’s Authorized Purchasing Representative at time of final invoice. Seller agrees to indemnify and hold the Buyer harmless against any loss, damage or expense suffered by the Buyer as a result of Seller’s failure to comply with the requirements of this clause.</p>	
Notification of Transportation of Supplies by Sea	252.247-7024

Clause	DFARS Reference
Notification of Anticipated Contract Termination or Reduction	252.249-7002
<p>NOTE: Applicable to all Orders of \$550,000 or more when Seller is first-tier subcontractor or \$100,000 or more when Seller is lower-tier subcontractor.</p>	

## ADDENDUM A

### DRUG FREE WORKPLACE

Seller shall implement a program in compliance with the federal Drug Free Workplace Act of 1988 and ensure all personnel who will perform Service hereunder for more than thirty (30) days have satisfactorily completed a test for the presence of illegal drugs pursuant to the program (hereinafter "Drug Test") within the past year. All Drug Tests must be performed by a U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA) certified laboratory. Seller shall indemnify, defend and hold harmless Buyer from any liability with respect to Drug Tests or handling of Drug Test results.

All newly assigned personnel scheduled to perform Service for more than 30 days must have satisfactorily completed the Drug Test with negative results within the past year prior to reporting to Buyer. Seller shall provide the certification set forth below, on Seller's stationery, for each newly assigned individual at the time the individual first reports to Buyer; provided however, Buyer's Contract Labor Administrator may permit, at his/her sole discretion, newly assigned personnel to perform Services for up to five (5) workdays pending receipt of Drug Test results.

Seller's personnel whose initial assignment was scheduled for 30 days or less and whose assignment is

subsequently extended to exceed 30 days, based on mutual agreement of Buyer and Seller, shall be subject to a Drug Test by Seller. Unless previously performed within one year from the date of request by Buyer, such Drug Test shall be conducted within five (5) workdays of the date of agreement to extend such personnel. The certification set forth below shall be submitted from Seller to Buyer for each individual. Personnel shall continue performing Services pending receipt of Drug Test results.

Seller personnel who test positive for the presence of illegal drugs are subject to dismissal. After an individual tests positive for illegal drugs on a Drug Test, Seller shall wait at least six months before referring the individual for a position with Buyer and the individual must successfully complete a Drug Test before being considered for assignment by Buyer.

Buyer may waive receipt of certification for up to five (5) days pending receipt of test results.

"I hereby confirm the contractually required testing for the presence of illegal drugs performed on (name of the individual) by a U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA) certified laboratory has been satisfactorily completed with negative results within the past year."

## ADDENDUM B

### BACKGROUND INVESTIGATION

1. Seller must complete background investigations (BI's) on all newly assigned personnel who will perform Service hereunder. As a minimum, BI's will:
  - A. Verify with all employers over the last seven years:
    - (1) Employment;
    - (2) Position;
    - (3) Salary;
    - (4) Reason for termination;
    - (5) Eligibility for rehire;
    - (6) Reputation for honesty, integrity, reliability, stability; and
    - (7) Competence.
  - B. Verify with the designated institution:
    - (1) The highest or latest claimed college degree; and
    - (2) Professional licenses or certifications.
  - C. Review public records to determine criminal convictions history in each city the candidate has resided or worked during the past seven years, including appropriate state Department of Motor Vehicles to determine violation convictions history.

NOTE: Only convictions information can be solicited, collected, retained, or considered.
  - D. Include interview of at least two work related references.
  - E. Verify Military Service to include character of discharge [this may be done by reviewing the individual's copy of his/her DD Form 214, Report of Separation (or equivalent)].
  - F. Include a credit history for candidates to fill positions designated as "sensitive" by Buyer.

NOTE: Sensitive positions are those that require special trustworthiness and honesty, as designated by senior management, the Contract Labor Representative, or the hiring manager. Jobs so designated may involve access to or control of cash and/or access to sensitive information, such as audit, legal or security, etc.
2. Seller will provide the certification set forth below, on Seller's stationery, for each newly assigned individual at the time the individual first reports to Buyer.

"I hereby confirm the contractually required background investigation performed on (name of the individual) by the investigative firm, (name of investigative firm):

  - A. ☐ Has been completed and a thorough review of the investigative report disclosed only favorable information. A copy of the investigative report is provided as an enclosure to this certification.
  - B. ☐ Has been completed and a copy of the investigation report is provided as an enclosure to this certification. A thorough review of the investigation report disclosed unfavorable information in the area(s) indicated:
    - ☐ Education and/or professional license(s) or certification(s)
    - ☐ Employment
    - ☐ Criminal and/or driving record
    - ☐ References
    - ☐ Credit
    - ☐ Other. Identify: \_\_\_\_\_
  - C. ☐ Has not been completed, but will be completed within five (5) work days. Furthermore, an updated certification and the investigative report will be provided to Buyer upon completion of the background investigation."