



**PURCHASE ORDER STANDARD TERMS AND CONDITIONS  
FOR COMMERCIAL ITEMS (FEDERAL)  
SOUTH CENTRAL SPE8E3-D-15-0017**

This is a Purchase Order (“Order”) between Science Applications International Corporation, hereafter referred to as “Buyer,” and the seller identified on the face of this Purchase Order, hereafter referred to as “Seller.”

**1. ACCEPTANCE OF TERMS** Acceptance of this Order by Seller may be made by signing the acknowledgment copy hereof or by commencing performance hereunder, and any such acceptance shall constitute an unqualified agreement to all terms and conditions set forth herein. Any additions, deletions or differences in the terms proposed by Seller in accepting this Order are objected to and hereby rejected, unless Buyer expressly agrees otherwise in writing.

**2. PAYMENT** Invoices shall contain the following information: order number, item number, description of goods or services, sizes, quantities, unit prices and extended totals. Invoices submitted hereunder will be paid Net 45 Days after receipt of proper invoice, less offset for any amount owed to Buyer. The price(s) set forth herein shall include all applicable Federal, State and local taxes and duties. Payment shall not constitute final acceptance. If Seller agrees in writing to Buyer’s Automated Clearing House (ACH) or Epayment programs, payment will be made in accordance with the applicable program terms until such time as Seller opts out, at which time Buyer’s standard Net 45 payment terms will apply. Buyer bears no risk of late payment as long as payment is initiated properly and timely.

**3. DELIVERY** Time is of the essence in this Order. The date specified for delivery or performance is the required delivery date at Buyer’s facility, FOB Destination, unless otherwise stated. Seller shall promptly provide written notice to Buyer if an actual or potential delay threatens delivery or performance of Order. Buyer may refuse any goods or services and cancel all or any part hereof if Seller fails to deliver all or any part of any goods or perform all or any part of any services in accordance with the terms specified herein. If Seller’s deliveries will not meet agreed schedules, Buyer may direct Seller to expedite such delivery at Seller’s cost. Delivery shall not be deemed to be complete until goods have been received and accepted by Buyer, notwithstanding delivery to any carrier, or until services have been performed, received and accepted.

**4. PACKAGING AND SHIPPING** Goods shall be suitably packed and prepared for shipment, comply with any specific transportation specifications of Buyer, and comply with carrier’s regulations. All charges for packing, crating and transportation are included in the price for the goods. A Packing List shall accompany each box or package shipment showing the order number, item number, quantity and a description of the goods. In the event that no such Packing List accompanies a shipment, Buyer’s count, weight or other measure shall be final and conclusive. Buyer shall not be obligated to accept any shipments in excess of the ordered quantity and any excess or advance shipments may be returned to Seller at Seller’s expense.

**5. INTERCHANGEABILITY** All goods furnished pursuant to this Order under the part number specified shall be fully interchangeable with and equal in function and quality to items heretofore furnished under the same part number.

**6. WARRANTY** In addition to any warranties set forth elsewhere in this Order or customarily provided by Seller or manufacturer with its goods or services, Seller represents and warrants that: (1) all goods delivered pursuant hereto will be new, unless otherwise specified, and free from defects in material and workmanship; (2) all goods will conform to the requirements of this Order and applicable product documentation, and all items will be free from defects in design and suitable for their intended purpose; and (3) any services performed hereunder shall be performed in accordance with the specifications and instructions of Buyer, and with that degree of skill and judgment exercised by recognized professional firms performing services of a similar nature and consistent with best practices in the industry. All representations and warranties of Seller shall run to Buyer and Buyer’s customers. Remedies under this warranty shall include, without limitation, at Buyer’s option and at Seller’s sole expense, prompt repair, replacement, re-performance, or reimbursement of the purchase price. The foregoing warranties shall survive any delivery, inspection, acceptance or payment by Buyer.

**7. INSPECTION** All goods supplied and services performed shall be subject to inspection and test by Buyer, its agents and its customers prior to acceptance. In the event goods or services are not in accordance with this Order, or fail to meet any specific inspection requirements of Buyer, Buyer may require prompt correction, repair, replacement or re-performance thereof at Buyer’s option and Seller’s sole expense and risk, including all packaging and shipping charges. If Seller is unable to accomplish the foregoing remedies within the original agreed schedule, then Buyer may procure such goods or services from another source and Seller shall be liable for any excess costs. Buyer’s approval of any Seller submittals shall not relieve Seller of its obligations hereunder.

**8. ACCEPTANCE** Acceptance of any part of the Order shall not bind Buyer to accept future shipments or performance of services nor deprive it of its right to cancel or return all or any part of the goods because of failure to conform to the Order or by reason of defects, whether latent or patent, or other breach of warranty, or to make any claim for damages. Seller shall bear the risk of loss of, or damage to, the supplies covered by this Order, until accepted by Buyer.

**9. INDEMNIFICATION**

(a) Seller shall defend, indemnify, and hold Buyer harmless from and against any and all damages, losses, liabilities and expenses (including reasonable attorneys’ fees) arising out of or relating to any claims, demands, causes of action, lawsuits or other proceedings, regardless of legal theory, to the extent resulting from Seller’s (or any of Seller’s subcontractors, suppliers,



employees, agents or representatives) breach of this Order, intentional misconduct, negligence, fraud, infringement of any patent, trademark, trade secret, copyright or other intellectual property right or violation of any law or regulation.

(b) Buyer shall promptly notify Seller of any claim that is covered by this indemnification provision and shall authorize representatives of Seller to settle or defend any such claim or suit and to take charge of any litigation in connection therewith.

(c) In the event of an infringement claim covered hereunder where the goods or services or use thereof are enjoined in whole or in part, Seller shall at its expense and Buyer's option undertake one of the following: (i) obtain for Buyer and its customer the right to continue the use of such goods or services; (ii) in a manner acceptable to Buyer, substitute equivalent goods or services or make modifications thereto so as to avoid such infringement and extend this indemnity thereto; or (iii) refund to Buyer an amount equal to the purchase price for such goods or services plus any excess costs or expenses incurred in obtaining substitute goods or services from another source. Notwithstanding the foregoing paragraph, when this Order is performed under the Authorization and Consent of the U.S. Government to infringe U.S. patents, Seller's liability for infringement of such patents in such performance shall be limited to the extent of the obligation of Buyer to indemnify the U.S. Government.

**10. INSURANCE** In accordance with subparts (a) and/or (b) below, upon Buyer's request Seller agrees to provide Certificates of Insurance evidencing that the required insurance coverage is in force. The required insurance coverages below shall be primary and non-contributing with respect to any other insurance that may be maintained by Buyer. The below required coverages and their limits in no way lessen nor affect Seller's other obligations or liabilities set forth in this Order.

Seller agrees to purchase and maintain at its own expense the following insurance coverage's with minimum limits as stated:

- (i) **Workers' Compensation (if services are provided at Buyer or Customer site):** Coverage for statutory obligations imposed by laws of any State in which the work is to be performed. Where applicable, Seller shall provide evidence of coverage for the United States Longshore & Harborworkers' Act (USL&H) coverage for employees engaged in work on or near navigable waters of the United States, and Defense Base Act (DBA) including all employees working on U.S. Government contracts outside the United States. Such policy(ies) shall be endorsed to provide a waiver of subrogation in favor of Buyer, its directors, officers and employees, and Buyer's customer where required by Buyer's Prime Contract with its customer. Employer's Liability coverage of \$1 million each accident shall also be maintained.
- (ii) **Commercial General Liability:** Coverage for third party bodily injury and property damage, including products and completed operations, contractual liability, and independent contractors' liability with a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Such policy(ies) shall be endorsed to name Buyer, its directors, officers and employees, and Buyer's customer where required by Buyer's Prime Contract with its customer, as Additional Insureds.
- (iii) **Business Automobile Liability (if services are provided at Buyer or Customer site):** Coverage for use of all owned, non-owned, and hired vehicles with limits of not less than \$1,000,000 per accident combined single limit for bodily injury and property damage liability.
- (iv) **Professional Liability / Errors and Omissions (if Seller is performing any professional services):** Coverage for damages (including financial loss) caused by any acts, errors and omissions arising out of Seller's performance or failure to perform professional services with limits of not less than \$1,000,000 per claim.
- (v) If maintenance or warranty work is being performed, All-Risk Property Insurance in an amount adequate to replace property, including supplies covered by this Order, of Buyer and/or Buyer's customer which may be in the possession or control of Seller. Buyer shall be named as a Loss Payee with respect to loss or damage to said property and/or supplies furnished by Buyer

## **11. SAIC FURNISHED ITEMS AND INTELLECTUAL PROPERTY**

(a) All items furnished by Buyer to Seller for the performance of the Order remain the property of Buyer or Buyer's customer. Upon expiration of this Order, Seller shall return the Items in the same condition, less reasonable wear, or make such other disposition of the Items as directed in writing by Buyer. Seller shall replace, at its expense, any Items not returned in accordance with this Article. Seller shall bear all risk of loss of the items. Seller shall comply with any restrictive legends placed on such Items by Buyer or a third party. If Buyer furnishes any material for fabrication pursuant to this Order, Seller agrees not to substitute any other material for such fabrication without Buyer's prior written consent.

(b) In addition to any intellectual property clauses elsewhere incorporated, Seller hereby grants to Buyer such intellectual property rights as Buyer needs under this Order and in order to perform its obligations to Buyer's customers. Seller shall not assert any intellectual property right in a manner inconsistent with Buyer's contractual obligations to its customers.

(c) To the extent that Seller provides any commercial computer software under this Order, Seller's normal commercial license terms shall govern use of such commercial items, except to the extent that such normal commercial terms conflict or are inconsistent with applicable federal law or regulation. In the case of any conflict or inconsistency, the applicable federal law or regulation shall take precedence. Seller agrees that the applicability of its commercial terms is contingent upon Buyer's customer's acceptance of the commercial computer software and its accompanying commercial terms or license. In addition, to the extent that Buyer's customer is the end user of any commercial computer software provided by Seller, Buyer shall have the right to perform its contractual obligations to its customers using that commercial computer software. If Buyer is a reseller of Seller's commercial computer software, only the Buyer's end-user customer is a party to the Seller's commercial terms or license. In no event will Buyer be liable for an end-user customer breach of Seller's commercial terms or license.



(d) For the services portion of this Order, if any, and for any documentation, manuals, user guides, and other literature accompanying the goods delivered hereunder, Seller hereby grants to Buyer and Buyer's customer an irrevocable, fully transferable, royalty-free license to reproduce, publish, use and disclose, for any purpose, all or any part of any deliverable Seller submits hereunder.

**12. DISCLOSURE** Seller shall not, without first obtaining the written consent of Buyer, in any manner advertise or publish the fact that Seller has furnished or contracted to furnish Buyer with the goods or services hereunder, or disclose any of the details connected with this Order to any third party, except as may be required to perform this Order.

**13. COMPLIANCE WITH LAW**

(a) Seller shall comply with the applicable provisions of any federal, state or local law or ordinance and all orders, rules and regulations issued there under.

(b) Seller and its suppliers shall comply with FAR 52.222-50, Combating Trafficking in Persons, and ensure it informs its employees and suppliers of their responsibility to report human trafficking violations at any tier of the supply chain using any appropriate disclosure channel, including but not limited to: Buyer's anonymous hotline (800) 760-4332, Buyer's anonymous and confidential online submission (secure.ethicspoint.com), and the Government's Global Human Trafficking Hotline (844) 888 FREE and its email address at help@befree.org. Buyer does not tolerate retaliation of any kind against individuals who, in good faith, raise questions or report concerns, and Seller shall notify its employees of their whistleblower rights under 10 U.S.C. 2409 and DFARS Section 203.9. Seller shall flow down this requirement to all suppliers at any tier. Seller's failure to comply with this section shall be deemed a material breach of the Agreement.

**14. COMPLIANCE WITH SECTION 503 OF THE REHABILITATION ACT OF 1973 AND THE VIETNAM ERA VETERAN'S READJUSTMENT ASSISTANCE ACT OF 1974** The following clauses are incorporated into this Agreement to the extent they are required by the foregoing Acts:

**This contractor (Buyer) and subcontractor (Seller) shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.**

**This contractor (Buyer) and subcontractor (Seller) shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.**

**15. COUNTERFEIT PRODUCTS** For purposes of this clause, Goods are any tangible items delivered under this Order, including without limitation the lowest level of separately identifiable items, such as parts, articles, components, and assemblies. "Counterfeit Goods" are Goods that are or contain items misrepresented as having been designed, produced, and/or sold by an authorized manufacturer and seller, including without limitation unauthorized copies, replicas, or substitutes. The term also includes authorized Goods that have reached a design life limit or have been damaged beyond possible repair, but are altered and misrepresented as acceptable.

Seller shall ensure that Counterfeit Goods are not delivered to Buyer. Goods delivered to Buyer or incorporated into other Goods and delivered to Buyer shall be new and shall be procured directly from the Original Component Manufacturer (OCM)/Original Equipment Manufacturer (OEM), or through an OCM/OEM authorized distributor chain. Work shall not be acquired from independent distributors or brokers unless approved in advance in writing by Buyer. When requested by Buyer, Seller shall provide OCM/OEM documentation that authenticates traceability of the affected items to the applicable OCM/OEM.

In the event that Work delivered under this Agreement constitutes or includes Counterfeit Goods, Seller shall, at its expense, promptly replace such Counterfeit Goods with authentic Goods conforming to the requirements of this Agreement. Notwithstanding any other provision in this Agreement, Seller shall be liable for all costs relating to the removal and replacement of Counterfeit Goods, including without limitation Buyer's costs of removing Counterfeit Goods, of reinserting replacement Goods, and of any testing necessitated by the reinstallation of Goods after Counterfeit Goods have been exchanged. Seller shall include equivalent provisions in lower tier subcontracts for the delivery of items that will be included in or furnished as Goods to Buyer.

**16. CONFLICT MINERALS** Seller shall conduct and require due diligence throughout its supply chain to prevent use of Conflict Minerals, which include gold (Au), tantalum (Ta), tungsten (W) and tin (Sn) sourced from areas identified as conflict regions, including the Democratic Republic of the Congo (DRC) and Central Africa. Seller shall use due diligence protocols, standards, and procedures that meet or exceed the reasonable country of origin inquiry described in Securities and Exchange Commission rules and the relevant best practices developed by industry, and which allow Buyer to submit accurate Conflict Mineral reports to the government and other entities. If Seller's part or product is included in an SAIC product, Seller shall annually complete a Conflict Minerals Form. Failure to submit this form to Buyer when requested may result in the termination of this Order and prevent Buyer from conducting further business with Seller in the future.

**17. EXPORT CONTROL COMPLIANCE** Seller shall comply with all applicable U.S. export laws and regulations, including International Traffic in Arms Regulations ("ITAR") and the Export Administration Regulations ("EAR"). The subject technology of this Order (including data, services, software and hardware provided hereunder, defined as "Controlled Technology") may be controlled under these laws and regulations and may not be exported or re-exported without prior authorization in accordance



with ITAR and EAR. Access to Controlled Technology by Foreign Persons as defined by 22CFR120.16 may require an export authorization. Seller shall have full responsibility for obtaining any export licenses or authorization required to fulfill its obligations under this Order.

**18. CHANGES** Buyer may direct changes within the general scope of this Order to the extent Buyer's customer has made changes to Buyer's prime contract which relate to the goods and services to be provided hereunder. All other changes in this Order may be made only by written agreement of the parties. However, Buyer may, for any reason, direct Seller to suspend, in whole or in part, delivery of goods or performance of services hereunder for such period of time as may be determined by Buyer in its sole discretion. If any such suspension or Buyer-directed change causes a material increase or decrease in the cost of, or the time required for the performance of any part of the work under this Order, the parties shall negotiate an equitable adjustment in the Order price or delivery schedule, or both.

**19. TERMINATION FOR CONVENIENCE**

- (a) Buyer shall have the right to terminate this Order, in whole or in part, at any time, without cause, by providing twenty (20) days written notice to Seller. Upon receiving notice of such termination, Seller shall
  - (i) stop all work on this Order on the date and to the extent specified;
  - (ii) place no further contracts hereunder except as may be necessary for completing such portions of the Order as have not been terminated;
  - (iii) terminate all contracts to the extent that they may relate to portions of the Order that have been terminated; and
  - (iv) protect all property in which Buyer has or may acquire an interest.
- (b) For commercial items, Seller shall be paid a percentage of the Order price reflecting the percentage of the goods and services that were accepted prior to the notice of termination.
- (c) For non-commercial items, Seller shall be paid in accordance with the settlement principles of Federal Acquisition Regulation Part 49.
- (d) Buyer reserves the right to verify claims hereunder and Seller shall make available to Buyer, upon its request, all relevant books and records for inspection and audit. If Seller fails to afford Buyer its rights hereunder, Seller shall be deemed to have relinquished its claim.

**20. TERMINATION FOR DEFAULT**

- (a) Buyer may, by written notice of default to Seller, terminate the whole or any part of this Order in any one of the following circumstances:
  - (i) Seller fails to make delivery of the goods or to perform the services within the time specified herein or any extension thereof; or
  - (ii) Seller fails to perform any of the other provisions of this Order or so fails to make progress as to endanger performance of this Order in accordance with its terms, and in either of the circumstances specified in this subpart (a)(ii) does not cure such failure within a period of 10 days (or such longer period as Buyer may authorize in writing) after receipt of notice from the Buyer specifying such failure;
  - (iii) Seller becomes insolvent or the subject of proceedings under any law relating to bankruptcy or the relief of debtors or admits in writing its inability to pay its debts as they become due; or
  - (iv) Seller fails to provide Buyer, in writing, within the time specified by Buyer, adequate assurances of performance.
- (b) If this Order is so terminated, Buyer may procure or otherwise obtain, upon such terms and in such manner as Buyer may deem appropriate, goods or services similar to those terminated. Seller, subject to the exceptions set forth below, shall be liable to Buyer for any excess costs of such similar goods or services.
- (c) Seller shall transfer title and deliver to Buyer, in the manner and to the extent requested in writing by Buyer at or after termination, such complete or partially completed goods as Seller has produced or acquired for the performance of the terminated part of this Order and Buyer will only pay Seller the Order price of the goods and services accepted.
- (d) Seller shall continue performance of this Order to the extent not terminated. Buyer shall have no obligations to Seller in respect to the terminated part of this Order except as herein provided. Buyer's rights as set forth herein shall be in addition to any other rights in case of Seller's default.
- (e) Seller shall not be liable for damages resulting from default due to causes beyond Seller's control and without Seller's fault or negligence, provided, however, that if Seller's default is caused by the default of a subcontractor or supplier at any tier, such default must arise out of causes beyond the control of both Seller and subcontractor or supplier, and without the fault or negligence of either of them and, provided further, the supplies or services to be furnished by the subcontractor or supplier were not obtainable from other sources.

**21. GOVERNING LAW** This Order shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia without regard to its conflict or choice of law provisions.





**22. DISPUTES** Buyer and Seller shall first enter into negotiations over a reasonable period of time to resolve any controversy, claim or dispute (“dispute”) arising under or relating to this Order. Thereafter, subject to any other disputes provision set forth elsewhere in this Order, the parties expressly agree that the sole and exclusive venue for any legal proceedings concerning said dispute shall be in the state or federal courts of the Commonwealth of Virginia, and the parties expressly submit to the jurisdiction of such courts.

**23. ASSIGNMENTS AND SUBCONTRACTS** Seller shall obtain Buyer's approval before subcontracting a portion of this Order; provided, however, that this limitation shall not apply to the purchase of standard commercial supplies or raw materials. Seller shall not assign or delegate this Order without Buyer's prior written consent which shall not be unreasonably withheld.

**24. GENERAL RELATIONSHIP** Seller is not an employee of Buyer for any purpose whatsoever. Seller agrees that in all matters relating to this Order it shall act as an independent contractor and shall assume and pay all liabilities and perform all obligations imposed with respect to Seller's employees. Seller shall have no right, power or authority to create any obligation, expressed or implied, on behalf of Buyer and/or Buyer's customers and shall have no authority to represent Buyer as an agent.

**25. NON-WAIVER OF RIGHTS** The failure of a party to insist upon strict performance of any of the terms and conditions in this Order or to exercise any rights or remedies, shall not be construed as a waiver of its rights to assert any of same or to rely on any such terms or conditions at any time thereafter. Any rights and remedies specified under this Order shall be cumulative, non-exclusive and in addition to any other rights and remedies available at law or equity. The invalidity in whole or in part of any term or condition of this Order shall not affect the validity of other parts thereof.

**26. BUSINESS ETHICS & CONDUCT** Seller will conduct its business in compliance with SAIC's Supplier Code of Conduct, which is found at [www.saic.com/suppliers](http://www.saic.com/suppliers) and incorporated into this Order by reference.

This Order also incorporates by reference FAR 52.203-11 and FAR 52.209-6. Seller certifies upon executing this Order (1) that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on its behalf in connection with the awarding of the prime contract or this Order; and (2) that Seller or its principles is not debarred, suspended, or proposed for debarment by the U.S. Government. Further, Seller shall immediately notify Buyer in writing if is suspended or debarred by the U.S. Government or if it is proposed for suspension or debarment by any agency of the U.S. Government.

**27. ORDER OF PRECEDENCE** In the event of an inconsistency or conflict between or among the provisions of this Order and any other document incorporated or referenced herein, the inconsistency shall be resolved by giving precedence in the following order:

1. Purchase Order and any purchase descriptions attached to or contained therein
2. Purchase Order Standard Terms and Conditions for Commercial Items (Federal)
3. Specifications and/or drawings
4. List all other program specific attachments

**28. SURVIVAL** The following articles shall survive expiration or termination of the Purchase Order:

|  |                     |                      |
|--|---------------------|----------------------|
| Warranty                                       | Disclosure          | General Relationship |
| Indemnification                                | Compliance with Law | Non-Waiver of Rights |
| Insurance                                      | Governing Law       | Order of Precedence  |
| SAIC Furnished Items and Intellectual Property | Disputes            | Survival             |

**29. ENTIRE AGREEMENT** This Order, including all documents incorporated herein by reference, constitutes the entire agreement and understanding between the parties and shall supersede and replace all prior or contemporaneous representations, agreements or understandings of any kind, whether written or oral, relating to the subject matter hereof.

**30. FAR, DFARS, GSAR and HSAR CLAUSES APPLICABLE TO THIS ORDER** In all such clauses, unless the context of the clause requires otherwise, the term "Contractor" shall mean Seller, the term "Contract" shall mean this Order, and the terms "Government," "Contracting Officer" and equivalent phrases shall mean Buyer and Buyer's Purchasing Representative, respectively. It is intended that the referenced clauses shall apply to Seller in such manner as is necessary to reflect the position of Seller as a subcontractor to Buyer, to ensure Seller's obligations to Buyer and to the United States Government, and to enable Buyer to meet its obligations under its Prime Contract or Subcontract. The following definitions apply unless otherwise specifically stated:

- "Buyer" - the legal entity issuing this Order
- "Commercial Item" – as defined by FAR 2.101
- "DFARS" - the Defense Federal Acquisition Regulation Supplement
- "FAR" - the Federal Acquisition Regulation
- "GSAR" – the General Services Administration Supplement
- "HSAR" – the Homeland Security Acquisition Regulation
- "Prime Contract" - the Government contract under which this Order is issued
- "Purchasing Representative" - Buyer's authorized representative



- "Seller" - the legal entity which contracts with the Buyer
- "This Order" - this Purchase Order, including changes

The FAR, DFARS, GSAR and HSAR clauses referenced in subparagraphs (a) and (e) and those referenced and checked in subparagraphs (b), (c), (d), (f), (h) and (i) below, in effect on the date of this Order, are incorporated herein and made a part of this Order. To the extent that an earlier version of any such clause is included in the Prime Contract or Subcontract under which this Order is issued, the date of the clause as it appears in such Prime Contract or Subcontract shall be controlling and said version shall be incorporated herein. The extent of the flow down shall be as required by the clause:

(a) The following clauses from 52.244-6 and 52.212-5 are applicable to this Order at the indicated dollar values where indicated:

|   |  |
|---|--|
| (a) <i>Definitions.</i> As used in this clause—<br>"Commercial item" has the meaning contained Federal Acquisition Regulation 2.101, Definitions.<br>"Subcontract" includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the Contractor or subcontractor at any tier. |  |
| (b) To the maximum extent practicable, the Contractor shall incorporate, and require its subcontractors at all tiers to incorporate, commercial items or nondevelopmental items as components of items to be supplied under this contract.  |  |
| (c)(1) The Contractor shall insert the following clauses in subcontracts for commercial items:  |  |
| <b>FAR Ref.</b>   | <b>Title of Clause</b>   |
| 52.203-13   | Contractor Code of Business Ethics and Conduct (APR 2010) (41 U.S.C. 3509), if the subcontract exceeds \$5,000,000 and has a performance period of more than 120 days. In altering this clause to identify the appropriate parties, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer. |
| <del>52.203-15</del>  | Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (JUN 2010) (Section 1553 of Pub. L. 111-5), if the subcontract is funded under the Recovery Act.  |
| 52.219-8  | Utilization of Small Business Concerns (OCT 2014) (15 U.S.C. 637(d)(2) and (3)), if the subcontract offers further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$650,000 (\$1.5 million for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.                        |
| 52.222-17   | Nondisplacement of Qualified Workers (MAY 2014)(E.O. 13495), if flow down is required in accordance with paragraph (1) of FAR clause 52.222-17.  |
| 52.222-21   | Prohibition of Segregated Facilities (APR 2015)  |
| 52.222-26   | Equal Opportunity (MAR 2007) (E.O. 11246)  |
| 52.222-35   | Equal Opportunity for Veterans (JUL 2014) (38 U.S.C. 4212(a))  |
| 52.222-36   | Equal Opportunity for Workers with Disabilities (JUL 2014) (29 U.S.C. 793)   |
| 52.222-37   | Employment Reports on Veterans (JUL 2014) (38 U.S.C. 4212) (if Subcontract is \$100,000 or more)   |
| 52.222-40   | Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496), if flow down is required in accordance with paragraph (f) of FAR clause 52.222-40.   |
| 52.222-41   | Service Contract Labor Standards (MAY 2014) (41 U.S.C. chapter 67)   |
| 52.222-50   | Combating Trafficking in Persons (MAR 2015) (22 U.S.C. chapter 78 and E.O. 13627)  |
| 52.222-51   | Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (MAY 2014 (41 U.S.C. chapter 67)   |
| 52.222-53   | Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements (MAY 2014) (41 U.S.C. chapter 67)  |
| 52.222-54   | Employment Eligibility Verification (AUG 2013) (if Subcontract exceeds \$3,000 and services performed in the United States)  |
| 52.222-55   | Minimum Wages Under Executive Order 13658 (DEC 2014) (E.O. 13658)  |
| 52.225-26   | Contractors Performing Private Security Functions Outside the United States (JUL 2013) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C.2302 Note).  |
| 52.226-6  | Promoting Excess Food Donation to Nonprofit Organizations (if Subcontract exceeds \$25,000 and for the provision, service, or sale of food in the United States.)  |
| <del>52.232-40</del>  | Providing Accelerated Payments to Small Business Subcontractors (DEC 2013), if flow down is required in accordance with paragraph (c) of FAR clause 52.232-40.   |
| 52.247-64   | Preference for Privately Owned U.S.-Flag Commercial Vessels (FEB 2006) (46 U.S.c. Appx 1241(b) and 10 U.S.C. 2631), if flow down is required in accordance with paragraph (d) of FAR clause 52.247-64.   |



(2) While not required, the Contractor may flow down to subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(d) The Contractor shall include the terms of this clause, including this paragraph (d), in subcontracts awarded under this contract.

(b) The Seller shall comply with the FAR clauses in this paragraph (b) that the Buyer has indicated as being incorporated into this Order by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

| <u>FAR Ref.</u>                               | <u>Title of Clause</u>  |
|---|---|
| <input checked="" type="checkbox"/> 52.203-6  | Restrictions on Subcontractor Sales to the Government – Alternate I (if Subcontract exceeds \$150,000)  |
| <input type="checkbox"/> 52.204-14            | Service Contract Reporting Requirements (section (f) if first-tier Subcontract exceeding thresholds at FAR 4.1703(a)(2))  |
| <input type="checkbox"/> 52.204-15            | Service Contract Reporting Requirements for Indefinite-Delivery Contracts (section (f) if first-tier Subcontract exceeding thresholds at FAR 4.1703(a)(2))  |
| <input checked="" type="checkbox"/> 52.209-6  | Protecting the Government’s Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (if Subcontract exceeds \$30,000 and not for commercially available off-the-shelf items) |
| <input checked="" type="checkbox"/> 52.222-3  | Convict Labor   |
| <input checked="" type="checkbox"/> 52.222-19 | Child Labor-Cooperation with Authorities and Remedies   |
| <input type="checkbox"/> 52.223-13            | Acquisition of EPEAT®-Registered Imaging Equipment  |
| <input type="checkbox"/> 52.223-13            | Acquisition of EPEAT®-Registered Imaging Equipment – Alternate I  |
| <input type="checkbox"/> 52.223-14            | Acquisition of EPEAT®-Registered Televisions  |
| <input type="checkbox"/> 52.223-14            | Acquisition of EPEAT®-Registered Televisions – Alternate I  |
| <input checked="" type="checkbox"/> 52.223-15 | Energy Efficiency in Energy-Consuming Products.   |
| <input type="checkbox"/> 52.223-16            | Acquisition of EPEAT-Registered Personal Computer Products  |
| <input type="checkbox"/> 52.223-16            | Acquisition of EPEAT-Registered Personal Computer Products – Alternate I  |
| <input checked="" type="checkbox"/> 52.223-18 | Encouraging Contractor Policies to Ban Text Messaging While Driving   |
| <input checked="" type="checkbox"/> 52.225-1  | Buy American– Supplies  |
| <input checked="" type="checkbox"/> 52.225-3  | Buy American– Free Trade Agreements – Israeli Trade Act   |
| <input checked="" type="checkbox"/> 52.225-3  | Buy American– Free Trade Agreements – Israeli Trade Act – Alternate I   |
| <input checked="" type="checkbox"/> 52.225-3  | Buy American– Free Trade Agreements – Israeli Trade Act – Alternate II  |
| <input type="checkbox"/> 52.225-3             | Buy American– Free Trade Agreements – Israeli Trade Act – Alternate III   |
| <input checked="" type="checkbox"/> 52.225-5  | Trade Agreements  |
| <input checked="" type="checkbox"/> 52.225-13 | Restrictions on Certain Foreign Purchases   |
| <input type="checkbox"/> 52.239-1             | Privacy or Security Safeguards  |

(c) The Seller shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, which the Buyer has indicated as being incorporated in this Order by reference to implement provisions of law or executive orders applicable to acquisitions of commercial items:

| <u>FAR Ref.</u>                    | <u>Title of Clause</u>  |
|------------------------------------|---|
| <input type="checkbox"/> 52.222-42 | Statement of Equivalent Rates for Federal Hires   |
| <input type="checkbox"/> 52.222-43 | Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment (Multiple Year and Option Contracts) |
| <input type="checkbox"/> 52.222-44 | Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment                                      |
| <input type="checkbox"/> 52.237-11 | Accepting and Dispensing of \$1 Coin  |

(d) In addition to the clauses listed in paragraphs (a), (b) and (c) above, if this Order will contain Government property, the below listed clauses as checked, are applicable:

| <u>FAR Ref.</u>                   | <u>Title of Clause</u>                              |
|-----------------------------------|---|
| <input type="checkbox"/> 52.245-1 | Government Property                                 |
| <input type="checkbox"/> 52.245-2 | Government Property Installation Operation Services |
| <input type="checkbox"/> 52.245-9 | Use and Charges                                     |

(e) In addition to the clauses listed in paragraphs (a), (b), (c) and (d) above, if this Order will be performed under any order issued by an agency of the Department of Defense, the below listed clauses are applicable:

| <u>DFARS Ref.</u>       | <u>Title of Clause</u>  |
|-------------------------|---|
| 252.203-7000            | Requirements Relating to Compensation of Former DOD Officials         |
| 252.203-7003            | Agency Office of the Inspector General                                |
| 252.204-7003            | Control of Government Personnel Work Product                          |
| <del>252.204-7012</del> | Safeguarding Covered Defense Information and Cyber Incident Reporting |



|                         |   |
|-------------------------|---|
| <del>252.204-7015</del> | Disclosure of Information to Litigation Support Contractors   |
| 252.209-7001            | Disclosure of Ownership or Control by the Government of a Terrorist Country ( <i>if Subcontract exceeds \$150,000</i> ) |
| 252.244-7000            | Subcontracts for Commercial Items and Commercial Components (DoD Contracts)   |

(f) In addition to the clauses listed in paragraphs (a), (b), (c), (d), and (e) above, if this Order will be performed under any order issued by an agency of the Department of Defense, the following clauses are applicable to this Order if checked:

| <u>DFARS Ref.</u>                                | <u>Title of Clause</u>  |
|--|---|
| <input type="checkbox"/> 252.204-7009            | Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information  |
| <input type="checkbox"/> 252.204-7014            | Limitations on the Use or Disclosure of Information by Litigation Support Contractors   |
| <input type="checkbox"/> 252.211-7003            | Item Unique Identification and Valuation  |
| <input checked="" type="checkbox"/> 252.211-7006 | Passive Radio Frequency Identification  |
| <input type="checkbox"/> 252.211-7007            | Reporting of Government-Furnished Property  |
| <input checked="" type="checkbox"/> 252.223-7008 | Prohibition of Hexavalent Chromium  |
| <input type="checkbox"/> 252.225-7001            | Buy American and Balance of Payments Program  |
| <input type="checkbox"/> 252.225-7001            | Buy American and Balance of Payments Program - Alternate I  |
| <input checked="" type="checkbox"/> 252.225-7008 | Restriction on Acquisition of Specialty Metals  |
| <input type="checkbox"/> 252.225-7009            | Restriction on Acquisition of Certain Articles Containing Specialty Metals ( <i>excluding paragraphs (d) and (e)(1)</i> )                                       |
| <input type="checkbox"/> 252.225-7010            | Commercial Derivative Military Article—Specialty Metal Compliance Certificate   |
| <input checked="" type="checkbox"/> 252.225-7012 | Preference for Certain Domestic Commodities   |
| <input checked="" type="checkbox"/> 252.225-7015 | Restriction on Acquisition of Hand or Measuring Tools   |
| <input type="checkbox"/> 252.225-7017            | Photovoltaic Devices.   |
| <input checked="" type="checkbox"/> 252.225-7021 | Trade Agreements  |
| <input type="checkbox"/> 252.225-7021            | Trade Agreements - Alternate II   |
| <input type="checkbox"/> 252.225-7024            | Requirements for Products or Services from Afghanistan  |
| <input type="checkbox"/> 252.225-7026            | Acquisition Restricted to Products or Services From Afghanistan   |
| <input type="checkbox"/> 252.225-7027            | Restriction on Contingent Fees for Foreign Military Sales ( <i>only for Foreign Military Sales</i> )  |
| <input type="checkbox"/> 252.225-7028            | Exclusionary Policies and Practices of Foreign Governments ( <i>only for Foreign Military Sales</i> )   |
| <input checked="" type="checkbox"/> 252.225-7031 | Secondary Arab Boycott of Israel  |
| <input type="checkbox"/> 252.225-7036            | Buy American—Free Trade Agreements—Balance of Payments Program  |
| <input type="checkbox"/> 252.225-7036            | Buy American—Free Trade Agreements—Balance of Payments Program - Alternate I  |
| <input type="checkbox"/> 252.225-7036            | Buy American—Free Trade Agreements—Balance of Payments Program - Alternate II   |
| <input type="checkbox"/> 252.225-7036            | Buy American—Free Trade Agreements—Balance of Payments Program - Alternate III  |
| <input type="checkbox"/> 252.225-7036            | Buy American—Free Trade Agreements—Balance of Payments Program - Alternate IV   |
| <input type="checkbox"/> 252.225-7036            | Buy American—Free Trade Agreements—Balance of Payments Program - Alternate V  |
| <input type="checkbox"/> 252.225-7038            | Restriction on Acquisition of Air Circuit Breakers  |
| <input type="checkbox"/> 252.225-7040            | Contractor Personnel Supporting U.S. Armed Forces Deployed Outside the United States  |
| <input type="checkbox"/> 252.225-7043            | Antiterrorism/Force Protection Policy for Defense Contractors Outside the United States   |
| <input checked="" type="checkbox"/> 252.226-7001 | Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns ( <i>if Subcontract exceeds \$500,000</i> ) |
| <input checked="" type="checkbox"/> 252.227-7013 | Rights in Technical Data—Noncommercial Items  |
| <input type="checkbox"/> 252.227-7013            | Rights in Technical Data—Noncommercial Items - Alternate I  |
| <input checked="" type="checkbox"/> 252.227-7015 | Technical Data - Commercial Items   |
| <input type="checkbox"/> 252.227-7015            | Technical Data - Commercial Items - Alternate I   |
| <input checked="" type="checkbox"/> 252.227-7037 | Validation of Restrictive Markings on Technical Data  |
| <input type="checkbox"/> 252.236-7013            | Requirement for Competition Opportunity for American Steel Producers, Fabricators, and Manufacturers  |
| <input type="checkbox"/> 252.237-7010            | Prohibition on Interrogation of Detainees by Contractor Personnel   |
| <input type="checkbox"/> 252.237-7019            | Training for Contractor Personnel Interacting with Detainees  |
| <input checked="" type="checkbox"/> 252.239-7010 | Cloud Computing Services  |
| <input type="checkbox"/> 252.239-7018            | Supply Chain Risk   |
| <input checked="" type="checkbox"/> 252.246-7003 | Notification of Potential Safety Issues   |
| <input type="checkbox"/> 252.246-7004            | Safety of Facilities, Infrastructure, and Equipment for Military  |
| <input type="checkbox"/> 252.246-7007            | Contractor Counterfeit Electronic Part Detection and Avoidance System   |
| <input checked="" type="checkbox"/> 252.247-7003 | Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer  |
| <input checked="" type="checkbox"/> 252.247-7023 | Transportation of Supplies by Sea - Basic   |





| <u>DFARS Ref.</u>                                | <u>Title of Clause</u>                            |
|--|---|
| <input type="checkbox"/> 252.247-7023            | Transportation of Supplies by Sea – Alternate I   |
| <input type="checkbox"/> 252.247-7023            | Transportation of Supplies by Sea – Alternate II  |
| <input checked="" type="checkbox"/> 252.247-7024 | Notification of Transportation of Supplies by Sea |
| <input type="checkbox"/> 252.247-7027            | Riding Gang Member Requirements                   |

- (g) The Seller shall comply with the clauses in this paragraph (g) that the Buyer has indicated as being incorporated into this Order in full text:

**CONTRACTOR MANPOWER REPORTING**

Seller shall report ALL subcontractor labor hours required for performance of services provided under this Order via the Government's secure data collection site. Seller is required to completely fill in all required data fields using the following web address: <http://www.ecmra.mil/>. Reporting inputs will be for the Order labor executed during the period of performance of this Order, during each Government fiscal year (FY), which runs October 1 through September 30. While inputs may be reported any time during the FY, all data shall be reported no later than October 31 of each calendar year, beginning with 2013. Sellers may direct questions to the help desk at help desk at: <http://www.ecmra.mil/>.

- (h) In addition to the clauses listed in paragraphs (a), (b), and (c) above, if this Order will be performed under any order issued by the General Services Administration, the following General Services Administration Supplement (GSAR) clauses are applicable to this Order if checked:

| <u>GSAR Ref.</u>                    | <u>Title of Clause</u>             |
|-------------------------------------|------------------------------------|
| <input type="checkbox"/> 552.203-71 | Restriction on Advertising         |
| <input type="checkbox"/> 552.211-73 | Marking                            |
| <input type="checkbox"/> 552.215-70 | Examination of Records by GSA      |
| <input type="checkbox"/> 552.223-70 | Hazardous Substances               |
| <input type="checkbox"/> 552.223-71 | Nonconforming Hazardous Substances |
| <input type="checkbox"/> 552.237-71 | Qualifications of Employees        |

- (i) In addition to the clauses listed in paragraphs (a), (b), and (c) above, if this Order will be performed under any order issued by the U.S. Department of Homeland Security, the following Homeland Security Acquisition Regulation (HSAR) clauses are applicable to this Order if checked:

| <u>HSAR Ref.</u>                      | <u>Title of Clause</u>   |
|---------------------------------------|--|
| <input type="checkbox"/> 3052.203-70  | Instructions for Contractor Disclosure of Violations ( <i>if Subcontract exceeds \$5,000,000 and performance period exceeds 120 days</i> ) |
| <input type="checkbox"/> 3052.204-71  | Contractor Employee Access   |
| <input type="checkbox"/> 3052.204-71  | Contractor Employee Access – Alternate I   |
| <input type="checkbox"/> 3052.205-70  | Advertisements, Publicizing Awards, and Releases   |
| <input type="checkbox"/> 3052.209-72  | Organizational Conflicts of Interest ( <i>if Subcontract exceeds \$100,000</i> )   |
| <input type="checkbox"/> 3052.217-92  | Inspection and Manner of Doing Work  |
| <input type="checkbox"/> 3052.217-93  | Subcontracts   |
| <input type="checkbox"/> 3052.217-94  | Lay Days   |
| <input type="checkbox"/> 3052.217-95  | Liability and Insurance  |
| <input type="checkbox"/> 3052.217-96  | <b>Title</b>   |
| <input type="checkbox"/> 3052.217-98  | <b>Delays</b>  |
| <input type="checkbox"/> 3052.217-99  | Department of Labor Safety and Health Regulations for Ship Repair  |
| <input type="checkbox"/> 3052.217-100 | Guarantee  |
| <input type="checkbox"/> 3052.228-70  | Insurance  |
| <input type="checkbox"/> 3052.228-90  | Notification Of Miller Act Payment Bond Protection   |
| <input type="checkbox"/> 3052.236-70  | Special Precautions for Work at Operating Airports   |