



## PURCHASE ORDER STANDARD TERMS AND CONDITIONS FOR COMMERCIAL ITEMS (FEDERAL)

This is a Purchase Order between Science Applications International Corporation, hereafter referred to as "Buyer," and Seller identified on the face of this Purchase Order, hereafter referred to as "Seller." This purchase order is referred to as "Order."

**1. ACCEPTANCE OF TERMS** Acceptance of this Order by Seller may be made by signing the acknowledgment copy hereof or by partial performance hereunder, and any such acceptance shall constitute an unqualified agreement to all terms and conditions set forth herein unless otherwise modified in writing by the parties. Any additions, deletions or differences in the terms proposed by Seller are objected to and hereby rejected, unless Buyer agrees otherwise in writing. No additional or different terms and conditions proposed by the Seller in accepting this Order shall be binding upon Buyer unless accepted in writing by Buyer and no other addition, alteration or modification to, and no waiver of any of the provisions herein contained shall be valid unless made in writing and executed by Buyer and Seller. Seller shall perform in accordance with the Description/Quantity schedule set forth in this Order and all attachments thereto.

**2. TAXES** The price(s) set forth herein shall include all applicable Federal, State and local taxes and duties.

**3. NOTICE OF DELAYS** Whenever the Seller has knowledge that any actual or potential issue, event, or circumstance is delaying or threatens to delay the timely performance of this Order, the Seller shall immediately give written notice thereof, including all relevant information with respect thereto, to the Buyer.

**4. PAYMENT** Invoices shall be submitted in duplicate and shall contain the following information: order number, item number, description of articles, sizes, quantities, unit prices and extended totals. Invoices submitted hereunder will be paid Net 45 Days after receipt of proper invoice or acceptance of delivered items by the Buyer, whichever occurs later. Before payment, Buyer may make any adjustments to Seller's invoices to accommodate shortages, late delivery, rejections, or other failure to comply with the requirements of this Order. Cash discounts will be taken from the date of final acceptance of delivered items, or the date of acceptable invoice, whichever is later. Payment shall not constitute final acceptance. Buyer may offset against any payment hereunder any amount owed to Buyer by Seller. Note: "Seller may select Automated Clearing House Credits ("ACH funds transfer"), as the means of settlement. With regard to such ACH funds transfer, a payment from Buyer to Seller shall be considered timely with respect to any payment due to date contained herein if the ACH funds transfer is completed no later than four (4) business days after such payment due date. Buyer shall not be in breach of these terms and conditions, or suffer any loss of discount or other penalty, with respect to an ACH funds transfer that was initiated properly and timely by Buyer to the extent its completion is delayed because of failure or delay by the ACH funds transfer system, the operation of an ACH funds transfer system rule which could not be anticipated by Buyer, or rejection by the Seller's bank."

**4.1. DELIVERY** Time is of the essence in this Order. The date specified for delivery or performance is the required delivery date at Buyer's plant or other specified location (FOB Destination), unless otherwise specifically noted herein. Buyer reserves the right to refuse any goods or services and to 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 require Seller to ship via a more rapid route or carrier in order to expedite such delivery and any difference in cost caused by such change shall be paid by Seller. Delivery shall not be deemed to be complete until goods have been actually received and accepted by Buyer, notwithstanding delivery to any carrier, or until orders for services have been performed, received and accepted.

**4.2. PACKAGING AND SHIPPING** Any goods purchased hereunder must be suitably packed and prepared for shipment to secure the lowest transportation rates or appropriately packed to comply with any specific transportation specifications of Buyer, and in all cases, to comply with carrier's regulations. All charges for packing, crating and transportation are included in the price for the goods set forth herein and will be paid by Seller. A Packing List shall accompany each box or package shipment showing the order number specified hereon as well as the item number and a description of the goods. In the event that no such Packing List accompanies any shipment, the count, weight or other measure of Buyer 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.

**4.3. INTERCHANGEABILITY** All items 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.

**5. RESPONSIBILITY FOR PROPERTY** In the case of any tools, dies, jigs, fixtures, patterns, equipment, facilities or other property (hereafter "property") of Buyer and/or Buyer's customer, which may be in the possession, or control of Seller in connection with this Order, Seller shall use such property only in performance of and as specifically authorized by this Order. Seller should take appropriate measures including clearly marking, maintaining an inventory and segregating Buyer's property to protect Buyer's rights and interests in any property provided by Buyer to Seller. Such property shall be returned to Buyer in the condition in which it was received by Seller, except for ordinary wear and tear and except to the extent that such property has been incorporated into goods delivered hereunder or has been consumed in the production of such goods. Risk of loss with respect to all such property shall be the responsibility of Seller. Seller shall indemnify, defend and hold harmless Buyer from any loss or damage to such property, which is caused by, or results from any act or omission on the part of Seller or its agents, employees or subcontractors. If Seller acquires or manufactures any property in connection with this Order and charges Buyer



therefore, Buyer may, at its option upon completion or termination of this Order, elect to take title to such property and, upon receiving notice of such election; Seller shall deliver such property to Buyer.

**6. RESPONSIBILITY FOR SUPPLIES** Seller shall bear the risk of loss of, or damage to, the supplies covered by this Order, until delivered to Buyer's Plant (or to such other place as may be designated on the face of this Order) and accepted by Buyer, including any defective, non-conforming or rejected supplies.

**7. RESERVED**

**8. WARRANTY** 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 applicable specifications, drawings, and standards of quality and performance, and all items will be free from defects in design and suitable for their intended purpose; (3) the goods covered by this Order are fit and safe for consumer use, if so intended; and (4) that 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.

**8.1 INSPECTION** All goods supplied and services performed shall be subject to inspection and test by Buyer, its agents and its customers at all reasonable times and places, whether during or after manufacture as to goods, or performance as to services, and notwithstanding the terms of delivery or payment or, as to goods, that title has not yet passed to Buyer or its customers. In the event goods or services are not in accordance with the specifications and instructions of Buyer, Buyer may require prompt correction, repair, replacement or re-performance thereof at Buyer's option and Seller's sole expense. If Seller is unable to accomplish the foregoing, then Buyer may procure such goods or services from another source and charge to Seller's account all costs, expenses and damages associated therewith. After Seller is notified of the foregoing defects or non-conformances, all risk of loss with respect to such goods shall be the responsibility of Seller and Seller shall pay all packing and shipping charges in connection with such defective or non-conforming goods. Buyer's approval of designs furnished by Seller shall not relieve Seller of its obligations hereunder.

**8.2 ACCEPTANCE** Acceptance of any part of the Order shall not bind Buyer to accept future shipments or performance of services nor deprive it of the right to return goods already accepted and shall not be deemed to be a waiver of Buyer's 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, including manufacturing cost or loss of profits, injury to reputation or other special, consequential and incidental damages.

**9. INDEMNIFICATION**

(a) Seller shall indemnify, defend and hold SAIC and SAIC's customers harmless from and against any and all damages, losses, liabilities and expenses (including reasonable attorneys' fees) arising out of or relating to any claims, causes of action, lawsuits or other proceedings, regardless of legal theory, that result, in whole or in part, from Seller's (or any of Seller's subcontractors, suppliers, employees, agents or representatives): (i) intentional misconduct, negligence, or fraud, (ii) breach of any representation, warranty or covenant made herein; (iii) breach of the confidentiality or disclosure provisions herein; or (iv) violation of any law or regulation. Notwithstanding the foregoing, Seller's obligations under this Article shall not apply to the extent that a claim is finally determined by a court of competent jurisdiction to be caused by the negligence or willful misconduct of SAIC.

(b) SAIC 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.

**9.1 INFRINGEMENT INDEMNITY**

Seller shall indemnify, defend and hold SAIC and SAIC's customers, as well as their respective officers, directors, employees and agents (collectively, the "Indemnified Parties"), harmless from and against any claim, suit or proceeding ("Claim") asserting that the goods or services, or any part thereof, furnished under this Subcontract, or the use (including resale) thereof, constitutes an infringement of any patent, trademark, trade secret, copyright or other intellectual property right, and Seller shall pay all damages and costs awarded against and reasonable expenses incurred by the Indemnified Parties in connection with such claim, including reasonable attorneys' fees. In the event such goods or services or use thereof are enjoined in whole or in part, Seller shall at its expense and SAIC's or its customer's option undertake one of the following: (i) obtain for SAIC and its customer the right to continue the use of such goods or services; (ii) in a manner acceptable to SAIC and its customer, substitute equivalent goods or services or make modifications thereto so as to avoid such infringement and extend this indemnity thereto; or (iii) refund to SAIC 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 Subcontract 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 SAIC 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's are in force and providing not less than thirty days notice prior to any cancellation or restrictive modification of the policies. Further, 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.

(a) To the extent that Seller is performing services under 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:** 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 SAIC, its directors, officers and employees, and SAIC's customer where required by SAIC'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 limits not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Such policy(ies) shall be endorsed to name SAIC, its directors, officers and employees, and SAIC's customer where required by SAIC's Prime Contract with its customer, as Additional Insureds.
- (iii) **Business Automobile Liability:** 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. Such policy(ies) shall be endorsed to name SAIC, its directors, officers and employees, and SAIC's customer where required by SAIC's Prime Contract with its customer, as Additional Insureds.
- (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) 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

(b) To the extent that Seller is providing products under this Order, Seller agrees to purchase and maintain at its own expense the following insurance coverage's with minimum limits as stated:

- (i) Commercial General Liability as described above in Section 10 (a) (ii);
- (ii) Products Liability in an amount no less than \$1 Million per occurrence covering bodily injuries or property damage arising out of defective products or work completed. To the extent that coverage for Seller's products are not excluded in (i), this requirement does not apply;
- (iii) All-Risk Property Insurance (as described above in Section 10 (a) (v) ) in an amount adequate to replace property of Buyer and/or Buyer's customer, including supplies covered by this Order, 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, loaned or bailed by SAIC to Seller hereunder, or purchased, or otherwise acquired by Seller for the performance of and specifically charged to SAIC under this Subcontract (collectively, the "Items"), are the property of SAIC (or, as directed by SAIC pursuant to the terms of its prime contract, the U.S. Government). Upon completion, expiration or termination of this Subcontract, Seller shall return all Items in good condition (reasonable wear only accepted) together with all spoiled and surplus Items to SAIC. In lieu of the return of Items to SAIC, Seller shall make such other disposition of all Items as directed in writing by SAIC. Seller agrees to replace, at its expense, all such Items not returned in accordance with this Section or returned in other than good condition. Seller shall not charge SAIC for any storage, maintenance or return of any Items. Except as provided for in any flow down clauses, Seller shall bear all risk of loss for all Items in Seller's possession or for which Seller is responsible. Seller also agrees to use any designs, data or other things contained or embodied in Items provided to or utilized by Seller under this Subcontract in accordance with any restrictive legends placed on such Items by SAIC or any third party. If SAIC furnishes any material (including but not limited to any computer software or other data) for fabrication pursuant to this Subcontract, Seller agrees: (i) not to substitute any other material for such fabrication without SAIC's prior written consent and (ii) that title to such material shall not be affected by incorporation in or attachment to any other property.

(b) Seller understands and agrees that each of the Intellectual Property-related clauses specified in Schedule B, which may include (but are not limited to) FAR 52.227-1, 52.227-11, 52.227-14, 52.227-15 and 52.227-16 (and/or DFARS 252.227-7013, 252.227-7014 and 252.227-7015 if SAIC's prime contract is with the DOD), are incorporated herein as though fully set forth and shall take precedence over any other terms in this Subcontract. For avoidance of doubt, Seller hereby grants to SAIC such intellectual property rights as SAIC needs in order to perform its obligations to SAIC's U.S. Government customers. Seller



shall not assert any intellectual property right provided to the U.S. Government in a manner inconsistent with SAIC's contract obligations to SAIC's U.S. Government customers.

(c) To the extent that Seller provides any commercial computer software under this Agreement, the Parties agree that any normal commercial terms governing such commercial items shall govern use of such commercial items, except to the extent that such normal commercial terms shall conflict or be inconsistent with applicable federal law or regulation. In the case of any conflict or inconsistency, the applicable federal law or regulation shall take precedence over any conflicting or inconsistent commercial term. The Parties further agree that the use of any commercial terms shall be contingent upon the acceptance of any commercial computer software by the U.S. Government. In addition, the Parties agree that to the extent that the U.S. Government is the end user of any commercial computer software provided by Seller, SAIC shall have the right to perform SAIC's contract obligations to its U.S. Government Customers using that commercial computer software.

#### **11.1 PATENTS AND DATA**

(a) If any experimental, developmental or research work is performed hereunder, Seller agrees to and hereby does grant to Buyer an irrevocable, non-exclusive, fully transferable, royalty-free license to make, have made, use and sell any invention, improvement or discovery (whether or not patent-able) that Seller conceives or first actually reduces to practice in the performance of this Order.

(b) Seller agrees to and hereby does grant to Buyer an irrevocable, non-exclusive, fully transferable, royalty-free license to reproduce, translate, publish, use and disclose, and to authorize others to do so, for any purpose, (i) any copyrighted or copyrightable material delivered or incorporated into any deliverable hereunder; and (ii) all or any part of any deliverable hereunder, including without limitation, any reports, drawings, blueprints, data, software and technical information.

**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 supplies 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** 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.

#### **13.1 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.**

**14. 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 agrees and 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.

**Further, under all DLA purchase orders the following terms and condition apply:**

- 1. If suspect/counterfeit parts are furnished under this purchase order such items will be impounded by Buyer and Buyer, per the direction of The US Government or Commercial Customer, will make the items and all subsequent procurement documentation associated with the acquisition of the part available for any investigation.**





2. Seller shall be fully liable for all such costs, even if such cost might be considered indirect, special or consequential damages.
3. Seller's liability for suspect/counterfeit parts shall not expire upon installation of the parts acquired by Buyer and shall remain in effect for the life cycle of the part utilized, up to and including discovery of the counterfeit part.
4. Seller agrees that any Government or quasi-Government directive, such as an alert or a directive from the Government Agency indicating that such parts are counterfeit, shall be deemed definitive evidence that Seller has supplied a counterfeit parts.

**15. 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 Subcontract (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 Subcontract.

**16. RESERVED**

**17. CHANGES** Buyer may, by written notice to Seller at any time, make changes within the general scope of this Order in any one or more of the following: (a) drawings, designs or specifications; (b) quantity; (c) time or place of delivery; (d) method of shipment or packing; and (e) the quantity of Buyer furnished property. 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 change or suspension 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, an equitable adjustment shall be made in the Order price or delivery schedule, or both, provided Seller shall have notified Buyer in writing of any claim for such adjustment within twenty (20) days from the date of notification of the change or suspension from Buyer. No such adjustment or any other modification of the terms of this Order will be allowed unless authorized by Buyer by means of a written modification to this Order. Seller shall proceed with the work as changed without interruption and without awaiting settlement of any such claim.

**18. TERMINATION FOR CONVENIENCE**

- (a) SAIC 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 SAIC has or may acquire an interest.
- (b) Within twenty (20) days from such termination, Seller may submit to SAIC its written claim for termination charges in the form prescribed by SAIC, it being understood and agreed that only Seller's actual cost incurred and no profit shall be allowed for quantities terminated pursuant to this clause. Failure to submit such claim within such time shall constitute a waiver of all claims and a release of all SAIC's liability arising out of such termination.
- (c) SAIC reserves the right to verify claims hereunder and Seller shall make available to SAIC, upon its request, all relevant books and records for inspection and audit. If Seller fails to afford SAIC its rights hereunder, Seller shall be deemed to have relinquished its claim.

**18.1 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 supplies 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 by Seller.



- (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, supplies 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 supplies 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 articles, property, materials, parts, tools, dies, patterns, jigs, fixtures, plans, drawings, information and contract rights as Seller has produced or acquired for the performance of the terminated part of this Order and Buyer will pay Seller the contract price for completed articles delivered to and accepted by Buyer and the fair value of the other property of Seller so requested and delivered.
- (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.

**19. 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.

**20. DISPUTES** Buyer and Seller agree to first enter into negotiations to resolve any controversy, claim or dispute ("dispute") arising under or relating to this Order. The parties agree to negotiate in good faith to reach a mutually agreeable resolution of such dispute within a reasonable period of time. If good faith negotiations are unsuccessful, Buyer and Seller agree to resolve the dispute by binding and final arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect. The arbitration shall take place in the County of Fairfax, Commonwealth of Virginia. The arbitrator(s) shall be bound to follow the provisions of this Order in resolving the dispute, and may not award punitive damages. The decision of the arbitrator(s) shall be final and binding on the parties, and any award of the arbitrator(s) may be entered or enforced in any court of competent jurisdiction.

**21. RESERVED**

**22. ASSIGNMENTS AND SUBCONTRACTS** Seller agrees to 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. Further, this Order shall not be assigned or delegated by Seller without the prior written consent of Buyer.

**23. GENERAL RELATIONSHIP** The Seller is not an employee of SAIC for any purpose whatsoever. Seller agrees that in all matters relating to this Order it shall be acting as an independent contractor and shall assume and pay all liabilities and perform all obligations imposed with respect to the performance of this Order. 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.

**24. NON-WAIVER OF RIGHTS** The failure of Buyer 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.

**25. STANDARDS OF BUSINESS ETHICS & CONDUCT** SAIC is committed to conducting its business fairly, impartially and in an ethical and proper manner. These characteristics make it imperative that SAIC employees adhere to a particularly high ethical standard in accordance with SAIC's Code of Conduct, which may be viewed at [www.saic.com](http://www.saic.com) under Corporate Governance. SAIC's expectation is that Seller also will conduct its business fairly, impartially and in an ethical and proper manner, consistent with the principles of the SAIC Code of Conduct. In addition, SAIC strongly encourages that Seller have proactive and meaningful ethics and compliance programs established within your organization. As evidence of our commitment, should Seller wish to review SAIC's ethics training for your organization, request a copy through Buyer's contractual point of contact. SAIC expects the Seller to understand, foster, and mirror the ethical conduct expected from our employees in all business transactions. If Seller has cause to believe that SAIC or any employee or agent of SAIC has acted improperly or unethically under this agreement/order, Seller shall report such behavior to the SAIC Ethics Hotline (800) 760-4332. Copies of The Science Applications International Corporation (SAIC) code of Ethics and contacts for such reports are available [www.saic.com](http://www.saic.com) under Corporate Governance in Investor Relations. SAIC provides its Code of Conduct for informational purposes only, and makes no representations as to its appropriateness for use outside of SAIC.

**26. ANTI-KICKBACK ACT OF 1986** By accepting this Order, Seller certifies that it has not offered, provided, or solicited and will not offer, provide, or solicit any kickback in violation of FAR 52.203-7 or the Anti-Kickback Act of 1986 (41 USC §§ 51-58), both of which are incorporated herein by this specific reference, except that paragraph (c)(1) of FAR 52.203-7 shall not apply unless this Order exceeds \$150,000. "Kickback" means any money, fee, commission, credit, gift, gratuity, thing of value, or



compensation of any kind that is provided, directly or indirectly, for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or a subcontract relating to a prime contract. Seller agrees to indemnify, defend, and hold Buyer harmless from and against any losses, liabilities, offsets and expenses (including reasonable attorney's fees) arising out of or relating to Seller's failure to comply with the provisions of the Anti-Kickback Act or FAR 52.203-7.

**27. ORDER OF PRECEDENCE** In the event of an inconsistency or conflict between provisions of this Order, the inconsistency or conflict shall be resolved by giving precedence in the following order:

1. Purchase Order and any purchase descriptions contained therein.
2. Purchase Order Standard Terms and Conditions for Commercial Items (Rev. 03/24/2014)

**27.1 ATTACHMENTS**

1. Specifications and/or drawings.
2. Schedule C Supplemental Purchase Order Terms and Conditions

**28. SURVIVAL** Upon expiration of the Purchase Order, Seller shall not be relieved of those obligations contained in the following articles:

Payment	SAIC Furnished Items and Intellectual Property	Termination for Default
Delivery	Patents and Data	Governing Law
Warranty	Disclosure	Disputes
Indemnification	Compliance with Law	General Relationship
Infringement Indemnity	Changes	Non-Waiver of Rights
Insurance	Termination for Convenience	Order of Precedence
		Survival

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

**30. FAR CLAUSES APPLICABLE TO THIS ORDER** The clauses in FAR Subpart 52.2 referenced in subparagraph (a), the clauses applicable in subparagraph (b), and those clauses referenced and checked in subparagraph (c) 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.

(a) <i>Definitions.</i> As used in this clause—	
“Commercial item” has the meaning contained Federal Acquisition Regulation 2.101, Definitions.	
“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:	
52.203-13	Contractor Code of Business Ethics and Conduct (Apr 2010) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)), 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.
52.203-15	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 (Dec 2010) (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.
52.222-21	Prohibition of Segregated Facilities



- 52.222-26 Equal Opportunity (Mar 2007) (E.O. 11246)
- 52.222-35 Equal Opportunity for Veterans (Sep 2010) (38 U.S.C. 4212(a))
- 52.222-36 Affirmative Action for Workers with Disabilities (Oct 2010) (29 U.S.C. 793)
- 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.
- 52.222-50 Combating Trafficking in Persons (Feb 2009) (22 U.S.C. 7104(g))
- 52.223-18 Encouraging Contractor Policies to Ban Text Messaging While Driving (*If order exceeds \$3,000.*)
- 52.247-64 Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. App. 1241 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:

	FAR Clause	Title of Clause
<input checked="" type="checkbox"/>	52.203-6	Restrictions on Subcontractor Sales to the Government, with Alternate I (41 U.S.C. 253g and 10 U.S.C. 2402) ( <i>If order exceeds \$150,000</i> )
<input type="checkbox"/>	52.209-6	Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (31 U.S.C. 6101 note) (Applies to orders over \$30,000 but not applicable to COTS items)
<input checked="" type="checkbox"/>	52.222-3	Convict Labor (E.O. 11755)
<input checked="" type="checkbox"/>	52.222-19	Child Labor-Cooperation with Authorities and Remedies
<input checked="" type="checkbox"/>	52.222-21	Prohibition of Segregated Facilities
<input checked="" type="checkbox"/>	52.222-37	Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (38 U.S.C. 4212)
<input type="checkbox"/>	52.222-54	Employment Eligibility Verification
<input type="checkbox"/>	52.223-2	Affirmative Procurement of Biobased Products Under Service and Construction Contracts
<input checked="" type="checkbox"/>	52.223-18	Contractor Policy to Ban Text Messaging while Driving (E.O. 13513)
<input type="checkbox"/>	52.225-1	Buy American Act - Supplies (41 U.S.C. 10a-10d)
<input type="checkbox"/>	52.225-3	Buy American Act - Free Trade Agreements - Israeli Trade Act (41 U.S.C. 10a-10d, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, Pub. L. 108-77, 108-78, 108-286 & 109-53)
<input type="checkbox"/>	52.225-3	Alternate I
<input type="checkbox"/>	52.225-3	Alternate II
<input type="checkbox"/>	52.225-5	Trade Agreements (19 U.S.C. 2501, et. seq., 19 U.S.C. 3301 note)
<input checked="" type="checkbox"/>	52.225-13	Restrictions on Certain Foreign Purchases (E.O.s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury)
<input type="checkbox"/>	52.239-1	Privacy or Security Safeguards (5 U.S.C. 552a)

(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 execute orders applicable to acquisitions of commercial items or components:

	Far Clause	Title of Clause
<input type="checkbox"/>	52.222-42	Statement of Equivalent Rates for Federal Hires (29 U.S.C. 206 and 41 U.S.C. 351 et. seq.)
<input type="checkbox"/>	52.222-43	Fair Labor Standards Act and Service Contract Act - Price Adjustment (Multiple Year and Option Contracts) (29 U.S.C. 206 and 41 U.S.C. 351 et. seq.)
<input type="checkbox"/>	52.222-44	Fair Labor Standards Act and Service Contract Act - Price Adjustment (29 U.S.C. 206 and 41 U.S.C. 351 et. seq.)





(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

	<b>FAR Clause</b>	<b>Title of Clause</b>
<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 & Charges <i>(When FAR 52.245-1 is incorporated)</i>

(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 as checked, are applicable:

	<b>FAR Clause</b>	<b>Title of Clause</b>
<input checked="" type="checkbox"/>	252.225-7001	Buy American Act and Balance of Payments Program (41 U.S.C. 10a-10d, E.O. 10582)
<input checked="" type="checkbox"/>	252.225-7002	Qualifying Country Sources as Subcontractors
<input checked="" type="checkbox"/>	252.225-7012	Preference for Certain Domestic Commodities (10 U.S.C. 2533a) <i>(If order exceeds \$150,000)</i>
<input type="checkbox"/>	252.225-7015	Restriction on Acquisition of Hand or Measuring Tools (10 U.S.C. 2533a)
<input checked="" type="checkbox"/>	252.225-7021	Trade Agreements (19 U.S.C. 2501-2518 and 19 U.S.C. 3301 note)
<input checked="" type="checkbox"/>	252.225-7036	Buy American Act—Free Trade Agreements—Balance of Payments Program (41 U.S.C. 10a-10d and 19 U.S.C. 3301 note)
<input type="checkbox"/>	252.225-7036	Alternate I
<input checked="" type="checkbox"/>	252.226-7001	Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns (Section 8021 of Public Law 107-248 and similar sections in subsequent DoD appropriations acts) <i>(If Order exceeds \$500,000)</i>
<input checked="" type="checkbox"/>	252.227-7015	Technical Data-Commercial Item
<input type="checkbox"/>	252.237-7019	Training for Contractor Personnel Interacting with Detainees (Section 1092 of Public Law 108-375)
<input type="checkbox"/>	252.246-7003	Notification of Potential Safety Issues
<input checked="" type="checkbox"/>	252.247-7023	Transportation of Supplies by Sea (10 U.S.C. 2631)
<input checked="" type="checkbox"/>	252.247-7024	Notification of Transportation of Supplies by Sea (10 U.S.C. 2631)