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NON – COMMERCIAL (FAR PART 15) ITEMS

The following Federal Acquisition Regulation (“FAR”) and Defense Federal Acquisition Regulation Supplement (“DFARS”) clauses incorporated by reference shall be the most recent clause in effect during subcontract performance and are incorporated by reference herein with the same force and effect as if they are given in full text as modified by any notes following the clause citation below. The FAR and Supplements thereto are obtainable from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Portions of the FAR are also accessible at <http://www.acquisition.gov/far>.

Any reference in the following clauses to the “Disputes” clause shall mean the Article entitled “Dispute Under A Government Prime Contract” of the Order to which these Terms and Conditions are attached.

Seller shall insert the following provisions in selected lower tier subcontracts, either verbatim or in substance, and by incorporation-by-reference or otherwise as appropriate.

Wherever used, the terms “Contract” and “Contractor” shall mean this Order (or subcontract, P.O., or agreement) and Seller (including Seller as Bidder or Offeror), respectively. The terms “Government,” “Contracting Officer,” and equivalent phrases shall mean Buyer except where further clarified or modified and except that in clauses identified by * shall have their original meaning as written in the FAR. “Subcontractor,” however, shall mean “Seller’s Subcontractor.”

<u>FAR Reference</u>	<u>FAR Clause Title And Modifications Thereof</u>
52.203-3	Gratuities* (The term “agency head” means Buyer). (Applicable if this Order exceeds the simplified acquisition threshold in FAR 2.101.)
52.203-5	Covenant Against Contingent Fees (Applicable if this Order exceeds the simplified acquisition threshold in FAR 2.101.)
52.203-6	Restrictions on Subcontractor Sales to the Government. (Applicable if this Order exceeds the simplified acquisition threshold in FAR 2.101.)
52.203-7	Anti-Kickback Procedures (Applicable if this Order \$150,000, except that paragraph (c)(1) of FAR 52.203-7 is not included in this Order. Paragraph (c)(4) is revised by deleting “The Contracting Officer may” and inserting “To the extent the Contracting Officer has effected an offset at the prime contract level or has directed Buyer to withhold any sum from the Seller, Buyer may”
52.203-8	Cancellation, Rescission and Recovery of Funds for Illegal or Improper Activity (Applicable if this Order exceeds the simplified acquisition threshold in FAR 2.101.)
52.203-10	Price or Fee Adjustment for Illegal or Improper Activity (Applicable if this Order exceeds the simplified acquisition threshold in FAR 2.101.)
52.203-12	Limitation on Payments to Influence Certain Federal Transactions* (Applicable if this Order exceeds the simplified acquisition threshold in FAR 2.101.)

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- 52.203-13 Contractor Code of Business Ethics and Conduct*** (Applicable if this Order exceeds \$5,500,000 and has a period of performance of more than 120 days. Disclosures made under this clause shall be made directly to the Government entities identified in the clause.)
- 52.203-14 Display of Hotline Poster(s)** (Applicable if this Order exceeds \$5,500,000, unless performed entirely outside of U.S.). Paragraph (b)(3) includes the following: DoD Inspector General, ATTN: Defense Hotline, 400 Army Navy Drive, Arlington, VA 22202-4704.
- 52.203-17 Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (Applicable if this Order exceeds the simplified acquisition threshold in FAR 2.101.)**
- 52.204-2 Security Requirements*** (Excluding any reference to the Changes clause in the prime contract) (Applicable if this order involves access to classified information).
- 52.204-9 Personal Identity Verification of Contractor Personnel** (Applicable to all subcontractor employees if this order requires routine physical access to a federally controlled facility and/or routine access to a federally controlled information system.)
- 52.204-10 Reporting Executive Compensation and First Tier Subcontract Awards** (Applicable if this Order has a value of \$30000 or more.)
- 52.204-13 System for Award Management Maintenance**
- 52.204-19 Incorporation by Reference of Representations and Certifications**
- 52.209-6 Protecting the Government’s Interest When Subcontracting with Contractors Debarred, Suspended or Proposed for Debarment** (Applicable if this Order exceeds \$35,000.)
- 52.211-5 Material Requirements**
- 52.211-15 Defense Priority and Allocation Requirements** If this Order is a “rated order” as indicated by a DPAS rating elsewhere in this Order, Seller will follow all the provisions of the Defense Priorities and Allocation System Regulations (15 CFR 700).
- 52.215-2 Audit and Records — Negotiation*** (Applicable if this Order exceeds the simplified acquisition threshold in FAR 2.101.)
- 52.215-10 Price Reduction for Defective Cost or Pricing Data** (Applicable to Orders for which it is contemplated cost or pricing data will be required.)

In paragraph (c) the term “Contracting Officer” does not change. Seller shall provide cost or pricing data and execute a Certificate of Current Cost or Pricing Data in substantially the form prescribed in the FAR.

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- 52.215-11 Price Reduction and Defective Cost of Pricing Data — Modifications** (Applicable to Orders for which it is contemplated cost or pricing data will be required for modifications and the Order includes FAR 52.215-10.)
- In paragraph (d), the term “Contracting Officer” does not change. Seller shall provide cost or pricing data and execute a Certificate of Current Cost or Pricing Data in substantially the form prescribed in the FAR.
- 52.215-12 Subcontractor Certified Cost or Pricing Data** (Applicable if the Order, when entered into, includes FAR 52.215-10.)
- 52.215-13 Subcontractor Certified Cost or Pricing Data — Modifications** (Applicable if the Order, when entered into, includes FAR 52.215-11.)
- 52.215-14 Integrity of Unit Prices** (Applicable if this Order exceeds the simplified acquisition threshold in FAR 2.101.)
- 52.215-15 Pension Adjustments and Asset Reversions** (Applicable in solicitations and purchase orders for which it is anticipated that cost or pricing data will be required or for which any pre-award or post-award cost determination will be subject to FAR Part 31.)
- 52.215-18 Reversion or Adjustment of Plans for Postretirement Benefit** (Applicable in solicitations and purchase orders for which it is anticipated that cost or pricing data will be required or for which any pre-award or post-award cost determination will be subject to FAR Part 31.)
- 52.215-19 Notification of Ownership Change** (Applicable in solicitations and purchase orders for which it is anticipated that cost or pricing data will be required or for which any pre-award or post-award cost determination will be subject to FAR Part 31.)
- 52.215-21 Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data – Modifications** (Applicable to Orders if it is reasonably certain that cost or pricing data or data other than certified cost or pricing data will be required for modifications.)
- 52.215-23 Limitations on Pass-Through Charges** (Applicable to cost-reimbursement subcontracts exceeding \$150,000 and cost-reimbursement or fixed-price subcontracts exceeding the threshold for obtaining cost or pricing data in accordance with FAR 15.403-4 under Department of Defense prime contracts)
- 52.219-8 Utilization of Small Business Concerns** (Applicable if this Order offers further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$700,000 (\$1.5 million for construction of any public facility), the subcontractor must include 52.219–8 in lower tier subcontracts that offer subcontracting opportunities.)
- 52.219-9 Small Business Subcontracting Plan & Alt II** (Applicable only if this Order exceeds \$700,000, and Seller is not a Small Business Concern.) FAR 52.219-

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9, Small Business Subcontracting Plan (DEVIATION 2013-O0014) applies and remains in effect until incorporated into FAR, 2014, or otherwise rescinded.

- 52.219-16 Liquidated Damages — Subcontracting Plan**
- 52.222-1 Notice to the Government of Labor Disputes**
- 52.222-19 Child Labor- Cooperation with Authorities and Remedies**
- 52.222-20 Contracts for Materials, Supplies, Articles and Equipment Exceeding \$15,000**
- 52.222-21 Prohibition of Segregated Facilities**
- 52.222-26 Equal Opportunity** (Subparagraphs (b)(1) through (11) of FAR 52.222-26 only are included in this Order.)
- 52.222-29 Notification of Visa Denial** (Applicable if the contractor is required to perform in or on behalf of a foreign country.)
- 52.222-35 Equal Opportunity for Veterans** (Applicable if the Order is for \$100,000 or more.)
- 52.222-36 Equal Opportunity for Workers with Disabilities** (Applicable if this Order exceeds the micro purchase threshold. Paragraph (b)(2) is revised to delete “provided by or through the Contracting Officer” and insert “provided upon request by the Contracting Officer through the Buyer’s Purchasing Representative.”)
- 52.222-37 Employment Reports on Veterans** (Applicable if the clause at 52.222-35 is applicable.)
- 52.222-40 Notification of Employee Rights Under the National Labor Relations Act** (Applicable if this Order exceeds the simplified acquisition threshold in FAR 2.101, unless performed entirely outside of U.S.)
- 52.222-50 Combating Trafficking in Persons**
- 52.222-54 Employment Eligibility Verification** (Applicable unless work to be performed entirely outside of U.S., or if period of performance is less than 120 days.)
- 52.223-11 Ozone Depleting Substances and High Global Warming Potential Hydrofluorocarbons**
- 52.223-18 Encouraging Contractor Policies to Ban Text Messaging While Driving**
- 52.225-1 Buy American Act – Supplies** (Applies if the Goods contain other than domestic components.)
- 52.225-2 Buy American Act Certificate** (Applies if the Goods contain other than domestic components.)

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- 52.225-3 Buy American Act –Free Trade Agreements – Israeli Trade Act** (Applies if the Goods contain other than domestic components.)
- 52.225-5 Trade Agreements** (Applies if the Goods contain other than U.S. made or designated country end products as specified in the clause.)
- 52.225-6 Trade Agreements Certificate** (Applies if the Goods contain other than U.S. made or designated country end products as specified in the clause.)
- 52.225-13 Restrictions on Certain Foreign Purchases**
- 52.227-1 Authorization and Consent** (Applicable if this Order exceeds the simplified acquisition threshold in FAR 2.101.)
- Apply Alternate I in all research and development Orders, unless both complete performance and delivery are outside the U.S., its possessions, and Puerto Rico.
- 52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement** (Applicable if this Order exceeds the simplified acquisition threshold in FAR 2.101.)
- In incentive fee Orders, change “price” to “target cost and target profit.”
- 52.227-10 Filing of Patent Applications--Classified Subject Matter** (Applicable to subcontracts that cover or are likely to cover classified subject matter)
- 52.229-3 Federal, State and Local Taxes** (Applicable if this order exceeds the simplified acquisition threshold in FAR 2.101.)
- 52.229-4 Federal, State and Local Taxes (State and Local Adjustments)**
- 52.229-6 Taxes -- Foreign Fixed-Price Contracts** (Applicable if this Order is expected to exceed the simplified acquisition threshold in FAR 2.101 and the Order is to be performed wholly or partly in a foreign country.)
- 52.232-17 Interest** (Applicable if this Order exceeds the simplified acquisition threshold in FAR 2.101.)
- 52.232-40 Providing Accelerated Payment to Small Business Subcontractors** (Applicable if this Order is placed with Small Business Concerns.)
- 52.233-3 Protest After Award**
- Under Paragraph (f) of this clause, the Buyer may withhold or recover from Seller any sums the Contracting Officer withholds or recovers from Buyer because of an intentional or negligent misstatement, misrepresentation or miscertification of the Seller which results in a bid protest being sustained.
- 52.234-1 Industrial Resources Developed Under Defense Production Act Title III**

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52.243-1 Changes -- Fixed Price

Apply Alternate I if the Order is for services, other than architect-engineer or other professional services, and no supplies are to be furnished. Apply Alternate II if the Order is for services (other than architect-engineer services, transportation, or research and development) and supplies are to be furnished. Apply Alternate III if the Order is for architect-engineer or other professional services.

52.244-6 Subcontracts for Commercial Items

52.245-1 Government Property (Applicable to all subcontracts that involve government-furnished property)

52.245-9 Use and Charges

52.246-2 Inspection of Supplies-Fixed Price (Applicable if this order exceeds the simplified acquisition threshold in FAR 2.101.)

52.247-1 Commercial Bill of Lading Notations

The term "Government" does not change in paragraphs (a) and (b).

52.247-63 Preference for U.S. Flag Carriers (Applicable if this order may involve international air transportation.)

52.248-1 Value Engineering (Applicable if this order exceeds \$150,000.)

52.249-2 Termination for Convenience of the Government — Fixed-Price.

Paragraph (c): Change 120 days to 60 days.

Paragraph (d): Plant clearance procedure is omitted.

Paragraph (e): The time for submission of the final termination settlement proposal is changed from "1 year" to "6 months" from the effective date of termination.

Paragraph (l): The time for submission of a proposal for an equitable adjustment after a partial termination is changed from "90 days" to "45 days" from the effective date of termination.

Cost Accounting Standards (Applicable Unless Otherwise Exempt)

52.230-2 Cost Accounting Standards

52.230-3 Disclosure and Consistency of Cost Accounting Practices (Applicable to negotiated contracts)

52.230-6 Administration of Cost Accounting Standards (Applicable if order exceeds \$750,000 and offeror certifies it is eligible to use modified CAS coverage.)

Seller shall communicate and otherwise deal directly with the PCO to the extent practicable and permissible as to all matters relating to Cost Accounting Standards. Seller shall provide Buyer with

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copies of all communications between Seller and the PCO respecting Cost Accounting Standards, **FAR 52.230-2**, and Administration Of Cost Accounting Standards, **FAR 52.230-6**, provided that Seller shall not be required to disclose to Buyer such communications containing information that is privileged and confidential to Seller. In addition to any other remedies provided by law or under this Order, Seller agrees to indemnify and hold Buyer harmless to the full extent of any loss, damage, or expense if Buyer is subjected to any liability as a result of a failure of Seller or its lower-tier subcontractors to comply with the requirements of the Cost Accounting Standards or of FAR 52.230-2, 52.230-3, or 52.230-6. Paragraph (b) is deleted from each of the foregoing clauses.

<u>DFARS Reference</u>	<u>DFARS Clause Title And Modifications Thereof</u>
252.203-7001	Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies* (Applicable to first tier subcontractors only if this Order exceeds the simplified acquisition threshold in FAR Part 2.101. "Government" is not changed in this clause.)
252.203-7002	Requirement to Inform Employees of Whistleblower Rights
252.203-7003	Agency Office of the Inspector General
252.204-7000	Disclosure of Information (Includes paragraph (c).)
252.204-7012	Safeguarding of Covered Defense Information and Cyber Incident Reporting
252.204-7015	Notice of Authorized Disclosure of Information for Litigation Support
252.215-7000	Pricing Adjustments
252.222-7006	Restrictions on the Use of Mandatory Arbitration Agreements (Applicable if this Order exceeds \$1.0 million)
252.225-7001	Buy American Act and the Balance of Payments Program (Applicable if the goods furnished under this Order contain other than domestic components. Applies in lieu of FAR 52.225-1 for DoD programs.)
252.225-7007	Prohibition on Acquisition of United States Munitions List Items from Communist Chinese Military Companies (Applicable if this Order is for items that are ITAR-regulated defense articles.)
252.225-7009	Restrictions on Acquisition of Certain Articles Containing Specialty Metals (Includes paragraphs (a) through (c) and excludes and reserves paragraphs (d) and (e)(1)).
252.225-7012	Preference for Certain Domestic Commodities Applicable if this Order exceeds the simplified acquisition threshold in FAR 2.101.)
252.225-7013	Duty-Free Entry

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Paragraph (e) is modified to read “The Buyer will obtain from the Government duty-free entry certificates and afford such assistance as appropriate to obtain the duty-free entry of qualifying country supplies for which the shipping documents bear the notation specified in paragraph (f) of this clause.” No change to “Contracting Officer,” “Government,” “prime contractor,” or “prime contract” in paragraphs (c), (d), (i) or (k); except change “Contracting Officer administering the prime contract” and “contract administration office” in paragraph (i) to “Buyer’s Purchasing Representative” and “Contracting Officer” in paragraph (i)(10) to “Government.”

- 252.225-7015** **Restrictions on Acquisitions of Hand or Measuring Tools** (Applicable if this Order exceeds the simplified acquisition threshold in FAR 2.101.)
- 252.225-7016** **Restriction on Acquisition of Ball and Roller Bearings**
- 252.225-7021** **Trade Agreements** (Applies if the Work contains other than U.S.-made, qualifying country, or designated country end products. Applies in lieu of FAR 52.225-5 for DoD programs.)
- 252.225-7028** **Exclusionary Policies and Practices of Foreign Governments**
- 252.225-7033** **Waiver of United Kingdom Levies** (Applicable if this Order is placed with a U.K. firm and exceeds \$1 million. Includes paragraph (d).)
- 252.225-7048** **Export Controlled Items** (Paragraph (e) is included.)
- 252.226-7001** **Utilization of Indian Organizations, Indian-Owned Economic Enterprises and Native Hawaiian Small Business Concerns** (Applicable if this Order exceeds \$500,000.)
- 252.227-7013** **Rights in Technical Data – Noncommercial Items**
“[T]o the Contractor” is deleted from (b)(1)(vi) and “contract or” and “thereunder” is deleted from (b)(1)(ix). “Buyer or” is added before “Government” in (c) and (i). The second and third occurrences of “Contracting Officer” are changed to “Government” in (e)(4) “And the Government” is added after “parties” in (h)(1). In (h)(2) “sixty (60)” is changed to “fifty (50)” days. No substitutions for “Government” are made.
- 252.227-7014** **Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation**
“[T]o the Contractor” is deleted from (b)(1)(iii) and “contract or” and “thereunder” is deleted from (b)(1)(vi). “Buyer or” is added before “Government” in (i). The second and third occurrences of “Contracting Officer” have been changed to “Government” in (e)(4). “And the Government” is added after “parties” in (h)(1). In (h)(2) “sixty (60)” is changed to “fifty (50)” days. No substitutions for “Government” are made.
- 252.227-7015** **Technical Data – Commercial Items**

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- 252.227-7016 Rights in Bid or Proposal Information***
- 252.227-7019 Validation of Asserted Restrictions — Computer Software** “Buyer’s Purchasing Representative” is substituted for “Contracting Officer” in paragraph (b), otherwise no substitutions are made for “Contracting Officer” or “Government.” In paragraphs (f)(5) and (f)(6) “the prime contract” is substituted for “this contract.”
- 252-227-7030 Technical Data — Withholding of Payment**
- “Buyer” is substituted for “Contracting Officer” in paragraph (a). In paragraph (b), “or Buyer” is added after “Government.”
- 252.227-7037 Validation of Restrictive Markings on Technical Data**
- In paragraph (b), “Contractor’s” remains in the clause with a lower case “c.” In paragraphs (c) and (d)(1), “hereunder” is inserted after “subcontract.” In paragraphs (f) and (g)(2)(i), change “this contract” to “the prime contract,” and in paragraph (i), change “a contract” to “the prime contract.” No substitutions for “Government” or “Contracting Officer” are made.
- 252.231-7000 Supplemental Cost Principles**
- 252.234-7004 Cost and Software Data Reporting System** Applicable for any subcontract (at any tier) that exceeds \$50 million.
- 252.243-7001 Pricing of Contract Modifications**
- 252.244-7000 Subcontracts for Commercial Items**
- 252.246-7003 Notification of Potential Safety Issues** (Applicable to subcontracts for parts identified as critical safety items; systems and subsystems, assemblies, and subassemblies integral to a system; and repair, maintenance, logistics support, or overhaul services for systems and subsystems, assemblies, subassemblies, and parts integral to a system)
- Subcontractor must notify Buyer, the Administrative Contracting Officer, and the Procuring Contracting Officer of non-conformances or deficiencies within the scope of paragraph (b)
- 52.246-7008 Sources of Electronic Parts** (Applicable if this Order is for electronic parts or assemblies containing electronic parts unless the subcontractor is the original manufacturer. Includes paragraph (e).)
- 252.246-7007 Contractor Counterfeit Electronic Part Detection and Avoidance System*** (Applicable if this order is for the supply of electronic parts; end items, components, parts or assemblies containing electronic parts; or services where the supplier will supply electronic parts as part of the service. Paragraphs (a) through (e) apply. Paragraph (b) is rewritten to

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exclude “disapproval of the purchasing system by the Contracting Officer and/or”. Paragraph (d) is rewritten as follows: Government review and evaluation of the Prime Contractor’s policies and procedures will be accomplished as part of the evaluation of the Prime Contractor’s purchasing system in accordance with DFARS 252.244-7001, Contractor Purchasing System Administration- Basic, or Contractor’s Purchasing System Administration- Alternate 1. The supplier for any order to which this clause applies is required to provide support and documentation during the conduct of any such Prime Contract evaluation.

- 252.247-7023 Transportation of Supplies by Sea-- Basic**
- 252.247-7024 Notification of Transportation of Supplies by Sea**
- 252.249-7002 Notification of Anticipated Contract Termination or Reduction**