

# ADDITIONAL STANDARD TERMS AND CONDITIONS FIXED PRICE PURCHASE ORDERS



**Day & Zimmermann**

*We do what we say.®*

**SPECIAL U.S. GOVERNMENT PROVISIONS.** The provisions set forth hereunder shall apply in addition to those attached to the Purchase Order. Seller hereby agrees to flow down the applicable FAR clauses to its lower-tier subcontractors.

- a. **Audits.** Seller agrees that its books and records and its plans or any such part thereof as may be engaged in the performance of this AGREEMENT, shall at all reasonable times be subject to inspection and audit by any person designated by the head of any executive department of the U. S. Government.
- b. **Quality Control.** Except as otherwise provided in this AGREEMENT, Seller's system of Quality Control during the performance of this AGREEMENT shall be in accordance with the specifications as are required by Buyer's prime contract or higher tier AGREEMENT.
- c. **Modification.** Seller agrees it will negotiate AGREEMENT modification(s) in good faith to incorporate additions, deletions, and changes to the clauses set forth below if Buyer deems them necessary to comply with Buyer's Contract or modifications to Buyer's Contract. If any such modification to this Purchase Order causes an increase or decrease in the cost, or the time required for the performance, of any part of the work under this AGREEMENT, an equitable adjustment shall be made pursuant to the "Changes" clause of this Purchase Order.
- d. **Government/Buyers Property.** Seller shall maintain and administer a program for the maintenance, repair, protection, and preservation of Buyer and Government property in accordance with FAR 52.245-1, June 2007. Seller assumes risk of and shall be responsible for any loss or damage to Government property except for reasonable wear and tear and except to the extent that such property is incorporated in the Goods delivered under this AGREEMENT. The Buyer or Government makes no warranty, express or implied, with respect to the serviceability and or suitability of property of performance of this AGREEMENT. Any repairs, replacements or refurbishments shall be at the Seller's expense. Upon completion of this Order or at such earlier times as Buyer may request, Seller shall submit, in acceptable form, inventory schedules covering all items of Buyer and Government property pertaining to this AGREEMENT. In addition, upon the request of the Buyer, the Seller may be required to furnish a list of all Buyer and Government property required to support any follow-on requirement. This list shall be in an acceptable format and identify the category, quantity and acquisition cost. To the extent that such use will not interfere with Seller's performance of this or other AGREEMENTS from Buyers, this clause shall not limit the use by the Seller of property to which the Government has title in the production of end items on direct Government Order; however, nothing herein will be deemed to contravene the rights of the Government under FAR 52.245-1.
- e. **Executive Order 13201.** Notification of Employee Rights Concerning Payment of Union Dues or Fees. The Seller shall comply with Executive Order 13201 dated February 17, 2001 and related implementing regulations at 29 CFR Part 470, and orders of the Secretary of Labor.
- f. **Executive Order 13496.** Notification of Employee Rights Under Federal Labor Laws. The Seller shall comply with Executive Order 13496 published May 21, 2010 and related implementing regulations.
- g. **FAR Clauses.** The following clauses of the FAR are incorporated herein by reference, as applicable, and made part hereof with the same force and effect as if they were given in full text, including any notes following the clause citations, to this AGREEMENT. The date of each clause is specified; however, the clause in effect in the Buyer's Contract with its Customer on the date of this AGREEMENT, if necessary, to each such clause shall be made to be consistent with the intent of the changes set forth below. In the following FAR and DFARS clauses, unless otherwise noted, "Contractor" or "Offeror" shall mean "Seller", "Government" or "United States" shall mean "Buyer", "Contract" shall mean this AGREEMENT, and "Contracting Officer", "Administrative Contracting Officer" and "ACO" shall mean "Buyer's Representative", unless otherwise noted.

## I. CLAUSES APPLICABLE TO ALL PURCHASE ORDERS

|     |           |   |
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| FAR | 52.202-1  | Definitions (July 2004)   |
| FAR | 52.203-3  | Gratuities (April 1984)   |
| FAR | 52.203-5  | Covenant Against Contingent Fees (April 1984)   |
| FAR | 52.203-8  | Cancellation, rescission or recovery of funds for illegal or improper activities (January 1997) |
| FAR | 52.203-10 | Price or Fee Adjustment for Illegal or Improper Activity (JAN 1997)                             |
| FAR | 52.204-4  | Printed or Copied Double-Sided on Recycled Paper (August 2000)                                  |

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| FAR | 52.204-9  | Personal Identity Verification of Contractor Personnel (Applicable where the Contractor will have physical access to a federally-controlled facility. Or access to a Federal Information System (September 2007) |
| FAR | 52.208-6  | Marking of Leased Vehicles (April 1984)  |
| FAR | 52.209-3  | First Article Approval – Contractor Testing (September 1989)   |
| FAR | 52.209-4  | First Article Approval – Government Testing (September 1989)   |
| FAR | 52.209-5  | Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters (December 2001)  |
| FAR | 52.211-1  | Availability of Specifications (August 1998)   |
| FAR | 52.211-5  | Material Requirements (August 2000)  |
| FAR | 52.211-15 | Defense Priority & Allocation Requirements (September 1990)  |
| FAR | 52.213-4  | Terms and Conditions – Simplified Acquisitions (December 2007)   |
| FAR | 52.215-1  | Instructions to Offerors – Competitive Acquisitions (January 2004)   |
| FAR | 52.215-9  | Changes or Additions to Make or Buy Program (October 1997)   |
| FAR | 52.215-14 | Integrity of the Unit Price (Oct 1997), subparagraph (b) does not apply.   |
| FAR | 52.215-18 | Revision or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pension (July 2005)   |
| FAR | 52.215-20 | Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data (October 1997)  |
| FAR | 52.215-21 | Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data – Modifications (October 1997)  |
| FAR | 52.219-23 | Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (September 2005)   |
| FAR | 52.219-28 | Post-Award Small Business Program Representation (June 2007)   |
| FAR | 52.222-1  | Notice to the Government of Labor Disputes (February 1997)   |
| FAR | 52.222-3  | Convict Labor (August 1996)  |
| FAR | 52.222-4  | Contract Work Hours and Safety Standards Act-Overtime Compensation (July 2005)   |
| FAR | 52.222-8  | Payrolls and Basic Records (February 1988)   |
| FAR | 52.222-11 | Subcontracts (Labor Standards) (July 2005)   |
| FAR | 52.222-12 | Contract Termination – Debarment (February 1988)   |
| FAR | 52.222-13 | Compliance with Davis Bacon and Related Act Regulations (February 1988)  |
| FAR | 52.222-19 | Child Labor – Cooperation with Authorities and Remedies (August 2007)  |
| FAR | 52.222-20 | Walsh-Healey Public Contracts Act (December 1996)  |
| FAR | 52.222-21 | Prohibition of Segregated Facilities (February 1999)   |
| FAR | 52.222-25 | Affirmative Action Compliance (April 1984)   |
| FAR | 52.222-26 | Equal Opportunity (March 2007)   |
| FAR | 52.222-39 | Notification of Employee Rights Concerning Payment of Union Dues or Fees (December 2004)   |
| FAR | 52.222-41 | Service Contract Act of 1965 (November 2007)   |
| FAR | 52.222-42 | Statement of Equivalent Rates for Federal Hires (May 1989)   |
| FAR | 52.222-43 | Fair Labor Standards Act and Service Contract Act-Price (November 2000)  |
| FAR | 52.222-50 | Combating Trafficking in Persons (February 2009)   |
| FAR | 52.222-54 | Employment Eligibility Verification (January 2009)   |

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| FAR | 52.223-3  | Hazardous Material Identification and Material Safety (January 1997)                                 |
| FAR | 52.223-4  | Recovered Material Certification (October 1997)  |
| FAR | 52.223-5  | Pollution Prevention and Right –to-Know Information (August 2003)                                    |
| FAR | 52.223-6  | Drug-Free Workplace (May 2001)   |
| FAR | 52.223-9  | Estimate of Percentage of Recovered Material Content for EPA-Designated Products (August 2000)       |
| FAR | 52.223-10 | Waste Reduction Program (August 2000)  |
| FAR | 52.223-11 | Ozone Depleting Substances (March 2001)  |
| FAR | 52.223-12 | Refrigeration Equipment and Air Conditioners (May 1995)  |
| FAR | 52.224-2  | Privacy Act (April 1984)   |
| FAR | 52.225-1  | Buy America Act –Supplies (June 2003)  |
| FAR | 52-225-3  | Buy American Act-North American Free Trade AGREEMENT-Israeli Trade Act (August 2007)                 |
| FAR | 52.225-8  | Duty Free Entry (February 2000)  |
| FAR | 52.225-10 | Notice of Buy American Act/Balance of Payments Program Requirement-Construction Materials (May 2002) |
| FAR | 52.225-11 | Buy American Act- Construction Materials under Trade Agreements (August 2007)                        |
| FAR | 52.225-13 | Restrictions on Certain Foreign Purchases (February 2006)  |
| FAR | 52.227-3  | Patent Indemnity (April 1984)  |
| FAR | 52.227-13 | Patent Rights-Acquisition by the Government (December 2007)  |
| FAR | 52.228-4  | Workers’ Compensation and War-Hazard Insurance Overseas (April 1984)                                 |
| FAR | 52.228-5  | Insurance-Work on a Government Installation (January 1997)   |
| FAR | 52.228-7  | Insurance – Liability to Third Persons (March 1996)  |
| FAR | 52.228-8  | Liability and Insurance – Leased Motor Vehicles (May 1999)   |
| FAR | 52.229-3  | Federal, State and Local Taxes (April 2003)  |
| FAR | 52.232-17 | Interest (June 1996)   |
| FAR | 52.232-23 | Assignment of Claims (January 1986)  |
| FAR | 52.232-25 | Prompt Payment (October 2003)  |
| FAR | 52.237-2  | Protection of Governments Buildings, Equipment and Vegetation (April 1984)                           |
| FAR | 52.237-3  | Continuity of Services (January 1991)  |
| FAR | 52.242-13 | Bankruptcy (July 1995)   |
| FAR | 52.242-15 | Stop-Work Order (August 1989)  |
| FAR | 52.242-17 | Government Delay of Work (April 1984)  |
| FAR | 52.243-1  | Changes – Fixed Price – Alternate II (April 1984)  |
| FAR | 52.244-5  | Competition in Subcontracting (December 1996)  |
| FAR | 52.244-6  | Subcontracts for Commercial Items (March 2007)   |
| FAR | 52.245-1  | Government Property (Fixed-Price Contracts) (June 2007)  |
| FAR | 52.246-2  | Inspection of Supplies-Fixed Price (August 1996)   |
| FAR | 52.246-3  | Inspection of Supplies – Cost Reimbursement (March 2001)   |

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| FAR   | 52.246-4     | Inspection of Services – Fixed Price (August 1996)  |
| FAR   | 52.247-63    | Preference for US Flag - Air Carriers (June 2003)   |
| FAR   | 52.247-64    | Preference for Privately Owned US Flag Commercial Vessels (February 2006)                                       |
| FAR   | 52.248-1     | Value Engineering (February 2000)   |
| FAR   | 52.252-2     | Clauses Incorporated by Reference (February 1998)   |
| FAR   | 52.252-6     | Authorized Deviations in Clauses (April 1984)   |
| FAR   | 52.253-1     | Computer Generated Forms (January 1991)   |
| DFARS | 252-203-7000 | Requirements Related to Compensation of Former DoD Officials (JAN 2009)   |
| DFARS | 252.204-7000 | Disclosure of Information (December 1991)   |
| DFARS | 252.204-7003 | Control of Government Personnel Work Product (April 1992)   |
| DFARS | 252.204-7005 | Oral Attestation of Security Responsibilities (November 2001)   |
| DFARS | 252.204-7008 | Export-Controlled Items (April 2010)  |
| DFARS | 252.208-7000 | Intent to Furnish Precious Metals as Government-Furnished Material (December 1991)                              |
| DFARS | 252.209-7001 | Disclosure of Ownership or Control by the Government of a Terrorist Country (October 2006)                      |
| DFARS | 252.209-7004 | Subcontracting with Firms that are Owned or Controlled by the Government of a Terrorist Country (December 2006) |
| DFARS | 252.211-7005 | Substitutions for Military or Federal Specifications and Standards (November 2005)                              |
| DFARS | 252.223-7001 | Hazard Warning Labels (December 1991)   |
| DFARS | 252.223-7002 | Safety Precautions for Ammunition and Explosives (May 1994)   |

By accepting of this order, Seller hereby certifies that it and its sub tier contractors (if any) are, on the date of this order, in compliance with DOD Contractors Safety Manual for Ammunition and Explosives, DOD 4145.26-M as mandated by the DFAR clause 252.223-7002, Safety Precautions for Ammunition and Explosives; or with NAVEAS OP 5, or AMCR 385-100:

Seller shall immediately notify Buyer in writing:

1. If, subsequent to the date of this order, Seller or Seller's sub tier contractors (if any) receives a "Non-Compliance" rating as a result of a Government Safety Audit (whether related to this order or not).
2. If ammunition and explosives utilized for performance of this order are handled at any location other than the location(s) seller identified in its offer, DFAR clause 252.223-7003, Change In Place of Performance-Ammunition and Explosives, will apply.
3. If a mishap involving Ammunition and Explosives occurred.

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| DFARS | 252.223-7004 | Drug-Free Workforce (September 1988)   |
| DFARS | 252.223-7007 | Safeguarding Sensitive Conventional Arms, Ammunition, and Explosives. (September 1999) |
| DFARS | 252.225-7001 | Buy American Act and Balance of Payments Program (June 2005)                           |
| DFARS | 252.225-7002 | Qualifying Country Sources as Subcontractor (April 2003)                               |
| DFARS | 252.225-7014 | Preference for Domestic Specialty Metals (June 2005)                                   |
| DFARS | 252.225-7025 | Restriction on acquisition of forgings (July 2006)                                     |
| DFARS | 252.225-7030 | Restriction on Acquisition of Carbon, Alloy and Armor Steel Plate (December 2006)      |
| DFARS | 252.227-7000 | Non-Estoppel (October 1966)  |
| DFARS | 252.227-7013 | Rights in Technical Data-Noncommercial items (November 1995)                           |

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| DFARS | 252.227-7016 | Rights in bid or proposal information (June 1995)  |
| DFARS | 252.227-7018 | Rights in noncommercial technical data and computer software-Small Business Innovation Research (SBIR) Program (June 1995) |
| DFARS | 252.227-7019 | Validation of Asserted Restrictions – Computer Software (June 1995)  |
| DFARS | 252.227-7027 | Deferred Ordering of Technical Data or Computer Software (April 1988)  |
| DFARS | 252.227-7033 | Rights in Shop Drawings (April 1966)   |
| DFARS | 252.227-7037 | Validation of Restrictive Markings on Technical Data (September 1999)  |
| DFARS | 252.231-7000 | Supplemental Cost Principles (December 1991)   |
| DFARS | 252.232-7010 | Levies on Contract Payments (December 2006)  |
| DFARS | 252.243-7001 | Pricing of Contract Modifications (December 1991)  |
| DFARS | 52.244-7000  | Subcontracts for Commercial Items and Commercial Components (DoD Contracts) August 2009                                    |
| DFARS | 252.247-7024 | Notification of Transportation of Supplies by Sea (March 2000)   |
| DFARS | 252.249-7002 | Notification of anticipated contract terminations or reductions (December 2006)  |

**II. CLAUSES APPLICABLE TO PURCHASE ORDERS OVER \$10,000**

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| FAR | 52.222-35 | Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (September 2006) |
| FAR | 52.222-36 | Affirmative Action for Workers with Disabilities (June 1998)   |
| FAR | 52.222-37 | Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (September 2006) |
| FAR | 52.222-99 | Notification of Employee Rights Under the National Labor Relations Act (June 2010) (Deviation 2010-00013)                  |

**III. CLAUSES APPLICABLE TO PURCHASE ORDERS OVER \$25,000**

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| FAR   | 52.209-6     | Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (September 2006) |
| FAR   | 52.204-10    | Reporting Executive Compensation and First-Tier Subcontract Awards (July 2010)  |
| DFARS | 252.225-7012 | Preference for Certain Domestic Commodities (January 2007)  |

**IV. CLAUSES APPLICABLE TO PURCHASE ORDERS OVER \$100,000**

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| FAR   | 52.203-6     | Restrictions on Subcontractor Sales to the Government (September 2006)                               |
| FAR   | 52.203-7     | Anti-Kickback Procedures (July 1995)   |
| FAR   | 52.203-12    | Limitation on Payments to Influence Certain Federal Transactions (September 2007)                    |
| FAR   | 52.215-2     | Audit and Records – Negotiations (June 1999)   |
| FAR   | 52.219-8     | Utilization of Small Business Concerns (May 2004)  |
| FAR   | 52.227-1     | Authorization and Consent (December 2007)  |
| FAR   | 52.227-2     | Notice and Assistance Regarding Patent and Copyright Infringement (December 2007)                    |
| DFARS | 252.203-7001 | Prohibition of Persons Convicted of Fraud or Other Defense-Contract-Related Felonies (December 2004) |
| DFARS | 252.247-7023 | Transportation of Supplies by Sea (May 2002)   |

**V. CLAUSES APPLICABLE TO PURCHASE ORDERS OVER \$500,000**

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| FAR | 52.219-9 | Small Business Subcontracting Plan (November 2007) |
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| FAR   | 52.230-2     | Cost Accounting Standards (April 1998)   |
| FAR   | 52.230-3     | Disclosure and Consistency of Cost Accounting Practices (April 1998)                       |
| FAR   | 52.230-6     | Administration of Cost Accounting Standards (April 2005)                                   |
| DFARS | 252.219-7003 | Small, small disadvantaged and women-owned small business subcontracting plan (April 1996) |

**VI. CLAUSES APPLICABLE IN OTHER SPECIFIED CIRCUMSTANCES**

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| FAR | 52.203-13 | Contractor Code of Business Ethics and Conduct (Dec 2008) this clause applies to contracts over \$5,000,000 and 120 days performance.   |
| FAR | 52.203-14 | Display of Hotline Poster(s) (If Contract value equals or exceeds \$5,000,000. (December 2007))   |
| FAR | 52.204-2  | Security Requirements, "Government" shall retain its meaning. References to the "Changes" clause shall mean the "Changes" clause of this AGREEMENT. (August 1996)   |
| FAR | 52.215-10 | Price Reduction for Defective Cost or Pricing Data. The obligations that FAR 52.215-12 in Buyer's Contract requires of the subcontractors are hereby required of the Seller. "Government" shall mean "Government or Buyer". Buyer's rights under this clause shall not limit Buyer's rights under any other provision of this AGREEMENT. Seller shall indemnify and hold Buyer harmless from any loss, damage, and/or expense, including burden and profit, incurred by Buyer as a result of Seller or its subcontractor's failure to comply with the requirements of FAR 52.215-12 and this clause; including failure of Seller or a subcontractor to furnish cost or pricing data which was required to be complete, accurate and current and to be submitted to support a cost estimate furnished by the Buyer, but which was not complete, accurate and current as of the date certified in the Certificate of Current Cost or Pricing Data furnished by the Buyer to its customer. The price or cost and fee of this order shall be reduced by the loss, damage, and/or expense incurred by Buyer and the order shall be modified in writing as may be necessary to reflect such reduction. Seller shall immediately repay to Buyer any sums previously paid by Buyer which are in excess of the unit or total order price as reduced hereunder. (October 1997)  |
| FAR | 52.215-11 | Price Reduction for Defective Cost or Pricing Data – Modifications "Government" shall mean "Government or Buyer". In subparagraph (a), the threshold for the submission of cost or pricing data shall be the threshold applicable to Buyer's contract. Buyer's rights under this clause shall not limit Buyer's rights under any other provision of this AGREEMENT. The obligations which FAR clause 52.215-12 requires of subcontractors are required of Seller; Seller shall indemnify and hold Buyer harmless from any loss, damage, and/or expense, including burden and profit, incurred by Buyer as a result of Seller or its subcontractor's failure to comply with the requirements of FAR 52.215-12 and this clause; including failure of Seller or a subcontractor to furnish cost or pricing data which was required to be complete, accurate and current and to be submitted to support a cost estimate furnished by the Buyer, but which was not complete, accurate and current as of the date certified in the Certificate of Current Cost or Pricing Data furnished by the Buyer to its customer. The price or cost and fee of this order shall be reduced by the loss, damage, and/or expense incurred by Buyer and the order shall be modified in writing as may be necessary to reflect such reduction. Seller shall immediately repay to Buyer any sums previously paid by Buyer which are in excess of the unit or total order price as reduced hereunder. (October 1997) |
| FAR | 52.215-12 | Subcontractor Cost or Pricing Data In subparagraph (a) and (c), the threshold for the submission of cost or pricing data shall be the threshold applicable to Buyer's contract The obligations which FAR clause 52.215-12 requires of subcontractors are required of Seller; Seller shall indemnify and hold Buyer harmless from any loss, damage, and/or expense, including burden and profit, incurred by Buyer as a result of Seller or its subcontractor's failure to comply with the requirements of FAR 52.215-12 and this clause; including failure of Seller or a subcontractor to furnish cost or pricing data which was required to complete, accurate and current and to be submitted to support a cost estimate furnished by the Buyer, but which was not complete, accurate and current as of the date certified in the Certificate of Current Cost or Pricing Data furnished by the Buyer to its customer. The price or cost and fee of this order shall be reduced by the loss, damage, and/or expense incurred by Buyer and the order shall be modified in writing as may be necessary to reflect such reduction. Seller shall immediately repay to Buyer any sums previously paid by Buyer which are in excess of the unit or total order price as reduced hereunder. (October 1997)   |
| FAR | 52.215-13 | Subcontractor Cost or Pricing Data – Modifications Data In subparagraph (b) and (d), the threshold for the submission of cost or pricing data shall be the threshold applicable to Buyer's contract The obligations which FAR clause 52.215-12 requires of subcontractors are required of Seller; Seller shall indemnify and hold Buyer harmless from any loss, damage, and/or expense, including burden and profit, incurred by Buyer as a result of Seller or its subcontractor's failure to comply with the requirements of FAR 52.215-12 and this clause; including failure of Seller or a subcontractor to furnish cost or pricing data which was required to complete, accurate and current and to be submitted to support a cost estimate furnished by the Buyer, but which was not complete, accurate and current as of the date certified in the Certificate of Current Cost or Pricing Data furnished by the Buyer to its customer. The price or cost and fee of this order shall be reduced by the loss, damage, and/or expense incurred by Buyer and the order shall be modified in writing as may be necessary to reflect such reduction. Seller shall immediately repay to Buyer any sums previously paid by Buyer which are in excess of the unit or total order price as reduced hereunder. (October 1997)  |
| FAR | 52.215-15 | Pension Adjustments and Asset Reversions "Government" retains its meaning. "Contracting Officer" shall mean "Government Contracting Officer through Buyer's Representative". (October 2004)   |

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| FAR   | 52.215-19    | Notification of Ownership Changes. (October 1997)  |
| FAR   | 52.215-23    | Limitation on Pass-Through Charges (Applies to Subcontracts in excess of \$650,000 (October 2009).)  |
| FAR   | 52.223-7     | Notice of Radioactive Materials Insert "30" in the blank in subparagraph (a). "Contracting Officer" shall mean "Government Contracting Officer and Buyer's Representative". (January 1997)   |
| FAR   | 52.227-9     | Refund of Royalties (April 1984)   |
| FAR   | 52.227-10    | Filing of Patent Applications-Classified Subject Matter (December 2007)  |
| FAR   | 52.227-11    | Patent Rights-Retention by the Contractor (Short Form) (December 2007)   |
| FAR   | 52.233-3     | Protest After Award Applicable if Buyer's customer has directed Buyer to stop performance of the work pursuant to this clause in Buyer's contract, whereupon Buyer may direct Seller by written order to stop performance. Subsection (b) (2) is modified to provide that Seller shall assert any right to an adjustment under this clause within fifteen (15) days after the work stoppage is lifted. (August 1996) |
| DFARS | 252.223-7006 | Prohibition on Storage and Disposal of Toxic and Hazardous Materials (April 1993)  |
| DFARS | 252.222-7999 | Additional Requirements and Responsibilities Restricting the Use of Mandatory Arbitration Agreements (applies only to orders in excess of \$1 million utilizing funds appropriated by the Fiscal Year 2010 Defense Appropriations Act (Pub. L. 111-118) except in contracts for commercial items)  |

48. **REPRESENTATIONS AND CERTIFICATIONS.** The following representations and certifications are material representations relied upon by Buyer in making award to Seller. Seller shall notify Buyer of any change of circumstances affecting representations and certifications made by Seller. *The representations and certifications as set forth below omit several choices that appear in the FAR version. By executing this Purchase Order, Seller represents that it has considered the full FAR version of the representations and certifications before executing this Purchase Order and affirms that the representations and certifications below are accurate.*

**FAR 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (September 2007).** Applicable only if this Purchase Order exceeds \$100,000.

- (a) The definitions and prohibitions contained in the clause, at FAR 52.203-12 (September 2007), Limitation on Payments to Influence Certain Federal Transactions, included in this solicitation, are hereby incorporated by reference in paragraph (b) of this certification.
- (b) Seller, by signing its offer, hereby certifies to the best of his or her knowledge and belief that on or after December 23, 1989 –
  - (1) 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 his or her behalf in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement;
  - (2) If any funds other than Federal funds (including profit or fee received under a covered Federal transaction) 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 his or her behalf in connection with this solicitation, the Seller shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the Government Contracting Officer; and
  - (3) Seller will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.
- (c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, title 31, United States Code. Any person who makes an expenditure prohibited under the provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

**FAR 52.209-5 Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters (Dec. 2001).**

- a. (1) Seller certifies, to the best of its knowledge and belief, that-
  - (i) The Seller and/or any of its Principals-
    - (A) Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;
    - (B) Have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against the for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract

or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

(C) Are not recently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B).

(ii) The Seller has not, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

This Certification Concerns a Matter Within the Jurisdiction of an Agency of the United States and the Making of a False, Fictitious, or Fraudulent Certification May Render the Maker Subject to Prosecution Under Section 1001, Title 18, United States Code.

**FAR 52.222-22 Previous Contracts and Compliance Reports (February 1999).**

Seller represents that if Seller has participated in a previous contract or subcontract subject to the Equal Opportunity clause (FAR 52.222-26): (i) Seller has filed all required compliance reports; and (ii) that representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

**FAR 52.223-13 Certification of Toxic Chemical Release (August 2003).**

Applicable to Purchase Orders in excess of \$100,000 if FAR 52.223-14 (August 2003) is included in Buyer's Contract.

(a) Submission of this certification is a prerequisite for making or entering into this contract imposed by Executive Order 13148, April 21, 2000.

(b) By signing this Purchase Order, Seller certifies that-

As the owner or operator of facilities that will be used in the performance of this contract that are subject to the filing and reporting requirements described in section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA)(42 U.S.C. 11023) and section 6607 of the Pollution Prevention Act of 1990 (PPA)(42 U.S.C. 13106). Seller will file and continue to file for such facilities for the life of the Purchase Order the Toxic Chemical Release Inventory Form (Form R) as described in sections 313 (a) and (g) for EPCRA and section 6607 of PPA.

Seller acknowledges it has had the opportunity to inquire as to the clauses present in Buyer's contract and agrees to be bound to such clauses. Any reference to a "Default" clause shall mean Paragraph 19b, "Termination for Clause" of the this Agreement