

**SUPPLEMENTAL GENERAL PROVISIONS AND FAR/DFAR FLOWDOWN  
PROVISIONS FOR SUBCONTRACTS/PURCHASE ORDERS IN SUPPORT OF  
COMMERCIAL ITEMS UNDER A U.S. GOVERNMENT PRIME CONTRACT**

1. **AMENDMENTS REQUIRED BY PRIME CONTRACT:** Seller agrees that upon the request of Buyer it will negotiate in good faith those amendments to this Purchase Order which Buyer reasonably deems necessary in order to comply with the provisions of the applicable Prime Contract or with the provisions of any amendments to such Prime Contract.
2. **E-VERIFY:** Seller shall comply with all necessary requirements of FAR 52.222-54 Employment Eligibility Verification (October 2015).
3. **REQUIREMENTS FOR COST OR PRICING DATA:** Seller agrees to meet the terms of the FAR 52.215-20 Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data (October 2010) and the FAR 52.215-21 Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data – Modifications as necessary to support information requests under the Prime Contract (October 2010).
4. **PROPERTY:** The Government Property Clause FAR 52.245-2 (April 2012) shall apply to Government furnished property, or to property which the Government acquires or may acquire title to under the Prime Contract and Seller agrees to comply with all applicable provisions of such Clause.

If this activity is in support of a Department of Energy Contract, then Equipment or tooling acquired by Seller that is paid for by Buyer shall be subject to the rules set forth in 10 CFR 600.130-137, 10 CFR 600.231-233, and/or 10 CFR 600.320-324 as applicable.

5. **NEW MATERIALS:** The work to be delivered hereunder shall consist of new materials, as defined in FAR 52.211-5 (August 2000).
6. **COUNTERFEIT PARTS PREVENTION:** “Counterfeit Work” shall mean a part, component, module or assembly whose origin, material, source of manufacture, performance or characteristics are misrepresented. Counterfeit Work includes, but is not limited to, parts that have been marked/remarked to disguise them or falsely represent the identity of the manufacturer, defective parts and/or surplus material scrapped by the original manufacturer or previously used parts pulled or reclaimed and provided as new.
  - a. Seller agrees and shall ensure that Counterfeit Work is not delivered to Buyer.
  - b. Seller shall only purchase products to be delivered or incorporated as Work to Buyer from the Original Components 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 advanced by Buyer.
  - c. If Seller is providing electronic components/devices, a Certification of Origin of Product will be included with shipment/s stating “Seller warrants that the products included are OEM/OCM components and do not include any Counterfeit Work. Seller agrees to supply to Buyer, upon request, the OEM/OCM acquisition documentation that authenticates traceability of the components to that applicable OEM/OCM.
  - d. Seller shall maintain a documented system of policies and procedures that will immediately notify Buyer with the pertinent facts if Seller becomes aware or suspects that Seller has furnished Buyer with Counterfeit Work. When requested by Buyer, Seller shall provide OCM/OEM documentation that authenticates traceability of the affected items to the applicable OCM/OEM.
  - e. This clause applies in addition to any quality provision, specification, statement of work or other provision included in this Purchase Order addressing the authenticity of Work. To the extent such provisions conflict with this clause, the terms of this clause shall prevail.

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- f. In the event that Work delivered under this Purchase Order constitutes or includes Counterfeit Work, Seller shall, at its expense, promptly replace such Counterfeit Work with genuine Work conforming to the requirements of this Purchase Order. Notwithstanding any other provision in this Purchase Order, Seller shall be liable for all costs relating to the removal and replacement of Counterfeit Work, including without limitation Buyer's costs of removing Counterfeit Work, of reinserting replacement Work and of any testing necessitated by the reinstallation of Work after Counterfeit Work has been exchanged. The remedies contained in this paragraph are in addition to any other remedies Buyer may have at law, equity or under other provisions of this Purchase Order.
  - g. Seller shall include this requirement in lower tier subcontracts for the delivery of items that will be included in or furnished as Work to Buyer.
- 7. **BUY AMERICAN ACT - SUPPLIES:** Seller shall deliver only domestic end products except to the extent that it has specified delivery of foreign end products as notified to Buyer in the "Buy American Act Certificate" as required under 41 USC 10a-10d.
- 8. **DEFENSE PRIORITIES AND ALLOCATIONS SYSTEMS (DPAS) REGULATIONS:** If this order and/or specific releases are identified with a rated order certified for national defense, emergency preparedness, or energy program use, Seller shall follow all of the requirements of the Defense Priorities and Allocations System regulations (15 CFR 700).
- 9. **INCORPORATION OF FEDERAL ACQUISITION REGULATION (FAR) CLAUSES: 52.244-6 Subcontracts for Commercial Items (August 2019).** The Federal Acquisition Regulation (FAR) clauses referenced below are incorporated herein by reference, with the same force and effect as if they were given in full text, and are applicable, including any notes following the clause citation, during the performance of this Contract.
  - 52.203-13 Contractor Code of Business Ethics and Conduct (October 2015) (41 U.S.C. 3509), if the subcontract exceeds \$5.5 million and has a performance period of more than 120 days. In altering this clause to identify the appropriate parties, all disclosures of violations 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 (June 2010) (Section 1553 of Pub. L 111-5), if the subcontract is funded under the Recovery Act.
  - 52.203-19 Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (January 2017).
  - 52.204-21 Basic Safeguarding of Covered Contractor Information Systems (June 2016), other than subcontracts for commercially available off-the-shelf items, if flow down is required in accordance with paragraph (c) of FAR clause 52.204-21.
  - 52.219-8 Utilization of Small Business Concerns (November 2016) (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 \$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.
  - 52.222-21 Prohibition of Segregated Facilities (April 2015).
  - 52.222-26 Equal Opportunity (September 2016) (E.O. 11246).

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52.222-35 Equal Opportunity for Veterans (October 2015) (38 U.S.C. 4212(a));

52.222-36 Affirmative Action for Workers with Disabilities (July 2014) (29 U.S.C. 793).

52.222-37 Employments Reports on Veterans (February 2016) (38 U.S.C. 4212).

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 (January 2019) (22 U.S.C. chapter 78 and E.O. 13627).

52.222-55 Minimum Wages under Executive Order 13658 (December 2015), if flow down is required in accordance with paragraph (k) of FAR 52.222-55.

52.222-59 Compliance with Labor Laws (Executive Order 13673) (January 2017), if the estimated subcontract value exceeds \$500,000, and is for other than commercially available off-the-shelf items.

52.222-60 Paycheck Transparency (Executive Order 13673) (October 2016), if the estimated subcontract value exceeds \$500,000, and is for other than commercially available off-the-shelf items.

52.222-62 Paid Sick Leave Under Executive Order 13706 (January 2017) (E.O. 13706), if flow down is required in accordance with paragraph (m) of FAR clause 52.222-62.

52.224-3 Privacy Training (January 2017)

52.247-64 (February 2006) 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.

**10. IF PURCHASE ORDER IS IN SUPPORT OF A US GOVERNMENT DEFENSE CONTRACT, SELLER SHALL COMPLY WITH THE REQUIRED DEFENSE FEDERAL ACQUISITION REGULATION (DFAR) CLAUSES: 252.244-7000 SUBCONTRACT FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS (DOD CONTRACTS).** The Defense Federal Acquisition Regulation (DFAR) clauses referenced below are incorporated herein by reference, with the same force and effect as if they were given in full text, and are applicable, including any notes following the clause citation, during the performance of this Contract.

252.223-7008 Prohibition of Hexavalent Chromium (June 2013)

252.225-7007 Prohibition on Acquisition of Certain Items from Communist China Military Companies (December 2018)

252.225-7009 Restriction on Acquisition of Certain Articles Containing Specialty Metals (October 2014).

252.227-7015 Technical Data-Commercial Items (February 2014).

252.227-7037 Validation of Restrictive Marking on Technical Data (Sept 2016).

252.246-7003 Notification of Potential Safety Issues (June 2013).

252.247-7023 Transportation of Supplies by Sea (February 2019).

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252.247-7024 Reserved.

252.204-7012 Safeguarding Covered Defense Information and Cyber Incident (October 2016).

**11. CERTIFICATIONS AND REPRESENTATIONS:** This Subsection contains certifications and representations by Seller that are material representations of fact upon which Buyer will rely. These certifications and representations shall apply whenever these terms and conditions are incorporated by reference in any Contract, agreement, other contractual document or any quotation, request for quotation (oral or written), request for proposal or solicitation (oral or written), issued by Buyer or Seller. Seller shall immediately notify Buyer of any change of status with regard to these certifications and representations.

- Seller represents and warrants that the work provided under this Contract constitutes a “Commercial Item” as defined in FAR 2.101.
- FAR 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (SEP 2007) (Applicable to solicitations and contracts exceeding \$150,000).

(1) Definitions. As used in this provision--"Lobbying contact" has the meaning provided at 2 U.S.C. 1602(8).

The terms "agency," "influencing or attempting to influence," "officer or employee of an agency," "person," "reasonable compensation," and "regularly employed" are defined in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" (52.203-12).

(2) Prohibition. The prohibition and exceptions contained in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" (52.203-12) are hereby incorporated by reference in this provision.

(3) Certification. Seller hereby certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on its behalf in connection with the awarding of this contract.

(4) Disclosure. If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of Seller with respect to this contract, Seller shall complete and submit, with its offer, to Buyer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. Seller need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.

(5) Penalty. Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by 31 U.S.C. 1352. Any person who makes expenditure prohibited under this provision or who fails to file or amend the disclosure required to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000 for each such failure.

- FAR 52.209-5 -- Certification Regarding Responsibility Matters (October 2015) (Applies to Contracts that exceed \$150,000)

(a) (1) Seller certifies, to the best of its knowledge and belief, that --

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(i) 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 them 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, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property; and

(C) Are not presently 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) of this provision; and

(D) Have not within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds \$3,500 for which the liability remains unsatisfied.

(1) Federal taxes are considered delinquent if both of the following criteria apply:

(i) *The tax liability is finally determined.* The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

(ii) *The taxpayer is delinquent in making payment.* A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.

(ii) 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.

(b) Seller shall provide immediate written notice to Buyer if, at any time prior to contract award, Seller learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

- FAR 52.209-6 Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (October 2015)

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- (1) Seller certifies that, to the best of its knowledge and belief, Seller and/or any of its Principals (as defined in FAR 52.209-6), are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency.
    - (2) Seller shall provide immediate written notice to Buyer if, any time prior to award of any Contract, it learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
  - FAR 52.222-22 Previous Contracts and Compliance Reports. (FEB 1999)
    - (1) Seller certifies that if Seller has participated in a previous contract or subcontract subject to Equal Opportunity clause (FAR 52.222-26) (i) Seller has filed all required compliance reports and (ii) representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.
  - FAR 52.222-25 Affirmative Action Compliance. (APR 1984)
    - (1) Seller represents that (1) Seller has developed and has on file at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 C.F.R. 60-1 and 60-2), or (2) in the event such a program does not presently exist, Seller will develop and place in operation such a written Affirmative Action Compliance Program within 120 days from the award of this Contract.
  - FAR 52.203-7 Anti-Kickback Procedure (May 2014)
    - (1) By accepting this Contract, Seller certifies and represents that it has not made or solicited and will not make or solicit kickbacks in violation of FAR 52.203-7 or the Anti-Kickback Act of 1986 (41 U.S.C. Chapter 87), which provisions are incorporated herein by this specific reference if this contract exceeds \$150,000, except that paragraph (c) (1) of FAR 52.203-7 shall not apply.
  - FAR 52.212-3 Offeror Representations and Certifications – Commercial Items (October 2018)
    - (1) Seller shall complete the annual representations and certifications electronically via the System for Award Management (SAM) located at <http://www.sam.gov>
- 12. COMPLIANCE WITH 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a): This contractor and subcontractor shall abide by the requirements of 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a). These regulations prohibit discrimination against qualified individuals on the basis of protected veteran status or disability, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities. To the extent applicable, the employee notice requirements set forth in 29 CFR Part 471, Appendix A to Subpart A, and the VETS-4212 reporting requirements set forth in 41 CFR § 61-300.10 are hereby incorporated by reference into this contract.**