

## General Provisions and FAR/DFARS Flowdown Provisions for Items/Services Under U.S. Government Prime Contracts for the E-6B, KC-135, and KC-10

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### SECTION I: GENERAL PROVISIONS

#### 1. Formation of Contract and Terms and Conditions

- (a) This Contract is Field's offer to SELLER. SELLER's signature on the Contract, acknowledgment, acceptance of payment, or commencement of performance, shall constitute SELLER's unqualified acceptance of this Contract. SELLER's acceptance of this Contract creates a binding Contract between Field and SELLER, which shall be governed by the provisions of this Contract.
- (b) This Contract integrates, merges, and supersedes any prior offers, negotiations, and agreements concerning the subject matter hereof and constitutes the entire agreement between the Parties.
- (c) Additional or differing terms or conditions proposed by SELLER or included in SELLER's acknowledgment hereof are hereby objected to by Field and have no effect unless accepted in writing by Field.

#### 2. Applicable Laws

- (a) This Contract shall be governed by the laws of the state of Oklahoma, excluding its choice of laws rules, except that any provision in this Contract that is (i) incorporated in full text or by reference from the Federal Acquisition Regulation (FAR); or (ii) incorporated in full text or by reference from any agency regulation that implements or supplements the FAR or; (iii) that is substantially based on any

such agency regulation or FAR provision, shall be construed and interpreted according to the federal common law of government contracts as enunciated and applied by federal judicial bodies, Boards of Contracts Appeals, and quasi-judicial agencies of the federal Government.

- (b) SELLER agrees to comply with all applicable laws, orders, rules, regulations, and ordinances of the United States and the country where SELLER will be performing the Contract. The provisions of the *United Nations Convention on Contracts for International Sale of Goods* shall not apply to this Contract.
- (c) In particular, if the Work is to be shipped to, or performed in the United States
  - (1) SELLER represents that each chemical substance constituting or contained in Work sold or otherwise transferred to Field hereunder is on the list of chemical substances compiled and published by the Administrator of the Environmental Protection Administration pursuant to the Toxic Substances Control Act (15 U.S.C. Sec. 2601 et seq.) as amended.
  - (2) SELLER shall provide to Field with each delivery any Material Safety Data Sheet applicable to the Work in conformance with and containing such information as required by the Occupational Safety and Health Act of 1970 and regulations promulgated thereunder, or its state-approved counterpart

### 3. Assignment and Subcontracting

- (a) Any assignment of SELLER's contract rights or delegation of duties shall be void, unless prior written consent is given by Field. However, SELLER may assign rights to be paid amounts due, or to become due, to a financing institution if Field is promptly furnished a signed copy of such assignment reasonably in advance of the due date for payment of any such amounts. Field shall have the right to make settlements and adjustments in price with SELLER without notice to the assignee.
- (b) Without Field's written consent, SELLER will not subcontract for the design, development, or procurement of any substantial portion of goods or services under this Contract. This limitation does not apply to SELLER's purchases of standard commercial supplies or raw materials.

### 4. Changes

- (a) Field may at any time, by written notice, and without notice to sureties or assignees, make changes within the general scope of this Contract in any one or more of the following: (i) drawings, designs, or specifications; (ii) method of shipping or packing; (iii) place of inspection, acceptance, or point of delivery; (iv) reasonable adjustments in quantities or delivery schedules or both; (v) amount of Field-furnished property; and, if this Contract includes services, (vi) description of services to be performed; (vii) quantity of services (i.e., hours to be worked); (viii) time of performance (e.g., hours of the day, days of the week); and (ix) place of performance. SELLER shall comply immediately with such direction.
- (b) If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of this Contract, Field shall make an equitable adjustment in the Contract price or delivery schedule or both, and modify the Contract accordingly. Changes to the delivery schedule will be subject to a price adjustment.
- (c) Any claim for an equitable adjustment by SELLER must be submitted in writing to the Field Procurement Representative within thirty (30) days from the date of notice of the change, unless the Parties agree in writing to a longer period.
- (d) Failure to agree to any adjustment shall be resolved in accordance with the *Disputes* clause of this Contract. However, nothing contained in this *Changes* clause shall excuse SELLER from proceeding without delay in the performance of this Contract as changed.

### 5. Commercial Computer Software

- (a) As used in this clause, "restricted computer software" means computer program, computer database, or related documentation that has been developed at private expense and is a trade secret, is commercial or financial and confidential or privileged, or is published and copyrighted, and so marked when delivered or otherwise furnished.
- (b) Notwithstanding any provisions to the contrary contained in any SELLER's standard commercial license or lease agreement, SELLER agrees that the restricted computer software delivered under this

Contract shall provide the following rights to Field and the U.S. Government.

- (1) The restricted computer software may be:
  - (i) Used or copied for use in or with the computer or computers for which it was acquired, including use at any government installation to which such computer or computers may be transferred;
  - (ii) Used or copied for use in or with a backup computer if any computer for which it was acquired is inoperative;
  - (iii) Reproduced for safekeeping (archives) or backup;
  - (iv) Modified, adapted, or combined with other computer software, provided that the modified, combined, or adapted portions of the derivative software incorporating any of the delivered, restricted computer software shall be subject to the same restrictions set forth in this Purchase Order or Contract;
  - (v) Disclosed to and reproduced for use by support service contractors or their subcontractors, subject to the same restrictions set forth in this Purchase Order or Contract; and
  - (vi) Used, copied for use in, or transferred to a replacement computer.
- (c) Release from liability: The SELLER agrees that the government or Field, and other persons to whom the government or Field may have released or disclosed commercial computer software delivered or otherwise furnished under this Contract, shall have no liability for any release or disclosure of such commercial computer software that are not marked to indicate that such software are licensed data subject to use, modification, reproduction, release, performance, display, or disclosure restrictions.

### 6. Communication with Field Customer

- (a) Field shall be solely responsible for all liaison and coordination with the Field customer, including the U.S. Government, as it affects the applicable prime contract, this Contract, and any related contract.
- (b) Unless otherwise directed in writing by the authorized Field Procurement Representative, all documentation requiring submittal to, or action by, the government or the Contracting Officer shall be routed to, or through, the Field Procurement Representative, or as otherwise permitted by this Contract.

### 7. Confidentiality

- (a) Unless otherwise addressed by a separate Confidentiality Agreement between the parties, Field and SELLER shall each keep confidential and protect from unauthorized use and disclosure for a period of three (3) years after receipt all (a) confidential, proprietary and/or trade secret information; (b) tangible items containing, conveying or embodying such information; and (c) tooling identified as being subject to this article and obtained, directly or indirectly, from the other in connection with this

contract (collectively referred to as a "Proprietary Information and Materials").

- (b) Field and SELLER shall each use Proprietary Information and Materials of the other only in connection with this contract. However, despite any other obligations or restrictions imposed by this article, Field shall have the right to use, disclose and reproduce SELLER's Proprietary Information and Materials, and make derivative works thereof, in connection with this contract. Any such use, disclosure, reproduction or derivative work by Field shall, whenever appropriate, include a restrictive legend suitable to the particular circumstances. The restrictions on disclosure or use of Proprietary Information and Materials by SELLER shall apply to all materials derived by SELLER or others from Field's Proprietary Information and Materials.
- (c) Upon Field's request at any time, and in any event upon the completion, termination or cancellation of this contract, SELLER shall return to Field all of Field's Proprietary Information and Materials and all materials derived there from (except for one archival copy), unless specifically directed otherwise in writing by Field or a United States of America Government Contracting Officer.
- (d) SELLER may disclose Proprietary Information and Materials of Field to its subcontractors as required in connection with this contract program, provided that each such subcontractor first agrees in writing to substantially the same obligations imposed upon SELLER under this article relating to Proprietary Information and Materials.
- (e) The provisions of this article control in the event of a conflict with any restrictive legends or notices applied to Proprietary Information and Materials. The provisions of this article shall survive the performance, completion, termination or cancellation of this contract.

## 8. Contract Direction

- (a) Only the Field Procurement Representative has authority to amend this Contract. Such amendments must be in writing.
- (b) Field engineering and technical personnel may render assistance or give technical advice or discuss or effect an exchange of information with SELLER's personnel concerning the Work hereunder. Such actions shall not be deemed to be a change under the **Changes** clause of this Contract and shall not be the basis for equitable adjustment.
- (c) Action or direction by any Field customer shall not be deemed to be a change under the **Changes** clause of this Contract and shall not be the basis for equitable adjustment.
- (d) Except as otherwise provided herein, all notices to be furnished by the SELLER shall be sent to the Field Procurement Representative.

## 9. Default

- (a) Field, by written notice, may terminate this Contract for default, in whole or in part, if SELLER fails to comply with any of the terms of this Contract, fails to make reasonable progress in its performance of this

Contract, or fails to provide adequate assurance of future performance. SELLER shall have ten (10) days (or a longer period, which Field may authorize in writing) to cure any such failure after receipt of notice from Field. Defaults involving delivery schedule delays shall not be subject to the cure provision.

- (b) Field shall not be liable for any Work not accepted; however, Field may require SELLER to deliver to Field any supplies and materials, manufacturing materials, and manufacturing drawings that SELLER has specifically produced or acquired for the terminated portion of this Contract. Field and SELLER shall agree on the amount of payment for these other deliverables.
- (c) SELLER shall continue all Work not terminated.
- (d) If after termination under paragraph (a), it is later determined that SELLER was not in default, such termination shall be deemed a Termination for Convenience.

## 10. Definitions

The following terms shall have the meanings set forth below:

- (a) "Contract" means the instrument of contracting (e.g., PO, Purchase Order, or other such designation), including all referenced documents, exhibits, and attachments. If these terms and conditions are incorporated into a master agreement that provides for releases (in the form of a Purchase Order or other such document), the term "Contract" shall also mean the release document for the Work to be performed.
- (b) "FAR" means the Federal Acquisition Regulation, issued as Chapter 1 of Title 48, Code of Federal Regulations.
- (c) "Field" means ASES, LLC d/b/a Field Aerospace.
- (d) "Field Procurement Representative" means the person authorized by Field's cognizant procurement organization to administer this Contract.
- (e) "PO" or "Purchase Order" as used in any document constituting a part of this Contract shall mean this Contract.
- (f) "SELLER" means the Party identified on the title page of the Contract, with whom Field is contracting.
- (g) "Work" means all required articles, materials, supplies, goods, and services constituting the subject matter of this Contract.

## 11. Disputes

- (a) Any dispute, controversy, or claim arising out of or relating to this Contract or default, termination, or invalidity hereof, shall be settled by arbitration under the rules of the American Arbitration Association, with the following exception:
  - (1) Field may not require independent contractors to utilize arbitration to resolve any claim under Title VII of the 1964 Civil Rights Act or any tort related to or arising out of sexual assault or harassment, including assault and battery, intentional infliction of emotional distress, false imprisonment, or

negligent hiring, supervision, or retention; or take any action to enforce any provision of an existing agreement with an independent contractor that requires the arbitration of such claims.

- (2) SELLER agrees that it will not enter into or take any action to enforce similar arbitration agreements with respect to any employee or independent contractor performing work related to such contracts. (Effective June 17, 2010; Applicable to subcontracts in excess of \$1 million)  
Note: A certification to above provision is included in the *Certifications Section of this document*.

- (b) The place of the arbitration shall be Oklahoma. The language to be used in the arbitral proceedings shall be English. Judgment of the arbitrators shall be final and non-appealable and may be entered in any court having jurisdiction or application may be made to such court for a judicial acceptance of the award and an order of the enforcement. Each Party shall bear its own expenses of the arbitration, but the fees and costs of the arbitrators shall be borne equally between the Parties participating in the arbitration.
- (c) Consistent with the expedited nature of arbitration, each party will, upon the written request of the other party, promptly provide the requesting party with copies of documents relevant to the issues raised by any claim or counter claim. Any dispute regarding discovery, or the relevance or scope thereof, shall be determined by the arbitrators, whose determination shall be conclusive. All discovery shall be completed within thirty (30) days following the appointment of the arbitrators.
- (d) No action at law or in equity may be commenced by Field or SELLER under or arising from this Contract unless it is brought within two years after the accrual of the cause of action upon which the claim is based, regardless of whether Field or SELLER knew or should have known of the accrual of any such cause of action.
- (e) Notwithstanding the foregoing, in the event of a breach or threatened breach by Field or SELLER under the *Confidentiality* or *Intellectual Property* provisions of this Contract, Field or SELLER may forego arbitration under this provision and seek immediate judicial and equitable remedies, including, but not limited to, injunctive relief or specific performance.
- (f) Until final resolution of any dispute hereunder, SELLER shall diligently proceed with the performance of this Contract as directed by the Field Procurement Representative.

## 12. Excusable Delay

- (a) Subject to (b) and when mutually agreed by the Parties, SELLER shall be excused from, and shall not be liable for, failure of performance due to one or more of the following qualifying events (such list being exclusive):
- (1) War; warlike operation; insurrection; riot; fire, flood, explosion, accident, governmental act; material control regulations or orders; act of God; act of the public enemy; epidemic; quarantine restriction, and strikes; and if
- (2) Such event was beyond SELLER's control and not occasioned by its negligence or default. The Contract will be extended for that period of time attributable to such event

- (b) To be excused from performance under (a) SELLER shall submit, within ten (10) calendar days of the start of the qualifying event, a written notice stating a complete and detailed description of such event, the date of commencement, an estimate of the probable period of delay, and explanation indicating how such event was beyond the control of the SELLER and not due to its negligence or fault and what efforts SELLER will make to minimize the length of the delay. SELLER shall use its best efforts to cure the qualifying event. SELLER shall submit within ten (10) calendar days of the end of the event a written notice stating the impact to the schedule and evidence justifying the length of the delay. If the delay extends for thirty (30) days or more, this Contract may be terminated by Field without additional cost and Field may elect to return to SELLER for a refund that portion of the work delivered to Field prior to the occurrence of the qualifying event.
- (c) Failure of the U.S. Government to issue any required export license, or withdrawal or termination of a required export license by the U.S. Government, shall relieve Field of its obligations under this Contract, and shall relieve SELLER of its corresponding obligations.

## 13. Export Control Compliance for Foreign Persons

- (a) SELLER agrees to comply fully with all applicable U.S. export control laws
- (b) All manufacturers, exporters, and brokers of defense articles, defense services, or related technical data, as defined on the United States Munitions List (Part 121 of the ITAR), are required to register with DDTC as authorized by 22 U.S.C. 2778 (b) (1) (A) (i) and (ii); and 22 CFR Part 122, 129.3 and 129.4. The subject Work of this Contract (together including data, services, and hardware provided hereunder, hereinafter "Controlled Technology") may be controlled for export purposes under the International Traffic in Arms Regulations (ITAR) controlled by the U.S. Department of State or the Export Administration Regulations ("EAR") controlled by the U.S. Department of Commerce. ITAR controlled technology may not be exported without prior written authorization and certain EAR technology requires a prior license depending upon its categorization, destination, end-user and end-use. SELLER shall obtain the authority of either an Export License or an applicable License Exception before permitting the export of any information, technical data, technology, services, software, equipment, or the direct product thereof, generated by or delivered to SELLER under this Contract. SELLER shall obtain the authority of either an Export License or an applicable License Exception before assigning any foreign persons or foreign sources to perform work under this Contract or before permitting any foreign persons or foreign sources to have access to any information, technical data, technology, services, software, equipment, or the direct product thereof, generated by or delivered SELLER under this Contract. "Foreign person" is any person who is not a citizen or national of the United States and includes individuals, foreign corporations, international organizations, and foreign governments. "Foreign source" includes vendors, subcontractors, and suppliers owned and controlled by a foreign person.

- (c) SELLER hereby certifies that all SELLER employees who have access to the Controlled Technology are U.S. citizens, have a valid green card or, have been granted political asylum or refugee status in accordance with 8 U.S.C. 1324b(a)(3). Any non-citizens who do not meet one of these criteria have been authorized under export licenses to perform their work hereunder.
- (d) SELLER further certifies that all SELLER employees assigned to work on this Contract are U.S. citizens, U.S. Permanent Residents, non-immigrants authorized to work in the U.S. or non-immigrants who have been granted political asylum or refugee status in accordance with 8 U.S.C. 1324b(a)(3).
- (e) SELLER agrees to notify Field if any deliverable Work under this Contract is restricted by export control laws or regulations.
- (f) SELLER shall immediately notify the Field Procurement Representative if SELLER is listed in any Denied Parties List or if SELLER's export privileges are otherwise denied, suspended, or revoked in whole or in part by any U.S. Government entity or agency. At Field's request, SELLER will provide Field with all data Field may need to apply for and obtain an Export License or applicable License Exception.

#### 14. Extras

Work shall not be supplied in excess of quantities specified in the Contract. SELLER shall be liable for handling charges and return shipment costs for any excess quantities.

#### 15. Furnished Property (Furnished and SELLER-Acquired)

- (a) Field may provide to SELLER property owned by either Field or its customer (Furnished Property). Furnished Property shall be used only for the performance of this Contract. Title to Furnished Property shall be retained by Field or its customer. SELLER shall clearly mark all Furnished Property to show ownership.
- (b) SELLER-acquired property means property acquired, fabricated or otherwise provided by SELLER as part of performance under a Government-funded Field subcontract and to which the Government or Field has taken or will take title.
- (c) No less than annually and at completion of this Contract the SELLER shall submit, in an acceptable form, inventory lists of Furnished and SELLER-Acquired Property and shall deliver or make such other disposal as may be directed by Field. SELLER shall notify Field immediately when any property is lost, damaged, destroyed or stolen.
- (d) With respect to property to which the government may take title under this Contract:
  - (1) For this fixed priced Contract, the clause at FAR 52.245-1 Alternate 1 Government Property (AUG 2010) shall apply. Said clause is incorporated by reference, except as used therein "Government" means "Field" except in the phrases "Government-Furnished Property" and "Government Property," and in references

to government title to property. "Contracting Officer" means "Field."

- (2) If SELLER has an approved Government property system, SELLER shall provide approval documentation to Field within 5 days of contract award. SELLER shall provide to Field immediate notice of any disapproval, withdrawal of approval, or non-acceptance by the government of its property control system.

#### 16. Gratuities and Kickbacks

- (a) No gratuities (in the form of entertainment, gifts, or otherwise) or kickbacks shall be offered or given by SELLER to any employee of Field with a view toward securing favorable treatment as a supplier
- (b) 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 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.

#### 17. Importer of Record

(Applies only if the Contract involves importation of Work into the United States)

- (a) If elsewhere in the Contract Field is indicated as importer of record, SELLER warrants that all sales hereunder are or will be made at not less than fair value under the United States Anti-Dumping Laws (19 U.S.C. 1673 et seq.).
- (b) If elsewhere in the Contract Field is not indicated as importer of record, then SELLER agrees that:
  - (1) Field will not be a party to the importation of Works, the transactions represented by this Contract will be consummated after importation, and SELLER will neither cause nor permit Field's name to be shown as "Importer of Record" on any customs declaration; and
  - (2) Upon request and where applicable, SELLER will provide to Field a properly executed Customs Form 7501, Customs Entry.

#### 18. Indemnification

Seller hereby agrees to indemnify, defend and hold harmless Buyer, its affiliates and their respective successors and assigns, and its and their respective directors, officers, agents and employees, from and against any and all claims, liabilities, damages, losses, causes of action and judgments (a) brought by any person, corporation, governmental entity or other entity not a party to this Agreement, whether arising from injury or death to persons or loss or damage to property or otherwise (collectively "Third Party Claims"), and reasonable attorneys' fees and costs and expenses incident thereto to the extent such Third Party Claims arise from (i) any defect in the design, workmanship or material of any Item(s) or associated software delivered by Seller to Buyer hereunder and/or (ii) any negligence (whether active or passive) or willful misconduct of Seller, its subcontractors of any tier or its or their directors, officers agents, or employees; and (b)

arising out of or in connection with any breach by Seller of its warranty stated in Section 8 herein.,

## 19. Independent Contractor Relationship

SELLER is an independent contractor in all its operations and activities hereunder. The employees used by SELLER to perform Work under this Contract shall be SELLER's employees exclusively, without any relation whatsoever to Field, and shall not be entitled to participate in or receive any of Field's employee benefits.

## 20. Inspection and Acceptance

- (a) Field, its customer and cognizant (FAA, DOD, NASA, etc) Government Agencies shall have the right to visit the SELLER's facilities to inspect products, witness inspections, and tests and to evaluate the quality/inspection systems reasonable times (typically no less than five working days) and places, including, when practicable, during manufacture and before shipment. SELLER shall provide all information, facilities, and assistance necessary for safe and convenient inspection without additional charge. This right shall extend to Seller's subcontractors.
- (b) All item(s) provided pursuant to this Order by Seller or Seller's subcontractors shall be subject to inspection and test at all reasonable times and places, including the period of manufacture, by Buyer and Buyer's customer. No such inspection shall relieve SELLER of its obligations to furnish all Work in accordance with the requirements of this Contract. Field's final inspection and acceptance shall be at destination unless otherwise specified in this Contract. Notwithstanding any other terms and conditions of this Order, Seller shall be responsible to correct, at this expense, all latent defects, which cannot be discovered by Buyer through reasonable inspection methods.
- (c) SELLER shall not retender rejected Work without disclosing the corrective action taken.

## 21. Insurance and Liability to Third Parties

1. During the term of this Order, Seller shall maintain the following insurance coverage in form and amounts reasonably satisfactory to Buyer:
  - (a) Workers' Compensation as statutorily required in the State where the work is performed;
  - (b) Employers Liability insurance in an amount not less than \$1,000,000 per accident, per employee, per disease
  - (c) Commercial Automobile Liability insurance and, if necessary, Umbrella Liability insurance in a combined total amount not less than \$2,000,000 per accident covering bodily injury and property damage arising out the loading, unloading and use of owned, hired, and non-owned autos.
  - (d) Commercial General Liability insurance and, if necessary, Umbrella Liability in a combined total amount not less than with a limit not less than \$5,000,000 per occurrence to cover bodily injury and property damage arising out of premises, operations, independent contractors, product-completed operations, personal injury and advertising injury, and liability assumed under an insured contract.

2. If the product(s) sold to Buyer under this Order is (are) subject to an airworthiness certification pursuant to any government regulatory agency or in and of itself could be considered an aircraft product, Seller shall also maintain coverage for aircraft products liability in an amount not less than \$250,000,000 per occurrence and in the aggregate covering bodily injury or property damage sustained by any person, caused by an occurrence and arising out of an aircraft products hazard. Such insurance can be provided by
  - (a) an Aircraft Products Liability insurance policy or
  - (b) the endorsement of the Commercial General Liability policy described in Section 16.1(d) to include coverage for aircraft products.
3. All required insurance must be underwritten by insurance companies with a minimum rating by A.M. Best of "A-" or other rating equivalent and licensed to conduct business in all states or territories where this Order shall apply.
4. Seller shall cause its insurer to waive its rights of subrogation against Buyer with respects to Workers' Compensation
5. Seller shall provide Buyer a certificate of insurance attesting to the described above within
  - (a) Five (5) business days of signing this agreement and prior to the commencement of the Work and
  - (b) Ten (10) days of each policy renewal.
6. The certificate insurer shall endeavor to provide thirty (30) days written notice to Buyer in the event of policy cancellation or material change
7. It is specifically agreed that the types and amounts of insurance requested above shall not limit or otherwise affect Seller's obligation to indemnify and hold Buyer harmless as provided by Section 17 of this Order.

## 22. Intellectual Property Infringement

- (a) SELLER represents that to the best of its knowledge the SELLER's patents, copyrights, trademarks, trade secrets or similar rights relating to the maintenance, sale or use of goods furnished, or relating to, or used in, the work performed, pursuant to this contract do not infringe on any existing patents, copyrights, trade secrets or other intellectual property and proprietary rights of any third party nor has any claim (whether or not embodied in action, past or present) of such infringement been threatened or asserted, nor is such a claim pending against SELLER.
- (b) In the event of a breach of this representation, SELLER shall defend, at SELLER's own responsibility and expense, Field and Field's customer from any suit or claim against Field or Field's customer and SELLER shall indemnify and hold harmless Field and Field's customer from and against any and all claims, liabilities, losses, damages, and expenses provided Field (a) notifies SELLER promptly in writing of such claim; (b) allows SELLER to control the defense of such claims; and (c) reasonably cooperates with SELLER to defend such claim.
- (c) SELLER will have no obligation under this article with regard to any infringement arising from (a) SELLER's compliance with formal drawings or specifications issued by Field or U.S. Government where infringement could not be avoided in complying with such drawings or specifications or (b) use or sale of

products in combination with other items when such infringement would not have occurred from the use or sale of those products solely for the purpose for which they were designed or sold by SELLER.

- (d) SELLER will have no obligation under this article with regard to any infringement authorized by the Authorization and Consent clause in clause of the contract, provided SELLER complies with the Authorization and Consent and the Notice and Assistance Regarding Patent and Copyright Infringement clauses in clause.

### 23. Language and Standards

All reports, correspondence, drawings, notices, markings, and other communications shall be in the English language. The English version of the Contract shall prevail. Unless otherwise provided in writing, all documentation and Work shall use the units of U.S. standard weights and measures.

### 24. Limitation of Liability

- (a) In no event shall either SELLER or Field be liable to the other for any indirect, incidental or consequential damages arising out of or relating to this Agreement, regardless of the legal theory under which such damages are sought, and even if the parties have been advised of the possibility of such damages or loss.
- (b) Each Party shall indemnify and hold harmless the other, its officers, directors, employees and agents, against and from any liability, loss, damage, cost and expense (including attorneys' fees and costs of litigation) arising out of or in connection with any claim or action which any third party may file or threaten to file against either Party or its officers, directors, employees or agents arising out of, or resulting directly from, the negligent acts or omissions or the willful misconduct of it or its employees, directors, officers, representatives, and agents in the course of its performance of its obligations under this Agreement. The indemnification provided herein shall survive the termination of this Agreement.

### 25. New Materials

The Work to be delivered hereunder shall consist of new materials, as defined in FAR 52.211-5 (not used, reconditioned, remanufactured, or of such age as to impair usefulness or safety).

### 26. Offset Credit and Cooperation

All offset or countertrade credit value resulting from this Contract shall accrue solely to the benefit of Field. SELLER agrees to cooperate with Field in the fulfillment of any foreign offset or countertrade obligations.

### 27. Packing and Shipment

- (a) Unless otherwise specified, all Work is to be packed in accordance with good commercial practice to prevent damage and deterioration during shipping, handling, and storage.
- (b) A complete packing list shall be enclosed with all shipments. SELLER shall mark containers or packages with necessary lifting, loading, and shipping information, including the Field contract

number, item number, dates of shipment, and the names and addresses of consignor and consignee. Bills of lading shall include this Contract number.

- (c) For Work shipped within the United States, unless otherwise specified, delivery shall be FOB Destination. For Work imported into the United States, unless otherwise specified, delivery shall be DDP Field's facility indicated on the title page of the Contract in accordance with *INCOTERMS 1990*.

### 28. Payments, Taxes, Duties and Invoicing

- (a) Unless otherwise provided, terms of payment shall be net forty five (45) days from the latest of the following: (i) Field's receipt of the SELLER's proper invoice; (ii) scheduled delivery date of the Work (SELLER's proper invoice required); or (iii) actual delivery of the Work (SELLER's proper invoice required).
- (b) Payment shall be deemed to have been made as of the date of Field's mailed payment or electronic funds transfer.
- (c) Unless otherwise specified, prices include all applicable federal, state, and local taxes, as well as duties, tariffs, and similar fees imposed by any government, all of which shall be listed separately on the invoice. Prices shall not include any taxes, impositions, charges, or exactions for which Field has furnished a valid exemption certificate or other evidence of exemption.
- (d) All taxes, assessments and similar charges levied with respect to or upon any such products or Work owned by Field while in SELLER's possession or control, and for which no exemption is available, shall be borne by SELLER.
- (e) The prices stated in the Contract are firm, fixed prices in United States dollars.
- (f) All invoices must be submitted electronically in .pdf format and the invoice must reference the Subcontract/Purchase Order line that is being invoiced. The invoice must be sent to [accountspayable@fieldaero.com](mailto:accountspayable@fieldaero.com).
- (g) Each invoice must contain the following information: vendor name, vendor address, vendor point of contact, invoice number, invoice date and Field Aerospace Subcontract/Purchase Order number.

### 29. Precedence

Any inconsistencies in this Contract shall be resolved in accordance with the following (in descending order of precedence): (1) face of the Purchase Order, release document or schedule (which shall include continuation sheets), as applicable, including any special terms and conditions; (2) any master agreement, such as corporate, sector, or blanket agreements; (3) these General Provisions; and (4) Statement of Work.

### 30. Priority Rating

If so identified, this Contract is a "rated order," certified for national defense use, and the SELLER shall follow all the requirements of the *Defense Priorities and Allocation System Regulation* (15 C.F.R. Part 700).

### 31. Quality Control System

Unless this Contract contains other specific quality requirements,

- (a) SELLER shall provide and maintain a quality control system to an industry-recognized quality standard for the Work covered by this Contract. This system shall not be substantially changed during the period of performance without prior Field approval. If system certification is suspended for any reason during the period of performance, SELLER shall notify Field, in writing, within 4 calendar days; providing details of the reason(s) for suspension and the action plan SELLER will follow to address the suspension. Field reserves the right to hold periodic on-site reviews where SELLER shall report and deliver written status regarding progress against the action plan.
- (b) Quality Records shall be established and maintained by SELLER. Records shall provide evidence of conformity to contract requirements and to the effective operation of the quality control system. Unless specified otherwise, SELLER shall keep and upon request make available to Field, its customers, and regulatory authorities these records for a minimum of 4 years after order completion. Records shall be provided in the language required by the contract.
- (c) When manufacturing electrical components, SELLER shall establish workmanship plans and acceptance standards. The plans and acceptance standards shall be modeled after J-STD-001 "Requirements for Soldered Electrical and Electronic Assemblies" and ANSI/IPC-A-610 "Acceptability of Printed Board Assemblies". Workmanship requirements specified on component specifications or drawings or elsewhere in this contract take precedence over this paragraph.
- (d) The SELLER shall maintain a documented process to assure published data and specifications maintain a unique part number. The SELLER shall change the SELLER's part number when introducing changes which affect the performance, form, fit, function, or interchangeability of the SELLER's product.
- (e) The SELLER may be required to submit to initial and follow-up audits of their quality management system by Field or regulatory authorities to become, or remain, an approved supplier.
- (f) In the event of delivery of discrepant material, the SELLER is subject to the receipt of a Supplier Corrective Action Request (SCAR). Per requirements of the Supplier Corrective Action process, the SELLER is required to provide a Containment Statement and a root cause corrective action response. If SELLER fails to respond to SCAR or make progress on corrective actions, or fails to remedy discrepancies, Field may exercise its rights and remedies under the terminations section of this contract.
- (g) For SELLER manufacturing items to Field or customer-provided design data or SELLER providing aerospace related products/services, the following requirements shall apply, where appropriate:
  - (1) If the SELLER determines during production the product (intended for use or delivery to Field) does not conform to requirements, this product

shall be identified and controlled. The SELLER shall provide timely notification to Field regarding the nonconforming product.

- (2) If the SELLER determines at any time after delivery of product to Field the product does not conform to requirements, the SELLER shall notify Field within 24 hours of the nonconforming product.
- (3) If the SELLER determines during inspection the product (intended for use or delivery to Field) does not conform to requirements, this product shall be identified and controlled. The SELLER shall hold the product until dispositioned and approved by Field.
- (4) SELLER shall provide written notification to Field of any change in product design, materials, suppliers, production processes, manufacturing location, or management/ownership from those originally specified or quoted. Field must approve prior to change.
- (5) SELLER shall provide access to Field, Field customers, and all applicable regulatory authorities to applicable areas of all facilities, at any level of the supply chain, involved in the order and to all applicable records.
- (6) SELLER shall flow down to the supply chain the applicable requirements including customer requirements and key characteristics.
  - (i) Where a SELLER is designing hardware, Field shall participate in all design review activities and reserves the right to approve preliminary designs prior to proceeding to detailed design and final designs prior to proceeding to fabrication.
  - (j) For design, development, or manufacturing work affecting high-value, safety critical systems, Field may require that the SELLER be certified to AS9100, ISO 9001, or an FAA certificated quality system under FAR Part 145 or FAR Part 21.
  - (k) SELLER shall notify Field prior to any technical interchange meetings where the SELLER or its suppliers are presenting information to our customers. Sufficient notice will be given so that Field will have time to review the information or attend the meeting at its choosing.
  - (l) SELLER use of Field approved suppliers does not relieve SELLER of quality control requirements for product or services provided by those suppliers.
  - (j) SELLER shall ensure its employees and other persons performing work directly under SELLER's control are aware of their contribution to product or service conformity and product safety, and the importance of ethical behavior.

### 32. Release of Information

Except as required by law, no public release of any information, or confirmation or denial of same, with respect to this Contract or the subject matter hereof, will be made by SELLER without the prior written approval of Field.



### 33. Stop Work Order

- (a) SELLER shall stop Work for up to ninety (90) days in accordance with the terms of any written notice received from Field, or for such longer period of time as the Parties may agree, and shall take all reasonable steps to minimize the incurrence of costs allocable to the Work covered by this Contract during the period of Work stoppage.
- (b) Within such period, Field shall either terminate or continue the Work by written order to SELLER. In the event of a continuation, an equitable adjustment, in accordance with the principles of the **Changes** clause, shall be made to the price, delivery schedule, or other provision affected by the Work stoppage, if applicable, provided that the claim for equitable adjustment is made within thirty (30) days after such continuation.

### 34. Survivability

If this Contract is terminated for default or convenience, SELLER shall not be relieved of those obligations contained in this Contract for the following provisions:

- (a) Applicable Laws  
Export Control Compliance Independent Contractor Relationship  
Confidentiality  
Insurance and Liability to Third Parties  
Intellectual Property  
Limitation of Liability  
Release of Information  
Warranty
- (b) Those U.S. Government flowdown provisions that, by their nature, should survive.

### 35. Termination

- (a) BUYER may terminate this order, in whole or in part in accordance with the provisions of the "Default (Fixed Price Supply and Service)" clause set forth in FAR 52.249-8 if SELLER fails to comply with any of the provisions hereof, or if SELLER becomes insolvent or makes an assignment for the benefit of creditors.
- (b) Without affecting its right to terminate this order under paragraph (a) hereof, BUYER may, for its convenience, terminate this order in whole or, from time to time, in part, in accordance with the provisions of the applicable "Termination for Convenience of the Government (Fixed-Price)" clauses set forth in FAR 52.249-1 or FAR 52.249-2. In paragraph (e) of FAR 52.249-2, Change "1 Year" to "6 months."
- (c) For specially performed Work, Field's only obligation shall be to pay SELLER a percentage of the price reflecting the percentage of the Work performed prior to the notice of termination, plus reasonable charges that SELLER can demonstrate to the satisfaction of Field using generally accepted accounting principles, that have resulted from the termination. SELLER shall not be paid for any Work performed or costs incurred that reasonably could have been avoided.
- (d) In no event shall Field be liable for lost or anticipated profits, unabsorbed indirect costs or overhead, or any sum in excess of the total Contract price.

- (e) For other than specially performed Work, Field's only obligation to SELLER shall be payment of a mutually agreed-upon restocking or service charge.
- (f) SELLER shall continue all Work not terminated.

### 36. Timely Performance

- (a) Time is of the essence in this Contract. SELLER's timely performance is a critical element of this Contract.
- (b) Unless advance shipment has been authorized in writing by Field, Field may store, at SELLER's expense, or return, shipping charges collect and at SELLER's risk, all Work received in advance of the scheduled delivery date.
- (c) If SELLER becomes aware of difficulty in performing the Work, SELLER shall promptly notify Field, in writing, giving pertinent details. This notification shall not change any delivery schedule.
- (d) In the event of a termination for convenience or change, no claim will be allowed for any manufacture or procurement in advance of SELLER's normal flow time unless Field has given prior written consent.

### 37. Waiver and Approval

- (a) Failure by Field to enforce any of the provisions of this Contract shall not be construed as a waiver of the requirements of such provisions, or as a waiver of the right of Field thereafter to enforce each and every such provision.
- (b) Field's approval of documents shall not relieve SELLER from complying with any requirements of this Contract.
- (c) The rights and remedies of Field in this Contract are in addition to any other rights and remedies provided by law or in equity.

### 38. Warranty

- (a) In addition to SELLER's standard warranty, SELLER warrants that all Work furnished pursuant to this Contract shall strictly conform to applicable specifications, drawings, samples, descriptions, and other requirements of this Contract and be free from defects in design, material, and workmanship. All warranties shall survive inspection, test and acceptance of, and payment for, the Work. All warranties shall run to Field and its successors, assigns, and customers. The warranty shall extend for a period of one (1) year after Field's final acceptance unless a different period is set forth elsewhere in this Contract. If any nonconformity of the Work appears within that time, SELLER shall promptly repair, replace, or reperform the Work, at Field's option. Transportation of replacement Work, return of nonconforming Work, and repeat performance of Work shall be at SELLER's expense. Work required to be corrected or replaced shall be subject to this provision and the **Inspection and Acceptance** provision of this Contract in the same manner and to the same extent as Work originally delivered under this Contract. If repair, replacement, or reperformance of Work is not timely, Field may elect to return the nonconforming Work or repair, replace Work, or reprocur the Work at SELLER's expense.

- (b) SELLER further warrants that all software, firmware, and hardware (products) provided by SELLER, having date-dependent functionality containing or calling on a calendar function to process date and time data, will accurately process the date and time data (including, but not limited to, inputting, storing, manipulating, comparing, calculating, updating, displaying, outputting, and transforming such dates and data).

(1) In the event of a discovery of any date-dependent functionality noncompliance, the discovering party shall notify the other party within five (5) business days. At Field's option, the noncompliant products shall be repaired or replaced by SELLER within ten (10) business days of such notice at no cost to Field. The date-dependent functionality warranty shall run to Field and its successors, assigns, and customers, and shall extend indefinitely after Field's final acceptance.

(2) Nothing in this provision shall be construed to limit any other rights under this Contract, at law or in equity that Field may have with respect to date-dependent functionality compliance.

### 39. Suspect/Counterfeit Items

- (a) Seller represents and warrants that Item(s) supplied by Seller are not "Suspect/Counterfeit". Seller's warranty against counterfeit items shall survive any termination or expiration of this Contract, Agreement or Order.
- (b) A "Counterfeit" item is an item, or any component thereof, produced, altered or otherwise misrepresented to resemble another item, or any part thereof, without authority or right to do so; including but not limited to, any item that is produced or altered to result in Buyer being misled or defrauded through the presentation to Buyer of such item as original, new, genuine or otherwise from a source other than the actual source of such item. Counterfeit items also include items that have been re-worked, re-marked, re-labeled, repaired, refurbished, or otherwise modified from OEM design but are represented as OEM authentic or as new or any parts that are designated as suspect by the U.S. Government, such as parts listed in alerts published by the Defense Contract Management Agency under the Government-Industry Data Exchange Program (GIDEP).
- (c) If Buyer, in its sole discretion, determines that any items or components received from Seller are, or may be, Suspect/Counterfeit ("Suspected Counterfeit Parts"), Buyer shall notify Seller in writing of such determination. Seller agrees that within ten (10) days after Seller's receipt of such notice, Seller shall remit to Buyer all payments previously made to Seller for such Suspected Counterfeit Parts. Alternatively, the Buyer may elect to have the Seller offer a replacement item in lieu of remitting all previous payments associated with Suspect/Counterfeit items.
- (d) Seller further agrees that it shall indemnify, defend, and hold harmless Buyer from and against any claims, actions, proceedings, judgments, penalties, fines and/or other losses of any kind arising out of or in connection with any such Suspected Counterfeit

Parts. Seller shall be liable for all costs incurred by Buyer to remove and replace the suspect/counterfeit parts, including without limitation Buyer's external and internal costs of removing such counterfeit parts, of reinserting replacement parts and of any testing necessitated by the reinstallation of replacement goods after counterfeit parts have been replaced.

- (e) Prior to Seller's acquisition of any items, or components thereof, that will be included in any transaction between Seller and Buyer, Seller shall flow down the requirements of this Article to all entities from which it receives such items, or components thereof, and shall be fully liable to Buyer for all such entities' compliance with such requirements.

### 40. Equal Opportunity

- (a) The requirements of 41 CFR 60-300.5 are incorporated herein by reference and apply to any PO/Subcontract that exceeds \$100,000.

**This contractor and subcontractor shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires 52.244-insurance action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.**

- (b) The requirements of 41 CFR 60-741.5 are incorporated herein by reference and apply to any PO/Subcontract that exceeds \$10,000.

**This contractor and subcontractor shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against 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.**

### 41. Specifications

All Item(s) ordered to specifications shall comply with such specifications current as of the date of this Order unless otherwise specified by Buyer. Supplier shall flow down applicable product specifications, descriptions and requirements to sub-tier suppliers including key characteristics as required.

### 42. Maintenance of Avionics and In-Flight Entertainment Products (Commercial and Non-Commercial)

- (a) Maintenance applies to products returned from service for repair, overhaul, modification, and inspection
- (b) U.S. Suppliers, including all Sub-tiers, performing maintenance of products shall have an approved DOT Drug & Alcohol testing program that is compliant with the 49 CFR Part 40 for all applicable FAA regulated customers. Refer to FAA 14 CFR Part 121, Appendix I (Drug Testing) and Appendix J (Alcohol Misuse Prevention) for aviation program requirements.

## SECTION II: FAR AND DFARS FLOWDOWN PROVISIONS

### A. Incorporation of FAR and DFARS Clauses

The Federal Acquisition Regulation (FAR) clauses and Defense Federal Acquisition Regulation Supplement (DFARS) 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, to this Contract. The effective date of each clause incorporated herein shall be that in effect as of the effective date of the subcontract or purchase order.

**B. Government Subcontract**

This Contract is entered into by the Parties in support of a U.S. Government contract.

As used in the FAR clauses referenced below and otherwise in this Contract:

1. "Commercial Item" means a commercial item as defined in FAR 2.101.
2. "Contract" means this Contract.
3. "CONTRACTOR" means the SELLER, as defined previously in the "Definitions" provision of this document, acting as the immediate (first-tier) subcontractor to Field.
4. "Prime Contract" means the Contract between Field and the U.S. Government or between Field and its higher-tier contractor who has a contract with the U.S. Government.
5. "Subcontract" means any Contract placed by the CONTRACTOR or lower-tier subcontractors under this Contract.

**C. Notes**

1. Substitute "Field" for "Government" or "United States" as applicable throughout this clause.
2. Substitute "Field Procurement Representative" for "Contracting Officer," "Administrative Contracting Officer," and "ACO" throughout this clause.
3. Insert "and Field" after "Government" or "Contracting Officer", as appropriate, throughout this clause.
4. Insert "or Field" after "Government" throughout this clause.
5. Communication and notification required under this clause from or to the CONTRACTOR and to or from the Contracting Officer shall be through Field.
6. "Contracting Officer" shall mean the U.S. Government Contracting Officer for Field's government Prime Contract under which this contract is entered.

**D. Amendments Required by Prime Contract**

CONTRACTOR agrees that upon the request of Field it will negotiate in good faith with Field relative to amendments to this Contract to incorporate additional provisions herein or to change provisions hereof, as Field may reasonably deem necessary in order to comply with the provisions of the applicable prime contractor with the provisions of amendments to such prime contract. If any such amendment to this Contract causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the work under this Contract, an equitable adjustment shall be made pursuant to the "Changes" clause of this Contract.

**E. FAR Flowdown Clauses**

	REFERENCE	TITLE
	<b>1. The following FAR clauses apply to this Contract</b>	
(a)	52.202-1	Definitions
(b)	52.203-5	Covenant Against Contingent Fees (April 1984)
(c)	52.204-4	Printed or Copied Double Sided on Postconsumer Fiber Content Paper (May 2011)
(d)	52.211-5	Material Requirements (See Note 2)
(e)	52.211-15	Defense Priority and Allocation Requirements
(f)	52.219-8	Utilization of Small Business Concerns
(g)	52.222-1	Notice to the Government of Labor Disputes (Fed 1997)
(h)	52.222-4	Contract Work Hours and Safety Standards Act – Overtime Compensation (Jul 2005)
(i)	52.222-19	Child Labor – Cooperation with Authorities and Remedies (Jul 2010)(See Note 1)
(j)	52.222-21	Prohibition of Segregated Facilities
(k)	52.222-26	Equal Opportunity
(l)	52.222-50	Combating Trafficking in Persons
(m)	52.222-54	Employment Eligibility Verification (Jul 2012)
(n)	52.223-6	Drug-Free Workplace (May 2001)(See Note 2)
(o)	52.225-13	Restrictions on Certain Foreign Purchases
(p)	52.232-11	Extras (April 1984)
(q)	52.232-17	Interest (October 2010)
(r)	52.232-18	Availability of Funds (April 1984)
(s)	52.232-32	Performance Based Payments (August 2010)
(t)	52.233-3	Protest After Award (August 1996)
(u)	52.239-1	Privacy or Security Safeguards (August 1996)
(v)	52.242-13	Bankruptcy (Jul 1995)(See Note 2)
(w)	52.242-15	Stop-Work Order (Aug 1989) and Alternate 1(APR 1984)(See Notes 1 and 2)
(x)	52.244-6	Subcontracts for Commercial Items
(y)	52.245-1	Government Property Alternate 1

- (z) 52.245-9 Use and Charges
  - (aa) 52.246-2 Inspection of Supplies – Fixed Price (August 1996)
  - (bb) 52.246-4 Inspection of Services – Fixed Price (August 1996)
  - (cc) 52.246-16 Responsibility For Supplies (April 1984)
  - (dd) 52.247-64 Preference for Privately Owned U.S.-Flag Commercial Vessels
  - (ee) 52.252-2 Clauses Incorporated By Reference (February 1998)
  - (ff) 52.252-6 Authorized Deviations in Clauses (April 1984)
2. **The following FAR clauses apply to this Contract if the value of this Contract exceeds \$2,500:**
    - (a) 52.222-41 Service Contract Act of 1965 (November 1997)
  3. **The following FAR clauses apply to this Contract if the value of this Contract exceeds \$10,000:**
    - (a) 52.222-40 Walsh-Healy Public Contracts Act (October 2010)
    - (b) 52.222-36 Affirmative Action for Workers with Disabilities (Do not change "Contracting Officer) (Oct 2010)
  4. **The following FAR clause applies to this Contract if the value of this Contract equals or exceeds \$25,000:**
    - (a) 52.204-10 Reporting Executive Compensation and First Tier Subcontract Awards (Aug 2012)
    - (b) 52.209-6 Protecting the Government's interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Applicable if Subcontract Exceeds \$30,000) (Dec 2010)
  5. **The following FAR clause applies to this Contract if the value of this Contract equals or exceeds \$100,000:**
    - (a) 52.203-3 Gratuities (April 1984)
    - (b) 52.203-6 Restrictions on Subcontractor Sales to the Government (Sep 2006) (See Note 5.)
    - (c) 52.203-7 Anti-Kickback Procedures (Jul 1995)
    - (d) 52.203-8 Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity (Jan1997) (See note 1)
    - (e) 52.203-10 Price Or Fee Adjustment For Illegal Or Improper Activity (Jan1997) (See note 1)
- (f) 52.203-12 Limitation on Payments to Influence Certain Federal Transactions (Sep 2007)
  - (g) 52.215-2 Audit and Records-Negotiation (Mar 2009) (Insert "and the Field Purchasing Representative" after "the Contracting Officer or representatives of the Contracting Officer" or after "...representatives of the Contracting Officer who are employees of the government," where indicated throughout the clause.)
  - (h) 52.215-14 Integrity of Unit Prices (October 2010)
  - (i) 52.215-14 Integrity of United Prices – Alternate I (October 1997)
  - (j) 52.222-35 Equal Opportunity for Veterans
  - (k) 52.222-37 Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sep 2006)
  - (l) 52.228-5 Insurance – Work on Government Installation ("Government" means "Government" throughout) (January 1997)
  - (m) 52.248-1 Value Engineering (October 2010)
6. **The following FAR clause applies to this Contract if the value of this Contract exceeds \$650,000:**
    - (a) 52.219-9 Small Business Subcontracting Plan (Applicable if the CONTRACTOR is not a small business; see Note 1 and Note 2, applicable to subparagraph (c) only; the CONTRACTOR's subcontracting plan is incorporated herein by reference.)
    - (b) 52.219-6 Liquidated Damages – Subcontracting Plan (January 1999)
  7. **The following clauses apply as indicated:**
    - (a) 52.203-15 Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Applicable if funded in whole or in part with Recovery Act funds)
    - (b) 52.203-16 Preventing Personal Conflicts of Interest (Applicable if subcontract exceeds \$150,000 AND subcontractor employees will perform acquisition functions closely associated with inherently governmental functions)
    - (c) 52.204-2 Security Requirements (Applicable if the Work involves access to classified information; delete paragraph (c) of the clause.)
    - (d) 52.204-9 Personal Identity Verification of Contractor personnel (Applicable in subcontracts at all tiers where

- subcontractor is required to have routine access to a federally-controlled facility and/or federally-controlled information system)
- (e) 52.204-10 Reporting Executive Compensation and First-Tier Subcontract Awards (Applicable if this award is 25K or above)
  - (f) 52.215-10 Price Reduction for Defective Cost or Pricing Data (Oct 1997) (Applicable if FAR 52.215-12 applies to this Contract. See Notes 2 and 4. Rights and obligations under this clause shall survive completion of the Work and final payment under this Contract.)
  - (g) 52.215-15 Pension Adjustments and Asset Reversions (Oct 2010)
  - (h) 52.215-18 Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other than Pensions (July 2005)
  - (i) 52.215-19 Notification of Ownership Changes (Oct 2009)
  - (j) 52.215-20 Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data (Oct 1997) – Alternate IV – Oct 1997) (See Note 2.) Definition is dependent upon Government Task Order solicitation requirement.
  - (k) 52.222-40 Notification of Employee Rights under the National Labor Relations Act (applicable to all subcontracts at all tiers that exceed \$10,000 and will be performed wholly or partially in the US unless exempted by rules, regulations or orders of the Secretary of Labor pursuant to Section 3 of Exec Order 13496.
  - (l) 52.223-3 Hazardous Material Identification and Material Safety Data (Jan 1997) (Applicable if the Contract involves hazardous material. See Notes 2 and 3.)
  - (m) 52.223-7 Notice of Radioactive Materials (Applicable to Work containing covered radioactive material. Insert "30" in the blank; See Notes 1 and 2.)
  - (n) 52.223-11 Ozone Depleting Substances (May 2011)  
  
Ozone-Depleting Substances (Applicable if Work was manufactured with or contains ozone-depleting substances.)
  - (o) 52.223-18 Encouraging Contractor Policies to Ban Text Messaging While Driving (Applicable to all subcontracts at all tiers that exceed micro-purchase threshold)
  - (p) 52.237-2 Protection of Government Buildings, Equipment, and Vegetation (Apr 1984)
  - (q) 52.242-17 Government Delay of Work (Apr 1984) Only applicable when delayed is caused by an act of the US Government Contracting Officer
  - (r) 52.246-23 Limitation of Liability (Feb 1997)
  - (s) 52.246-25 Limitation of Liability - Services (Feb 1997)
  - (t) 52.251-1 Government Supply Sources (Apr 1984) (See Note 2)
  - (u) 52.252-22 Clauses Incorporated by Reference (Feb 1998) If contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. The full text may be accessed electronically at this address:
  - (v) 52.222-25 Affirmative Action Compliance <http://www.acquisition.gov/far>

#### F. DoD FAR Supplement (DFARS) Flowdown Clauses

**Note: If this Contract is placed under a U.S. Government Department of Defense (DoD) contract, the following additional DFARS clauses apply.**

REFERENCE	TITLE
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- |     |   |
|-----|---|
| 1.  | The following DFARS clauses apply to this Contract only if the stipulation in the relevant parenthetical notation applies:  |
| (a) | 252.203-7000 Requirements relating to compensation of former DoD Officials (Sep 2011)   |
| (b) | 252.203-7002 Requirement to inform employees of whistleblower rights (Jan 2009)   |
| (c) | 252.204-7000 Disclosure of Information (Dec 1991) (See Note 2.)   |
| (d) | 252.204-7003 Control of Government Personnel Work Product (Apr 1992)  |
| (e) | 252.204-7005 Oral Attestation of Security Responsibilities (November 2001)  |
| (f) | 252.204-7008 Requirements for Contracts Involving Export-Controlled Items-(Applicable if DFAR 252.204-7008 is in Field prime contract and export-controlled items (hardware, software, or technical data) are involved in performance of the subcontract) |
| (g) | 252.204-7012 Safeguarding Covered Defense Information and Cyber Incident Information (Oct 2016)   |

(h) 252.204-7020	NIST SP 800-171 DoD Assessment Requirements	(c)(4), (c)(5), and (d)(2). "DOD" means "DOD and Buyer" in paragraphs (g)(1)(ii) and (g)(3).)
(i) 252.209-7004	Subcontracting with Firms that are owned or controlled by the Government of a Terrorist Country (Dec 2006)	(t) 252.225-7001 Buy American Act and Balance of Payments Program (Applicable if the Work contains other than domestic components as defined by this clause. Substitute the DFARS clause for FAR clause 52.225-9.)
(j) 252.211-7006	Passive Radio Frequency Identification (Feb 2007)	(u) 252.225-7002 Qualifying Country Sources as Subcontractors (April 2003)
(k) 252.211-7003	Item Identification and Valuation (Jun 2011)	(v) 252.225-7008 Restriction on Acquisition of Specialty Metals (Applicable if Field award exceeds Simplified Acquisition Level and requires delivery of specialty metals as end items)
(l) 252.223-7006	Prohibition on Storage and Disposal of Toxic and Hazardous Materials (April 1993)	(w) 252.225-7009 Restriction on Acquisition of Certain Articles Containing Specialty Metals (Applicable if Field award exceeds Simplified Acquisition Level and requires delivery of items @ (2)(i)(ii) of DFAR 225.7003-5))
(m) 252.211-7007	Reporting of Government Furnished Equipment in the DoD Item Unique Identification (IUID) Registry (Nov 2008) (Applicable if 52.245-1 applies)	(x) 252.225-7013 Duty Free Entry (Jan 2004)
(n) 252.215-7002	Cost Estimating System Requirements (May 2011)	(y) 52.225-7016 Restrictions on Acquisition of Ball and Roller Bearings (June 2011)
(o) 252.217-7028	Over and Above Work (Dec 1991) (IAW DFARS 217.7002)	(z) 252.225-7015 Restriction on Acquisition of Hand or Measuring Tools (Applicable if Field award exceeds Simplified Acquisition Level and requires delivery of hand tools)
(p) 252.219-7003	Small, Small Disadvantaged, and Women-Owned Small Business Sub- Contracting Plan (DoD Contracts) (Applicable if FAR 52.219 9 applies to this Contract.)	(aa) 252.227-7015 Technical Data – Commercial Items (Applicable only if technical data is to be delivered under this Contract. (See Note 3)
(q) 252.223-7001	Hazard Warning Labels (Applicable if Contract requires the delivery of hazardous materials as defined in the clause.)	(bb) 252.228-7005 Accident Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles (Dec 1991)(In subparagraph (a), see note 5; in sub-paragraph (b), see Note 3.)
(r) 252.223-7003	CHANGE IN PLACE OF PERFORMANCE – AMMUNITION AND EXPLOSIVES (Applies when explosives are involved in the material process. "Government" means "Government or Buyer.")	(cc) 252.235-7003 Frequency Authorization (Applies if a radio frequency authorization is required)
(s) 252.223-7002	SAFETY PRECAUTIONS FOR AMMUNITION AND EXPLOSIVES (Applies when subcontract involves ammunition or explosives. "Government" means "Government or Buyer" in paragraph (c)(3), (c)(4), (c)(5), (e)(1), (e)(1)(ii), (f)(1), (f)(2), (g)(1)(i), and (g)(3). SAFETY PRECAUTIONS FOR AMMUNITION AND EXPLOSIVES (Applies when subcontract involves ammunition or explosives. "Government" means "Government or Buyer" in paragraph (c)(3), (c)(4), (c)(5), (e)(1), (e)(1)(ii), (f)(1), (f)(2), (g)(1)(i), and (g)(3). "Contracting Officer" means "Contracting Officer and Buyer" in paragraphs (d)(1), (d)(3), and (g)(4). "Contracting Officer" means "Contracting Officer or Buyer" in paragraphs (c)(1), (c)(2), (c)(3),	(dd) 252.239-7000 Protection Against Compromising Emanations (Jun 2004)
		(ee) 252.239-7001 Information Assurance Contractor Training and Certification (Jan 2008)
		(ff) 252.243-7001 Pricing of Contract Modifications (Dec 1991)
		(gg) 252.244-7000 Subcontracts for Commercial Items and Commercial Components (DoD Contract) (Aug 2009)

- (hh) 252.245-7002 REPORTING LOSS OF GOVERNMENT PROPERTY (In lieu of (b) (1), the process for reporting loss of Government Property, Field shall notify Rockwell Collins and Rockwell Collin's Government Property team shall notify the Government as requested by the ACO. (FEB 2011)
- (ii) 252.245-7003 Contractor Property Management System Administration (May 2011)
- (jj) 252.246-7003 Notification of Potential Safety Issues (Jan2007) IAW DFARS 246.371(a), DFARS 212.301(f)(xii)(See Note 2)
- (kk) 252.246-7007 Contractor Counterfeit Electronic Part Detection and Avoidance System (Aug 2016) (Applicable if Contract is subject to Cost Accounting Standards (CAS)).

**The following DFAR clause applies to this Contract if the value of this Contract exceeds \$2,500**

- (a) 252.211-7005 Substitutions for Military or Federal Specifications and Standards (Nov 2005)

**The following DFAR clause applies to this Contract if the value of this Contract exceeds \$100,000**

- (a) 252.203-7001 Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies (Mar 1999)(In this clause, the terms "contract", "contractor" and "subcontract" shall not change in meaning; Delete paragraph g; See Note 2)
- (b) 252.223-7004 Drug Free Work (Sep 1998)
- (c) 252.225-7012 Preference For Certain Domestic Commodities (Jun 2010)
- (d) 252.225-7015 Restriction on Acquisition of Hand or Measuring Tools (Applies when hand or measuring tools will be delivered)
- (e) 252.243-7002 Requests for Equitable Adjustment (Mar 1998)
- (f) 252.247-7023 Transportation of Supplies by Sea (May 2002) In paragraph (g) delete the reference to the "Prompt Payment Act."
- (g) 252.247-7024 Notification of Supplies by Sea (Mar 2000) (IAW DFARS 247.574 (C))

**The following DFAR clause applies to this Contract if the value of this Contract exceeds \$500,000**

- (a) 252.209-7008 Notice of Prohibition Relating to Organizational Conflict of Interest – Major Defense Acquisition

- Program (Applies if Requirements of "Major Subcontractor" per 252.209-7009 (a)(1)(2) are met) (Dec 2010)
- (b) 252.209-7009 Organizational Conflict of Interest – Major Defense Acquisition Program (Applies if Requirements of "Major Subcontractor" per 252.209-7009 (a)(1)(2) are met) (Dec 2010)
- (c) 252.225-7004 Report of Intended Performance Outside the United States and Canada – Submission After Award (Oct 2010)
- (d) 252.225-7006 Quarterly Reporting of Actual Contract Performance Outside the United States (Applicable to first subcontracts except for commercial items or construction. Seller shall comply with requirements that are directed to the Contractor in paragraphs (b) through (e). The prime contract number is on the faceplate of this order (Oct 2010)
- (e) 252.226-7001 Utilization of Indian Organizations and Indian-Owned Economic Enterprises, and Native Hawaii Small Business Concerns (Sep 2004)
- (f) 252.249-7002 Notification of Anticipated Contract Termination or Reduction (Oct 2010)

**The following DFAR clause applies to this Contract if the value of this Contract exceeds \$1,000,000**

- (a) 252.211-7000 Acquisition Streamlining (Dec 1991)
- (b) 252.222-7006 Restrictions on the use of mandatory arbitration agreements (Dec 2010)

**The following DFAR clause applies to this Contract if the value of this Contract exceeds \$5,000,000**

- (a) 252.203-7004 Display of Fraud Hotline Poster(s) (Sep 2011)

**G. Certifications and Representations**

1. The clauses listed below contain certifications and representations that are material representations of fact upon which Field will rely in making awards to CONTRACTOR. By submitting its written offer, providing oral offers or quotations at the request of Field, or accepting any Contract, CONTRACTOR certifies to the representations and certifications as set forth in each of the clauses listed below. These certifications 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 Field. CONTRACTOR shall immediately notify Field of

any change of status with regard to these certifications and representations.

2. The following clauses of the FAR are incorporated herein by reference, with the same force and effect as if they were given in full text, and are applicable to any order, agreement, or subcontract. In each clause incorporated below, substitute "FIELD" for "Government" and "Contracting Agency" and "FIELD Procurement Representative" for "Contracting Officer" throughout.

- (a) The following FAR clause applies to this Contract if the value of this Contract exceeds \$5,000,000 and the period of performance is more than 120 days:

**52.203-13 Contractor Code of Business Ethics and Conduct**

By signing a contract or performing against a contract in which FAR 52.203-13 is applicable:

The contractor hereby certifies that they will comply with all elements of FAR 52.203-13 including timely disclosure, in writing, to the agency Office of the Inspector General (OIG), with a copy to the Contracting Officer, and the cognizant Field Procurement Representative whenever, in connection with the award, performance, or closeout of this contract or any subcontract there under, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed—

- (1) A violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code; or
- (2) A violation of the civil False Claims Act (31 U.S.C. 3729-3733).

The contractor also certifies that, within 30 days of signing a contract or performing against a contract in which FAR 52.203-13 is applicable, they will establish a written code of business ethics and conduct and will make a copy of the code available to each employee engaged in performance of the contract.

- (b) FAR 52.209-5, "Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters".

3. The following FAR clauses apply to this Contract if Work under the Contract will be performed in the United States or Contractor is recruiting employees in the United States to work on the Contract.

- (a) FAR 52.222-22 Previous Contracts and Compliance Reports"
- (b) FAR 52.222-25 "Affirmative Compliance" Action

4. Conflict of Interest

To the best of the Offeror/SELLER's knowledge and belief, there is no actual or potential conflict of interest with respect to the performance of work under this contract or agreement; or, the Offeror/SELLER has notified Field in writing of such a conflict of interest and received written authorization from Field to continue in pursuit of a contract or agreement. If in the performance of a contract or agreement with Field the Offeror/SELLER becomes aware of an actual or potential conflict of interest, the Offeror/SELLER will immediately notify the Procurement Representative responsible for the contract or agreement in question.

5. Disputes

In accordance with the 2010 Department of Defense Appropriations Act, Public Law No. 111-118, Section 8116, SELLER certifies that it will not enter into or take any action to enforce arbitration agreements with any employee or independent contractor performing work related to subcontracts covered by these General Terms, for claims under Title VII of the 1964 Civil Rights Act or any tort related to or arising out of sexual assault or harassment, including assault and battery, intentional infliction of emotional distress, false imprisonment, or negligent hiring, supervision, or retention.(Effective June 17, 2010; Applicable to subcontracts in excess of \$1 million)

6. Anti-Corruption Compliance

SELLER agrees that neither it nor any related person shall, in the name of, on behalf of, or for the benefit of Field or any of its officers, directors or employees, offer, pay, promise to pay, or authorize the payment of any money, or offer, give, promise to give, or authorize the giving of anything of value to anyone while knowing or being aware of a high probability that all or a portion of such money or thing of value will be offered, given or promised, directly or indirectly to such person for the purposes of: (i) influencing any act or decision; (ii) inducing such person to use his or its influence with a third party thereof to affect or influence any act or decision of such third party, in order to assist the obtaining or retaining of business for or with, or directing business to, Field or (iii) securing any improper advantage.

H. Additional Flowdown Clauses

Note: If this Contract is placed under a U.S. Air Force contract, the following additional AFMC FAR clause apply.

- (a) 5352.242-9000 Contractor Access to Air Force Installations (AUG 2007), para (b), (d) (IAW AFFARS 5342.490-1)

I. DFAR 252.228-7001—Aircraft Ground and Flight Risk (Sep 1996)

- (a) "Aircraft" means
  - (1) Aircraft to be delivered to the government, either directly or via Field, under the subcontract or subcontract task order (either before or after government acceptance), including complete aircraft and aircraft in the process of being manufactured, disassembled, or reassembled; provided that an engine, portion of a wing, or a wing is attached to a fuselage of the aircraft; and
  - (2) Aircraft, whether in a state of disassembly or reassembly, furnished by the



government to the Seller, either directly or via Field, under the subcontract or task order, including all property installed, in the process of installation, or temporarily removed; provided that all the aircraft and property are not covered by a separate bailment agreement.

- (b) The SELLER shall be responsible for all liability for damage, loss or destruction of government-owned aircraft while in the Seller's possession or control. The SELLER shall return the aircraft in a condition as good as when received, except reasonable wear and tear for the use of the property in accordance with the provisions of this contract. In the event that damage, loss, or destruction occurs, Field shall enforce liability against the Seller for the benefit of the government.
- (c) The Seller agrees to be bound by the operating procedures contained in the combined regulation entitled *Contractor's Flight and Ground Operations* in effect on the date of Contract award.

**5252.232.9509-Reimbursement of Travel, Per Diem, and Special Material Costs (NAVAIR)(MAY 2012)**

- (a) Area of Travel. Performance under this contract may require travel by contractor personnel. If travel, domestic or overseas, is required, the contractor is responsible for making all necessary arrangements for its personnel. These include but are not limited to: medical examinations, immunizations, passports /visas /etc., and security clearances. All contractor personnel required to perform work on any U.S. navy vessel shall obtain boarding authorization from the Commanding Officer of the vessel before boarding.
- (b) Travel Policy. The Government will reimburse the contractor for allowable travel costs incurred by the contractor in performance of the contract in accordance with FAR Subpart 31.2. Consistent with FAR Subpart 31.2, all costs incurred for lodging, meals and incidental expenses required for tasks assigned under this contract shall be considered reasonable and allowable only to the extent that they do not exceed on a daily basis the maximum per diem rates in effect at the time of travel as set forth in the Federal Travel Regulations, prescribed by the General Services Administration for travel in the conterminous 48 United States, (hereinafter the FTR); Joint Travel Regulation, Volume 2, DoD Civilian Personnel, Appendix A, prescribed by the Department of Defense, for travel in Alaska, Hawaii, The Commonwealth of Puerto Rico, and territories and possessions of the United States (hereinafter JTR); and Standardized Regulations (Government Civilians, Foreign Areas), Section 925, "Maximum Travel Per Diem Allowances for Foreign Areas," prescribed by the Department of State, for travel in areas not covered in the FTR or JTR (hereinafter the SR).
- (c) Travel. Travel and subsistence are authorized for travel beyond a fifty-mile radius of the contractor's office whenever a task assignment requires work to be accomplished at a temporary alternate worksite. No travel or subsistence shall be charged for work performed within a fifty-mile radius of the contractor's office. The contractor shall not be paid for travel or subsistence for contractor personnel who reside in the metropolitan area in which the tasks are being performed. Travel performed for personal convenience, in conjunction with personal recreation, or daily travel to and from work at the contractor's facility will not be reimbursed.

- (1) For travel costs other than described in paragraph (c) above, the contractor shall be paid on the basis of actual amount paid to the extent that such travel is necessary for the performance of services under the contract and is authorized by the COR in writing.
- (2) When transportation by privately owned conveyance is authorized, the contractor shall be paid on a mileage basis not to exceed the applicable Government transportation rate as contained in the FTR, JTR or SR. Authorization for the use of privately owned conveyance shall be indicated in the basic contract. Distances traveled between points shall be shown on invoices as listed in standard highway mileage guides. Reimbursement will not exceed the mileage shown in the standard highway mileage guides.
- (3) The contractor agrees, in the performance of necessary travel, to use the lowest cost mode commensurate with the requirements of the mission as set forth in the basic contract and in accordance with good traffic management principles. When it is necessary to use air or rail travel, the contractor agrees to use coach, tourist class, or similar accommodations to the extent consistent with the successful and economical accomplishment of the mission for which the travel is being performed.
- (4) The contractor's invoices shall include receipts or other evidence substantiating actual costs incurred for authorized travel. In no event will such payments exceed the rates of common carriers.
- (d) Vehicle and/or Truck Rentals. The contractor shall be reimbursed for actual rental/lease of special vehicles and/or trucks (i.e., of a type not normally used by the contractor in the conduct of its business) only if authorized in the basic contract or upon approval by the COR. Reimbursement of such rental shall be made based on actual amounts paid by the contractor. Use of rental/lease costs of vehicles and/or trucks that are of a type normally used by the contractor in the conduct of its business are not subject to reimbursement.
- (e) Car Rental. The contractor shall be reimbursed for care rental, exclusive of mileage charges, as authorized in the basic contract or upon approval by the COR, when the services are required to be performed beyond the normal commuting distance from the contractor's facilities. Car rental for a team on TDY at one site will be allowed for a minimum of four (4) persons per car, provided that such number or greater comprise the TDY team.
- (f) Per Diem. The contractor shall not be paid for per diem for contractor personnel who reside in the metropolitan areas in which the tasks are being performed. Per Diem shall not be paid on services performed within a fifty-mile radius of the contractor's home office or the contractor's local office. Per Diem is authorized for contractor personnel beyond a fifty-mile radius of the contractor's home or local offices whenever a task assigned required work to be done at a temporary alternate worksite. Per Diem shall be paid to the contractor only to the extent that overnight stay is necessary and authorized under this contract. The authorized per diem rate shall be the same as the prevailing per diem in the worksite locality. These

rates will be based on rates contained in the FTR, JTR or SR. The applicable rate is authorized at a flat seventy-five (75%) percent on the day of departure from the contractor's home or local office, and on the day of return. Reimbursement to the contractor for per diem shall be limited to actual payments to per diem defined herein. The contractor shall provide actual payments of per diem defined herein. The contractor shall provide supporting documentation for per diem expenses as evidence of actual payment.

- (g) Shipboard Stays. Whenever work assignments require temporary duty aboard a Government ship, the contractor will be reimbursed at the per diem rates identified in paragraph C8101.2C or C81181.3B(6) of the Department of Defense Joint Travel Regulations, Volume II.
- (h) Special Material. "Special material" includes only the costs of material, supplies, or services which is peculiar to the ordered data and which is not suitable for use in the course of the contractor's normal business. It shall be furnished pursuant to specific authorization approved by the COR. The contractor will be required to support all material costs claimed by its costs less any applicable discounts. "Special materials" include, but are not limited to, graphic reproduction expenses, or technical illustrative or design requirements needing special processing.