

**Pacific Ship Repair & Fabrication, Inc.**  
**SPECIAL TERMS AND CONDITIONS FOR**  
**Subcontracts under**  
**NASSCO's LHA LHD PROGRAM**  
**Prime Contract N00024-13-C-4404**

#### **PRIME CONTRACT CLAUSES – N00024-13-C-4404**

The following clauses are flowed down from Buyer's Contract with NASSCO, under NASSCO's Prime Contract with the Government. The defined terms in the General or Special terms (as listed on the face of Buyer's purchase order issued to Seller) apply to this document. Some of the terms may not be consistently capitalized within this Contract. *While every effort was made to keep the capitalization consistent for the terms, the inconsistent capitalization should not affect the meaning intended for the terms.*

**Section A – Solicitation/Contract Form**–The rating is DO-A3.

#### **Section B – Supplies or Services and Prices**

**PLACE OF PERFORMANCE** [Modified by Buyer] All Contract Work under this Contract is to be performed as follows: CNO scheduled availability Contract Work will be performed at NASSCO's Facility at the assigned homeport in San Diego, CA unless otherwise stipulated in the Contract Work package. Seller may be required to provide non-scheduled repair support to ships in remote locations. Inter-availability planning and ship assessment functions may be performed at NASSCO's Facility, at various Government activities, or onboard Vessels, in accordance with the Contract Work and specifications.

**TRAVEL COSTS** [Modified by Buyer] Travel costs are non-fee or profit bearing. Seller must obtain prior written approval from Buyer before traveling because Buyer is obligated under its contract with NASSCO, and NASSCO is obligated under its Prime Contract, to receive ACO approval per trip occurrence and the requirement applies to Buyer as well as to all subcontractors. All estimated and incurred travel costs shall be in accordance with FAR 31.205-46.

#### **TRAVEL COSTS (NAVSEA) (MAY 1993)** [Modified by Buyer]

(a) Seller shall not charge, and Buyer shall not pay, as an allowable cost under this Contract, any man-hour costs (whether straight-time or overtime) for Seller personnel or subcontractor personnel traveling to or from worksites, including travel to worksites other than the Facility designated in the SOW for performance of the Contract Work.

(b) Workers being paid under this Contract will complete a full shift at the worksite, and no compensation will be paid for travel time before or after the shift.

(c) This requirement pertains only to payments for travel time before or after these workers' regular shifts, and does not apply to legitimate travel costs incurred during normal working hours, provided that those costs are otherwise reasonable, allocable and allowable. This requirement does not apply to manufacturer's representatives or Original Equipment Manufacturer ("OEM") representatives when specifically required by the Government provided requirements or as specified by Buyer.

(d) Additionally, Seller shall not charge, and Buyer shall not pay, any transportation costs under this Contract associated with transporting Seller's personnel between the Facility designated in the SOW or any other worksite to perform Phased Maintenance Availabilities ("PMAs")/Dry-docking Phased Maintenance Availabilities ("DPMAs"). Transportation costs include, but are not limited to, bus fare, car fare, train fare, or boat fare, paid by the work force, or paid by Seller on behalf of the work force.

#### **Section C – Description and Specifications**

##### **ACCOMPLISH THE REPAIR AND ALTERATION REQUIREMENTS** [Modified by Buyer]

(a) "New Work" is identified after provision of the authorized availability package. "Growth Work" will be related to a previously identified specification item. New Work will not be related to any previously authorized specification item, and the New Work will be assigned a new specification item number. (1) GROWTH WORK. When tasked, Seller shall prepare and submit Growth Work specified in a format to be specified by Buyer that will be compatible with the format Buyer is required to use with NASSCO and the Government. Each Contract Work item shall include work operations, trade skills involved, material requirements, estimated man-hours by trades and schedule of which work is to be completed. Buyer will review each costed or priced work item when submitted. Authorization to proceed with Growth Work will be provided by Buyer after Buyer receives approval from NASSCO and will be subject to the LIMITATION OF FUNDS CLAUSE or LIMITATION OF COST CLAUSE, as applicable. (2) NEW WORK. All New Work specifications written by Seller shall be authorized by Buyer and NASSCO and also authorized by the Government's ACO, and approved by the Government's NSA/Government designated representative. Upon receipt of a New Work specification, Seller shall propose a change in the estimated cost and profit to be incorporated into the Contract. Each New Work item shall include work operations, trade skills involved, material requirements, estimated man-hours by trades and schedule of which New Work is to be completed. After receipt of the information from Seller, Buyer will provide it to NASSCO and the NSA/Government designated representative for review and approval. Authorization to proceed with New Work shall only be granted by the Government's ACO to NASSCO, who will then authorize Buyer, who will then authorize Seller, but only after the New Work has been priced, and always subject to the LIMITATION OF FUNDS CLAUSE or LIMITATION OF COST CLAUSE, as applicable. Once authorization is granted, Seller shall update its manning and production analysis. (3) The Navy intends that all basic and New Work authorized for the repair and alteration of ships to be compatible with the scheduled availability duration. Seller shall accomplish all New Work within the scheduled availability duration or inform Buyer because Buyer is obligated to inform the NASSCO and the Government's ACO as soon as practicable of schedule impacts. Any schedule impacts must be approved by Buyer and NASSCO prior to proceeding.

(b) CONDITION FOUND REPORT ("CFR"). (1) Seller will identify needed repairs and recommend corrective action during performance for those deficiencies discovered which are not covered by the work specifications. As found conditions, needed repairs and corrective action reports will be submitted electronically to Buyer in the form of an Inspection Deficiency Report ("IDR"). (2) IDRs, cost estimates and supporting data will be submitted electronically via e-mail within four (4) working days of identification of the requirement to the designated Pacific Ship

Repair & Fabrication, Inc. Program Manager. As a minimum, the IDR will include: Prime Contract number, purchase order number, ship and hull number, IDR number, applicable work item number, date requirement was discovered, description of the work requirement, specific location of the work, recommendation for corrective action, recommendation for the appropriate/best time to accomplish the work (i.e., during current availability with or without schedule change, future CNO or Continuous Maintenance Availability), and provide supporting rationale for the recommendation, such as cost efficiencies, availability of work force, availability of material, premium expenditures, etc., identification of related changes, if any, to the internal milestones and production and Contract completion dates. If none, state there are none. The Government will write the RCC. When requested by the Government, NASSCO will write the RCC, and the CFR will be returned to NASSCO as "approved" in NMD with instructions to write the RCC for growth work, or other action as necessary. (3) Buyer reviews the IDR and at its sole discretion, converts the IDR into a Condition Found Report for submission to NASSCO and the Government. The Government MST reviews the CFR with the requirement (deficiency), recommendation for corrective action and estimate for correctness. The Government determines if the work is required, and potentially affordable. If the CFR is inadequate or incomplete, it may be rejected by the Government, but rejection by the Government does not automatically occur. In many cases, the Government, NASSCO and Buyer will need to meet, discuss the recommendation for corrective action, make ship checks to determine full scope of work and evaluate costs prior to final approval of the CFR. In concert with the "approved" CFR, an RCC is generated to accomplish the scope of work as designated by the Government. The RCC may be written by either NASSCO or the Government as directed by the Government. When determined that NASSCO will write the RCC, the CFR is returned to NASSCO as "approved" in NMD with instructions to write the RCC for growth work, or other action as necessary. (i) Neither Buyer's decision to convert an IDR into a CFR, nor the Government's decision to issue or solicit an RCC in response to such a CFR shall constitute approval for Seller to perform any work related to their submitted IDR. All work must be authorized in accordance with this Contract. (ii) Seller shall develop a time and cost estimate, and the time frame for which it is valid, including: 1. Class "C" (+ - 15%) cost estimate. If the work requirement cannot be estimated within four (4) working days, provide a class "F" estimate (+ - 40%) identifying any potential impact which may affect the current schedule. The class "F" estimate will also contain the date on which a class "C" estimate will be provided. 2. Estimated Premium/Acceleration Costs, including premium costs for; material, subcontractors, man-hours, rework and any additional costs to ongoing work resulting from inclusion of the CFR work requirement. 3. The Contracting Officer interfaces with the SBS, PM, NASSCO and Buyer to determine the final agreed price on the man-hours and material. Buyer will provide the information to Seller. (iii) Upon receipt of Buyer direction, Seller will develop a New Work item specification or a New Work item written by the Government, provide the work specification and a class "C" cost estimate within two (2) working days.

(c) PREMIUM TIME

As part of Seller's proposal, Seller will propose the necessary overtime hours. Overtime will not be proposed or negotiated as a percentage of the overall hours. Seller will propose overtime hours for each work item that requires the use of overtime and must be approved by Buyer, who must also receive approval from NASSCO and the Government designated representative prior to implementation of the overtime. When establishing the proposed overtime amount for each work item, Seller will consider such things as: 1. Historical use of overtime hours for the work item in previous availabilities; 2. Length and time allotted to accomplish the availability; 3. Amount and nature of work to be accomplished; 4. Number of hours for each trade to accomplish the work; 5. Manpower resources available to Seller to include the number of personnel required by trade; 6. Point in time on the critical path of the availability that the work needs to be accomplished; 7. Other pertinent facts pertaining to the need for proposed overtime. Seller's proposal, when submitted, will contain all the supporting data and assumptions that were used in deriving the per work item overtime hour allotments.

**ACCESS TO PROPRIETARY DATA OR COMPUTER SOFTWARE (NAVSEA) (JUN 1994) [Modified by Buyer]**

(a) Performance under this Contract may require that Seller have access to technical data, computer software, or other sensitive data of another party who asserts that such data or software is proprietary. If access to such data or software is required or to be provided, Seller shall enter into a written agreement with such party prior to gaining access to such data or software. The agreement shall address, at a minimum, (1) access to, and use of, the proprietary data or software exclusively for the purposes of performance of the Contract Work required by this Contract; and (2) safeguards to protect such data or software from unauthorized use or disclosure for so long as the data or software remains proprietary. In addition, the agreement shall not impose any limitation upon the Government or its employees with respect to such data or software. A copy of the executed agreement shall be provided to Buyer so that Buyer can provide a copy to NASSCO and the Government's Contracting Officer as required under the terms of Buyer's Contract with NASSCO. The Government may unilaterally modify the Prime Contract to list those third parties with which Buyer and/or Seller will have agreement(s). Buyer will share with Seller the relevant information from the modification.

(b) Seller agrees to: (1) indoctrinate its personnel who will have access to the data or software as to the restrictions under which access is granted; (2) not disclose the data or software to another party or other Seller personnel except as authorized by Buyer, NASSCO and the Government's Contracting Officer; (3) not engage in any other action, venture, or employment wherein this information will be used, other than under this Contract, in any manner inconsistent with the spirit and intent of this requirement; (4) not disclose the data or software to any other party, including, but not limited to, a joint venture, affiliate, successor, or assign of Seller; and (5) reproduce the restrictive stamp, marking, or legend on each use of the data or software whether in whole or in part.

(c) The restrictions on use and disclosure of the data and software described above also apply to such information received from Buyer, NASSCO or the Government through any means to which Seller has access in the performance of this Contract that contains proprietary or other restrictive markings.

(d) Seller agrees that it will promptly notify Buyer of any attempt by NASSCO, Government or Buyer representatives or third parties not directly involved in the effort to be performed under this Contract to gain access to such proprietary information. Such notification shall include the name and organization of the NASSCO, Government, Buyer representatives, or third parties seeking access to such information.

(e) **Seller shall include this requirement in subcontracts of any tier, which involve access to information covered by paragraph (a), substituting "subcontractor" for "Seller" where appropriate.**

(f) Compliance with this requirement is a material requirement of this Contract.

**ACCESS TO THE VESSEL(S) (AT) (NAVSEA) (JAN 1983) [Modified by Buyer]**

Officers, employees and associates of other prime contractors with the Government and their subcontractors, shall, as authorized by Buyer, NASSCO, or the Government's representative, have, at all reasonable times, admission to the applicable plant, access to the Vessel(s) where

and as required, and be permitted, within the Facility specified in the SOW or locations determined by the Government's ACO and on the Vessel(s) required, to perform and fulfill their respective obligations to the Government. Buyer and Seller shall make reasonable arrangements with the Government or contractors of the Government, as shall have been identified and authorized by the Government's representative to be given admission to the applicable location and access to the Vessel(s) for office space, work areas, storage or shop areas, or other facilities and services necessary for the performance of the respective responsibilities involved, and reasonable to their performance.

**ACCESS TO VESSELS BY NON U.S. CITIZENS (NAVSEA) (DEC 2005)** [Modified by Buyer]

(a) No person not known to be a U.S. citizen shall be eligible for access to the Vessels, work sites and adjacent areas when said Vessels are under construction, conversion, overhaul, or repair, except upon a finding by COMNAVSEA or his designated representative that such access should be permitted in the best interest of the United States. Seller shall establish procedures to comply with this requirement and NAVSEAINST 5500.3 (series) in effect on the date of this Contract.

(b) If Seller desires to employ non U.S. citizens in the performance of Contract Work under this Contract or agreement that requires access as specified in paragraph (a) of this requirement, approval must be obtained prior to access for each contract or agreement where such access is required. To request such approval for non U.S. citizens of friendly countries, Seller shall submit its Access Control Plan ("ACP") to Buyer so that Buyer can comply with the terms of Buyer's Contract with NASSCO and submit the ACP to the cognizant Contract Administration Office ("CAO") for approval. Seller's ACP shall contain as a minimum, the following information: (1) Badge or Pass oriented identification, access, and movement control system for non U.S. citizen employees with the badge or pass to be worn or displayed on outer garments at all times while on the Facilities or Seller's facilities and when performing Contract Work aboard ship. (i) Badges must be of such design and appearance that permits easy recognition to facilitate quick and positive identification. (ii) Access authorization and limitations for the bearer must be clearly established and in accordance with applicable security regulations and instructions. (iii) A control system, which provides rigid accountability procedures for handling lost, damaged, forgotten or no longer required badges, must be established. (iv) A badge or pass check must be performed at all points of entry to the Facilities or Seller's facilities (as the case may be) or by a site supervisor for Contract Work performed on Vessels outside the Facilities or Seller's facilities (again, as the case may be). (2) Seller's plan for ascertaining citizenship and for screening employees for security risk. (3) Data reflecting the number, nationality, and positions held by non U.S. citizen employees, including procedures to update data as non U.S. citizen employee data changes, and shall be passed by Buyer to the cognizant CAO. (4) Seller's plan for ensuring its suppliers' or subcontractors' compliance with the provisions of Seller's ACP. (5) These conditions and controls are intended to serve as guidelines representing the minimum requirements of an acceptable ACP. They are not meant to restrict Seller in any way from imposing additional controls necessary to tailor these requirements to the Facility, Seller's facilities or to a specific facility.

(c) To request approval for non U.S. citizens of hostile and/or communist controlled countries (listed in Department of Defense Industrial Security Manual, DOD 5220.22 M or available from cognizant CAO), Seller shall include in the ACP the following employee data: name, place of birth, citizenship (if different from place of birth), data of entry to U.S., extenuating circumstances (if any) concerning immigration to U.S., number of years employed by Seller, position, and stated intent concerning U.S. citizenship. COMNAVSEA or his designated representative will make individual determinations for desirability of access for above group. Approval of ACP's representative for access of non-U.S. citizens of friendly countries will not be delayed for approval of non-U.S. citizens of hostile communist-controlled countries. Until approval is received, Seller must deny access to Vessels for employees who are non-U.S. citizens of hostile and/or communist-controlled countries.

(d) Seller shall fully comply with approved ACPs. Noncompliance by Seller or subcontractor serves to cancel any authorization previously granted, in which case Seller shall be precluded from the continued use of non-U.S. citizens on this Contract or agreement until such time as the compliance with an approved ACP is demonstrated and upon a determination by the CAO that the Government's interests are protected. Further, the Government reserves the right to cancel previously granted authority when such cancellation is determined to be in the Government's best interest. Use of non-U.S. citizens, without an approved ACP or when a previously authorization has been canceled, will be considered a violation of security regulations. Upon confirmation by the CAO of such violation, this Contract, agreement or any job order issued under this Contract may be terminated or default in accordance with the clause entitled "DEFAULT (FIXED-PRICE SUPPLY AND SERVICE)" (FAR "TERMINATION (COST REIMBURSEMENT)" (FAR 52.249-6) as applicable.

(e) Seller has responsibility for the proper administration of the approved ACP applicable for the Contract Work performed under this Contract, regardless of the location of the Vessel, and must ensure compliance by its Suppliers, subcontractors, technical representatives and other persons granted access to the Vessels, adjacent areas, and work sites.

(f) In the event Seller does not intend to employ non-U.S. citizens in the performance of the Contract Work under this Contract, but has non-U.S. citizen employees, such employees must be precluded from access to the Vessel and its work site and those shops where Contract Work on the Vessel's equipment is being performed. The ACP must spell out how non-U.S. citizens are excluded from access to Contract Work areas.

(g) The same restriction above shall apply to other non-U.S. citizens who have access to the Facilities and Seller's facilities (e.g., for accomplishing facility improvements, from foreign-crewed Vessels within its facility, etc.).

**ADDITIONAL PROVISIONS RELATING TO GOVERNMENT PROPERTY (NAVSEA) (SEP 2009)** [Modified by Buyer]

(a) For purposes of paragraph (h) of the clause entitled "GOVERNMENT PROPERTY" (FAR 52.245-1) in addition to those items of property defined in that clause as Government Property, the following shall also be included within the definition of Government Property: (1) The Vessel; (2) The equipment on the Vessel; (3) Movable stores; (4) Cargo; and (5) Other material on the Vessel.

(b) For purposes of paragraph (b) of the clause entitled "GOVERNMENT PROPERTY", notwithstanding any other requirements of this Contract, the following shall not be considered Government Property: (1) The Vessel; (2) The equipment on the Vessel; (3) Moveable stores; and (4) Other material on the Vessel.

**APPROVAL BY THE GOVERNMENT (AT) (NAVSEA) (JAN 1983)** [Modified by Buyer]

Approval by Buyer or the Government as required under this Contract and applicable specifications shall not relieve Seller of its obligation to comply with the specifications and with all other requirements of the Contract, nor shall it impose upon Buyer or the Government any liability it would not have had in the absence of such approval.

**ASSIGNMENT AND USE OF NATIONAL STOCK NUMBERS (NAVSEA) (MAY 1993)** [Modified by Buyer]

The following clause shall apply for spare parts procurements only. To the extent that National Stock Numbers (“NSNs”) or preliminary NSNs are assigned by the Government for the identification of parts, pieces, items, subassemblies or assemblies to be furnished under this Contract, Seller shall use such NSNs or preliminary NSNs in the preparation of provisioning lists, package labels, packing lists, shipping containers and shipping documents as required by applicable specifications, standards or Data item Descriptions of the Contract or as required by orders for spare and repair parts. The cognizant Government Contract Administration Office shall be responsible for providing NASSCO and Buyer, who in turn will provide Seller with such NSNs or preliminary NSNs which may be assigned and which are not already in possession of Seller.

**COMMAND INSPECTION OF BERTHING FACILITIES (NAVSEA) (OCT 1990)** [Modified by Buyer]

(a) Once the ship's force takes occupancy of a berthing facility, it is recognized that the premises will be under the control of the Department of the Navy and subject to inspections by the Government's Commanding Officer or his duly authorized representative(s). In recognition of (1) the Navy's need to ensure security, military fitness, and good order and discipline; and (2) the Navy's policy to conduct regularly scheduled periodic inspections, Seller hereby agrees that while its berthing facilities are occupied by ship's force, the Government's Commanding Officer or his duly authorized representative(s) has (have) the right to conduct command inspections of the berthing facilities occupied by ship's force.

(b) ***In instances where Seller is using commercial facilities to satisfy the berthing requirement, Seller hereby agrees to insert the following requirement in any subcontract for berthing facilities to be provided under this Contract:***

(c) ***In recognition of (1) the Navy's need to ensure security, military fitness, and good order and discipline; and (2) the Navy's policy to conduct regularly scheduled periodic inspections, TBD1 (insert names of subcontractor) hereby agrees that while its facilities are occupied by ship's force, the Government's Commanding Officer or his duly authorized representative(s) has (have) the right to conduct Command inspections of the facilities occupied by ship's force.***

**COMPUTER SOFTWARE AND/OR COMPUTER DATABASE(S) DELIVERED TO AND/OR RECEIVED FROM THE GOVERNMENT (NAVSEA) (APR 2004)** [Modified by Buyer]

(a) Seller agrees to test for viruses all computer software and/or computer databases, as defined in the clause entitled “RIGHTS IN NONCOMMERCIAL COMPUTER SOFTWARE AND NONCOMMERCIAL COMPUTER SOFTWARE DOCUMENTATION” (DFARS 252.227-7014), before delivery of that computer software or computer database in whatever media and on whatever system the software is delivered. Seller warrants that any such computer software and/or computer database will be free of viruses when delivered.

(b) Seller agrees to test any computer software and/or computer database(s) received from the Government for viruses prior to use under this Contract.

(c) Unless otherwise agreed in writing, any license agreement governing the use of any computer software to be delivered as a result of this Contract must be paid-up and perpetual, or so nearly perpetual as to allow the use of the computer software or computer data base with the equipment for which it is obtained, or any replacement equipment, for so long as such equipment is used. Otherwise, the computer software or computer database does not meet the minimum functional requirements of this Contract. In the event that there is any routine to disable the computer software or computer database after the software is developed for or delivered to the Government, that routine shall not disable the computer software or computer database until at least 25 calendar years after the delivery date of the affected computer software or computer database to the Government.

(d) No copy protection devices or systems shall be used in any computer software or computer database delivered under this Contract to restrict or limit the Government from making copies. This does not prohibit license agreements from specifying the maximum amount of copies that can be made.

(e) Delivery by Seller to Buyer who will ultimately deliver to NASSCO and the Government the technical data and other data is now frequently required in digital form rather than as hard copy. Such delivery may cause confusion between data rights and computer software rights. It is agreed that, to the extent that any such data is computer software by virtue of its delivery in digital form, the Government only will be licensed to use that digital-form with exactly the same rights and limitations as if the data had been delivered as hard copy.

(f) Any limited rights legends or other allowed legends placed by Seller on technical data or other data delivered in digital form shall be digitally included on the same media as the digital-form data and must be associated with the corresponding digital-form technical data to which the legends apply to the extent possible. Such legends shall also be placed in human readable form on a visible surface of the media carrying the digital-form data as delivered, to the extent possible.

**DEPARTMENT OF LABOR OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR SHIP REPAIR (NAVSEA) (SEP 1990)** [Modified by Buyer]

Attention of Seller is directed to the Occupational Safety and Health Act of 1970 (29 USC 651-678), and to the Safety and Health Regulations for Ship Repairing (29 CFR 1915), promulgated under Public Law 85-742, amending Section 41 of the Longshoremen's and Harbor Workers' Compensation Act (33 USC 941), and adopted by the Department of Labor as occupational safety or health standards under Section 6(a) of the Occupational Safety and Health Act of 1970 (See 29 CFR 1910.13). These regulations apply to all ship repair and related work, as defined in the regulations performed under this Contract on the navigable waters of the United States including any dry dock and marine railway. Nothing contained in this Contract shall be construed as relieving Seller from any obligations which it may have for compliance with the aforesaid regulations.

**DISPOSAL OF SCRAP (NAVSEA) (APR 2008)** [Modified by Buyer]

All Government scrap resulting from accomplishment of any Contract Work is the property of Buyer and/or the Government to be disposed of as it sees fit. Scrap is defined as property that has no reasonable prospect of being sold except for recovery value of its basic material content. The determination as to which materials are considered scrap and which materials are salvage, will be made, or concurred in, by the duly appointed Government Property Administrator for the cognizant SUPSHIP or RMC Office. As consideration for retaining the Government's scrap, Buyer's price and Seller's price for the performance of the Contract Work required herein shall be a net price reflecting the value of the Government scrap. This requirement is not intended to conflict in any way with “GOVERNMENT PROPERTY” (FAR 52.245-1), nor does it relieve

Seller of any other requirement under such clause.

#### **EXCLUSION OF MERCURY (NAVSEA) (MAY 1998)**

Mercury or mercury containing compounds shall not be intentionally added or come in direct contact with hardware or supplies furnished under this Contract.

#### **EXTENSION OF COMMERCIAL WARRANTY (NAVSEA) (NOV 1996) [Modified by Buyer]**

Seller shall extend to Buyer so that Buyer can extend to NASSCO and the Government the full coverage of any standard commercial warranty normally offered in a similar commercial sale, provided that such warranty is available at no additional cost. Seller shall provide a copy of the standard commercial warranty with the item. The standard commercial warranty period shall begin upon the final acceptance of the applicable material or software. Acceptance of the standard commercial warranty does not waive Buyer's or NASSCO's or the Government's rights under the "Inspection" clause, nor does it limit Buyer's or NASSCO's or the Government's rights with regard to other terms and conditions of the Contract. In the event of a conflict, the terms and conditions of the Contract shall take precedence over the standard commercial warranty.

#### **GOVERNMENT SURPLUS PROPERTY (NAVSEA) (SEP 1990) [Modified by Buyer]**

No former Government surplus property or residual inventory resulting from terminated Government contracts shall be furnished under this Contract unless (i) such property is identified in the special requirements provided by Buyer; or (ii) is approved in writing by NASSCO or the Government's Contracting Officer. Notwithstanding any such identification in the special requirements provided by Buyer or approval by the Government's Contracting Officer, Seller agrees all items or components described in this requirement shall comply in all respects with the specifications contained herein.

#### **INFORMATION AND DATA FURNISHED BY THE GOVERNMENT (FIXED-PRICE) (NAVSEA) (SEP 2009) [Modified by Buyer]**

- (a) **Specifications.** Buyer or NASSCO will furnish the specifications applicable to the Contract Work.
- (b) **Drawings and Data.** Buyer will furnish drawings, design agent drawings, ship construction drawings, and/or other design or alteration data cited in the specification as mandatory for use or for performance.
- (c) **Government Furnished Information ("GFI").** GFI is defined as that information essential for the installation, test, operation, and interface support of all Government Furnished Material enumerated on NAVSEA Form 4205/19. The Government shall furnish only the GFI identified on the NAVSEA Form 4340/2. The GFI furnished to Buyer, who in turn may furnish the GFI to Seller, need not be in any particular format. Further, the Government reserves the right to revise the listing of GFI on the NAVSEA Form 4340/2, as follows: (1) The Government Contracting Officer may at any time by written order: (i) delete, supersede, or revise, in whole or in part, data listed or specifically referenced in NAVSEA Form 4340/2; or (ii) add items of data or information to NAVSEA Form 4340/2; or (iii) establish or revise due dates for items of data or information in NAVSEA Form 4340/2. (2) If any action taken by the Government's Contracting Officer pursuant to subparagraph (1) immediately above causes an increase or decrease in the costs of, or the time required for, performance of any part of the Contract Work under this Contract, Seller may be entitled to an equitable adjustment in the Contract Price and delivery schedule in accordance with the procedures provided for in the clause of this Contract entitled "CHANGES--FIXED-PRICE" (FAR 52.243-1).
- (d) Except for the Government information and data specified by paragraphs (a), (b), and (c) above, the Government will not be obligated to furnish Buyer or Seller with any specification, standard, drawing, technical documentation, or other publication, notwithstanding anything to the contrary in the specifications, the GFI listed on the NAVSEA Form 4340/2, the clause of this Contract entitled "GOVERNMENT PROPERTY" (FAR 52.245-1) or "GOVERNMENT PROPERTY INSTALLATION OPERATION SERVICES" (FAR 52.245-2), as applicable, or any other term or condition of this Contract.
- (e) **Referenced Documentation.** Buyer, NASSCO and the Government will not be obligated to furnish Government specifications and standards, including Navy standard and type drawings and other technical documentation, which are referenced directly or indirectly in the specifications. Such referenced documentation may be obtained as described below. (1) From the ASSIST database via the internet at <https://assist.dla.mil/>; or (2) By submitting a request to the Department of Defense Single Stock Point ("DoDSSP") Building 4, Section D, 700 Robbins Avenue, Philadelphia, Pennsylvania 19111-5094, Telephone (215) 697-6396, Facsimile (215) 697-9398.

Commercial specifications and standards, which may be referenced in the specification or any sub-tier specification or standard, are not available from Government sources and should be obtained from the publishers.

#### **INFORMATION AND DATA FURNISHED BY THE GOVERNMENT (COST TYPE) – ALTERNATE I (NAVSEA) (SEP 2009) [Modified by Buyer]**

- (a) **Specifications.** To be provided to Seller except as described in the clause directly above.
- (b) **Drawings and Data.** Buyer will furnish drawings, design agent drawings, ship construction drawings, and/or other design or alteration data cited in the specification as mandatory for use or for guidance.
- (c) **Government Furnished Information ("GFI").** GFI is defined as that information essential for the installation, test, operation, and interface support of all Government Furnished Material enumerated on NAVSEA Form 4205/19. The Government shall furnish only the GFI identified on the NAVSEA Form 4340/2. The GFI furnished to Seller need not be in any particular format. Further, the Government reserves the right to revise the listing of GFI on the NAVSEA Form 4340/2: (1) The Government's Contracting Officer may at any time by written order: (i) delete, supersede, or revise, in whole or in part, data listed or specifically referenced in NAVSEA Form 4340/2; or (ii) add items of data or information to NAVSEA Form 4340/2; or (iii) establish or revise due dates for items of data or information in NAVSEA Form 4340/2. (2) If any action taken by the Government's Contracting Officer pursuant to subparagraph (1) immediately above causes an increase or decrease in the costs of, or the time required for, performance of any part of the Contract Work under this Contract, Seller may be entitled to an equitable adjustment in the Contract amount and delivery schedule in accordance with the procedures provided for in the clause of this Contract entitled "CHANGES--COST- REIMBURSEMENT" (FAR 52.243-2) or "CHANGES--TIME-AND-MATERIALS OR LABOR-HOURS" (FAR 52.243-3).
- (d) Except for the Government information and data specified by paragraphs (a), (b), and (c) above, the Government will not be obligated to furnish Seller with any specification, standard, drawing, technical documentation, or other publication, notwithstanding anything to the contrary in the specifications, the GFI listed on the NAVSEA Form 4340/2, the clause of this Contract entitled "GOVERNMENT PROPERTY"

(FAR 52.245-1) or "GOVERNMENT PROPERTY INSTALLATION OPERATION SERVICES" (FAR 52.245-2), as applicable, or any other term or condition of this Contract.

(e) Referenced Documentation. The Government will not be obligated to furnish Government specifications and standards, including Navy standard and type drawings and other technical documentation, referenced directly or indirectly in the specifications and which are applicable to this Contract as specifications. Such referenced documentation may be obtained: (1) From the ASSIST database via the internet at <http://assist.daps.dla.mil/>; or (2) By submitting a request to the Department of Defense Single Stock Point ("DoDSSP") Building 4, Section D, 700 Robbins Avenue, Philadelphia, Pennsylvania 19111-5094, Telephone (215) 697-6396, Facsimile (215) 697-9398.

Commercial specifications and standards, which may be referenced in the specification or any sub-tier specification or standard, are not available from Government sources and should be obtained from the publishers.

**HQ C-2-0037 ORGANIZATIONAL CONFLICT OF INTEREST (NAVSEA) (JUL 2000)** [Modified by Buyer]

(a) "Organizational Conflict of Interest" means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the Government, or the person's objectivity in performing the Contract Work is or might be otherwise impaired, or a person has an unfair competitive advantage. "Person" as used herein includes Corporations, Partnerships, Joint Ventures, and other business enterprises.

(b) Seller warrants that to the best of its knowledge and belief, and except as otherwise set forth in the Contract, Seller does not have any organizational conflict of interest(s) as defined in paragraph (a).

(c) It is recognized that the effort to be performed by Seller under this Contract may create a potential organizational conflict of interest for Buyer or on a future acquisition. In order to avoid this potential conflict of interest, and at the same time to avoid prejudicing the best interest of the Government, the right of Buyer or Seller to participate in future procurement of equipment and/or services that are the subject of any work under this Contract shall be limited as described below in accordance with the requirements of FAR 9.5.

(d) (1) Seller agrees that it shall not release, disclose, or use in any way that would permit or result in disclosure to any party outside the Government any information provided to Seller by the Government or Buyer during or as a result of performance of this Contract. Such information includes, but is not limited to, information submitted to the Government or Buyer on a confidential basis by other persons. Further, the prohibition against release of Government or Buyer provided information extends to cover such information whether or not in its original form, e.g., where the information has been included in Seller generated work or where it is discernible from materials incorporating or based upon such information. This prohibition shall not expire after a given period of time. (2) Seller agrees that it shall not release, disclose, or use in any way that would permit or result in disclosure to any party outside the Government or Buyer with any information generated or derived during or as a result of performance of this Contract. This prohibition shall expire after a period of three years after completion of performance of Buyer's Prime Contract. (3) The prohibitions contained in subparagraphs (d)(1) and (d)(2) shall apply with equal force to any affiliate of Seller, any subcontractor, consultant, or employee of Seller, any joint venture involving Seller, any entity into or with which it may merge or affiliate, or any successor or assign of Seller. The terms of paragraph (f) of this special requirement relating to notification shall apply to any release of information in contravention of this paragraph (d).

(e) Seller further agrees that, during the performance of this Contract and for a period of three (3) years after completion of performance of Buyer's Prime Contract, Seller, any affiliate of Seller, any subcontractor, consultant, or employee of Seller, any joint venture involving Seller, any entity into or with which it may subsequently merge or affiliate, or any other successor or assign of Seller, shall not furnish to the United States Government, either as a prime contractor or as a subcontractor, or as a consultant to a prime contractor or subcontractor, any system, component or services which is the subject of the work to be performed under this Contract. This exclusion does not apply to any re-competition for those systems, components or services furnished pursuant to this Contract. As provided in FAR 9.505-2, if the Government procures the system, component, or services on the basis of work statements growing out of the effort performed under this Contract, from a source other than Buyer or Seller or their subcontractors, affiliates, or assigns of either, during the course of performance of this Contract or before the three year period following completion of Buyer's Prime Contract has lapsed, Seller may, with the authorization of the cognizant Contracting Officer (either obtained directly by Seller or obtained through Buyer on behalf of Seller), participate in a subsequent procurement for the same system, component, or service. In other words, Seller may be authorized to compete for procurement(s) for systems, components or services subsequent to an intervening procurement.

(f) Seller agrees that, if after award, it discovers an actual or potential organizational conflict of interest. Seller shall make immediate and full disclosure in writing to Buyer, who is obligated under the Prime Contract to make a full written disclosure to the Contracting Officer. The notification shall include a description of the actual or potential organizational conflict of interest, a description of the action which Seller has taken or proposes to take to avoid, mitigate, or neutralize the conflict, and any other relevant information that would assist the Contracting Officer in making a determination on this matter. Notwithstanding this notification, the Government may terminate Buyer's Prime Contract and/or Seller's Contract for the convenience of the Government when it determines the termination is in the best interest of the Government. Buyer may terminate Seller's Contract on a termination for convenience basis when: (i) the Government has terminated Buyer's Prime Contract for the Government's convenience pursuant to this clause; or (ii) if terminating this Contract would eliminate the actual or potential conflict of interest for Buyer under the Prime Contract. Under such circumstances the applicable FAR termination for convenience clause will be applied.

(g) Notwithstanding paragraph (f) above, if Seller was aware, or should have been aware, of an organizational conflict of interest prior to the award of this Contract or becomes, or should become, aware of an organizational conflict of interest after award of this Contract and does not make an immediate and full disclosure in writing to Buyer so that Buyer can notify the Contracting Officer, the Government may terminate Buyer's Prime Contract for default and Buyer may terminate this Contract with Seller for default.

(h) If Seller takes any action prohibited by this requirement or fails to take action required by this requirement, the Government may terminate Buyer's Prime Contract for default and Buyer may terminate this Contract with Seller for default.

(i) The Contracting Officer's decision as to the existence or nonexistence of an actual or potential organizational conflict of interest shall be final.

(j) Nothing in this requirement is intended to prohibit or preclude Seller from marketing or selling to the United States Government its product lines in existence on the effective date of Buyer's Prime Contract; nor, shall this requirement preclude Seller from participating in any

research and development or delivering any design development model or prototype of any such equipment. Additionally, sale of catalog or standard commercial items are exempt from this requirement.

(k) Seller shall promptly notify Buyer, in writing, so Buyer can notify the Contracting Officer if it has been tasked to evaluate or advise the Government concerning its own products or activities or those of a competitor in order to ensure proper safeguards exist to guarantee objectivity and to protect the Government's interest.

(l) **Seller shall include this requirement in subcontracts of any tier which involve access to information or situations/conditions covered by the preceding paragraphs, substituting "subcontractor" for "contractor" where appropriate.**

(m) The rights and remedies described herein shall not be exclusive and are in addition to other rights and remedies provided by law or elsewhere included in this Contract. Compliance with this requirement is a material requirement of this Contract.

#### **PERMITS AND RESPONSIBILITIES (NAVSEA) (SEP 1990)**

Seller shall, without additional expense to Buyer, NASSCO, or the Government, be responsible for obtaining any necessary licenses and permits, and for complying with any applicable federal, state, and municipal laws, codes, and regulations, in connection with any movement over the public highways of overweight/over-dimensional materials.

#### **PROTECTION OF THE VESSEL (NAVSEA) (SEP 1990) [Modified by Buyer]**

(a) Seller shall exercise reasonable care, as agreed upon with the Government's representative, to protect the Vessel from fire, and shall maintain a system of inspection over the activities of its welders, burners, riveters, painters, pipe fitters, and similar workers, and of its subcontractors, particularly where such activities are undertaken in the vicinity of the Vessel's magazines, fuel oil tanks, or store rooms containing inflammable materials. All ammunition, fuel oil, motor fuels, and cleaning fluids shall have been off-loaded and the tanks cleaned, except as may be mutually agreed upon between Seller and the Government's representative prior to work on the Vessel by Seller. Fire hose lines shall be maintained by Seller ready for immediate use on the Vessel at all times while the Vessel is berthed alongside the pier or in dry dock. All tanks under alteration or repair shall be cleaned, washed, and steamed out or otherwise made safe to the extent necessary, and Seller shall furnish the Vessel's Gas Free Officer and the Government's representative with a "Gas Chemists' Certificate" before any hot work is done. Seller shall maintain a fire watch aboard the Vessel in areas where Seller is working. All other fire watches aboard the Vessel shall be the responsibility of the Government.

(b) Except as otherwise provided in contractually invoked technical specifications or NAVSEA furnished directives, while the Vessel is at the Facilities specified in the SOW or when the temperature becomes as low as thirty-five degrees Fahrenheit, Seller shall assist the Government when requested in keeping all pipe-lines, fixtures, traps, tanks, and other receptacles on the Vessel drained to avoid damage from freezing, or if this not practicable, the Vessel shall be kept heated to prevent such damage. The Vessel's stern tube and propeller hubs shall be protected by Seller from frost damage by applied heat through the use of a salamander or other proper means.

(c) The work shall, whenever practicable, be performed in such manner as not to interfere with the work performed by military personnel attached to the Vessel, and provisions shall be made so that personnel assigned shall have access to the Vessel at all times, it being understood that such personnel will not unduly interfere with the work of Seller's workmen.

(d) Seller shall at all times keep the site of the work on the Vessel free from accumulation of waste material or rubbish caused by its employees, or the work performed by Seller in accordance with this Contract, and at the completion of such work shall remove all rubbish from and about the site of the work, and shall leave the work in its immediate vicinity "broom clean", unless more exactly specified by Buyer, NASSCO, or the Government's representative.

#### **QUALIFICATION OF SELLER NONDESTRUCTIVE TESTING ("NDT") PERSONNEL (NAVSEA) (APR 2004) [Modified by Buyer]**

(a) Seller and any Nondestructive Testing ("NDT") subcontractor shall utilize for the performance of required NDT, only Level I, II and III personnel currently certified in accordance with NAVSEA Technical Publication T9074-AS-GIB-010/271, CAN Notice 1 of 16 Feb 99. Documentation pertaining to the qualification and certification of NDT personnel shall be made available to Buyer, NASSCO, and the Government's Contracting Officer for review upon request.

(b) These requirements do not apply with respect to nuclear propulsion plant systems and other matters under the technical cognizance of SEA 08. Because of the health and safety considerations, such matters will continue to be handled as directed by SEA 08.

#### **REMOVALS (NAVSEA) (SEP 1990) [Modified by Buyer]**

The Government Contracting Officer may, by written notice to Buyer, who in turn, will provide written notice to Seller, direct removal of any or all of the property from storage. Within the shortest practicable time after receipt of such notice, but in no event more than thirty (30) days thereafter, unless a longer period is agreed to by the parties hereto, Seller will dismantle, prepare for shipment and load the item of property affected, on a common carrier at the place of storage in accordance with sound industrial practice and such instructions as provided by Buyer. Buyer may, by written notice to Seller direct the return of any item of the property removed, and Seller shall store the property as directed by Buyer. In the event such items are removed and forwarded to a Government depot or to a party other than Seller, removal and return to storage of said items shall be at the expense of the Government.

#### **SPECIFICATIONS AND STANDARDS (NAVSEA) (AUG 1994)**

(a) Definitions. (i) A "**zero-tier reference**" is a specification, standard, or drawing that is cited in the Contract (including its attachments). (ii) A "**first-tier reference**" is either: (1) a specification, standard, or drawing cited in a zero-tier reference, or (2) a specification cited in a first-tier drawing.

(b) Requirements. All zero-tier and first-tier references, as defined above, are mandatory for use. All lower tier references shall be used for guidance only.

#### **STANDARDIZATION - ALTERNATE I (NAVSEA) (MAR 2011) [Modified by Buyer]**

In order to support commonality and or standardization, variation within systems, sub-systems and components across the fleet must be

reduced. When it is necessary for Seller to replace equipment (e.g., changes have been made to requirements, systems, sub-systems or components) or where such sub-systems, equipments or components are not available, Seller shall select Hull Mechanical and Electrical (“HM&E”) equipment/components in the following order:

(a) The Virtual Shelf items are to be applied if they meet the Contract requirements. The Virtual Shelf is a repository of Total Ownership Cost (“TOC”) preferred Common designs. NAVSEA Commonality Program identified HM&E equipment/components for the Virtual Shelf that meet cross platform requirements and specifications and provide superior TOC. Information to gain access to the Virtual Shelf is located on the following web site: <http://acc.dau.mil/commonality>. Some equipment listed on the Virtual Shelf may have supporting commodity contracts. For the Virtual Shelf Items supported by commodity contracts, a supporting commodity contract will appear in the HM&E corridor of the DoD EMall (<https://dod-email.dla.mil/acct/welcome.action>). These contracts include provisions for direct orders against the contracts. Seller will contact Buyer who will provide instructions from NASSCO and the Procuring Contracting Officer (“PCO”) listed in Section G of NASSCO’s Prime Contract and request instructions to register to place orders through the DoD EMall. When Shelf items are available that meet all Contract requirements, Seller shall design, plan, procure and install according to Shelf guidance. If Shelf items are available and Seller intends to use a design other than that on the Shelf, Seller shall request a deviation from the Shelf in accordance with CDRL and configuration management procedures specified elsewhere in the Contract.

(b) For Seller Furnished HM&E equipment that meet the Contract requirements, have an APL assigned and meet at least one of the following requirements, only a Statement of Prior Submission (“SPS”) is required. The SPS will be prepared in accordance with NAVSEA Standard Items 009-19. (1) Are in use on current ships of the LHA/LHD Ship class and are listed in HM&E Equipment Data Research System (“HEDRS”) with an Engineering Support Code (“ESC”) of either A, \*, G, S, X, Z, P. (2) Are listed in HEDRS with an ESC of either A, \*, G, S, X, Z, P. (3) Have the same form, fit, function of the equipments and components on current ships of the LHA/LHD Ship class.

(c) For HM&E equipment that meet the Contract requirements and have no assigned APL (non-standard equipment), or for non-standard HM&E equipment, Provisioning Technical Documentation (“PTD”) shall be submitted in accordance NAVSEA Standard Item 009-19, Provisioning Technical Documentation, and the requirements of the CDRL, Exhibit(s) B (CDRLs to be provided by Buyer).

(d) For non-standard HM&E equipment that does not meet the requirements of paragraph (b) above, new/revised technical manuals shall be developed in accordance with NAVSEA Standard Items 009-39, Technical Manual Contract Requirement (“TMCR”) for New Technical Manuals for Commercial Equipment/Component, 009-41, TMCR for a Topically Structured Technical Manual, and 009-42, TMCR for Updating Technical Manuals. Technical manual management data shall include those deliverable data items required for Government monitoring/tracking/approval of Seller’s technical manual efforts and the requirements of CDRLs in Exhibit C (CDRLs to be provided by Buyer).

#### **TESTS AND TRIALS (NAVSEA) (OCT 1990)** *[Modified by Buyer]*

During the conduct of required tests and trials, the Vessel shall be under the control of the Vessel’s Commander and crew with representatives of Buyer, NASSCO, Seller and the Government on board to determine whether or not the work done by Buyer, NASSCO, and Seller has been satisfactorily performed. Buyer, NASSCO and Seller shall provide and install all fittings and appliances which may be necessary for dock and sea trials to enable the representatives of the Government to determine whether the requirements of the Contract have been met, and Buyer, NASSCO, and Seller shall install and remove instruments and apparatus furnished by the Government for such trials, as required by the specifications.

#### **UPDATING SPECIFICATIONS AND STANDARDS (NAVSEA) (AUG 1994)** *[Modified by Buyer]*

If, during the performance of this Contract, Seller believes that any Contract contains outdated or different versions of any specifications or standards, Seller may request that all of its contracts be updated to include the current version of the applicable specification or standard. Updating shall not affect the form, fit or function of any deliverable item or increase the cost/price of the item to the Government. Seller should submit update requests to Buyer for approval. Seller shall perform the Contract in accordance with the existing specifications and standards until notified of approval/disapproval by Buyer. Any approved alternate specifications or standards will be incorporated into the Contract.

#### **RMC C-2-0010 NON SMOKING POLICY**

For bidding purposes, Seller is advised that in light of the Navy’s policy regarding smoke-free facilities, the entire Vessel, topside and below decks, is to be considered a “No Smoking Area” unless otherwise indicated by shipboard policy.

#### **RMC C-2-0016 USE OF BLACK OXIDE COATED BRASS THREADED FASTENERS (“BOCBTFs”)**

Due to safety concerns, use of BOCBTFs is not authorized when installing or replacing threaded fasteners in the accomplishment of any Contract Work required by this Contract.

#### **RMC C-2-0018 COSAL CONFIGURATION CHANGE DOCUMENTATION (NAVSEA) (JUN 1992)** *[Modified by Buyer]*

Seller shall document all changes to the ship’s configuration and prepare all documentation required to bring the ship’s COSAL and SPCC Weapons Systems Files (“WSF”) into agreement with the actual end of availability configuration. Perform COSAL/WSF maintenance action on all planned and actual equipments/components/equipage, whether furnished by Buyer, NASSCO, the Government or Seller.

#### **RMC C-2-0023 POST-AWARD SUBMISSION**

After receipt of award and prior to starting work aboard the Vessel, Seller must submit a list of employees who will work aboard the ship to Buyer so that Buyer can provide the list to NASSCO and the Government. The list should be on company letterhead, include each employee’s name, social security number, and security clearance when required, and bear the signature of a company official.

#### **RMC C-2-0027 USE/POSSESSION OF PERSONAL ELECTRONIC DEVICES (“PEDS”)** *[Modified by Buyer]*

The possession and use of portable electronic devices (“PEDs”) within the confines of any naval Vessel, or in Buyer’s Facility, NASSCO’s Facility, Government Facility or Seller’s facility where equipment removed from the Vessel is being worked, is strictly controlled. PEDs include: mobile computing devices such as personal digital assistants (“PDAs”); hand-held or laptop computers; mobile telephone devices such as data-enabled cellular telephones; two-way pagers, including those with e-mail capability; analog and digital sound recorders; and digital cameras, including

cellular phones with digital imaging capabilities. Cellular phones with digital imaging capabilities are strictly prohibited. PEDs may not be connected to any Navy-owned or controlled network. PEDs may not be used to store or process any digital information associated with the conduct of the Contract without written authorization from Buyer.

#### **ASBESTOS, POLYCHLORINATED BIPHENYLS (PCBs) AND OTHER REGULATED SUBSTANCES**

A. For the purposes of this Contract, regulated substances are those substances (excluding radioactive material) for which: 1. Applicable federal, state or local regulations, or the safety and health standards may require special exposure control measures to protect worker health and safety; or 2. In the absence of the specific regulations and standards, Seller shall utilize Occupational Safety and Health Act ("OSHA") recognized standards for identifying and controlling substances, and requiring special exposure control measures to protect workers in accordance with Section 5(a)(1) of Public Law 91-596 OSHA. Such measures include, but are not limited to, respiratory protection, protective clothing, industrial hygiene surveys and workplace controls such as containment and ventilation.

B. The Government will remediate or reduce the amount of any identified substance determined to be in such concentrations as to require worker protection measures in the workplace environment as required by paragraph A to the extent such remediation or removal is feasible.

C. Despite the best efforts of Seller and Government personnel to anticipate and remediate any conditions where the workplace environment is affected by asbestos, PCBs or other regulated substances, and Seller may nevertheless encounter unanticipated situations where worker protection measures are required. In this case: 1. Seller shall not be relieved of his duty to continue to perform the requirements of this Contract, including taking any actions necessary to comply "Department of Labor Occupational Safety and Health Standards for Ship Repair." 2. Any Seller effort, except for that specified in paragraph C.3. below resulting from the actions of paragraph C.1 above shall be an allowable cost under this Contract but shall not be the subject of equitable adjustment under the "Changes" clause of this Contract. 3. Cost and/or schedule impact resulting from remediation measures (i.e., clean up) required by paragraph A. above and worker protection measures in a level greater than the worker protection measures Seller must employ to comply with paragraph C.1 set forth above and shall be the subject of equitable adjustment under the "Changes" clause of this Contract.

#### **Section D - Packaging and Marking**

Data to be delivered by Integrated Digital Environment ("IDE") or other electronic media shall be as specified in the Contract. All classified data to be shipped shall be prepared for shipment in accordance with best commercial practice. Classified reports, data, and documentation shall be prepared for shipment in accordance with the National Industrial Security Program Operating Manual ("NISPOM"), DOD 5220.22-M dated 28 February 2006.

#### **IDENTIFICATION MARKING OF PARTS - ALTERNATE I (NAVSEA) (SEP 2009) [Modified by Buyer]**

(a) Identification marking of individual parts within the systems, equipments, assemblies, subassemblies, components, groups, sets or kits, and of spare and repair parts shall be done in accordance with applicable specifications and drawings. To the extent identification marking of such parts is not specified in applicable specifications or drawings, such marking shall be accomplished in accordance with the following: (1) Parts not manufactured to Buyer or Government specifications shall be marked in accordance with generally accepted commercial practice. (2) Parts manufactured to Buyer or Government specifications shall be marked as follows: (i) Electrical Parts - that is, all parts in electrical equipments and electrical parts when used in equipments which are not electrical in nature (e.g., electric controls and motors in a hydraulic system) - shall be identified and marked in accordance with MIL-STD-1285D dated 7 September 2004, or, where MIL-STD-1285D does not cover such a part, in accordance with MIL-STD-130N dated 17 December 2007. Requirements of MIL-STD-1686C dated 25 October 1995 for Electrostatic Discharge Control shall be addressed. (ii) Electronic Parts - that is, all parts in electronic equipments and electronic parts when used in equipments which are not electronic in nature (e.g., electronic fuel controls in some engines) - shall be identified and marked in accordance with Requirement 67 of MIL-HDBK-454A dated 3 November 2000. Requirements of MIL-STD-1686C for Electrostatic Discharge Control shall be addressed. (iii) Parts other than electrical or electronic parts (as described above) shall be identified and marked in accordance with MIL-STD-130N.

(b) In cases where parts are so small as not to permit identification marking as provided above, such parts shall be appropriately coded so as to permit ready identification.

#### **MARKING AND PACKING LIST(S) - ALTERNATE I (NAVSEA) (DEC 2005)**

(a) Marking. Shipments, shipping containers and palletized unit loads shall be marked in accordance with MIL-STD- 129P with change 3 dated 29 October 2004.

(b) Packing List(s). Not applicable. [Modified by Buyer]

(c) Master Packing List. A master packing list shall be prepared where more than one shipment, shipping container or palletized unit load comprise the Contract Work line item being shipped. The master packing list shall be attached to the number one container and so identified.

(d) Part Identification. All items within the kit, set, installation hardware or material shall be suitably segregated and identified within the unit pack(s) or shipping container by part number and/or national stock number. Refer to the above cited MIL-STD for marking of assorted (related-unrelated) items.

#### **MARKING OF REPORTS (NAVSEA) (SEP 1990) [Modified by Buyer]**

All reports delivered by Seller to Buyer for the Government under this Contract shall prominently show on the cover of the report: (1) name and business address of Seller; (2) Prime Contract number and Seller's PO number; (3) Contract dollar amount; (4) whether the Contract was competitively or non-competitively awarded; (5) List sponsor.

**Section E - Inspection and Acceptance** [Modified by Buyer]

**E-1** Seller’s performance and the quality of the completed work shall be subject to inspection, review and final acceptance by NASSCO, Buyer and/or the Government’s RMC or a duly authorized representative thereof.

**E-2** Failure of any contractually required document to conform to any of the applicable requirements of this Contract will result in the rejection of the non-conforming document. Non-conforming engineering drawing documents shall be re-examined after correction of all discrepancies. Seller shall identify the deficiencies corrected and the action taken to prevent recurrence.

**E-3** The Inspection System which Seller is required to maintain, as provided in paragraph (b) of the clause entitled “Inspection of Supplies-Cost Reimbursement” (FAR 52.246-3) or “Inspection of Supplies – Fixed Price (FAR 246-2) (Aug 1996), shall be in accordance with ISO 9001 in effect on the date of this Contract and NAVSEA Standard Item 009-04 in effect on the date of this Contract unless otherwise specified.

**E-4** Seller shall make his records of all inspection work available to Buyer, NASSCO, and/or the Government for a period of 180 days after completion of all Contract Work called for in this Contract.

**52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)**

52.246-2	INSPECTION OF SUPPLIES - FIXED PRICE (AUG1996)
52.246-3	INSPECTION OF SUPPLIES - COST-REIMBURSEMENT (MAY 2001)
52.246-4	INSPECTION OF SERVICES – FIXED PRICE (AUG 1996)
52.246-5	INSPECTION OF SERVICES – COST REIMBURSEMENT (APR 1984)

**ADDITIONAL PROVISIONS RELATING TO CORRECTION OF DEFECTS (NAVSEA) (OCT 1990)** [Modified by Buyer]

In case any Contract Work done or materials or supplies furnished by Seller under this Contract for any Vessel, or the equipment thereof, shall within 60 days of delivery of the Vessel to the Government, or the date of final acceptance, whichever occurs first, prove defective or deficient, such defects or deficiencies shall, as required by the Government, be corrected or repaired by Seller to the satisfaction of Buyer, NASSCO, and the Government’s Contracting Officer; provided, however, that with respect to any individual work item which is incomplete or deficient at the time of delivery or acceptance, Seller’s obligation under this requirement to correct or repair such deficiency shall extend 60 days from the date of such correction or repair, whichever occurs first.

**Section F - Deliveries or Performance**

**F-1 PLACE OF PERFORMANCE.** Work on all Vessels under this Contract shall be performed in the ships’ homeport, visiting San Diego, CA, at the facility identified below, to include CONUS and OCONUS, or as Buyer, NASSCO, or the Government’s ACO shall direct:

General Dynamics NASSCO  
2798 Harbor Drive  
San Diego, CA 92113-3650

**CLAUSES INCORPORATED BY REFERENCE**

52.242-15	STOP-WORK ORDER (AUG 1989) (Applicable only if Stop Work order initiated by the Government)
52.242-15 Alt I	STOP-WORK ORDER (AUG 1989) – Alternate I (APR 1984) (Applicable only if Stop Work order initiated by the Government)

**Section G - Contract Administration Data** – There are no flow-downs.

**Section H - Special Requirements**

**NAVSEA 5252.202-9101 ADDITIONAL DEFINITIONS (MAY 1993)**

As used throughout this Contract, the following terms shall have the meaning set forth below:

- (a) DEPARTMENT means the Department of the Navy.
- (b) REFERENCES TO THE FEDERAL ACQUISITION REGULATION (“FAR”): All references to the FAR in this Contract shall be deemed to also reference the appropriate sections of the Defense FAR Supplement (“DFARS”), unless clearly indicated otherwise.
- (c) REFERENCES TO ARMED SERVICES PROCUREMENT REGULATION OR DEFENSE ACQUISITION REGULATION. All references in this document to either the Armed Services Procurement Regulation (“ASPR”) or the Defense Acquisition Regulation (“DAR”) shall be deemed to be references to the appropriate sections of the FAR/DFARS.
- (d) NATIONAL STOCK NUMBERS. Whenever the term Federal Item Identification Number and its acronym FIIN or the term Federal Stock Number and its acronym FSN appear in the Contract, order or their cited specifications and standards, the terms and acronyms shall be interpreted as National Item Identification Number (“NIIN”) and National Stock Number (“NSN”) respectively which shall be defined as follows: (1) NIIN. The number assigned to each approved Item Identification under the Federal Cataloging Program. It consists of nine numeric characters, the first two of which are the National Codification Bureau (“NCB”) Code. The remaining positions consist of a seven digit non-significant number; (2) NSN. The NSN for an item of supply consists of the applicable four-position Federal Supply Class (“FSC”) plus the applicable nine-position NIIN assigned to the item of supply.

**5252.217-9107 GROWTH AND NEW WORK (SEP 1990)** [Modified by Buyer]

(a) It is the Government’s intention to ensure that, where it is determined that the Contract Work will be performed by the private sector, any growth or new work identified during the overhaul will be awarded to Buyer and its subcontractors including Seller only if a fair and

reasonable price can be negotiated for such work. If a fair and reasonable price cannot be negotiated for the above actions, the Government may, at its election, pursue any or all of the following course of action(s): (1) defer the Contract Work to a repair period after completion of the instant Contract; (2) accomplish the Contract Work using Government employees during the original overhaul period. (Government employees may engage in and complete the assigned work while the ship is undergoing overhaul in the initial prime contractor's facility or Buyer's Facility pursuant to the "ACCESS TO VESSEL" clause (DFARS 252.217-7011)); and/or (3) conduct a separate, competitive procurement for growth or new work. Performance will be during the original overhaul period. Buyer and other Master Ship Repair Agreement ("MSRA") holders may enter this competition. If other than Buyer is successful, the successful contractor may engage in and complete the work while the ship is undergoing overhaul in Buyer's Facility pursuant to the "ACCESS TO VESSEL" clause.

(b) Seller shall include in its proposed price the cost of supporting one or more third parties (including Government employees and/or other contractors' workers) at the overhaul site in performance of growth and/or new work, should the Government elect to pursue such a course. Increased costs that may result from third party presence as described above, may include, but are not limited to: insurance; physical plant security; reasonable access for third party workers who must transit Seller's facility or any other work site provided by the overhaul; and similar requirements. Third party presence will occur only if the prime ship repair contractor proposes other than a fair and reasonable price. Seller shall price anticipated added expenses associated with third party presence as a contingency into the fixed price offered for performance of the specified work package. Seller shall be guided in arriving at this contingency price based on a risk assessment relative to the probability of proposing fair and reasonable prices versus reaching a potential impasse with the Government which would precipitate third party presence.

(c) This requirement does not preclude the Government from using Government employees to perform new or growth work at any time during the availability provided the use of Government employees is in the best interest of the Government.

#### **5252.217-9121 INDEMNIFICATION FOR ACCESS TO VESSEL (MAY 1989) [Modified by Buyer]**

Notwithstanding any provision in the "ACCESS TO VESSEL" clause (DFARS 252.217-7011), or any other clause of the Contract, Seller agrees to allow officers, employees, and associates of the Government, or other prime contractors with the Government and their subcontractors, and officers, employees, and associates of offerors on other contemplated work, admission to Seller's facilities or Buyer's Facilities and access to the Vessel without any further request for indemnification from any party, which has not been previously included in the Contract Price.

#### **5252.223-9114.1 MANAGEMENT AND DISPOSAL OF HAZARDOUS WASTE (NOV 1996) [Modified by Buyer]**

(a) GENERAL. (1) Seller shall comply with all applicable federal, state and local laws, codes, ordinances and regulations for the management and disposal of hazardous waste. (2) Nothing contained in this requirement shall relieve Seller from complying with applicable federal, state, and local laws, codes, ordinances, and regulations, including obtaining licenses and permits, giving notices and submitting reports, in connection with hazardous waste management and disposal in the performance of this Contract. Nothing contained herein shall serve to alter either party's liability or responsibility under applicable federal, state and local laws, codes and ordinances. (3) Materials contained in ship systems are not waste until after removal from the system.

(b) IDENTIFICATION OF HAZARDOUS WASTES of this Contract identifies the types and amounts of hazardous wastes that are required to be removed by Seller pursuant to applicable law, or that are expected to be generated, during the performance of Contract Work under this Contract.

(c) GENERATOR IDENTIFICATION NUMBERS. (1) Documentation related to hazardous waste generated solely by the physical actions of ship's force or Navy employees on board the Vessel shall only bear a generator identification number issued to the Navy pursuant to applicable law. (2) Documentation related to hazardous waste generated solely by the physical actions of Seller's personnel shall only bear a generator identification number issued to Seller pursuant to applicable law. Regardless of the presence of other materials in or on the shipboard systems or structures which may have qualified a waste stream as hazardous, where Seller performs Contract Work on a system or structure using materials (whether or not the use of such materials was specified by the Navy) which by themselves would cause the waste from such work to be a hazardous waste, documentation related to such waste shall only bear a generator identification number issued to Seller. (3) Documentation related to hazardous waste generated by the combined physical actions of Navy and Seller's personnel shall bear a generator identification number issued to Seller pursuant to applicable law and shall also cite in the remarks block a generator identification number issued to the Navy pursuant to applicable law. (4) Notwithstanding paragraphs (c)(1) - (c)(3) above, hazardous wastes are considered to be co-generated in cases where: (a) Seller merely drains a system and such drainage creates hazardous waste or (b) Seller performs Contract Work on a system or structure using materials which by themselves would not cause the waste from such work to be hazardous waste but such work nonetheless creates a hazardous waste. Documentation related to such co-generated waste shall bear a generator identification number in accordance with the provisions of paragraph (c)(3) above. (5) In the event of a failure by the parties to agree with the Government to the assignment of a generator identification number to any hazardous waste as set forth in paragraphs (c)(1) through (c)(4) above, the Government may direct which party or parties shall provide generator identification numbers for the waste and such number(s) shall be used on all required documentation. Any disagreement with this direction shall be a dispute within the meaning of clause of this Contract entitled "DISPUTES" (FAR 52.233-1) set forth in NAASSCO's Prime Contract. However, Seller shall not stop any work but shall continue with performance of all Contract Work under this Contract as specified in the "DISPUTES" clause. (6) Hazardous Waste Manifests. For wastes described in (c)(2), (c)(3), and (c)(4) above (and (c)(5) as applicable), Seller shall sign the generator certification whenever use of the Manifest is required for disposal. Seller shall obtain concurrence with the categorization of the wastes under paragraphs (c)(3) and (c)(4) above before completion of the manifest. Manifests prepared pursuant to paragraph (c)(1) above shall be presented to Buyer for completion after the hazardous waste has been identified. (7) For purposes of paragraphs (c)(2) and (3) herein, if Seller, while performing work at a Government facility, cannot obtain a separate generator identification number from the Country or U.S. State in which the availability will be performed, Seller shall notify Buyer within 3 business days of receipt of written notification by the Country or U.S. State. After obtaining Buyer approval, Seller shall use the Navy generator identification number and insert in the remarks block Seller generator identification number issued for the site approved to be listed by Buyer. For purposes of paragraph (c)(1) herein, if the Contract Work is being performed at the non-Government facility and the Government cannot obtain a separate generator identification number from the Country or U.S. State, the Government shall use Seller generator identification number and shall cite in the remarks block a Navy generator identification number. In both instances described above, Seller shall prepare the Manifest described in paragraph (c)(6) above and present it to Buyer for completion.

#### **5252.227-9113 GOVERNMENT-INDUSTRY DATA EXCHANGE PROGRAM (OCT 2006) [Modified by Buyer]**

(a) Seller shall participate in the appropriate interchange of the Government-Industry Data Exchange Program (“GIDEP”) in accordance with NAVSEA S0300-BU-GYD-010 dated November 1994. Data entered is retained by the program and provided to qualified participants. Compliance with this requirement shall not relieve Seller from complying with any other requirement of the Contract.

(b) **Seller agrees to insert paragraph (a) of this requirement in any subcontract hereunder exceeding \$500,000.00. When so inserted, the word “Seller” shall be changed to “Subcontractor”.**

(c) GIDEP materials, software and information are available without charge from: GIDEP, P.O. Box 8000, Corona, CA 92878-8000, Phone: (951) 898-3207, FAX: (951) 898-3250, Internet: <http://www.gidep.org>

**5252.233-9103 DOCUMENTATION OF REQUESTS FOR EQUITABLE ADJUSTMENT (APR 1999) [Modified by Buyer]**

(a) For the purposes of this special requirement, the term “change” includes not only a change that is made pursuant to a written order designated as a “change order” but also (1) an engineering change proposed by the Government or by Buyer or Seller; and (2) any act or omission to act on the part of the Government in respect of which a request is made for equitable adjustment.

(b) Whenever Seller requests or proposes an equitable adjustment of \$100,000 or more per Vessel in respect to a change made pursuant to a written order designated as a “change order” or in respect to a proposed engineering change and whenever Seller requests an equitable adjustment in any amount in respect to any other act or omission to act on the part of the Government, the proposal supporting such request shall contain the following information for each individual item or element of the request: (1) A description (i) of the work required by the Contract before the change, which has been deleted by the change, and (ii) of the work deleted by the change which already has been completed. The description is to include a list of components, equipment, and other identifiable property involved. Also, the status of manufacture, procurement, or installation of such property is to be indicated. Separate description is to be furnished for design and production work. Items of raw material, purchased parts, components and other identifiable hardware, which are made excess by the change and which are not to be retained by Seller, are to be listed for later disposition; (2) Description of work necessary to undo work already completed which has been deleted by the change; (3) Description of work not required by the terms hereof before the change, which is substituted or added by the change. A list of components and equipment (not bulk materials or items) involved should be included. Separate descriptions are to be furnished for design work and production work; (4) Description of interference and inefficiencies in performing the change; (5) Description of each element of disruption and exactly how work has been, or will be disrupted: (i) The calendar period of time during which disruption occurred, or will occur; (ii) Area(s) aboard the Vessel where disruption occurred, or will occur; (iii) Trade(s) disrupted, with a breakdown of man-hours for each trade; (iv) Scheduling of trades before, during, and after period of disruption; (v) Description of measures taken to lessen the disruptive effect of the change; (6) Delay in delivery attributable solely to the change; (7) Other work attributable to the change; (8) Supplementing the foregoing, a narrative statement of the direct “causal” relationship between any alleged Government act or omission and the associated claimed consequences, cross referenced to the detailed information provided as required above; and (9) A statement setting forth a comparative enumeration of the amounts “budgeted” for the cost elements, including the material costs, labor hours and pertinent indirect costs, estimated by Seller in preparing its initial and ultimate proposal(s) for this Contract, and the amounts claimed to have been incurred and/or projected to be incurred corresponding to each such “budgeted cost” elements.

(c) Each proposal in excess of \$100,000 submitted in support of a claim for equitable adjustment under any requirement of this Contract shall, in addition to the information required by paragraph (b) hereof, contain such information as Buyer, NASSCO, and the Contracting Officer may require with respect to each individual claim item.

(d) It is recognized that individual claims for equitable adjustment may not include all of the factors listed in paragraph (b) above. Accordingly, Seller is required to set forth in its proposal information only with respect to those factors which are comprehended in the individual claim for equitable adjustment. In any event, the information furnished hereunder shall be in sufficient detail to permit Buyer, NASSCO, and the Contracting Officer to cross-reference the claimed increased costs, or delay in delivery, or both, as appropriate, submitted pursuant to paragraph (c) of this requirement, with the information submitted pursuant to paragraph (b) hereof.

**5252.233 9107 EQUITABLE ADJUSTMENTS: WAIVER AND RELEASE OF CLAIMS (AT) (JAN 1983) [Modified by Buyer]**

(a) Whenever Seller, after receipt of a change made pursuant to the clause of this Contract entitled “CHANGES” or after affirmation of a constructive change under the “NOTIFICATION OF CHANGES” (FAR 52.243-7) requirement, submits any claim for equitable adjustment under the foregoing, such claim shall include all types of adjustments in the total amounts to which the foregoing entitle Seller, including but not limited to adjustments arising out of delays or disruptions or both caused by such change.

(b) Further, Seller agrees (except as the parties may otherwise agree) that, if required by Buyer, NASSCO, and/or the Government’s Contracting Officer, Seller will execute a release, in form and substance satisfactory to Buyer, NASSCO, and/or the Government’s Contracting Officer, as part of the supplemental agreement setting forth the aforesaid equitable adjustment, and that such release shall discharge Buyer, NASSCO, and the Government, its officers, agents and employees, from any further claims including but not limited to further claims arising out of delays or disruptions or both, caused by the aforesaid change.

**5252.243-9105 NOTIFICATION OF CHANGES (CT) (JAN 1983) [Modified by Buyer]**

(a) Definitions. As used in this requirement, the term “Contracting Officer” does not include any representative of the Government’s Contracting Officer or Buyer’s Procurement Representative whether or not such representative is acting within the scope of his authority nor does it include any other individuals or activities that in any way communicate with Seller. As used in this requirement, the term “conduct” includes both actions and failures to act, and includes the furnishing of, or the failure to furnish, any item under any requirement of this Contract.

(b) Notice. The primary purpose of this requirement is to obtain prompt reporting of any conduct which Seller considers would constitute or would require a change to this Contract. The parties acknowledge that proper administration of this Contract requires that potential changes be identified and resolved as they arise. Buyer is under strict authorized work requirements in the Prime Contract. Therefore, except for changes identified as such in writing and signed by Buyer, Seller not authorized to proceed without an approved change order from Buyer’s Procurement Representative. Furthermore, Seller shall notify Buyer’s Procurement Representative of any conduct which Seller considers would constitute or would require a change to this Contract. Such notice shall be provided promptly and in any event within 30 calendar days from the date Seller identifies any such conduct. The notice shall be written and shall state, on the basis of the most accurate

information available to Seller: (i) The date, nature, and circumstances of the conduct regarded as a change; (ii) The name, function, and activity of the individuals directly involved in or knowledgeable about such conduct; (iii) The identification of any documents and the substance of any oral communication involved in such conduct; (iv) The particular elements of performance for which Seller might seek an equitable adjustment under this requirement, including: (1) What Vessel(s) have been or might be affected by the potential change; (2) To the extent practicable, labor or materials or both which have been or might be added, deleted, or wasted by the potential change; (3) To the extent practicable, Seller's preliminary order of magnitude estimate of cost and schedule effect of the potential change; and (4) What and in what manner are the particular technical requirements or Contract requirements regarded as changed.

(c) Continued Performance. Except as provided in paragraph (f) below, following submission of notice, Seller shall take no action to implement a potential change until advised by Buyer in writing as provided in (d) below, unless the potential change was previously directed by Buyer in writing, in which case Seller shall conform therewith. Nothing in this paragraph (c) shall excuse Seller from proceeding with Contract Work other than implementation of the potential change or from proceeding in accordance with directions issued by Buyer.

(d) Buyer's Response. Buyer shall promptly, and in any event within 21 calendar days after receipt of Seller's notice, respond thereto in writing. In such response, Buyer shall either: (i) Confirm that the conduct of which Seller gave notice would constitute a change, and when necessary, direct the mode of further performance, or; (ii) Countermand any conduct regarded by Seller as a change, or; (iii) Deny that the conduct of which Seller gave notice would constitute a change and, when necessary, direct the mode of further performance, or; (iv) In the event Seller's notice information is inadequate to make a decision under (i), (ii), or (iii), above, advise Seller what additional information is required. Failure of Buyer's Procurement Representative to respond within the time required above shall be deemed a countermand under (d)(ii).

(e) Equitable Adjustments. Equitable adjustments for changes confirmed or countermanded by Buyer shall be made in accordance with the clause of this Contract entitled "CHANGES", or any other requirement of this Contract which provides for an equitable adjustment.

(f) Special Procedures. Paragraph (c) provides that Seller is to take no action to implement a potential change pending Buyer's Procurement Representative's response to Seller's notice of the potential change, except where specifically directed by Buyer's Procurement Representative. In special situations, however, where (1) The circumstances do not allow sufficient time to notify Buyer's Procurement Representative of the facts prior to the need to proceed with the Contract Work; and (2) The Contract Work must proceed to avoid hazards to personnel or property or to avoid additional cost to Buyer or the Government, and then Seller may proceed with work in accordance with the potential change. In such special situations, Seller shall advise Buyer's Procurement Representative in writing within 10 days of the conduct giving rise to the potential change that Seller has proceeded and shall describe the nature of the special situation which required proceeding prior to notification. Within 30 calendar days of the conduct giving rise to the potential change, Seller shall provide notice as required in (b) above. Buyer's Procurement Representative shall respond as set forth in (d) above. If Buyer's Procurement Representative determines that the conduct constitutes a change and countermands it, Seller shall be entitled to an equitable adjustment for performance in accordance with that change prior to the countermand including the performance resulting from the countermand.

(g) When Seller identifies any conduct which may result in delay to delivery of the ship(s), Seller shall promptly so inform Buyer's Procurement Representative thereof prior to providing the notice required by paragraph (b) above.

(h) Despite good faith best efforts, occasions may arise in which Seller does not provide notice within the time periods specified in paragraphs (b) and (f) above. Accordingly, prior to the end of the first and third quarters of each calendar year through the period of performance of the Contract, beginning with TBD quarter of 201\_, Seller shall deliver to Buyer an executed bilateral modification (to be provided by Buyer), covering the 6 month period of time ending with the second and fourth quarters, respectively, of the preceding year, with such specific exceptions, if any, as are identified by Seller. If Seller cites specific exceptions to the release, Seller shall concurrently provide Buyer's Procurement Representative with notice, containing the information set forth in paragraph (b) of this requirement, for each item excepted from the release. However, the release required by this requirement shall not make unallowable any costs which are otherwise allowable under any other requirement of this Contract. Within 60 days of receipt of the release, Buyer's Procurement Representative shall sign and return a copy of the release to Seller. If Buyer's Procurement Representative fails to execute and return the release within the required time, then the release shall be deemed to be void and of no effect for the period involved.

(i) If the release in accordance with paragraph (h) above is not provided to Buyer's Procurement Representative by Seller in the time required, Buyer's Procurement Representative may execute the release as set forth in Exhibit "A" and send it to Seller. If Seller fails to execute the release and return it to Buyer's Procurement Representative (with any specific exceptions) within 60 days of receipt thereof, the required release shall then be deemed effective as if signed by Seller.

Exhibit "A" to the Requirement entitled "NOTIFICATION OF CHANGES"

This modification reflects the agreement of the parties to the mutual full and final releases for the consequences of that conduct (as conduct is defined in the requirement entitled "NOTIFICATION OF CHANGES"), described below, except the conduct identified in Attachment A hereto is excluded and not covered by the terms of this release.

1. Except for the conduct listed in Attachment A by either party, neither Seller nor Buyer shall be entitled to any equitable adjustment or to money damages and/or other relief for any conduct, as specified below.

2. In consideration of the foregoing the parties hereby agree to the following release:

(a) Buyer, for itself, its assigns, vendors, suppliers, and contractors, hereby remises, releases, and forever discharges Seller, its officers, agents and employees from any and all entitlement of Buyer to equitable adjustment of the Contract cost and profit and delivery schedule due to conduct under this Contract, which occurred on or before TBD.

(b) Seller, for itself, its successors, assigns, vendors, suppliers, and subcontractors, hereby remises, releases and forever discharges Buyer, its officers, agents and employees from (i) any and all entitlement of Seller to equitable adjustment of the Contract cost and profit and/or delivery schedule of this Contract or of any other contract with Buyer (with this or any other contractor) or any contract between Seller and any third party by reason of any conduct which increases Seller's cost or time of performance of work under this Contract and meets the following conditions (1) known to Seller, (2) occurred on or before TBD, and (3) Seller failed to give notice prior to date of this release, and (ii) any and all liabilities to Seller for money damages and/or other relief for the impact of any such conduct, upon this Contract or any other

contract with Buyer (with this or any other Seller) or any contract between Seller and any third party.

**5252.243 9113 OTHER CHANGE PROPOSALS (CT) (JAN 1990)** [Modified by Buyer]

(a) In addition to proposing engineering changes pursuant to other requirements of this Contract, and in addition to issuing changes pursuant to the clause of this Contract entitled "CHANGES", Buyer may propose other changes within the general scope of this Contract as set forth below. Within 45 days from the date of receipt of any such proposed change, or within such further time as Buyer may allow, Seller shall submit the proposed scope of Contract Work, plans and sketches, and its estimate of: (A) the cost, (B) the weight and moment effect, (C) effect on delivery dates of the Vessel(s), and (D) status of Contract Work on the Vessels affected by the proposed change. The proposed scope of work and estimate of cost shall be in such form and supported by such reasonably detailed information as Buyer may require. Within 60 days from the date of receipt of Seller's estimate, Seller agrees to either (A) enter into a supplemental agreement covering the estimate as submitted, or (B) if the estimate as submitted is not satisfactory to Buyer's Procurement Representative, enter into negotiations in good faith leading to the execution of a bilateral supplemental agreement. In either case, the supplemental agreement shall cover an equitable adjustment in the Contract cost and profit including an equitable adjustment for the preparatory work set forth above, scope, and all other necessary equitable adjustments. Seller's estimate referred to in this subparagraph shall be a firm offer for 60 days from and after the receipt thereof by Buyer's Procurement Representative having cognizance thereof, unless such period of time is extended by mutual consent.

(b) Pending execution of a bilateral agreement or the direction of Buyer's Procurement Representative pursuant to the "CHANGES" clause, Seller shall proceed diligently with performance without regard to the effect of any such proposed change.

(c) In the event that a change proposed by Buyer's Procurement Representative is not incorporated into the Contract, the work done by Seller in preparing the estimate in accordance with subparagraph (a) above shall be treated as if ordered by Buyer under the "CHANGES" clause. Seller shall be entitled to an equitable adjustment in the Contract cost and profit for the effort required under subparagraph (a), but Seller shall not be entitled to any adjustment in delivery date. Failure to agree to such equitable adjustment in the Contract cost and profit shall be a dispute within the meaning of the clause of this Contract entitled "DISPUTES" (FAR 52.233-1).

**SPECIAL WARRANTY OF SPECIFIED CRITICAL SYSTEMS AND WORK ITEMS (NAVSEA) (MAY 2012)** [Modified by Buyer]

(a) Definitions. As used in this clause—

Acceptance means the act of an authorized representative of the Government by which the Government takes delivery of the supply, which is the repaired, mission-ready Vessel that is the subject of the availability.

Defect means any condition or characteristic in any warranted supplies or related incidental services furnished by Seller that are not in compliance with the requirements of the Contract, as determined by the Regional Maintenance Center's C100, C200, C300 or C300 PM.

Warranted supplies mean the critical systems and work items specified in paragraph (b)(3) below, on which the Seller or its subcontractors worked, and the related incidental services performed by Seller or its subcontractors under this Contract. This term does not include "data."

(b) Seller's obligations.

(1) Seller warrants that, for 90 days after the Government's acceptance of the Vessel, all of the warranted supplies will be free from defects in material and workmanship and will conform with all relevant specifications and requirements of this Contract; provided, however, that with respect to Government-furnished property relating to such warranted supplies, Seller's warranty shall extend only to its proper installation, unless Seller performs some modification or other work on the property, in which case, Seller's warranty shall extend to the modification or other work.

(2) Any warranted supply or parts thereof corrected or furnished in replacement shall be subject to the conditions of this clause to the same extent as the warranted supply initially delivered. This warranty shall be equal in duration to that set forth in paragraph (b)(1) of this clause and shall run from the date of delivery of the corrected or replaced warranted supply.

(3) This special warranty applies only to the following specified critical systems and work items on which Seller or its subcontractors have worked under this Contract as identified in writing by Buyer after Buyer receives written identification from NASSCO and the Government.

(4) To the extent practicable, Seller shall mark the critical systems and work items listed in paragraph (b)(3) with the National Stock Number ("NSN") or manufacturer's part number, a serial number or other item identifier (if the warranty applies to uniquely identified items), the Prime Contract number, an indication (a brief statement) that a warranty applies, the substance of the warranty, the manufacturer or entity (if other than Seller) providing the warranty (who is to be notified if a defect or deficiency is found), the date or time the warranty expires, and an indication of whether an attempted on-site repair by DON personnel will void the warranty.

(5) If Seller or any subcontractor has a warranty for work performed or materials furnished relating to a warranted supply that exceeds the 90 day period, Seller warrants that Buyer, NASSCO, and the Government shall be entitled to rely upon the longer warranty until its expiration.

(6) With respect to any warranted supply, and any individual work item related thereto, identified by either party as incomplete at the time of redelivery of the Vessel, the special warranty period shall run from the date the item is completed.

(7) Seller shall not be obligated to correct or replace warranted supplies if the facilities, tooling, drawings, or other equipment or supplies necessary to accomplish the correction or replacement have been made unavailable to Seller by action of the Government. In the event that correction or replacement has been directed, Seller shall promptly notify the contracting officer, in writing, of the non-availability.

(8) Seller shall also prepare and furnish to the Government data and reports applicable to any correction required on a warranted supply (including revision and updating of all affected data called for under this Contract) at no expense to the Government.

(9) When warranted supplies are returned to Seller, Seller shall bear the transportation costs from the place of delivery specified in the Contract (irrespective of the f.o.b. point or the point of acceptance) to Seller's plant and return.

(10) This special warranty does not limit the Government's rights under the Inspection clause in relation to latent defects, fraud, or gross mistakes that amount to fraud; furthermore, this warranty does not include damage caused by the Government.

(11) All implied warranties of merchantability and "fitness for a particular purpose" relating to the warranted supplies are excluded from any obligation contained in this Contract.

(c) Remedies available to the Government and Buyer.

(1) Notwithstanding any other clause, term or condition of this Contract, including those pertaining to inspection and acceptance of supplies or services by Buyer, NASSCO, or the Government, in the event the Government, NASSCO, and Buyer determine that Seller has breached the special warranty in paragraph (b)(1) of this clause, the Government, NASSCO, and Buyer may do the following: (i) Require Seller, at the place of performance specified in the Contract (irrespective of the f.o.b. point or the point of acceptance) or at Seller's plant, to correct or replace, at the Contracting Officer's, NASSCO's, or Buyer's election, defective or nonconforming warranted supplies, at Seller's own expense, but only to the limits stated in paragraph (b)(3) of this clause; or (ii) Require Seller to furnish, at the place of delivery specified by Buyer, NASSCO, or the Contracting Officer (irrespective of the f.o.b. point or the point of acceptance) or at Seller's plant, the materials or parts and installation instructions required to successfully accomplish the correction, at Seller's own expense, but only to the limits stated in paragraph (b)(3) of this clause.

(2) If the Contracting Officer, NASSCO, and Buyer do not require correction or replacement of the defective or nonconforming warranted supplies by Seller, but instead has the correction or replacement performed by another source, the Government, NASSCO, or Buyer (as the case may be) shall be entitled to an equitable reduction in the total allowable costs reflecting the correction or replacement costs, but only to the limits stated in paragraph (b)(3) of this clause. Failure of the parties to agree upon an equitable reduction shall constitute a dispute under the disputes clause of this Contract.

(3) In fulfilling performance under this special warranty, Seller shall bear the costs incurred on corrective or replacement actions. Seller's obligation to correct or replace the defective warranted supply, or to agree to an equitable reduction in the total allowable costs, shall include responsibility for the costs of furnishing all labor and material to: (i) re-inspect warranted supplies that the Government, NASSCO, or Buyer reasonably expected to be defective; (ii) accomplish the required correction or replacement; and (iii) test, inspect, and mark repaired or replaced warranted supplies.

(4) The Contracting Officer will notify the Ship's Commanding Officer to prepare a list of defective or deficient items covered by this Special Warranty. The Contracting Officer will specify the acceptable turnaround times for warranty corrective actions to be taken by Seller. When these specified turnaround times are not met by Seller, the Contracting Officer will charge NASSCO, NASSCO will charge Buyer and Buyer will charge Seller for product replacement costs [or the following liquidated damages for each defective item not corrected by Seller within the specified turnaround time].

(5) The Contracting Officer shall notify NASSCO, who is responsible for notifying Buyer, who is responsible for notifying Seller in writing of any breach of the warranty in paragraph (b)(1) of this clause within 100 days after the Government's acceptance of the Vessel. Seller shall submit to Buyer, and Buyer will submit to NASSCO, and NASSCO will submit to the Contracting Officer a written recommendation within 4 days after receipt of this notice of breach as to the corrective action required to remedy the breach. After the notice of breach, but not later than 5 days after receipt of Seller's recommendation for corrective action, the Contracting Officer may, in writing, direct correction or replacement as in paragraph (c)(1) of this clause, and the Seller shall, notwithstanding any disagreement regarding the existence of a breach of warranty, comply with this direction. If it is later determined that Seller did not breach the warranty in paragraph (b)(1) of this clause, the total allowable costs will be equitably adjusted.

(6) If warranted supplies are corrected or replaced, the period of notification of a breach of Seller's warranty in paragraph (b)(2) of this clause shall be 100 days after the date of delivery of the corrected or replaced warranted supply.

(7) The rights and remedies of the Government, NASSCO, and Buyer provided in this clause are in addition to, and do not limit, any rights afforded to the Government, NASSCO, or Buyer by any other clause of the Contract.

#### **Section I - Contract Clauses**

In interpreting the requirements of these clauses, "Contracting Officer" should be considered to be Buyer's Procurement Representative and "Government" should be considered to be Buyer, unless the context indicates otherwise. Reasonable efforts have been used to convert the terminology used in the Government's solicitation clauses to the terms used in Pacship's General terms; however, there may some instances where those conversions were not made for clauses where full text was not given. Accordingly, please apply the following term conversions. "Contractor" shall mean Seller. The terms "Government" or "Contracting Officer" do not change: (i) when a right, act authorization or obligation can be granted or performed only by the Government, (ii) when access to proprietary financial information or other proprietary data is required, (iii) when title to property or rights in technical data and/or computer software are to be transferred directly to Government, (iv) with regards to a disputes or changes clause, or (v) with regards to a clause permitting audit(s) of Seller. Some clauses are included in full text, and others of the FAR and DFARS are hereby incorporated into this Contract by reference as if given in full text, subject to the following definitions, and subject to the particular limitations and modifications indicated. The full text of FAR and DFARS clauses may be accessed electronically at the following internet websites:

<https://www.acquisition.gov/far/>  
<http://FARSITE.HILL.AF.MIL/Vfdfar1.htm>

#### **I.1 CLAUSES INCORPORATED BY REFERENCE (FEB 1998) (FAR 52.252-2)**

This Contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(s):

<http://farsite.hill.af.mil/>

The following notes apply to the clauses incorporated by reference below.

Note 1 – Substitute “Buyer” for “the Government” or “the United States”.

Note 2 – Substitute “Buyer Procurement Representative” for “Contracting Officer”, “Administrative Contracting Officer”, and “ACO”.

Note 3 – Insert “and Buyer” after “Government”.

Note 4 – Insert “or Buyer”) after “Government”.

Note 5 – Communication/notification required under this clause from/to the Seller and to/from the Contracting Officer shall be through Buyer.

Note 6 – Insert “and Buyer” after “Contracting Officer”.

Note 7 – Insert “or Buyer’s Procurement Representative” after “Contracting Officer”.

#### FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) CLAUSES

NUMBER	TITLE	DATE & NOTE
52.202-1	DEFINITIONS <i>No Note applies.</i>	JAN 2012
52.203-3	GRATUITIES <i>Note 3 applies in (c) and (d).</i>	APR 1984
52.203-5	CONVENANT AGAINST CONTINGENT FEES <i>Note 3 applies in (a).</i>	APR 1984
52.203-6	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT <i>Applies if the Contract value exceeds \$150,000. No Note applies.</i>	SEPT 2006
52.203-7	ANTI-KICKBACK PROCEDURES <i>Clause applies if the Contract value exceeds \$150,000 and Note 2 applies for (b)(4) when the Government exercises its rights and remedies against Buyer as a result of any kickback given by Seller.</i>	OCT 2010
52.203-8	CANCELLATION, RECISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY <i>Note 3 applies to (b) and (c).</i>	JAN 1997
52.203-10	PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY <i>Note 2 applies for (b) and Note 1 applies for (c) when the Government exercises its rights and remedies against Buyer as a result of any illegal or improper activity done by Seller.</i>	JAN 1997
52.203-12	LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS <i>Applies if the Contract value exceeds \$150,000. Note 5 applies. Seller is to make disclosure to Buyer so that Buyer can fulfill the obligations under the Prime Contract.</i>	OCT 2010
52.203-13	CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT <i>Applies if this Contract exceeds \$5,000,000 and the period of performance is more than 120 days. Disclosures made under this clause shall be made directly to the Government entities identified in the clause. Clause does not apply to small businesses.</i>	APR 2010
52.204-2	SECURITY REQUIREMENTS <i>Applies if the Contract Work requires access to classified information.</i>	AUG 1996
52.204-4	PRINTED OR COPIED DOUBLE-SIDED ON POST CONSUMER FIBER CONTENT PAPER <i>Note 3 applies to (b).</i>	MAY 2011
52.204-9	PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL <i>Applies where Seller will have physical access to a federally-controlled facility or access to a federal information system. Note 3 applies for (c). In (d) the reference to prime contractor shall mean Buyer. Seller is responsible for getting the information to Buyer so that Buyer can comply with the reporting requirements of (d).</i>	JAN 2011
52.204-10	REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACTOR AWARDS <i>Applies if Seller meets the first tier subcontract thresholds specified in the clause. Seller is to send information to Buyer so that Buyer and fulfill its reporting obligations under this clause. No Note applies.</i>	JUL 2013
52.209-6	PROTECTING THE GOVERNMENT’S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT <i>Applies if this Contract exceeds \$30,000 and is not a subcontract for commercially available off the shelf items. Seller is to provide notices to Buyer so that Buyer can fulfill its reporting obligations under this clause. Note 5 applies.</i>	AUG 2013
52.211-5	MATERIAL REQUIREMENTS <i>Note 2 applies to (d) and (e).</i>	AUG 2000
52.211-15	DEFENSE PRIORITY AND ALLOCATION REQUIREMENTS <i>No Note applies.</i>	APR 2008
52.215-2	AUDIT AND RECORDS—NEGOTIATION	OCT 2010

Applies if the Contract value exceeds \$150,000; applicable if: (1) Seller is required to furnish cost or pricing data, or (2) the Contract requires Seller to furnish cost, funding or performance reports, or (3) this is an incentive or re-determinable type contract.

52.215-8 ORDER OF PRECEDENCE—UNIFORM CONTRACT FORMAT <u>No Note applies.</u>	OCT 1997
52.215-11 PRICE REDUCTION FOR DEFECTIVE CERTIFIED COST OR PRICING DATA—MODIFICATIONS <u>Applies if submission of certified cost or pricing data is required for modifications. Note 4 applies. Rights and obligations under this clause shall survive completion of the work and final payment under this Contract.</u>	AUG 2011
52.215-12 SUBCONTRACTOR CERTIFIED COST OR PRICING DATA <u>Applies if this Contract exceeds \$700,000 and is not otherwise exempt under FAR 15.403. No Note applies.</u>	OCT 2010
52.215-13 SUBCONTRACTOR CERTIFIED COST OR PRICING DATA—MODIFICATIONS <u>Applies if this Contract exceeds \$700,000 and is not otherwise exempt under FAR 15.403. No Note applies.</u>	OCT 2010
52.215-15 PENSION ADJUSTMENTS AND ASSET REVERSIONS <u>Applies if this Contract meets the applicability requirements of FAR 15.408(g). Note 5 applies.</u>	OCT 2010
52.215-18 REVERSION OR ADJUSTMENT OF PLANS FOR POSTRETIREMENT BENEFITS (PRB) OTHER THAN PENSIONS <u>Applies if this Contract meets the requirements of FAR 15.408(j). Note 5 applies.</u>	JUL 2005
52.215-19 NOTIFICATIONS OF OWNERSHIP CHANGES <u>Applies if this Contract meets the requirements of FAR 15.408(k). Note 5 applies.</u>	OCT 1997
52.215-21 REQUIREMENTS FOR CERTIFIED COST OR PRICING DATA AND OTHER THAN CERTIFIED COST OR PRICING DATA—MODIFICATIONS <u>Note 5 applies.</u>	OCT 2010
52.215-21A II REQUIREMENTS FOR CERTIFIED COST OR PRICING DATA AND DATA OTHER THAN CERTIFIED COST OR PRICING DATA—MODIFICATIONS (OCT 2010) <u>Note 5 applies.</u>	OCT 1997
52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN <u>Applies if value of Contract equals or exceeds \$650,000 except the clause does not apply if Seller is a small business concern. Seller is to provide its subcontracting plan to Buyer so that Buyer can incorporate it as part of Buyer's own reporting obligations with respect to this clause. Note 5 applies.</u>	JUL 2013
52.219-14 LIMITATIONS ON SUBCONTRACTING <u>No Note applies.</u>	NOV 2011
52.222-1 NOTICE TO THE GOVERNMENT OF LABOR DISPUTES <u>Note 5 applies.</u>	FEB 1997
52.222-3 CONVICT LABOR <u>No Note applies.</u>	JUN 2003
52.222-4 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT—OVERTIME COMPENSATION <u>Applies if the Contract requires or involves employment of laborers or mechanics. Note 7 applies.</u>	JUL 2005
52.222-19 CHILD LABOR—COOPERATION WITH AUTHORITIES AND REMEDIES <u>Note 2 applies for (c) and Note 2 for (d) when the Government exercises its rights and remedies against Buyer for Seller's violations.</u>	MAR 2012
52.222-20 WALSH-HEALEY PUBLIC CONTRACTS ACT <u>Applies when Contract exceeds or may exceed \$15,000. No Note applies.</u>	OCT 2010
52.222-21 PROHIBITION OF SEGREGATED FACILITIES <u>No Note applies.</u>	FEB 1999
52.222-26 EQUAL OPPORTUNITY <u>Applies to Contract with value in excess of \$10,000. Note 7 applies to (c)(3) and (c)(5).</u>	MAR 2007
52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES <u>Applies if Contract value equals or exceeds \$15,000. No Note applies.</u>	OCT 2010
52.222-37 EMPLOYMENT REPORTS ON VETERANS <u>Applies if Contract value equals or exceeds \$100,000. Seller is to provide its report to Buyer so that Buyer can incorporate it as part of Buyer's own reporting obligations with respect to this clause. Note 5 applies.</u>	SEP 2010
52.222-50 COMBATING TRAFFICKING IN PERSONS <u>Note 5 applies except in (e) where Note 4 applies.</u>	FEB 2009
52.222-54 EMPLOYMENT ELIGIBILITY VERIFICATION <u>Applies if this Contract exceeds \$3,000. No Note applies.</u>	AUG 2013
52.223-3 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA ALT I (JUL 1995) <u>Applies if this Contract involves hazardous material. Note 5 applies in (e) and Note 4 applies in (f).</u>	JAN 1997

52.223-5 POLLUTION PREVENTATION AND RIGHT-TO-KNOW INFORMATION <u>No Note applies.</u>	MAY 2011
52.223-6 DRUG-FREE WORKPLACE <u>Note 5 applies except Note 4 applies in (d).</u>	MAY 2001
52.223-11 OZONE-DEPLETING SUBSTANCES <u>Applies if the Contract Work was manufactured with or contains ozone-depleting substances. No Note applies.</u>	MAY 2001
52.223-12 REFRIGERATION EQUIPMENT AND AIR CONDITIONERS <u>No Note applies.</u>	MAY 1995
52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES <u>No Note applies.</u>	JUN 2008
52.227-1 AUTHORIZATION AND CONSENT <u>No Note applies. Government and Contracting Officer remain unchanged.</u>	DEC 2007
52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT <u>Applies if Contract value exceeds \$150,000; Note 5 applies to (a) and (b).</u>	DEC 2007
52.227-10 FILING OF PATENT APPLICATIONS—CLASSIFIED SUBJECT MATTER <u>Applies if the Contract Work or any patent application may cover classified subject matter. Note 5 applies to (a), (b) and (c).</u>	DEC 2007
52.227-11 PATENT RIGHTS—OWNERSHIP BY CONTRACTOR <u>Note 5 applies to (c)(i) and (e)(3). Seller is to provide its report to Buyer so that Buyer can fulfill its obligations under the Prime Contract.</u>	DEC 2007
52.227-13 PATENT RIGHTS—OWNERSHIP BY THE GOVERNMENT <u>Note 5 applies in (b)(2)(i), (e)(1), (e)(2), (e)(3), (f)(2), (g). Seller is to provide its disclosures and reports to Buyer so that Buyer can fulfill its obligations under the Prime Contract.</u>	DEC 2007
52.230-2 COST ACCOUNTING STANDARDS <u>Applies only when referenced in the Contract that full CAS coverage applies. No Note applies.</u>	MAY 2012
52.230-3 DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRATICES <u>No Note applies.</u>	MAY 2012
52.230-6 ADMINISTRATION OF COST ACCOUNTING STANDARDS <u>Applies if FAR 52.230-2 or FAR 52.230-3 applies. No Note applies.</u>	JUN 2010
52.232-22 LIMITATION OF FUNDS <u>Note 2 applies to (c), (d), (e), (f)(2), (h) and (i). Note 1 applies to (k).</u>	APR 1984
52.232-23 ASSIGNMENT OF CLAIMS <u>Note 2 applies for (c).</u>	JAN 1986
52.232-23Alt I ASSIGNMENT OF CLAIMS (JAN 1986) – Alternate I <u>No Note applies.</u>	JAN 1986 APR 1984
52.233-3 PROTEST AFTER AWARD <u>Note 2 applies except in (e) where Note 3 applies.</u>	AUG 1996
52.233-4 APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM <u>No Note applies.</u>	OCT 2004
52.237-2 PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT AND VEGETATION <u>Applies if Contract Work is performed on a Government installation. No Note applies.</u>	APR 1984
52.237-3 CONTINUITY OF SERVICES <u>Note 2 applies to (b).</u>	JAN 1991
52.242-1 NOTICE OF INTENT TO DISALLOW COSTS <u>Note 5 applies to (a)(2).</u>	APR 1984
52.242-3 PENALTIES FOR UNALLOWABLE COSTS <u>No Note applies.</u>	MAY 2001
52.242-13 BANKRUPTCY <u>Note 2 applies.</u>	JUL 1995
52.243-1 CHANGES—FIXED PRICE <u>Note 2 applies.</u>	AUG 1987
52.243-2 CHANGES – COST REIMBURSEMENT ALT II (APR 1984) <u>Note 2 applies.</u>	AUG 1987
52.243-7 NOTIFICATION OF CHANGES	APR 1984

<u>Note 5 applies.</u>	
52.244-5 COMPETITION IN SUBCONTRACTING <u>No Note applies.</u>	DEC 1996
52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS <u>Note 2 applies.</u>	JUL 2013
52.245-1 GOVERNMENT PROPERTY ALT I (APR 1984) <u>Note 5 applies.</u>	APR 2012
52.245-2 GOVERNMENT PROPERTY INSTALLATION OPERATION SERVICES <u>Note 5 applies in (c).</u>	APR 2012
52.245-9 USE AND CHARGES <u>Note 5 applies.</u>	APR 2012
52.247-68 REPORT OF SHIPMENT (REPSHIP) <u>Note 5 applies.</u>	FEB 2006
52.248-1 VALUE ENGINEERING <u>Applies if the Contract value exceeds \$150,000; Note 5 applies.</u>	OCT 2010
52.249-2 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) <u>Clause is applicable when Government terminates the Prime Contract.</u>	APR 2012
52.249-6 TERMINATION (COST-REIMBURSEMENT) <u>Clause is applicable when Government terminates the Prime Contract.</u>	MAY 2004
52.249-8 DEFAULT (FIXED-PRICE SUPPLY AND SERVICE) <u>Clause is applicable when Government terminates the Prime Contract.</u>	APR 1984
52.249-14 EXCUSABLE DELAYS <u>Note 2 applies to (b)(2) and Note 7 applies to (c).</u>	APR 1984
52.251-1 GOVERNMENT SUPPLY SOURCES <u>No Note applies.</u>	APR 2012
52.253-1 COMPUTER GENERATED FORMS <u>No Note applies.</u>	JAN 1991
252.201-7000 CONTRACTING OFFICER'S REPRESENTATIVE <u>No Note applies.</u>	DEC 1991
252.203-7000 REQUIREMENTS RELATING TO COMPENSATION OF FORMER DOD OFFICIALS <u>No Note applies.</u>	SEPT 2011
252.203-7001 PROHIBITION ON PERSONS CONVICTED OF FRAUD OR OTHER DEFENSE CONTRACT-RELATED FELONIES - <u>Applies if this Contract exceeds \$150,000. Note 5 applies.</u>	DEC 2008
252.203-7002 REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS <u>No Note applies.</u>	JAN 2009
252.203-7003 AGENCY OFFICE OF THE INSPECTOR GENERAL <u>No Note applies.</u>	DEC 2012
252.203-7004 DISPLAY OF FRAUD HOTLINE POSTER(S) <u>No Note applies.</u>	DEC 2012
252.204-7000 DISCLOSURE OF INFORMATION <u>Note 5 applies.</u>	AUG 2013
252.204-7003 CONTROL OF GOVERNMENT PERSONNEL WORK PRODUCT <u>No Note applies.</u>	APR 1992
252.204-7005 ORAL ATTESTATION OF SECURITY RESPONSIBILITIES <u>No Note applies.</u>	NOV 2001
252.205-7000 PROVISION OF INFORMATION TO COOPERATIVE AGREEMENT HOLDERS <u>No Note applies.</u>	DEC 1991
252.209-7004 SUBCONTRACTING WITH FIRMS THAT ARE OWNED OR CONTROLLED BY THE GOVERNMENT OF A TERRORIST COUNTRY <u>Note 5 applies for (b).</u>	DEC 2006
252.211-7003 ITEM IDENTIFICATION AND VALUATION	JUN 2013

Applies if this Contract requires the Contract Work to contain unique item identification. Note 5 applies for (f).

252.211-7005 SUBSTITUTIONS FOR MILITARY OR FEDERAL SPECIFICATIONS AND STANDARDS <u>Note 5 applies for (e)(2).</u>	NOV 2005
252.215-7000 PRICING ADJUSTMENTS <u>No Note applies.</u>	DEC 2012
252.215-7002 COST ESTIMATING SYSTEM REQUIREMENTS <u>Note 5 applies.</u>	DEC 2012
252.216-7004 AWARD FEE REDUCTION OR DENIAL FOR JEOPARDIZING THE HEALTH OR SAFETY OF GOVERNMENT PERSONNEL <u>Note 1 applies for (b).</u>	SEP 2011
252.217-7028 OVER AND ABOVE WORK <u>Note 5 applies.</u>	DEC 1991
252.219-7003 SMALL BUSINESS SUBCONTRACTING PLAN (DOD CONTRACTS) <u>Note 5 applies.</u>	AUG 2012
252.223-7004 DRUG FREE WORK FORCE <u>No Note applies.</u>	SEP 1988
252.223-7006 PROHIBITION ON STORAGE AND DISPOSAL OF TOXIC AND HAZARDOUS MATERIALS <u>No Note applies.</u>	APR 2012
252.223-7008 PROHIBITION OF HEXAVALENT CHROMIUM <u>Note 2 applies for (b.)</u>	JUN 2013
252.225-7001 BUY AMERICAN AND BALANCE OF PAYMENTS PROGRAM <u>Applies if the Contract Work contains other than domestic components. No Note applies.</u>	DEC 2012
252.225-7002 QUALIFYING COUNTRY SOURCES AS SUBCONTRACTORS <u>No Note applies.</u>	DEC 2012
252.225-7004 REPORT OF INTENDED PERFORMANCE OUTSIDE THE UNITED STATES AND CANADA--SUBMISSION AFTER AWARD <u>Note 5 applies.</u>	OCT 2010
252.225-7007 PROHIBITION ON ACQUISITION OF UNITED STATES MUNITIONS LIST ITEMS FROM COMMUNIST CHINESE MILITARY COMPANIES <u>Applies if Seller is supplying items on the U.S. Munitions List. No Note applies.</u>	SEP 2006
252.225-7009 RESTRICTION ON ACQUISITION OF CERTAIN ARTICLES CONTAINING SPECIALTY METALS <u>Applies if the Contract Work to be furnished contains specialty metals. Note 5 applies to (d)(i).</u>	JUN 2013
252.225-7012 PREFERENCE FOR CERTAIN DOMESTIC COMMODITIES <u>No Note applies.</u>	FEB 2013
252.225-7013 DUTY-FREE ENTRY <u>Note 5 applies.</u>	JUN 2012
252.225-7015 RESTRICTION ON ACQUISITION OF HAND OR MEASURING TOOLS <u>No Note applies.</u>	JUN 2005
252.225-7016 RESTRICTION ON ACQUISITION OF BALL AND ROLLER BEARINGS <u>No Note applies.</u>	JUN 2011
252.225-7019 RESTRICTION ON ACQUISITION OF ANCHOR AND MOORING CHAIN <u>No Note applies.</u>	DEC 2009
252.225-7025 RESTRICTION ON ACQUISITION OF FORGINGS <u>Note 5 applies for (d).</u>	DEC 2009
252.225-7030 RESTRICTION ON ACQUISITION OF CARBON, ALLOY, AND ARMOR STEEL PLATE <u>No Note applies.</u>	DEC 2006
252.226-7001 UTILIZATION OF INDIAN ORGANIZATIONS AND INDIAN-OWNED ECONOMIC ENTERPRISES, AND NATIVE HAWAIIAN SMALL BUSINESS CONCERNS <u>Applies if this Contract exceeds \$500,000. Note 5 applies.</u>	SEP 2004
252.227-7013 RIGHTS IN TECHNICAL DATA—NONCOMMERCIAL ITEMS <u>Note 5 applies.</u>	JUN 2013
252.227-7014 RIGHTS IN NONCOMMERCIAL COMPUTER SOFTWARE AND NONCOMMERCIAL COMPUTER SOFTWARE DOCUMENTATION <u>Note 5 applies.</u>	MAY 2013

252.227-7016 RIGHTS IN BID OR PROPOSAL INFORMATION <i>No Note applies.</i>	JAN 2011
252.227-7019 VALIDATION OF ASSERTED RESTRICTIONS--COMPUTER SOFTWARE <i>Note 5 applies.</i>	SEP 2011
252.227-7027 DEFERRED ORDERING OF TECHNICAL DATA OR COMPUTER SOFTWARE <i>No Note applies.</i>	APR 1988
252.227-7030 TECHNICAL DATA--WITHHOLDING OF PAYMENT <i>Note 5 applies.</i>	MAR 2000
252.227-7037 VALIDATION OF RESTRICTIVE MARKINGS ON TECHNICAL DATA <i>Note 5 applies.</i>	JUN 2013
252.227-7039 PATENTS--REPORTING OF SUBJECT INVENTIONS <i>Note 5 applies.</i>	APR 1990
252.231-7000 SUPPLEMENTAL COST PRINCIPLES <i>No Note applies.</i>	DEC 1991
252.242-7005 CONTRACTOR BUSINESS SYSTEMS <i>Note 5 applies.</i>	FEB 2012
252.242-7006 ACCOUNTING SYSTEM ADMINISTRATION <i>Note 5 applies.</i>	FEB 2012
252.243-7002 REQUESTS FOR EQUITABLE ADJUSTMENT <i>Note 5 applies.</i>	DEC 2012
252.244-7000 SUBCONTRACTORS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS (DOD CONTRACTS) <i>No Note applies.</i>	JUN 2013
252.246-7001 WARRANTY OF DATA <i>Note 5 applies.</i>	DEC 1991
252.246-7003 NOTIFICATION OF POTENTIAL SAFETY ISSUES <i>Note 5 applies.</i>	JUN 2013
252.247-7023 TRANSPORTATION OF SUPPLIES BY SEA <i>Note 5 applies.</i>	JUN 2013
252.249-7002 NOTIFICATION OF ANTICIPATED CONTRACT TERMINATION OR REDUCTION <i>Note 5 applies.</i>	OCT 2010
252.251-7000 ORDERING FROM GOVERNMENT SUPPLY SOURCES <i>Note 5 applies.</i>	AUG 2012

**52.215-22 LIMITATIONS ON PASS-THROUGH CHARGES--IDENTIFICATION OF SUBCONTRACT EFFORT (OCT 2009) [Modified by Buyer]**

- (a) Definitions. Added value, excessive pass-through charge, subcontract, and subcontractor, as used in this provision, are defined in the clause of this solicitation entitled "Limitations on Pass-Through Charges" (FAR 52.215-23).
- (b) General. The offeror's proposal shall exclude excessive pass-through charges.
- (c) Performance of work by Seller or a subcontractor. (1) The offeror shall identify in its proposal the total cost of the work to be performed by the offeror, and the total cost of the work to be performed by each subcontractor, under the Contract, task order, or delivery order. (2) If the offeror intends to subcontract more than 70 percent of the total cost of work to be performed under the Contract, task order, or delivery order, the offeror shall identify in its proposal--The amount of the offeror's indirect costs and profit/fee applicable to the work to be performed by the subcontractor(s); and (ii) A description of the added value provided by the offeror as related to the work to be performed by the subcontractor(s). (3) If any subcontractor proposed under the Contract, task order, or delivery order intends to subcontract to a lower-tier subcontractor more than 70 percent of the total cost of work to be performed under its subcontract, the offeror shall identify in its proposal--(i) The amount of the subcontractor's indirect costs and profit/fee applicable to the work to be performed by the lower-tier subcontractor(s); and (ii) A description of the added value provided by the subcontractor as related to the work to be performed by the lower-tier subcontractor(s).

**52.215-23 LIMITATIONS ON PASS-THROUGH CHARGES (OCT 2009) [Modified by Buyer]**

- (a) Definitions. As used in this clause--

Added value means that Seller performs subcontract management functions that Buyer and the Contracting Officer determine are a benefit to the Government (e.g., processing orders of parts or services, maintaining inventory, reducing delivery lead times, managing multiple sources for contractual requirements, coordinating deliveries, performing quality assurance functions).

Excessive pass-through charge, with respect to Seller or any subcontractor that adds no or negligible value to a contract or subcontract, means

a charge to Buyer and the Government by Seller or any subcontractor that is for indirect costs or profit/fee on work performed by any subcontractor (other than charges for the costs of managing subcontracts and any applicable indirect costs and associated profit/fee based on such costs). No or negligible value means Seller or any subcontractor cannot demonstrate to Buyer or the Contracting Officer that its effort added value to the Contract or subcontract in accomplishing the work performed under the Contract (including task or delivery orders).

Subcontract means any contract, as defined in FAR 2.101, entered into by a subcontractor to furnish supplies or services for performance of the contract or a subcontract. It includes but is not limited to purchase orders, and changes and modifications to purchase orders.

Subcontractor, as defined in FAR 44.101, means any supplier, distributor, vendor, or firm that furnishes supplies or services to or for a prime contractor or another subcontractor.

(b) General. The Government will not pay excessive pass-through charges. The Contracting Officer shall determine if excessive pass-through charges exist.

(c) Reporting. Required reporting of performance of work by Seller or any subcontractor. Seller shall notify Buyer in writing so that Buyer can notify the Contracting Officer in writing if—(1) Seller changes the amount of subcontract effort after award such that it exceeds 70 percent of the total cost of work to be performed under the Contract, task order, or delivery order. The notification shall identify the revised cost of the subcontract effort and shall include verification that Seller will provide added value; or (2) Any subcontractor changes the amount of lower-tier subcontractor effort after award such that it exceeds 70 percent of the total cost of the work to be performed under its subcontract. The notification shall identify the revised cost of the subcontract effort and shall include verification that the subcontractor will provide added value as related to the work to be performed by the lower-tier subcontractor(s).

(d) Recovery of excessive pass-through charges. If the Contracting Officer determines that excessive pass-through charges exist; (1) For other than fixed-price contracts, the excessive pass-through charges are unallowable in accordance with the provisions in FAR subpart 31.2; and (2) For applicable DoD fixed-price contracts, as identified in 15.408(n)(2)(i)(B), the Government shall be entitled to a price reduction for the amount of excessive pass-through charges included in the Contract Price.

(e) Access to records. (1) The Contracting Officer, or authorized representative, shall have the right to examine and audit all Seller's records (as defined at FAR 52.215-2(a)) necessary to determine whether Seller proposed, billed, or claimed excessive pass-through charges. (2) For those subcontracts to which paragraph (f) of this clause applies, the Contracting Officer, or authorized representative, shall have the right to examine and audit all the subcontractor's records (as defined at FAR 52.2152(a)) necessary to determine whether the subcontractor proposed, billed, or claimed excessive pass-through charges.

**(f) Flow-down. Seller shall insert the substance of this clause, including this paragraph (f), in all cost-reimbursement subcontracts under this Contract that exceed the simplified acquisition threshold, except if the Contract is with DoD, then insert in all cost-reimbursement subcontracts and fixed-price subcontracts, except those identified in 15.408(n)(2)(i)(B)(2), that exceed the threshold for obtaining cost or pricing data in accordance with FAR 15.403-4.**

#### **52.222-2 PAYMENT FOR OVERTIME PREMIUMS (JUL 1990) [Modified by Buyer]**

(a) The use of overtime is authorized under this Contract if the overtime premium cost does not exceed 0 or the overtime premium is paid for work— (1) Necessary to cope with emergencies such as those resulting from accidents, natural disasters, breakdowns of production equipment, or occasional production bottlenecks of a sporadic nature; (2) By indirect-labor employees such as those performing duties in connection with administration, protection, transportation, maintenance, standby plant protection, operation of utilities, or accounting; (3) To perform tests, industrial processes, laboratory procedures, loading or unloading of transportation conveyances, and operations in flight or afloat that are continuous in nature and cannot reasonably be interrupted or completed otherwise; or (4) That will result in lower overall costs to the Government.

(b) Any request for estimated overtime premiums that exceed the amount specified above shall include all estimated overtime for Contract completion and shall— (1) Identify the work unit; e.g., department or section in which the requested overtime will be used, together with present workload, staffing, and other data of the affected unit sufficient to permit Buyer and the Government's Contracting Officer to evaluate the necessity for overtime; (2) Demonstrate the effect that denial of the request will have on the Contract delivery or performance schedule; (3) Identify the extent to which approval of overtime would affect the performance or payments in connection with other Government contracts, together with identification of each affected contract; and (4) Provide reasons why the required work cannot be performed by using multi-shift operations or by employing additional personnel.

\*Insert either "zero" or the dollar amount agreed to during negotiations. The inserted figure does not apply to the exceptions in paragraph (a)(1) through (a)(4) of the clause.

#### **52.223-7 NOTICE OF RADIOACTIVE MATERIALS (JAN 1997) [Modified by Buyer]**

(a) Seller shall notify Buyer's Procurement Representative or designee, in writing, 30 days prior to the delivery of, or prior to completion of any servicing required by this Contract of, items containing either (1) radioactive material requiring specific licensing under the regulations issued pursuant to the Atomic Energy Act of 1954, as amended, as set forth in Title 10 of the Code of Federal Regulations, in effect on the date of this Contract, or (2) other radioactive material not requiring specific licensing in which the specific activity is greater than 0.002 microcuries per gram or the activity per item equals or exceeds 0.01 microcuries. Such notice shall specify the part or parts of the items which contain radioactive materials, a description of the materials, the name and activity of the isotope, the manufacturer of the materials, and any other information known to Seller which will put users of the items on notice as to the hazards involved (OMB No. 9000-0107).

(b) If there has been no change affecting the quantity of activity, or the characteristics and composition of the radioactive material from deliveries under this Contract or prior contracts, Seller may request that Buyer or its designee waive the notice requirement in paragraph (a) of this clause. Any such request shall- (1) Be submitted in writing; (2) State that the quantity of activity, characteristics, and composition of the radioactive material have not changed; and (3) Cite the contract number on which the prior notification was submitted and the contracting office to which it was submitted.

(c) All items, parts, or subassemblies which contain radioactive materials in which the specific activity is greater than 0.002 microcuries per gram or activity per item equals or exceeds 0.01 microcuries, and all containers in which such items, parts or subassemblies are delivered to

Buyer shall be clearly marked and labeled as required by the latest revision of MIL-STD 129 in effect on the date of the Contract.

(d) ***This clause, including this paragraph (d), shall be inserted in all subcontracts for radioactive materials meeting the criteria in paragraph (a) of this clause.***

**52.234-1 INDUSTRIAL RESOURCES DEVELOPED UNDER DEFENSE PRODUCTION ACT TITLE III (DEC 1994)** [Modified by Buyer]

(a) Definitions.

**“Title III industrial resource”** means materials, services, processes, or manufacturing equipment (including the processes, technologies, and ancillary services for the use of such equipment) established or maintained under the authority of Title III, Defense Production Act (50 U.S.C. App. 2091-2093).

**“Title III project contractor”** means a contractor that has received assistance for the development or manufacture of an industrial resource under 50 U.S.C. App. 2091-2093, Defense Production Act.

(b) Seller shall refer any request from a Title III project contractor for testing and qualification of a Title III industrial resource to the Government’s Contracting Officer.

(c) Upon the direction of the Government’s Contracting Officer, Buyer may request Seller to test Title III industrial resources for qualification. Seller shall provide the test results to Buyer so that Buyer can provide them to the Defense Production Act Office, Title III Program, located at Wright Patterson Air Force Base, Ohio 45433-7739.

(d) When the Contracting Officer modifies Buyer’s Prime Contract to direct testing pursuant to this clause, the Government will provide the Title III industrial resource to be tested and will make an equitable adjustment in Buyer’s Prime Contract; and Buyer will modify Seller’s Contract for the costs of testing and qualification of the Title III industrial resource.

(e) ***Seller agrees to insert the substance of this clause, including paragraph (e), in every subcontract issued in performance of this Contract.***

**52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)** [Modified by Buyer]

This 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 of a clause may be accessed electronically at this/these address(es):

FAR Clauses & Provisions: <http://farsite.hill.af.mil/vffara.htm> DFARS Clauses & Provisions: <http://farsite.hill.af.mil/vdfara.htm> NMCARS Clauses & Provisions: <http://farsite.hill.af.mil/vfnapsa.htm>

**52.252-6 AUTHORIZED DEVIATIONS IN CLAUSES (APR 1984)**

(a) The use in this solicitation or Contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of “(DEVIATION)” after the date of the clause.

(b) The use in this solicitation or Contract of any [Defense Federal Acquisition Regulation Supplement \(“DFARS”\)](#) (48 CFR [Chapter 2](#)) clause with an authorized deviation is indicated by the addition of “(DEVIATION)” after the name of the regulation.