

Pacific Ship Repair & Fabrication, Inc.
SPECIAL TERMS AND CONDITIONS FOR SUBCONTRACTS
Under Contract HII Contract N00024-11-C-2307

Rev. May 2018

PRIME CONTRACT CLAUSES

The following clauses are flowed down from Buyer to Seller pursuant to the requirements of Buyer's Prime Contract with the Government. In addition to any Purchase Order General Terms and Conditions, they shall be incorporated into any agreement between Buyer and Seller when referenced on the Purchase Order.

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. 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>

SECTION A

1. **GOVERNMENT CONTRACT RATING.** U.S. NAVY CONTRACT: **N00024-11-C-2307**, PRIORITY RATING: DOA3. The Prime Contract is a rated order certified for national defense, emergency preparedness, and energy program use, and the Contractor shall follow all the requirements of the Defense Priorities and Allocations System regulation (15 CFR 700). If applicable to subcontract Orders, the rating will be included on the face of the Order.
2. **NO WAIVER.** Nothing herein shall be construed as a waiver of Seller's obligation in regard to the risk of loss of the Contract Work or as a waiver of Buyer's right to require Seller to replace unsatisfactory materials, workmanship, software or services.
3. **PROPERTY CONTROL SYSTEM.** Seller is to maintain a Government property control system per NAVSEA Standard Item 009-20.
4. **REPRESENTATIONS AND CERTIFICATIONS.** As of the time a Purchase Order is issued to Seller, Seller represents and warrants that: (i) upon request, Seller will submit to Buyer annual certifications and representations; (ii) Seller's certifications and representations provided are current, accurate and complete at the time of submittal; and (iii) Seller has not been debarred, suspended or proposed for debarment by the Government.
5. **PROPOSAL TURNAROUND TIMES.** Unless otherwise stated, proposals for New Work Items are to be turned around within 3 days of issue. Growth Work is due within 2 days.
6. **BASIS OF ESTIMATE.** All submitted proposals must be able to support your Basis Of Estimate (BOE), and should be available to the Government if requested. This information should clearly include answers for: (i) What is being estimated (what, where, when and how); (ii) How is it being estimated; (iii) What empirical data was used to derive the estimate; and (iv) Why is the estimate reasonable?

1. WARRANTY

- (a) SELLER warrants that all Contract Products delivered under this Order will:
 - (i) be free from defects in materials, workmanship, and manufacturing processes; and
 - (ii) conform to all requirements of this Order.
- (b) The warranty period shall begin upon Buyer's acceptance of the Product and end 12 months after final acceptance by Buyer's customer of the end product incorporating the Product provided by Seller under this Order. In computing the warranty period, there shall be excluded any time that a Product delivered under this Order is prevented from entering service or is taken out of service on account of any Product deficiency.
- (c) For the purposes of this paragraph, a deficiency occurs when Seller's goods or services fail to meet any of the

performance obligations set forth in subparagraphs (a)(i) through (a)(ii) of this paragraph. Seller's notice shall in no way affect the rights and remedies of Buyer.

- (d) For all deficiencies that arise during the warranty period, Seller shall promptly remedy the deficiency at no cost to Buyer. If Seller fails to remedy the deficiency within a reasonable time after having been notified of the deficiency, Buyer may, at its option, remedy the deficiency by contract or otherwise and charge to Seller any increased costs incurred by Buyer or Buyer's customer or make an equitable reduction in the price of this Order. If Buyer elects to correct the deficiencies in the Product, then the parties agree that Seller will pay Buyer's actual costs and Buyer's labor at Buyer's fully-burdened hourly rates (as appropriate) utilizing the then-current Government-approved rate set authorized for change-order activity.
- (e) Buyer's approval of any documentation prepared by Seller or Buyer's participation in design reviews or first article approval process or similar reviews shall not relieve Seller of any obligation under this warranty.
- (f) Buyer's rights under this provision shall, at Buyer's option, be assignable to and enforceable by Buyer's successors and customers.
- (g) Seller shall immediately notify Buyer of any deficiencies during the performance of this Order and the warranty period. Seller shall promptly provide a written notice to the Buyer's authorized purchasing representative describing the deficiency and Seller's plan to remedy the deficiency. For the purposes of this paragraph (g), a deficiency occurs when Seller's Product fails to meet any of the performance obligations set forth in paragraph (a) of this provision. Seller's notice shall in no way affect the rights and remedies of Buyer.
- (h) Nothing herein shall relieve Seller of its liability for latent defects, fraud or such gross mistakes amounting to fraud, regardless of when such defects or deficiencies are discovered. The rights of Buyer set forth in this provision shall be in addition to, and not in lieu of, any other right Buyer may have under this Order, or in law or equity.

2. FAR/DFARS CLAUSES/PROVISIONS

- (a) The below listed Federal Acquisitions Regulations (FAR) and the Department of Defense Federal Acquisition Regulations Supplement (DFARS) clauses are incorporated by reference and made part of this Order with the same force and effect as though set forth in full text.
- (b) Unless the text in these clauses clearly reserves rights in the Government only or as otherwise noted, the terms "Contractor" means "SELLER," "Contracting Officer" means "BUYER," "Contract" means this Order and "Government" means "BUYER or the Government." However, the words "Government" and "Contracting Officer" do not change when a right, act, authorization or obligation can be granted or performed only by the Government or the Prime Contract contracting officer or duly authorized representative.
- (c) Applicable thresholds include Truth in Negotiation Act Threshold (TINA) at \$700,000; Simplified Acquisition Threshold (SAT) at \$150,000; and Micro Purchase Order Threshold at \$3,000.
- (d) Whenever the FAR or DFARS clauses include a requirement for the resolution of disputes between the Parties in accordance with the "Disputes clause," the dispute shall be disposed of in accordance with the provision entitled "Disputes" in this Order.
- (e) The full text of a clause may be accessed electronically at <http://farsite.hill.af.mil>.

CLAUSE NUMBER	CLAUSE NAME	CLAUSE DATE
FAR	Federal Acquisition Regulation	
52.202-1	Definitions <i>("solicitation" means the BUYER's customer's solicitation under which the Order is issued)</i>	(Jul 2004)
52.203-3	Gratuities <i>("Government" means "BUYER" (except "Government" means "BUYER or Government" in the phrase "to any officer or employee of the Government"))</i> .	84)
52.203-6	Restrictions on Subcontractor Sales to the Government <i>(applies to orders over Simplified Acquisition Threshold (SAT)) (Alt 1 applies to commercial items)</i>	(Sep 2006)
52.203-7	Anti-Kickback Procedures <i>(except subparagraph (c)(1))</i> <i>(applies to Orders over SAT)</i>	(Oct 2010)

CLAUSE NUMBER	CLAUSE NAME	CLAUSE DATE
52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity	(Jan 1997)
52.203-10	Price or Fee Adjustment for Illegal or Improper Activity	(Jan 1997)
52.203-12	Limitation on Payments to Influence Certain Federal Transactions <i>(applies to orders over \$150,000)</i>	(Oct 2010)
52.203-13	Contractor Code of Business Ethics and Conduct <i>(applies to Orders over \$5,000,000 and has a performance period of more than 120 days. Notwithstanding any alterations to this clause to reflect the relationship between BUYER and SELLER, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the Office of the Inspector General of the agency issuing the Prime Contract under which this subcontract is being issued, with a copy to the Contracting Officer of the Prime Contract.)</i>	(Apr 2010)
52.203-14	Display of Hotline Poster(s) <i>(applies to orders over \$5,000,000 except for commercial items or performed entirely outside United States)</i>	(Dec 2007)
52.204-2	Security Requirements <i>(applies to Orders that involve access to classified information, delete paragraph (c))</i>	(Aug 1996)
52.204-9	Personal Identity Verification of Contractor Personnel <i>(applies to Orders requiring access to a Federally-controlled facility or information system; contact BUYER for procedures)</i>	(Jan 2011)
52.204-10	Reporting Executive Compensation and First-tier Subcontract Awards	(Jul 2010)
52.209-6	Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment <i>(applies to Orders over \$30,000 that are not for commercially available off-the-shelf items)</i>	(Dec 2010)
52.211-05	Material Requirements <i>(the clause's requirement that Contracting Officer approval be obtained before using "surplus property" applies also to residual inventory resulting from terminated Government contracts or purchase orders awarded thereunder.)</i>	(Aug 2000)
52.211-15	Defense Priority and Allocation Requirement	(Apr 2008)
52.215-2	Audit And Records -- Negotiation <i>(applies to Orders over the SAT threshold)</i>	(Oct 2010)
52.215-10	Price Reduction for Defective Cost or Pricing Data	(Oct 2010)
52.215-12	Subcontractor Cost or Pricing Data <i>(applies to Orders over the TINA threshold)</i>	(Oct 2010)
52.215-14	Integrity of Unit Prices and Alt I (Oct 1997) <i>(applies to Orders over the SAT threshold, delete paragraph(b))</i>	(Oct 2010)
52.215-15	Pension Adjustments and Asset Reversions <i>(applies to Orders over the TINA threshold)</i>	(Oct 2010)
52.215-18	Reversion or Adjustment of Plans for Post Retirement Benefits (PRB) Other Than Pensions <i>(applies to Orders over the TINA threshold)</i>	(Jul 2005)
52.215-19	Notification of Ownership Changes <i>(applies to Orders over the TINA threshold)</i>	(Oct 1997)
52.215-21	Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data - Modifications <i>(including Alt II (OCT 1997) and Alt III (Oct 1997))</i>	(Oct 2010)
52.215-23	Limitation on Excessive Pass-Through Charges <i>(applies to Orders over the TINA threshold)</i>	(Oct 2009)
52.219-8	Utilization of Small Business Concerns <i>(for Orders that exceed \$650,000, this clause must be included in lower tier subcontracts that may offer further subcontracting opportunities)</i>	(Jan 2011)
52.219-9	Small Business Subcontracting Plan with Alt II (Oct 2001) <i>(applies to Orders over \$650,000 except commercial items and small businesses)</i>	(Jan 2011)
52.222-1	Notice to the Government of Labor Disputes	(Feb 1997)
52.222-3	Convict Labor	(Jun 2003)
52.222-4	Contract Work Hours And Safety Standards Act - Overtime Compensation	(Jul 2005)
52.222-19	Child Labor - Cooperation with Authorities and Remedies	(Jul 2010)
52.222-20	Walsh-Healey Public Contracts Act <i>(applies to Orders over \$15,000)</i>	(Oct 2010)

CLAUSE NUMBER	CLAUSE NAME	CLAUSE DATE
52.222-21	Prohibition on Segregated Facilities	(Feb 1999)
52.222-26	Equal Opportunity	(Mar 2007)
52.222-35	Equal Opportunity for Veterans <i>(applies to Orders of \$100,000 or more)</i>	(Sep 2010)
52.222-36	Affirmative Action for Workers with Disabilities <i>(applies to Orders over \$15,000)</i>	(Oct 2010)
52.222-37	Employment Reports on Veterans <i>(applies to Orders of \$100,000 or more).</i>	(Sep 2010)
52.222-40	Notification of Employee Rights Under the National Labor Relations Act	(Dec 2010)
52.222-50	Combating Trafficking in Persons	(Feb 2009)
52.222-54	Employment Eligibility Verification <i>(orders for services over \$3,000 for work performed in the United States)</i>	(Jan 2009)
52.223-3	Hazardous Material Identification and Material Safety Data	(Jan 1997)
52.223-11	Ozone-Depleting Substances	(May 2001)
52.223-12	Refrigeration Equipment and Air Conditioners	(May 1995)
52.223-14	Toxic Chemical Release Reporting <i>(applies to Orders over \$100,000 except paragraph (e))</i>	(Aug 2003)
52.223-15	Energy Efficiency in Energy-Consuming Products	(Dec 2007)
52.223-17	Affirmative Procurement of EPA-Designated Items in Service and Construction Contracts	(May 2008)
52.223-18	Contractor Policy to Ban Text Messaging While Driving <i>(applies to Orders over micro-purchase threshold)</i>	(Sep 2010)
52.225-13	Restrictions on Certain Foreign Purchases	(Jun 2008)
52.227-1	Authorization and Consent <i>(applies to Orders over SAT; Alt I applies to Research and Development Orders; Alt II applies to communication services)</i>	(Dec 2007)
52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement <i>(applies to Orders over the SAT threshold)</i>	(Dec 2007)
52.227-10	Filing of Patent Applications - Classified Subject Matter <i>(applies to Orders that cover classified subject matters)</i>	(Dec 2007)
52.230-2	Cost Accounting Standards (CAS) <i>(applies to negotiated Orders over \$650,000 with CAS covered SELLERS, except paragraph "(b)")</i>	(Oct 2010)
52.230-6	Administration of Cost Accounting Standards <i>(applies to Orders over \$650,000 with CAS covered sellers)</i>	(Jun 2010)
52-232-17	Interest	(Oct 2010)
52.234-1	Industrial Resources Developed Under Defense Production Act Title III	(Dec 1994)
52.242-13	Bankruptcy	(Jul 1995)
52.244-6	Subcontracts for Commercial Items	(Dec 2010)
52.247-63	Preference for U.S. Flag Air Carriers <i>(applies to any Orders and lower-tier subcontracts that involve international air transportation)</i>	(Jun 2003)
52.247-64	Preference for Privately Owned U.S. Flag Commercial Vessels, with ALT I (Apr 2003)	(Feb 2006)
52.248-1	Value Engineering <i>(applies to Orders of \$150,000 or more except as specified in FAR 48.201(a)) (substitute "BUYER" for "Contracting Officer" and "Government" throughout, except where used in the term "Government costs" and in paragraph (m) where "Government" shall mean "Government and/or BUYER.")</i>	(Oct 2010)
52.249-2	Termination for Convenience of the Government (Fixed-Price) <i>(in paragraph "c" change from "120" to "60," in paragraph "e" change from "1- year" to "six months," and in paragraph "l" change "90" to "45.")</i>	(May 2004)
DFARS	Defense Federal Acquisition Regulation Supplement	
252.203-7001	Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies <i>(applies to Orders over the SAT threshold except commercial items)</i>	(Dec 2008)
252.204-7000	Disclosure of Information	(Dec 1991)
252.204-7008	Export-Controlled Items	(Apr 2010)
252.208-7000	Intent to Furnish Precious Metals as Government-Furnished Material <i>(applies to all Orders unless it is known that the item being purchased contains</i>	(Dec 1991)

CLAUSE NUMBER	CLAUSE NAME	CLAUSE DATE
	<i>no precious metals)</i>	
252.211-7000	Acquisition Streamlining <i>(applies to Orders over \$1,500,000)</i>	(Oct 2010)
252.211-7003	Item Identification and Valuation <i>(applies to Orders when any item is listed as requiring unique item identification)</i>	(Aug 2008)
252.215-7000	Pricing Adjustments <i>(applies when it is contemplated that Cost or Pricing Data will be required)</i>	(Dec 1991)
252.219-7003	Small Business Subcontracting Plan (DoD Contracts) <i>(supplements FAR 52.219-9 above)</i>	(Oct 2010)
252.222-7006	Restrictions on the Use of Mandatory Arbitration Agreements <i>(applies to Orders over \$1,000,000, except commercial items)</i>	(Dec 2010)
252.223-7001	Hazard Warning Labels <i>(applies to any Order that requires delivery of hazardous materials)</i>	(Dec 1991)
252.225-7001	Buy American Act And Balance of Payments Program	(Jan 2009)
252.225-7002	Qualifying Country Sources as Subcontractors	(Apr 2003)
252.225-7004	Report of Intended Contract Performance Outside the United States and Canada – Submission After Award <i>(applies to Orders over \$650,000 and could be performed in United States or Canada)</i>	(Oct 2010)
252.225-7006	Quarterly Reporting of Actual Contract Performance Outside the United States <i>(applies to Orders over \$650,000, except commercial items)</i>	(Oct 2010)
252.225-7007	Prohibition on Acquisition of United States Munitions Items from Chinese Military Companies	(Sep 2006)
252.225-7009	Restriction on Acquisition of Certain Articles Containing Specialty Metals <i>(except paragraph (d))</i>	(Jan 2011)
252.225-7012	Preference for Certain Domestic Commodities <i>(applies to Orders over the SAT threshold)</i>	(Jun 2010)
252.225-7013	Duty-Free Entry	(Dec 2009)
252.225-7015	Restriction on Acquisition of Hand or Measuring Tools	(Jun 2005)
252.225-7016	Restriction on Acquisition of Ball And Roller Bearings <i>(commercial items and items not containing ball or roller bearings are exempt)</i>	(Jun 2011)
252.225-7019	Restriction on Acquisition of Anchor and Mooring Chain <i>(applies to items containing welded shipboard anchor and mooring chain, four inches or less in diameter)</i>	(Dec 2009)
252.225-7021	Trade Agreements	(Nov 2009)
252.225-7025	Restriction on Acquisition of Forgings <i>(applies to forged items or items containing forged items)</i>	(Dec 2009)
252.225-7030	Restriction on Acquisition of Carbon, Alloy, and Armor Steel Plate	(Dec 2006)
252.225-7033	Waiver of United Kingdom Levies <i>(applies to Orders with UK firms exceeding \$1,000,000)</i>	(Apr 2003)
252.225-7036	Buy American – Free Trade Agreement – Balance of Payments Program	(Dec 2010)
252.225-7038	Restriction on Acquisition of Air Circuit Breakers <i>(applies to Orders over the SAT)</i>	(Jun 2005)
252.226-7001	Utilization of Indian Organizations and Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns <i>(applies to Orders exceeding \$500,000)</i>	(Sep 2004)
252.227-7013	Rights in Technical Data - Noncommercial Items	(Mar 2011)
252.227-7014	Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation	(Mar 2011)
252.227-7016	Rights in Bid or Proposal Information	(Jan 2011)
252.227-7019	Validation of Asserted Restrictions - Computer Software <i>(applies to Orders that will be furnishing computer software during performance of Order)</i>	(Jun 1995)
252.227-7025	Limitations on The Use or Disclosure of Government-Furnished Information Marked With Restrictive Legends	(Mar 2011)
252.227-7027	Deferred Ordering of Technical Data or Computer Software	(Apr 1988)
252.227-7030	Technical Data – Withholding of Payment	(Mar 2000)
252.227-7037	Validation of Restrictive Markings on Technical Data <i>(commercial items or components exempt)</i>	(Sep 1999)
252.231-7000	Supplemental Cost Principles	(Dec 1991)

CLAUSE NUMBER	CLAUSE NAME	CLAUSE DATE
252.235-7003	Frequency Authorization <i>(applies to Orders requiring radio frequency authorization)</i>	(Dec 1991)
252.239-7000	Protection Against Compromising Emanations	(Jun 2004)
252.243-7001	Pricing of Contract Modifications	(Dec 1991)
252.244-7000	Subcontracts for Commercial Items and Commercial Components (DoD Contracts) <i>(supplements FAR 52.244-6)</i>	(Nov 2010)
252.246-7001	Warranty Of Data, with Alt I (Dec 1991)	(Dec 1991)
252.246-7003	Notification of Potential Safety Issues <i>(applies to Orders that Items are identified as: (i) critical safety items; (ii) systems and subsystems, assemblies, and subassemblies integral to a system; or (iii) repair, maintenance, logistics support, or overhaul services for systems and subsystems, assemblies, subassemblies, and parts integral to a system)</i>	(Jan 2007)
252.247-7023	Transportation of Supplies By Sea <i>(applies to Orders over the SAT; below the SAT only paragraphs (a) through (e), and (h), apply)</i>	(May 2002)
252.247-7024	Notification of Transportation of Supplies By Sea <i>(applies to Orders for noncommercial items)</i>	(Mar 2000)
252.249-7002	Notification of Anticipated Contract Termination or Reduction <i>(applies to Orders at \$650,000 or more; delete para. (d)(1) and the first five words of para. (d)(2))</i>	(Oct 2010)

3. ASSIGNMENT

Neither this Order nor the benefits or obligations thereof shall be assigned by Seller except with the prior written consent of Buyer, such consent not to be unreasonably withheld.

4. USE OF NATIONAL STOCK NUMBERS

To the extent that National Stock Numbers (NSNs) or preliminary NSNs are assigned by the Government or BUYER for the identification of parts, pieces, items, subassemblies or assemblies to be furnished under this order, 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 (DIDs) of this Order or as required by orders for spare and repair parts. BUYER shall be responsible for conveying to SELLER such NSNs or preliminary NSNs that may be assigned and that are not already in the possession of the SELLER.

Whenever the terms 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 (NIIN) and National Stock Number (NSN) respectively, which shall be defined as follows:

- (a) National Stock Number (NSN). The National Stock Number (NSN) for an item of supply consists of the applicable four position Federal Supply Class (FSC) plus the applicable nine position National Item Identification Number (NIIN) assigned to the item of supply.
- (b) National Item Identification Number (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.

5. ASSIGNMENT TO GOVERNMENT

All rights of the BUYER with respect to this Order may be assigned by the BUYER to the Government, or to such other party as the Government may designate without change in the Order price except for any equitable adjustment that may arise due to changes in the place of delivery, or to any other party, without the SELLER's consent.

6. PROPRIETARY INFORMATION

- (a) "Proprietary Information" means all data furnished by BUYER to SELLER, including, but not limited to all data that is identified in writing at the time of disclosure as proprietary and marked with an appropriate legend, marking or stamp identifying the data as proprietary, and includes any information marked with a restrictive legend as prescribed in DFARS 252.227-7013 or 252.227-7014 or in FAR 52.227 14.
- (b) Seller will treat all Proprietary Information transferred in connection with this Order, all copies of Proprietary

Information, and all improvements, modifications, and derivations of Proprietary Information, as Buyer's property regardless of the medium on which such Proprietary Information is stored or communicated. In making copies of Proprietary Information, Seller will preserve any legend, marking, or stamp contained on the Proprietary Information that identifies the data as Buyer's Proprietary Information. Unless otherwise provided in this Order, Seller further agrees to affix the following legend "Huntington Ingalls Industries Proprietary" on:

- (i) all improvements, modifications, and derivations of Proprietary Information; and
 - (ii) any Proprietary Information extracted from Buyer's computer systems or otherwise provided by Buyer to Seller if not already marked.
- (c) SELLER may disclose Proprietary Information to its subcontractors as required for the performance of this Order, provided that each such subcontractor first assumes by written agreement the same obligations imposed on SELLER under this Order relating to such Proprietary Information.
 - (d) If a separate proprietary information or non-disclosure agreement relating to the subject matter of this Order exists between the Parties, all data, knowledge and information furnished by one Party to the other Party shall be protected pursuant to such proprietary information or non-disclosure agreement.
 - (e) If no separate proprietary information or non-disclosure agreement exists between the Parties, Seller will keep Buyer's Proprietary Information confidential and, except as provided herein, (i) not disclose such Proprietary Information to any other person except to its officers, agents and employees who are under an obligation to keep such Proprietary Information confidential and have a need to know such Proprietary Information to fulfill Seller's obligation under this Order, and (ii) treat such Proprietary Information with the same degree of care as Seller uses in handling its own proprietary or confidential information and – in all events – with not less than reasonable care. Seller will use Buyer's Proprietary Information only for purposes necessary for performing this Order and will return Proprietary Information to Buyer upon completion of the work to be performed under this Order unless Buyer expressly agrees to the contrary in writing.
 - (f) Unless otherwise provided in DFARS 252.227-7013 or 252.227-7014 or 252.227-7015 or 252.227-7016, or in FAR 52.227-14, or if no separate proprietary information or non-disclosure agreement exists between the Parties, no information furnished to Buyer (whether documentary, oral, visual or otherwise) shall be considered confidential or proprietary or require any particular handling or precaution or have any restriction on Buyer's right to use, modify, reproduce, perform, display, release, or disclose such information in whole or in part, in any manner, and for any purpose whatsoever, and to have or authorize others to do so.
 - (g) Upon discovery by Seller of any inadvertent or accidental disclosure of Buyer's Proprietary Information, Seller shall notify Buyer promptly and take all commercially reasonable steps to retrieve such disclosed Proprietary Information and to cease and prevent any further disclosure of the Proprietary Information.
7. PATENT, TRADEMARK, TRADE SECRET, AND COPYRIGHT INDEMNITY
- (a) In addition to any other warranty by Seller to Buyer against intellectual property infringement, statutory or otherwise, express or implied, Seller will indemnify and hold harmless Buyer, Buyer's parent and affiliates and their respective officers, directors, employees, and customers ("Indemnified Parties") from and against any and all liabilities, claims, losses and expenses arising out of any allegation of patent, copyright, or trademark infringement or allegation of trade secret misappropriation (collectively or individually, "Claim") resulting from Indemnified Parties' use, manufacture, or sale (including any re-sale) of any product or service Seller provides to Buyer that Seller authorizes expressly or impliedly under this Order. Seller shall, at its own cost, defend Buyer against such Claims, and, it shall pay Buyer's reasonable attorney fees and expenses, related to carrying out and enforcing the terms of this provision, as those costs are incurred. Buyer has the right to conduct such defenses if it so chooses.
 - (b) Notwithstanding the foregoing, when this Order is performed under the authorization and consent of the U.S. Government to infringe United States Patents, SELLER's liability for SELLER's patent infringement under this Order shall be coextensive with BUYER's liability.
8. BUYER OR GOVERNMENT PROPERTY
- (a) If BUYER or Government property is furnished in conjunction with this Order, it shall be furnished "as is." Unless otherwise noted in this Order, SELLER shall assume the risk of, maintain adequate insurance, and be responsible for, any loss, destruction of or damage to property provided to SELLER by BUYER or the Government while such property is in SELLER's possession or control. Excluding property authorized to be consumed in the performance of this Order,

SELLER shall return such property in as good a condition as when received except for reasonable wear and tear, or in the case of property to be overhauled or repaired, in such better condition as may be required by the terms of this Order. SELLER shall control and maintain Government or BUYER furnished property in accordance with a system that meets the requirements of FAR 52.245-1 (Aug 2010).

- (b) SELLER shall use BUYER- or Government-furnished property only for performing this Order, unless otherwise provided for in this Order or approved by BUYER. SELLER shall not modify, cannibalize, or make alterations to BUYER- or Government-furnished property unless this Order specifically identifies the modifications, alterations or improvements as work to be performed. BUYER and Government shall retain title to all BUYER- or Government-furnished property. Title to such property shall not be affected by its incorporation into or attachment to any property not owned by BUYER or the Government, nor shall BUYER or Government-furnished property become a fixture or lose its identity as personal property by being attached to any real property.
- (c) SELLER shall immediately discharge any lien, other than a lien held by BUYER or the Government on BUYER- or Government-furnished property.
- (d) The requirements related to accounting for BUYER- or Government-furnished property also shall apply to scrap generated from SELLER's use of such property, provided, however, that BUYER may authorize or direct SELLER to omit such scrap from inventory disposal schedules.

9. VARIATION IN QUANTITY

A variation in the quantity of any item called for by this Order will not be accepted unless the variation has been caused by conditions of loading, shipping, packing or allowances in the manufacturing processes.

10. FINAL SETTLEMENT

SELLER shall execute and deliver at the time of and as a condition precedent to final payment, a release in form and substance satisfactory to and containing such exceptions as may be found appropriate by BUYER, discharging BUYER, the Government, and their Officers, agents and employees of and from liabilities, obligations and claims arising under this Order. If this Order shall have been terminated in whole or in part, any such release shall also contain a release of all claims against BUYER and the Government arising out of or by virtue of such termination.

11. USE OF GOVERNMENT FACILITIES, SPECIAL TOOLING, AND TEST EQUIPMENT ON A NO-CHARGE BASIS

In the event SELLER is permitted to use Government-owned facilities, special tooling or test equipment which are provided on a no-charge basis, SELLER agrees that he will not directly or indirectly, through overhead charges or otherwise, include in the cost of this Order, or seek reimbursement under this Order, for any rental charge paid by SELLER for the use on other contracts of the facilities, special tooling and test equipment referred to herein. Any subcontract let by SELLER that authorizes its Subcontractors to use GOVERNMENT facilities, special tooling and test equipment on a no-charge basis shall contain a provision to the same effect as this clause.

12. BUYER AUTHORIZATION

- (a) BUYER's authorized purchasing representative has sole authority to make contractual commitments on behalf of BUYER, to provide contractual direction, and to change contractual requirements as defined in this Order.
- (b) BUYER's engineering, technical personnel and other representatives may from time to time render assistance or give technical advice or discuss or affect an exchange of information with SELLER's personnel concerning the Contract Products hereunder. No such action shall be deemed to be a change under the "Changes" provision of this Order and shall not be the basis for an equitable adjustment.

13. IDENTIFICATION MARKING OF PARTS

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:

- (a) Parts shall be marked in accordance with generally accepted commercial practice.
- (b) In cases where parts are so small as not to permit identification marking as provided above, such parts shall be appropriately coded as to permit ready identification.

14. COMMERCIAL BILL OF LADING NOTATIONS

If BUYER's Contracting Officer authorizes supplies to be shipped on a commercial bill of lading where the BUYER and SELLER will be reimbursed these transportation costs as direct allowable costs, SELLER shall ensure before shipment is made that the commercial shipping documents are annotated with either of the following notations, as appropriate:

(a) If the Government is shown as consignor or consignee, the annotation shall be:

"Transportation is for the U.S. Department of Defense and the actual total transportation charges paid to the carrier(s) by the consignor or consignee are assignable to, and shall be reimbursed by, the Government."

(b) If the Government is not shown as consignor or consignee, the annotation shall be:

"Transportation is for the U. S. Department of Defense, and the actual total transportation charges paid to the carrier(s) by the consignor or consignee shall be reimbursed by the Government, pursuant to cost-reimbursement contract No. N00024-11-C-2307. This may be confirmed by contacting Supervisor of Shipbuilding, Conversion and Repair, U.S. Navy, Pascagoula, MS 39568-2210."

15. MARKING AND PACKING LIST(s)

- (a) Marking. Shipment, shipping containers and palletized unit loads shall be marked in accordance with best commercial practice.
- (b) Packing List(s). A packing list (DD Form 250, Material Inspection Receiving Report, may be used) identifying the contents of each shipment, shipping container or palletized unit load shall be provided by the SELLER with each shipment. When a contract line item identified under a single stock number includes an assortment of related items such as kit or set components, the detached parts or accessories, installation hardware or material, the packing list(s) shall identify the assorted items. Where an assortment of related items is included in the shipping container, a packing list identifying the contents shall be furnished.
- (c) Master Packing List. In addition to the requirements in paragraph (b) above, a master packing list shall be prepared where more than one shipment, shipping container or palletized unit load comprise the contract 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 packed or shipping container by part number and/or national stock number.

16. DISPUTES

- (a) Any dispute arising under or related to this Order shall be submitted in writing for resolution to equivalent ascending levels of management of the respective parties up to the Senior Executive of BUYER's Supply Chain Management organization, and SELLER's equivalent executive level.
- (b) If a dispute cannot be resolved to both parties' mutual satisfaction, after good faith negotiations, within 90 days from the date the written dispute is received by the other party in accordance with the notice provisions set forth herein, or such additional time as the parties agree upon, in writing, either party may only bring suit in the appropriate federal or state court in the state listed in the "Governing Law" provision of this Order.
- (c) Pending any informal resolution, law suit, appeal, or final decision referred to in this provision, or the settlement of any dispute, SELLER shall proceed diligently, as directed by BUYER, with performance of this Order.
- (d) SELLER shall commence an action for breach or any other dispute arising under or related to this Order within two years after the cause of action accrues, or by the otherwise applicable statute of limitations, whichever period is shorter.
- (e) If the Government:
 - (i) makes a decision or determination,
 - (ii) takes an action, or,
 - (iii) in the case of a claim filed with the Contracting Officer, fails to take an action within the time limits specified in the "Disputes" provision in the Prime Contract ("deemed denial"), on a matter arising under or related to the

Prime Contract, and such decision, determination, action or deemed denial relates to or affects the parties' rights and interests under this Order ("Government Action"), then any dispute between BUYER and SELLER as relates to the Government Action shall be resolved in accordance with subparagraph (f), which shall be SELLER's sole remedy for such disputes. Except as otherwise provided in subparagraph (f), all other disputes between BUYER and SELLER will be resolved in accordance with subparagraph (b) of this provision.

- (f) Notwithstanding any provisions herein to the contrary, Government Actions shall be final and binding on SELLER, and SELLER shall have no recourse against BUYER for such Government Action or BUYER's implementation thereof, unless and to the extent BUYER or SELLER appeals pursuant to the terms of this provision.
- (i) If BUYER elects to appeal a Government Action pursuant to the "Disputes" provision in the Prime Contract, whether at BUYER's election or at SELLER's request, SELLER shall:
- (a) assist BUYER in every reasonable manner; and
 - (b) be afforded a reasonable opportunity to participate in the prosecution of the appeal to the extent SELLER's interest may be affected thereby. BUYER will not enter into an agreement to settle an appeal that affects SELLER's interest without SELLER's written consent.
- (ii) If BUYER elects not to appeal a Government Action, BUYER shall notify SELLER with reasonable promptness. When BUYER elects not to prosecute an appeal pursuant to this provision, the BUYER may, in its sole and absolute discretion, permit SELLER to prosecute the appeal of the Government Action for BUYER and in such event, BUYER shall, if requested by SELLER, reasonably assist SELLER in prosecuting the appeal. SELLER shall reasonably keep BUYER informed of the progress of ANY SUCH appeal by, among other things, providing BUYER with copies of all pleadings and other relevant documents. For those pleadings and other documents filed by SELLER, SELLER shall provide BUYER drafts in advance of the filing date sufficient to afford BUYER with a reasonable time to review.
- (iii) Any decision on or settlement of an appeal brought pursuant to subparagraphs (f)(i) or (f)(ii) of this provision shall be binding upon SELLER insofar as it relates to or affects the parties' rights and interests under this Order and SELLER shall have no recourse against BUYER as a result of the decision or settlement or BUYER's implementation thereof. Further, if as a result of any decision or settlement described in the immediately preceding sentence, BUYER is unable to obtain reimbursement from the Government under the Prime Contract for, or is required to refund or credit to the Government, any amount with respect to any item of cost or fee for which BUYER has reimbursed SELLER, SELLER shall, on demand, promptly repay such amount to BUYER.
- (iv) Each party shall bear its own costs for prosecuting appeals brought pursuant to paragraph (f)(i) of this provision. SELLER shall bear the cost of prosecuting appeals brought pursuant to paragraph (f)(ii) of this provision (including reasonable attorney fees) and any other costs incurred by BUYER:
- (a) in assuring itself of the validity of SELLER's appeal; and
 - (b) assisting SELLER in the prosecution of the appeal.
- (v) Before submitting a claim that BUYER may approve to be appealed hereunder, SELLER shall:
- (a) certify its claim in the same manner and format as required of BUYER under the Prime Contract; and
 - (b) provide BUYER with such other assurances as BUYER may require.
- (vi) Seller shall indemnify and hold harmless Buyer, Buyer's parent and affiliates and their respective directors, officers, and employees (collectively, for the purposes of this provision, "Buyer") from and against any and all liabilities, claims, losses, and expenses arising out of:
- (A) BUYER's sponsoring a claim on SELLER's behalf as provided for in this provision,
 - (B) any misrepresentation of fact or fraud on the part of SELLER, its employees, subcontractors or agents in connection with such claim; or
 - (C) a defect in SELLER's certification.

Seller shall, at its own cost, defend Buyer against such claims, losses, and liabilities, and, it shall pay Buyer's reasonable attorney fees and expenses, related to carrying out and enforcing the terms of this provision, as those costs are incurred. Buyer has the right to conduct such defenses if it so chooses.

- (vii) Nothing in this provision nor any authorization or offer that may be made shall be deemed to constitute acceptance or acknowledgment by BUYER of the validity of SELLER's claim or any part thereof, nor be deemed to limit or in any way restrict BUYER from taking any actions, including available remedies, it deems appropriate to protect its own interests.

17. GOVERNMENT - INDUSTRY DATA EXCHANGE PROGRAM (GIDEP)

If this Order is over \$500,000, SELLER shall participate in the appropriate interchange of the GIDEP in accordance with GIDEP S0300-BU-GYD-010 dated November 1994. Data entered will be retained by the program and provided to qualified participants. Compliance with this requirement shall not relieve SELLER from complying with any other requirements of this Order. GIDEP materials, software and information are available without charge from: GIDEP, P.O. Box 8000, Corona, California 92878; Phone: (951) 898-3207; Fax: (951) 898-3250; Internet: <http://www.gidep.org>.

18. ACCESS TO VESSELS BY NON-U.S CITIZENS

- (a) No person not known to be a U.S. Citizen shall be eligible for access to naval 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 Order.
- (b) If SELLER desires to employ non-U.S. citizens in the performance of work under this Order 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 to BUYER, an Access Control Plan (ACP) which 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 BUYER's facilities and when performing 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 regulation 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 BUYER's facilities or by a site supervisor for work performed on vessels outside the BUYER's plant.
 - (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 pass to cognizant CAO.
 - (4) SELLER's plan for ensuring subcontractor compliance with the provisions of the 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 the SELLER in any way from imposing additional controls necessary to tailor these requirements 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), date 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 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 and BUYER reserve the right to cancel previously granted authority when such cancellation is determined to be in the Government's or BUYER's best interest. Use of non-U.S. citizens, without an approved ACP or when a previous authorization has been canceled, will be considered a violation of security regulations. Upon confirmation by the CAO of such violation, this Order may be terminated for default under the "Termination for Default" provision of this Order.
- (e) SELLER shall have full responsibility for the proper administration of the approved ACP for all work performed under this Order, regardless of the location of the vessel, and must ensure compliance by all of its subcontractors, technical representatives and other persons granted access to U.S. Navy 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 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 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 as in paragraph (f) above applies to other than non-U.S. citizens who have access to the BUYER's facilities (e.g., for accomplishing facility improvements, from foreign-crewed vessels within its facility, etc.).

19. DOD RATED ORDER

- (a) This Order supports BUYER's work under the Prime Contract. Applicable priority rating defaults to "DO," unless otherwise stated on the face of this Order. This is a rated Order certified for national defense use. SELLER is required to follow the requirements of the defense priorities and allocation system regulation (15 CFR Part 700) and all other applicable regulations for obtaining controlled Contract Products and other Contract Products needed to fill this Order.
- (b) Seller shall include the substance of this provision in all subcontracts Seller places in support of this Order.

20. QUALIFICATION OF SELLER NONDESTRUCTIVE TESTING (NDT) PERSONNEL

Any NDT SELLER (as hereinafter defined) shall utilize for the performance of required Nondestructive Testing (NDT) (which includes radiography, magnetic particle, liquid penetrant, eddy current, ultrasonic inspections and visual inspections) 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, ACN Notice 1 of 16 Feb 99. Documentation pertaining to the qualification and certification of NDT personnel shall be made available to the Contracting Officer for review upon request. The term "NDT SELLER" is defined to be a first tier subcontractor performing NDT in conjunction with the production of materials, components, or equipments for the vessel(s).

21. PERMITS AND RESPONSIBILITIES

SELLER shall, without additional expense to the BUYER or 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/ overdimensional materials.

22. PRINTING OF TECHNICAL MANUALS, PUBLICATIONS, CHANGES, REVISIONS AND AMENDMENTS

- (a) The printing, duplication, and binding of all technical manuals, books, and other publications, and changes, amendments, and revisions thereto, including all copies and portions of such documents which are required to be prepared and furnished under this Order for review, approval or otherwise, shall be accomplished in accordance with the following:
 - (1) DOD Instruction 5330.03, Document Automation & Production Service (DAPS) of February 8, 2006;
 - (2) Federal Acquisition Regulation (FAR) Subparts 8.8 and 17.5, as in effect on the date of the Prime Contract; and
 - (3) "Government Printing and Binding Regulations," published by the Joint Committee on Printing, Congress of the United States, as in effect on the date of the Prime Contract.

- (b) Publications and other printed or duplicated material which (1) are prepared and carried by equipment manufacturers for regular commercial sale or use, and (2) require no significant modification for military use or to meet the requirements of this Order, or (3) are normally supplied for commercial equipment, shall be provided by SELLER. Except for material falling within (1) through (3) of this paragraph, the printing of technical manuals, publications, changes, revisions, or amendments by the SELLER is prohibited.
- (c) SELLER shall have the printing and binding of final approved technical manuals, publications, changes, revisions and amendments thereto, as required under this Order (whether prepared by SELLER or a subcontractor), printed at Government expense by or through the Defense Automation and Production Service (DAPS) in the Naval District in which the Contractor is located, in accordance with the following general procedures:
- (1) Prior to preparation of materials for printing (photolithographic negatives, camera-ready copies or digital media (CD/DVD) by SELLER or a subcontractor, SELLER shall make arrangements with the DAPS and with the designated Contract Administration Office for printing and binding that shall include:
 - (i) Citation of Prime Contract number;
 - (ii) Security classification of materials to be printed;
 - (iii) Establishment of a schedule for printing, including estimated delivery date to DAPS;
 - (iv) Provisions for furnishing photolithographic negatives or camera-ready copies and art work in the proper sequence for printing;
 - (v) A check-off list to verify the printing sequence of test pages and foldouts in the form prescribed by DAPS;
 - (vi) Complete printing instructions, which shall specify colors, if required for specific pages, the trim size, including apron, if required, for each foldout/in or chart, or other unique requirements;
 - (vii) Type of binding (side stitch, perfect bound, saddle stitch, glue bound, tape bound plastic comb/wire bound, loose leaf, screw posts, etc.); and
 - (viii) Other instructions, as applicable, such as packing instructions, banded, shrink pack, strap, binders, fill and seal cartons/boxes, inset padding of any type of envelope, water type packaging or other container quantity for each addressee, required delivery schedule, or delivery instructions. (SELLER shall provide an address list and addressed mailing labels for each addressee.)
 - (ix) Special handling of classified materials from Confidential up to Top Secret requiring printing through DAPS or the GPO are managed in accordance with DODD 5200.32. Contact the appropriate DAPS location before delivering classified originals to ensure proper handling and disposition.
 - (2) SELLER shall ship the complete set of photolithographic negatives, camera-ready copies or digital media (CD/DVD) required to be printed in accordance with the detailed procedures specified by DAPS. All transportation charges are paid to DAPS or a contract printer designated by DAPS. The DAPS shall sign the acceptance block of the DD Form 250 for reproducible quality only.
 - (3) For steam and electrical plant composite diagrams, SELLER shall provide an original Mylar print or digital media (CD/DVD) of the diagram to the DAPS with a guide indicating the color of each line. DAPS will prepare the color separation negatives for the composite diagram and return those to SELLER for editorial review. DAPS will correct any errors and print the corrected composite diagram.
 - (4) DAPS will furnish or provide for all supplies and services (including binders) which are necessary to accomplish the printing and binding.
 - (5) DAPS will pack and ship or provide for packing and shipping of the printed material to SELLER and the distribution list furnished by SELLER in accordance with the printing order, unless distribution by SELLER is otherwise required by the terms of this Order, the specifications, or otherwise, in which case the printed and bound publications will be returned to SELLER for distribution.
 - (6) DAPS will pack and ship the material used for printing to the DAPS, 4th Naval District (Philadelphia, PA), for storage.
- (d) (1) In establishing the schedule for printing, SELLER shall provide for furnishing the photolithographic negatives, camera-ready copies or digital media (CD/DVD) to DAPS in time to allow at least the minimum number of working days specified in the schedule below (eight-hour day, five days per week exclusive of Saturdays, Sundays, and holidays) from date of acceptance of material for printing at DAPS to date of shipment of printed material from DAPS.

<u>Printing</u>	<u>Minimum number of working days required by DAPS</u>
201 pages to 400 pages inclusive	Up to 200 Pages 40
401 pages to 600 pages inclusive	50
601 pages and over	60

(2) If DAPS exceeds the delivery requirements established in accordance with paragraph (c)(1)(iii), for the item(s) specified, the time shall be extended by an equivalent number of working days, provided that SELLER requests such extensions, in writing, to the BUYER's Contracting Officer and submits with its request sufficient evidence to enable the BUYER's Contracting Officer to determine the validity of SELLER's request. If performance of all or part of the work under this Order is delayed or interrupted by said late shipment by DAPS, and if the Government makes an adjustment to the Prime Contract pursuant to the "GOVERNMENT DELAY OF WORK" (FAR 52.242-17) clause of the Prime Contract, BUYER shall make an appropriate adjustment to this Order.

- (e) SELLER shall not be responsible for the quality, or quality control, of printing performed by DAPS or a printer under contract to DAPS, and if the Government shall reimburse the BUYER for any costs incurred on account of replacement of material lost or damaged by DAPS or a printer under contract to DAPS, BUYER will likewise reimburse SELLER. If such loss or damage of material causes a delay or interruption of performance of all or any part of the work under this Order, an adjustment shall be made pursuant to this Order if the Prime Contract is adjusted pursuant to the "GOVERNMENT DELAY OF WORK" clause of the Prime Contract.
- (f) The costs of printing, binding, packing and distribution by DAPS of the publications and changes described herein (but not the costs of preparing photolithographic negatives, camera-ready copies and other materials for printing and the costs of transporting or shipping such materials to DAPS or a contract printer designated by DAPS) shall be borne by the Government.
- (g) BUYER agrees to cooperate with SELLER to ensure compliance with this clause. Where required by the Government or the Prime Contract, BUYER will have the covered manuals and publications provided pursuant to this clause, otherwise SELLER shall comply with this clause.

23. LOGISTIC SUPPORT REQUIREMENT

- (a) This requirement applies whenever the contract specifications, by reference to a Military Specification or otherwise, specify repair parts or stock components (hereinafter called "repair parts") for a ship component or item of equipment.
- (b) With respect to ship components or equipments manufactured other than in the United States and Canada, SELLER agrees that, in addition to any other data required by this Order, it will furnish under this Order sufficient data so that the repair parts can be reproduced in the United States or Canada unless the suppliers of the ship components or equipments shall have made arrangements satisfactory to SELLER and approved by the BUYER and BUYER's Contracting Officer for the manufacturing of repair parts in the United States or Canada. For the purpose of this requirement, "sufficient data" shall mean detail drawings and other technical information sufficiently extensive in detail to show design, construction, dimensions, and operation or function, manufacturing methods or processes, treatment or chemical composition of materials, plant layout and tooling. All data shall be in the English language and according to the United States system of weights and measures, and drawings for components, assemblies, subassemblies and parts protected by U.S. patents shall contain a prominent notation to that effect fully identifying the patent or patents involved, and bearing the Prime Contract number.
- (c) In order to satisfy the requirements of paragraph (b) above, unless SELLER or SELLER's supplier of the ship components or equipments shall have made arrangements, satisfactory to SELLER and approved by the BUYER and BUYER's Contracting Officer, for the manufacture of such repair parts in the United States or Canada, SELLER and SELLER's subcontractors shall both provide and shall include in all subcontracts for the purchase of ship components or equipments from foreign sources this clause that hereby grants to the United States Government for a period of seven (7) years, "Government Purpose Rights" (as defined in paragraph (a)(12) of the clause of this Order entitled "RIGHTS IN TECHNICAL DATA - NONCOMMERCIAL ITEMS" (DFARS 252.227-7013)) in all technical data necessary to manufacture spare and repair parts for such components or equipments.

24. CALIBRATION SYSTEM REQUIREMENTS

The calibration of measuring and testing equipment shall, as a minimum, adhere to the requirements of ANSI/NCSL Z540-1.

25. RELEASE OF INFORMATION AND ADVERTISING

Except as required by law, no public release of any information, or confirmation or denial of same, with respect to this Order or the subject matter, will be made by SELLER without the prior written approval of BUYER. Additionally, SELLER shall not use the BUYER's name or in any other way identify BUYER in any advertisement, display, news release, or other public disclosure without BUYER's prior written consent.

26. OPTIONAL TERMINATION AND SUSPENSION

The performance of work under this Order may be terminated or suspended by BUYER in whole or from time to time, in part, whenever BUYER shall determine that such termination or suspension is in its best interest. Any such termination or suspension shall be by written notice to SELLER, specifying the extent to which performance of work under this Order is terminated or suspended, and the date upon which termination or suspension becomes effective. The rights of BUYER pursuant to this Clause are in addition to any of its other rights under this Order. The Clause set forth in FAR 52.249-2 under the "Incorporation of Clauses by Reference" provision of this Order shall apply in the event of termination of this Order under this Clause. In the event of suspension of work under this Clause, SELLER shall be entitled to an adjustment (excluding profit) for any increase in the cost of performance of this Order caused by such suspension. Adjustment shall be made also in the delivery or performance dates.

27. EXTENSION OF COMMERCIAL WARRANTY

SELLER shall extend to BUYER 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 to BUYER and the Government. 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 the Government's rights under the "Inspection" clause, nor does it limit BUYER's or the Government's rights with regard to other terms and conditions of this Order. In the event of a conflict, the terms and conditions of this Order shall take precedence over the standard commercial warranty.

28. EXPORT AND IMPORT COMPLIANCE

(a) Export Compliance. SELLER is advised that its performance of this Order may involve the use of or access to articles, technical data or software that is subject to export controls under 22 United States Code 2751 – 2796 (Arms Export Control Act) and 22 Code of Federal Regulations 120-130 (International Traffic in Arms Regulations) or 50 United States Code 2401 – 2420 (Export Administration Act) and 15 Code of Federal Regulations 768 – 799 (Export Administration Regulations) and their successor and supplemental laws and regulations (collectively hereinafter referred to as the "Export Laws and Regulations"). SELLER represents and warrants that it is either:

- (i) A U.S. Person as that term is defined in the Export Laws and Regulations; or
- (ii) That it has disclosed to BUYER's Representative in writing the country in which it is incorporated or otherwise organized to do business, or if a natural person, all citizenships and U.S. immigration status.

SELLER shall comply with any and all Export Laws and Regulations, and any license(s) issued thereunder.

(b) Foreign Personnel/Persons. SELLER shall not give any Foreign Person (including SELLER's own non-U.S. employees or affiliates) access to Technical Data, software or Defense Articles, or provide an unauthorized Defense Service as those terms are defined in the applicable Export Laws and Regulations without the prior written consent of BUYER. Any request for such consent must state the intended recipient's citizenship(s), and status under 8 U.S.C. 1101 and 8 U.S.C. 1324 (the "Immigration and Naturalization Act"), and such other information as BUYER may reasonably request. No consent granted by BUYER in response to SELLER's request under this paragraph (b) shall relieve SELLER of its obligations to comply with paragraph (a) of this provision or the Export Laws and Regulations, nor shall any such consent constitute a waiver of the requirements of paragraph (a), nor constitute consent for SELLER to violate any requirement of the Export Laws and Regulations.

(c) Indemnification. Seller shall indemnify and hold harmless Buyer, Buyer's parent and affiliates and their respective officers, directors, and employees from and against any and all liabilities, claims losses, and expenses arising out of the failure of Seller, its employees, subcontractors, or agents to comply with the requirements of this provision and breach of the warranty set forth in paragraph (a). Seller shall, at its own cost, defend Buyer against such claims,

losses, and liabilities, and, it shall pay Buyer's reasonable attorney fees and expenses, related to carrying out and enforcing the terms of this provision, as those costs are incurred. Buyer has the right to conduct such defenses if it so chooses. Any failure of Seller to comply with the requirements or any breach of the warranty contained in this provision shall be a material breach of this Order

- (d) SELLER shall flow down the substance of this provision to all of its suppliers engaged for performance under this Order.

29. SUSPECT/COUNTERFEIT PARTS

- (a) "Suspect/counterfeit parts" are parts that may be of new manufacture, but are misleadingly labeled to provide the impression they are of a different class or quality or from a different source than is actually the case. The term "suspect/counterfeit parts" also includes refurbished parts, with or without false labeling, that are represented as new parts or any parts that are designated as suspect by the U.S. Government, including but not limited to parts listed in alerts published by the Defense Contract Management Agency under the Government-Industry Data Exchange Program (GIDEP).
- (b) Seller will ensure that suspect/counterfeit parts are not incorporated into any Contract Products. The intentional or unintentional use, incorporation, or delivery of suspect/counterfeit parts is strictly prohibited. This includes a suspect/counterfeit part's being provided either as an end item deliverable or as a component or subcomponent of an end item deliverable under this Order.
- (c) Seller represents and warrants that it has policies and procedures in place to ensure that none of the Contract Products furnished to Buyer under this Order are or contain "suspect/counterfeit parts." Seller further certifies, to the best of its knowledge and belief, that no "suspect/counterfeit parts" have been or will be furnished to Buyer by Seller under this Order.
- (d) If Seller becomes aware or suspects that it has furnished suspect/counterfeit parts or if Buyer determines, including as a result of alerts from the U.S. Government, that Seller has supplied suspect/counterfeit parts to Buyer and so notifies Seller, Seller shall immediately replace the suspect/counterfeit parts with parts acceptable to Buyer and conforming to the requirements of this Order. Notwithstanding any other provision of this Order, Seller shall be liable for all costs incurred by Buyer to remove and replace the suspect/counterfeit parts, including without limitation all costs incurred by Buyer relating to the removal of such suspect/counterfeit parts, the reinsertion of replacement parts and any testing necessitated by the reinstallation of Seller's Products after suspect/counterfeit parts have been exchanged. The parties agree that Seller will pay Buyer's actual costs and Buyer's labor at Buyer's fully-burdened hourly rates (as appropriate) utilizing the then-current Government-approved rate set authorized for change-order activity. All such costs shall be deemed direct damages.
- (e) Buyer may, at its discretion:
 - (i) remove and or retain or both all Contract Products supplied by Seller that are suspected of being or containing suspect/counterfeit parts pending reporting to the appropriate law enforcement authorities and final disposition of the Contract Products by them. Seller shall be liable for all costs relating to Buyer's removal and retention of the suspect/counterfeit parts.
 - (ii) turn over to the appropriate authorities (*e.g.*, without limitation, the Defense Criminal Investigative Service, Naval Criminal Investigative Service, Federal Bureau of Investigation, Offices of the Inspector General, etc.) any Contract Products suspected of being or containing suspect/counterfeit parts and reserves the right to withhold payment for the Contract Products pending the results of any investigation or proceedings related to the matter.
- (f) Seller's warranty against suspect/counterfeit parts shall survive any termination or expiration of this Order.
- (g) Seller shall insert a clause containing all of the terms of this provision in all subcontracts under this Order.

30. SITE CONDITIONS

If SELLER is required to install or supervise the installation of equipment or to perform services at BUYER's or its customer's site, SELLER shall inspect the location of the work at BUYER's or its customer's site and be familiar with its condition at the time of award of this Order. In no event shall either SELLER's failure to inspect the site prior to the award of this Order, or any circumstance that SELLER should reasonably have discovered through such site inspection, constitute a basis for any claim for increased cost or additional time for performance.

31. TOXIC SUBSTANCES/HAZARDOUS MATERIAL

BUYER will not accept, store or dispose of any toxic substances or hazardous material except as and to the extent, if at all, expressly provided for in this Order. In particular, paints, primers, or coatings on products required by this Order that contain the following constituents shall not be shipped without prior written approval by the BUYER: arsenic, mercury, methylene chloride, methyl ethyl ketone (MEK), lead, and chromium, their compounds, or organo-metallic material. Materials known or suspected of containing or coming in contact with asbestos, polychlorinated biphenyls (PCBs), or mercury or mercury containing compounds shall not be provided without BUYER's prior written permission. If invoked specifications and standards permit other materials in lieu of these materials, they shall be used.

32. INDEPENDENT CONTRACTOR

SELLER is an independent contractor. SELLER shall:

- (a) Have exclusive control and direction over its employees' performance of the work; and
- (b) Be responsible for all payroll functions for its employees. No persons employed by SELLER or SELLER's subcontractors shall be deemed an employee of BUYER for any purpose.

33. HEADINGS

The descriptive headings contained in this Order are for convenience or reference only and in no way define, limit or describe the scope or intent of this Order.

34. CONTINUING TERMS AND SEVERABILITY

The "Proprietary Information," "Suspect/Counterfeit Parts" and "Indemnification" provisions contained herein shall survive termination or cancellation of this Order. If any provision in this Order is or becomes void or unenforceable by force or operation of law, all other provisions shall remain valid and enforceable.

- (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 BUYER and/or the Government for viruses prior to use under this Order.
- (c) Unless otherwise agreed in writing, any license agreement governing the use of any computer software to be delivered as a result of this Order 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 Order. 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 BUYER and/or the Government, that routine shall not disable the computer software or computer database until at least twenty-five 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 Order to restrict or limit BUYER and/or 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 BUYER to the Government of certain 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, BUYER and the Government 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.

35. CONFLICT MINERALS DISCLOSURE

Pursuant to Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 and its implementing regulations, Buyer is required to identify the presence and source of Conflict Minerals (gold, tantalum, tin or tungsten) contained in Buyer's manufactured products. Buyer has implemented a comprehensive Conflict Minerals compliance program, which includes posting relevant information for suppliers at this website: <http://www.huntingtoningalls.com/who-we-are/ethics-compliance/conflict-minerals/>. It is a requirement of this Order that Seller shall be familiar with this information and make all reasonable efforts to assist Buyer in identifying the presence and source of Conflict Minerals contained in the products sold by Seller to Buyer, as described further below.

- (a) As of the time of award of this Order, Seller represents that:
 - (i) The Product(s) Seller will be supplying under this Order do not contain (a) gold or (b) tantalum, tin, or tungsten (derivatives of columbite-tantalite (coltan), cassiterite, and wolframite); or
 - (ii) Alternatively, if the Product(s) contain gold, tantalum, tin, or tungsten, Seller agrees to provide the Buyer one of the following completed forms prior to delivery of the Product(s):
 - A. The Global E-Sustainability Initiative Conflict Minerals Reporting Template ("GeSI CMRT") available at <http://www.conflictreesourcing.org/conflict-minerals-reporting-template/>, with "Product" selected under the "Declaration Scope or Class" field;
 - B. Written documentation about the source of Conflict Minerals in the Product(s) that provides substantively similar information to that requested by the GeSI CMRT.
- (b) Any GeSI CMRT provided pursuant to paragraph (a)(ii) above shall be submitted on the web platform of Buyer's conflict minerals data vendor, Source Intelligence. If Seller has previously registered with Source Intelligence, Seller may use its existing username and password at www.sourceintelligence.net. If Seller is not registered, instructions may be obtained by emailing hii@sourceintelligence.com or by calling toll free in the United States 1-855-207-8015. Any questions regarding this requirement should be addressed to the authorized purchasing representative of Buyer listed on the face of this Order.
- (c) If the status of any Product(s) changes during performance of this Order so that the representation or information provided pursuant to paragraph (a) of this provision is no longer accurate, then Seller must within 30 days complete and submit updated, accurate and current information as provided in paragraph (b) above.
- (d) If Buyer determines that any representation made by Seller pursuant to this provision is inaccurate or incomplete in any respect, or Seller fails to timely submit the information required by this provision, then Buyer may, at its option, either withhold up to 10% of the Order price until such information is provided or terminate this Order pursuant to the provision of this Order titled "Termination for Default."

36. EQUAL EMPLOYMENT OPPORTUNITIES

Buyer, Seller and Seller's subcontractors shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.

37. OBSOLESCENCE

If during the performance of this Order Seller becomes aware that any equipment, assemblies, subassemblies, parts, components or items sold under this Order will be going out of production or will no longer be commercially available Sellers shall notify the Buyer of such obsolescence. Seller shall specifically identify those items by name or title, part number(s), function, and name and location of manufacturer.