



TC4 INT

GENERAL PROVISIONS AND FAR FLOWDOWN PROVISIONS FOR INTERNATIONAL COST REIMBURSEMENT SUBCONTRACTS/PURCHASE ORDERS (ALL AGENCIES) FOR NON-COMMERCIAL ITEMS UNDER A UNITED STATES GOVERNMENT PRIME CONTRACT

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SECTION I: GENERAL PROVISIONS

1. ACCEPTANCE OF CONTRACT/TERMS AND CONDITIONS

- (a) This Contract integrates, merges, and supersedes any prior offers, negotiations, and agreements concerning the subject matter hereof and constitutes the entire agreement between the parties.
- (b) SELLER's acknowledgment, acceptance of payment, or commencement of performance, shall constitute SELLER's unqualified acceptance of this Contract.
- (c) **ADDITIONAL OR DIFFERING TERMS OR CONDITIONS PROPOSED BY SELLER OR INCLUDED IN SELLER'S ACKNOWLEDGMENT HEREOF ARE HEREBY OBJECTED TO BY SRC AND HAVE NO EFFECT UNLESS EXPRESSLY ACCEPTED IN WRITING BY SRC**

2. ALLOWABLE COST AND PAYMENT.

- (a) **Invoicing.** SRC shall make payments to SELLER when requested as work progresses, but not more often than once every 2 weeks, in amounts determined to be allowable by

SRC in accordance with the terms of this Contract and Subpart 31.2 of the FAR; and agency supplements as appropriate, in effect on the date of this Contract. If this Contract is with an educational institution, FAR Subpart 31.3 shall apply; and if with a non-profit organization other than an educational institution, FAR Subpart 31.7 shall apply. SELLER shall submit to the SRC Procurement Representative, in such form and reasonable detail as the representative may require an invoice or voucher supported by a statement of the claimed allowable cost for performing this Contract.

(b) Reimbursing costs.

(1) For the purpose of reimbursing allowable costs (except as provided in subparagraph 2 (b)(2) below, with respect to pension, deferred profit sharing, and employee stock ownership plan contributions), the term "costs" includes only:

- (a) Those recorded costs that, at the time of the request for reimbursement, SELLER has paid by cash, check, electronic funds transfer, or other form of actual payment for items or services purchased directly for this Contract.

(b) When SELLER is not delinquent in paying costs of contract performance in the ordinary course of business, costs incurred, but not necessarily paid, for:

- (i) Materials issued from SELLER's inventory and placed in the production process for use on this Contract;
- (ii) Direct labor;
- (iii) Direct travel;
- (iv) Other direct in-house costs; and
- (v) Properly allocable and allowable indirect costs, as shown in the records maintained by SELLER for purposes of obtaining reimbursement under Government contracts.

(c) The amount of progress payments that have been paid to SELLER's subcontractors under similar cost standards.

(2) SELLER contributions to any pension, profit sharing, or employee stock ownership plan funds that are paid quarterly or more often may be included in indirect costs for payment purposes; provided, that SELLER pays the contribution to the fund within thirty (30) calendar days after the close of the period covered.

Payments made 30 days or more after the close of a period shall not be included until SELLER actually makes the payment. Accrued costs for such contributions that are paid less often than quarterly shall be excluded from indirect costs for payment purposes until SELLER actually makes the payment.

(3) Notwithstanding the audit and adjustment of invoices or vouchers under subparagraph 2(g) below, allowable indirect costs under this Contract shall be obtained by applying indirect cost rates established in accordance with subparagraph 2(d) below.

(4) Except as otherwise expressly provided to the contrary in these General Provisions or in the schedule of this Contract, any statements in specifications or other documents incorporated in this Contract by reference designating performance of services or furnishing of materials at SELLER's expense or at no cost to SRC shall be disregarded for purposes of cost reimbursement under this paragraph 2.

(c) **Small business concerns.** A small business concern may be paid as often as every 2 weeks and may invoice and be paid for recorded costs for items or services purchased directly for this Contract, even though the concern has not yet paid for those items or services.

(d) **Final indirect cost rates.** SRC shall reimburse SELLER on the basis of final annual indirect cost rates and the appropriate bases established by SELLER and the Government in effect for the period covered by the indirect cost rate proposal. Such rates and bases shall not change any monetary ceiling, contract obligation, or specific cost allowance or disallowance provided for in this Contract. The rates and bases shall be deemed incorporated into this Contract upon execution.

(e) **Billing Rates.** There shall be included as allowable indirect costs such overhead rates as may be established by SELLER and the cognizant Government Agency in accordance with the principles of the Federal Acquisition Regulation and applicable FAR Supplement. Pending establishment of final overhead rates for any period, SELLER shall be reimbursed at billing rates approved by the cognizant Government Agency, which billing rates may be revised from time to time subject to such approval and subject to appropriate adjustment when the final rates for that period are established.

(f) **Quick closeout procedures.** When SELLER and SRC agree, the quick closeout procedures of Subpart 42.7 of the FAR may be used.

(g) **Audit.** At any time or times before final payment, SRC or the Government may audit SELLER's invoices or vouchers and statements of cost. Any payment may be (1) reduced by amounts found by SRC or the Government not to constitute allowable costs or (2) adjusted for prior overpayments or underpayments.

(h) **Final payment.**

(1) SELLER shall submit a completion invoice or voucher, designated as such, promptly upon completion of the work, but no later than one year (or longer, as SRC may approve in writing) from the completion date. Upon approval of that invoice or voucher, and upon SELLER's compliance with all terms of this Contract, SRC shall promptly pay any balance of allowable costs and that part of the fee (if any) not previously paid.

(2) SELLER shall pay to SRC any refunds, rebates, credits, or other amounts (including interest, if any) accruing to or received by SELLER or any assignee under this Contract, to the extent that those amounts are properly allocable to costs for which SELLER has been reimbursed by SRC. Reasonable expenses incurred by SELLER for securing refunds, rebates, credits, or other amounts shall be allowable costs if approved by SRC. Before final payment under this Contract, SELLER and each assignee whose assignment is in effect at the time of final payment shall execute and deliver:

(a) An assignment to SRC, in form and substance satisfactory to SRC, of refunds, rebates, credits, or other amounts (including interest, if any) properly allocable to costs for which SELLER has been reimbursed by SRC under this Contract; and

(b) A release discharging SRC, its directors, officers, agents, and employees from all liabilities, obligations, and claims arising from or related to this Contract, except for specified claims stated in exact amounts, or in estimated amounts when the exact amounts are not known.

(i) **Subcontracts.** No subcontract placed under this Contract shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-reimbursement type subcontracts shall not exceed the fee limitations in paragraph 15.404-4(c)(4)(i) of the Federal Acquisition Regulation (FAR).

3. APPLICABLE LAWS

- (a) This Contract and all matters arising from or related to it shall be governed by and construed in accordance with the law of the State within the United States from which this Contract was issued, excluding its choice of law rules, except that any provision in this Contract that is (i) incorporated in full text or by reference from the Federal Acquisition Regulations (FAR); or (ii) incorporated in full text or by reference from any agency regulation that implements or supplements the FAR; or (iii) that is substantially based on any such agency regulation or FAR provision, shall be construed and interpreted according to the federal common law of United States Government contracts as enunciated and applied by federal judicial bodies, boards of contract appeals, and quasi-judicial agencies of the United States Government. The provisions of the "United Nations Convention on Contracts for the International Sales of Goods" shall not apply to this Contract.
- (b) (1) SELLER shall comply with all applicable laws, orders, rules, regulations, and ordinances of the United States and the country where SELLER will be performing this Contract. SELLER shall procure all licenses, permits, pay all fees and other required charges necessary to conduct its business, all at SELLER's expense.
- (2) If: (i) SRC's contract cost or fee is reduced; (ii) SRC's costs are determined to be unallowable; (iii) any fines, penalties or interest are assessed on SRC; or (iv) SRC incurs any other costs or damages; as a result of any violation of applicable laws, orders, rules, regulations, or ordinances by SELLER, its directors, officers, employees, agents, suppliers, or subcontractors at any tier, SRC may proceed as provided for in subparagraph 3(b)(4) below.
- (3) Where submission of cost or pricing data is required or requested at any time prior to or during performance of this Contract, if SELLER or its lower-tier subcontractors: (i) submit and/or certify cost or pricing data that are defective; (ii) with notice of applicable cutoff dates and upon SRC's request to provide cost or pricing data, submit cost or pricing data, whether certified or not certified at the time of submission, as a prospective subcontractor, and any such data are defective as of the applicable cutoff date on SRC's Certificate of Current Cost or Pricing Data; (iii) claim an exception to a requirement to submit cost or pricing data and such exception is invalid; or (iv) furnish data of any description that is inaccurate; or (v) if the United States Government alleges any of the foregoing, and, as a result, (1) SRC's contract price or fee is reduced; (2) SRC's costs are determined to be unallowable; (3) any fines, penalties or interest are assessed on SRC; or (4) SRC incurs any other costs or damages; SRC may proceed as provided for in subparagraph 3(b)(4) below.
- (4) Upon the occurrence of any of the circumstances identified in subparagraphs 3(b)(2) and 3(b)(3) above, SRC may make a reduction of corresponding amounts (in whole or in part) in the price, or in the costs and fee, of this Contract or any other contract with SELLER, and/or may demand payment (in whole or in part) of the corresponding amounts. SELLER shall promptly pay amounts so demanded. Such sums shall not be considered allowable costs under any provision of this Contract.

(5) Indemnification for Defective Pricing – If Buyer is subject to any liability as a result of a failure of the Seller to comply with the requirements of FAR 52.215-12 and 52.215-13, Seller agrees to indemnify and hold harmless Buyer, to the full extent of any amount claimed by the Government, from and against any loss, damage, liability or expense (including reasonable attorneys' fees) resulting from such failure. Furthermore, Seller agrees that in any action brought hereunder, the Federal Statute of Limitations shall apply.

(c) SELLER represents that each chemical substance constituting or contained in Work sold or otherwise transferred to SRC hereunder is on the list of chemical substances compiled and published by the Administrator of the United States Environmental Protection Agency pursuant to the United States Toxic Substances Control Act (15 U.S.C. Sec. 2601 et seq.) as amended.

(d) SELLER shall provide to SRC with each delivery any Material Safety Data Sheet (29 C.F.R. 1910.1200) applicable to the Work in conformance with and containing such information as required by the United States Occupational Safety and Health Act of 1970 (29 U.S.C. Sec. 651 et seq.) and regulations promulgated thereunder, or its state approved counterpart.

4. ASSIGNMENT

Any assignment of SELLER's contract rights or delegation of duties shall be void, unless prior written consent is given by SRC

5. CONTRACT DIRECTION

(a) Only the SRC Procurement Representative has authority to make changes in, to amend, or to modify this Contract. Such changes, amendments or modifications must be in writing.

(b) SRC program, operations, engineering, technical, or other personnel may from time to time render assistance, give technical advice, discuss, or exchange information with SELLER's personnel concerning the Work hereunder. Such actions shall not be deemed to be a change under the "Changes" clause of this Contract and shall not be the basis for equitable adjustment. If SELLER believes the foregoing creates an actual or constructive change, SELLER shall notify the SRC Procurement Representative and shall not accept such direction or perform said action unless authorized under paragraph 5(a).

(c) Except as otherwise provided herein, all notices to be furnished by SELLER shall be sent to the SRC Procurement Representative.

6. CUSTOMER COMMUNICATION

SRC shall be solely responsible for all liaison and coordination with the Customer, any higher tier contractor(s), or the United States Government, as it affects the applicable Prime Contract, this Contract, and any related contract. Except as required by law, SELLER shall not communicate with the Customer, any higher tier contractor(s), or the United States Government, with respect to the applicable Prime Contract, this Contract, and/or any related contract without prior approval of the SRC Procurement Representative. SELLER shall promptly notify SRC of any communications initiated

by the Customer, any higher tier contractor(s), or the United States Government, that affects the applicable Prime Contract, this Contract, and/or any related contract.

7. DEFINITIONS

The following terms shall have the meanings set forth below:

- (a) "SRC" means the SRC legal entity as identified on the face of this Contract.
- (b) "SRC Procurement Representative" means the person authorized by SRC's cognizant procurement organization to administer and/or execute this Contract.
- (c) "Contract" means the instrument of contracting, such as "PO", "Purchase Order", or other such type designation, including all referenced documents, exhibits and attachments. If these terms and conditions are incorporated into a "master" agreement that provides for releases, (in the form of a purchase order or other such document) the term "Contract" shall also mean the release document for the Work to be performed.
- (d) "Customer" means the entity with whom SRC has or anticipates having a contractual relationship to provide services or goods that utilize or incorporate the Work. For purposes of paragraphs 15 (FURNISHED PROPERTY) and 18 (INDEPENDENT CONTRACTOR RELATIONSHIP) "Customer" shall include any higher tier contractor(s) and the United States Government.
- (e) "Electronic Signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.
- (f) "FAR" means the Federal Acquisition Regulations, issued as Chapter 1 of Title 48, Code of Federal Regulations.
- (g) "Open Source" means with respect to Software and any licenses of same, that Software provided under a license which permits the user to run, copy, distribute, study, change, modify and/or improve the Software but which prohibits the user from: (a) withholding improvements and/or modifications made by the user to the source code when and/if user thereafter distributes the Software; and/or (b) adding restrictions on use when redistributing or transferring the Software to third parties. For purposes of this Contract, "Open Source" Software shall also include "Free Software" as defined by the Free Software Foundation Inc. By way of example and not limitation, "Open Source" licenses shall include such licenses as the GNU General Public License, the Mozilla Public License 1.1, Apache Software License Version 2.0, the Academic Free License 2.0, and Open Software License 2.0.
- (h) "PO" or "Purchase Order" as used in any document constituting a part of this Contract shall mean this "Contract."
- (i) "SELLER" means the party identified on the face of this Contract with whom SRC is contracting. For the purposes of paragraphs 6 (CUSTOMER COMMUNICATION) and 18 (INDEPENDENT CONTRACTOR RELATIONSHIP) only, "SELLER" shall also include SELLER's agents, representatives, subcontractors, and suppliers at any tier.

- (j) "Software" means: (1) computer programs, source code, source code listings, executable code, machine readable code, object code listings, design details, algorithms, processes, flow charts, formulae, and related material that would enable software to be read, reproduced, recreated, or recompiled; (2) associated documentation such as operating manuals, application manuals, and installation and operating instructions that explain the capabilities of software and provide instructions on using the software; and (3) derivative works, enhancements, modifications, and copies of those items identified in (1) and (2) above.
- (k) "Task Order" means a separate order issued under this Contract.
- (l) "Work" means all required articles, materials, supplies, goods and services, including, but not limited to, technical data and Software, constituting the subject matter of this Contract.

8. DISPUTES/JURY WAIVER

- (a) All disputes arising from or related to this Contract which are not disposed of by mutual agreement may be decided by recourse to an action at law or in equity in accordance with subparagraph 8(b) below. Until final resolution of any dispute hereunder, SELLER shall diligently proceed with the performance of this Contract as directed by SRC
- (b) SRC and SELLER agree to timely notify each other of any claim, dispute or cause of action arising from or related to this Contract, and to negotiate in good faith to resolve any such claim, dispute or cause of action. To the extent that such negotiations fail, **SRC AND SELLER AGREE THAT ANY LAWSUIT OR CAUSE OF ACTION THAT ARISES FROM OR IS RELATED TO THIS CONTRACT SHALL BE FILED AND LITIGATED ONLY IN A COURT OF COMPETENT JURISDICTION WITHIN THE STATE FROM WHICH THIS CONTRACT WAS ISSUED; AND SRC AND SELLER EACH HEREBY CONSENT AND AGREE TO THE PERSONAL JURISDICTION AND VENUE OF ANY STATE OR FEDERAL COURT OF COMPETENT JURISDICTION LOCATED WITHIN THE STATE FROM WHICH THIS CONTRACT WAS ISSUED WITH RESPECT TO ANY SUCH CLAIM, DISPUTE OR CAUSE OF ACTION AND WAIVE ANY DEFENSE OR OBJECTION TO THE EXERCISE OF PERSONAL JURISDICTION AND/OR VENUE BY ANY SUCH COURT.**
- (c) **TO THE EXTENT PERMITTED BY APPLICABLE LAWS, SRC AND SELLER EACH WAIVE ANY RIGHTS WHICH EITHER MAY HAVE TO TRIAL BEFORE A JURY OF ANY DISPUTE ARISING FROM, OR RELATED TO, THIS CONTRACT. SELLER AND SRC FURTHER STIPULATE AND CONSENT THAT ANY SUCH LITIGATION BEFORE A COURT OF COMPETENT JURISDICTION SHALL BE NON-JURY.**

9. ELECTRONIC CONTRACTING

SRC and SELLER agree that if this Contract, or any order, ancillary agreement, or correspondence is transmitted electronically neither SRC nor SELLER shall contest the validity thereof, on the basis that this Contract, or the order, acknowledgement, ancillary agreement, or correspondence exists only in electronic form, an electronic record

was used in its creation or formation, or it contains only an Electronic Signature or it was generated automatically, without human intervention by a system intended for the purposes of generating same.

10. EXCUSABLE DELAY

- (a) Subject to subparagraph 10(b), SRC and SELLER shall be excused from, and shall not be liable for, failure of performance due to one or more of the following qualifying events (such list being exclusive):
- (i) war, warlike operation, insurrection, riot, fire, flood, explosion, strike, governmental act in its sovereign capacity, embargo, act of God, terrorism, epidemic, and quarantine restriction; and if
 - (ii) such event was beyond the control of the party whose performance is affected by the qualifying event and not occasioned by its negligence or default. This Contract will be extended for that period of time attributable to such event.
- (b) The party whose performance is affected by the qualifying event shall submit, within ten (10) calendar days of the start of the qualifying event, a written notice stating a complete and detailed description of such event, the date of commencement, an estimate of the probable period of delay, and explanation indicating how such event was beyond the control of such party and not due to its negligence or fault and what efforts such party will make to minimize the length of delay. The party whose performance is affected by the qualifying event shall submit, within ten (10) calendar days of the end of the event, a written notice stating the impact to the schedule and evidence justifying the length of the delay. If the delay extends or is expected to extend for thirty (30) days or more, this Contract may be terminated by SRC without additional cost or other liability. Termination for excusable delay shall be governed by this paragraph 10 notwithstanding any other termination provisions of this Contract.

11. EXPORT CONTROL

- (a) **SELLER shall comply with all applicable United States export control laws and regulations, including, but not limited to, the requirements of the Arms Export Control Act, 22 U.S.C. 2751-2799, the International Traffic in Arms Regulation (ITAR), 22 C.F.R. 120 et seq., the Export Administration Act, 50 U.S.C. app. 2401-2420, and the Export Administration Regulations, 15 C.F.R. 730-774. SELLER shall obtain all required export licenses or agreements necessary to perform SELLER's Work, as applicable.**
- (b) Without limiting the foregoing, SELLER shall not transfer any export controlled item, data or services, to include transfer to a person who is not a "U.S. Person" as defined in the ITAR (22 C.F.R. 120.15), without the authority of a United States Government export license, export agreement, or applicable license exemption or exception. Further, a United States Government export license, export agreement, or applicable license exemption or exception shall be obtained by SELLER prior to the transfer of any export controlled item, data or services to any U.S. Person that is employed by any "Foreign person" within the meaning of 22 C.F.R. 120.16.

- (c) SELLER shall notify SRC if any use, sale, import or export by SRC of Work to be delivered under this Contract is restricted by any export control laws or regulations applicable to SELLER.
- (d) SELLER shall immediately notify the SRC Procurement Representative if SELLER is listed in any Denied Parties List or if SELLER's export privileges are otherwise denied, suspended or revoked in whole or in part by any government entity or agency.
- (e) If SELLER is engaged in the business of either exporting or manufacturing (whether exporting or not) defense articles or furnishing defense services, SELLER represents that it maintains an effective export/import compliance program in accordance with the ITAR and it is registered with the United States Office of Defense Trade Controls (unless covered by one of the exemptions set forth in 22 C.F.R. 122.1) as required by the ITAR.
- (f) Where SELLER is a signatory under a SRC export license or export agreement (e.g., TAA, MLA), SELLER shall provide prompt notification to the SRC Procurement Representative in the event of changed circumstances affecting said license or agreement.
- (g) SELLER shall indemnify, hold harmless and, at SRC's election, defend SRC, its directors, officers, employees, and agents from and against all losses, costs, claims, causes of action, damages, liabilities and expense, including, but not limited to, reasonable attorneys' fees, all expense of litigation and/or settlement, and court costs, arising from or related to any act or omission of SELLER, its directors, officers, employees, agents, suppliers, or subcontractors at any tier in the performance of any of its obligations under this paragraph 11. SELLER shall include the requirements of this paragraph 11 in all agreements with lower tier subcontractors.
- (h) Failure of the United States Government or any other government to issue any required export or import license, or withdrawal/termination of a required export or import license by the United States Government or any other government, shall relieve SRC of its obligations under this Contract. Provided SELLER has diligently pursued obtaining such license and, through no fault of SELLER, such license has been denied, withdrawn, or terminated, SELLER shall also be relieved of its obligation under this Contract. In either event, this Contract may be terminated by SRC without additional cost or other liability.
- (i) If the technical data required to perform this Contract is subject to the United States International Traffic in Arms Regulations (ITAR), SELLER shall comply with the following:
- (1) The technical data shall be used only in performance of Work required by this Contract; and
 - (2) The data shall not be disclosed to any other person, including lower-tier subcontractors within the same country, unless said person is expressly authorized pursuant to an export license or export agreement; and
 - (3) Any rights in the data may not be acquired by SELLER or any other Non-U.S. Person; and

- (4) SELLER shall return, or at SRC's direction, destroy all of the technical data exported to SELLER pursuant to this Contract upon fulfillment of its terms;
- (5) Unless otherwise expressly directed by SRC, SELLER shall deliver the Work only to SRC or to an agency of the United States Government.

12. **EXTRAS**

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

13. **FEE** (Applicable only if this Contract includes a fee.)

SRC shall pay the SELLER for performing this Contract the fee as specified in this Contract.

14. **FOREIGN CORRUPT PRACTICES PROHIBITION**

- (a) **By accepting this Contract, SELLER certifies and represents that it has not made or solicited and will not make or solicit any offer, payment, promise to pay, or authorization to pay any money, gift, or anything of value to any governmental official or any political party, party official or candidate, either directly or through an intermediary, corruptly for the purpose of influencing any official act, omission, or exercise of influence by the recipient, to assist SRC or SELLER in obtaining or retaining business.**
- (b) **SELLER shall ensure that all lower tier subcontracts include this paragraph 14.**

15. **FURNISHED PROPERTY**

- (a) SRC may provide to SELLER property owned by either SRC or its Customer (Furnished Property). Unless previously authorized in writing by the SRC Procurement Representative, Furnished Property shall be used only for the performance of this Contract.
- (b) Title to Furnished Property shall remain in SRC or its Customer. SELLER shall clearly mark (if not so marked) all Furnished Property to show its ownership.
- (c) The Furnished Property shall be supplied in "as-is" condition unless otherwise expressly agreed in writing. Except for reasonable wear and tear, SELLER shall be responsible for, and shall promptly notify SRC of, any loss or damage to Furnished Property while in SELLER's care, custody, or control. SELLER shall manage, maintain, preserve, and insure Furnished Property in accordance with good commercial practice.
- (d) At SRC's request, and/or upon completion of this Contract SELLER shall submit, in an acceptable form, inventory lists of Furnished Property and shall deliver or make such other disposal as may be directed by SRC
- (e) The United States Government Property Clause contained in Section II shall apply in lieu of paragraphs 15(a) through 15(d) above with respect to United States Government-furnished

property, or property to which the United States Government may take title under this Contract.

16. **GRATUITIES/KICKBACKS PROHIBITION**

- (a) No gratuities (in the form of entertainment, gifts or otherwise) or kickbacks shall be offered or given by SELLER, or anyone acting on SELLER's behalf, to any employee of SRC with a view toward securing favorable treatment as a supplier.
- (b) **By accepting this Contract, SELLER certifies and represents that it has not made or solicited and will not make or solicit kickbacks in violation of FAR 52.203-7 or the Anti-Kickback Act of 1986 (41 U.S.C Sec. 51-58), both of which are incorporated herein by this specific reference, except that paragraph (c)(1) of FAR 52.203-7 shall not apply.**

17. **IMPORTER OF RECORD**

This paragraph 17 applies if this Contract involves importation of Work into the United States.

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

18. **INDEPENDENT CONTRACTOR RELATIONSHIP**

- (a) SELLER's relationship to SRC shall be that of an independent contractor and this Contract does not create an agency, partnership, or joint venture relationship between SRC and SELLER or SRC and SELLER personnel. SELLER personnel engaged in performing Work under this Contract shall be deemed employees of SELLER and shall not for any purposes be considered employees or agents of SRC. SELLER assumes full responsibility for the actions and supervision of such personnel while engaged in Work under this Contract. SRC assumes no liability for SELLER personnel.
- (b) Nothing contained in this Contract shall be construed as granting to SELLER or any personnel of SELLER rights under any SRC benefit plan.

- (c) SELLER personnel: (i) will not remove SRC's or its Customer's assets from SRC's or Customer's premises without SRC's authorization; (ii) will use SRC or Customer assets only for purposes of this Contract; (iii) will only connect with, interact with or use SRC's computer networks and equipment, communications resources, programs, tools or routines as SRC agrees, all at SELLER's risk and expense, and then only in compliance with applicable SRC policies; and (iv) will not share or disclose user identifiers, passwords, cipher keys or computer dial port telephone numbers. SRC may monitor any communications made over or data stored in SRC computer networks and equipment or communications resources.
- (d) **SELLER SHALL INDEMNIFY, HOLD HARMLESS AND, AT SRC'S ELECTION, DEFEND SRC, ITS DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS FROM AND AGAINST ALL LOSSES, COSTS, CLAIMS, PENALTIES, CAUSES OF ACTION, DAMAGES, LIABILITIES, FEES, AND EXPENSES, INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEYS' FEES, ALL EXPENSES OF LITIGATION AND/OR SETTLEMENT, AND COURT COSTS, ARISING FROM OR RELATED TO ANY ACT OR OMISSION OF SELLER, ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, SUPPLIERS, OR SUBCONTRACTORS AT ANY TIER, IN THE PERFORMANCE OF ANY OF ITS OBLIGATIONS UNDER THIS CONTRACT.**

19. **INFORMATION OF SRC**

Information provided by SRC to SELLER remains the property of SRC. SELLER shall comply with all proprietary information markings and restrictive legends applied by SRC to anything provided hereunder to SELLER. SELLER shall not use any SRC provided information for any purpose except to perform this Contract and shall not disclose such information to third parties without the prior written consent of SRC.

20. **INFORMATION OF SELLER**

SELLER shall not provide any proprietary information to SRC without prior execution by SRC of a Proprietary Information or Non-Disclosure Agreement that expressly covers the performance of Work under this Contract.

21. **INSURANCE/ENTRY ON SRC OR CUSTOMER PROPERTY**

- (a) In the event that SELLER, its employees, agents, or subcontractors enter the site(s) of SRC or its Customer for any reason in connection with this Contract, then SELLER and its subcontractors shall procure and maintain worker's compensation (with a waiver of subrogation in favor of SRC), automobile liability, comprehensive general liability (bodily injury and property damage) insurance in amounts reasonably acceptable to SRC, and such other insurance as SRC may reasonably require. SELLER shall indemnify, hold harmless and, at SRC's election, defend SRC, its directors, officers, employees, and agents from and against all losses, costs, claims, penalties, causes of action, damages, liabilities, fees, and expenses, including, but not limited to, reasonable attorneys' fees, all expenses of litigation and/or settlement, and court costs, by reason of property damage or loss or personal injury or death to any person arising from or related to the actions or omissions of SELLER, its directors, officers,

employees, agents, suppliers, or subcontractors while on the site(s) of SRC or its Customers. With respect to any injury, including, but not limited to, death, to employees of SELLER or SELLER's agents, subcontractors or suppliers, SELLER's obligation to indemnify and defend in accordance with this section shall apply regardless of cause. SELLER shall provide SRC thirty (30) days advance written notice prior to the effective date of any cancellation or change in the term or coverage of any of SELLER's required insurance, provided however such notice shall not relieve SELLER of its obligations to procure and maintain the required insurance. If requested, SELLER shall send a "Certificate of Insurance" showing SELLER's compliance with these requirements. SELLER shall name SRC as an additional insured for the duration of this Contract. Insurance maintained pursuant to this paragraph 21 shall be considered primary as respects the interest of SRC and is not contributory with any insurance that SRC may carry. "Subcontractor" as used in this subparagraph 21(a) shall include SELLER's subcontractors at any tier.

- (b) SELLER shall ensure that personnel assigned to work on SRC's or Customer's premises comply with any on-premises guidelines. Unless otherwise authorized in writing by SRC, SELLER's personnel assigned to work on SRC's or Customer's premises shall while on SRC's or Customer's premises (i) not bring weapons of any kind; (ii) not manufacture, sell, distribute, possess, use or be under the influence of controlled substances or alcoholic beverages; (iii) not possess hazardous materials of any kind; (iv) remain in authorized areas only; and/or (v) not solicit SRC's employees for employment during business hours.
- (c) All SELLER personnel, property, and vehicles entering or leaving SRC's or Customer's premises are subject to search.
- (d) SELLER shall promptly notify SRC and provide a report of any and all physical altercations, assaults or harassment, and accidents or security incidents involving death, personal injury or loss of or misuse of or damage to SRC's or Customer's property, that occur on SRC's or its Customer's premises.
- (e) SRC may, at its sole discretion, remove or require SELLER to remove any specified employee of SELLER from SRC's or Customer's premises and request that such employee not be reassigned to any SRC premises under this Contract. Any costs arising from or related to removal of SELLER's employee shall be borne solely by SELLER and not charged to this Contract.

22. **INTELLECTUAL PROPERTY**

- (a) SELLER warrants that the Work performed and delivered under this Contract will not infringe or otherwise violate the intellectual property rights of any third party in the United States or any foreign country and is free and clear of all liens, licenses, claims, and encumbrances.
- (b) SELLER shall indemnify, hold harmless and, at SRC's election, defend SRC and its Customer from and against all losses, costs, claims, penalties, causes of action, damages, liabilities, fees, and expenses, including, but not limited to, reasonable attorneys' fees, arising from or related to any action by a third party that is based upon a claim that the Work performed or delivered under this Contract infringes or otherwise violates the intellectual property rights of any person or entity. If an injunction is obtained against SRC's use of the Work or a

portion thereof as a result of infringement or misappropriation of the intellectual property of any third party, SELLER shall either (i) procure for SRC and Customer the right to continue using the Work or (ii) replace or modify the Work so it becomes non-infringing. This indemnity and hold harmless provision shall not be considered an allowable cost under any provisions of this Contract except with regard to allowable insurance costs.

- (c) SELLER grants and agrees that SRC shall have a nonexclusive, worldwide, irrevocable, paid-up, royalty-free license and right, to enable SRC to satisfy its contractual obligations to its Customer, to make, have made, sell, offer for sale, use, execute, reproduce, display, perform, publish, distribute, copy, prepare derivatives or compilations, and authorize others to do any, some or all of the foregoing, with respect to any and all, inventions, discoveries, improvements, technology, designs, works of authorship, mask works, patents, copyrights, technical information, data, databases, Software, business information and other information, conceived, developed, generated or delivered in performance of this Contract. SELLER shall provide all assistance reasonably required and execute all documents necessary to perfect the rights granted to SRC herein.

23. LANGUAGE AND STANDARDS

All reports, correspondence, drawings, notices, marking, documentation, and other communications shall be in the English language. In the event of any inconsistency with any translation into another language, the American standard English language meaning of this Contract shall prevail. Unless otherwise provided in writing all documentation and Work shall employ the units of United States standard weights and measures as published by the United States National Institute of Standards and Technology.

24. MAINTENANCE OF RECORDS

- (a) SELLER shall maintain complete and accurate records in accordance with generally accepted accounting principles and good commercial practices to substantiate SELLER's costs hereunder. SELLER shall retain such records for three (3) years from final payment of this Contract, unless another period is specified by FAR Part 4.7.
- (b) SRC shall have access to such records, and any other records SELLER is required to maintain under this Contract, for the purpose of audit during normal business hours, upon reasonable notice for so long as such records are required to be retained. Audit rights shall be available to SRC on all performance related reports and other records, except records pertaining to proprietary indirect cost data. Audit of any proprietary indirect cost data may be accomplished through the responsible DCAA representative, or a mutually agreeable third party auditor from an internationally recognized firm of certified public accountants.

25. OFFSET CREDIT/COOPERATION

All offset or countertrade credit value resulting from this Contract, and any lower tier subcontracts, shall accrue solely to the benefit of SRC. SELLER shall cooperate with SRC in the fulfillment of any foreign offset/countertrade obligations.

26. OPEN SOURCE SOFTWARE

Without the prior written approval of SRC, which SRC may withhold in its sole discretion, SELLER shall not incorporate any Open Source Software, including any source code governed by an Open Source license, into Work to be performed and/or delivered under this Contract. Before SRC will provide written approval for the incorporation of such Open Source Software, SELLER shall first identify all Open Source Software incorporated into Work to be performed and/or delivered under this Contract, including a complete source code listing of the Software comprising the Work with a description of the operation of the Software in English and machine-readable form, together with copies of any licenses required to be accepted.

27. PACKING AND SHIPMENT

- (a) Unless otherwise specified, all Work is to be packed in accordance with good commercial practice designed to protect the integrity of the shipped contents consistent with international shipping practices.
- (b) A complete packing list shall be enclosed with all shipments. SELLER shall mark containers or packages with necessary lifting, loading, and shipping information, including the SRC Contract number, item number, dates of shipment, and the names and addresses of consignor and consignee. Bills of lading shall include this Contract number.
- (c) Unless otherwise specified, delivery shall be Carriage and Insurance Paid (CIP) SRC's facility, in accordance with Incoterms 2000. The minimum insurance shall cover the price provided in this Contract plus ten percent (i.e. 110%) and shall be provided in the currency of this Contract.
- (d) SELLER shall provide to SRC Procurement Representative in writing, five (5) business days advance notification of shipment. Such notification shall include submission of a copy of the packing list required by subparagraph 27(b) and such other information as SRC may reasonably request.

28. PARTS OBSOLESCENCE

SRC may desire to place additional orders for items purchased hereunder. SELLER shall provide SRC with a "Last Time Buy Notice" at least twelve (12) months prior to any action to discontinue any item purchased under this Contract.

29. PAYMENTS, TAXES, AND DUTIES

- (a) Unless otherwise provided, terms of payment shall be net thirty (30) days from the latest of the following: (i) SRC's receipt of the SELLER's proper invoice; (ii) scheduled delivery date of the Work; or (iii) actual delivery of the Work. SRC shall have a right of setoff against payments due or at issue under this Contract or any other contract between SRC and SELLER.
- (b) Each payment made shall be subject to reduction to the extent of amounts which are found by SRC not to have been properly payable and shall also be subject to reduction for overpayments.

- (c) Payment shall be deemed to have been made as of the date of mailing SRC's payment or electronic funds transfer.
- (d) Unless otherwise specified, estimated costs include all applicable federal, state, local and foreign taxes. All duties, taxes, and other official charges as well as the costs of carrying out customs formalities shall be payable in accordance with the Incoterm called out in this Contract. Each of the foregoing shall be listed separately on the invoice.
- (e) The prices stated in this Contract are cost plus in United States dollars.

The following supplemental terms and conditions are hereby incorporated by reference, and shall also apply to this Contract: (i) for Contracts issued in support of a Department of Defense Prime Contract SRC's TC4A applies, (ii) for Contracts issued in support of a National Aeronautics and Space Administration Prime Contract SRC's TC4B applies, or (iii) for Contracts issued in support of a Department of Energy Prime Contract SRC's TC4C applies.

30. PRECEDENCE

Any inconsistencies in this Contract shall be resolved in accordance with the following descending order of precedence: (1) face of the Purchase Order and/or Task Order, release document or schedule, (which shall include continuation sheets), as applicable, to include any special provisions; (2) any master-type agreement (such as corporate, operating group or blanket agreements); (3) representations and certifications; (4) any supplemental terms and conditions incorporated by reference under paragraph 35; (5) these terms and conditions; (6) statement of work; and (7) specifications or drawings.

31. PRIORITY RATING

If so identified, this Contract is a "rated order" certified for national defense use, and SELLER shall follow all the requirements of the Defense Priorities and Allocation System (DPAS) Regulation (15 C.F.R. Part 700). Under DPAS regulations, if this Contract supports the United States Government, is DX or DO Rated, and exceeds \$50,000.00, the SELLER must acknowledge acceptance of DX-Rated orders within ten (10) days, and DO-Rated orders within fifteen (15) days of receipt hereof. Commencement of performance of the Work called for by this Contract in the absence of SELLER's written acknowledgement thereof shall be deemed acceptance of this

32. QUALITY CONTROL SYSTEM

- (a) SELLER shall provide and maintain a quality control system to an industry recognized Quality Standard and in compliance with any other specific quality requirements identified in this Contract.
- (b) Records of all quality control inspection work by SELLER shall be kept complete and available to SRC and its Customers.

33. RELEASE OF INFORMATION

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

34. SEVERABILITY

Each paragraph and provision of this Contract is severable, and if one or more paragraphs or provisions are declared invalid, the remaining provisions of this Contract will remain in full force and effect.

35. SUPPLEMENTAL TERMS AND CONDITIONS

36. SURVIVABILITY

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

- (a) Applicable Laws
Disputes/Jury Waiver
Electronic Contracting
Export Control
Furnished Property
Independent Contractor Relationship
Information of SRC
Insurance/Entry on SRC or Customer Property
Intellectual Property
Language and Standards
Maintenance of Records
Parts Obsolescence
Release of Information
- (b) Those United States Government flowdown provisions that by their nature should survive.

37. TIMELY PERFORMANCE

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

38. WAIVER, APPROVAL AND REMEDIES

- (a) Failure by SRC to enforce any provision(s) of this Contract shall not be construed as a waiver of the requirement(s) of such provision(s), or as a waiver of the right of SRC thereafter to enforce each and every such provision(s).
- (b) SRC's approval of documents shall not relieve SELLER from complying with any requirements of this Contract.

- (c) The rights and remedies of SRC in this Contract are cumulative and in addition to any other rights and remedies provided by law or in equity.

39. WARRANTY

- (a) SELLER warrants that it is and shall remain free of any obligation or restriction which would interfere or be inconsistent with or present a conflict of interest concerning the Work to be furnished by SELLER under this Contract.
- (b) SELLER warrants that it will perform the Work under this Contract with the degree of professional skill and sound practices and judgment that is normally exercised by recognized professional firms with respect to services of a similar nature. **Any implied warranty of merchantability and fitness for a particular purpose is hereby disclaimed.**

SECTION II: FAR FLOWDOWN PROVISIONS

A. INCORPORATION OF FAR CLAUSES

The Federal Acquisition Regulation (FAR) clauses referenced below are incorporated herein by reference, with the same force and effect as if they were given in full text, and are applicable, including any notes following the clause citation, during the performance of this Contract. When a FAR clause uses a word or term that is defined in the FAR, the word or term shall have the same meaning as in the definition in FAR 2.101 in effect on the date of this Contract unless (i) a different definition is expressly set forth in this Contract; or (ii) the part, subpart, or section of the FAR where the clause is prescribed provides a different meaning; or (iii) the word or term is defined in FAR Part 31, for use in the cost principles and procedures. If the date or substance of any of the clauses listed below is different than the date or substance of the clause actually incorporated in the Prime Contract referenced by number herein, the date or substance of the clause incorporated by said Prime Contract shall apply instead. The Contracts Disputes Act of 1978, as amended, shall have no application to this Contract. Any reference to "Disputes" clause shall mean paragraph 8 "Disputes/Jury Waiver" in Section I of these terms and conditions.

B. GOVERNMENT SUBCONTRACT

This Contract is entered into by SRC and SELLER in support of a United States Government Contract.

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

- 1. "Commercial Item" means a commercial item as defined in FAR 2.101.
- 2. "Contract" means this Contract.
- 3. "Contractor" means SELLER, as defined in this document, acting as the immediate (first-tier) subcontractor to SRC
- 4. "Prime Contract" means the contract between SRC and the United States Government or between SRC and its higher-tier contractor in support of a contract with the United States Government.
- 5. "Subcontract" means any contract placed by Contractor or lower-tier subcontractors under this Contract.

C. NOTES

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

D. AMENDMENTS REQUIRED BY PRIME CONTRACT

SELLER shall, at the request of SRC, accept amendments to this Contract to incorporate additional provisions herein or to change provisions hereof, as SRC may reasonably deem necessary in order to comply with the provisions of the applicable Prime Contract or with the provisions of amendments to such Prime Contract. If any such amendment to this Contract causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the Work under this Contract, an equitable adjustment shall be made pursuant to the "Changes" clause of this Contract.

E. PRESERVATION OF THE GOVERNMENT'S RIGHTS

If SRC furnishes designs, drawings, special tooling, equipment, engineering data or other technical or proprietary information (Furnished Items) to which the United States Government owns or has the right to authorize the use of, nothing herein shall be construed to mean that SRC, acting on its own behalf, may modify or limit any rights the Government may have to authorize the Contractor's use of such Furnished Items in support of other United States Government prime contracts.

F. FAR FLOWDOWN CLAUSES

REFERENCE TITLE

- 1. **The following FAR clauses apply to this Contract:**
 - (a) 52.211-5 MATERIAL REQUIREMENTS (AUG 2000) (Note 2 applies.)
 - (b) 52.215-12 SUBCONTRACTOR COST OR PRICING DATA (OCT 1997) (Note 2 applies.)
 - (c) 52.215-13 SUBCONTRACTOR COST OR PRICING DATA – MODIFICATIONS (OCT 1997) (Note 2 applies.)
 - (d) 52.215-20 REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA (OCT 1997) (Note 2 applies.)

- (e) 52.215-21 REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA - MODIFICATIONS (OCT 1997) (Note 2 applies.)
 - (f) 52.216-8 FIXED FEE (MAR 1997) (Applicable only if this Contract includes a fixed fee. Delete the last two sentences of the clause. Notes 1 and 2 apply.)
 - (g) 52.216-10 INCENTIVE FEE (MAR 1997) (Applicable only if this Contract includes an incentive fee. In paragraph (c) the last two sentences are deleted. The amounts in paragraph (e) are set forth on the face of this Contract. Notes 1 and 2 apply, except in subparagraphs (e) (4)(v) and (e) (4)(vi) where "Government" is unchanged.)
 - (h) 52.222-2 PAYMENT FOR OVERTIME PREMIUMS (JUL 1990) (Insert ZERO in the Blank. Notes 2 and 3 apply.)
 - (i) 52.222-39 NOTIFICATION OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES (DEC 2004)
 - (j) 52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (~~FEB-2006~~) (JUNE 2008) (Note 5 applies.)
 - (k) 52.227-14 RIGHTS IN DATA - GENERAL (DEC 2007)
 - (l) 52.232-20 LIMITATION OF COST (APR 1984) (Applicable when this Contract becomes fully funded. Notes 1 and 2 apply.)
 - (m) 52.232-22 LIMITATION OF FUNDS (APR 1984) (Applicable if this Contract is incrementally funded. When this Contract becomes fully funded 52.232-20 shall apply in lieu of this clause. Notes 1 and 2 apply.)
 - (m) 52.234-1 INDUSTRIAL RESOURCES DEVELOPED UNDER DEFENSE PRODUCTION ACT TITLE III (DEC 1994) (Note 2 applies.)
 - (o) 52.242-13 BANKRUPTCY (JUL 1995) (Note 2 applies.)
 - (p) 52.242-15 STOP-WORK ORDER (AUG 1989) with ALT I (APR 1984) (In paragraph (a) "90 days" is changed to "100 days," in paragraph (b) "30 days" is changed to "20 days." Notes 1 and 2 apply.)
 - (q) 52.243-2 CHANGES - COST REIMBURSEMENT (AUG 1987) (Replace paragraph (a) with the following: The SRC Procurement Representative may at any time, by written order, and without notice to sureties, if any, direct changes within the general scope of this Contract in any one or more of the following: (i) technical requirements and descriptions, specifications, statement of work ("SOW"), drawings or designs; (ii) shipment or packing methods; (iii) place of delivery, inspection or acceptance; (iv) reasonable adjustments in quantities or delivery schedules or both; (v) amount of SRC furnished property; and (vi) if this Contract includes services: (x) description of services to be performed; (y) time of performance (e.g., hours of the day, days of the week, etc.); and (z) place of performance. SELLER shall comply immediately with such direction. Notes 1 and 2 apply.)
 - (r) 52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS (~~MAR-2007~~) (DEC 2009)
 - (s) 52.246-3 INSPECTION OF SUPPLIES - COST REIMBURSEMENT (MAR 2001) (In subparagraph (e) change "60 days" to "120 days," and in subparagraph (f) change "6 months" to "12 months." Note 1 applies, except (1) in paragraphs (b), (c) and (d) where Note 3 applies, and in paragraph (k) where the term is unchanged.)
 - (t) 52.246-5 INSPECTION OF SERVICES - COST REIMBURSEMENT (APR 1984) (Note 3 applies in paragraphs (b) and (c). Note 1 applies in paragraphs (d) and (e).)
 - (u) 52.247-64 PREFERENCE FOR PRIVATELY OWNED U.S.-FLAG COMMERCIAL VESSELS (FEB 2006) (Note 2 applies.)
 - (v) 52.249-6 TERMINATION (COST-REIMBURSEMENT) (MAY 2004) (Substitute "60 days" for "120 days" and "60 days" for "120 days" in paragraph (d). Substitute "150 days" for "1 year" in paragraph (f). Delete paragraph (j). Settlements and payments under this clause may be subject to the approval of the Contracting Officer. Notes 1 and 2 apply.)
2. **The following FAR clauses apply to this Contract if the value of this Contract equals or exceeds \$100,000:**
- (a) 52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (SEP 2006)
 - (b) 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (SEP 2007) (Note 5 applies.)
 - (c) 52.215-2 AUDIT AND RECORDS-NEGOTIATION (~~JUN 1999~~) (MAR 2009) (Applicable if (1) Contractor was required to furnish cost or pricing data, or (2) this Contract requires Contractor to furnish cost, funding or performance reports. Note 3 applies.)
 - (d) 52.215-14 INTEGRITY OF UNIT PRICES (OCT 1997) (Delete paragraph (b) of the clause.)

- (e) 52.227-1 AUTHORIZATION AND CONSENT (DEC 2007) (Applicable only if the Prime Contract contains this clause.)
 - (f) 52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (DEC 2007) (Notes 2 and 4 apply.)
 - (g) 52.248-1 VALUE ENGINEERING (FEB 2000) (Note 1 applies, except in subparagraphs (c) (5) and (m) where Note 3 applies.)
3. **The following FAR clauses apply to this Contract if the value of this Contract equals or exceeds \$650,000:**
- (a) 52.215-12 SUBCONTRACTOR COST OR PRICING DATA (OCT 1997) (Applicable if not otherwise exempt under FAR 15.403.)
 - (b) 52.215-13 SUBCONTRACTOR COST OR PRICING DATA - MODIFICATIONS (OCT 1997) (Applicable for modifications if not otherwise exempt under FAR 15.403.)
4. **The following clauses apply as indicated:**
- (a) 52.204-2 SECURITY REQUIREMENTS (AUG 1996) (Applicable if the Work requires access to classified information.)
 - (b) 52.208-8 REQUIRED SOURCES FOR HELIUM AND HELIUM USAGE DATA (APR 2002) (Applicable to Contracts involving a "major helium requirement." Note 2 applies.)
 - (c) 52.215-10 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA (OCT 1997) (Applicable if submission of cost or pricing data is required. Rights and obligations under this clause shall survive completion of the Work and final payment under this Contract. Notes 2 and 4 apply.)
 - (d) 52.215-11 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA - MODIFICATIONS (OCT 1997) (Applicable if submission of cost or pricing data is required for modifications. Rights and obligations under this clause shall survive completion of the Work and final payment under this Contract. Notes 2 and 4 apply.)
 - (e) 52.215-15 PENSION ADJUSTMENTS AND ASSET REVERSIONS (OCT 2004) (Applicable if this Contract meets the applicability requirements of FAR 15.408(g). Note 5 applies.)
 - (f) 52.215-16 FACILITIES CAPITAL COST OF MONEY (JUN 2003) (Applicable only if this Contract is subject to the Cost Principles at FAR Subpart 31.2 and the Contractor proposed facilities capital cost of money in its offer.)
 - (g) 52.215-17 WAIVER OF FACILITIES CAPITAL COST OF MONEY (OCT 1997) (Applicable only if this Contract is subject to the Cost Principles at FAR Subpart 31.2 and the Contractor did not propose facilities capital cost of money in its offer.)
 - (h) 52.215-18 REVERSION OR ADJUSTMENT OF PLANS FOR POST-RETIREMENT BENEFITS (PRB) OTHER THAN PENSIONS (JUL 2005) (Applicable if this Contract meets the applicability requirements of FAR 15.408(j). Note 5 applies.)
 - (i) 52.215-19 NOTIFICATION OF OWNERSHIP CHANGES (OCT 1997) (Applicable if this Contract meets the applicability requirements of FAR 15.408(k). In paragraph (a)(1) and (a)(2) "30 days" is changed to "25 days." Note 2 applies.)
 - (j) 52.223-3 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (JAN 1997) (Applicable if this Contract involves hazardous material. Notes 2 and 3 apply.)
 - (k) 52.223-7 NOTICE OF RADIOACTIVE MATERIALS (JAN 1997) (Applicable to Work containing covered radioactive material. In the blank insert "30." Notes 1 and 2 apply.)
 - (l) 52.224-2 PRIVACY ACT (APR 1984) (Applicable if the Work involves the design, development, or operation of a system of records on individuals to accomplish an agency function.)
 - (m) 52.225-1 BUY AMERICAN ACT – SUPPLIES (~~JUN 2003~~) (~~FEB 2009~~) (Applicable if this Contract requires furnishing of Work containing other than domestic components.)
 - (n) 52.225-5 TRADE AGREEMENTS (~~NOV 2007~~) (~~AUG 2009~~) (Applicable if the Work contains other than domestic components.)
 - (o) 52.225-8 DUTY FREE ENTRY (FEB 2000) (Applicable if supplies will be imported into the Customs Territory of the United States. In subparagraph (b)(1) the notice provision shall be 20 days. Notes 3 and 5 apply.)
 - (p) 52.227-9 REFUND OF ROYALTIES (APR 1984) (Applicable when reported royalty exceeds \$250. Notes 1 and 2 apply.)
 - (q) 52.227-10 FILING OF PATENT APPLICATIONS-CLASSIFIED SUBJECT MATTER (DEC 2007) (Applicable if the Work or any patent application may cover classified subject matter.)
 - (r) 52.227-11 PATENT RIGHTS-OWNERSHIP BY THE CONTRACTOR (DEC 2007) (Applicable if this Contract is for experimental, developmental, or research Work and Contractor is a small business concern or domestic non-profit organization and made applicable by FAR 27.303 (a)(1) or SRC's Prime Contract. Refer also to DFAR 252.227-

7034. Reports required by this clause shall be filed with the agency identified in this Contract. If no agency is identified, contact the SRC Procurement Representative identified on the face of this Contract.)
- (s) 52.227-13 PATENT RIGHTS-OWNERSHIP BY THE GOVERNMENT (DEC 2007) (Applicable if this Contract is for experimental, developmental, or research Work and made applicable by FAR 27.303 (c)(1) or SRC's Prime Contract. Reports required by this clause shall be filed with the agency identified in this Contract. If no agency is identified, contact the SRC Procurement Representative identified on the face of this Contract. Paragraph (g) is not applicable. This clause shall be flowed down to subcontractors at all tiers.)
- (t) 52.228-3 WORKERS' COMPENSATION INSURANCE (DEFENSE BASE ACT) (APR 1984) (Applicable to public works contracts performed outside the U.S. or contracts approved or financed under the Foreign Assistance Act of 1961, unless an exception applies. The Contractor shall insert, in all subcontracts under this Contract to which the Defense Base Act applies, a clause similar to this clause (including this sentence) imposing upon those subcontractors this requirement to comply with the Defense Base Act.)
- (u) 52.228-4 WORKERS' COMPENSATION AND WAR-HAZARD INSURANCE OVERSEAS (APR 1984) (Applicable to public works contracts performed outside the U.S. and the Secretary of Labor waives the applicability of the Defense Base Act. The Contractor shall insert, in all subcontracts under this Contract (i) to which the Defense Base Act would apply but for the waiver and (ii) to which the War Hazards Compensation Act would apply unless the Contractor elects to assume directly the liability to subcontractor employees, a clause similar to this clause (including this sentence) imposing upon those subcontractors this requirement to provide workers' compensation insurance coverage and/or war-hazard benefits.)
- (v) 52.228-5 INSURANCE – WORK ON A GOVERNMENT INSTALLATION (JAN 1997) (Applicable if Work is performed on Government installation. Note 2 applies.)
- (w) 52.229-8 TAXES – FOREIGN COST REIMBURSEMENT CONTRACTS (MAR 1990) (Applicable if this Contract is to be performed wholly or partly in a foreign country, unless Contractor is a foreign government. Note 6 applies.)
- (x) 52.229-9 TAXES – COST REIMBURSEMENT CONTRACTS WITH FOREIGN GOVERNMENTS (MAR 1990) (Applicable if Contractor is a foreign government.)
- (y) 52.233-3 PROTEST AFTER AWARD (AUG 1996) (In the event the Customer has directed SRC to stop performance of the work under the Prime Contract under which this Contract is issued pursuant to FAR 33.1, SRC may, by written order to Contractor, direct Contractor to stop performance of the Work called for by this Contract. "30 days" is changed to "20 days" in paragraph (b)(2). Note 1 applies except the first time it appears in paragraph (f). In paragraph (f) add after "33.104(h)(1)" the following "and recovers those costs from SRC" Note 2 applies.)
- (aa) 52.237-2 PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT AND VEGETATION (APR 1984) (Applicable if Work is performed on a Government installation. Note 2 applies.)
- (bb) 52.239-1 PRIVACY OR SECURITY SAFEGUARDS (AUG 1996) (Applicable if Work involves information technology which require security of information technology, and/or are for the design, development or operation of a system of records using commercial information technology services or support services.)
- (cc) 52.242-1 NOTICE OF INTENT TO DISALLOW COSTS (APR 1984) (In paragraph (a)(2) the first time "60 days" is cited it shall be changed to "45 days," the second time "60 days" is cited it shall be changed to "75 days." Note 2 applies.)
- (dd) 52.243-6 CHANGE ORDER ACCOUNTING (APR 1984) (Applicable only if Prime Contract requires Change Order Accounting. Note 2 applies.)
- (ee) 52.247-63 PREFERENCE FOR U.S.-FLAG AIR CARRIERS (JUN 2003) (Applicable if this Contract involves international air transportation.)
5. **The following FAR clauses apply to this Contract, if Work under this Contract will performed in the United States or Contractor is recruiting employees in the United States to work on this Contract.**
- (i) **The following FAR clauses apply to this Contract:**
- (a) 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (MAY 2004) (If this Contract, except contracts to small business concerns, exceeds \$100,000 the Contractor must include this clause in all lower tier subcontracts that offer subcontracting opportunities.)
- (b) 52.222-21 PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)
- (c) 52.222-26 EQUAL OPPORTUNITY (MAR 2007) (Only subparagraphs (b)(1)-(11) apply.)

- (d) 52.222-41 SERVICE CONTRACT ACT OF 1965 (NOV 2007) (Applicable if this Contract is for services covered by the Service Contract Act of 1965. Note 2 applies).
- (e) 52.229-10 STATE OF NEW MEXICO GROSS RECEIPTS AND COMPENSATING TAX (APR 2003) (Applicable to Contracts issued by agencies cited in FAR 29.401-4(c) and which involve the purchase of tangible personal property to be used in performing services in whole or in part in New Mexico.)
- (f) 52.223-11 OZONE-DEPLETING SUBSTANCES (MAY 2001) (Applicable if the Work was manufactured with or contains ozone-depleting substances.)
- (ii) **The following FAR Clauses apply to this Contract if the value of this Contract equals or exceeds \$10,000:**
- (a) 52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUN 1998)
- (iii) **The following FAR Clauses apply to this Contract if the value of this Contract equals or exceeds \$25,000:**
- (a) 52.222-35 EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (SEP 2006)
- (b) 52.222-37 EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (SEP 2006)
- (iv) **The following FAR Clauses apply to this Contract if the value of this Contract equals or exceeds \$100,000:**
- (a) 52.222-4 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT - OVERTIME COMPENSATION (JUL 2005)
- (b) 52.222-39 NOTIFICATION OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES (DEC 2004)
- (c) 52.223-14 TOXIC CHEMICAL RELEASE REPORTING (AUG 2003) (Note 2 applies. Delete subparagraph (e).)
- (v) **The following FAR Clauses apply to this Contract if the value of this Contract equals or exceeds \$650,000:**
- (a) 52.230-2 COST ACCOUNTING STANDARDS (~~APR 1998~~) (OCT 2008) (When referenced in this Contract, full CAS Coverage applies. In subparagraph (a)(4)(ii) and (a)(5), Note 1 applies. Delete paragraph (b) of the clause.)
- (b) 52.230-3 DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES (~~APR 1998~~) (OCT 2008) (When referenced in this Contract, Modified CAS Coverage applies. In subparagraphs (a)(3)(ii) and (a)(4), Note 1 applies. Delete paragraph (b) of the clause.)
- (c) 52.230-5 COST ACCOUNTING STANDARDS- EDUCATIONAL INSTITUTION (~~APR 1998~~) (OCT 2008) (When referenced in this Contract, full CAS Coverage applies. In subparagraph (a)(4)(ii) and (a)(5), Note 1 applies. Delete paragraph (b) of the clause.)
- (d) 52.230-6 ADMINISTRATION OF COST ACCOUNTING STANDARDS (~~APR 2005~~) (MAR 2008) (Applicable if FAR 52.230-2 or FAR 52.230-3 apply.)
- (vi) **The following FAR Clauses apply to this Contract if the value of this Contract equals or exceeds \$550,000:**
- (a) 52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (~~NOV 2007~~) (APR 2008) (Applicable if the Contractor is not a small business. Note 2 is applicable to subparagraph (c) only. The Contractor's subcontracting plan is incorporated herein by reference.)
- (b) 52.219-16 LIQUIDATED DAMAGES – SUBCONTRACTING PLAN (JAN 1999) (Delete subparagraphs (d) and (e). Note 2 applies. Note 3 applies to subparagraph (f) only.)
- (vii) **The following FAR clauses apply to this Contract if the value of this Contract equals or exceeds \$5,000,000:**
- (a) 52.203-13 CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (DEC 2008) (Applicable to contracts with a performance period of more than 120 days.
- 52.203-14 DISPLAY OF HOTLINE POSTER(S) (DEC 2007) (Not applicable when the contract is for the acquisition of a commercial item; or is performed entirely outside the United States.)
- G. **CERTIFICATIONS AND REPRESENTATIONS**
- (1) **This Subsection II(G) contains certifications and representations that are material representations of fact upon which SRC will rely in making awards to Contractor. By submitting its written offer, or providing oral offers/quotations at the request of SRC, or accepting any Contract, Contractor certifies to the representations and certifications as set forth below in this Subsection II(G). These certifications and representations shall apply whenever these terms and conditions are incorporated by reference in any Contract, agreement, other contractual document or any quotation, request for quotation (oral or written), request for proposal or solicitation (oral or written), issued by SRC**

Contractor shall immediately notify SRC of any change of status with regard to these certifications and representations.

(2) The following clauses of the Federal Acquisition Regulation (FAR) are incorporated herein by reference, with the same force and effect as if they were given in full text, and are applicable to this Contract. In each clause incorporated below, substitute "SRC" for "Government" and "Contracting Agency," and "SRC Procurement Representative" for "Contracting Officer" throughout.

(a) **FAR 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions** (Applicable to solicitations and contracts exceeding \$100,000)

(1) The definitions and prohibitions contained in the clause, at FAR 52.203-12, Limitation on Payments to Influence Certain Federal Transactions are hereby incorporated by reference in this subparagraph G(2)(a).

(2) Contractor certifies that to the best of its knowledge and belief that on and after December 23, 1989--

(x) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement;

(y) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with a solicitation or order, the Contractor shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, in accordance with its instructions; and

(z) Contractor shall include the language of this certification in all subcontracts at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

(3) Submission of this certification and disclosure is a prerequisite for making or entering into a contract as imposed by Section 1352, Title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less

than \$10,000, and not more than \$100,000, for each such failure.

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

(1) Contractor certifies that, to the best of its knowledge and belief, that Contractor and/or any of its Principals (as defined in FAR 52.209-5) are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency.

(2) Contractor shall provide immediate written notice to SRC if, any time prior to award of any Contract, it learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

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

(a) **FAR 52.222-22 Previous Contracts and Compliance Reports.** Contractor represents that if Contractor has participated in a previous contract or subcontract subject to Equal Opportunity clause (FAR 52.222-26) (i) Contractor has filed all required compliance reports; and (ii) that representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

(b) **FAR 52.222-25 Affirmative Action Compliance.** Contractor represents (1) that Contractor has developed and has on file at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 C.F.R. 60-1 and 60-2), or (2) that in the event such a program does not presently exist, Contractor will develop and place in operation such a written Affirmative Action Compliance Program within 120 days from the award of this Contract.

(c) **FAR 52.223-13 Certification of Toxic Chemical Release Reporting** (Applicable to competitive solicitations/contracts which exceed \$100,000.)

(1) Submission of this certification is a prerequisite for making or entering into this Contract imposed by Executive Order 12969, August 8, 1995.

(2) Contractor certifies that--

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

313(a) and (g) of EPCRA and section 6607 of PPA; or

(b) None of its owned or operated facilities to be used in the performance of this Contract is subject to the Form R filing and reporting requirements because each such facility is exempt for at least one of the following reasons:

(i) The facility does not manufacture, process or otherwise use any toxic chemicals listed under section 313(c) of EPCRA, 42 U.S.C. 11023(c);

(ii) The facility does not have 10 or more full-time employees as specified in section 313 (b)(1)(A) of EPCRA 42 U.S.C. 11023(b)(1)(A);

(iii) The facility does not meet the reporting thresholds of toxic chemicals established under section 313(f) of EPCRA, 42 U.S.C. 11023(f) (including the alternate thresholds at 40 C.F.R. 372.27, provided an appropriate certification form has been filed with EPA);

(iv) The facility does not fall within Standard Industrial Classification Code (SIC) designations 20 through 39 as set forth in FAR section 19.102 of the Federal Acquisition Regulation; or

(v) The facility is not located within any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Northern Mariana Islands, or any other territory or possession over which the United States has jurisdiction.

(d) **Certification Regarding Political Contributions, Fees, and Commissions Paid In Connection with Sales Subject to the Provisions of the Arms Export Control Act.** In compliance with 22 C.F.R. 130, neither Contractor nor its subcontractors at any tier have paid, offered or agreed to pay, or will pay or offer or agree to pay, in respect to the Work which is to be provided to SRC, under any Contract awarded, political contributions, fees, or commissions in amounts as specified in 22 C.F.R. 130.9.