

**DDG 51 CONTINUATION PROGRAM NON - CLASS STANDARD EQUIPMENT (NCSE)**  
**SUBCONTRACT DELIVERY ORDER TERMS AND CONDITIONS -BATH IRON WORKS**

1. **DEFINITIONS**

1.1 The following words and expressions shall have the meaning hereby assigned to them for the purposes of this SUBCONTRACT and/or DELIVERY ORDER except where otherwise specifically stated or the context so requires:

- (a) "Buyer" shall mean Bath Iron Works (BIW) having its principal place of business in Bath, Maine or Northrop Grumman Shipbuilding (NGSB) having its principal place of business in Pascagoula, Mississippi.
- (b) "Conditional Acceptance" means initial acceptance of the product as stipulated in Clause 5 below.
- (c) "Contracting Officer" means the Government contracting officer(s) for the Prime Contract. But see subparagraph (dd) below.
- (d) "Contractor" means Buyer in its capacity as the legal entity which contracts with the Seller by this SUBCONTRACT and/or DELIVERY ORDER. But see subparagraph (dd) below.
- (e) "Cure Notice" refers to notification given by Buyer informing Seller of a possible default situation. Refer to Clause 7.
- (f) "Days" means calendar days unless otherwise stated.
- (g) UNUSED
- (h) "Delivery" or "Delivered" means the receipt at the F.O.B. Point of all Supplies ordered under the SUBCONTRACT and/or DELIVERY ORDER, including all submittals, certifications, documentation and any other Supplies to be furnished under the terms of this SUBCONTRACT and/or DELIVERY ORDER.
- (i) "Delivery Order" refers to the ordering instrument by which Buyer procures the supplies and / or services contracted for through this Requirements Subcontract.
- (j) "Dispute" refers to any situation where the Buyer and Seller disagree on an issue involving this SUBCONTRACT and/or DELIVERY ORDER. Resolution of a Dispute is covered in the Shipyard Specific Terms and Condition, Attachment A-2.
- (k) "FAR" means the Federal Acquisition Regulation. "DFARS" means the Defense FAR Supplement. "NAPS" means Navy Acquisition Regulation Procedure Supplement.
- (l) "Final Acceptance" means the act by which the Buyer assumes for itself ownership of the Supplies as further described in Clause 11.
- (m) "F.O.B." means F.O.B. Destination, unless otherwise stated.
- (n) "Follow Shipbuilder, Follow Yard or Follow Shipyard" means a prime Buyer performing a contract for the construction of follow ships of the DDG51 Continuation Program.
- (o) "Follow Ship" means any ship of the DDG 51 Continuation Program other than DDG 113.
- (p) "Government" refers to the Government of the United States.

1. **DEFINITIONS** (Continued)

- (q) UNUSED
- (r) UNUSED
- (s) "Latent Defect" means a defect which is hidden from the knowledge as well as from the sight of the inspector and which could not be discovered by ordinary and reasonable care or by the inspection under the test procedures of this SUBCONTRACT and/or DELIVERY ORDER. (Reference Geranco Mfg. Corp., ASBCA No. 12376, March 4, 1968, 68-1 BCA 6898 at p. 31,861).
- (t) "National Stock Numbers" Whenever the term Federal Item Identification Number and its acronym FIIN or the term Federal Stock Number and its acronym FSN appear in the SUBCONTRACT and/or DELIVERY ORDER or their cited specifications and standards, the terms and acronyms shall be interpreted as National Item Identification Number (NIIN) and National Stock Number (NSN) respectively which shall be defined as follows:
  - 1. 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.
  - 2. National Stock Number (NSN). The National Stock Number (NSN) for an item of supply consists of the applicable four positions Federal Supply Class (FSC) plus the applicable nine positions National Item Identification Number (NIIN) assigned to the item of supply.
- (u) "Prime Contract" refers to the DDG 51 Continuation Program contract agreement between the U.S. Navy and either BIW or NGSB.
- (v) "Procurement Specification (PS)" means Buyer's statement of specifications for the Supplies or Services being acquired.
- (w) "Purchasing Representative" refers to Buyer's authorized representative
- (x) "Seller" or "subcontractor", means the legal entity that sells or contracts to sell Supplies or Services to Buyer by this SUBCONTRACT and/or DELIVERY ORDER.
- (y) "Services" means all or any part of the Services described in this SUBCONTRACT and/or DELIVERY ORDER and includes any incidental Supplies therein.
- (z) "Subcontract" refers to this contractual instrument and includes changes and/or modifications hereto and is comprised of the Requirements Subcontract and all Attachments thereto.
- (aa) "SUBCONTRACT and/or DELIVERY ORDER Price" means the total sum of the Supplies or Services prices which individually may be called unit price(s).
- (bb) "Supply" or "Supplies" shall mean all or any part of the Supplies, articles, goods, or products contracted for by Buyer through this and any subsequent SUBCONTRACT and/or DELIVERY ORDER.
- (cc) "Sellers' Prices" means the F.O.B. prices for the Supplies.

1. **DEFINITIONS** (Continued)

- (dd) In the Government Flow-down and FAR, DFARS, NAVSEA and NAPS Clauses contained in these terms and conditions, and incorporated herein, the cited terms shall have the following meanings: the term "Contractor" shall be deemed to refer to the Seller; the term "subcontractor" shall be deemed to refer to the Seller's subcontractors; the terms "Contracting Officer" and "Government" or "Navy" shall be deemed to refer to Buyer; and the term "Contract" refers to this SUBCONTRACT and/or DELIVERY ORDER except where the context of such Clauses demand otherwise. Unless otherwise stated, the FAR, DFARS, NAVSEA and NAPS Clauses incorporated herein shall be those in effect on the issuance award date of the applicable prime contract issued by the Government to the Buyer and they shall be interpreted in accordance with the definitions set forth at FAR 2.1 and DFARS 202.1. Further, any references to the FAR Disputes clause in such provisions shall instead mean and only be interpreted to mean the "Disputes" clause contained in the Shipyard Specific Terms and Conditions, Attachment A-2.

2. **ASSIGNMENT**

- 2.1 Neither this SUBCONTRACT and/or DELIVERY ORDER nor any interest herein, may be assigned in whole or in part by the Seller without the prior written consent of Buyer. Any assignment or attempted assignment by the Seller without said prior written consent shall be null and void; provided, however, Seller may assign its rights to be paid amounts due as a result of performance of this SUBCONTRACT and/or DELIVERY ORDER to a bank, trust company, or other financing institution.
- 2.2 Nothing contained in this Clause shall prohibit any Party to this SUBCONTRACT and/or DELIVERY ORDER from assigning any or all of its respective rights, title and interest in and to this SUBCONTRACT and/or DELIVERY ORDER to the assigning Party's successor-in-interest by way of corporate merger, consolidation or acquisition, or assignment by operation of law. Such successor expressly assumes, agrees to be bound by, and undertakes to perform each and every one of the provisions of this SUBCONTRACT and/or DELIVERY ORDER, and further assumes all obligations and liabilities hereunder of the original Party to this SUBCONTRACT and/or DELIVERY ORDER.
- 2.3 All rights of the Buyer with respect to this SUBCONTRACT and/or DELIVERY ORDER may be assigned by the Buyer to the Government, or to such other party as the Government may designate without change in the SUBCONTRACT and/or DELIVERY 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.

3. **CHANGES**

- 3.1 Buyer may make changes within the general scope of this SUBCONTRACT and/or DELIVERY ORDER in any one or more of the following (at any time by written order):
- (a) drawings, designs or specifications where the Supplies to be furnished are to be specifically manufactured for the Buyer in accordance with the drawings, designs or specifications;
  - (b) method of shipment or packaging;
  - (c) place or time of Delivery in the United States of the Supplies to be furnished under the SUBCONTRACT and/or DELIVERY ORDER;
  - (d) description of Services to be performed;

3. **CHANGES** (Continued)

- (e) time of performance (i.e., hours of the day, days of the week, etc.);
- (f) place of performance of the Services;

3.2 If any such change causes an increase or decrease in the cost of performance, or the time required for performance of the work under this SUBCONTRACT and/or DELIVERY ORDER, an equitable adjustment shall be made in the SUBCONTRACT and/or DELIVERY ORDER price or Delivery schedule, or both, and this SUBCONTRACT and/or DELIVERY ORDER shall be modified in writing accordingly. The Seller must submit any proposal for adjustment to the SUBCONTRACT and/or DELIVERY ORDER price or Delivery schedule or both as provided under this Clause within forty-five (45) days from the date of receipt by Seller of the change from Buyer.

3.3 Where the cost of property made obsolete or excess as a result of the change is included in the settlement of Seller's proposal for adjustment, Buyer shall have the right to prescribe the manner of disposal of such property.

3.4 Buyer's engineering and technical representatives may from time to time render assistance to Seller concerning the Supplies or Services to be furnished pursuant to this SUBCONTRACT and/or DELIVERY ORDER. Such representatives are not authorized to initiate a change as herein provided. No change will be binding unless issued in writing by the Buyer's authorized purchasing representative and received by Seller.

3.5 Upon Seller's receipt of the written change order, nothing contained in this Clause shall relieve Seller from proceeding without delay in the performance of this SUBCONTRACT and/or DELIVERY ORDER as changed.

4. **COMPLIANCE WITH LAWS**

Seller warrants that in the performance of this SUBCONTRACT and / or DELIVERY ORDER, Seller shall comply with all applicable Federal, State and local laws, orders, rules and regulations of government entities, whether or not such provisions are referenced elsewhere in this SUBCONTRACT and / or DELIVERY ORDER. Seller covenants to indemnify and hold Buyer and its assignees harmless from, any and all loss, costs, damages, expenses or liability (including reasonable attorney's fees) incurred by Buyer and its assignees, by reason of Seller's violation of this warranty, or as a result of any failure of Seller to comply with any such laws and regulations.

5. **CONDITIONAL ACCEPTANCE OF SUPPLIES**

5.1 Upon Delivery to the F.O.B. Destination point, the Supplies shall be conditionally accepted by the Buyer ("Conditional Acceptance"). If Buyer does not provide written notification of non-acceptance to the Seller within sixty (60) days of Delivery above the Supplies shall be deemed conditionally accepted.

5.2 Any Services rendered in support of this SUBCONTRACT and/or DELIVERY ORDER shall be performed in a professional and workmanlike manner in accordance with the specifications referenced in the SUBCONTRACT and/or DELIVERY ORDER. Between Conditional Acceptance and Final Acceptance, if any Supply(s)/Services are found not to conform with the requirements of the SUBCONTRACT and/or DELIVERY ORDER, the Buyer shall have the right to (i) reject such Supply(s) and return it at Seller's expense, or (ii) require its correction, or in the case of services, re-performance.

5.3 Buyer's acceptance of the Supplies or Services and its subsequent use thereof shall not constitute a waiver of any claim based upon the delivery of improper or defective materials or workmanship, or for delayed deliveries, or of Buyer's rights and remedies conferred with respect thereto. Any and all of the rights and remedies conferred upon the Buyer under the SUBCONTRACT and/or DELIVERY ORDER shall be cumulative and in addition to, and not in lieu of, the rights and remedies granted by law for Seller's breach of contract.

**6. CONFIDENTIALITY**

**6.1** The Seller and Buyer recognize that information disclosed to and/or acquired by each other hereunder may be confidential and/or proprietary to the disclosing Party, the disclosure of which to third Parties could result in irreparable harm to the Party furnishing such information. The Parties agree that each Party has the right to seek and obtain temporary, preliminary and permanent injunctive relief to restrain any unauthorized use or disclosure of its proprietary information in addition to all other remedies available to that Party in law or equity.

**6.2** All information of a proprietary nature disclosed by one Party to the other Party hereto in connection with this SUBCONTRACT and/or DELIVERY ORDER and designated by the disclosing Party by an appropriate stamp, marking, or legend as being proprietary to the disclosing Party, shall be held in strict confidence by the receiving Party and shall not be duplicated, used or disclosed in whole or in part for any purpose except by the Seller under equivalent conditions of confidentiality, and to the extent strictly necessary to obtain Supplies or Services in the normal course of trade for the performance of this SUBCONTRACT and/or DELIVERY ORDER and to comply with other terms of this SUBCONTRACT and/or DELIVERY ORDER; and except by Buyer to the extent strictly necessary for its intended use as required by the Government under the Prime Contract. Buyer may disclose such information subject to equivalent conditions of confidentiality to their Sellers or prospective Sellers to the extent necessary for defining interface characteristics of Supplies to be delivered hereunder provided that they make such disclosure and restrictions on use as contained in this Clause.

**6.3** The information to be held in confidence as provided in Paragraphs 6.1 and 6.2 hereof shall not include:

- (a) any information that is in the public domain at the time of disclosure to the receiving Party or thereafter comes into the public domain other than by breach by the receiving Party of this SUBCONTRACT and/or DELIVERY ORDER; or
- (b) any information in the possession of the receiving Party prior to its receipt from the disclosing Party (except through prior disclosures in confidence), or which is independently developed by the receiving Party without resort to the disclosed proprietary information; or
- (c) any information which the receiving Party rightfully obtains from a third Party without restriction; or
- (d) any information for which the disclosing Party by written agreement authorizes its restricted use or disclosure.

If any portion of the Party's information falls within any one of the above exceptions, the remainder shall continue to be subject to the restrictions of this Clause.

**6.4** To the extent reasonably necessary for the purpose of this SUBCONTRACT and/or DELIVERY ORDER or the Prime Contract, a Party may disclose the information described in paragraphs 6.1 and 6.2 of the other Party to the Government provided that the disclosing Party makes such disclosure subject to like conditions of confidentiality and to any applicable restrictions set forth in Sections (b)(1), (b)(2) as applicable, of DFARS 252.227-7013 RIGHTS IN TECHNICAL DATA – NONCOMMERCIAL ITEMS and/or DFARS 252.227-7014, RIGHTS IN NONCOMMERCIAL COMPUTER SOFTWARE AND NONCOMMERCIAL COMPUTER SOFTWARE DOCUMENTATION, or such later version as the Parties may agree, as appropriate, and marks the information so disclosed with the appropriate restrictive legends as provided in the said DFARS Clauses and such other marking of an industrial property right nature as the Party owning the information may require, provided that such marking is not disallowed under the provisions of the Prime Contract. Buyer may furnish to the U.S. Government form, fit and function data, manuals and instructional materials as those expressions are defined in said DFARS Clause with Unlimited Rights subject to the conditions pursuant to subdivisions (b)(1) of said DFARS Clause to the extent required under the Prime Contract.

6. **CONFIDENTIALITY** (Continued)

6.5 Either Party disclosing or reproducing another Party's information hereunder shall replicate in any reproductions made any copyright and other intellectual or industrial property right marks and legends as appear on and/or in such information. Notwithstanding anything to the contrary in the foregoing sentence, in the case of a composite work created by Buyer containing any of the said information, the copyright in which vests in the Seller, the Seller hereby agrees to waive the said replication requirement if such composite work is marked with the legend:

"This is an unpublished work, the copyright in which vests in Buyer. All rights reserved."

6.6 Nothing contained herein shall be construed to prevent either Party from complying with the requirement of a court or other regulatory body acting within its jurisdiction to compel disclosure, provided that in the event that either Party receives a demand or any other form of compulsory process from any such court or other regulatory body requiring the disclosure of the other Party's information, it shall promptly so advise the other Party, in writing, and cooperate to limit the disclosure to the minimum necessary to comply with the requirements of such demand or process as required by law.

7. **DEFAULT**

7.1 Buyer may, by written notice, terminate this SUBCONTRACT and/or DELIVERY ORDER in whole or in part, if the Seller:

- (a) fails to deliver the Supplies or to perform the Services within the time specified in the SUBCONTRACT and/or DELIVERY ORDER or any extension thereof; or
- (b) fails to make progress so as to endanger performance of this SUBCONTRACT and/or DELIVERY ORDER; or
- (c) fails to perform any of the other provisions of this SUBCONTRACT and/or DELIVERY ORDER; or
- (d) declares bankruptcy, suspends its business operation, or initiates any reorganization and/or arrangement for the benefit of its creditors.

Buyer's right to terminate this SUBCONTRACT and/or DELIVERY ORDER under subparagraphs (b) and (c) above shall be exercised if the Seller does not cure such failure within ten (10) days after receipt of a "Cure Notice" from Buyer specifying the failure.

7.2 If Buyer terminates this SUBCONTRACT and/or DELIVERY ORDER in whole or in part by reason of Seller's default, Buyer may acquire (reprocure) under the terms and conditions and in the manner Buyer considers reasonable and appropriate such similar Supplies or Services to those terminated. The Seller shall be liable to Buyer for any excess costs for Supplies or Services so acquired, it being understood that the Seller shall continue to work on that portion not terminated. With regard to the Seller's liability for excess costs:

- (a) except for defaults by Seller's subcontractors at any tier, the Seller shall not be liable for any excess costs if the failure to perform under the SUBCONTRACT and/or DELIVERY ORDER arises from causes beyond the control and without the fault or negligence of the Seller. Examples of such causes include acts or omissions on the part of Buyer; acts of God; civil strife; labor strikes; actions of the Government, or any sovereign government in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; or freight embargoes.

7. **DEFAULT** (Continued)

- (b) if the delay or failure is caused by the delay or failure of a subcontractor of the Seller, and if such delay or failure arises out of causes beyond the reasonable control of both the Seller and the Seller's subcontractor, and without the fault or negligence of either of them, the Seller shall not be liable to Buyer for excess costs unless the subcontracted Supplies or Services to be furnished by the subcontractor were reasonably obtainable from other known sources in sufficient time to permit the Seller to meet the required Delivery schedule.

**7.3** If the SUBCONTRACT and/or DELIVERY ORDER is terminated for default, Buyer may require the Seller to transfer title and deliver to Buyer or to the Government, any (i) completed Supplies and (ii) partially completed Supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information and contract rights (collectively referred to as "manufacturing materials" in this Clause), that the Seller has specifically produced or acquired for the terminated portion of the SUBCONTRACT. Seller shall also protect and preserve property in its possession in which Buyer has an interest.

**7.4** Buyer shall pay the SUBCONTRACT and/or DELIVERY ORDER price for completed Supplies and Services previously delivered and accepted. The Parties shall agree on the amount of payment for manufacturing material delivered and accepted and for the production and preservation of the property. Failure to agree shall be deemed a dispute under the "Disputes" Clause contained in the Shipyard Specific Terms and Conditions, Attachment A-2. The Seller may not withhold Supplies, or partially completed Supplies or manufactured materials, parts, tools, dies, jigs fixtures, etc pending a resolution of any such dispute.

**7.5** If, after termination for Seller's default, it is determined that the Seller was not in default, or that the default was excusable, the rights and obligations of the Parties shall be the same as if the termination had been for the convenience of Buyer under the Clause entitled "Termination for Convenience" of this SUBCONTRACT.

**7.6** The rights and remedies of Buyer in this Clause are in addition to any other rights and remedies provided by law or under this SUBCONTRACT.

8. **DELIVERY DATE AND EXCUSABLE DELAY**

**8.1** The Delivery Date(s) shall mean the date(s) as set forth in the SUBCONTRACT and/or DELIVERY ORDER, or any modification thereto for the Delivery of the Supplies or performance of the Services specified in the SUBCONTRACT and/or DELIVERY ORDER.

**8.2** Notwithstanding any other provision in this SUBCONTRACT and/or DELIVERY ORDER to the contrary, the Seller shall not be liable for failure to perform any of its obligations under this SUBCONTRACT and/or DELIVERY ORDER arising out of causes beyond its reasonable control without Seller's fault or negligence, including, but not limited to, acts or omissions on the part of Buyer; acts of God; civil strife; labor strikes; actions on the part of the Government or sovereign government in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; or freight embargoes.

**8.3** If the delay or failure is caused by the delay or failure of a subcontractor of the Seller and if such delay or failure arises out of causes beyond the reasonable control of both the Seller and the Seller's subcontractor, and without the fault or negligence of either of them, the Seller shall not be liable to Buyer for damages occasioned by delays in Delivery unless the Supplies or Services to be furnished by the subcontractor were reasonably obtainable from other known sources in sufficient time to permit the Seller to meet the required Delivery schedule.

**8.4** In the event of an excusable delay under this Clause, the time of performance shall be extended by such period as may be deemed reasonable by the Buyer.

**8. DELIVERY DATE AND EXCUSABLE DELAY (Continued)**

**8.5** If and whenever it becomes apparent that progress in the furnishing of Supplies and Services is being or is likely to be delayed (whether or not such delay is excusable), the Seller shall within ten (10) working days of becoming aware of such delay give written notice to Buyer of the material circumstances including the cause or causes of the delay and shall give particulars of the expected effects thereof and estimate the extent of the expected delay in Delivery of the Supplies and Services beyond the Delivery date or dates set out in this SUBCONTRACT and/or DELIVERY ORDER. Seller shall give such further written notices to Buyer as may be necessary or as Buyer may reasonably require to maintain awareness on the status of the delay in order to mitigate impact of the delay to Buyer's operation.

9. UNUSED

**10. EXAMINATION OF RECORDS**

**10.1** Seller agrees that Buyer, the Contracting Officer or other duly authorized Government Employee shall, until the expiration of three (3) years after final payment under this SUBCONTRACT and/or DELIVERY ORDER, have access to and the right to examine any directly pertinent books, documents, papers, and records involving transactions pertaining to this SUBCONTRACT and/or DELIVERY ORDER.

**10.2** The periods of access to and right of examination of records which relate to (i) Buyer's appeals under the "Disputes" Clause of the Prime Contract, (ii) litigation or settlement of claims arising out of the Prime Contract, or, (iii) cost and expenses of the Prime Contract or this SUBCONTRACT and/or DELIVERY ORDER shall continue until such appeals, litigation, or claims have been disposed of.

**11. FINAL ACCEPTANCE**

**11.1** As used in this Clause, "Final Acceptance" means the act by which the Buyer assumes for itself ownership of the Supplies. In accordance with the Clause entitled "Conditional Acceptance," the Buyer shall provide written notification to the Seller of the acceptability of the Supplies. If the Buyer does not provide written notification to the Seller within the sixty (60) days following successful completion of Charlie Trial, as defined in Clause 34 Trials of this document, the Supplies shall be deemed finally accepted, subject to the provisions of the Clause entitled "Warranty." Payments made under this SUBCONTRACT and/or DELIVERY ORDER shall not be considered as an indication of the acceptability of the Supplies.

**11.2** Any Services rendered in support of this SUBCONTRACT and/or DELIVERY ORDER shall be performed in a professional and workmanlike manner, and in accordance with the specifications referenced in the SUBCONTRACT and/or DELIVERY ORDER. If, at the time of Final Acceptance, defects are known to exist in a Supply or any Services performed, the Supply/Service may be accepted in writing by Buyer with either a reservation of the Buyer's right to have the Seller correct the known defect(s), re-perform the Service in the event services were provided, or an equitable reduction in price, or both, as may be appropriate under the circumstances. Failure to agree to such reduction in price shall be a dispute concerning a question of fact within the meaning of the Disputes clause in the Shipyard Specific Terms and Conditions, Attachment A-2.

**12. FINAL SETTLEMENT**

Upon final settlement of the work, Seller shall be entitled to receive any balance owed under this SUBCONTRACT and/or DELIVERY ORDER. Such payment to be made within (30) thirty days after the amount of such balance is determined; provided appropriate documentation has been received and approved by Buyer. Seller and each assignee of the Seller, under an assignment in effect at the time of final settlement, shall execute and deliver at the time of and as a condition precedent to any final payment from Buyer, a release of claims and liens from Seller and Seller's subcontractors and from liabilities, obligations, and claims arising under this SUBCONTRACT and/or DELIVERY ORDER in form and substance satisfactory to Buyer, its officers, agents, and employees. If this SUBCONTRACT and/or DELIVERY ORDER shall have been terminated in whole or in part, any such release shall also contain a release of all claims against Buyer arising out of, or by virtue of, such termination.



13. **GOVERNING LAW**

The Parties agree that irrespective of the place of performance of this SUBCONTRACT and/or DELIVERY ORDER, the SUBCONTRACT and/or DELIVERY ORDER shall be construed and interpreted, and the rights and obligations of the Parties shall be determined, according to Federal Common Law and the Federal Contract Law as enunciated and applied by the Federal courts, boards of contract appeals and other administrative and quasi-judicial bodies of the Federal Government. To the extent the Federal Common Law and Federal Contract Law is not determinative, the laws (both substantive and procedural) of the State of Maine for the SUBCONTRACT and/or DELIVERY ORDER issued by BIW and State of Mississippi for the SUBCONTRACT and/or DELIVERY ORDER issued by NGSB, in effect at the time of the execution of this SUBCONTRACT and/or DELIVERY ORDER shall apply as the same would be applied to transactions between residents of the State to be fully performed within the State and without regard to the State's conflict of laws principles. The exclusive jurisdiction for any action by either Party against the other shall be brought before any Federal district court where venue is appropriate: (a) in the State of Maine for SUBCONTRACTs and/or DELIVERY ORDERS issued by BIW, or (b) the State of Mississippi for SUBCONTRACTs and/or DELIVERY ORDERS issued by NGSB. In the event state courts have proper jurisdiction for any action by either Party against the other, the governing law for SUBCONTRACTs and/or DELIVERY ORDERS shall be (a) the laws of the State of Maine for SUBCONTRACTs and/or DELIVERY ORDERS issued by BIW, or (b) the laws of the State of Mississippi for SUBCONTRACTs and/or DELIVERY ORDERS issued by NGSB.

14. **GOVERNMENT OR BUYER FURNISHED PROPERTY**

**14.1** Government or Buyer Furnished Property. The Government or Buyer shall deliver to the Seller, for use in connection with and under the terms of this SUBCONTRACT and/or DELIVERY ORDER, the property described as Government-Furnished Property (GFP) or Buyer-Furnished Property (BFP), together with such related data and information as the Seller may request and as may reasonably be required for the intended use of such property. The delivery or performance dates for the Supplies or Services to be furnished by Seller under this SUBCONTRACT and/or DELIVERY ORDER are based upon the expectation that GFP or BFP suitable for use (except for such property furnished "as is") will be delivered to the Seller at the times stated in the SUBCONTRACT and/or DELIVERY ORDER or, if not so stated, in sufficient time to enable Seller to meet such delivery or performance dates. In the event that GFP or BFP is not delivered to Seller by such time or times, Buyer shall, upon timely written request made by Seller, make a determination of the delay, if any, occasioned the Seller thereby, and shall equitably adjust the delivery or performance dates or the SUBCONTRACT and/or DELIVERY ORDER price, or both, and any other contractual provision affected by any such delay, in accordance with the procedures provided for in the Clause of this SUBCONTRACT entitled "Changes." Except for GFP or BFP furnished "as is," in the event the GFP or BFP is received by Seller in a condition not suitable for the intended use the Seller shall, upon receipt thereof, notify Buyer of such fact and, as directed by Buyer, either (i) return such property at Buyer's expense or otherwise dispose of the property, or (ii) effect repairs or modifications. Upon the completion of (i) or (ii) above, Buyer upon written request of Seller shall equitably adjust the Delivery or performance dates or the SUBCONTRACT and/or DELIVERY ORDER price, or both, and any other contractual provision

**14. GOVERNMENT OR BUYER FURNISHED PROPERTY (Continued)**

affected by the rejection or disposition, or the repair or modification to GFP or BFP, in accordance with the procedures provided for in the Clause of this SUBCONTRACT entitled "Changes." The foregoing provisions for adjustment are exclusive and Buyer shall not be liable for breach of contract by reason of any delay in delivery of GFP or BFP or delivery of such property in a condition not suitable for its intended use, a decrease in or substitution of GFP or BFP, or failure to repair or replace GFP for which Government or Buyer is responsible.

**14.2 Changes in GFP or BFP**

- (a) By notice in writing, Buyer may (i) decrease the property provided or to be provided by the Government or Buyer under this SUBCONTRACT and/or DELIVERY ORDER, or (ii) substitute other Government or Buyer owned property for property to be provided by the Government or Buyer, or to be acquired by Seller for the Government or Buyer under this SUBCONTRACT and/or DELIVERY ORDER. Seller shall promptly take such action as Buyer may direct with respect to the removal and shipping of property covered by such notice.
- (b) In the event of any decrease in or substitution of property pursuant to subparagraph (a) above, or any withdrawal of authority to use property provided under any other contract or lease, which property Buyer had agreed in the Schedule to make available for the performance of this SUBCONTRACT and/or DELIVERY ORDER, Buyer, upon the written request of Seller (or, if the substitution of property causes a decrease in the cost of performance, on its own initiative), shall equitably adjust such contractual provisions as may be affected by the decrease, substitution, or withdrawal, in accordance with the procedures provided for in the Clause entitled "Changes."

**14.3 Title.** Title to all property furnished by the Government or Buyer shall remain with the Government or Buyer respectively. In order to define the obligations of the Parties under this Clause, title to each item of facilities, special test equipment, and special tooling (other than that subject to a "Special Tooling" Clause) acquired by the Seller for the Government or Buyer pursuant to this SUBCONTRACT and/or DELIVERY ORDER shall pass to and vest in the Government or Buyer, respectively, when its use in the performance of this SUBCONTRACT and/or DELIVERY ORDER commences, or upon payment therefore by the Government or Buyer, whichever is earlier, whether or not title previously vested. All GFP or BFP, together with all property acquired by Seller title to which vests in the Government or Buyer under this Paragraph is subject to the provisions of this Clause and is hereinafter collectively referred to as "Government or Buyer property." Title to Government or Buyer property shall not be affected by the incorporation or attachment thereof to any property not owned by the Government or Buyer, nor shall such Government or Buyer property, or any part thereof, be or become a fixture or lose its identity or personality by reason of affixation to any realty.

**14.4 Property Administration.**

- (a) Seller shall comply with the provisions of Subpart 45.5 of the Federal Acquisition Regulation, as in effect on the date of the SUBCONTRACT and/or DELIVERY ORDER, which is hereby incorporated by reference and made a part of this SUBCONTRACT and/or DELIVERY ORDER.
- (b) If damage occurs to Government/Buyer property, the risk of which has been assumed by the Government/Buyer under this SUBCONTRACT and/or DELIVERY ORDER, the Government/Buyer shall replace the items or the Seller shall make such repairs as the Government/Buyer directs. However, if the Seller cannot effect such repairs within the time required, the Seller shall dispose of the property as directed by the Government/Buyer.
- (c) The Seller represents that the subcontract price does not include any amount of repairs or replacement for which the Government/Buyer is responsible. Repair or replacement of property for which the Seller is responsible shall be accomplished by the Seller at its own expense.

14. **GOVERNMENT OR BUYER FURNISHED PROPERTY** (Continued)

- 14.5** Use of Government or Buyer Property. Government or Buyer property shall, unless otherwise provided herein or approved by the Government or Buyer, be used only for the performance of this SUBCONTRACT and/or DELIVERY ORDER. In the event the Seller is permitted to use Government-owned facilities, special tooling or test equipment which are provided on a no-charge basis, the Seller agrees that he will not directly or indirectly, through overhead charges or otherwise, include in the cost of the SUBCONTRACT and/or DELIVERY ORDER, or seek reimbursement under this SUBCONTRACT and/or DELIVERY ORDER, for any rental charge paid by the Seller for the use on other contracts of the facilities, special tooling and test equipment referred to herein. Any subcontract let by the Seller which 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.
- 14.6** Utilization, Maintenance and Repair of Government or Buyer Property. Seller's subcontractors shall be required to maintain and administer, in accordance with sound industrial practice, and in accordance with applicable provisions of Subpart 45.5 of the FAR, a program for the utilization, maintenance, repair, protection and preservation of Government or Buyer property until disposed of by the Seller in accordance with this Clause. In the event that any damage occurs to Government or Buyer property, the risk of which has been assumed by the Government or Buyer under this SUBCONTRACT and/or DELIVERY ORDER, the Government or Buyer shall replace such Supplies or the Seller shall make such repair of the property as Buyer directs; provided, however, that if Seller cannot effect such repair within the time required, the Seller shall dispose of such property in the manner directed by Buyer. The subcontract price includes no compensation to Seller for the performance of any repair or replacement for which the Government or Buyer is responsible, and an equitable adjustment will be made in any contractual provisions affected by such repair or replacement of Government or Buyer property made at the direction of Buyer, in accordance with the procedures provided for in the Clause of this SUBCONTRACT and/or DELIVERY ORDER entitled "Changes." Seller shall accomplish any repair or replacement for which the Seller is responsible under the provisions of this SUBCONTRACT and/or DELIVERY ORDER at its own expense.
- 14.7** Risk of Loss. Unless otherwise provided in this SUBCONTRACT and/or DELIVERY ORDER, the Seller assumes the risk of, and shall be responsible for, any loss of or damage to Government or Buyer property provided under this SUBCONTRACT and/or DELIVERY ORDER upon its Delivery to Seller or upon passage of title thereto to the Government or Buyer as provided in Paragraph 14.3 hereof except for reasonable wear and tear and except to the extent that such property is consumed in the performance of this SUBCONTRACT and/or DELIVERY ORDER.
- 14.8** Access. The Government or Buyer, and any persons designated by them, shall at all reasonable times have access to the premises wherein any Government or Buyer property is located, for the purposes of inspecting the Government or Buyer property.
- 14.9** Final Accounting and Disposition of Government or Buyer Property. Upon the completion of this SUBCONTRACT and/or DELIVERY ORDER, or at such earlier dates as may be fixed by Buyer, the Seller shall submit, in a form acceptable to Buyer, inventory schedules covering all Supplies of Government or Buyer property not consumed in the performance of this SUBCONTRACT and/or DELIVERY ORDER (including any resulting scrap) or not theretofore delivered to the Government or Buyer and shall prepare for shipment, deliver F.O.B. origin, or dispose of the Government or Buyer property, as may be directed or authorized by Buyer. The net proceeds of any such disposal shall be credited to the SUBCONTRACT and/or DELIVERY ORDER price or shall be paid in such other manner as Buyer may direct.
- 14.10** Restoration of Seller's Premises and Abandonment. Unless otherwise provided herein, Buyer:
- (a) may abandon any Government or Buyer property in place and thereupon all obligations of Buyer regarding such abandoned property shall cease;

14.10 **GOVERNMENT OR BUYER FURNISHED PROPERTY** (Continued)

- (b) has no obligation to Seller with regard to restoration or rehabilitation of the Seller's premises, neither in case of abandonment (Paragraph 14.10 (a) above), disposition on completion of need or of the SUBCONTRACT and/or DELIVERY ORDER (Paragraph 14.9 above), nor otherwise, except for restoration or rehabilitation costs which are properly included in an equitable adjustment under Paragraph 14.1 and 14.2 above.

14.11 Communications. All communications issued pursuant to this Clause shall be in writing.

15. **INSPECTION**

For the purposes of this Clause the term "Supplies and Services" includes without limitation raw materials, components, intermediate assemblies, and end products.

15.1 Inspection Authority

- (a) Buyer may designate an individual as the Quality Assurance Representative (QAR) to whom all matters concerning Buyer's quality requirements on each SUBCONTRACT and/or DELIVERY ORDER shall be referred by the Seller. The designated QAR and his QAR staff shall possess the necessary Governmental and Company security clearances to be admitted to Seller's facilities and to inspect and test Supplies and review related quality assurance documentation.
- (b) If required, deliverable Supplies will be tested and approved for shipment at the location specified in the SUBCONTRACT and/or DELIVERY ORDER.
- (c) Deliverable data as required by the Purchase Specification or as otherwise specified for the Supply(s), shall be inspected and accepted by the Buyer at the Buyer's facilities.

15.2 Notice of Testing

Seller shall inform the QAR by written notice the date of any testing required by this SUBCONTRACT and/or DELIVERY ORDER. Such notice shall be provided at least thirty (30) days prior to the actual test date.

15.3 Inspection

- (a) All Supplies shall be subject to inspection and test by the QAR (and/or the Government) at all reasonable times including the period of manufacture and performance and, in any event prior to Final Acceptance.
- (b) In case any Supplies and Services or lots of Supplies or Services are defective in material or workmanship or otherwise not in conformity with the requirements of the SUBCONTRACT and/or DELIVERY ORDER, the QAR shall have the right to reject them, to require their correction or, in the case of Services, their reperformance.
- (c) All inspections and tests by the Buyer at Seller's facilities shall be performed in such a manner as not to unduly delay the work. Should the performance of such inspection or test unduly delay the work of Seller, such delay shall be excusable within the meaning of the Clause entitled "Delivery Date and Excusable Delays," and Seller shall be entitled to an equitable adjustment in price and/or Delivery pursuant to the Clause entitled "Changes." Buyer reserves the right to charge to the Seller any additional cost to Buyer for inspection and testing when Supplies and Services are not ready at the time stipulated for such inspection or test by Seller's aforementioned notice or if reinspection or retest is necessitated by prior rejection.

15. **INSPECTION** (Continued)

- (d) Final acceptance or rejection of the Supplies or Services shall be made in accordance with the Final Acceptance Clause contained herein. Failure by Buyer to inspect and accept or reject Supplies or Services shall not relieve the Seller of responsibility for supply of such Supplies or Services in strict accordance with the SUBCONTRACT and/or DELIVERY ORDER requirements.
- (e) The inspection or test by the Buyer of any Supplies or Services or lots thereof does not relieve the Seller from any responsibility regarding defects or other failures to meet the requirements of this SUBCONTRACT and/or DELIVERY ORDER, which may be discovered prior to Final Acceptance. Except as otherwise provided in the SUBCONTRACT and/or DELIVERY ORDER, Final Acceptance shall be conclusive except in regard to Latent Defects, fraud, or such gross mistakes as amount to fraud or negligence.
- (f) The Seller shall provide and maintain an inspection system in accordance with the Specifications covering the Supplies and Services hereunder. Records of all inspection work by the Seller shall be kept complete and available to the designated QAR during the performance of this SUBCONTRACT and/or DELIVERY ORDER and for such longer period as may be specified elsewhere in this SUBCONTRACT and/or DELIVERY ORDER.
- (g) Notwithstanding the requirements for any inspection and test contained in Specifications applicable to this SUBCONTRACT and/or DELIVERY ORDER, except where inspections or tests are specified for performance solely by the Buyer, the Seller shall perform or have performed the inspection and test required to substantiate that the Supplies and Services provided under this SUBCONTRACT and/or DELIVERY ORDER conform to the drawings, Specifications and SUBCONTRACT and/or DELIVERY ORDER requirements listed herein.

16. **LIMITATION OF LIABILITY**

IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES, EVEN IF THAT PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES ARISING FROM ANY PROVISION OF THIS AGREEMENT, SUCH AS, BUT NOT LIMITED TO, LOSS OF USE, INCOME OR PROFITS, OR ANTICIPATED PROFITS OR LOST BUSINESS OR LOSS OF DATA OR SYSTEM USE.

17. **LOGISTIC SUPPORT REQUIREMENTS**

- 17.1** This Clause applies whenever the specifications, by reference to a military specification or otherwise, specify repair parts or stock components (hereinafter called "repair parts") for a component or item of equipment. The acquisition of such repair parts shall be subject to the terms and conditions of this SUBCONTRACT and/or DELIVERY ORDER.

**17. LOGISTIC SUPPORT REQUIREMENTS (Continued)**

**17.2** With respect to components or equipment manufactured other than in the United States or Canada, the Seller agrees that, in addition to any other Data required by this SUBCONTRACT and/or DELIVERY ORDER, it will furnish under this SUBCONTRACT and/or DELIVERY ORDER sufficient Data so that the repair parts can be reproduced in the United States or Canada unless the Sellers of the components or equipment shall have made arrangements satisfactory to Buyer and approved by the Government for the manufacturing of repair parts in the United States or Canada. For the purpose of this Clause, "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, to the maximum extent practical, the U.S. 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 number of this SUBCONTRACT and/or DELIVERY ORDER.

**17.3** With respect to all data required to be furnished under this Clause, there shall be granted to the Government, its officers, agents, and employees acting within the scope of their official duties for a period of seven (7) years from subcontract close out, "Government Purpose Rights" as defined in Paragraph (a) (12) of the flowdown Clause of this SUBCONTRACT and/or DELIVERY 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.

Seller shall include this clause in all subcontracts for the purchase of ship components or equipments from foreign sources.

**18. NOTICES**

Whenever any notice is required or authorized to be given hereunder, such notice shall be sent by registered mail or confirmed by receipt of a facsimile transmission to the respective individuals identified in the SUBCONTRACT and/or DELIVERY ORDER.

**19. NOTIFICATION OF CHANGES**

**19.1** The purpose of this Clause is to provide Buyer with the prompt reporting of any conduct which the Seller considers would constitute a change to this SUBCONTRACT and/or DELIVERY ORDER and/or Buyer's Prime Contract. The Parties acknowledge potential changes are to be identified and resolved as they arise. Therefore, except for written change orders issued by Buyer, Seller shall notify Buyer of any conduct which Seller considers constitutes or requires a change to this SUBCONTRACT and/or DELIVERY ORDER and/or Buyer's Prime Contract. Such notice shall be provided promptly and in any event within twenty (20) calendar days from the date the Seller identifies any such conduct. As used in this Clause, the term "conduct" includes both actions and failures to act, and the furnishing of, or the failure to furnish, any Supply under any provision of this SUBCONTRACT and/or DELIVERY ORDER. The notice shall be written and shall state, on the basis of the most accurate information available to the Seller:

- (a) the date, nature and circumstances of the conduct regarded as a change;
- (b) the name, function and activity of the individuals directly involved in or knowledgeable about such conduct;
- (c) the identification of any documents and the substance of any oral communication involved in such conduct;

19. **NOTIFICATION OF CHANGES** (Continued)

- (d) the particular elements of SUBCONTRACT and/or DELIVERY ORDER performance for which the Seller might seek an equitable adjustment under this Clause, including:
  - 1. what Supplies and Services have been or might be affected by the potential change;
  - 2. to the extent practicable, labor or materials or both which have been or might be added, deleted, or wasted by the potential change;
  - 3. to the extent practicable, the Seller's preliminary order of magnitude estimate of cost and schedule effect of the potential change; and
  - 4. what and in what manner are the particular technical requirements or SUBCONTRACT and/or DELIVERY ORDER requirements regarded as changed.

**19.2** Except as provided in Paragraph 19.5 below, following submission of notice the Seller shall take no action to implement a potential change until advised by Buyer in writing as provided in Paragraph 19.3 below, unless the potential change was previously directed by Buyer, in which case the Seller shall conform therewith. Nothing in this Clause shall excuse the Seller from proceeding with SUBCONTRACT and/or DELIVERY ORDER work in accordance with directions issued by Buyer.

**19.3** Buyer shall promptly, and in any event within twenty (20) calendar days after receipt of notice, respond thereto in writing. In such response, Buyer shall either:

- (a) confirm that the conduct of which the Seller gave notice would constitute a change, and when necessary, direct the mode of further performance, or;
- (b) countermand any conduct regarded by Seller as a change, or;
- (c) deny that the conduct of which Seller gave notice would constitute a change and, when necessary, direct the mode of further performance, or;
- (d) in the event Seller's notice information is inadequate to make a decision under (a), (b), and (c) above, advise Seller what additional information is required.

Failure of Buyer to respond within the time required above shall be deemed a countermand under Paragraph 19.3(b).

**19.4** Equitable adjustments for changes confirmed by Buyer shall be made in accordance with the Clause entitled "Changes" or any other provision of this SUBCONTRACT and/or DELIVERY ORDER which provides for an equitable adjustment.

**19.5** Paragraph 19.2 above provides that Seller is to take no action to implement a potential change pending Buyer's response to Seller's notice of the potential change except where specifically directed by Buyer. In special situations, however, where:

- (a) the circumstances do not allow sufficient time to notify Buyer of the facts prior to the need to proceed with the work, and;

19. **NOTIFICATION OF CHANGES** (Continued)

- (b) the work must proceed to avoid hazards to personnel or property or to avoid additional cost to Buyer, Seller may proceed with work in accordance with the potential change. Seller shall advise Buyer in writing within five (5) days of the conduct giving rise to the potential change that Seller has proceeded and shall describe the nature of the special situation which required proceeding prior to notification. Within twenty (20) days of the conduct giving rise to the potential change, the Seller shall provide notice as required in Paragraph 19.1 above. Buyer shall respond as set forth in Paragraph 19.3 above. If Buyer determines that the conduct constitutes a change and countermands it, Seller shall be entitled to an equitable adjustment for performance in accordance with that change prior to the countermand including performance resulting from the countermand.

**19.6** When Seller identifies any conduct, which may result in delay to delivery of the Supplies and Services, Seller shall promptly so inform Buyer thereof prior to providing the notice required by Paragraph 19.1 above.

20. **ORDER OF PRECEDENCE, INTERPRETATION AND EXCLUSIVE AGREEMENT, AND SEVERABILITY**

**20.1** In the event of any inconsistency between provisions of this SUBCONTRACT and/or DELIVERY ORDER, the inconsistency shall be resolved by giving precedence in the following order:

- (a) Special Provisions of Delivery Orders issued pursuant to this SUBCONTRACT;
- (b) Special Provisions of this SUBCONTRACT;
- (c) Shipyard Specific Terms and Conditions;
- (d) DDG 51 Non Class Standard Equipment (NCSE) Terms and Conditions of this SUBCONTRACT;
- (e) Attachments (excluding the Specifications/Buyer Material Ordering Catalog and Statement of Work); and,
- (f) Buyer Material Ordering Catalog, Procurement Specifications, and/or Statement of Work

**20.2** This SUBCONTRACT and/or DELIVERY ORDER contains and constitutes the entire understanding and agreement between Buyer and the Seller, and supersedes all previous understandings and agreements relative to the subject matter contained herein.

**20.3** If any provision of this SUBCONTRACT and/or DELIVERY ORDER is declared or found to be illegal, unenforceable or void, then the Parties shall be relieved of all obligations under that provision. In such case the remainder of this SUBCONTRACT and/or DELIVERY ORDER shall be held in full force and effect.

21. **PERFORMANCE**

The Parties acknowledge that Seller has special skills, knowledge and ability in the work to be performed under this SUBCONTRACT and/or DELIVERY ORDER, and that Buyer is relying on Seller's skills, knowledge and ability in all matters related to Seller's Delivery of the Supplies and Services ordered under this SUBCONTRACT and/or DELIVERY ORDER. Seller will use such skills, specific knowledge, ability, best efforts, ingenuity, and due diligence in delivering the Supplies and Services in accordance with the requirements of this SUBCONTRACT.



22. **PRIORITY RATINGS**

The U.S. Government priority rating for the Supplies and Services to be delivered under this SUBCONTRACT is DO-A3. This priority rating is applicable to this SUBCONTRACT with respect to all work of the Seller performed in the United States. Seller shall follow the provisions of Defense Materials System Regulation 1 or Defense Priority System Regulation 1 (see 15 C.F.R. Part 700) and all other applicable regulations and orders of the Office of Industrial Resource Administration, Department of Commerce, in obtaining controlled materials and other products and materials needed to fulfill this SUBCONTRACT.

23. **PRODUCT ORIENTED SURVEY**

In accordance with DFARS Subpart 246.103, the Buyer and/or appropriate Government Representative, as deemed necessary, shall have the right to conduct a product-oriented survey(s) of Seller to determine compliance with the requirements of this SUBCONTRACT and/or DELIVERY ORDER, and Seller shall insert a substantially similar Clause in all of its lower tier subcontracts awarded pursuant to this SUBCONTRACT and/or DELIVERY ORDER.

24. **PROBLEM IDENTIFICATION REPORTS**

Problem Identification Reports (PIR) shall be used by Seller to alert Buyer to actual or potential problems and to establish an early dialogue between Seller and Buyer with regard thereto. As used in this Clause, a problem is a fact or circumstance of which Seller is aware that does, will, or may (1) have an impact on the Delivery Schedule, completion or performance for the cost of this SUBCONTRACT (increase or decrease), or (2) require a modification of this SUBCONTRACT and/or DELIVERY ORDER. Seller shall provide Buyer with a written report of each problem within ten (10) days after Seller identifies such problem. Each PIR shall be dated, reference this SUBCONTRACT and/or DELIVERY ORDER, and describe the nature of the problem; the date the problem arose; and, anticipated effects of the problem including, but not limited to, Delivery, and cost of performance, and Seller's recommended resolution of the problem.

25. **QUALITY ASSURANCE REQUIREMENTS**

**25.1** Seller shall establish and maintain a Quality Assurance Program which is subject to audit and approval of Buyer. All Supplies provided under this SUBCONTRACT and/or DELIVERY ORDER shall be inspected by Seller as part of such Program prior to submission for Government or ABS inspection and/or prior to shipment to verify conformance with all requirements and Specifications. Seller shall comply with quality requirements when such requirements are invoked by the Specification applicable to the Supplies or Services being purchased. If a Material Ordering Catalog page is invoked, Seller shall examine the page for quality program requirements

**25.2** Seller shall establish and maintain, subject to Buyer's right to audit, a system of material identification that ensures the use of specified materials and components. Supplies shipped shall be in such a manner as to permit verification of the use of such specified materials and components upon receipt by Buyer. Raw materials used by Seller in the fabrication or processing of the Supplies shall conform to the physical, chemical and other technical requirements of the applicable material Specification and Seller shall employ laboratory testing as necessary to confirm the identity of raw materials.

25 **QUALITY ASSURANCE REQUIREMENTS** (Continued)

- 25.3** Government Procurement Quality Assurance (PQA) or Government Source Inspection (GSI). The Government reserves the right to inspect all Supplies. If Government Source Inspection is invoked by the SUBCONTRACT and/or DELIVERY ORDER, Government inspection is required prior to shipment of the Supplies by Seller. Upon receipt of this notification, Seller must promptly notify and furnish a copy of the SUBCONTRACT and/or DELIVERY ORDER to the Government Representative who normally services Seller's plant. If Seller's plant does not have a Government Representative, Seller must notify the nearest Army, Navy, Air Force or Defense Supply Agency inspection office. In the event the representative or office cannot be located, Buyer should be notified immediately. When the SUBCONTRACT and/or DELIVERY ORDER invokes Government Procurement Quality Assurance, it is by authority of the Supervisor of Shipbuilding, Gulfcoast or Supervisor of Shipbuilding, Conversion and Repair; Bath, Maine, and Seller is required to furnish to the Government Representative at Seller's facility any subsequent modifications to the SUBCONTRACT and/or DELIVERY ORDER and to make available all referenced data applicable to the SUBCONTRACT and/or DELIVERY ORDER.
- 25.4** When specified by the SUBCONTRACT and/or DELIVERY ORDER, Seller shall furnish verifiable test data, including the names of witnessing inspectors and present any other verifiable quality data required by the SUBCONTRACT and/or DELIVERY ORDER or at any time up to and after final payment under the SUBCONTRACT and/or DELIVERY ORDER.
- 25.5** Documentation and Other Verifiable Data. Quantitative, semi-quantitative or functional test results must be forwarded to Buyer when specified by the SUBCONTRACT and/or DELIVERY ORDER and/or invoked by Military or Purchase Specifications. Documentation must reflect actual test results and not merely that the minimum requirements of the SUBCONTRACT and/or DELIVERY ORDER or Military Specification have been met. Seller must retain a copy of such documentation for a minimum period of three (3) years after final acceptance of the Supplies.
- 25.6** Non-Conforming Products. Supplies which are received by Buyer and are found to be nonconforming by virtue of the fact that they are not in accordance with this SUBCONTRACT and/or DELIVERY ORDER or that the documentation or verifiable data are missing, incomplete or incorrect, may be returned to Seller at Seller's expense. Prior to returning the non-conforming Supplies, Buyer will notify Seller of the nature of the discrepancy such that, if possible, the discrepancy may be rectified at Seller's expense without returning the material to Seller.

26. **RECOGNITION OF ELECTRONIC DELIVERABLES**

Data required to be delivered under the Subcontractor Data Requirement List (SDRL) of this SUBCONTRACT and/or DELIVERY ORDER, that would be deemed Technical Data under DFARS 252.227-7013, if it were delivered in written form, shall not lose its status as Technical Data because access by the Buyer or Government, or delivery by the Seller, is by electronic means. The rights of the Parties in said Technical Data shall be as specified in DFARS 252.227-7013.

27. **UNUSED**

28. **RISK OF LOSS AND INSURANCE**

- 28.1** Risk of loss of or damage to Supplies shall remain with Seller until, and shall pass to the Buyer upon, Delivery of the Supplies to the F.O.B. Destination point specified in the SUBCONTRACT and/or DELIVERY ORDER and the Buyer's acceptance of the Supplies, regardless of whether that acceptance is conditional or final.
- 28.2** The Seller shall not be liable for loss of or damage to Supplies caused by the negligence of officers, agents, or employees of the Buyer acting within the scope of their employment.
- 28.3** The Seller shall bear the risk of loss or damage to any property of the Buyer in Seller's possession or care, and shall maintain adequate insurance so as to cover any such loss or damage, and shall name the Buyer as the additional insured and beneficiary of any payments there from with waiver of any right of subrogation.

29. **SHIPPING AND DELIVERY**

29.1 Delivery of each item or group of items ordered shall be made no later than the last day of the Delivery time(s) set forth in the SUBCONTRACT and/or DELIVERY ORDER. No deliveries shall be made earlier than the designated Delivery time(s) unless authorized in writing by the Buyer's Purchasing Representative.

29.2 Supplies shall be delivered to the locations indicated on the SUBCONTRACT and/or DELIVERY ORDER, F.O.B. Destination, unless otherwise specified.

29.3 Freight Collect

(a) If the SUBCONTRACT and/or DELIVERY ORDER indicate that Supplies are to be shipped "Freight Collect", Buyer will pay all freight charges and no amount covering these charges shall be included in the selling price for an item.

(b) For shipments of 70 pounds or less that meet United Parcel Service ("UPS") dimensional requirements, the Supplies shall be shipped UPS COLLECT. If a single shipment of multiple Supplies together exceeds the weight limitations or if an item exceeds the dimensional requirements, follow the procedures in subparagraph (b) above.

30. **STOP WORK**

The provisions of the Clause contained in STOP-WORK ORDER FAR 52.242-15 are hereby incorporated by reference with the following change: The words "Contracting Officer" and "Government" shall mean Buyer; the word "Contractor" shall mean Seller; the words "ninety (90) days" are hereby changed to "one hundred (100) days"; and the words "thirty (30) days" are hereby changed to "twenty (20) days" wherever they appear; and the reference to the "Termination for Convenience" shall be deemed to refer to the Clause entitled herein "Termination for Convenience". In subdivision (2) of Paragraph (B), the expression "asserts a claim for the adjustment within twenty (20) days after the end of the period of work stoppage" shall be understood to mean "shall, within twenty (20) days after the end of the work stoppage, state its intention to make a claim for adjustment".

31. **TERMINATION FOR CONVENIENCE**

Buyer may terminate performance of work under this SUBCONTRACT and/or DELIVERY ORDER in whole or in part, from time to time, if a termination is reasonably required to implement any Government termination, change or direction under the Prime Contract. The Buyer shall terminate by delivering to Seller the extent of termination and the effective date.

In the event of such termination, Seller shall immediately cease all work terminated hereunder and cause any and all of its suppliers and subcontractors to cease work. Seller must submit all claims within sixty (60) days after the effective date of termination. Buyer shall determine the amount due Seller on the Termination in accordance with FAR 52.249-2. In no event shall Buyer be obligated to pay Seller any amount in excess of the SUBCONTRACT and/or DELIVERY ORDER price. Seller shall continue work not terminated.

32. **TITLE**

Unless otherwise stated in the Clause entitled "Progress Payments," title to the Supplies covered by the SUBCONTRACT and/or DELIVERY ORDER shall pass from the Seller to the Buyer upon the Buyer's acceptance of the Supplies, regardless of whether the acceptance is conditional or final, at the F.O.B. Destination point.

33. **TRIALS**

**33.1** Following installation by the Buyer or performance by the Seller, Supplies and Services will be subjected to trials as provided in the Specification; however, such trials will not exceed the Specification requirements of the SUBCONTRACT and/or DELIVERY ORDER unless specifically approved by a duly authorized representative of the Seller. During installation and trials, any defects in such Supplies or Services for which the Seller is responsible shall be corrected in accordance with the Conditional Acceptance, Final Acceptance, and Warranty provisions of this SUBCONTRACT and/or DELIVERY ORDER as directed by the Buyer.

**33.2** Sea Trial Sequence is expected to occur as follows:

(a) Preliminary Trials (ALPHA Trial)

Shipbuilder operates ship at sea for preliminary demonstration of machinery and for limited combat system demonstration.

(b) Builder's Trials (BRAVO Trial)

Shipbuilder operates ship at sea, verifies operability of ship subsystem equipment and components as prerequisite to vessel Acceptance Trials. Phase One will constitute firing all ship's armament, including missiles. Phase Two will be a Mock INSURV trial.

(c) Acceptance Trials (CHARLIE Trial)

Completion verifies operability and performance of ship subsystems and components and signifies readiness for Delivery.

(d) Note that the Government can order a combined trial which combines two or more of these trials, and can order a re-trial to confirm operation of the ship and its systems.

34. **WAIVER**

No waiver by either Buyer or the Seller, whether written or oral, expressed or implied, of any rights under or arising from this SUBCONTRACT shall be binding on any subsequent occasion and no concession by either Buyer or the Seller shall be treated as a variation of this SUBCONTRACT unless specifically agreed in writing.

35. **WARRANTY**

**35.1** The Seller warrants that all Supplies and Services furnished under this SUBCONTRACT and/or DELIVERY ORDER will be in accordance with all contract requirements and free from defects or inferior Supplies or Services for twelve (12) months after Final Acceptance of the Supplies and Services.

**35.2** If, within the warranty period, the Buyer finds that the warranted Supplies or Services are inferior, defective or not in accordance with the terms of the SUBCONTRACT and/or DELIVERY ORDER, insofar as it is practicable the Buyer shall so inform the Seller in writing and the Seller, if so directed, shall promptly and without additional expense to the Buyer:

(a) place in satisfactory condition the warranted work;

(b) satisfactorily correct direct damage to equipment, the site, the compartment or contents thereof, which is the result of such unsatisfactory warranted work;

(c) satisfactorily correct the work, materials and equipment that are disturbed in fulfilling the warranty, including the disturbed work, materials and equipment that may have been warranted under another contract; or

- (d) furnish such materials or parts and installation instructions as may be required to successfully accomplish the required correction or replacement. The Seller shall also prepare and furnish to the Buyer data and reports applicable to any correction or replacement required under this Clause.

The decision as to whether the Seller or Buyer will perform the warranty work shall be at the discretion of Buyer provided, however, that insofar as is practicable, the Seller shall be afforded a reasonable opportunity to inspect and correct the supplies or services prior to the performance of the warranty work by the Buyer. When the Buyer directs the Seller to perform the warranty work, if the Seller fails to proceed promptly in accordance with the warranty, Buyer may have such work performed at the expense of the Seller.

- 35.3** Any Supplies, Services or parts thereof corrected, repaired, replaced or otherwise placed in a satisfactory condition shall also be subject to the conditions of this Clause to the same extent as the Supplies or Services initially accepted. The warranties for such Supplies, Services or parts thereof shall be for twelve (12) months to run from the date of Buyer's final acceptance of such corrected, repaired or replaced Supplies or Services or until expiration of the original warranty period, whichever is longer.
- 35.4** The Buyer and/or the Government shall have the right to purchase parts for installation, either from the Seller, or directly from the Actual Parts Manufacturer (APM), without voiding this warranty. Any special warranty that may be required under this SUBCONTRACT and/or DELIVERY ORDER shall be subject to the stipulations set forth above, insofar as they do not conflict with the provisions of such special warranties.
- 35.5** Seller shall obtain each transferable guaranty or warranty of equipment, material or installation thereof which is furnished by any manufacturer, Seller or installer in the ordinary course of the manufacturer's, Seller's or installer's business or trade. In addition, the Seller shall obtain and furnish to the Buyer all information which is required in order to make any such guaranty or warranty legally binding and effective, and shall submit both the information and the guaranty or warranty to the Buyer to meet any time limit requirements specified in the guaranty or warranty, or if no time limit is specified in the guaranty or warranty, prior to completion and acceptance of all work under the SUBCONTRACT and/or DELIVERY ORDER.
- 35.6** Any limitations to Seller's warranty obligations expressed in this Clause shall not apply when the defects or deficiencies in such Supplies or Services or the Buyer's final acceptance of such Supplies resulted from the willful misconduct or lack of good faith on the part of the Seller's QA representatives, or its officers, directors, managers or other equivalent representatives who had supervision or direction of production and/or inspection of such Supplies or Services.
- 35.7** Disputes arising under this Clause shall be resolved in accordance with the Clause entitled Disputes contained in the Shipyard Specific Terms and Conditions, Attachment A-2.

**36. INDEMNIFICATION**

Seller shall save harmless and indemnify Buyer and the Government from and against all claims, suits (including counsel fees and other expenses of suits, whether groundless or not), judgments and awards on account of any damage to property; or injury (including death) to persons (including any damage or injury to the property or person of any employee of Seller or of Buyer) which may occur or be alleged to have occurred due to the negligence or other fault of Seller however arising out of or in connection with the performance of this P.O. on part of Seller. Seller shall also save harmless and indemnify Buyer from and against any and all costs, damages, fines, penalties and liabilities incurred by Buyer (including counsel fees and other expenses) as a result of Seller's or any of Seller's subcontractors failure to comply with the provisions of this P.O. and with all applicable laws or regulations as set forth in this P.O.

37. **CONFLICT MINERALS DISCLOSURE**

- a. Supplier certifies that, regardless of whether Supplier is publicly traded or not, Supplier does not procure Conflict Minerals from Covered Countries, as those terms are defined by and consistent with the Securities and Exchange Commission's final rule on Conflict Minerals, 17 CFR Parts 240 and 249(b), promulgated pursuant to Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. (the "Rule").
- b. Supplier certifies and warrants that all products that will be delivered to Bath Iron Works by Supplier under this Order are DRC Conflict Free, as defined by and consistent with the Rule.
- c. Supplier agrees that, if required by the Rule, it has made, and will continue to make, good faith inquiries reasonably designed to determine whether any Conflict Mineral that is included in any product delivered to Bath Iron Works pursuant to this Order originated in the DRC or an Adjoining Country, or is from Recycled or Scrap Sources, as defined in the Rule. Supplier further agrees that, if required by the Rule, it has performed, and will continue to perform, due diligence on the source and chain of custody of any Conflict Mineral that is included in any product delivered to Bath Iron Works pursuant to this Order, and that such due diligence conforms to a nationally or internationally recognized due diligence framework, if such a framework is available for the Conflict Mineral. Supplier agrees that all inquiries and diligence performed shall be consistent with the requirements of the Rule.
- d. Supplier agrees that it shall require its own subcontractors and suppliers (at any tier in the supply chain for a product delivered to Bath Iron Works under this Order) to furnish information to Supplier necessary to support Supplier's obligations under this Section.
- e. Supplier will maintain records reviewable by Bath Iron Works to support its certifications above
- f. Supplier acknowledges that Bath Iron Works may utilize and disclose Conflict Minerals information provided by Supplier in order to satisfy its disclosure obligations under the Rule.
- g. If Bath Iron Works determines that any certification made by Supplier under this Section is inaccurate or incomplete in any respect, then Bath Iron Works may terminate this Order pursuant to the provision of this Order titled ["Termination for Default"]

38. **FEDERAL CONTRACTOR REQUIREMENTS**

"This order/contract is subject to the requirements of 41 CFR 60-1.4 and 29 CFR part 471, Appendix A to Subpart A, which are incorporated into this order/contract by reference, **as applicable**. In addition, this order/contract is subject to the requirements of 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a), which are incorporated herein by reference, **as applicable**. **The latter two regulations prohibit discrimination against qualified individuals on the basis of protected veteran status and disability and require affirmative action to employ and advance in employment protected veterans and qualified individuals with disabilities.**"

**GOVERNMENT "FLOW-DOWN" CLAUSES**

**FULL TEXT CLAUSES**

Pursuant to Buyer's Prime Contract with the U.S. Government and Buyer's acquisition policies, the following Clauses are included in this SUBCONTRACT and/or DELIVERY ORDER in full text. As stated in the definitions Clause, "Contractor" shall mean Seller, "subcontractor" shall mean Seller's subcontractor, "Contracting Officer" and "Government" or "Navy" shall mean Buyer and "Contract" refers to this SUBCONTRACT and/or DELIVERY ORDER except where context of Clause otherwise demands and any reference to "Disputes" in these clauses shall be construed to only mean the clause entitled "Disputes" contained in the Shipyard Specific Terms and Conditions, Attachment A-2.

## **ACCESS TO THE VESSEL(S) (AT) (NAVSEA) (JAN 1983)**

Officers, employees and associates of other prime Contractors with the Government and their subcontractors, shall, as authorized by the Supervisor, have, at all reasonable times, admission to the plant, access to the vessel(s) where and as required, and be permitted, within the plant and on the vessel(s) required, to perform and fulfill their respective obligations to the Government. The Contractor shall make reasonable arrangements with the Government or Contractors of the Government, as shall have been identified and authorized by the Supervisor to be given admission to the plant and access to the vessel(s) for office space, work areas, storage or shop areas, or other facilities and services, necessary for the performance of the respective responsibilities involved, and reasonable to their performance.

## **ACCESS TO VESSELS BY NON-U.S. CITIZENS (NAVSEA) (DEC 2005)**

(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. The Contractor shall establish procedures to comply with this requirement and NAVSEAINST 5500.3 (series) in effect on the date of this contract or agreement.

(b) If the Contractor desires to employ non-U.S. citizens in the performance of work under this contract or agreement that requires access as specified in paragraph (a) of this requirement, approval must be obtained prior to access for each contract or agreement where such access is required. To request such approval for non-U.S. citizens of friendly countries, the Contractor shall submit to the cognizant Contract Administration Office (CAO), 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 Contractor'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 regulations and instructions.

(iii) A control system, which provides rigid accountability procedures for handling lost, damaged, forgotten or no longer required badges, must be established.

(iv) A badge or pass check must be performed at all points of entry to the Contractor's facilities or by a site supervisor for work performed on vessels outside the Contractor's plant.

(2) Contractor'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) Contractor's plan for ensuring subcontractor compliance with the provisions of the Contractor'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 Contractor 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), Contractor 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 Contractor, position, and stated intent concerning U.S. citizenship. COMNAVSEA or his designated representative will make individual determinations for desirability of access for the 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, Contractor must deny access to vessels for employees who are non-U.S. citizens of hostile and/or communist-controlled countries.

(d) The Contractor shall fully comply with approved ACPs. Noncompliance by the Contractor or subcontractor serves to cancel any authorization previously granted, in which case the Contractor shall be precluded from the continued use of non-U.S. citizens on this contract or agreement until such time as the compliance with an approved ACP is demonstrated and upon a determination by the CAO that the Government's interests are protected. Further, the Government reserves the right to cancel previously granted authority when such cancellation is determined to be in the Government's best interest. Use of non-U.S. citizens, without an approved ACP or when a previous authorization has been canceled, will be considered a violation of security regulations. Upon confirmation by the CAO of such violation, this contract, agreement or any job order issued under this agreement may be terminated or default in accordance with the clause entitled "DEFAULT (FIXED-PRICE SUPPLY AND SERVICE)" (FAR 52.249-8), "DEFAULT (FIXED-PRICE RESEARCH AND DEVELOPMENT)" (FAR 52.249-9) or "TERMINATION (COST REIMBURSEMENT)" (FAR 52.249-6), as applicable.

(e) Prime Contractors have full responsibility for the proper administration of the approved ACP for all work performed under this contract or agreement, regardless of the location of the vessel, and must ensure compliance by all subcontractors, technical representatives and other persons granted access to U.S. Navy vessels, adjacent areas, and work sites.

(f) In the event the Contractor 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 non-U.S. citizens who have access to the Contractor's facilities (e.g., for accomplishing facility improvements, from foreign crewed vessels within its facility, etc.)

(h) An ACP which has been approved for specific Master Ship Repair Agreement (MSRA) or Agreement for Boat Repair (ABR) or Basic Ordering Agreement (BOA), is valid and applicable to all job orders awarded under that agreement.

#### ACCESS TO PROPRIETARY DATA OR COMPUTER SOFTWARE (NAVSEA) (JUN 1994)

- (a) Performance under this contract may require that the Contractor have access to technical data, computer software, or other sensitive data of another party who asserts that such data or software is proprietary. If access to such data or software is required or to be provided, the Contractor shall enter into a written agreement with such party prior to gaining access to such data or software. The agreement shall address, at a minimum, (1) access to, and use of, the proprietary data or software exclusively for the purposes of performance of the work required by this contract, and (2) safeguards to protect such data or software from unauthorized use or disclosure for so long as the data or software remains proprietary. In addition, the agreement shall not impose any limitation upon the Government or its employees with respect to such data or software. A copy of the executed agreement shall be provided to the Contracting Officer. The Government may unilaterally modify the contract to list those third parties with which the Contractor has agreement(s).
- (b) The Contractor agrees to: (1) indoctrinate its personnel who will have access to the data or software as to the restrictions under which access is granted; (2) not disclose the data or software to another party or other Contractor personnel except as authorized by the



Contracting Officer; (3) not engage in any other action, venture, or employment wherein this information will be used, other than under this contract, in any manner inconsistent with the spirit and intent of this requirement; (4) not disclose the data or software to any other party, including, but not limited to, joint ventures, affiliate, successor, or assign of the Contractor; and (5) reproduce the restrictive stamp, marking, or legend on each use of the data or software whether in whole or in part.

- (c) The restrictions on use and disclosure of the data and software described above also apply to such information received from the Government through any means to which the Contractor has access in the performance of this contract that contains proprietary or other restrictive markings.
- (d) The Contractor agrees that it will promptly notify the Contracting Officer of any attempt by an individual, company, or Government representative not directly involved in the effort to be performed under this contract to gain access to such proprietary information. Such notification shall include the name and organization of the individual, company, or Government representative seeking access to such information.
- (e) The Contractor shall include this requirement in subcontracts of any tier which involve access to information covered by paragraph (a), substituting "subcontractor" for "Contractor" where appropriate.
- (f) Compliance with this requirement is a material requirement of this contract.

#### **ASSIGNMENT AND USE OF NATIONAL STOCK NUMBERS (NAVSEA) (MAY 1993)**

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

#### **COMPUTER SOFTWARE AND/OR COMPUTER DATABASE(S) DELIVERED TO AND/OR RECEIVED FROM THE GOVERNMENT (NAVSEA) (APR 2004)**

- (a) The Contractor 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. The Contractor warrants that any such computer software and/or computer database will be free of viruses when delivered.
- (b) The Contractor agrees to test any computer software and/or computer database(s) received from the Government for viruses prior to use under this contract.
- (c) No copy protection devices or systems shall be used in any computer software or computer database delivered under this contract to restrict or limit the Government from making copies. This does not prohibit license agreements from specifying the maximum amount of copies that can be made.
- (d) Delivery by the Contractor 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, 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.

- (e) Any limited rights legends or other allowed legends placed by a Contractor 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.

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

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

#### **SPECIAL AGREEMENT REGARDING SWITCHBOARD SUBCONTRACTS (NAVSEA) (JUN 2000)**

The Government has an interest in maintaining a competitive market for switchboards to be used on U.S. Naval vessels. The requirements of 10 U.S.C. 2534 result in a major component of certain switchboards (i.e., air circuit breakers) being available from a single domestic source who is also a competitor for such switchboards. Therefore, the Contractor shall evaluate subcontract proposals for such switchboards exclusive of air circuit breaker content or on some other basis that ensures an equitable switchboard competition.

The Contractor shall, in all cases involving subcontracts which contain air circuit breakers for switchboards, give advance notification to the contracting officer and obtain written consent of the contracting officer prior to placing any such subcontract. Such advance notification shall include the information listed under paragraph (f)(1) of the clause entitled "SUBCONTRACTS" (FAR 52.244-2).

#### **FACILITIES NOT TO BE GOVERNMENT-FURNISHED (CT) (NAVSEA) (JAN 1990)**

The Contractor's obligation to perform this contract is in no way conditioned upon the providing by the Government of any facilities, except as may be otherwise expressly provided herein. Accordingly, no such facilities shall be either acquired by the Contractor for the account of the Government or furnished to the Contractor by the Government hereunder. For the purpose of this requirement, facilities means industrial property (other than material, special tooling, military property, and special test equipment) for production, maintenance, research, development or test, including real property and rights therein, buildings, structures, improvements, and plant equipment as defined in FAR 45.101 and 45.301 and DFARS 245.301.

#### **UNIQUE ITEM IDENTIFICATION (UID) MARKING REQUIREMENTS**

(a) The Contractor shall be responsible for implementation of the Unique Identification marking (UID) Program for the end items. UID is a set of data marked on items that is globally unique, unambiguous, and robust enough to ensure data information quality throughout the life of the unit until disposal and to support multifaceted applications and multiple users. The unique item identifier and the component data elements of the unique item identifier shall not change over the life of the item. The UID component data elements, at a minimum, shall be contained in a Data Matrix ECC200 symbol, as required by MIL-STD-130 Rev L dated 10 Oct 2003, Change Notice 1 dated 20 Dec 2004, or latest version.

(b) To implement the UID Program, the Contractor shall provide a UID Plan describing the UID implementation strategy in compliance with Defense Federal Acquisition Regulations Supplement (DFARS) Clause 252.211-7003 "ITEM IDENTIFICATION AND VALUATION", addressing distinctiveness of the unique identifier.

(c) The DFARS marking requirements for UID shall be tailored as follows:

Annotate items requiring UID marking with recommended UID marking medium and location for each end item. DFARS Clause 252.211-7003 paragraph © (3) provides instruction on data syntax and semantics when marking items.

Construct the UID by using Commercial and Government Entity (CAGE) Code, part number and serial number.

Where space is available, human readable information for UID data elements shall be marked on the item. The preferred placement of the mark on the part is wherever is most advantageous for readability in the installed position. This will allow personnel to read the mark without necessitating its removal. For end items already marked with a label or data plate, the Contractor shall add additional UID information if space is available on the current label or data plate or replace with a label or data plate. If space for UID marking is not available on the existing label or data plate, a virtual Unique Item Identifier (UII) will be provided. The verification grade for the UID marking on all items marked will be in accordance with MIL-STD-130 Rev L dated 10 Oct 2003, Change Notice 1 dated 20 Dec 2004, or latest version, paragraphs 4.4 through 4.4.2.2. Certification of verification shall accompany part(s) upon ship delivery.

### **USE OF NAVY SUPPORT CONTRACTORS FOR OFFICIAL CONTRACT FILES**

(a) NAVSEA may use a file room management support contractor, hereinafter referred to as "the support contractor", to manage its file room in which all official contract files, including the official file supporting this procurement, are retained. These official files may contain information that is considered a trade secret, proprietary, business sensitive or otherwise protected pursuant to law or regulation, hereinafter referred to as "protected information". File room management services consist of any of the following: secretarial or clerical support; data entry; document reproduction, scanning imaging, or destruction; operation, management or maintenance of paper-based or electronic mail rooms, file rooms, or libraries; and supervision in connection with functions listed herein.

(b) The cognizant Contracting Officer will ensure that any NAVSEA contract under which these file room management services are acquired will contain a requirement that:

(1) The support contractor not disclose any information;

(2) Individual employees are to be instructed by the support contractor regarding the sensitivity of the official contract files;

(3) The support contractor performing these services be barred from providing any other supplies and/or services, or competing to do so, to NAVSEA for the period of performance of its contract and for an additional three years thereafter unless otherwise provided by law or regulation; and,

(4) In addition to any other rights the contractor may have, it is a third party beneficiary who has the right of direct action against the support contractor, or any person to whom the support contractor has released or disclosed protected information, for the unauthorized duplication, release, or disclosure of such protected information.

(c) Execution of this contract by the contractor is considered consent to NAVSEA's permitting access to any information, irrespective of restrictive markings or the nature of the information submitted, by its file room management support contractor for the limited purpose of executing its file room support contract responsibilities.

(d) NAVSEA may, without further notice, enter into contracts with other contractors for these services. Contractors are free to enter into separate non-disclosure agreements with the file room contractor. (Please contact Director, E Business Division for contractor specifics.) However, any such agreement will not be considered a prerequisite before information submitted is stored in the file room or otherwise encumber the government.

### **REFUNDS (SPARES AND SUPPORT EQUIPMENT) (NAVSEA) (SEP 1990)**

(a) In the event that the price of a spare part of item of support equipment delivered under this contract significantly exceeds its intrinsic value, the Contractor agrees to refund the difference. Refunds will only be made for the difference between the intrinsic value of the item at the time an agreement on price was reached and the contract price. Refunds will not be made to recoup the amount of cost decreases that occur over time due to productivity gains (beyond economic purchase quantity consideration) or changes in market conditions.

(b) For purposes of this requirement, the intrinsic value of an item is defined as follows:

(1) If the item is one which is sold or is substantially similar or functionally equivalent to one that is sold in substantial quantities to the general public, intrinsic value is the established catalog or market price, plus the value of any unique requirements, including delivery terms, inspection, packaging, or labeling.

(2) If there is no comparable item sold in substantial quantities to the general public, intrinsic value is defined as the price an individual would expect to pay for the item based upon an economic purchase quantity as defined in FAR 52.207-4, plus the value of any unique requirements, including delivery terms, inspection, packaging or labeling.

(c) At any time up to two years after delivery of a spare part of item of support equipment, the Contracting Officer may notify the Contractor that based on all information available at the time of the notice, the price of the part of item apparently exceeds its intrinsic value.

(d) If notified in accordance with paragraph © above, the Contractor agrees to enter into good faith negotiations with the Government to determine if, and in what amount, the Government is entitled to a refund.

(e) If agreement pursuant to paragraph (d) above cannot be reached, and the Navy's return of the new or unused item to the Contractor is practical, the Navy, subject to the Contractor's agreement, may elect to return the item to the Contractor. Upon return of the item to its original point of Government acceptance, the Contractor shall refund in full the price paid. If no agreement pursuant to paragraph (d) above is reached, and return of the item by the Navy is impractical, the Contracting Officer may, with the approval of the Head of the Contracting Activity, issue a "Contracting Officer's final decision on the matter, subject to Contractor appeal as provided in the "DISPUTES Clause as provided in the Shipbuilder Specific Terms and Conditions Attachment A-2.

(f)The Contractor will make refunds, as required under this requirement, in accordance with instructions from the Contracting Officer.

(g)The Contractor shall not be liable for a refund if the Contractor advised the Contracting Officer in a timely manner that the price it would propose for a spare part or item of support equipment exceeded its intrinsic value, and with such advice, specified equipment the estimated proposed price, the estimated intrinsic value and known alternative sources or item, if any, that can meet the requirement.

(h) This requirement does not apply to any spare parts or items of support equipment whose price is determined through adequate price competition. This requirement also does not apply to any spare part or item of support equipment with a unit price in excess of \$100,000; or in excess of \$25,000 if the Contractor submitted, and certified the currency, accuracy and completeness of, cost or pricing data applicable to the item.

#### **NAVSEA 5252.227-9113 GOVERNMENT-INDUSTRY DATA EXCHANGE PROGRAM (AUG 1997)**

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

- (b) The Contractor agrees to insert paragraph (a) of this requirement in any subcontract hereunder exceeding \$500,000.00. When so inserted, the word "Contractor" shall be changed to "Subcontractor".
- (c) GIDEP materials, software and information are available without charge from:

GIDEP		Operations		Center
P.O.		Box		8000
Corona,		CA		91718-8000
Phone:	(909)	273-4677	or	DSN 933-4677
FAX:	(909)			273-5200
Internet:	<a href="http://www.gidep.corona.navy.mil">http://www.gidep.corona.navy.mil</a>			

**52.222-39 NOTIFICATION OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES (DEC 2004)**

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

United States means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.

- (b) Except as provided in paragraph (e) of this clause, during the term of this contract, the Contractor shall post a notice, in the form of a poster, informing employees of their rights concerning union membership and payment of union dues and fees, in conspicuous places in and about all its plants and offices, including all places where notices to employees are customarily posted. The notice shall include the following information (except that the information pertaining to National Labor Relations Board shall not be included in notices posted in the plants or offices of carriers subject to the Railway Labor Act, as amended (45 U.S.C. 151-188)).

Notice to Employees

Under Federal law, employees cannot be required to join a union or maintain membership in a union in order to retain their jobs. Under certain conditions, the law permits a union and an employer to enter into a union-security agreement requiring employees to pay uniform periodic dues and initiation fees. However, employees who are not union members can object to the use of their payments for certain purposes and can only be required to pay their share of union costs relating to collective bargaining, contract administration, and grievance adjustment.

If you do not want to pay that portion of dues or fees used to support activities not related to collective bargaining, contract administration, or grievance adjustment, you are entitled to an appropriate reduction in your payment. If you believe that you have been required to pay dues or fees used in part to support activities not related to collective bargaining, contract administration, or grievance adjustment, you may be entitled to a refund and to an appropriate reduction in future payments.

For further information concerning your rights, you may wish to contact the National Labor Relations Board (NLRB) either at one of its Regional offices or at the following address or toll free number:

National Labor Relations Board

Division of Information

1099 14th Street, N.W.

Washington, DC 20570

1-866-667-6572

To locate the nearest NLRB office, see NLRB's website at <http://www.nlr.gov>.

(c) The Contractor shall comply with all provisions of Executive Order 13201 of February 17, 2001, and related implementing regulations at 29 CFR part 470, and orders of the Secretary of Labor.

(d) In the event that the Contractor does not comply with any of the requirements set forth in paragraphs (b), (c), or (g), the Secretary may direct that this contract be cancelled, terminated, or suspended in whole or in part, and declare the Contractor ineligible for further Government contracts in accordance with procedures at 29 CFR part 470, Subpart B--Compliance Evaluations, Complaint Investigations and Enforcement Procedures. Such other sanctions or remedies may be imposed as are provided by 29 CFR part 470, which implements Executive Order 13201, or as are otherwise provided by law.

(e) The requirement to post the employee notice in paragraph (b) does not apply to--

(1) Contractors and subcontractors that employ fewer than 15 persons;

(2) Contractor establishments or construction work sites where no union has been formally recognized by the Contractor or certified as the exclusive bargaining representative of the Contractor's employees;

(3) Contractor establishments or construction work sites located in a jurisdiction named in the definition of the United States in which the law of that jurisdiction forbids enforcement of union-security agreements;

(4) Contractor facilities where upon the written request of the Contractor, the Department of Labor Deputy Assistant Secretary for Labor-Management Programs has waived the posting requirements with respect to any of the Contractor's facilities if the Deputy Assistant Secretary finds that the Contractor has demonstrated that--

(i) The facility is in all respects separate and distinct from activities of the Contractor related to the performance of a contract; and

(ii) Such a waiver will not interfere with or impede the effectuation of the Executive order; or

(5) Work outside the United States that does not involve the recruitment or employment of workers within the United States.

(f) The Department of Labor publishes the official employee notice in two variations; one for contractors covered by the Railway Labor Act and a second for all other contractors. The Contractor shall--

(1) Obtain the required employee notice poster from the Division of Interpretations and Standards, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N-5605, Washington, DC 20210, or from any field office of the Department's Office of Labor-Management Standards or Office of Federal Contract Compliance Programs;

(2) Download a copy of the poster from the Office of Labor-Management Standards website at <http://www.olms.dol.gov>; or

(3) Reproduce and use exact duplicate copies of the Department of Labor's official poster.

(g) The Contractor shall include the substance of this clause in every subcontract or purchase order that exceeds the simplified acquisition threshold, entered into in connection with this contract, unless exempted by the Department of Labor Deputy Assistant Secretary for Labor-Management Programs on account of special circumstances in the national interest under authority of 29 CFR 470.3(c). For indefinite quantity subcontracts, the Contractor shall include the substance of this clause if the value of

orders in any calendar year of the subcontract is expected to exceed the simplified acquisition threshold. Pursuant to 29 CFR part 470, Subpart B--Compliance Evaluations, Complaint Investigations and Enforcement Procedures, the Secretary of Labor may direct the Contractor to take such action in the enforcement of these regulations, including the imposition of sanctions for noncompliance with respect to any such subcontract or purchase order. If the Contractor becomes involved in litigation with a subcontractor or vendor, or is threatened with such involvement, as a result of such direction, the Contractor may request the United States, through the Secretary of Labor, to enter into such litigation to protect the interests of the United States.

**52.249-8 DEFAULT (FIXED-PRICE SUPPLY AND SERVICE) (FT) (APR 1984) ALTERNATE II (DEVIATION)**

Modify the clause as follows:

(a) The word "supplies" as used in this clause includes the term "vessel(s)" and has the definition stated in the clause entitled "INSPECTION OF SUPPLIES--FIXED-PRICE."

(b) At the end of paragraph (b), add the following:

"In addition to its other remedies, the Government may, by contract or otherwise, with respect to work terminated as permitted in this clause, proceed with the completion of the vessel(s) and supplies at such plant or plants, including that of the Contractor, as may be designated by the Contracting Officer. If the vessel(s) and other supplies are to be completed at the Contractor's plant, the Government may use all tools, machinery, facilities and equipment of the Contractor determined by the Contracting Officer to be necessary for that purpose. The Government shall also have the right, in the event performance is completed at the Contractor's plant, to procure any additional supplies, tools, machinery, facilities, and equipment that are necessary to complete the vessel(s) and other supplies. If the cost to the Government of completing the vessel(s) and other supplies or procuring supplies similar to those terminated (after adjusting such cost to exclude the effect of changes in the plans and specifications made subsequent to the date of termination) exceeds the price fixed for such vessel(s) and other supplies under this contract (after adjusting such price on account of changes in the plans and specifications made prior to the date of termination), the Contractor, or its surety, if any, shall be liable for such excess."

(c) In the first sentence of paragraph (c), after the word "costs", insert the phrase "or other damages".

(d) In the first sentence of paragraph (e), after the word "title", insert the phrase "(insofar as not previously transferred)."

**252.226-7001 UTILIZATION OF INDIAN ORGANIZATIONS AND INDIAN-OWNED ECONOMIC ENTERPRISES, AND NATIVE HAWAIIAN SMALL BUSINESS CONCERNS (SEP 2004)**

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

Indian means--

(1) Any person who is a member of any Indian tribe, band, group, pueblo, or community that is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs (BIA) in accordance with 25 U.S.C. 1452(c); and

(2) Any "Native" as defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

Indian organization means the governing body of any Indian tribe or entity established or recognized by the governing body of an Indian tribe for the purposes of 25 U.S.C. chapter 17.

Indian-owned economic enterprise means any Indian-owned (as determined by the Secretary of the Interior) commercial, industrial, or business activity established or organized for the purpose of profit, provided that Indian ownership constitutes not less than 51 percent of the enterprise.

Indian tribe means any Indian tribe, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, that is recognized by the Federal Government as eligible for services from BIA in accordance with 25 U.S.C. 1452(c).

Interested party means a contractor or an actual or prospective offeror whose direct economic interest would be affected by the award of a subcontract or by the failure to award a subcontract.

Native Hawaiian small business concern means an entity that is--

(1) A small business concern as defined in section 3 of the Small Business Act (15 U.S.C. 632) and relevant implementing regulations; and

(2) Owned and controlled by a Native Hawaiian as defined in 25 U.S.C. 4221(9).

(b) The Contractor shall use its best efforts to give Indian organizations, Indian-owned economic enterprises, and Native Hawaiian small business concerns the maximum practicable opportunity to participate in the subcontracts it awards, to the fullest extent consistent with efficient performance of the contract.

(c) The Contracting Officer and the Contractor, acting in good faith, may rely on the representation of an Indian organization, Indian-owned economic enterprise, or Native Hawaiian small business concern as to its eligibility, unless an interested party challenges its status or the Contracting Officer has independent reason to question that status.

(d) In the event of a challenge to the representation of a subcontractor, the Contracting Officer will refer the matter to--

(1) For matters relating to Indian organizations or Indian-owned economic enterprises: U.S. Department of the Interior, Bureau of Indian Affairs, Attn: Chief, Division of Contracting and Grants Administration, 1849 C Street NW, MS-2626-MIB, Washington, DC 20240-4000. The BIA will determine the eligibility and will notify the Contracting Officer.

(2) For matters relating to Native Hawaiian small business concerns: Department of Hawaiian Home Lands, PO Box 1879, Honolulu, HI 96805. The Department of Hawaiian Home Lands will determine the eligibility and will notify the Contracting Officer.

(e) No incentive payment will be made--

(1) While a challenge is pending; or

(2) If a subcontractor is determined to be an ineligible participant.

(f)(1) The Contractor, on its own behalf or on behalf of a subcontractor at any tier, may request an incentive payment in accordance with this clause.

(2) The incentive amount that may be requested is 5 percent of the estimated cost, target cost, or fixed price included in the subcontract at the time of award to the Indian organization, Indian-owned economic enterprise, or Native Hawaiian small business concern.

(3) In the case of a subcontract for commercial items, the Contractor may receive an incentive payment only if the subcontracted items are produced or manufactured in whole or in part by an Indian organization, Indian-owned economic enterprise, or Native Hawaiian small business concern.



(4) The Contractor has the burden of proving the amount claimed and shall assert its request for an incentive payment prior to completion of contract performance.

(5) The Contracting Officer, subject to the terms and conditions of the contract and the availability of funds, will authorize an incentive payment of 5 percent of the estimated cost, target cost, or fixed price included in the subcontract awarded to the Indian organization, Indian-owned economic enterprise, or Native Hawaiian small business concern.

(6) If the Contractor requests and receives an incentive payment on behalf of a subcontractor, the Contractor is obligated to pay the subcontractor the incentive amount.

(g) The Contractor shall insert the substance of this clause, including this paragraph (g), in all subcontracts exceeding \$500,000.

## **REFERENCED CLAUSES**

Pursuant to Buyer's Prime Contract with the U.S. Government and Buyer's acquisition policies, the following Clauses are included in this SUBCONTRACT and/or DELIVERY ORDER, unless by their express provisions they are not applicable to this particular Seller or SUBCONTRACT and/or DELIVERY ORDER. "FAR" refers to the Clauses in Part 52 of the Federal Acquisition Regulation (FAR), Chapter 1, Title 48 of the Code of Federal Regulations (CFR). "DFARS" refers to the Clauses at Part 252 of the DOD FAR Supplement (DFARS), Chapter 2, Title 48 of the CFR. "NAPS" refers to the Clauses at Part 5252 of the Navy Acquisition Procedure Supplement (NAPS), Chapter 52, Title 48 of the CFR. The FAR/DFARS/NAPS Clauses incorporated herein are those in effect as of the effective date of the Buyer's prime contract under which this order is placed, unless a date notation appears in the Clause title. When the date is so indicated, the Clause in effect on that date is incorporated into the SUBCONTRACT. Further, any reference in any of these Clauses to any Disputes Clause or provision shall be read instead to only mean the Clause entitled "Disputes", contained in the Shipyard Specific Terms and Conditions, Attachment A-2.

### **FAR Reference Clause Title**

52.203-3 GRATUITIES

52.203-5 COVENANT AGAINST CONTINGENT FEES

52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT

52.203-7 ANTI-KICKBACK PROCEDURES

52.203-8 CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY

52.203-10 PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY

52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS

52.203-13 CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT

(APPLIES IF THIS CONTRACT EXCEEDS \$100,000.)

52.204-2 SECURITY REQUIREMENTS

52.204-7 CENTRAL CONTRACTOR REGISTRATION

52.204-9 PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL

52.204-10 REPORTING SUBCONTRACT AWARDS

52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED,

SUSPENDED, OR PROPOSED FOR DEBARMENT

52.209-10 PROHIBITION ON CONTRACTING WITH INVERTED DOMESTIC CORPORATIONS

52.211-5 MATERIAL REQUIREMENTS

52.211-15 DEFENSE PRIORITY AND ALLOCATION REQUIREMENTS

52.215-2 AUDIT AND RECORDS - NEGOTIATION

52.215-10 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA

52.215-11 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA - MODIFICATIONS

52.215-12 SUBCONTRACTOR COST OR PRICING DATA

52.215-14 INTEGRITY OF UNIT PRICES AND ALTERNATE 1

52.215-15 PENSION ADJUSTMENTS AND ASSET REVERSIONS

52.215-18 REVERSION OR ADJUSTMENT OF PLANS FOR POST RETIREMENT BENEFITS (PRB) OTHER THAN PENSIONS

(PRB)

52.215-19 NOTIFICATION OF OWNERSHIP CHANGES

52.215-21 REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA-MODIFICATIONS AND Alt II AND Alt III

52.215-23 LIMITATIONS ON PASS-THROUGH CHARGES

52.219-8 UTILIZATION OF SMALLBUSINESS CONCERNS

52.219-9 SMALLBUSINESS SUBCONTRACTING PLAN AND ALTERNATE II

52.219-25 SMALL DISADVANTAGED BUSINESS PARTICIPATION PROGRAM-DISADVANTAGED STATUS AND REPORTING

52.219.28 POST-AWARD SMALL BUSINESS PROGRAM REPRESENTATION

52.222-1 NOTICE TO THE GOVERNMENT OF LABOR DISPUTES

52.222-3 CONVICT LABOR

52.222-4 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT - OVERTIME COMPENSATION

52.222-19 CHILD LABOR-COOPERATION WITH AUTHORITIES AND REMEDIES

52.222-20 WALSH - HEALEY PUBLIC CONTRACTS ACT

52.222-21 PROHIBITION OF SEGREGATED FACILITIES

52.222-26 EQUAL OPPORTUNITY

52.222-35 EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER

ELIGIBLE VETERANS

52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES

52.222-37 EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA AND

OTHER ELIGIBLE VETERANS

52.222-40 NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATION ACT

52.222-50 COMBATING TRAFFICKING IN PERSONS

52.222.54 EMPLOYMENT ELIGIBILITY VERIFICATION

52.223-6 DRUG-FREE WORKPLACE

52.223-11 OZONE-DEPLETING SUBSTANCES

52.223-12 REFRIGERATION EQUIPMENT AND AIR CONDITIONERS

52.223-18 CONTRACTOR POLICY TO BAN TEXT MESSAGING WHILE DRIVING

52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES

52.227-1 AUTHORIZATION AND CONSENT

52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT

52.227-10 FILING OF PATENT APPLICATIONS - CLASSIFIED SUBJECT MATTER

52.229-3 FEDERAL STATE AND LOCAL TAXES

52.229-6 TAXES—FOREIGN FIXED-PRICE CONTRACTS

52.229-10 STATE OF NEW MEXICO GROSS RECEIPTS AND COMPENSATING TAX

52.230-2 COST ACCOUNTING STANDARDS

52.230-6 ADMINISTRATION OF COST ACCOUNTING STANDARDS

52.232-11 EXTRAS

52.232-17 INTEREST

52.232-23 ASSIGNMENT OF CLAIMS AND ALTERNATE I

52.233-1 DISPUTES AND ALTERNATE I

52.234-1 INDUSTRIAL RESOURCES DEVELOPED UNDER DEFENSE PRODUCTION ACT TITLE III

52.242-3 PENALTIES FOR UNALLOWABLE COSTS

52.242-13 BANKRUPTCY

52.244-5 COMPETITION IN SUBCONTRACTING

52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS

52.245-1 GOVERNMENT PROPERTY

52.245-9 USE AND CHARGES

52.246-24 LIMITATION OF LIABILITY –HIGH VALUE ITEMS

52.247-63 PREFERENCE FOR U.S. FLAG AIR CARRIERS

52.247-64 PREFERENCE FOR PRIVATELY OWNED U.S. FLAG COMMERCIAL VESSELS AND ALTERNATE 1

52.248-1 VALUE ENGINEERING

52.249-2 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED PRICE)

52.252-2 CLAUSES INCORPORATED BY REFERENCE

**DFAR Reference Clause Title**

252.203-7001 SPECIAL PROHIBITION ON EMPLOYMENT

252.203-7002 REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS

252.204-7000 DISCLOSURE OF INFORMATION

252.204-7008 EXPORT-CONTROLLED ITEMS

252.211-7000 ACQUISITION STREAMLINING

252.215-7000 PRICING ADJUSTMENTS

252.215-7002 COST ESTIMATING SYSTEM REQUIREMENTS

252.219-7003 SMALL, SMALL DISADVANTAGED AND WOMEN-OWNED SMALL BUSINESS SUBCONTRACTING PLAN (DOD

CONTRACTS)

252.222-7006 RESTRICTIONS ON THE USE OF MANDATORY ARBITRATION AGREEMENTS

252.223-7001 HAZARD WARNING LABELS

252.223-7002 SAFETY PRECAUTIONS FOR AMMUNITION AND EXPLOSIVES

252.223-7003 CHANGE IN PLACE OF PERFORMANCE - AMMUNITION AND EXPLOSIVES

252.223-7004 DRUG-FREE WORK FORCE

252.223-7008 PROHIBITION OF HEXAVALENT CHROMIUM

252.225-7001 BUY AMERICAN ACT AND BALANCE OF PAYMENTS PROGRAM

252.225-7002 QUALIFYING COUNTRY SOURCES AS SUBCONTRACTORS

252.225-7004 REPORT OF CONTRACT PERFORMANCE OUTSIDE THE US AND CANADA – SUBMISSION AFTER AWARD

252.225-7006 QUARTERLY REPORTING OF ACTUAL CONTRACT PERFORMANCE OUTSIDE THE US

252.225-7007 PROHIBITION ON ACQUISITION OF UNITED STATES MUNITIONS LIST ITEMS FROM COMMUNIST CHINESE MILITARY COMPANIES

252.225-7009 RESTRICTIONS ON ACQUISITION OF CERTAIN ARTICLES CONTAINING SPECIALTY METALS

252.225-7012 PREFERENCE FOR CERTAIN DOMESTIC COMMODITIES

252.225-7013 DUTY FREE ENTRY

252.225-7015 RESTRICTION ON ACQUISITION OF HAND OR MEASURING TOOLS

252.225-7016 RESTRICTION ON ACQUISITION OF BALL AND ROLLER BEARINGS

252.225-7019 RESTRICTION ON ACQUISITION OF FOREIGN ANCHOR AND MOORING CHAIN

252.225-7021 TRADE AGREEMENTS

252.225-7025 RESTRICTION ON ACQUISITION OF FORGINGS

252.225-7030 RESTRICTION ON ACQUISITION OF CARBON, ALLOY, AND ARMOR STEEL PLATE

252.225-7033 WAIVER OF UNITED KINGDOM LEVIES

252.225-7036 BUY AMERICAN—FREE TRADE AGREEMENT—BALANCE OF PAYMENTS PROGRAM

252.225-7038 RESTRICTION ON ACQUISITION OF AIR CIRCUIT BREAKERS

252.225-7041 CORRESPONDENCE IN ENGLISH

252.225-7042 AUTHORIZATION TO PERFORM

252.227-7013 RIGHTS IN TECHNICAL DATA - NONCOMMERCIAL ITEMS

252.227-7014 RIGHTS IN NONCOMMERCIAL COMPUTER SOFTWARE AND NONCOMMERCIAL SOFTWARE

DOCUMENTATION

252.227-7016 RIGHTS IN BID OR PROPOSAL INFORMATION

252.227-7019 VALIDATION OF ASSERTED RESTRICTIONS - COMPUTER SOFTWARE

252.227-7025 LIMITATIONS ON THE USE OR DISCLOSURE OF GOVERNMENT FURNISHED INFORMATION MARKED WITH RESTRICTIVE LEGENDS

252.227-7027 DEFERRED ORDERING OF TECHNICAL DATA OR COMPUTER SOFTWARE

252.227-7030 TECHNICAL DATA-WITHHOLDING OF PAYMENT

252.227-7037 VALIDATION OF RESTRICTIVE MARKINGS ON TECHNICAL DATA

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252.229-7006 VALUE ADDED TAX EXCLUSION (UNITED KINGDOM)

252.231-7000 SUPPLEMENTAL COST PRINCIPLES

252.234-7004 COST AND SOFTWARE DATA REPORTING SYSTEM

252.235-7003 FREQUENCY AUTHORIZATION

252.239-7000 PROTECTION AGAINST COMPROMISING EMANATIONS

252.239-7016 TELECOMMUNICATIONS SECURITY EQUIPMENT, DEVICES, TECHNIQUES, AND SERVICES

252.243-7001 PRICING OF CONTRACT MODIFICATIONS

252.244-7000 SUBCONTRACTS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS (DOD CONTRACTS)

252.245-7001 TAGGING, LABELING AND MARKING OF GOVERNMENT-FURNISHED PROPERTY

252.246-7001 WARRANTY OF DATA AND ALTERNATE I

252.246-7003 NOTIFICATION OF POTENTIAL SAFETY ISSUES

252.247-7023 TRANSPORTATION OF SUPPLIES BY SEA

252.247-7024 NOTIFICATION OF TRANSPORTATION OF SUPPLIES BY SEA

252.249-7002 NOTIFICATION OF ANTICIPATED PROGRAM TERMINATION OR REDUCTION

**ADDITIONAL NOTE:**

**IN THE EVENT ADDITIONAL OR REVISED CLAUSES ARE INVOKED INTO BUYER'S PRIME CONTRACT UPON AWARD, SUCH CLAUSES SHALL BE FLOWED DOWN TO AND ACCEPTED BY SELLER AS APPLICABLE.**