



NAC#5_F05_Terms and Conditions

TERMS & CONDITIONS

1. THE CONTRACT:

(a) The Contract ("Contract") is defined as the Purchase Order ("PO") issued by North American Controls, Inc. ("Buyer") to Seller and all documents referenced therein, including without limitation: drawings, specifications, instructions, quality assurance requirements, and any other document referenced therein. Buyer may from time to time include new or updated documents or exclude documents to add clarity to the Contract. Seller shall only rely on written instructions given by Buyer's Authorized Procurement Representative. For purposes of these Purchase Order Terms and Conditions, the term "Goods" shall mean any items, software, services and/or technical data ordered by Buyer from the Seller under the Contract.

(b) The documents ("Contract Documents") listed below form the agreement between Buyer and Seller (the "Contract") and supersede any prior or contemporaneous written/oral agreements pertaining thereto. If there is any conflict or inconsistency between the provisions in one or more of the Contract Documents, then such conflict or inconsistency shall be resolved by giving precedence to the following descending order of precedence:

- i) the face of the Purchase Order;
- ii) these Terms and Conditions, in no particular order;
- iii) the statement of work (if applicable);
- iv) the specifications (if applicable); and
- v) all other annexes, attachments, exhibits or documents in the order provided.

(c) This Contract may only be modified by a Contract Amendment issued in writing and signed by Buyer's Representative. Any terms or conditions proposed by Seller which are inconsistent with or in addition to the terms and conditions in the Contract Documents shall be void and of no effect unless specifically agreed to in writing by Buyer's Representative.

2. ACCEPTANCE:

The acceptance by Seller that forms the Contract shall be deemed conclusively to have occurred upon Seller's acknowledgement and acceptance of the PO, Seller's shipment of any Goods, Seller's performance of any services under the PO, or Seller's commencement of any work on Goods covered by the Contract, whichever occurs first. By acceptance of the PO, Seller agrees to an unqualified acceptance and to comply with all terms and conditions of the Contract. Any terms or conditions that Seller proposes that are in addition to or differ in any way than those contained in these Purchase Order Terms and Conditions shall be void, unless agreed to in writing by Buyer's Authorized Procurement Representative. Seller agrees that Buyer's acceptance of or payment for any Goods or similar act of Buyer shall not be claimed or construed to constitute agreement or consent to any additional or differing terms or conditions proposed by Seller or a waiver of any of these Purchase Order Terms and Conditions.

3. DELIVERY:

(a) Contract delivery schedules and quantities are a material condition of this Contract, and Seller's failure to meet Contract delivery schedules or quantities shall be considered a material breach. Any shipments that deviate from the Contract delivery schedule are subject to the Buyer's rejection, and Seller will be responsible for the cost incurred by Buyer to store and/or to ship the Goods. Once Buyer gives notice of the rejection of the Goods, the risk of loss and damage to the Goods is with the Seller. Any acceptance of deliveries late to the Contract delivery schedule will not waive Buyer's rights.

(b) If Seller fails to make delivery in accordance with the Contract delivery schedule, Buyer will have the option of terminating this Contract in accordance with ¶ 19, TERMINATION FOR DEFAULT, or assessing 0.5% of the unit price per day, as liquidated damages and not as a penalty. Any such liquidated damages shall start no sooner than the fifth (5th) day after the Purchase Order Promise Date, and continue until and including the date on which the Product(s) is delivered to Buyer, not to exceed 20% of the unit price. Any liquidated damages assessed to Seller will be debited from Seller's account and may be set off against any other amount owed to Seller by Buyer. For the avoidance of doubt, liquidated damages or termination are the agreed-upon remedies for delay, but are without limitation as to other remedies available to Buyer under the contract at law or equity for other breaches of contract.

(c) In the event of any anticipated or actual delay in meeting the Contract delivery schedule, Seller shall:

- (i) Promptly notify Buyer in writing of the reasons for the delay and the actions being taken to overcome or minimize the delay;
- (ii) Provide Buyer with a written recovery schedule; and
- (iii) If requested by Buyer, ship via air or expedited routing to avoid or minimize delay to the maximum extent possible (unless Seller is excused from prompt performance as provided in ¶ 16, EXCUSABLE DELAYS). Seller will be solely responsible for the full cost of expediting any shipment(s) of such goods, at Buyer's sole discretion.

(d) Any information provided by Seller regarding any anticipated or actual delay in meeting the Contract delivery schedule is informational only and shall not be construed as a waiver by Buyer of any of Buyer's rights or remedies provided by law or the Contract.

(e) Goods fabricated in excess or in advance of Buyer's Blanket release are at Seller's risk unless otherwise authorized in writing by Buyer. Buyer reserves the right, without loss of discount privileges, to pay invoices covering Goods shipped in advance of the schedule of the normal maturity after the date specified for delivery.

4. CONTRACT FLOWDOWN:

Seller must flow down to any sub-tier suppliers: all applicable Quality Clauses, these Purchase Order Terms & Conditions, and if required, any key characteristics of drawings and Technical Data Package ("TDP").

5. FORCE MAJEURE

a) Neither Party shall be liable for failure to perform under this Contract, if any delay or failure to perform arises solely out of causes that:

- (i) could not be reasonably foreseen and prevented by the Party;
- (ii) are beyond the reasonable control of the Party; and
- (iii) occur without the fault or negligence of the Party.

b) Such causes may include, but are not limited to, acts of God, actions by any governmental authority (whether valid or invalid), fires, floods, windstorms, explosions, riots, natural disasters, wars, strikes, sabotage, or court injunction or order ("Force Majeure").

c) In order for the provisions of this Article 1.5 to apply to a particular Force Majeure, the affected Party must:

- (i) use its best efforts to minimize the Force Majeure, and
- (ii) provide written notice of such Force Majeure to the other Party within ten (10) business days after the beginning of such Force Majeure. The written notice shall include the facts giving rise to the Force Majeure, the anticipated duration of the Force Majeure, and a proposed work-around plan to minimize the impact. Seller shall implement any work-around plan approved by Buyer.

d) During the period of such Force Majeure, Buyer may, at its option, in addition to any other remedies Buyer may have under this Contract, by law or in equity:

- (i) purchase Goods from other sources and reduce the quantities of Goods required from Seller, without any liability to Seller; or



NAC#5_F05_Terms and Conditions

- (ii) extend the date for performance by a reasonable time not exceeding the duration of the delay or performance failure.
- e) During the period of the Force Majeure, Seller shall continue to perform all work under this Contract that is not directly affected by the Force Majeure.
- f) Buyer will not be responsible for any costs incurred by Seller or any of its subcontractors as a result of the Force Majeure.

6. INSPECTION:

(a) Buyer and Buyer's customer shall have the right to inspect and test any Goods supplied under the Contract at any reasonable time during the manufacture or fabrication thereof at Seller's facilities or elsewhere. Such inspection may include, without limitation, raw materials, components, work in process, and completed products as well as drawings, specifications, and released data. Final inspection and acceptance shall be after delivery to the delivery point designated by Buyer. If any inspection or test is made by Buyer at Seller's facility or elsewhere, Seller shall provide reasonable facilities and assistance for the inspection personnel. Buyer may reject all Goods supplied under the Contract that are found to be defective and may return the Goods to Seller at Seller's expense. Under no circumstances will any inspection, examination, or test, or any approval given in connection with any such inspection, examination, or test, whether by Buyer or Buyer's customer and whether under the Contract or another contract for the same or similar goods, relieve Seller of any obligation to comply fully with all requirements of the Contract, including the obligation to deliver Goods that conform to all requirements of the drawings, specifications, and other Contract documents. At Buyer's request, Seller shall repair or replace defective Goods at Seller's expense. Failure to inspect goods, failure to discover defects in Goods, or payment for Goods shall not constitute acceptance or limit any of Buyer's rights or remedies, including, without limitation, those under ¶ 8, WARRANTY. In the event inspection reveals any defect and schedule urgency requires that the defect be corrected by Buyer, all cost of such correction, including, without limitation, installation and removal, will be charged to Seller. Such charges will also include time and material and appropriate indirect and overhead expenses incurred by Buyer.

(b) Seller shall maintain an inspection system acceptable to Buyer covering the Goods furnished under the Contract. Seller shall permit Buyer to review procedures, practices, processes, and related documents to determine such acceptability. Seller shall keep records evidencing inspections and their results and shall make these records available to Buyer and Buyer's customer, where applicable, during Contract performance and for seven years after final payment.

7. SELLER'S NOTICE OF DISCREPANCIES:

Seller shall immediately notify Buyer in writing when there are discrepancies in Seller's processes relating to the Goods, including but not limited to production, inspection or quality processes, or when defects or nonconformity in Goods are suspected or discovered, regardless of whether the Goods have been or will be delivered under the Contract.

8. WARRANTY:

Seller warrants that Goods ordered to specifications will conform to the Contract, including all specifications and drawings, and will be fit and sufficient for the purpose intended, and that all Goods are merchantable, of good material and workmanship, and free from defect. Such warranties, together with Seller's service warranties and guarantees, if any, shall survive inspection, test, acceptance of, and payment for the Goods and shall run to Buyer, its successors, assigns, customers at any tier, and ultimate end user and joint users. Notices of any defects or nonconformity shall be given by the Buyer to the Seller within fifteen (15) months after acceptance by the ultimate end user. Buyer's rights and remedies concerning latent defects shall exist indefinitely and shall not be affected in any way by any terms and conditions of this Contract, including this ¶ 8.

9. REMEDIES:

In addition to any other remedies established in this Contract or under applicable law, if the Goods or any part or portion thereof, in Buyer's judgment, fail to pass inspection, fail to meet warranty, or fail to conform to the requirements of the Contract, including with respect to timeliness of delivery (each such failure a "Non-Conformance" and each such Good a "Non-Conforming Good"), Buyer may do any or all of the following:

(a) Reject or return Non-Conforming Goods. As to returned Non-Conforming Goods (and as to rejected Non-Conforming Goods, but only if Buyer so directs), Seller shall promptly, at its expense, and at Buyer's election, repair or replace such Non-Conforming Goods. Seller shall be responsible for Buyer's cost of removal and reinstallation of such Non-Conforming Goods and for all costs and expenses (including without limitation labor costs and third party inspection costs) incurred by Buyer in connection with the inspection and discovery of such Non-Conforming Goods, identifying and correcting the cause of any Non-Conformance, and all other activities reasonably undertaken by Buyer to obtain conforming Goods or attempting to obtain from the ultimate end user a waiver to permit the Non-Conforming Goods to be used. In addition, Seller acknowledges that the delivery of Non-Conforming Goods is very disruptive to Buyer's production processes, planning and scheduling, workflow, and resource allocation, among other things. Seller acknowledges that these disruptions impose substantial additional harms on Buyer and that the costs flowing from those harms are inherently difficult to quantify. Accordingly, in addition to recovering the costs identified above, for each Non-Conforming Good, Buyer shall have the right to assess as liquidated damages, and not as a penalty, 5% of the unit price for each Non-Conforming Good or \$1,000, whichever is less.

(b) Upon rejection of Non-Conforming Goods or Seller's failure to promptly repair or replace such Non-Conforming Goods, Buyer may cancel this Contract and/or purchase goods or services in substitution for those due from Seller and recover from Seller the difference between the cost of cover and the Contract price together with any incidental or consequential damages, notwithstanding anything to the contrary in this Contract.

(c) Goods rejected may, at Buyer's election, be returned to Seller at Seller's expense. If notice of rejection or return is given by Buyer to Seller, incidental expenses and the risk of loss or damage to such rejected or returned Goods shall be borne by Seller. In addition, Buyer may charge Seller all costs and expenses of unpacking, examining, repacking, and reshipping such Goods. Buyer reserves the right to require repayment, or effect a setoff against any amounts owed to Seller (irrespective of whether such amounts owed are in connection with this Contract or not), of any expenses incurred by Buyer resulting from rejection or return.

(d) Accept or retain Non-Conforming Goods and, at Buyer's election, either equitably reduce the purchase price of those Goods or repair them at Seller's expense.

10. BUYER'S PROPERTY:

(a) All supplies, materials, tools, jigs, dies, gauges, fixtures, molds, patterns, equipment and other items furnished by Buyer, either directly or indirectly, to Seller to perform this Contract, or for which Seller has been reimbursed by Buyer, shall be and remain the property of Buyer and shall be held by Seller on a bailment basis ("Buyer's Property"). Seller shall bear the risk of loss of and damage to Buyer's Property. Seller shall indemnify and save harmless Buyer from all liens and claims upon Buyer's Property arising from any cause.

(b) Buyer's Property shall

- i. at all times be properly and safely stored and maintained in good condition, reasonable wear and tear excepted, at Seller's expense;
- ii. not be used by Seller for any purpose other than for the performance of this Contract;
- iii. be deemed to be personal property and shall not be attached or affixed to real property;



NAC#5_F05_Terms and Conditions

- iv. be recorded by Seller and conspicuously marked by Seller as the property of Buyer;
 - v. not be commingled with the property of Seller or with that of any other person; and
 - vi. not be moved from Seller's premises without the prior written approval of Buyer's Representative.
- (c) Buyer shall have the right to enter Seller's premises at all reasonable times to inspect Buyer's Property and Seller's records with respect thereto. Upon the request of Buyer, Buyer's Property shall be immediately released to Buyer or delivered to Buyer by Seller, either:
- i. F.O.B. or F.C.A. (as applicable) - Seller's address on the face of the Purchase Order (Incoterms, 2010), properly packed and marked in accordance with the requirements of the carrier selected by Buyer to transport such property, or
 - ii. as otherwise directed to any location designated by Buyer, in which event Buyer shall pay to Seller the reasonable costs of delivering Buyer's Property in such manner and to such location. When permitted by law, Seller waives any lien or other rights that Seller might otherwise have on any of Buyer's Property for work performed on such property or otherwise.

11. CHANGES:

- (a) Buyer may at any time, by written notice to Seller, make changes under this Contract, including without limitation changes to quantity, schedule and/or specifications. If such change increases or decreases the cost or time required to perform this Contract, the parties shall negotiate an equitable adjustment in the price or schedule, or both, to reflect the increase or decrease.
- (b) Seller shall assert any claim for adjustment to Buyer's Authorized Procurement Representative in writing within twenty (20) calendar days of receiving direction of a change from the Buyer and shall deliver a fully supported proposal to Buyer's Authorized Procurement Representative within sixty (60) calendar days after Seller's receipt of such direction.
- (c) Based on the Seller's claim, Buyer reserves the right to:
- (i) Accept Seller's claim and amend the PO accordingly;
 - (ii) Dispose of obsolete or excess property as a result of the change; and/or
 - (iii) Request the appropriate Government agency to perform an assist audit, in which event Seller shall provide current, complete, and accurate accounting records properly documenting the cost changes within ten (10) calendar days of a request by Buyer or the appropriate Government agency and include a copy for Buyer.
- (d) For any claim \$100,000 or greater, Seller shall be required to submit a signed certificate that states as follows: I certify that the claim is made in good faith that the supporting data are current, accurate, and complete to the best of my knowledge and belief, that the amount requested accurately reflects the Contract adjustment for which {Seller} believes Buyer is liable, and that I am duly authorized to certify the claim on behalf of {Seller}.
- (e) Seller must perform in accordance with Buyer's direction pending the submission and resolution of any claim for adjustment. Under no circumstances shall a failure of the parties to agree upon any adjustment excuse the Seller from performing in accordance with Buyer's direction.

12. STOP WORK ORDER:

Buyer may at any time, by written notice to Seller, require Seller to stop all or any part of the work called for by this Contract for a period of up to ninety (90) business days after the notice is delivered to Seller ("Stop Work Order"). Upon receipt of the Stop Work Order, Seller shall immediately comply and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the Stop Work Order during the period of work stoppage. Within a period of ninety (90) business days after a Stop Work Order is delivered to Seller, or within any extension of that period to which the parties have agreed, Buyer shall either cancel the Stop Work Order, or terminate the work covered by the Contract as provided in ¶ 19, TERMINATION FOR DEFAULT or ¶ 20, TERMINATION FOR CONVENIENCE, whichever may be deemed appropriate in Buyer's sole discretion. Seller shall resume work immediately upon cancellation or expiration of any Stop Work Order. If Seller delivers to Buyer a request for equitable adjustment to the Contract's delivery schedule or price (or both) within the period set forth in ¶ 14, CHANGES, Buyer may agree to an adjustment if the Stop Work Order has resulted in an increase in the time required for the performance of the PO or in Seller's costs properly allocable to the PO. The amount of any adjustment in the Contract price shall be determined as provided in ¶ 14, CHANGES.

13. NOTICE TO BUYER OF LABOR DISPUTES:

Whenever Seller has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this Contract, Seller shall immediately give notice, including all relevant information, to Buyer.

14. CONTRACT CANCELLATION:

By written notice and without a cure period, Buyer may cancel the whole Contract, or any part of this Contract, in the event of the suspension of Seller's business, insolvency of Seller, institution of bankruptcy, liquidation proceedings by or against Seller, appointment of a trustee or receiver for Seller's property or business, any assignment, reorganization, or arrangement by Seller for the benefit of creditors, or the debarment or suspension of Seller by any Government agency. Buyer's remedies in the event of a cancellation of the Contract pursuant to this ¶ 18 shall be the same as set forth in ¶ 19, TERMINATION FOR DEFAULT.

15. TERMINATION FOR DEFAULT:

- (a) Buyer may, by written notice to Seller, terminate all or any part of this Contract for default if Seller fails to:
- (i) make full delivery of the Goods or perform this Contract within the time specified in the Contract;
 - (ii) deliver Goods that conform in all respects with the specifications and quality requirements set forth in the Contract;
 - (iii) perform any of its other obligations set forth in the Contract; or
 - (iv) take any action or inaction that endangers performance of this Contract and fail to cure such situation within a period of ten (10) calendar days after receipt of notice from Buyer. If only part of the Contract is terminated, Seller is not excused from performance of the non-terminated part of the Contract.
- (b) In the event Buyer terminates this Contract in whole or in part as provided in subparagraph (a) above, Buyer may procure, upon such terms and in such manner as Buyer may deem appropriate, Goods similar to those so terminated, and Seller shall be liable to Buyer for any excess costs for the same, including without limitation all costs and expenses of the type specified ¶ 8, WARRANTY.
- (c) Buyer, in addition to any other rights and remedies provided by applicable law or under this Contract, may require Seller to transfer title and deliver to Buyer or to Buyer's customer, in the manner and to the extent directed by Buyer for:
- (i) any completed Goods;
 - (ii) any partially completed Goods or work in progress; and
 - (iii) any materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "Manufacturing Materials") as Seller has specifically produced or specifically acquired for the performance of such part of this Contract as has been terminated.



NAC#5_F05_Terms and Conditions

(d) Seller shall, upon direction of Buyer and at Seller's own cost, mark, separate, protect, and preserve property in Seller's possession in which Buyer or the Buyer's customer has an interest.

(e) Payment for completed Goods delivered to and accepted by Buyer pursuant to subparagraph (c) above shall be at the Contract price. Payment for partially completed Goods, work in progress, or Manufacturing Materials delivered to and accepted by Buyer pursuant to subparagraph (c) above shall be in an amount agreed to by Buyer and Seller, and failure to agree to such amount shall be a dispute concerning a question of fact within the meaning ¶ 30, DISPUTE RESOLUTION. Seller must transfer title and deliver partially completed Goods, work in progress, or Manufacturing Materials in accordance with Buyer's direction even if the parties have not yet agreed on terms of Payment. Under no circumstances shall a failure of the parties to agree upon payment terms excuse the Seller from performing in accordance with Buyer's direction. Buyer may withhold from amounts otherwise due to Seller, such sum as Buyer reasonably determines to be necessary to protect Buyer or Buyer's customer against loss due to or resulting from outstanding liens or claims of former lien holders or for damages otherwise caused by Seller's failure to perform its obligations under this Contract.

(f) If, after notice of termination of this Contract under the provisions of this ¶ 19, it is determined for any reason that Seller was not in default under the provisions above, or that the default was excusable under ¶ 16, EXCUSABLE DELAYS, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to ¶ 20, TERMINATION FOR CONVENIENCE.

(g) The rights and remedies of Buyer provided in this ¶ 19 shall not be exclusive and are in addition to any other rights and remedies provided by applicable law or under this Contract. For the avoidance of doubt, nothing in this ¶ 19 shall limit in any way Buyer's rights under subparagraph (b) of ¶ 3, DELIVERY.

(h) If Buyer notifies Seller in writing that the termination of this Contract pursuant to this ¶ 19 was directed by the U.S. Government or that Buyer's prime contract with the U.S. Government has been terminated, termination of this Contract will be in accordance with applicable provisions of Part 49 of the Federal Acquisition Regulation ("FAR"), including Subpart 49.4, which shall be incorporated herein by reference.

16. TERMINATION FOR CONVENIENCE:

(a) Buyer may, by written notice to Seller, terminate all or any part of this Contract for convenience and without cause. If only part of the Contract is terminated, Seller is not excused from performance of the non-terminated part of the Contract.

(b) In the event of a termination for convenience by Buyer, Seller shall be paid an amount, to be mutually agreed upon, which shall be adequate to cover the actual reasonable cost paid by Seller for the actual labor and material reasonably used by Seller to perform the work under this Contract up to the effective date of termination, plus a reasonable profit. Buyer will not pay for anticipatory profits related to work under this Contract not yet performed or costs incurred due to Seller's failure to terminate work as ordered as of the effective date of termination. Under no circumstances will the total amount paid under the provisions of this paragraph exceed the prices set forth in this Contract for the work terminated.

(c) Buyer, in addition to any other rights and remedies provided by applicable law or under this Contract, may require Seller to transfer title and deliver to Buyer or to Buyer's customer, in the manner and to the extent directed by Buyer for:

- (i) any completed Goods;
- (ii) any partially completed Goods or work in progress; and
- (iii) any Manufacturing Materials as Seller has specifically produced or specifically acquired for the performance of such part of this Contract as has been terminated.

(d) Seller shall, upon direction of Buyer, mark, separate, protect, and preserve property in Seller's possession in which Buyer or the Buyer's customer has an interest.

(e) Payment for completed Goods delivered to and accepted by Buyer pursuant to subparagraph (c) above shall be at the Contract price. Payment for partially completed Goods, for Manufacturing Materials or work in progress delivered to and accepted by Buyer pursuant to subparagraph (c) above, or for the protection and preservation of property in Seller's possession pursuant to subparagraph (d) above, shall be in an amount agreed to by Buyer and Seller, and failure to agree to such amount shall be a dispute concerning a question of fact within the meaning ¶ 30, DISPUTE RESOLUTION. Seller must transfer title and deliver partially completed Goods, work in progress, or Manufacturing Materials in accordance with Buyer's direction even if the parties have not yet agreed on terms of Payment. Under no circumstances shall a failure of the parties to agree upon payment terms excuse the Seller from performing in accordance with Buyer's direction.

(f) If Buyer notifies Seller in writing that the termination of this Contract pursuant to this ¶ 20 was directed by the U.S. Government or that Buyer's prime contract with the U.S. Government has been terminated for convenience, termination will be in accordance with applicable provisions of Part 49 of the FAR, including Subparts 49.2 and 49.3 as applicable.

17. DATA:

(a) All drawings, models, and specifications furnished or paid for by Buyer shall be:

- (i) The property of Buyer;
- (ii) Subject to removal by Buyer at any time without additional cost;
- (iii) Used only by Seller in filling orders from Buyer; and
- (iv) Identified and marked as the property of Buyer.

(b) Any information contained in reports, drawings, documents, or other records which are furnished to Seller by Buyer relative to this Contract shall not be disclosed by Seller to any third party, except to Seller's subcontractors as necessary for completion of this Contract who shall have the same non-disclosure responsibility. In the event Buyer requests return of any data, including without limitation, drawings and specifications, Seller shall return all data within thirty (30) calendar days of such request. Any data furnished or paid for by Buyer that is retained by Seller shall remain subject to the foregoing restrictions on use, reproduction, and disclosure. Upon termination of this Contract for any reason:

- (i) Seller shall, at Buyer's option, destroy or return to Buyer all data, including without limitation, drawings and specifications, furnished to Seller by Buyer relative to this Contract; and
- (ii) Buyer may use, on a non-exclusive basis, all drawings, documents or other records created by Seller in relation to this Contract without further compensation to Seller.

18. COMPLIANCE WITH U.S. EXPORT CONTROL LAWS:

(a) Seller shall comply with all applicable laws and regulations regarding export-controlled items and technology, including but not limited to the International Traffic in Arms Regulations and the Export Administration Regulations.

(b) Seller shall indemnify Buyer for all liabilities, losses, penalties, damages, costs, or expenses that may be imposed on or incurred by Buyer in connection with any violations of export or import laws and regulations by Seller or by Seller's officers, employees, agents, or subcontractors.

19. INTELLECTUAL PROPERTY:

(a) Seller shall promptly report and fully disclose all Inventions, and shall deliver all Technical Information not later than the time of completion of the Goods or at such earlier time as this Contract may specify.



NAC#5_F05_Terms and Conditions

- i) The Seller shall, in each disclosure under this Sub-article, indicate the names of all subcontractors, if any, in which Intellectual Property Rights to any Inventions have vested or will vest.
- ii) The Buyer and/or the Government have the right, at reasonable times and at their cost and expense, to examine all records and supporting data of the Seller that the Buyer and/or the Government reasonably deem pertinent to the identification of Inventions. This provision does not affect the Seller's obligation to retain accounts and records as required by the Defence Production Act nor the Government's rights thereunder.

(b) Without divesting Buyer or any third party of Intellectual Property Rights that have come into being prior to the Contract or that relate to Government Furnished Information (GFI) supplied by Buyer during the Contract, copyright, patent and all other Intellectual Property Rights to all Technical Information shall, immediately upon their conception, development, reduction to practice or production, vest in and remain the exclusive property of the Seller and/or its subcontractors.

(c) Seller hereby grants a non-exclusive, irrevocable, worldwide, fully paid and royalty-free license to use any Invention or Technical Information solely for the following purposes:

- i) Use, operation, maintenance, repair or overhaul of the Goods, but not for manufacturing purposes;
- ii) Manufacturing of spare parts for the use, maintenance, repair or overhaul of any part of the Goods in an emergency situation if those parts are not reasonably available from the Seller to enable timely use, maintenance, repair or overhaul; or
- iii) Further development, alteration, integration or enhancement of any part of the Goods.

(d) The license with respect to any Technical Information that is Software excludes the right to further develop, alter, enhance or otherwise modify that Software unless the owner of the Software, which may be the Seller or a subcontractor otherwise, agrees.

(e) In any disclosure, sublicense, or authorization to use, made or given to a sub-supplier solely for any of the purposes contemplated herein, Buyer and/or the Government shall require that the sub-supplier agree to maintain the confidentiality of the Technical Information and not to use any Technical Information except as may be necessary to carry out that work, and shall require the Seller to return the Technical Information upon completion of the work.

(f) Seller may refuse to grant any such right to disclose, sublicense or otherwise authorize the use of any Technical Information related to the Goods for the purposes contemplated herein where the Seller is willing to perform the maintenance, repair or overhaul work on reasonable commercial terms. The Seller shall promptly notify the Buyer and/or the Government whether consent will be granted by the Seller and if not, the reasons why.

(g) Although the Buyer and/or the Government has no right to disclose, sublicense, or otherwise authorize the use of any Technical Information by any third parties whatsoever for any purposes contemplated herein the Seller agrees that during the lifetime of the Goods, the Buyer and/or the Government may require the further development, alteration, integration or enhancement of any part of them. Therefore, during such period, the Seller agrees to either perform itself or to subcontract the performance of such work under mutually agreeable terms and conditions that will provide the optimum accomplishment of the requirement for timely performance, high quality and low price.

(h) Buyer and/or the Government shall provide, upon request, the following information to the Seller concurrent with providing any Technical Information to third parties and/or Sellers in accordance with the requirements herein:

- i) A list of all third parties and Sellers that have received Technical Information;
- ii) The intended or actual use of the Technical Information; and
- iii) The expected completion date of the work for which the Technical Information has been supplied. The licenses granted herein shall not be affected by any transfer of title to, or assignment or license of, any Invention or Technical Information by the Seller to any third party. Seller shall not, without the written permission of Buyer, deliver any Technical Information hereunder unless the Seller owns or has procured the rights necessary to provide the licenses set out herein.

20. WORK ON BUYER'S DESIGNATED PREMISES:

In the event that Seller or Seller's employees, agents or subcontractors enter Buyer's premises for any reason in connection with this Contract, Seller and such other parties shall observe all military security requirements including citizenship/immigrant status, all plant safety, plant protection, and traffic regulations. Seller shall defend, indemnify, and hold Buyer harmless from all claims, actions, demands, loss, and causes of action, arising from injury, including death, to any person, or damage to any property, when such injury or damage results in whole or in part from the acts or omissions of Seller, Seller's employees, agents, or subcontractors, except when such damage, injury or death is caused by the gross negligence of Buyer.

21. INSURANCE AND WORKERS' COMPENSATION:

Seller and any subcontractor or agent used by Seller in connection with this Contract shall carry:

- (a) Workmen's Compensation and Employees' Liability Insurance to cover Seller's and subcontractor(s)' legal liability on account of accidents to their employees.
- (b) Comprehensive General Liability and adequate Comprehensive Automobile Liability Insurance covering accidents to their employees.
- (c) Comprehensive General Liability and adequate Comprehensive Automobile Liability Insurance covering legal liability of Seller and the subcontractor(s) on account of accidents arising out of the operations of Seller or the subcontractor(s) and resulting in bodily injury, including death, being sustained by any person or persons, or in any damage to property.

At Buyer's request, Seller shall furnish to Buyer certificates from Seller's insurers showing such coverage in effect and agreeing to give Buyer ten (10) business days' prior written notice of cancellation of the coverage.

22. ASSIGNMENT, CHANGE IN CONTROL AND SUBCONTRACTING

(a) This Contract shall be binding upon and inure to the benefit of the parties hereto and their respective permitted successors and assigns.

(b) Seller shall not:

- (i) Transfer or assign this Contract or any rights of this Contract, in whole or part;
- (ii) Delegate any obligations of this Contract, in whole or part; or
- (iii) Subcontract for completed or substantially completed Goods, in whole or part, without the prior express written consent of Buyer's Authorized Procurement Representative. The parties agree that any attempted assignment in violation of this provision shall be void.

(c) No assignment or subcontract by Seller, including any assignment or subcontract to which Buyer consents, shall in any way relieve Seller from any of its obligations under the Contract, including without limitation complete and punctual performance of this Contract and Seller's obligations under ¶ 9, WARRANTY.

(d) Seller must notify Buyer's Authorized Procurement Representative at least thirty (30) days prior to any change in Seller's ownership or control, any change in Seller's name. Seller must provide the identity of the potential new owner controlling party along with information on such party and the transaction as Buyer may request. Seller's notification to Buyer pursuant to this subparagraph (d) shall not relieve Seller from the restrictions set forth in subparagraph (b) above.



NAC#5_F05_Terms and Conditions

23. NOTICES:

All notices required or permitted to be given under this Contract shall be deemed properly given if (a) delivered by electronic mail, or (b) sent by certified or registered mail addressed to Seller or Buyer, as the case may be, at the addresses set forth on the face of the PO, with postage fully prepaid. The effective time of a notice shall be (a) at the time of recipient's confirmation of receipt for notices delivered in electronic mail, or (b) at the time of receipt for notices sent by certified or registered mail.

24. WAIVER:

No waiver by Buyer of any breach of any term in this Contract or grant of an extension for performance under the Contract shall be deemed to be a waiver of any other or subsequent breach. Seller agrees that it will not claim that Buyer has waived any of Seller's performance requirements under this Contract, and no such waiver shall be effective to relieve Seller from complete and punctual performance of such requirements, unless such waiver is expressly stated in writing and signed by Buyer's Authorized Procurement Representative.

25. APPLICABLE LAW AND VENUE:

This Contract shall be governed by and construed, interpreted and enforced in accordance with the laws of the State of Michigan applicable to agreements entered into and to be performed wholly in Michigan. The Parties hereby consent to the exclusive jurisdiction of the State of Michigan, Courts of Macomb County, Michigan or the United States District Court for the Eastern District, Southern Division, Michigan, and the Parties waive any objection thereto on the basis of personal jurisdiction or venue.

The parties expressly intend and hereby exclude the United Nations Convention on Contracts for the Sale of Goods of 1980 and any amendments thereto from the application to this Contract.

26. GOVERNING LAW; JURISDICTION; DISPUTE RESOLUTION:

(a) The validity, performance, interpretation and construction of this Contract and/or the rights and obligations of the Parties arising under or in connection with this Contract shall be governed and construed in accordance with the laws of the province of Ontario and those of Canada applicable therein, excluding its choice of law rules and excluding the Convention for the International Sale of Goods.

(b) All disputes arising from or relating to this Contract, with the sole exception of disputes regarding the creation or ownership of any and all intellectual property, shall be irrevocably submitted to arbitration, to be conducted in Toronto, Ontario, Canada, in accordance with the Ontario Arbitration Act, 1991. In the event of any litigation, the Seller expressly agrees and consents to exclusive venue and jurisdiction in the courts of Toronto, Ontario, Canada, unless Buyer otherwise agrees in writing. Seller hereby waives any defence of inconvenient forum in connection with the maintenance of any such action or proceeding. Seller further agrees not to bring any action or proceeding in any other court or jurisdiction and expressly waives any subsequent objection to the judicial recognition or enforcement of any award granted hereunder. The language to be used in any proceedings shall be English.

(c) The procedures set forth in this article shall be the sole and exclusive procedures for the resolution of dispute(s) between the Parties, arising under or in connection with this Contract; provided, however, that a Party may seek an injunction and/or equitable judicial relief if, in its sole judgment, such action is necessary. Despite such action, the Parties shall continue to participate in good faith in the procedures specified in this article. Each Party is required to continue to perform its obligations under this Contract pending resolution of any dispute(s), unless to do so would be impossible under the circumstances.

27. INDEMNIFICATION:

(a) Seller shall indemnify, defend and hold harmless Buyer and its affiliates, and its and their respective directors, officers, employees, partners, contractors or agents, from and against all claims, demands, suits, actions or other proceedings brought by third parties ("Claims"), and from and against all damages, payments made in settlement, and other liability payable to such third parties, and all costs and expenses incurred (including without limitation reasonable attorneys', accountants' and experts' fees and expenses), as a result of such Claims (collectively, "Losses"), to the extent such Claims: (i) arise out of or are or were caused by the Seller's breach of its obligations under this Contract, or (ii) are for damages to any property or bodily injury to or death of any person arising out of or caused by Seller's negligence or willful misconduct.

(b) Seller will defend, at its own expense, any Claim against Buyer or its customer based on an assertion that Buyer's or its customer's use of the Goods or services furnished under this Contract in the as delivered condition infringes any third party intellectual property rights. In lieu of foregoing sentence, Seller may, at its option, procure either for Buyer or its customer the right to use said items or substitute an equivalent item acceptable to Buyer, or modify such items to render them non-infringing, provided the modification does not affect the product specification, functionality or performance. However, Seller shall have no obligation to defend a Claim or pay any Losses to the extent such Infringement Claim results from, arises out of or is caused by: (i) the use of item other than as permitted by this Contract; or (ii) the use of any item furnished in combination with other products where the infringement would not have occurred but for such combined use.

(c) If this Contract is issued under a U.S. Government prime contract or subcontract, Seller shall indemnify Buyer against and hold Buyer harmless from all claims, expenses, and losses, arising out of Seller's failure to comply with the FAR or Department of Defense FAR Supplement ("DFARS") or applicable rules, regulations, and standards of the Cost Accounting Standard Board in connection with any covered contracts, including, without limitation, TINA certification required pursuant to 84-005-0808 Purchase Order Terms and Conditions for Government Contracts Covered by the Federal Acquisition Regulation (FAR) and Department of Defense FAR Supplement (DFARS).

(d) This provision for indemnification is in addition to any other provision for indemnification in any document made part of this Contract.

(e) This ¶ 31 shall survive any termination or expiration of this Contract for any reason.

28. CONFIGURATION CONTROL:

(a) Seller shall make no change in design, materials, manufacturing location, manufacturing process, assembly processes, or source of supply, after approval of the first production test item or after acceptance of the first completed end item, without Buyer's written approval. If Seller makes any changes in the design, materials, manufacturing location, manufacturing process, assembly processes, or source of supply after approval of the first production test item or after acceptance of the first completed end item and the change was the initiated by the Seller, all re-qualification costs will be the responsibility of the Seller. Seller agrees that any approval by Buyer of the first production test item or any acceptance by Buyer of the first completed end item shall not in any way relieve Seller from performing all requirements of this Contract, including Seller's obligations under ¶18, WARRANTY.

(b) Seller shall furnish military standard hardware to the drawing revision level contained in the technical data package(s) issued to Seller for performing the Contract. If no revision level is specified, parts must be supplied to the latest revision level established by government agencies as of the date of this Contract.

(c) During the performance of this Contract and for a period of two (2) years following the last delivery of Goods under this Contract, Seller shall notify Buyer if Seller becomes aware of any obsolescence or planned obsolescence, of any Goods covered under this Contract.



NAC#5_F05_Terms and Conditions

29. FOREIGN OFFSET:

If the Contract is issued to a non-U.S. Seller and/or if the work is being performed by a non-U.S. Seller in whole or in part, all offset credits resulting from this Contract will be the sole property of Buyer. Seller agrees, at no cost, to assist Buyer (or Buyer's parents or affiliates if requested) in securing appropriate offset credits from the respective government authorities.

30. PUBLICITY:

Seller, along with Seller's subcontractor(s) at any tier, shall not release any publicity, advertisement, news release, or any other public statement regarding the Contract without prior written approval by Buyer. Seller shall be liable to Buyer for any breach of such obligation by Seller and/or any of its subcontractors.

31. CONFIDENTIALITY:

(a) It is contemplated that Buyer may disclose to Seller certain business, financial, legal, technical and other information (collectively, the "Proprietary Information") for use solely in connection with this Contract.

(b) The term Proprietary Information includes all information, in whatever form or medium, provided in connection with this Agreement which is identified as proprietary by the disclosing party as follows: (i) written documents and permanent records are to be marked with a restrictive legend of the discloser such as "proprietary", "confidential" or the like and (ii) oral or visual information shall be identified as proprietary at the time of disclosure and so confirmed in writing within ten (10) days of the presentation, such writing to contain a restrictive legend and a summary of the Proprietary Information delivered at the oral or visual presentation. Notwithstanding the foregoing, this Agreement does not restrict disclosure or use of any information which would otherwise be considered "Proprietary Information" if the receiving party can demonstrate: (i) the information is published or generally known by the public (other than as a result of the breach of this Section); (ii) the information was known by it at the time of disclosure as evidenced by competent proof; (iii) the information has become lawfully available to the receiving party from a third party without restriction on disclosure; (iv) the disclosing party approved in writing the public release by the receiving party; or (v) the information was developed or discovered by the receiving party without access to or use of any Proprietary Information provided by the disclosing party.

(c) Seller agrees: (i) to use the Buyer's Proprietary Information solely for purposes of carrying out Seller's obligations under this Contract; (ii) not to disclose or reveal to any third party, without Buyer's prior written consent, any portion of Buyer's Proprietary Information or any notes, summaries or other information derived from the Proprietary Information; (iii) to disclose Buyer's Proprietary Information or portions thereof only to those employees or subcontractors of Seller who need to know such information for the purpose of carrying out this Contract, it being understood that prior to such disclosure such persons will be informed of the confidential nature of the Proprietary Information and will agree to be bound by the provisions of this ¶ 35; (iv) not to use any portion of Buyer's Proprietary Information for personal gain or to advance or support Seller's other business ventures or the business ventures of others; (v) to use at least the same degree of care in safeguarding Buyer's Proprietary Information as it uses to safeguard its own similar, confidential information that it does not wish to disclose, provided such degree of care is reasonably calculated to prevent inadvertent disclosure and unauthorized use thereof; and (vi) to notify the Buyer immediately upon discovery of any inadvertent disclosure or unauthorized use of Proprietary Information and to promptly use reasonable efforts to prevent any further inadvertent disclosure or unauthorized use. Seller will be deemed responsible for any breach of the provisions of this Section by any of its employees or other persons to whom it discloses Proprietary Information.

(d) Notwithstanding anything to the contrary in this agreement, Seller may disclose Proprietary Information to the extent required by law (by subpoena, investigative demand, Securities and Exchange regulations or otherwise) provided it first, to the extent permitted by law, gives the disclosing party sufficient notice to provide it with a reasonable opportunity to obtain a protective order to govern such disclosure.

(e) Upon expiration or termination of the Contract, Seller will promptly return to Buyer or destroy, at the option of Buyer, all of the Proprietary Information disclosed or provided to Seller, together with all copies, reproductions, summaries, analyses or extracts thereof or based thereon (in whatever form or medium) in its possession or in the possession of any of its representatives, and will cause any other person to whom it has disclosed such Proprietary Information to do the same.

(f) Seller recognizes and agrees that the Proprietary Information is of a character which gives it a special value the loss of which cannot be adequately compensated in damages, and that a breach of this ¶ 35 will cause irreparable harm to Buyer. Seller, therefore, expressly acknowledges and agrees that Buyer shall be entitled to injunctive and/or other equitable relief to prevent a breach of any provision of this ¶ 35, in addition to any other remedies available to Buyer under law or this Contract.

32. HAZARDOUS MATERIALS:

(a) Buyer requires that all items procured through the Contract to be free of the following materials, unless otherwise specified on Buyer-controlled Drawings:

- (1) Asbestos,
- (2) Beryllium,
- (3) Cadmium,
- (4) Class I and Class II Ozone Depleting Substances,
- (5) hexavalent chromium,
- (6) lead,
- (7) mercury,
- (8) radioactive materials, and
- (9) Group 1 Agents classified as carcinogenic to humans by the International Agency for Research on Cancer (IARC) Monographs

shall not be present on any newly designed materials, required for the operation and sustainment of the system, or used in final system manufacture and assembly processes.

(b) Certification to these requirements must be provided to Buyer's Supply Chain Management Department (SCM). Any issues with respect to compliance with these requirements must be raised with SCM. Buyer's Materials Engineering Department is available to give technical assistance with determining alternatives.

(c) A current safety data sheet for all hazardous products must be on file with Buyer's Environmental Health and Safety Department. If Seller changes manufacturing for this product or is shipping this product for the first time, a current safety data sheet must be provided by Seller to Buyer's Environmental Health and Safety Department prior to shipment. Additionally, all initial shipments of hazardous materials must include a copy of the current safety datasheet.

(d) If requested by Buyer, Seller shall promptly furnish to Buyer in such form and detail as Buyer may direct:

- i. a list of all hazardous ingredients in the Goods;
- ii. the amount of all hazardous ingredients; and
- iii. information concerning any changes in or additions to such hazardous ingredients.



NAC#5_F05_Terms and Conditions

33. FOREIGN ACCOUNT TAX COMPLIANCE ACT ("FATCA")

Seller shall provide a current withholding certificate, executed on the latest version of the applicable IRS form, to document Seller's status for purposes of both Foreign Account Tax Compliance Act ("FATCA") and non-resident alien ("NRA") withholding. Generally, the withholding certificate will be in the form of a W-9 (if a U.S. individual, partnership, or a corporation), a W-8BEN (if a foreign individual), a W-8BEN-E (if a foreign entity), or a W-8ECI (if a foreign entity with effectively connected US income). The most current form applicable to Seller's situation may be obtained from the IRS at <http://www.irs.gov>. Seller's failure to provide a current U.S. withholding certificate may result in potential delays of payment processing and/or US tax withholding under FATCA or NRA provisions which otherwise may be unnecessary.

34. SEVERABILITY

If any provision in this Contract is held to be invalid, illegal, or unenforceable, the remaining provisions shall not be affected in any way and shall remain in full force and effect. Any provision held to be invalid, illegal, or unenforceable, shall be negotiated in good faith by the parties to maintain the original intent of the parties to the fullest extent permitted by applicable law.

35. DAMAGES

Notwithstanding any other provisions contained herein, where seller misrepresents or breaches seller's duty or obligations under this Contract or engages in negligence or willful misconduct, Seller shall be liable for special/consequential, incidental, collateral, exemplary, indirect damages, loss of profits, loss of revenues, loss of use, or business interruption losses that arise out of Seller's misrepresentation or breach of duty or obligations.

36. COMPLIANCE WITH LAWS

(a) Seller shall comply with all applicable national, federal, state, provincial, and local laws, ordinances, rules, and regulations applicable to the performance of this Contract including without limitation (i) the manufacture or provisioning of Goods and supply of services under this Contract; (ii) the shipping of Goods, and (iii) the configuration or content of Goods or services for the use intended under this Contract.

(b) Counterfeit Goods:

i. Seller represents that it shall not furnish counterfeit goods to Buyer, defined as goods or separately identifiable items or components of goods that may without limitation: (i) be an unauthorized copy or substitute of an original equipment manufacturer or original component manufacturer (collectively, "OEM") item; (ii) are not traceable to an OEM sufficient to ensure authenticity in OEM design and manufacture; (iii) do not contain proper external or internal materials or components required by the OEM or are not constructed in accordance with OEM design; (iv) have been re-worked, re-marked, relabeled, repaired, refurbished, or otherwise modified from OEM design but are represented as OEM authentic or as new; (v) have not passed successfully all OEM required testing, verification, screening, and quality control processes; or (vi) have not acted as or engaged an independent distributor, nonauthorized supplier, non-authorized distributor, broker, or non-authorized reseller (collectively "Non-Franchised Source"), unless Buyer has provided prior written approval. Any requests to Buyer to include Non-Franchised Source Goods or components of Goods shall include complete and compelling support.

ii. Seller warrants that it has, and maintains, a Counterfeit Item risk mitigation process for internal processes and with its suppliers. Seller's Counterfeit Item risk mitigation process shall include processes for screening US Government Industry Data Exchange Program (GIDEP) reports.

iii. Counterfeit goods shall be deemed non-conforming, and in addition to any other rights Buyer may have at law or pursuant to this Contract, Seller shall disclose the source of the counterfeit good to Buyer and cooperate with Buyer with respect to any investigations or remedial actions undertaken by Buyer or Buyer's customer. Seller shall provide to Buyer, upon Buyer's reasonable request, the identity of its suppliers and/or the location of manufacture of the goods or any subcomponents of the goods, or provision of services, as applicable, to confirm compliance with legal and regulatory requirements and this Contract.

This paragraph is a supplement to DFARS 252.246-7007, Contractor Counterfeit Electronic Part Detection and Avoidance System and DFARS 252.246-7008, Sources of Electronic Parts.

(c) **Conflict Minerals:** Seller recognizes, consistent with the public policy underlying enactment of the Conflict Minerals provision (Section 1502) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Act"), the significant legal and non-legal risks associated with sourcing tin, tantalum, tungsten and gold (the "Conflict Minerals") from the Democratic Republic of the Congo and adjoining countries ("DRC countries"). Accordingly, Seller commits to comply with Section 1502 of the Act and its implementing regulations; to the extent Seller is not a "Registrant" as defined in the Act, Seller shall comply with Section 1502 of the Act and its implementing regulations except for the filing requirements. In particular, Seller commits to have in place a supply chain policy and processes to undertake (i) a reasonable inquiry into the country of origin of Conflict Minerals incorporated into products it provides Buyer; (ii) due diligence of its supply chain, following a nationally or internationally recognized due diligence framework, as necessary, to determine if Conflict Minerals sourced from the DRC countries directly or indirectly support unlawful conflict there, and (iii) risk assessment and mitigation actions necessary to implement the country of origin inquiry and due diligence procedures. Seller shall take all other measures as are necessary to comply with Section 1502 of the Act and its implementing regulations, including any amendments thereto.

(d) **Gratuities:** Seller warrants that neither Seller, nor any of its employees, agents, or representatives, have offered or given, or will offer or give, any gratuities to Buyer's employees, agents, or representatives for the purpose of securing this Contract, and that Seller will not make or solicit kickbacks in violation of FAR 52.203-7, Anti-Kickback Procedures, or the Anti-Kickback Act of 1986 (41 U.S.C. 51 et seq.), both of which are incorporated into the Contract by reference.

(e) **Toxic Substances Control Act:** Seller certifies that all chemicals to be delivered under the Contract comply with the requirements of the Toxic Substances Control Act (TSCA) 15 U.S.C. 2601-2629.

(f) **Anti-Corruption Compliance:** Seller certifies that in pursuing the Contract and performing under it, it will fully comply with the Foreign Corrupt Practices Act, the Corruption of Public Officials Act, the United Kingdom Bribery Act, and local anti-corruption laws in the jurisdictions in which services pursuant to the Contract are performed.

(g) **Software:** Seller warrants any hardware, software and firmware delivered under this Contract is free of any viruses, malicious code, Trojan horse, time bomb, self-help code, back door, or any software code that could damage, destroy, disable, reveal, modify, or allow unauthorized access of any software or hardware.

37. RELATIONSHIP OF PARTIES

Seller and Buyer are independent contracting Parties and nothing in this Contract shall make either Party the agent or legal representative of the other for any purpose whatsoever, nor does it grant either Party any authority to assume or to create any obligation on behalf of or in the name of the other. Nothing in this Contract shall be read to create any partnership, joint venture, trust or other fiduciary relationship between the Parties.

38. INFORMATION TECHNOLOGY ASSURANCE

Seller shall maintain data protection processes and systems sufficient to adequately protect specifications, information, data, drawings, software, and other items which are (i) supplied to Seller by Buyer, or (ii) obtained or developed by Seller in the performance of this Contract or paid for by Buyer (collectively, "Buyer Data"), and to comply with any law or regulation applicable to such data. If an event occurs whereby Seller knows, or reasonably



NAC#5_F05_Terms and Conditions

believes, that Buyer Data has been actually or potentially disclosed to, or accessed or acquired by, an unauthorized individual or individuals ("Security Incident"), Seller shall (i) use commercially reasonable efforts to investigate, contain, and remediate the Security Incident, and (ii) notify Buyer in writing promptly, but not later than seventy-two (72) hours after discovering the Security Incident. In addition, Seller agrees to defend, indemnify, and hold harmless Buyer, its customers and its agents against any liability, including without limitation costs, expenses and attorney's fees, caused by or related to a Security Incident. The obligations contained in this Section are in addition to, and do not alter, Seller's obligations under applicable U.S. Government procurement regulations, including without limitation the FAR and DFARS.

39. DRUG-FREE WORKPLACE/WORKFORCE POLICY:

Seller certifies that it has implemented appropriate policies to maintain a drug-free workplace consistent with FAR 52.223-6, Drug-Free Workplace, and DFARS 252.223-7004, Drug-Free Work Force.

40. SERVICE CONTRACT ACT COMPLIANCE:

(a) Seller's work under this Contract may be subject to the requirements of the Service Contract Labor Standards, also known as the Service Contract Act (the "SCA"). The SCA outlines the minimum monetary wages and fringe benefits that must be paid to employees according to the applicable United States Department of Labor ("DoL") Wage Determination(s) ("WD"). In the event that Seller's work under this Contract is subject to the SCA and a wage determination is not included as an attachment to this Contract, it is Seller's responsibility to request a copy of the wage determination from Buyer. The failure to include any wage determination as an attachment or to incorporate any clauses related to compliance with the SCA, or Seller's failure to request a copy of the wage determination, shall not excuse Seller from its obligations under the SCA or operate as a defense to the Seller's indemnity obligations in the event it fails to comply with the SCA's requirements. Revised wage determinations only become applicable to this Contract after the occurrence of both of the following events: (i) the revised wage determination has been incorporated in Buyer's prime contract; and (ii) Buyer incorporates the revised wage determination into this Contract.

(b) By executing this Contract, Seller certifies that it will adhere to all requirements set forth in FAR 52.222-41, which is hereby incorporated into this Contract along with all SCA implementing regulations, including, but not limited to, the following requirements:

(i) Paying all SCA-covered personnel at wage rates equal to or higher than the relevant rates specified in the applicable wage determination(s); and

(ii) Providing the fringe benefits at equal to or higher than those wage rates specified in the applicable wage determination(s).

(c) Seller further agrees to make any payments required by the SCA (and its implementing regulations) and also agrees to hold Buyer harmless for any failure on the part of the Seller to comply with the SCA (and its implementing regulations) for any failure to comply with the requirements of FAR 52.222-41 and agrees to make any payments required and to hold Buyer harmless for any failure on the part of the Seller to comply with these regulations.

(d) To ensure Seller's compliance with the requirements of the SCA, Buyer reserves the right for Seller to conduct an audit of Seller's employee time and payroll records, which Seller must maintain under the recordkeeping requirements of the SCA at 29 C.F.R. § 4.6 and FAR 52.222-41. To support such audit, and as requested by Buyer, Seller agrees to provide the following information as a minimum to Buyer within five (5) calendar days of any such request from Buyer: Employee Name; Payroll period; Hours Worked; SCA Labor Category and wage rate; Base Hourly Rate; Hourly fringe benefits (i.e., "health & welfare," vacation, holiday) paid; copies of timesheets showing the days and hours worked; and copies of actual employee pay stubs. If employees are assigned to multiple contracts during a given workweek, Seller agrees to provide a breakdown of the foregoing information by contract. Failure to provide these documents and any related information related to Service Contract Act compliance may be deemed grounds for, but not limited to, a termination of this Contract for Default.

41. SMALL BUSINESS SUBCONTRACTING PLANS REQUIRED BY LARGE US BUSINESS:

If Supplier qualifies as a U.S. Large Business Subcontractor and the PO that is part of this Contract is valued at or over \$700,000, the Supplier shall submit applicable Small Business Plan(s) to Buyer's Authorized Procurement Representative to ensure compliance with FAR 52.219-9, Small Business Subcontracting Plan, and FAR 19.702. Individual Subcontract Report(s) (ISRs) must be submitted by Supplier, throughout the period of performance of the contract, to the NAC buyer.

42. FEDERAL FUNDING ACCOUNTABILITY & TRANSPARENCY ACT COMPLIANCE:

Seller shall register within thirty (30) days of Contract award with the System for Award Management (SAM), available at <http://www.sam.gov>, if the PO that is part of this Contract has a value of \$30,000 or more and the Seller, during its preceding fiscal year, received: (i) 80 percent or more of its annual gross revenues from U.S. Government contracts (including Purchase Orders), loans, grants (and subgrants), cooperative agreements, and other forms of U.S. Government financial assistance; and (ii) \$25,000,000 or more of its annual gross revenues from U.S. Government contracts (including Purchase Orders), loans, grants (and subgrants), cooperative agreements, and other forms of U.S. Government financial assistance.

43. COST REIMBURSEMENT CONTRACTS:

(a) **Billing Rates:** If the Contract is a Flexibly Priced and/or Progress Payment contract, Seller must send its request of any proposed changes in billing rate to Buyer's Authorized Procurement Representative at least sixty (60) calendar days prior to that date Seller proposes to use that rate on invoices to Buyer. Buyer will review the request and notify the Seller of Buyer's decision prior to expiration of this period. If the rate is rejected, a DCAA audit of Seller's rate will be requested, through Buyer's Contracts Department, to determine the allowable rate going forward.

(b) **Payment:** Except as provided in ¶ 8(c), payment will be made for reasonable, allowable, and allocable incurred costs in accordance with the following clauses of the FAR, which are incorporated herein by reference. In each of the following clauses, "Contractor" means Seller, "Contracting Officer" and "Government" mean Buyer, and "Disputes Clause" means ¶ 30, DISPUTE RESOLUTION, except that the terms "Contracting Officer" and "Government" shall retain their original meanings with respect to any clause that permits the Contracting Officer or Government to review, inspect, or audit the books and records of Seller.

(1) FAR 52.216-7, Allowable Cost and Payment;

(2) FAR 52.216-8, Fixed Fee, if this is a Cost-Plus-Fixed Fee contract;

(3) FAR 52.216-10, Incentive Fee, if this is a Cost-Plus-Incentive Fee contract, with Paragraph (e) of this clause being set forth elsewhere in the Contract;

(4) FAR 52.232-20, Limitation of Cost, if the Contract is fully funded; and

(5) FAR 52.232-22, Limitation of Funds, if the Contract is incrementally funded.

(c) **Changes:** Notwithstanding ¶ 14, CHANGES, the estimated or target cost of this Contract and, if this Contract is incrementally funded, the funds allotted for the performance shall not be increased or deemed to be increased except by specific written modification of this Contract mutually agreed to by the parties indicating the new contract estimated cost and the new amount allotted to this Contract. Until such modification is made, Seller shall not be obligated to continue performance or incur cost beyond the point established in FAR 52.232-20, Limitation of Cost, and FAR 52.232- 22, Limitation of Funds.



NAC#5_F05_Terms and Conditions

44. PRIORITY RATING

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

45. SHELF LIFE

(a) All Goods, including components, must be new and shall have a suitable Shelf Life at the time of receipt at Buyer's Ship To location. The Goods are to be provided to the Buyer with a minimum shelf life remaining of:

- i) Greater than 90% for spare part orders (indicated in Purchase Order header – 'Ship To' location code embedded in the ship to address – ABR, ABK, AB2, ANC, LMS) and;
 - ii) Minimum of 75% for Production Orders; or
 - iii) As determined acceptable by the Buyer.
- (b) The Seller shall ensure that Goods with shelf life are marked appropriately. Each of a shipment's smallest container must be labeled with:
- i) Buyer's Part Number;
 - ii) Buyer's assigned SDS number;
 - iii) The Manufactured Date;
 - iv) Shelf Life Expiration Date (if shelf life is indefinite, then it must state the word 'Indefinite');
 - v) Product Lot / Batch Number; and
 - vi) Cure Date (where applicable – for elastomeric and rubber product).
- (c) In the event Seller fails to comply with ¶ 50 (a) or (b), remedies set forth in ¶ 10 shall apply.
- (d) The Seller should refer to Mil-Std-129 or ISO 2230:2002(E), and Mil-HDBK-695 for guidance with Shelf Life Goods.

46. PRIVACY

(a) In the event that during performance of this Contract Seller collects, uses, or discloses Personal Information (as defined herein), of Buyer's officers, directors, employees, contract personnel, or any agents or representatives of Buyer, Seller shall comply with all applicable international, federal, state, provincial and local laws, rules, regulations, directives and governmental requirements currently in effect and as they become effective relating in any way to the privacy, confidentiality or security of such Personal Information.

(b) Seller agrees to maintain and implement a comprehensive, written information security program that includes appropriate administrative, technical and physical safeguards and other security measures designed to protect the security and use of such Personal Information. Seller agrees to notify Buyer immediately in writing of any breach of this Article or any unauthorized use or disclosure of or access to any Personal Information of which Seller becomes aware. Seller shall promptly take all necessary and advisable corrective actions, and shall cooperate fully with Buyer in all reasonable and lawful efforts to prevent, mitigate or rectify such breach or unauthorized use, disclosure or access.

(c) Promptly upon the completion, termination, or cancellation of this Contract, or such earlier time as Buyer requests, Seller shall return to Buyer or its designee, or irrevocably destroy if return is not reasonably feasible or desirable to Buyer (which decision will be based solely on Buyer's written statement), each and every original and copy in every media of all Personal Information in Seller's possession, custody or control including, without limitation, all information and materials that contain or are derived from Personal Information. Seller's obligations under this Article shall survive the completion, termination, or cancellation of this Contract.

(d) For the purposes of this Article, "Personal Information" means any information about an identified or identifiable individual, including but not limited to, birthday, age, social insurance number.

SECTION I:

FAR	FAR Clause Title
52.202-1	Definitions (Nov 2013) (Definitions within FAR 52.202-1 apply to solicitations and contracts unless the contract or specific, applicable FAR defines the word or term differently.)
52.203-3	Gratuities (Apr 1984) (Applies to solicitations and contracts unless for personal services and those between military departments or defense agencies and foreign governments that do not obligate funds appropriated to the DoD.)
52.203-5	Covenant Against Contingent Fees (May 2014) (Applies to solicitations and contracts unless for commercial items.)
52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity (May 2014) (Applies to solicitations and contracts unless for commercial items.)
52.203-10	Price or Fee Adjustment for Illegal or Improper Activity (May 2014) (Applies to solicitations and contracts unless for commercial items.)
52.203-15	Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (Jun 2010) (Applies if this Contract is funded in whole or in part by Recovery Act funds.)
52.203-19	Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (Jan 2017) (Applies to solicitations and contracts unless for personal service with individuals.)
52.204-2	Security Requirements (Aug 1996) (Applies if this Contract involves access to classified information; Alts. I and/or II apply if under the criteria at FAR 4.404.)
52.204-9	Personal Identity Verification of Contractor Personnel (Jan 2011) (Applies if this Contract requires routine access to a Federally controlled facility and/or to a Federal information system.)
52.204-14	Service Contract Report Requirements (Oct 2016) (Applies to Seller if a first-tier subcontractor providing services under this Contract with a value that meets or exceeds the thresholds set forth in FAR 4.1703 (a) (2), unless exempt under FARs 4.1705 (a) or 52.204-14 (a); Seller shall report the required information to Buyer no later than June 1st annually; and the information Seller provides will be made available to the public as required by section 743 of Division C of the Consolidated Appropriations Act, 2010.)
52.204-15	Service Contract Reporting Requirements for Indefinite-Delivery Contracts (Oct 2016) (Applies to Seller if a first-tier subcontractor providing services under this Contract with a value that meets or exceeds the thresholds set forth in FAR 4.1703 (a) (2), unless exempt under FARs 4.1705 (b) or 52.204-15 (a); Seller shall report the required information to Buyer no later than June 1st annually; and the information Seller provides will be made available to the public as required by section 743 of Division C of the Consolidated Appropriations Act, 2010.)



NAC#5_F05_Terms and Conditions

- 52.204-16 Commercial and Government Entity Code Reporting (Aug 2020)**
(Applies to all solicitations and contracts.)
- 52.204-18 Commercial and Government Entity Code Maintenance (Aug 2020)**
(Applies to all solicitations and contracts.)
- 52.204-21 Basic Safeguarding of Covered Contractor Information Systems (Jun 2016)** (Applies to solicitations and contracts, including for commercial items (except COTS) when subcontractor at any tier may have Federal contract information residing in or transiting through its information system.)
- 52.204-23 Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (Jul 2018)**
(Applies to all solicitations and contracts, including acquisition of commercial items.)
- 52.204-24 Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (Aug 2020)**
(Applies to all solicitations and contracts, including acquisition of commercial items, unless exempted by FAR 52.204-26 response of "does not.")
- 52.204-25 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (Aug 2020)**
(Applies to all solicitations and contracts, including acquisition of commercial items.)
- 52.204-26 Covered Telecommunications Equipment or Services Representation (Dec 2019)** (Applies to all solicitations and contracts, including acquisition of commercial items.)
- 52.208-8 Required Sources for Helium and Helium Usage Data (Apr 2014)**
(Applies if this Contract involves a major helium requirement.)
- 52.211-5 Material Requirements (Aug 2000)**
(Applies to solicitations and contracts for supplies that are not commercial items.)
- 52.211-15 Defense Priority and Allocation Requirements (Apr 2008)**
(Applies if this Contract contains a DPAS rating; Seller shall accept or reject in writing all DX-rated orders within ten (10) working days and all DO-rated orders within fifteen (15) working days.)
- 52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders – Commercial Items (Jan 2017)**
(Applies to solicitations and acquisition of commercial items; Alternate I applies when the head of the agency has waived the examination of records by the Comptroller General in accordance with FAR 25.1001. Alternate II applies if the acquisition will use funds appropriated or otherwise made available by the American Recovery and Reinvestment Act of 2009 (Pub. L. 11-5).)
- 52.215-2 Audit and Records—Negotiation (Alt. I) (Oct 2010)**
(This alternate applies if this Contract is funded in whole or in part by the American Recovery and Reinvestment Act of 2009; otherwise, FAR 52.215-2 applies as stated in FAR 52.215-2(g).)
- 52.216-5 Price Redetermination—Prospective (Oct 1997)**
(Applies if this Contract is fixed price and Buyer determines it satisfies the requirements at FAR 16.205-2 and 16.205-3(a).)
- 52.216-6 Price Redetermination—Retrospective (Oct 1997)**
(Applies if this Contract is fixed price and Buyer determines it satisfies the requirements at FAR 16.205-2 and 16.205-3(a).)
- 52.216-7 Allowable Cost and Payment (Jun 2013)**
(Applies if this Contract is cost-reimbursement or time-and-materials.)
- 52.216-8 Fixed Fee (Jun 2011)**
(Applies if this Contract is a cost-plus-fixed-fee contract.)
- 52.216-11 Cost Contract—No Fee (Apr 1984)**
(Applies if this Contract is cost-reimbursement and provides no fee.)
- 52.216-16 Incentive Price Revision—Firm Target (Oct 1997)**
(Applies if this Contract is a fixed-price incentive (firm target) contract.)
- 52.216-17 Incentive Price Revision—Successive Targets (Oct 1997)**
(Applies if this Contract is a fixed-price incentive (successive targets) contract.)
- 52.219-8 Utilization of Small Business Concerns (Oct 2018)**
(Applies to all solicitations and Contracts.)
- 52.222-1 Notice to Government of Labor Disputes (Feb 1997)**
(Applies to solicitations and contracts that involve programs or requirements that have been designated under FAR 22.101-1(e).)
- 52.222-3 Convict Labor (Jun. 2003)**
(Applies if this Contract requires the use of laborers or mechanics and will be performed in the United States or a territory listed in FAR 22.305(d), unless one of the conditions in FAR 22.202 applies.)
- 52.222-4 Contract Work Hours and Safety Standards-Overtime Compensation (May 2014)** (Applies if this Contract is subject to the Contract Work Hours and Safety Standards Act (40 U.S.C. . 37) Buyer may withhold or recover from Seller any sums the Contracting Officer withholds or recovers from Buyer because of a violation of this provision by Seller or Seller's subcontractor(s).)
- 52.222-8 Payrolls and Basic Records (May 2014)**
(Applies to contracts for construction within the U.S. in excess of \$2,000.)
- 52.222-11 Subcontracts (Labor Standards) (May 2014)**
(Applies if this Contract is for construction within the United States.)
- 52.222-12 Contract Termination – Debarment (May 2014)**
(Applies to contracts for construction within the U.S. in excess of \$2,000.)
- 52.222-19 Child Labor—Cooperation with Authorities and Remedies (Mar 2012)**
(Applies if this Contract is for supplies.)
- 52.222-21 Prohibition of Segregated Facilities (Apr 2015)**
(Applies to solicitations and contracts unless exempt from E.O. 11246; see FAR 22.807.)
- 52.222-26 Equal Opportunity (Sep 2016)**
(Applies unless this Contract is exempt from E.O. 11246; see FAR 22.807.)
- 52.222-29 Notification of Visa Denial (Jun 2003)**
(Applies if this Contract requires performance in or on behalf of a foreign country.)
- 52.222-41 Service Contract Labor Standards (May 2014)**
(Applies if the Service Contract Act applies to this Contract.)



NAC#5_F05_Terms and Conditions

- 52.222-42 Statement of Equivalent Rates for Federal Hires (May 2014)**
(Applies if Contract is subject to the Service Contract Act and over \$2,500.)
- 52.222-43 Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiple Year and Option Contracts) (May 2014)**
(Applies if this Contract is subject to the Service Contract Act; is fixed-price, time-and- materials, or labor-hour; and is for multiple years or has options to renew.)
- 52.222-44 Fair Labor Standards Act and Service Contract Act—Price Adjustment (May 2014)** (Applies if this Contract is subject to the Service Contract Act; is fixed-price, time-and- materials, or labor-hour; is not for multiple years; and does not have options to renew.)
- 52.222-48 Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment Certification (Feb 2007)** (Applies if this Contract is exempt from the Service Contract Act per FAR part 22.10.)
- 52.222-51 Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (May 2014)**
(Applies if this Contract is exempt from the Service Contract Act (41 U.S. C. 351, et. seq.) per FAR subpart 22.10.)
- 52.222-53 Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements (May 2014)**
(Applies if this Contract is exempt from the Service Contract Act (41 U.S.C., et. seq.) per FAR subpart 22.10.)
- 52.222-54 Employment Eligibility Verification (Oct 2015)**
(Applies if this Contract: (1) is for commercial services, noncommercial services, or construction, except for commercial services that are part of the purchase of a COTS item (or an item that would be a COTS item, but for minor modifications), performed by the COTS provider, and are normally provided for that COTS item; (2) has a value of more than \$3,500; and (3) includes work performed in the United States.)
- 52.222-55 Minimum Wages Under Executive Order 13658 (Dec 2015)**
(Applies if this Contract is subject to the Service Contract Labor Standards (52.222-41) or Construction Wage Rate Requirements (52.222-6) and work is to be performed in whole or part within the United States (includes the District of Columbia.)
- 52.222-62 Paid Sick Leave Under Executive Order 13706 (Jan 2017)**
(Applies in solicitations and contracts including FAR 52.222-6, Construction Wage Rate Requirements, or 52.222-41, Service Contract Labor Standards, for work to be performed wholly or partially in the United States (50 States and District of Columbia).)
- 52.223-2 Affirmative Procurement of Biobased Products Under Service and Construction Contracts (Jul 2012)**
(Applies if the Contract involves USDA-designated items at 7 C.F.R. part 3201.)
- 52.223-3 Hazardous Material Identification and Material Safety Data (Jan 1997)**
(Seller shall furnish information required by Para. (b) to Buyer.)
- 52.223-5 Pollution Prevention and Right-to-Know Information (May 2011)**
(Applies if this Contract provides for performance, in whole or in part, on a Federal facility.)
- 52.223-6 Drug-Free Workplace (May 2001)**
(Except for Contracts that will be performed outside the United States and its outlying areas and except for Contracts for commercial items.)
- 52.223-7 Notice of Radioactive Materials (Jan 1997)**
(Applies if this Contract meets the criteria in Para. (a); insert "60" in the first sentence of Para. (a).)
- 52.223-11 Ozone-Depleting Substances (May 2001)**
(Applies if this Contract is for ozone-depleting substances or for supplies that may contain or be manufactured with ozone-depleting substances.)
- 52.223-12 Refrigeration Equipment and Air Conditioners (May 1995)**
(Applies if this Contract includes the maintenance, repair, or disposal of any equipment or appliance using ozone-depleting substances as a refrigerant.)
- 52.223-13 Acquisition of EPEAT®-Registered Imaging Equipment (Jun 2014)**
(Applies to solicitations and contracts for imaging equipment (copiers, digital duplicators, facsimile machines, mailing machines, multifunction devices, printers, scanners) to be EPEAT® bronze-registered or higher when the imaging equipment will be delivered, furnished for Government use, or furnished for contractor's use at a Federally-controlled facility, unless an exception applies under FAR 23.704(a). For information about EPEAT®, see www.epa.gov/epaat. Alternate I (Oct 2015) applies when there are sufficient EPEAT® silver- or gold-registered products available to meet Buyer or Government's needs.)
- 52.223-15 Energy Efficiency in Energy—Consuming Products (Dec 2007)**
(Applies if this Contract involves delivery of products described in FAR 23.206.)
- 52.223-16 Acquisition of EPEAT®-Registered Personal Computer Products (Oct 2015)** (Applies to solicitations and contracts for personal computer products, as defined by FAR 52.223-16, to be EPEAT® bronze-registered or higher when the personal computer product will be delivered, furnished for Government use, or furnished for contractor's use at a Federally-controlled facility, unless an exception applies under FAR 23.704(a). For information about EPEAT®, see www.epa.gov/epaat. Alternate I (Jun 2014) applies when there are sufficient EPEAT® silver- or gold-registered products available to meet Buyer or Government's needs.)
- 52.223-18 Encouraging Contractor Policies to Ban Text Messaging While Driving (Aug 2011)** (Applies if Contract has a value of more than \$3,000)
- 52.224-3 Privacy Training (Jan 2017)**
(Applies in contracts when subcontractor employees: (i) Have access to a system of records;(ii) Create, collect, use, process, store, maintain, disseminate, disclose, dispose, or otherwise handle personally identifiable information; or (iii) Design, develop, maintain, or operate a system of records. Alternate I applies if the agency specifies that only its agency-provided training is acceptable.)
- 52.225-1 Buy American Act—Supplies (May 2014)**
(Does not apply if FAR 52.225-3, FAR 52.225-5, or DFARS 252.225-7001 applies to this Contract.)
- 52.225-3 Buy American Act—Free Trade Agreement—Israeli Trade Act (Nov 2012)**
(Applies if this Contract satisfies the circumstances in FAR 25.1101(b)(1).)
- 52.225-5 Trade Agreements (Sep 2013)**



NAC#5_F05_Terms and Conditions

- (Applies if this Contract satisfies the circumstances in FAR 25.1101(c)(1).)
- 52.225-8 Duty Free Entry (Oct 2010)**
(Applies if, under this Contract, supplies identified in the Contract to be accorded duty- free entry will be imported into the customs territory of the United States or if other foreign supplies in excess of \$10,000 may be imported into the customs territory of the United States; change "20 calendar days" to "30 calendar days" in Para. (c)(1) and "10 calendar days" to "20 calendar days" in Para. (c)(2). Does not apply if DFARS 252.225- 7013 applies.)
- 52.225-13 Restrictions on Certain Foreign Purchases (Jun 2008)**
(Applies to solicitations and contracts requiring supplies and services not to be acquired for use in the performance of the contract if prohibited by Executive order, statute, or regulations.)
- 52.225-19 Contractor Personnel in Designated Operation Area or Supporting a Diplomatic or Consular Mission Outside the United States (Mar 2008)**
(Applies if this Contract requires Seller to perform outside the United States (1) in a designated operational area during contingency operations or humanitarian or peacekeeping operations or (2) when supporting a diplomatic or consular mission that has been designated by the Department of State as a danger pay post or that the Contracting Officer has indicated is subject to this clause. Does not apply if DFARS 252.225-7040 (Feb 2013) or DFARS 252.225-7040 (Deviation) (Jun 2013) applies.)
- 52.225-25 Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran-Representation and Certifications (Aug 2018)** (Applies to all solicitations and contracts)
- 52.225-26 Contractors Performing Private Security Functions Outside the United States (Oct 2016)**
(Applies to solicitations and contracts to be performed outside the United States in areas of: combat operations (as designated by the Secretary of Defense) or other significant military operations upon agreement of the Secretaries of Defense and State that the clause applies in that area.)
- 52.226-6 Promoting Excess Food Donation to Nonprofit Organizations (May 2014)**
(Applies if Contract greater than \$25,000 and if provision, service, or sale of food in the United States.)
- 52.227-1 Authorization and Consent (Dec 2007)**
(Does not apply if both complete performance and delivery are outside the United States.)
- 52.227-9 Refund of Royalties (Apr 1984)**
(Applies if the amount of royalties reported during negotiation is over \$250.)
- 52.227-10 Filing of Patent Applications—Classified Subject Matter (Dec 2007)**
(Applies if this Contract is classified or reasonably could result in a patent application containing classified subject matter.)
- 52.227-11 Patent Rights—Ownership by the Contractor (May 2014)**
(Does not apply under the circumstances at DFARS 227.303(2)(i); Alts. I – V apply under the circumstances in FAR 27.303(b)(1).)
- 52.227-13 Patent Rights—Ownership by the Government (Dec 2007)**
(Alts. I and II apply under the circumstances in FAR 27.303(e).)
- 52.227-14 Rights in Data—General (May 2014)**
(Does not apply if this Contract is awarded under a DoD prime contract (FAR subpart 27.4); if this clause does apply, "Government" does not change and the term "Contractor" changes to "Seller" rather than to "Buyer" in Para. (b) and "Contracting Officer" does not change in the first sentence of Paras. (c)(1) and (e).)
- 52.227-16 Additional Data Requirements (Jun 1987)**
(Does not apply if this Contract is awarded under a DoD prime contract; otherwise applies when criteria in FAR 27.409(d) are satisfied.)
- 52.227-17 Rights in Data—Special Works (Dec 2007)**
(Does not apply if this Contract is awarded under a DoD prime contract.)
- 52.227-19 Commercial Computer Software—License (Dec 2007)**
(Applies if Contract is for commercial computer software and clause is present in the prime contract.)
- 52.227-20 Rights in Data – SBIR Program (May 2014)**
(Applies if a Small Business Innovation Research (SBIR) contract.)
- 52.227-21 Technical Data Declaration, Revision, and Withholding of Payment—Major Systems (May 2014)**
(Applies to contracts for acquisition of major systems or for support of major systems which includes if for detailed design, development, or production of a major system, any individual part, component, subassembly, assembly, or subsystem integral to the major system, and other property that may be replaced during the service life of the system, including spare parts.)
- 52.227-23 Rights to Proposal Data (Technical) (Jun 1987)**
(Applies to solicitations and contracts relating to Government rights to proposal technical data.)
- 52.228-3 Workers' Compensation Insurance (Defense Base Act) (Jul 2014)**
(Applies to solicitations and contracts to which the Defense Base Act applies and will be for public work performed outside the United States or will be approved or financed under the Foreign Assistance Act of 1961 (Pub. L. 87-195) and is not excluded by FAR 28.305(b)(2).)
- 52.228-4 Worker's Compensation and War-Hazard Insurance Overseas (Apr. 1984)** (Applies to solicitations and contracts where the Defense Base Act applies and will be for public work outside the United States and the Secretary of Labor waives the Defense Base Act applicability; see 28.305(d).)
- 52.228-5 Insurance-Work on a Government Installation (Jan 1997)**
(Applies if this Contract requires work on a Government installation; insurance kinds and types as set forth in the Contract.).
- 52.229-6 Taxes—Foreign Fixed-Price Contracts (Jun 2003)**
(Applies if this Contract is fixed price and performed at least partly in a foreign country.)
- 52.229-8 Taxes—Foreign Cost-Reimbursement Contracts (May 1990)**
(Applies if this Contract is cost-reimbursement and performed at least partly in a foreign country.)
- 52.229-10 State of New Mexico Gross Receipts and Compensating Tax (Apr 2003)**
(Applies if this Contract is cost-reimbursement and satisfies the requirements in FAR 29.401-4(b)-(c).)
- 52.232-16 Progress Payments (Apr 2012)**
(Applies if this Contract is fixed price and provides for progress payments. If Seller is other than a small business, then this clause applies only if approved by Buyer. "Government" does not change in Paras. (d) and (g). Alt. I applies if Seller is a small business.)
- 52.232-20 Limitation of Cost (Apr 1984)**



NAC#5_F05_Terms and Conditions

- (Applies if this Contract is a fully funded cost-reimbursement contract, whether or not the Contract provides for payment of a fee.)
- 52.232-22** **Limitation of Funds (Apr 1984)**
(Applies if this Contract is an incrementally funded cost-reimbursement contract.)
- 52.232-27** **Prompt Payment for Construction Contracts (May 2014)**
(Applies if this Contract is for construction and is required to flow to each tier.)
- 52.232-32** **Performance-Based Payments (Apr 2012)**
(Applies in solicitations that may result in contracts providing for performance-based payments or if this Contract is fixed price and provides for performance-based payments.)
- 52.232-39** **Unenforceability of Unauthorized Obligations (Jun 2013)**
("Government" retains its meaning.) (Applies to all solicitations and contracts when any supply or service acquired under this contract is subject to any agreement that includes a clause requiring the Government to indemnify that would create an Anti-Deficiency Act violation.)
- 52.232-40** **Providing Accelerated Payments to Small Business Subcontractors (Dec 2013)** (Applies to all subcontracts with small business concerns, including if acquisition of commercial items.)
- 52.234-1** **Industrial Resources Developed Under Defense Production Act Title III (Dec 1994)** (Applies where Contract awarded under a DoD prime contract for major systems or items of supply.)
- 52.237-2** **Protection of Government Buildings, Equipment, and Vegetation (Apr 1984)** (Applies if work under the Contract will be performed on a Government installation.)
- 52.237-3** **Continuity of Services (Jan 1991)**
(Applies to solicitations and contracts when services are vital and must be continue without interruption, upon contract expiration Government or successor may continue services, and Government anticipates transition difficulties.)
- 52.239-1** **Privacy or Security Safeguards (Aug 1996)**
(Applies to solicitations and contracts for which require security of information Technology and/or are for design, development, or operation of a system of records using commercial information technology services or support services.)
- 52.242-2** **Production Progress Reports (Apr 1991)**
(Applies if the Contract requires production progress reporting.)
- 52.242-15** **Stop Work Order (Aug 1989)** ("Ninety (90) days" is changed to "one hundred (100) days" and "thirty (30) days" is changed to "twenty (20) days" throughout the clause.)
- 52.242-17** **Government Delay of Work (Apr 1984)**
("Contracting Officer" in Para. (a) includes Buyer; "Government" does not change.)
- 52.243-6** **Change Order Accounting (Apr 1984)**
(Applies to solicitations and contracts for supply, research, development, and construction of significant complexity if numerous changes are anticipated and the estimated cost of a change or series of related changes exceeds \$100,000.)
- 52.244-2** **Subcontracts (Oct 2010)**
(Applies if Contract contains unpriced or cost-reimbursement elements.)
- 52.244-6** **Subcontracts for Commercial Items (Jan 2017)** (Applies to all Contracts and must be flowed down through all subcontract tiers. Subcontracts for commercial items are subject to additional clause requirements within 52.244-6 and must be reviewed for applicability and further subcontract flow down requirements.)
- 52.245-1** **Government Property (Jan 2017)**
(Applies if Seller will be furnished property under this Contract. Alts. I and II apply as specified in FAR 45.107(a)(2)-(3). Seller's obligations for any Buyer Furnished Property are the same as for Government Furnished Property under this clause.)
- 52.245-2** **Government Property Installation Operations Services (Apr 2012)**
(Applies if this Contract is a fixed-price service contracts and will be performed on a Government installation when Government-furnished property will be provided for initial provisioning only and the Government is not responsible for repair or replacement.)
- 52.245-9** **Use and Charges (Apr 2012)**
(Applies to solicitations and contracts at any tier when FAR 52.245-1, Government Property, applies.)
- 52.246-1** **Inspection Requirements (Apr 1984)**
(Applies if the Contract is below the simplified acquisition threshold; applies in lieu of - 0807 ¶ 6, INSPECTION.)
- 52.246-3** **Inspection of Supplies—Cost-Reimbursement (May 2001)**
(Applies to solicitations and contracts for supplies or services that involve furnishing supplies when a cost-reimbursement contract is contemplated.)
- 52.246-5** **Inspection of Services—Cost-Reimbursement (Apr 1984)**
(Applies to solicitations and contracts for services or supplies that involve furnishing services when a cost-reimbursement contract is contemplated.)
- 52.246-11** **Higher-Level Contract Quality Requirement (Dec. 2014)**
(Applies to solicitations and contracts at any tier when there are requirements of higher- level quality standard(s) for critical or complex items or technical requirements require control such as design, work operations, in-process control, testing, and inspection or attention to factors, such as, organization, planning, work instruction, documentation control, and advanced metrology.)
- 52.246-19** **Warranty of Systems and Equipment Under Performance Specifications or Design Criteria (May 2001)** (Applies when performance specifications or design are of major importance; a fixed- price supply, service, or research and development contract for systems and equipment is contemplated; and the clause is within the prime contract.)
- 52.246-23** **Limitation of Liability (Feb 1997)**
(Applies to solicitations and contracts, not exempt under FAR 46.801, for delivery of non- high value end items.)
- 52.246-24** **Limitation of Liability—High Value Items (Feb 1997)**
(Applies to solicitations and contracts, not exempt under FAR 46.801, for delivery of High value items.)
- 52.246-25** **Limitation of Liability—Services (Feb 1997)**
(Applies to solicitations and contracts, not exempt under FAR 46.801, for performance of services.)
- 52.246-26** **Reporting Nonconforming Items (Jun 2020)**
(Applies to all solicitations and contracts, except for commercial items)
- 52.247-63** **Preference for U.S.-Flag Air Carriers (Jun 2003)**
(Applies if the Contract involves international air transportation funded by this Contract.)



NAC#5_F05_Terms and Conditions

- 52.247-64 Preference for Privately Owned U.S.- Flag Commercial Vessels (Feb 2006)**
(Applies if the Contract involves ocean transportation of supplies.)
- 52.247-67 Submission of Transportation Documents for Audit (Feb 2006)**
(Applies if this Contract is a cost-reimbursement first-tier Government subcontract and transportation will be reimbursed as a direct charge to the Contract; delete Para. (a)(2).)
- 52.249-1 Termination for the Convenience of the Government (Fixed-Price) (Short Form) (Apr 1984)**
(Applies if this Contract is fixed price and is below the simplified acquisition threshold.)
- 52.249-6 Termination (Cost-Reimbursement) (May 2004)**
(Applies if this Contract is cost-reimbursement.)
- 52.249-8 Default (Fixed-Price Supply and Service) (Apr 1984)**
(Applies if this Contract is fixed-price.)
- 52.249-9 Default (Fixed-Price Research and Development) (Apr 1984)**
(Applies if this Contract is fixed-price and for research and development.)
- 52.252-2 Clauses Incorporated By Reference (Feb 1998)**
(Applies to solicitations and contracts)
- 52.252-6 Authorized Deviations in Clauses (Apr 1984)**
(Applies to solicitations and contracts)

DFARS

DFARS Clause Title

- 252.203-7000 Requirements Relating to Compensation of Former DOD Officials (Sep 2011)**
(Applies to solicitations and contracts, including for commercial items.)
- 252.203-7002 Requirement to Inform Employees of Whistleblower Rights (Sep 2013)**
(Applies to solicitations and contracts)
- 252.203-7003 Agency Office of the Inspector General (Aug 2019)**
(Applies to solicitations and contracts, including for commercial items.)
- 252.204-7000 Disclosure of Information (Oct 2016)**
(Applies to solicitations and contracts where the subcontractor will have access to or generate unclassified information that may be sensitive and inappropriate for release to the public. Seller is to submit requests for authorization to release to Buyer for submission to the U. S. Government.)
- 252.204-7002 Payment for Sub-line Items not Separately Priced (Dec 1991)**
(Applies to contracts when the schedule contains any contract subline items not separately priced (NSP).)
- 252.204-7003 Control of Government Personnel Work Product (Apr 1992)**
(Applies to solicitations and contracts.)
- 252.204-7004 Antiterrorism Awareness Training for Contractors (Feb 2019)**
(Applies to all solicitations, including commercial. Seller is required to complete Level I antiterrorism awareness training within 30 days of requiring routine physical access to a Federally-controlled facility or military installation.)
- 252.204-7005 Oral Attestation of Security Responsibilities (Nov 2001)**
(Applies if FAR 52.204-2 applies to this Contract.)
- 252.204-7008 Compliance with Safeguarding Covered Defense Information Controls (Oct 2016)** (Applies to all solicitations, including commercial. Seller represents it will implement the security requirements specified by National Institute of Standards and Technology (NIST) Special Publication (SP) 800-171, "Protecting Controlled Unclassified Information in Nonfederal Information Systems and Organizations" (see <http://dx.doi.org/.6028/NIST.SP800-171>, not later than December 31, 2017. Any variance from the foregoing requires Seller's further compliance with DFARS 251.204-7009 by submission to Buyer as prescribed within per (c) (2)).
- 252.204-7009 Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information (Oct 2016)**
(Applies to solicitations and contracts, including those for commercial items, for services that include support for Government's activities related to safeguarding covered defense information and cyber incident reporting.)
- 252.204-7012 Safeguarding Covered Defense Information and Cyber Incident Reporting (Dec 2019)**
(Applies to all solicitations and contracts, including those for commercial items. Seller is also required to provide Buyer with the submission(s) provided to the U. S. Government.)
- 252.204-7014 Limitations on the Use or Disclosure of Information by Litigation Support Contractors (May 2016)**
(Applies to all solicitations and contracts that involve litigation support services, including the acquisition of commercial items.)
- 252.204-7015 Notice of Authorized Disclosure of Information for Litigation Support (May 2016)**
(Applies to all solicitations and contracts, including acquisition of commercial items.)
- 252.204-7016 Covered Defense Telecommunications Equipment or Services- Representation (Dec 2019)**
(Applies to all solicitations and contracts, including acquisition of commercial items.)
- 252.204-7017 Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services Representation (Dec 2019)**
(Applies to all solicitations and contracts, including acquisition of commercial items, unless exempted by DFARS 252.204-7016 response of "does not.")
- 252.204-7018 Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services (Dec. 2019)**
(Applies to all solicitations and contracts, including acquisition of commercial items.)
- 252.204-7019 Notice of NIST SP 800-171 DoD Assessment Requirements (Nov 2020)**
(Applies to all solicitations and contracts, including acquisition of commercial items, except for solicitations solely for the acquisition of commercially available off-the-shelf (COTS) items.)



NAC#5_F05_Terms and Conditions

- 252.204-7020** **NIST SP 800-171 DoD Assessment Requirements (Nov 2020)**
(Applies to all solicitations and contracts, task orders, or delivery orders, including acquisition of commercial items, except for those that are solely for the acquisition of commercially available off-the-shelf (COTS) items.)
- 252.208-7000** **Intent to Furnish Precious Metals as Government-Furnished Material (Dec 1991)** (Applies unless no items containing precious metals will be delivered under this Contract.)
- 252.211-7003** **Item Unique Identification and Valuation (Jun 2013)**
(Applies if this Contract provides for delivery of items requiring unique item identification.)
- 252.211-7007** **Reporting of Government-Furnished Property (Aug 2012)**
(Applies if FAR 52.245-1 applies to this Contract.)
- 252.216-7004** **Award Fee Reduction or Denial for Jeopardizing the Health or Safety of Government Personnel (Sep 2011)**
(Applies if this solicitation or Contract contains an award-fee provision.)
- 252.222-7000** **Restrictions on Employment of Personnel (Mar 2000)**
(Applies if this Contract provides for services in a noncontiguous state.)
- 252.222-7002** **Compliance with Local Labor Laws (Overseas) (Jun 1997)**
(Applies if this Contract includes services to be performed outside the United States and its outlying areas.)
- 252.222-7004** **Compliance with Spanish Social Security Laws and Regulations (Jun 1997)**
(Applies if this Contract includes services to be performed in Spain.)
- 252.223-7001** **Hazard Warning Labels (Dec 1991)**
(Applies if delivery of hazardous materials is required under this Contract.)
- 252.223-7002** **Safety Precautions for Ammunition and Explosives (May 1994)**
(Applies if articles furnished under this Contract contain ammunition or explosives, including liquid and solid propellants.)
- 252.223-7003** **Change in Place of Performance—Ammunition and Explosives (Dec 1991)**
(Applies if articles furnished under this Contract contain ammunition or explosives, including liquid and solid propellants.)
- 252.223-7006** **Prohibition on Storage Treatment and Disposal of Toxic or Hazardous Materials (Sep. 2014)**
(Basic clause applies if Offeror/Seller's access to a DoD installation is required, may be required, or permits such access (at any subcontract tier) unless a determination is made under FAR 223.7104(a)(10), then Alternate I applies for an issued determination under the 223.7104(a)(10) exception.)
- 252.223-7007** **Safeguarding Sensitive Conventional Arms, Ammunition, and Explosives (Sep 1999)** (Applies if this Contract is for the development, production, manufacture, or purchase of arms, ammunition, and explosives or if arms, ammunition, and explosives will be provided to Seller as Government Furnished Property.)
- 252.223-7008** **Prohibition of Hexavalent Chromium (Jun 2013)**
(Applies unless this Contract is exempt under DFARS 223.7304 or use has been authorized in accordance with DFARS 223.7305.)
- 252.225-7001** **Buy American and Balance of Payments Program (Aug 2016)**
(Applies if work contains other than domestic components; "Government" is not changed in this clause. Does not apply if DFARS 252.225-7021 and/or 252.225-7036 apply to all line items under this Contract.)
- 252.225-7002** **Qualifying Country Sources as Subcontractors (Aug 2016)**
(Applies if DFARS 252.225-7001, 252.225-7021, or 252.225-7035 apply to this Contract.)
- 252.225-7007** **Prohibition on Acquisition of United States Munitions List Items from Communist Chinese Military Companies (Dec 2018)**
(Applies if this Contract provides for delivery of items covered by the United States Munitions or the 600 series of the Commerce Control List.)
- 252.225-7008** **Restriction on Acquisition of Specialty Metals (Mar 2013)**
(Applies if this Contract provides for delivery of specialty metals.)
- 252.225-7009** **Restriction on Acquisition of Certain Articles Containing Specialty Metals (Oct. 2014)**
(Applies if this Contract provides for delivery of specialty metals or items containing specialty metals.)
- 252.225-7013** **Duty-Free Entry (May 2016)**
(Applies if the Contract provides for delivery of qualifying country components or non-qualifying country components when total duty paid will exceed \$200; Seller shall include information required by Para. (j).)
- 252.225-7015** **Restriction on Acquisition of Hand or Measuring Tools (Jun 2005)**
(Applies if this Contract includes delivery of hand or measuring tools.)
- 252.225-7016** **Restriction on Acquisition of Ball and Roller Bearings (Jun 2011)**
(Applies if work supplied under this Contract contains ball or roller bearings.)
- 252.225-7017** **Photovoltaic Devices (Aug 2016)**
(Applies if photovoltaic devices will be delivered under this Contract.)
- 252.225-7021** **Trade Agreements (Aug 2016)**
(Applies if the World Trade Organization Government Procurement Agreement applies to this Contract. If applicable, this clause applies instead of FAR 52.225-5; this clause does not apply when DFARS 252.225-7026 applies; if eligible and non-eligible items are to be provided, this Contract shall indicate which items are covered by this clause.)
- 252.225-7025** **Restriction on Acquisition of Forgings (Dec 2009)**
(Applies if this Contract provides for of any items listed at DFARS 225.7102-1 unless an exception at DFARS 225.7102-2 applies.)
- 252.225-7026** **Acquisition Restricted to Products or Services from Afghanistan (Sep 2013)**
(Applies if products or services to be acquired under the Contract are restricted to acquisitions from Afghanistan or shall be directed to a particular source or sources from Afghanistan.)
- 252.225-7027** **Restriction on Contingent Fees for Foreign Military Sales (Apr 2003)**
(Applies if this Contract will be performed in furtherance of a Foreign Military Sale transaction.)
- 252.225-7028** **Exclusionary Policies and Practices of Foreign Governments (Apr 2003)**
(Applies if this Contract is for supplies and services for international military education training and/or Foreign Military Sales.)



NAC#5_F05_Terms and Conditions

- 252.225-7030** **Restriction on Acquisition of Carbon, Alloy, and Armor Steel Plate (Dec 2006)** (Applies to solicitations and contracts that require contractors operating in a facility owned by the Government or under DoD control to purchase carbon, alloy, or armor steel plate or which items will be delivered to be used at such facility.)
- 252.225-7036** **Buy American Act—Free Trade Agreements—Balance of Payments Program (Aug 2016)** (Applies if this Contract is for end items listed at DFARS 225.401-70; if eligible and non-eligible items are to be provided, this Contract shall indicate which items are covered by this clause. Alts. I-V apply as provided for in DFARS 225.1101(10). If applicable, this clause applies instead of FAR 52.225-3.)
- 252.225-7039** **Defense Contractors Performing Private Security Functions Outside the United States (Jun 2016)** (Applies to solicitations and contracts, including those for commercial items, where private security functions, as defined by the 252.225-7039, will be performed outside the United States in areas set forth within this clause.)
- 252.225-7040** **Contractor Personnel Supporting U.S. Armed Forces Deployed Outside the United States (Oct 2015)** (Applies to solicitations and contracts, including for commercial items, if this Contract requires Seller's personnel are supporting U.S. Armed Forces deployed outside the United States in contingency operations, humanitarian or peacekeeping operations, or other military operations, or exercises when designated by the Combatant Commander, or as directed by the Secretary of Defense.)
- 252.225-7041** **Correspondence in English** (Applies to solicitations and contracts when contract performance will be wholly or in part in a foreign country.)
- 252.225-7042** **Authorization to Perform (Apr 2003)** (Applies to solicitations and contracts when contract performance will be wholly or in part in a foreign unless FAR 52.204-7 is included)
- 252.225-7043** **Antiterrorism/Force Protection Policy for Defense Contractors Outside the United States (Jun 2015)** (Applies to solicitations and contracts, including for commercial items if Seller will be performing or traveling outside the U.S. under this Contract, except for contracts with foreign governments, representatives of foreign governments, or foreign corporations wholly owned by foreign governments. For Para. (d), see applicable information cited in PGI 225.375-1.)
- 252.225-7047** **Exports by Approved Community Members in Performance of Contract (Jun 2013)** (Applies if the Contract may require exports or transfers of qualifying defense articles in connection with deliveries under the Contract.)
- 252.225-7048** **Export-Controlled Items (Jun 2013)** (Applies to all solicitations and contracts.)
- 252.225-7995** **Contractor Personnel Performing in the United States Central Command Area of Responsibility (DEVIATION 2017-00004)** (Applies to all solicitations and contracts that require Seller personnel to perform in the United States Central Command area of responsibility.)
- 252.225-7997** **Contractor Demobilization (DEVIATION 2013-00017)** (Applies to all solicitations and contracts with performance in Afghanistan, except for solicitations and contracts for commodities.)
- 252.227-7013** **Rights in Technical Data—Noncommercial Items (Feb. 2014)** (Applies if technical data from Seller will be delivered to the Government by Buyer or a higher-tier contractor; does not apply in circumstances at DFARS 227.7103-6(a). When this clause applies, delete from Para. (b)(1)(vi) "to the Contractor" and from (b)(1)(ix) "contract or" and "thereunder"; add "Buyer or" before "Government" in Paras. (c) and (i); change the second and third occurrences of "Contracting Officer" to "Government" in Para. (e)(4); add "and the Government" after "parties" in Para. (h)(1); change in Para. (h)(2) "sixty (60)" to "thirty (30)" days; no substitutions for "Government" are made.)
- 252.227-7014** **Rights in Noncommercial Computer Software and Noncommercial Software Documentation (Feb 2014)** (Applies if software and software documentation from the subcontractor will be delivered to the Government by Buyer or a higher-tier contractor; delete from Para. (b)(1)(iii) "to the Contractor" and from Para. (b)(1)(vi) "contract or" and "thereunder"; add "Buyer or" before "Government" in Para. (i); change the second and third occurrences of "Contracting Officer" to "Government" in Para. (e)(4); add "and the Government" after "parties" in Para. (h)(1); change in Para. (h)(2) "sixty (60)" to "thirty (30)" days; no substitutions for "Government" are made.)
- 252.227-7015** **Technical Data-Commercial Items (Feb. 2014)** (Applies if any technical data related to commercial items, components, or processes (herein "items") developed in any part at private expense will be obtained from Seller to the Government under this Contract by Buyer or a higher-tier contractor; applies instead of DFARS 252.227-7013 if no part of the 247-7023 items to be delivered have been developed at Government expense. Applies in addition to 252.227-7013 if the Government paid for any portion of development. No substitutions for "Contracting Officer" or "Government" are made.)
- 252.227-7016** **Rights in Bid or Proposal Information (Jan 2011)** (Applies if DFARS 252.227-7013, -7014, or -7018 applies to this Contract; no substitutions for "Government" or "Contracting Officer" are made.)
- 252.227-7017** **Identification and Assertion of Use, Release, or Disclosure Restrictions (Jan 2011)** (Applies if DFARS 252.227-7013, -7014, or -7018 applies to this Contract; no substitutions for "Government" or "Contracting Officer" are made.)
- 252.227-7018** **Rights in Noncommercial Technical Data and Computer Software – Small Business Innovation Research (SBIR) Program (Feb 2014); Alternate I (Jun 1995)** (Applies to this Contract, to be flowed to subcontractors at any tier, along with DFARS Subpart 227.7104, if technical data and/or computer software will be generated under the SBIR Program; Alternate I applies as prescribed in 227.7104 (d); for purposes of the foregoing, "Government" and "Contracting Officer" retain their meanings and "Contractor" shall mean "Seller", except communication with the Government shall be through "Buyer".)
- 252.227-7019** **Validation of Asserted Restrictions—Computer Software (Sep 2016)** (Applies if DFARS 252.227-7014 or -7018 applies to this Contract and Seller is providing computer software to be furnished to the Government in the performance of this Contract; substitute "Buyer's Purchasing Representative" for "Contracting



NAC#5_F05_Terms and Conditions

- Officer" in Para. (b), otherwise no substitutions are made for "Contracting Officer" or "Government"; in Paras. (f)(5) and (f)(6), substitute "the Government prime contract under which this Contract is made" for "this contract.")
- 252.227-7020 Rights in Special Works (Jun 1995)**
(Applies for Contracts exclusively acquiring existing works; then replaces DFARS 252.227- 7013.)
- 252.227-7021 Rights in Data—Existing Works (Mar 1979)**
(Applies to solicitations and contracts in lieu of 252.227-7013 when existing works will be acquired without modification and the Government requires the right to reproduce, prepare derivative works, or publicly perform or display the existing works or the Government has a specific need to obtain indemnity for liabilities that may arise out of the content, performance, use, or disclosure of such data.)
- 252.227-7025 Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends (May 2013)**
(Applies if Buyer will provide Seller, for performance of this Contract, computer software or computer software documentation marked with another contractor's restrictive legend(s); no substitution is made for "Government.")
- 252.227-7026 Deferred Delivery of Technical Data or Computer Software (Apr 1988)**
(Applies when present in a DoD prime contract.)
- 252.227-7027 Deferred Ordering of Technical Data or Computer Software (Apr 1988)**
(Applies to contracts when deferred delivery is in the best interest of the Government as set forth within a DoD prime contract.)
- 252.227-7028 Technical Data or Computer Software Previously Delivered to the Government (Jun 1995)**
(Applies to solicitations and contracts for subcontractor to identify with its offer documents or other media incorporating technical data and/or computer software with other than unlimited rights that are identical or substantially similar that were produced for, delivered to, or is obligated to deliver to the Government under contract or subcontract.)
- 252.227-7030 Technical Data—Withholding of Payment (Mar 2000)**
(Applies if DFARS 252.227-7013 or -7018 applies to this Contract; substitute "Buyer" for "Contracting Officer" in Para. (a); in Para. (b), add "or Buyer" after "Government.")
- 252.227-7032 Rights in Technical Data and Computer Software (Foreign) (Jun 1975)**
(Applies if this Contract satisfies the criteria in DFARS 227.7103-17; if applicable, applies in lieu of DFARS 252.227-7013 for foreign contracts to be performed overseas. Canadian purchases will be governed by the contract's applicable clause; see 227.7103-17 (a) and (c).)
- 252.227-7037 Validation of Restrictive Markings on Technical Data (Sep 2016)**
(Applies if DFARS 252.227-7013, -7014, -7015, or -7018 applies to this Contract; in Para. (b), "Contractor's" remains in the clause with a lower case "c"; insert in Paras. (c) and (d)(1) "hereunder" after "subcontract"; change in Paras. (f) and (g)(2)(i) "this contract" to "the prime contract"; change in Para. (i) "a contract" to "the prime contract"; no substitutions for "Government" or "Contracting Officer" are made.)
- 252.227-7038 Patent Rights—Ownership by the Contractor (Large Business) (Jun 2012)**
(Applies if this Contract is for experimental, developmental, or research work, unless the work is to be performed by a small business concern or nonprofit organization or unless a different patent rights clause is required by FAR 27.303; "Government" and "Contracting Officer" do not change.)
- 252.227-7039 Patents—Reporting of Subject Inventions (Apr 1990)**
(Applies if FAR 52.227-11 applies under this Contract.)
- 252.228-7000 Reimbursement for War-Hazard Losses (Dec 1991)**
(Applies if FAR 52.228-4 applies to this Contract.)
- 252.228-7003 Capture and Detention (Dec 1991)**
(Applies if Seller employees under this Contract are subject to capture and detention and may not be covered by the War Hazards Compensation Act (42 U.S.C. 1701 et seq.)
- 252.228-7005 Accident Reporting and Investigations Involving Aircraft, Missiles, and Space Launch Vehicles (Dec 1991)**
(Applies if this Contract provides for manufacture, modification, overhaul, and repair of these items.)
- 252.229-7000 Invoices Exclusive of Taxes or Duties (Jun 1997)**
(Applies if Seller is a foreign concern.)
- 252.229-7001 Tax Relief (Jun 1997)**
(Applies if Seller is a foreign concern in a foreign country. Alt. I applies if Seller will perform the Contract in Germany.)
- 252.229-7002 Customs Exceptions (Germany) (Jun 1997)**
(Applies if the Contract requires importing U.S. manufactured products into Germany.)
- 252.229-7003 Tax Exemptions (Italy) (Mar 2012)**
(Applies if Seller will perform the Contract in Italy.)
- 252.229-7005 Tax Exemptions (Spain) (Mar 2012)**
(Applies if Seller will perform the Contract in Spain.)
- 252.229-7006 Value Added Tax Exclusion (United Kingdom) (Dec 2011)**
(Applies if Seller will perform the Contract in the United Kingdom.)
- 252.229-7007 Verification of United States Receipt of Goods (Jun 1997)**
(Applies if the Contract is awarded in the United Kingdom.)
- 252.229-7008 Relief from Import Duty (United Kingdom) (Dec 2011)**
(Applies if the Contract is awarded in the United Kingdom.)
- 252.229-7010 Relief from Customs Duty and Value Added Tax on Fuel (United Kingdom) (Jun 1997)** (Applies if the Contract is awarded in the United Kingdom and is for fuels (gasoline or diesel) and lubricants used in taxis or vehicles other than passenger vehicles.)
- 252.229-7011 Reporting of Foreign Taxes- U.S. Assistance Programs (Sep 2005)**
(Applies to solicitations and contracts that exceed \$500 and are funded with U.S. assistance appropriated provided in the annual foreign operations appropriations act.)
- 252.229-7014 Taxes – Foreign Contracts in Afghanistan (Dec 2015)**
(Applies to solicitations and contracts, including for commercial items, with performance in Afghanistan unless DFARS 252.229-7015 applies.)



NAC#5_F05_Terms and Conditions

- 252.229-7015 Taxes – Foreign Contracts in Afghanistan (North Atlantic Treaty Organization Status of Forces Agreement (Dec 2015))**
(Applies to solicitations and contracts, including for commercial items, with performance in Afghanistan in lieu of DFARS 252.229-7014 if awarded on behalf of the North Atlantic Treaty Organization (NATO), which are governed by the NATO Status of Forces Agreement (SOFA), if the Government approves pursuant to DFARS 252.229-7015 prior to each use.)
- 252.231-7000 Supplemental Cost Principles (Dec 1991)**
(Applies if this Contract is subject to cost principles.)
- 252.232-7002 Progress Payments for Foreign Military Sale Acquisitions (Dec 1991)**
(Applies if this Contract contains FMS requirements and provides for progress payments.)
- 252.232-7007 Limitation of Government's Obligation (May 2006)**
(Applies if this Contract is incrementally funded and fixed price.)
- 252.232-7008 Assignment of Claims (Overseas) (Jun 1997)**
(Applies if Seller will perform this Contract in a foreign country.)
- 252.235-7002 Animal Welfare (Dec 2014)**
(Applies if this Contract involves research, development, test, and evaluation or training that use live vertebrate animals.)
- 252.235-7003 Frequency Authorization (Mar. 2014)**
(Applies if this Contract requires the development, production, construction, testing, or operation of a device for which a radio frequency authorization is required as follows: (i) The Basic clause applies if the use of DD Form 1494 is not authorized (Ref. DFARS Subpart 235.072 (b) (1)) and the term, "Contractor, in paragraphs (a), (b) and (d) shall read "Seller" and "Contracting Officer" in paragraph (b) shall read, "Buyer" ; (ii) Alternate I applies if the use of DD Form 1494 is authorized (Ref. 235.072 (b)(2)) and the term, "Contractor" in paragraphs (a), (b), (c), and (d) shall read "Seller" and "Contracting Officer" in paragraph (b) shall read "Buyer".)
- 252.237-7010 Prohibition on Interrogation of Detainees by Contractor Personnel (Jun 2013)** (Applies to this Contract if Seller's personnel may be required to interact with detainees in the course of their duties.)
- 252.237-7023 Continuation of Essential Contractor Services (Oct 2010)**
(Applies if this Contract is for essential contractor services as defined in Para. (a)(1).)
- 252.239-7009 Representation of Use of Cloud Computing (Sep 2015)**
(Applies to solicitations (including for commercial items) if for information technology services. Offeror is to advise Buyer if Offeror does or does not anticipate the use of cloud computing services in the performance of any contract or subcontract resulting from the solicitation.)
- 252.239-7010 Cloud Computing Services (Oct 2016)**
(Applies to solicitations and contracts, including for commercial items, if for information technology services or involve or may involve cloud services.)
- 252.239-7016 Telecommunications Security Equipment, Devices, Techniques, and Services (Dec 1991)**
(Applies if Seller's performance of the Contract requires secure telecommunications.)
- 252.239-7018 Supply Chain Risk (Nov 2013)**
(Applies to solicitations and contracts that involve the development or delivery of any information technology whether acquired as a service or as a supply; "Government" retains its meaning in paragraph (d) and the words, "and Buyer", shall be inserted in all other "Government" references, except in paragraph (b) which shall be "Buyer" in lieu of Government and Buyer". "Contractor" shall mean, "Seller".)
- 252.243-7001 Pricing of Contract Modifications (Dec 1991)**
(Applies if this Contract is fixed-price type.)
- 252.244-7000 Subcontracts for Commercial Items and Commercial Components (DOD Contracts) (Jun 2013)**
(Applies to solicitations and contracts, including commercial items.)
- 252.244-7001 Contractor Purchasing System Administration - Basic and Alternate I (May 2014)** (Applies to this Contract if contains FAR 52.244-2; Alt. I applies if contains DFARS 252.246- 7007, but not FAR 52.244-2.)
- 252.245-7001 Tagging, Labeling, and Marking of Government-Furnished Property (Apr 2012)** (Applies if FAR 52.245-1 applies to this Contract.)
- 252.245-7002 Reporting Loss of Government Property (Apr 2012)**
(Applies if FAR 52.245-1 applies to this Contract.)
- 252.245-7003 Contractor Property Management System Administration (Apr 2012)**
(Applies if FAR 52.245-1 applies to this Contract.)
- 252.245-7004 Reporting, Reutilization, and Disposal (May 2013)**
(Applies if FAR 52.245-1 applies to this Contract.)
- 252.246-7000 Material Inspection and Receiving Report (May 2008)**
(Applies if there will be separate and distinct deliverables under this Contract.)
- 252.246-7001 Warranty of Data (Mar 2014)**
(Applies if DFARS 252.227-7013 applies to this Contract; basic clause applies if Contract is not firm-fixed price or fixed-price incentive; Alt. I applies if fixed-price incentive and Alt. II if firm-fixed price.)
- 252.246-7003 Notification of Potential Safety Issues (Jun 2013)**
(Applies if this Contract is for parts identified as critical safety items; systems and subsystems, assemblies, and subassemblies integral to a system; or repair, maintenance, logistics support, or overhaul services for systems and subsystems, assemblies, subassemblies, and parts integral to a system. "Government" does not change.)
- 252.246-7007 Contractor Counterfeit Electronic Part Detection and Avoidance System (Aug 2016)** (Applies to subcontracts at any tier for acquisition of electronic parts, end items, components, parts, or assemblies containing electronic parts, services supplying the foregoing as part of the service, including commercial items, excluding introductory text, but including paragraphs (a) through (e)).
- 252.246-7008 Sources of Electronic Parts (May 2018)**
(Applies to solicitations and contracts, including commercial, for (i) electronic parts; (ii) end items, components, parts, or assemblies containing electronic parts; (iii) services where the contractor will supply electronic parts or components, parts,



NAC#5_F05_Terms and Conditions

or assemblies containing electronic parts as part of the service. Does not apply to solicitations and contracts that are set aside for small business.

252.247-7023

Transportation of Supplies by Sea – Basic and Alternate I and II (Apr. 2014)

(Change "prime contractor" in Para. (a)(5) to "Seller" and "the prime contract" to "this Contract"; modify Para. (c) to read "Seller and its subcontractors may request that Buyer obtain Government authorization for shipment . . ."; change in Para. (d) "Contracting Officer" to "Buyer" in the second sentence; change "45" to "60" days in Para. (d) and "30" to "25" in Para. (e); delete in Para. (e) "and the Maritime Administration Office of Cargo Preference, U.S. Department of Transportation, 400 Seventh Street, N.W., Washington, DC 20590"; Paras. (f) and (g) only apply if this Contract exceeds the simplified acquisition threshold; delete in Para. (g) "for the purposes of the Prompt Payment clause of this contract." The Basic and Alternate I and II apply as prescribed in DFARS Subpart 247.574(b).)

252.247-7024

Notification of Transportation of Supplies by Sea (Mar 2000)

(Applies to this Contract if Seller's original response to the solicitation stated that no transportation by sea was contemplated; modify paragraph (a) to read "If, after the award of this order, Seller learns that supplies . . .")

252.249-7000

Special Termination Costs (Dec 1991)

(Applies to the contract if the criteria set forth within 252.249-7000 are met.)

SECTION II:

In addition to the FAR and DFARS clauses in other sections of this document, the following clauses apply to all Contracts and PO's over **\$10,000** referencing this document and all Buyer solicitations referencing this document and that are expected to exceed \$10,000:

FAR

FAR Clause Title

52.222-27

Affirmative Action Compliance Requirements for Construction (April 2015) (Applies to solicitations and contracts at any tier for construction that included FAR 52.222-26, Equal Opportunity.)

52.222-40

Notification of Employee Rights under the National Labor Relations Act

(Dec. 2010) (Applies to all solicitations and contracts, in excess of \$10,000 unless exempted, including acquisition for commercial items and commercially available off-the-shelf items, for work performed wholly or partially within the United States.)

SECTION III:

In addition to the FAR and DFARS clauses in other sections of this document, the following clauses apply to all Contracts and PO's over **\$15,000** referencing this document and all Buyer solicitations referencing this document and that are expected to exceed \$15,000:

FAR

FAR Clause Title

52.222-20

Contracts for Materials, Supplies, Articles, and Equipment Exceeding \$15,000 (May 2014) (Applies to solicitations and contracts (exceeding \$15,000) covered by the statute.)

52.222-36

Equal Opportunity for Workers with Disabilities (Jul. 2014)

(Does not apply if performance of the work and recruitment of the workers will occur outside the United States, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island. Para.(b)(2) is revised to delete "provided by or through the Contracting Officer" and insert "provided upon request by the Contracting Officer through Buyer"; Alt. I applies if Buyer waives any terms of this clause.)

SECTION IV:

In addition to the FAR and DFARS clauses in other sections of this document, the following clauses apply to all Contracts and PO's over **\$30,000** referencing this document and all Buyer solicitations referencing this document and that are expected to exceed \$30,000:

FAR

FAR Clause Title

52.204-10

Reporting Executive Compensation and First-Tier Subcontract Awards

(Oct 2015) (Applies if this Contract is a first-tier subcontract with a value of \$30,000 or more awarded under Buyer's Government prime contract.)

SECTION V:

In addition to the FAR and DFARS clauses in other sections of this document, the following clauses apply to all Contracts and PO's over **\$35,000** referencing this document and all Buyer solicitations referencing this document and that are expected to exceed \$35,000:

FAR

FAR Clause Title

52.209-6

Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Oct 2015)

(Applies to solicitations and contracts which exceed \$35,000, except if for commercially off-the-shelf (COTS) item as defined within FAR 52.209-6. Seller's submission of its proposal/quotation confirmed that Seller, as an Offeror, or its principals, was not debarred, suspended, or proposed for debarment by the Federal Government. Seller understands that FAR 52.209-6 requires Seller to disclose in writing at time of award if Seller, is or is not debarred, suspended, or proposed for debarment by the Federal Government. Seller upon award re-affirms that Seller, or its principals, is not debarred, suspended, or proposed for debarment by the Federal Government and warrants that Seller will advise Buyer immediately of any change in such status.) (a) By either submitting its proposal/quotation or accepting this order, Seller shall be deemed to have certified that, to the best of its knowledge and belief, that: (i) Seller and/or any of its Principals (as defined in FAR 52.209-5): (A) Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;(B) Have not within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; and (C) Are not presently



NAC#5_F05_Terms and Conditions

indicted for otherwise criminally or civilly charged by a government entity with, commission of any of the offenses enumerated in subdivision (a) (1) (i) (B) of this provision. (ii) That it has not within a three-year period preceding this offer had any contract terminated for default by any Federal agency. (b) Seller shall provide immediate written notice to NAC's Buyer if, any time prior to award of any order it learns that its certification was erroneous, when submitted, or has become erroneous by reason of changed circumstances. (c) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed in making an award to Seller.

DFARS
252.209-7004

DFARS Clause Title
Subcontracting with Firms That Are Owned or Controlled by the Government of a Country that is a State Sponsor of Terrorism (Oct 2015)
(Applies to solicitations and contracts.)

SECTION VI:

In addition to the FAR and DFARS clauses in other sections of this document, the following clauses apply to all Contracts and PO's over **\$70,000** referencing this document and all Buyer solicitations referencing this document and that are expected to exceed \$70,000:

FAR
52.248-3 Value Engineering – Construction (Oct 2015)

FAR Clause Title
(Applies to solicitations and contracts for construction if \$70,000 or more and is not an incentive type. "Government" and "Contracting Officer" retain their meanings within this clause.)

SECTION VII:

In addition to the FAR and DFARS clauses in other sections of this document, the following clauses apply to all Contracts and PO's over **\$150,000** referencing this document and all Buyer solicitations referencing this document and that are expected to exceed \$150,000:

FAR
52.203-12

FAR Clause Title
Limitation on Payments to Influence Certain Federal Transactions (Oct 2010)

a) The definitions and prohibitions contained in the clause, at FAR 52.203-12, Limitation on Payments to Influence Certain Federal Transactions, included in this solicitation, are hereby incorporated by reference in paragraph (b.) of this certification. (b) As per 52.203- 11 Certification and Disclosure Regarding Payments to Influence Certain Transactions (Sept 2007); by either submitting its proposal/quotation or accepting this order, Seller shall be deemed to certify to the best of its knowledge and belief that on and after December 23, 1989. (1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement; (2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, Seller shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, in accordance with its instructions, and (3) He or she will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$150,000 shall certify and disclose accordingly. A copy of each Seller's disclosure form OMB standard form LLL (but not certifications) shall be forwarded from tier to tier until received by Buyer (c) Submission of this certification and disclosure is a prerequisite for making or entering into this PO imposed by section 1352, title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure. (d) Should Seller's circumstances change during the life of any resulting contract with respect to certification provided, Seller will notify Buyer immediately in writing.

52.215-22

Limitations on Pass-Through Charges—Identification of Subcontract Effort (Oct 2009) (Applies to solicitations when 52.215.23 is included.)

52.222-35

Equal Opportunity for Veterans (Oct 2015)

(Applies to solicitations and contracts of \$150,000 or more; does not apply if work is performed outside the United States by employees recruited outside the U.S.; or if all of the terms are waived under 22.1305 with Alt. applying if one or more (but not all) terms are waived; or if this Contract is exempted by rules, regulations or orders of the Secretary of Labor.)

52.222-37

Employment Reports on Veterans (Feb. 2016)

(Applies to solicitations and contracts of \$150,000 or more; however, does not apply if this Contract is exempted by rules, regulations, or orders of the Secretary of Labor. Seller shall provide Buyer information in sufficient time to permit Buyer to file the required report to the government.)

DFARS
252.225-7050

DFARS Clause Title
Disclosure of Ownership or Control by the Government of a Country that is a State Sponsor of Terrorism (Dec 2018)

(Applies to solicitations that result in contracts of \$150,000 or more, including for commercial items, other than commercial satellite services, unless FAR 52.204-7 is included)

SECTION VIII:

In addition to the FAR and DFARS clauses in other sections of this document, the following clauses apply to all Contracts and PO's over **\$250,000** (unless otherwise denoted) referencing this document and all Buyer solicitations referencing this document and that are expected to exceed \$250,000 (unless otherwise denoted):



NAC#5_F05_Terms and Conditions

FAR	FAR Clause Title
52.203-6	Restriction on Subcontractor Sales to the Government (June 2020) (Applies to all solicitations and contracts exceed the simplified acquisition threshold.)
52.203-7	Anti-Kickback Procedures (May 2014) (Exclude paragraph (c)(1); in paragraph (c)(4) delete "[T]he contracting officer may" and replace with "[T]o the extent the Contracting Officer has made an offset in Buyer's Government Contract or directed Buyer to withhold an amount, Buyer may ..."; FAR 52.203-7 does not apply for contracts for commercial items (FAR 3.502.3).)
52.203-16	Preventing Personal Conflicts of Interest (Dec 2011) & Deviation 2018-00018 dated 08/31/2018 (Applies to solicitations and contracts \$250,000 or greater when employees will perform acquisition functions closely associated with governmental functions (i.e., instead of performance only by a self-employed individual).)
52.203-17	Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (Apr 2014) (Applies to all solicitations and contracts exceeding the simplified acquisition threshold.)
52.215-2	Audit and Records—Negotiation (Oct 2010) (Applies to solicitations and contracts exceeding the simplified acquisition threshold.)
52.215-14	Integrity of Unit Prices (Oct 2010), Alternate (Oct 1997) (Exclude Para. (b), but include Para. (b) in Alternate I.) (Applies to this Contract if not for construction, architect-engineer, or utility services, commercial items, petroleum products, or service contract with no required supplies.)
52.215-23	Limitations on Pass-Through Charges (Oct 2009) (Applies in all cost-reimbursement subcontracts (at all tiers) that exceed the simplified acquisition threshold, except if under a DoD contract, see Section XII. Alt. I applies if determined Seller adds value to the contracting effort and there are no excessive pass-through charges.)
52.222-17	Non-displacement of Qualified Workers (May 2014) (Applies to solicitations and contracts for services (as defined by FAR 22.001) that succeed contracts for performance of same or similar at the same location which are not exempt under FAR 22.1203-2 or waived per 22.1203-3. Seller to provide Buyer with information as set forth within the clause for Buyer to meet its contractual obligations timely.)
52.222-38	Compliance with Veterans' Employment Reporting Requirements (Feb 2016) (Applies to solicitations and contracts if not for acquisition of commercial items.)
52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement (Dec 2007) (Applies if FAR 52.227-1 applies to this Contract; does not apply if both complete performance and delivery are outside the United States.)
52.227-3	Patent Indemnity (Apr 1984) (Note 2; See Section XVII.) (Does not apply to commercial-item contracts or where the complete delivery and performance are outside the United States; Alts. I-III apply as prescribed in FAR 27.201- 2(c)(2)-(3). Applies instead of ¶ 23, PATENTS AND COPYRIGHTS, with respect to alleged patent infringement.)
52.229-3	Federal, State, and Local Taxes (Feb 2013) (Applies to solicitations and contracts (fixed price) expected to exceed the Simplified Acquisition Threshold and is to be performed wholly or partially within the United States or its outlying areas.)
52.229-4	Federal, State, and Local Taxes (State and Local Adjustment) (Feb 2013) (Applies in lieu of FAR 52.229-3 in a firm-fixed non-competitive contract that is expected to exceed the Simplified Acquisition Threshold and is to be wholly or partly performed in the United States or its outlying areas if the price would otherwise include an inappropriate contingency for potential post award change(s) in State or local taxes.)
52.232-17	Interest (May 2014) (Applies to solicitations and contracts unless exempted by FAR 32.611(a).)
52.237-10	Identification of Uncompensated Overtime (Oct 1997) (Applies if the Contract includes professional or technical services acquired on the basis of the number of hours to be provided.)
52.242-13	Bankruptcy (Jul 1995) (Applies to solicitations and contracts exceeding the simplified acquisition threshold.)
52.244-5	Competition in Subcontracting (Dec 1996) (Applies to solicitations and contracts unless a firm-fixed price contract with adequate price competition, price set by law or regulation, or for a time-and-materials, labor- hour, or architect-engineer contract.)
52.246-16	Responsibility for Supplies (Apr 1984) (Applies only to fixed-price contracts. In Para. (d), "Government" includes both Government and Buyer.)
52.248-1	Value Engineering (Oct 2010) ("Government" and "Contracting Officer" do not change in this clause, though Seller must submit all proposals under this clause to Buyer.)
52.249-2	Termination for Convenience of the Government (Fixed-Price) (Apr 2012) (Note 3; See XVII.) (Applies if this Contract is fixed price and above the simplified acquisition threshold. Change "120 days" to "60 days" in Para. (c); change "1 year" to "6 months" in Para. (e); change "90 days" to "45 days" in Para. (l).)
DFARS	DFARS Clause Title
252.203-7001	Prohibition on Persons Convicted of Fraud or Other Defense—Contract—Related Felonies (Dec 2008) (Applies if this is a first-tier subcontract under a DoD prime contract, unless commercial items or components are provided. "Government" is not changed in this clause.)
252.223-7004	Drug-Free Work Force (Sep 1988) (Applies if this Contract involves access to classified information or the Government determines that the clause is necessary for reasons of national security or for the purpose of protecting the health or safety of those using or affected by the product of, or performance of, the contract. Does not apply if the Contract is below Simplified Acquisition Threshold, if for commercial items, or if performance is outside the United States and its outlying areas-unless it is determined that inclusion is in the best interest of the Government.)



NAC#5_F05_Terms and Conditions

- 252.225-7005 Identification of Expenditures in the United States (Jun 2005)**
(Applies to solicitations and contracts exceeding the Simplified Acquisition Threshold for supplies for use outside the United States or construction or services are to be performed outside the United States.)
- 252.225-7012 Preference for Certain Domestic Commodities (Aug 2016)**
(Applies to solicitations and contracts, including for commercial items that exceed the Simplified Acquisition Threshold.)

SECTION IX:

In addition to the FAR and DFARS clauses in other sections of this document, the following clauses apply to all Contracts and PO's over **\$500,000** referencing this document and all Buyer solicitations referencing this document and that are expected to exceed \$500,000:

- FAR** **FAR Clause Title**
52.222-50 Combating Trafficking in Persons (Jan 2019)
(Applies in solicitations and subcontracts exceeding \$500,000 for supplies, other than commercially available off-the-shelf items acquired outside the U.S. or services to be performed outside the U.S. Alt. I applies when performance is outside the United States (as defined by FAR 22.1702) and under the circumstances in FAR 22.1705(a (2)).)
- 52.222-56 Certification Regarding Trafficking in Persons Compliance Plan (Mar 2015)**
(Applies to solicitations and subcontracts exceeding \$500,000 and for supplies being acquired outside the United States (other than a subcontract exclusively for commercially available off-the shelf items) or services where at least \$500,000 of the subcontract value may be performed outside the United States.)
- 52.222-60 Paycheck Transparency (Executive Order 13673) (Jan 2017)**
(Applies to solicitations at all tiers, except for commercially available off-the-shelf items.)
- DFARS** **DFARS Clause Title**
252.226-7001 Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Hawaiian Small Business Concerns (Sep 2004)
(Applies to solicitations and contracts for supplies or services, including for commercial items.)

SECTION X:

In addition to the FAR and DFARS clauses in other sections of this document, the following clauses apply to all Contracts and PO's over **\$650,000** referencing this document and all Buyer solicitations referencing this document and that are expected to exceed \$650,000:

- FAR** **FAR Clause Title**
52.219-16 Liquidated Damages—Subcontracting Plan (Jan 1999)
(Applies if FAR 52.219-9 applies to this Contract.)
- DFARS** **DFARS Clause Title**
252.219-7003 Small Business Subcontracting Plan (DoD Contracts) (Oct 2014)
(Applies if FAR 52.219-9 applies to this Contract. Deviation 2018-00018 applies to this Contract if contains FAR 52.219-9.)
- 252.219-7004 Small Business Subcontracting Plan (Test Program) (Oct 2014)**
(Applies to contracts that offer subcontracting possibilities as prescribed in DFARS Subpart 219.708 (b)(1)(B) in lieu of 252.219-7003 and includes other denoted FARs/DFARS; the threshold amount for a Contract for construction to a public facility is \$1.5 million in lieu of \$650,000; see Section XII.)
- 252.249-7002 Notification of Anticipated Contract Termination or Reduction (Oct 2015)**
(Delete Para. (d)(1) and the first five words of Para. (d)(2).)

SECTION XI:

In addition to the FAR and DFARS clauses in other sections of this document, the following clauses apply to all Contracts and PO's over **\$700,000** referencing this document and all Buyer solicitations referencing this document and that are expected to exceed \$700,000:

- FAR** **FAR Clause Title**
52.214-27 Price Reduction for Defective Cost of Pricing Data—Modification—Sealed Bidding (Aug 2011) (Note 1; See Section XVII.)
(Applies if this Contract is awarded on sealed bids and exceeds the threshold for submitting cost and pricing data in FAR 15.403-4(a)(1).)
- 52.214-28 Subcontractor Cost or Pricing Data—Modifications—Sealed Bidding (Oct 2010)**
(Applies if this Contract is awarded on sealed bids and exceeds the threshold for submitting cost and pricing data in FAR 15.403-4(a)(1).)
- 52.215-10 Price Reduction for Defective Cost or Pricing Data (Aug 2011)**
(Note 1; See Section XVII.) (Applies unless this Contract is exempted by FAR 15.403-1(b); Seller shall provide Buyer or, upon Buyer's request, the Government with cost or pricing data and execute a Certificate of Current Cost or Pricing Data in substantially the form prescribed in FAR 15.406-2.)
- 52.215-11 Price Reduction for Defective Cost or Pricing Data—Modifications (Aug 2011)** (Note 1; See Section XVII.) (Applies unless this Contract is exempted by FAR 15.403-1(b); Seller shall provide Buyer or, upon Buyer's request, the Government with cost or pricing data and execute a Certificate of Current Cost or Pricing Data in substantially the form prescribed in FAR 15.406-2.)
- 52.215-15 Pension Adjustments and Asset Reversions (Oct 2010)**
(Applies if the Contract satisfies the criteria in FAR 15.408(g).)
- 52.215-16 Facilities Capital Cost of Money (Jun 2003)**
(Applies if the Contract satisfies the criteria in FAR 15.408(h).)



NAC#5_F05_Terms and Conditions

- 52.215-17 Waiver of Facilities Capital Cost of Money (Oct 1997)**
(Applies if Seller did not propose facilities capital cost of money for the Contract.)
- 52.215-18 Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other than Pensions (July 2005)** (Applies if the Contract satisfies the criteria in FAR 15.408(j).)
- 52.215-19 Notification of Ownership Changes (Oct 1997)**
(Applies if the Contract satisfies the criteria in FAR 15.408(k).)
- 52.215-20 Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data (Oct 2010)**
(Applies to solicitations and contracts regarding submission of certified cost or pricing data or data other than certified cost or pricing data.)
- 52.215-21 Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data—Modifications (Oct 2010)**
(Applies if the Contract satisfies the criteria in FAR 15.408(m)(4); Alts. I-IV apply as prescribed in FAR 15.408(m) and 15.403-5(b)(1).)
- 52.242-3 Penalties for Unallowable Costs (May 2001)**
(Applies unless this Contract is fixed-price without any cost incentives.)

- | DFARS | DFARS Clause Title |
|---------------------|--|
| 252.215-7000 | Pricing Adjustments (Dec 2012)
(Applies if FAR 52.215-12 or 52.215-13 applies to this Contract.) |
| 252.225-7003 | Report of Intended Performance Outside the United States and Canada – Submission with Offer (Oct 2015)
(Applies if first-tier's performance will be outside the U.S. or Canada.) |
| 252.225-7004 | Report of Contract Performance Outside the United States and Canada Submission After Award (Oct 2015)
(Applies if first-tier's performance will be outside the U.S. or Canada.) |

SECTION XII:

In addition to the FAR and DFARS clauses in other sections of this document, the following clauses apply to all Contracts and PO's over **\$750,000** referencing this document and all Buyer solicitations referencing this document and that are expected to exceed \$750,000:

- | FAR | FAR Clause Title |
|------------------|---|
| 52.215-12 | Subcontractor Certified Cost or Pricing Data (Oct 2010) & Deviation 2018-00015 dated 05/31/2018
(Applies to solicitations and contracts unless exempted by FAR 15.403-1. For any subcontract awarded on or after July 1, 2018, or modifying any subcontract that was awarded on or after July 1, 2018, involving a pricing adjustment, \$2,000,000 or greater is the applicability of FAR 52.215-12.) |
| 52.215-13 | Subcontractor Certified Cost or Pricing Data—Modifications (Oct 2010) & Deviation 2018-00015 dated 05/31/2018
(Applies to solicitations and contracts unless exempted by FAR 15.403-1. For any subcontract awarded on or after July 1, 2018, or modifying any subcontract that was awarded on or after July 1, 2018, involving a pricing adjustment, \$2,000,000 or greater is the applicability of FAR 52.215-12) |
| 52.215-22 | Limitations on Pass-Through Charges—Identification of Subcontract Effort (Oct 2009) (Applies to solicitations when 52.215.23 is included.) |
| 52.215-23 | Limitations on Pass-Through Charges (Oct 2009)
(Applies if a DoD contract to all cost-reimbursement and fixed-price subcontracts at all tiers that exceed the cost or pricing data threshold of FAR 15.403-4, except those specifically excluded in FAR 15-408. See applicability in Section VIII if not a DoD contract. Alt. I applies if determined Seller adds value to the contracting effort and there are no excessive pass-through charges.) |
| 52.219-9 | Small Business Subcontracting Plan (Jun 2020)
(Applies in solicitations and contracts that offer subcontracting opportunities, exceeds \$750,000 (\$1.5 million for construction of any public facility) and are required to include 52.219-8, Utilization of Small Business Concerns unless the acquisition is a set aside or is to be accomplished under the 8(a) program. Seller (if not a small business concern) shall submit for Buyer's approval a Small, Business Subcontracting Plan and provide reports as described to Buyer's representative and to U. S. Government as required under FAR 52.219.9. Alternate I (Nov 2016) applies when contracting by sealed bidding rather than by negotiation. Alternate II (Nov 2016) applies when contracting by negotiation and subcontracting plans are required with initial proposals as provided for in 19.705-2(d). Alternate III (Jun 2020) applies when the contract action will not be reported in the Federal Procurement Data System pursuant to 4.606(c)(5) or (c)(6), i.e., not to be reported per other authority, compromise national security, classified information. Alternative IV (Jun 2020) applies when incorporating a subcontracting plan due to a modification as provided for in 19.702(a)(3)). |

SECTION XIII:

Seller must comply with all standards in effect on the date of Purchase Agreement. In addition to the FAR and DFARS clauses in other sections of this document, the following clauses apply to all Contracts and PO's over **\$1,000,000** referencing this document and all Buyer solicitations referencing this document and that are expected to exceed \$1,000,000:

- | DFARS | DFARS Clause Title |
|---------------------|---|
| 252.222-7006 | Restrictions on the Use of Mandatory Arbitration Agreements (Dec 2010)
(Applies if this Contract is funded in whole or part by funds appropriated by the Fiscal Year 2010 or a subsequent year's Defense Appropriations Act.) |
| 252.225-7033 | Waiver of United Kingdom Levies (Apr 2003)
(Applies if Seller is a UK firm.) |



NAC#5_F05_Terms and Conditions

Section XIV:

Truth in Negotiations Act (Cost and Pricing Data)

In addition to the FAR and DFARS clauses in other sections of this document, where cost and pricing data are required under the Contract, the terms and conditions below also:

Unless exempt under FAR Part 15, this Contract shall be subject to the following terms concerning Seller's required certification that the cost data provided to Buyer is current, accurate, and complete in accordance with the FAR-required Certificate of Current Cost or Pricing Data.

(a) Indemnification. If any price (including profit or fee) negotiated in connection with the prime contract between the Government and Buyer (or any contract between Buyer and a higher-tier contractor) or any cost that is reimbursable under Buyer's contract is reduced because cost or pricing data furnished by Seller in connection with any proposal submitted by Buyer relating to said contract or in connection with this Contract was not accurate, complete, or current at the time of Seller's and Buyer's agreement to the negotiated price or at the time when Buyer requests a reaffirmation of the same, Seller shall indemnify Buyer in the amount of the reduction any other claims, expenses, and losses arising out of performance of this Contract by Seller. The phrase "cost or pricing data" as used in this Section XI shall be deemed to include any such data which related to a lower-tier prospective or actual subcontract, at any level, which was submitted by Seller or which it procured by submission of, in connection with Seller's proposal or this Contract in support of its cost estimate. If any reduction in the contract price under this clause reduces the price of items for which payment was made prior to the date of the modification reflecting the price reduction, Seller shall be liable and shall pay Buyer at the time such overpayment is repaid:

(1) Simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to Seller to the date Buyer is repaid by Seller at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C. 6621(a)(2); and

(2) If this Contract is awarded under a DoD contract, a penalty equal to the amount of the overpayment, if Seller knowingly submitted cost or pricing data that were incomplete, inaccurate, or non-current.

(b) Cost or Pricing Data for Changes. Prior to the pricing of any change or other modification to this Contract that involves increases and/or decreases in costs plus applicable profit expected to exceed the threshold for submission of cost or pricing data, Seller shall submit cost or pricing data and shall certify that the data, as defined in FAR 15.406-2, submitted either actually or by specific identification in writing are accurate, complete, and current as of the date of completion of negotiations. When required to obtain cost or pricing data from its subcontractors, pursuant to the provisions of this Contract, Seller shall obtain such data.

Section XV:

Disputes

In addition to the FAR and DFARS clauses in other sections of this document, the terms and conditions below apply to this Contract:

Any reference to "Disputes" in any applicable FAR or DFARS clause incorporated into this Contract by this document shall mean this Section XV.

(a) Any dispute arising under this Contract relating to any decision of the Contracting Officer under Buyer's Government Contract shall be resolved in accordance with paragraph (b) below. All other disputes, and any disputes not resolved through the procedures below, will be resolved under ¶ 30, DISPUTE RESOLUTION(b)

(1) Notwithstanding any other provisions in this Contract, any decision of the Contracting Officer under Buyer's Government Contract that binds Buyer shall bind both Buyer and Seller to the extent that it relates to this Contract, provided that:

(i) Buyer notifies with reasonable promptness Seller of such decision; and

(ii) Buyer, at its sole discretion, authorizes in writing Seller to appeal in the name of Buyer such decision at its own expense; or

(iii) If Buyer should appeal such decision, Buyer at its sole discretion offers to Seller the opportunity at its own expense to join Buyer in such appeal.

(2) Any decision upon such appeal, when final, shall be binding upon Seller.

(3) Seller shall keep Buyer informed of any appeal it makes by providing copies of all pertinent documents to Buyer.

(4) Seller shall indemnify and hold harmless from any and all liability of any kind incurred by or imputed to Buyer under 41 USC Section 7103 (c) , if Seller is unable to support any part of its claim and it is determined that such inability is attributable to fraud or misrepresentation of fact on the part of Seller.

(b) Not used

(c) Pending any prosecution, appeal, or final decision or settlement of any dispute arising under this Contract, Seller shall proceed diligently, as directed by Buyer, with the performance of this Contract

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

Section XVI:

Earned Value Management System

In addition to the FAR and DFARS clauses in other sections of this document, the terms and conditions below apply as follows:

FAR 52.234-2

Notice of Earned Value Management System-Preaward Integrated Baseline Review (Nov 2016) (Applies in solicitations when Seller is required to use of an Earned Value Management System (EVMS) under FAR 34.203. The clause shall be modified as follows: (a) "...has determined through Buyer..."; (b) "...shall submit to Buyer..."; (b)(2) "...required by the Contracting Officer and Buyer..."; (b)(3) "...as required by the Contracting Officer and Buyer..."; (d) "The Government and Buyer..." and "...technical areas, such as Seller's..." .)

FAR 52.234-3

Notice of Earned Value Management System-Postaward Integrated Baseline Review (Nov 2016) (Applies in solicitations when Seller is required to use an Earned Value Management System (EVMS) under FAR 34.203. The clause shall be modified as follows: (a) "...has determined through Buyer..."; (b) "...shall submit to Buyer..."; (b)(2) "...required by the Contracting Officer and Buyer..."; (b)(3) "The Government and Buyer..." .)

FAR 52.234-4

Earned Value Management System (Nov 2016)

(Applies to solicitations when Seller is required to use an Earned Value Management System under FAR 34.203. The clause shall be modified as follows: (i) "Contractor" in paragraphs (a), (b), (e), (f), and (g) shall read "Seller"; (ii) "Contracting Officer" in (b)(2), (d), and (f) shall read "Contracting Officer and Buyer"; (iii) "Government" in (c) and (f) shall read



NAC#5_F05_Terms and Conditions

"Government and Buyer"; and (iv) "...shall disclose EVMS changes to the CFA at least 14 calendar days..." in (e) shall read "...shall disclose EVMS changes to the Buyer at least five (5) calendar days prior to..."")

For DoD application for cost or incentive contracts valued at \$20,000,000 or more, and for other contracts for which EVMS will be applied in accordance with 234.201(1)(iii) and (iv)—

(1) Use the provision at 252.234-7001, Notice of Earned Value Management System, instead of the provisions at FAR 52.234-2, Notice of Earned Value Management System – Pre-Award IBR, and FAR 52.234-3, Notice of Earned Value Management System – Post-Award IBR, in the solicitation; and

(2) Use the clause at 252.234-7002, Earned Value Management System, instead of the clause at FAR 52.234-4, Earned Value Management System, in the solicitation and contract.

NOTE: For DoD application for cost or incentive subcontracts valued at less than \$20,000,000 and for firm fixed price subcontracts at any dollar value, see DFARS 234.201(1) (iii) and (iv) for additional guidance.

Section XVII:

In addition to the FAR clauses applicable to equal opportunity in other sections of this document, the terms and conditions below apply to this Contract:

Equal Opportunity Clauses

The word, "contractor" in the following provisions shall be replaced with "Seller", so that these provisions are applicable under this Contract to Seller, as NAC's subcontractor.

41 CFR 60.1.4, 41 CFR 60.300.5, and 41 CFR 60.741.5 sections are incorporated by reference for a subcontract/purchase order in excess of \$10,000:

41 CFR 60-1.4;

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit Access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

41 CFR 60-300.5: which includes that: "...subcontractor shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans."; and 41 CFR 60-741.5 which includes that, "...subcontractor shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities."

Exemption: Per 41 CFR 60-1.5(a)(3) subcontracts are exempt from the requirements of the equal opportunity clause under 41 CFR 60-1.4 for work performed outside the United States by employees who were not recruited within the United States.

Seller is to include the above requirements within its subcontracts, as applicable.

Section XVIII:

Numbered Notes Applicable to FAR and DFARS clauses.

1. Excluded from such reduction, however, shall be Buyer's burden and profit applied to defective cost and pricing data of Seller and its subcontractors and suppliers. In addition to any remedies provided by law, if Buyer is subjected to any liability as a result of Seller's failure to comply with this requirement, then, consistent with Section XI, above, Seller agrees to indemnify and hold Buyer harmless to the full extent of any loss, damage, or expense resulting from such failure. (FAR 52.214-27, 52.215-10, and 52.215-11).



NAC#5_F05_Terms and Conditions

2. The term "Government" in this clause shall be deemed to include both the Government and Buyer. (FAR 52.227-3, 52.246-2, and 52.246-4).
3. If this Contract is terminated for convenience as a result of a termination for convenience issued by the Government, the term "Government" does not change in (b) (4), (6), (8) and (m). If this Contract is terminated for convenience solely by Buyer, audits and examinations of records, as required by Buyer, shall be performed by an independent certified public accounting firm, mutually acceptable to Buyer and Seller. The cost of such audits and examinations of records shall be paid by Buyer. Notwithstanding anything to the contrary, Buyer shall not be liable for special or consequential damages. (FAR 52.249-2)
4. Seller shall communicate and otherwise deal directly with the Contracting Officer to the extent practicable and permissible as to all matters relating to Cost Accounting Standards. Seller shall provide Buyer with copies of all communications between Seller and the Contracting Officer respecting Cost Accounting Standards, FAR 52.230-2 and Administration of Cost Accounting Standards, FAR 52.230-6, provided Seller shall not be required to disclose to Buyer such communications containing information which is legally privileged and confidential to Seller. In addition to other remedies provided by law under this Contract, Seller agrees to indemnify and hold Buyer harmless to the full extent of any loss, damage, or expense if Buyer is subjected to any liability as the result of failure of Seller or its lower-tier subcontractors to comply with the requirements of FAR 52.230-2, 52.230-3, or 52.230-6.