

**FACILITIES CONSTRUCTION  
PURCHASE ORDER TERMS AND CONDITIONS**

**APPENDIX "1"**

1. Definitions

The following definitions shall apply unless otherwise specifically stated.

- "Buyer" shall mean Lockheed Martin Corporation acting through its Lockheed Martin Aeronautics Company – Ft. Worth, Texas.
- "Construction Engineer" (CE) shall mean the Buyer's Representative
- "Contractor ES&H Handbook" shall mean the Buyer's Contractor Environment, Safety & Health Handbook, which is applicable to Seller if Seller performs work/services or delivers goods on LM Aero-owned or operated facilities. The current version of this [Handbook](#) is incorporated herein and is made a part hereof by this reference.
- "Seller" shall mean the legal entity to which this Purchase Order is issued.
- "PO" shall mean this Purchase Order.
- "Government" shall mean the Government of the United States of America and those authorized or delegated responsibility to act on its behalf, except where specifically stated to be the government of any other country.
- "Prime Contract" shall mean the contract(s) under which this PO is issued.

2. General

Seller is an independent contractor in all its operations and activities hereunder, and the employees furnished by the Seller to perform work pursuant to this Purchase Order are Seller's employees exclusively without any relation whatsoever to Buyer. Said employees shall be paid by the Seller for all services performed under this Purchase Order and the Seller shall be responsible for all obligations and reports covering Social Security, Unemployment Insurance, Workers' Compensation, Income Tax, and any other reports and deductions required by local, state and/or federal law or regulation. Seller is not granted, expressly or impliedly, any right or authority to create any obligation or liability on

Acceptance of this Purchase Order, either by acknowledgment or performance of services, constitutes acceptance of the conditions set forth below and on this Purchase Order. No change, modification, or revision to this contract shall be valid unless in writing and signed by the authorized Buyer Procurement Representative.

4. Performance

Performance must be in strict compliance with the schedule and other terms and conditions of this Purchase Order.

5. Compliance with Laws and Regulations

(a) Seller shall comply with the applicable provisions of all Federal, state, and local laws and ordinances and all lawful orders, rules and regulations promulgated thereunder including without limitation the Occupational, Safety and Health Act (OSHA) and the Arms Export Control Act. Seller agrees to indemnify Buyer against any loss, cost, damage or liability by reason of Seller's violation of this clause.

(b) In the event Seller anticipates contracting with foreign sources for work performed under this PO, the Seller shall: 1) notify the Buyers Construction Engineer; and 2) comply with the International Tariff in Arms Regulation (ITAR) 22 CFR Sections 121-128.

(c) Seller shall comply with the Toxic Substances Control Act and any rules and regulations promulgated and published by the Administrator of the environmental Protection Administration pursuant to The Toxic Substances Control Act (15 U.S.C. Sec. 2601 *et. seq.*) as amended.

(d) Seller shall provide to Buyer with each delivery any Material Safety Data Sheet applicable to the Items and containing such information as required by the Occupational Safety and Health Act of 1970 and regulations promulgated thereunder.

6. Suspension of Work

(a) Buyer or Buyer's Representative (CE) may order Seller, in writing, to suspend, delay, or interrupt all or any part of the work of this Purchase Order for the period of time that Buyer determines appropriate for the convenience of Buyer.

(b) If the performance of all or any part of the work is, suspended, delayed, or interrupted for an unreasonable period of time, (1) by an act of Buyer in the administration of this Purchase Order, or (2) by Buyer's failure to act within the time specified in this Purchase Order (or within a reasonable time if not specified), an adjustment shall be made for any increase in the cost of performance of this Purchase Order (excluding profit) necessarily caused by the unreasonable suspension, delay, or interruption, and the Purchase Order shall be modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of Seller, or for which an equitable adjustment is provided for or excluded under any other term or condition of this Purchase Order.



amount agreed upon by Buyer and Seller. Failure to agree to such amount shall be a dispute concerning a question of fact within the meaning of the paragraph of this Purchase Order entitled "Disputes." Buyer may withhold from amounts otherwise due

- (7) Complete performance of the work not terminated.
  - (8) Take any action that may be necessary, or that the Buyer may direct, for the protection and preservation of the property related to this contract that is in the possession of the Seller and in which Buyer has or may acquire an interest.
  - (9) Use its best efforts to sell, as directed or authorized by the Buyer, any property of the types referred to in subparagraph (6) above; provided, however, that the Seller (i) is not required to extend credit to any purchaser and (ii) may acquire the property under the conditions prescribed by, and at prices approved by the Buyer. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by Buyer under this Purchase Order, credited to the price or cost of the work, or paid in any other manner directed by the Buyer.
- (c) After termination, the Seller shall submit a final termination settlement proposal to Buyer in the form and with the certification prescribed by Buyer. The Seller shall submit the proposal promptly, but no later than 60 days from the effective date of termination, unless extended in writing by the Buyer upon written request of the Seller within this 60 day period. However, if the Buyer determines that the facts justify it, a termination settlement proposal may be received and acted on after 60 days or any extension. If the Seller fails to submit the proposal within the time allowed, the Buyer may determine, on the basis of information available, the amount, if any, due the Seller because of the termination and shall pay the amount determined.
- (d) Subject to paragraph (c) above, the Seller and the Buyer may agree upon the whole or any part of the amount to be paid because of the termination. The amount may include a reasonable allowance for profit on work done. However, the agreed amount, whether under this paragraph (d) or paragraph (e) below, exclusive of costs shown in subparagraph (e)(2) below, may not exceed the total Purchase Order price as reduced by (1) the amount of payments previously made and (2) the Purchase Order price of work not terminated. The Purchase Order shall be amended, and the Seller paid the agreed amount. Paragraph (e) below shall not limit, restrict, or affect the amount that may be agreed upon to be paid under this paragraph.

- (c) A sum, as profit on (a) above, determined by Buyer under Section 49.202 of the Federal Acquisition Regulation, in effect on the date of this Purchase Order, to be fair and reasonable; however, if it appears that the Seller would have sustained a loss on the entire Purchase Order had it been completed, the Buyer shall allow no profit under this subdivision (c) and shall reduce the settlement to reflect the indicated rate of loss.
- (2) The reasonable cost of settlement of the work terminated, including:
  - (a) Accounting, legal, clerical, and other expenses reasonably necessary for

computed at the annual rate established under Section 6621 of the Internal Revenue Code of 1986 (26 U.S.C. 6621). Interest shall be computed for the period from the date the excess payment was received by the Seller to the date the excess is repaid. Interest shall not be charged on any excess payment due to a reduction in the Seller's termination settlement because of retention or other disposition of termination inventory until ten (10) days after the date of the retention or disposition, or a later date determined by the Buyer because of the circumstances.

- (j) As a condition precedent to any payments under this CLAUSE, Buyer may require Seller to furnish affidavits and releases, in accordance with the requirements of CLAUSE 14 "PAYMENTS" of this Purchase Order, that no liens or rights in rem of any kind lie upon or have attached against the work, materials, articles, or equipment.
  - (1) Unless otherwise provided for in this Purchase Order or by statute, the Seller shall maintain all records and documents relating to the terminated portion of this Purchase Order for three (3) years after final settlement. This includes all books and other evidence bearing on the Seller's costs and expenses under this Purchase Order. The Seller shall make these records and documents available to Buyer at the Seller's office, at all reasonable times, without charge. If approved by the Buyer, photographs, microphotographs, or other authentic reproductions may be maintained instead of original records and documents.

## 9. Rights and Reservations

All reports, documents, records, data and software, including without limitation, drawings, specifications and documentation, and all material, including without limitation, tools, dies, patterns, samples, devices and improvements, and all other information prepared, created or developed in connection with this Purchase Order or furnished to Seller by Buyer, or paid for in whole or in part by Buyer (hereinafter referred to as "Property"), are and shall be owned solely by Buyer or the Government. Seller shall not use or disclose to others all or any part of such Property without specific prior written permission of Buyer. Seller shall disclose to Buyer and hereby transfers, assigns and sets over to Buyer the entirety of any and all patents, copyrights, mask works and/or trade secrets in such Property, which may be possessed or become possessed by Seller as author and/or otherwise. Prior to any printing required under the terms of this Purchase Order, Seller shall request in writing from Buyer the legends and notices, if any, to be affixed on such Property at the time of printing.

Any data, software, material and/or information developed by Seller solely at its expense, and/or solely at the expense of any of its subcontractors other than Buyer, and delivered and/or required to be delivered hereunder (hereinafter referred to as "Other Data"), shall be furnished without restriction as to Buyer's right to use and/or disclose such Other Data,

including without limitation, costs, expenses and attorney's fees, for or by reason of any actual or alleged infringement of any patent, copyright, mask work or trade secret arising out of the manufacture, use, sale, delivery or disposal of goods or services furnished under this PO.

Buyer shall notify Seller as soon as practicable of any claim of infringement resulting therefrom received by Buyer. In the event of any such claim against Buyer, Seller shall furnish to Buyer, when so notified by Buyer, all evidence and information in the possession of Seller pertaining to such claim. Seller shall report to Buyer promptly and in reasonable written detail each notice or claim of patent, copyright, mask work or trade secret infringement relating to the performance of this PO of which Seller has knowledge.

The indemnity and hold harmless provisions of this clause shall not be applicable to actual or alleged patent infringements if this PO is issued under a Government prime contract which contains FAR Clause 52.227-1, "Authorization and Consent," with its Alternate 1. Where payment is made for or results in experimental, developmental, or research work performed under this PO, then unless this PO is issued under a Government prime contract, Seller shall disclose and does hereby assign to Buyer all inventions resulting therefrom and shall assist Buyer, to the extent reasonably requested, in securing and defending patent protection thereon, and does grant Buyer the right to use for any purpose all data specified to be delivered hereunder.

- (b) Patents and Data: The clauses related to Patents and Data in the FAR and DFARS which are incorporated in the prime contract(s) under which this PO is issued, are hereby incorporated herein by reference. Seller is cognizant of such provisions and agrees to comply with such provisions as "Contractor." Notwithstanding the foregoing, if this PO is not for experimental, developmental, or research work, the "Patent Rights-Retention By Contractor" clauses do not apply to Seller. Unless otherwise specified in this PO, all technical data and/or computer software and computer software documentation which are required to be furnished by Seller under this PO shall be furnished with "Unlimited Rights."

#### 11. Work on Buyer's Premises

When Seller, Seller's employees, agents, representatives or subcontractors enter onto Buyer's premises for any reason in connection with this Purchase Order, Seller and such other parties shall abide by all rules and regulations at the work site including but not limited to those with respect to safety, security, fire prevention, traffic, and waste management, and abide by all military security regulations including the Buyer's "**Contractor Environment, Safety & Health Handbook**" (PM-8013), the current version of which is incorporated herein and made a part hereof by this reference.

Prior to commencement of any work, Seller shall review with their employees, and subcontractors all applicable safety rules and regulations, including the Contractor Environment, Safety & Health Handbook. Seller shall be required to certify in writing that these safety rules and regulations have been reviewed with all of its employees and subcontractors.

Buyer will notify Seller or Seller's representative at the work site of any noncompliance with the foregoing rules and regulations and the corrective action to be taken. After receipt



of such notice, Seller shall immediately take correction action. If Seller fails or refuses to comply promptly, Buyer may issue an order stopping all or part of the work until

such subcontractors' legal liability for accidents to their respective employees. Seller and its subcontractors shall carry adequate Comprehensive General Liability and Comprehensive Automobile Liability Insurance covering the legal liability of Seller and such subcontractors for accidents arising out of the operations of Seller or such subcontractors which result in bodily injury, including death, to any person or persons, or any damage to property. At Buyer's request, Seller shall furnish to Buyer certificates from Seller and/or its subcontractors' insurers showing such coverage in effect (in the amounts listed below) and agreeing to give Buyer ten (10) days prior written notice of cancellation of such coverage.

<b>Kind of Insurance</b>	<b>Limits of Minimum Liability</b>
A. Workers' Compensation	As provided by law
B. Employer's Liability	\$1,000,000 per accident
C. Public Liability to include premises and operations, elevators, Independent Contractors, completed operations and products	Single Limits of \$1,000,000 for Bodily Injury and Property Damage
Bodily Injury	
Property Damage	
D. Automobile Public Liability to include Employer's Non-Ownership liability & hired car	Single Limits of \$1,000,000 for Bodily Injury and Property Damage
Bodily Injury	
Property Damage	
E. Owner's & Contractor's Protective Liability	Single Limits of \$1,000,000 for



under this Purchase Order, Buyer may require Seller to furnish affidavits that no liens or rights in rem of any kind lie upon or have attached against the work, materials, articles, or equipment, either for or on account of any work done or any materials, articles, or equipment or other item furnished or used in connection therewith, or any claims or demands of any kind. Seller promises to keep said property free and clear of all such liens and rights in rem. Buyer's payment is subject to the express condition that no liens or rights in rem shall so lie or attach. In the event any liens or rights in rem attach to, or are claimed by any person or entity in any property in

Payment Exemption Certificate is issued, and the cost of all bonds required to be furnished hereunder.

- (l) Texas Direct Payment Exemption Certificate: The Buyer will furnish the Seller with a Texas Direct Payment Exemption Certificate to be used on this contract for the procurement of materials (excluding rental equipment), where applicable. The Seller shall furnish its subcontractors, suppliers and/or vendors with a Texas Resale Certificate, where applicable.

15. Assignment and Subcontracting

Seller shall not assign this Purchase Order or any portion thereof, nor shall Seller allow its subcontractors at any tier to place any subcontract hereunder that is not in accordance with the subcontract plan in the bid documents, without prior written consent of Buyer. All subcontracts shall contain the provisions required by this Purchase Order and shall permit assignment of those subcontracts to Buyer upon any termination of this Purchase Order. Any prohibited assignment of this Purchase Order by Seller shall be null and void and shall be deemed a material breach of this Purchase Order, and Seller shall remain liable to Buyer for performance of its covenants, duties, liabilities and obligations hereunder.

16. Changes

- (a) Buyer may at any time, within the general scope of this Purchase Order, make changes in drawings and specifications, issue additional instructions, require additional work, or vary the period of performance of work and Seller shall immediately comply therewith. All changes shall be issued by Buyer in writing. No change shall release or exonerate any sureties upon any bond required or given, regardless of whether or not suchb2u,i requia(i-or)2( or)6. ,

18. Disputes

Except as otherwise provided in this PO, Bu

- (a) Seller's Representative. Before commencing work, Seller shall furnish the name(s) of its authorized representative(s) who will be the foreman or superintendent on the job

- (a) No notice, order, direction, determination, requirement, consent, approval or ratification under this Purchase Order shall be of any effect unless in writing.
- (b) by an authorized representative of Buyer.
- (c) All notices required or permitted hereunder shall be in writing, delivered personally or sent by United States certified or registered mail addressed to Seller or Buyer, as applicable, to the addresses on this Purchase Order, with postage fully prepaid. Notices shall be effective at the time of mailing.

24. Indemnity

Seller shall hold harmless and indemnify Buyer, and if the Buyer so requests defend Buyer, against any and all losses, claims, liabilities, damages, actions, costs and expenses, including without limitation attorneys' fees, arising out of or resulting from Seller's undertaking or performance under this Purchase Order, and including without limitation, losses, claims, liabilities, damages, actions, costs and expenses of any of the employees, representatives, agents or subcontractors of Seller or of subcontractors at any tier, engaged in such undertakings or performance.

25. Notification of Debarment/Suspension Status

Seller shall provide immediate notice to Buyer in the event of being suspended, debarred, proposed for debarment or declared ineligible for the award of contracts, by any Federal Agency, during the performance of this PO.

26. Venue

This Purchase Order shall be deemed to have been executed by the parties and require performance in Fort Worth, Tarrant County, Texas and no suit or action under this Purchase Order or for any breach thereof shall be maintainable except in Fort Worth, Tarrant County, Texas.

27. Performance of Work

- (a) Seller shall start and complete the work in such order of procedure as may be prescribed by Buyer or Buyer's Representative (CE).
- (b) Seller shall supervise and direct the work, using his best skill and attention. Unless otherwise directed, Seller shall be solely responsible for all construction means, methods, techniques, sequences, and procedures and for coordinating all portions of the work required under this Purchase Order. At all times during performance of the contract and until the work is completed and accepted, Seller shall directly superintend the work or assign and have on the work site a competent superintendent who is satisfactory to Buyer and has authority to act for Seller.
- (c) Seller shall be responsible for the acts and omissions of all his employees and all subcontractors, their agents and employees, and all other persons performing any of the work under a Purchase Order with Seller.





- (1) Seller's failure to conform to Purchase Order requirements; or
  - (2) Any defect of equipment, material, workmanship, or design furnished by Seller; or
  - (3) Negligence, willful misconduct, or lack of good faith by Seller, Seller's employees, or Seller's subcontractors' employees.
- (d) Seller shall restore any work damaged in fulfilling the terms and conditions of this clause. Seller's warranty with respect to work repaired or replaced will run for a period of one (1) year from the date of repair or replacement.
- (e) Buyer shall notify Seller, in writing, within a reasonable time after the discovery of any failure, defect, or damage.
- (f) If Seller fails to remedy any failure, defect, or damage within a reasonable time after receipt of notice, Buyer shall have the right to replace, repair, or otherwise remedy the failure, defect, or damage at Seller's expense.
- (g) With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this Purchase Order, Seller shall:
- (1) Obtain all warranties that would be given in normal commercial practices;
  - (2) Require all warranties to be executed, in writing, for the benefit of Buyer; and,
  - (3) Enforce all warranties for the benefit of Buyer.
- (h) In the event Seller's warranty under this article has expired, Buyer may on its own behalf or in the name of Seller bring suit at its expense to enforce a subcontractor's, manufacturer's, or supplier's warranty. Seller shall cooperate with Buyer in connection with any such suit.
- (i) Unless a defect is caused by the negligence of Seller or subcontractor or supplier at any tier, Seller shall not be liable for the repair of any defects of material or design furnished by Buyer, nor for the repair of any damage that results from any defect in Buyer-furnished material or design.
- (j) This warranty shall not limit Buyer's rights under the Inspection of Construction clause of this Purchase Order with respect to latent defects, gross mistakes, or fraud.
- (k) Defects in design or manufacture of equipment specified by Buyer on a "brand name and model" basis, shall not be included in this warranty. In this event, Seller shall require any subcontractors, manufacturers, or suppliers thereof to execute their warranties, in writing, directly to Buyer.
- (l) Year 2000 compliant, as used in this clause, means that with respect to information technology, that the information technology accurately processes date/time data (including but not limited to, calculating, comparing, and sequencing) from, to, and

between the twentieth and twenty-first centuries, and the years 1999 and 2000 and leap year calculations, to the extent that other information technology, used in combination with the information technology being acquired, properly exchanges date/time data with it. Any and all products provided hereunder will be Year 2000 compliant at the time of delivery to Lockheed Martin Corporation (Lockheed Martin), including but not limited to accurately inputting, storing, manipulating, comparing, calculating, updating, displaying, outputting, and transferring such dates and data unless otherwise expressly provided herein by Lockheed Martin. This provision takes precedence over all other provisions of this agreement with respect to Year 2000 compliance. In the event of a discovery of any noncompliance, either before, concurrent with, or subsequent to delivery of a good or service under this agreement, the discovering party shall notify the other party within five (5) business days of discovery. If the defective good or service is being presented for acceptance or has already been delivered, at Lockheed Martin's option, the defective good or service shall be repaired or replaced within ten (10) business days of such notice at no cost to Lockheed Martin. Nothing in this provision shall be construed to limit any other rights or remedies under this contract, at law or in equity that Lockheed Martin may have with respect to Year 2000 compliance.

- (m) The rights and remedies of Buyer provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided at law, in equity, or under this PO.

#### 29. Inspection of Construction

- (a) Definition. "Work" includes, but is not limited to, materials, workmanship, and manufacture and fabrication of components.
- (b) Seller shall maintain an adequate inspection system and perform such inspections necessary to ensure that the work performed under the Purchase Order conforms to Purchase Order requirements. Seller shall maintain complete inspection records and make them available to Buyer and if this PO is issued pursuant to a Government prime contract such records shall be made available to the Government. All work shall be conducted under the general direction of Buyer and is subject to Buyer and Government inspection and test at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the Purchase Order.
- (c) Buyer or Government inspections and tests are for the sole benefit of Buyer and Government and do not:
  - (1) Relieve Seller of responsibility for providing adequate quality control measures;
  - (2) Relieve Seller of responsibility for damage to or loss of material before acceptance;
  - (3) Constitute or imply acceptance; or
  - (4) Affect the continuing rights of Buyer after acceptance of completed work under Paragraph (i) below.

- (d) The presence or absence of Buyer's inspector does not relieve Seller from any Purchase Order requirement, nor is the inspector authorized to change any term or condition of the specification without Buyer's written authorization.
- (e) Seller shall promptly furnish, without additional charge, all facilities, labor, and material reasonably needed for performing safe and convenient inspections and tests as may be required by Buyer or Buyer's Representative (CE). Buyer may charge to Seller any additional cost of inspection or test when work is not ready at the time specified by Seller for inspection or test, or when prior rejection makes reinspection or retest necessary. Buyer shall perform all inspections and tests in a manner that will not unnecessarily delay the work, provided that Buyer has been given reasonable prior written notice that the work is ready for such inspections or tests. Special, full size, and performance tests shall be performed as described in the Purchase Order.
- (f) Seller shall, without charge, replace or correct work which Buyers determines not to conform to the Purchase Order requirements, unless in the public interest Buyer consents to accept the work with an appropriate adjustment in price. Seller shall promptly segregate and remove rejected material from the premises.
- (g) If Seller does not promptly replace or correct rejected work, Buyer may (1) replace or correct the work and charge the cost to Seller or (2) terminate for default Seller's right to proceed.
- (h) If, before acceptance of the entire work, Buyer decides to examine already completed work by removing it or tearing it out, Seller, on request, shall promptly furnish all necessary facilities, labor and material. If the work is found to be defective



from foreign material when work is being performed overhead. Before the end of

obligated for any additional cost over the Purchase Order price in regard to this phase of the work.

- (u) Fire Precautions. Seller will be required to observe all of Buyer's current safety and fire regulations and to comply with the requirements of the National Fire Protection Association (NFPA) and National Fire Codes, in order to provide reasonable fire protection for Air Force Plant 4 real proper

- (2) In addition to Buyer's options under Paragraph (1), if, in the opinion of Buyer, Seller is mishandling or improperly disposing of hazardous materials or waste products at Buyer's facility, Buyer may order Seller to cease work under the Purchase Order until such violations are corrected to the satisfaction of Buyer. During this work stoppage, Buyer shall not be obligated to Seller for progress payments, and no extensions of time shall be given for the completion of Seller's work.
- (bb) Closeout Documents. Seller shall submit to Buyer's Construction Engineer, all required closeout documents within thirty (30) calendar days after completion of all work (excluding administrative tasks) associated with this project. Closeout documents include, without limitation, items such as: payroll reports, as-built and original tracing drawings, operation and maintenance data, security employee badges (if expired), final invoice and other required documents.
- (cc) Contractor Employee Communication. All non-English speaking contractor personnel, while on Lockheed Martin occupied sites, shall be accompanied by a bilingual, fluent English speaking and reading contractor employee at all times. Direct communication between Contractor personnel and Lockheed Martin personnel is necessary to ensure a clear understanding of work to be performed and any potential hazards on the occupied site.

### 31. Prohibited Carriers

No material or supplies purchased, manufactured or otherwise acquired for use in the performance of or to be delivered under this PO shall be transported on vessels, aircraft or other carriers leased to or from, owned, operated, or controlled by any prohibited country identified in the International Traffic in Arms Regulations ("ITAR"), 22 CFR 126. No vessel, aircraft, or other carrier shall, while carrying any such material, make an enroute stop in any prohibited country identified in the ITAR, 22 CFR 126. The Seller shall insert the provisions of this paragraph in all subcontracts hereunder.

### 32. Release of Information

No public release (including, without limitation, news releases, articles, manuscripts, brochures, advertisements, still and motion pictures, speeches, trade association meetings, symposia, photographs, films, announcements, discussions, denials or confirmations of same) regarding any part of the subject matter of this PO or any phase of any program hereunder shall be made without the prior written approval of Buyer. Seller agrees that for every instance, if any, where Buyer provides such prior written approval, Seller, in any resulting release, shall include information, if any, provided by Buyer stating which Government agency sponsors or sponsored the related project or effort.

Seller further agrees to include this paragraph in any subcontract awarded as a result of this PO.

### 33. PO Severability - Invalid Provisions

If any of the provisions of this PO shall contravene or be determined to be invalid under the laws of the United States or of any country in which the work is being performed, such contravention or invalidity shall not invalidate the whole PO, but the PO shall be construed



as if not containing the particular provision or provisions held to be invalid, and the rights and obligations of the parties shall be construed and enforced accordingly. Buyer and Seller shall then endeavor to agree on a mutually acceptable alternative provision.



- (i) Seller certifies that any facility to be used in the performance of a contract is not listed on the Environmental Protection Agency List of Violating Facilities.
  - (ii) Seller shall immediately notify the Buyer Procurement Representative, before any contract award, or the receipt of any communication from the Administrator, or a designee, of the Environmental Protection Agency, indicating that any facility that the Offeror proposes to use for the performance of any contract is under consideration to be listed on the EPA list of Violating Facilities.
- (6) FAR 52.223-13 Certification of Toxic Chemical Release Reporting (Applicable to competitive solicitations/POs which exceed \$100,000)
  - (i) Submission of this certification is a prerequisite for making or entering into this contract imposed by Executive Order 12969, August 8, 1995.
  - (ii) Seller certifies that—

forth in FAR section 19.102 of the Federal Acquisition Regulation; or

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

If this Purchase Order is issued under a United States Government prime contract or Subcontract, then all the subparagraphs listed below in this Article 35, Government Contracts, are applicable to Seller's Purchase Order and shall be controlling over any conflicting terms and conditions set forth elsewhere in this Purchase Order.

- (a) Article 16, Changes. Add the following clause as Article 16(c):

In addition to subparagraphs 16(a) and 16(b), Seller agrees that upon Buyer's request, it will from time to time enter into written amendments of this PO to incorporate additional provisions herein or to change the provisions hereof, as Buyer may reasonably deem necessary in order to comply with the provisions of the prime contract, 16.3 to any amendments of time Order 16.3(d)1 (year amendments of time) hO tT0.0012 Tc-0.0



- (f) Elimination of Class I Ozone-Depleting Substances: If Seller has not obtained specific authorization from Buyer or the Government to continue the use of Class I ODS, then Seller shall notify Buyer if any of these substances have been required in the performance of this PO or will be delivered as part of end item(s) or service(s) under this PO.
- (g) Indemnity/Commercial Items: This clause applies only to the portion, if any, of this PO for the purchase of a commercial item(s) as defined in FAR 2.101. In the event Buyer is subject to any liability, damage, or expense, including without limitation Government withholding of payments, due to a finding or determination by the Contracting Officer that an item designated herein as a commercial item is not a commercial item, then Seller agrees to indemnify and hold Buyer harmless to the full extent of any such liability, damage, or expense resulting in whole or in part from such finding or determination. Additionally, in the event of such finding or determination, the clauses of FAR II(A) and DFARS II(A) shall be applicable to the portion, if any, of the PO pertaining to the items regarding which such finding or determination was made.
- (h) Recycle and Recovered Material: Buyer strongly promotes the use of recycled and recovered materials and products. Seller shall use recycled and recovered materials in the products identified on the Environmental Protection Agency's Comprehensive Procurement Guidelines (available on the internet at (<http://epa.gov/cpg/>)), provided that the materials must meet the requirements of the Specifications, must not delay the progress of the work, and must not increase cost. Prior to final payment, Seller shall complete and deliver to Buyer Form entitled "Estimate & Certification of Recycled or Recovered Materials" estimating the percentage content of recycled/recovered material actually used in the work.



and which data Seller was given timely notice by Buyer to furnish and/or update prior to such date of Buyer's final price agreement; or 3) the Government Contracting Officer's rejection of Seller's or Seller's lower-tier subcontractor's claim for exception from submission of certified cost or



- 52.244-5 **Competition in Subcontracting.**
- 52.246-23 **Limitation of Liability** - Not applicable to the extent this PO is issued under a prime contract dated after January 1997.
- 52.246-25 **Limitation of Liability - Services** - If this PO is over \$25,000; but, not applicable to the extent this PO is issued under a prime contract dated after January 1997.
- 52.248-3 **Value Engineering Construction** - "Contracting Officer" means Buyer, except in Paragraph (g), sentence 3, where it means Contracting Officer. "Government" means Buyer in Paragraphs (e)(1), (e)(2), and means meipasle exten0( )J212 0 0 12 72 38.7 5 mePu." mnc

52.222-13



252.223-7003 **Change in Place of Performance - Ammunition and Explosives - (If**

**ATTACHMENT 2 TO APPENDIX 1**

**THE FOLLOWING CLAUSES ARE FOR USE FOR CONSTRUCTION CONTRACTS  
ISSUED UNDER F33657-87-E-2183**

**FAR I**

**TITLE**

subcontractor's claim for exemption from submission of certified cost or pricing data on the basis that the price offered by the Seller or lower-tier subcontractor is based on an established catalog or market price of a commercial item sold in substantial quantities to the general public, is a price set by law or regulation; or, on any other basis set forth in FAR 15.804-3 or other pertinent law or regulation; or 4) their furnishing data of any description that is allegedly or actually inaccurate as set forth in this clause and in FAR 52.215-23; then, Seller agrees to indemnify and hold Buyer harmless to the full extent of any damage or expense resulting from such action.

- 52.215-23 **Price Reduction for Defective Cost or Pricing Data - Modifications (NOV 1994).**
- 52.215-24 **Subcontractor Cost or Pricing Data (NOV 1994).**
- 52.215-25 **Subcontractor Cost or Pricing Data - Modifications (NOV 1994).**
- 52.215-26 **Integrity of Unit Prices (APR 1991) with its Alternate 1 (APR 1991) - Delete paragraph (c).**
- 52.215-27 **Termination of Defined Benefit Pension Plans (SEP 1989) - If this PO**

- recovers from Buyer because of liabilities of Seller or its subcontractors under this clause.”
- 52.222-6 **Davis-Bacon Act (NOV 1992).**
- 52.222-7 **Withholding of Funds (FEB 1988)** - “Contracting Officer” means Buyer.
- 52.222-8 **Payrolls and Basic Records (FEB 1988)** - “Contracting Officer” in paragraph (b) means Buyer and in paragraph (c) means Government or Buyer.
- 52.222-9 **Apprentices and Trainees (FEB 1988).**
- 52.222-10 **Compliance with Copeland Act Requirements (FEB 1988).**
- 52.222-11 **Subcontracts (Labor Standards) (FEB 1988)** - “Contracting Officer” means Buyer. Seller agrees to indemnify Buyer against any loss, cost, damage or liability by reason of Seller’s violation of this clause.
- 52.222-12 **Contract Termination - Debarment (FEB 1988).**
- 52.222-13 **Compliance with Davis-Bacon and Related Acts Regulations (FEB 1988).**
- 52.222-14 **Disputes Concerning Labor Standards (FEB 1988).**
- 52.222-15 **Certification of Eligibility (FEB 1988).**
- 52.222-17 **Labor Standards for Construction Work – Facilities Contracts (FEB 1988).**
- 52.222-20 **Walsh Healy Public Contracts Act (APR 1984)** - If this PO exceeds \$10,000.
- 52.222-23 **Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity for Construction** – Applicable if contract is greater than \$10,000.
- 52.222-26 **Equal Opportunity (APR 1984).**
- 52.222-27 **Affirmative Action Compliance Requirements for Construction** - If this PO exceeds \$10,000.
- 52.222-35 **Affirmative Action for Special Disabled and Vietnam Era Veterans (APR 1984)** - If this PO exceeds \$10,000.
- 52.222-36 **Affirmative Action for Handicapped Workers (APR 1984)** - If this PO exceeds \$2,500.
- 52.222-37 **Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era (JAN 1988)** - If this PO is for \$10,000 or more.
- 52.223-1 **Clean Air and Water Certification (APR 1984)** - The Clean Air and Water Certification signed by Seller related to this clause is hereby incorporated into this PO by reference.
- 52.223-2 **Clean Air and Water (APR 1984).**
- 52.223-3 **Hazardous Material Identification and Material Safety Data (NOV 1991)** - “Government” means Buyer or the Government.
- 52.223-7 **Notice of Radioactive Materials (NOV 1991)** - “Government” means Buyer or the Government. In paragraph (a), “Contracting Officer” means Buyer.
- 52.223-11 **Ozone Depleting Substances (JUN 1996).**
- 52.223-1**

- 52.229-3 **Federal, State and Local Taxes (JAN 1991)** - “Government” and “Contracting Officer” mean Buyer.
- 52.233-3 **Protest After Award (AUG 1989)** - Add “Prime” before “Protest.” “Contracting Officer” and “Government” mean Buyer.
- 52.236-1 **Performance of Work by the Contractor (APR 1984)** – If this PO is for \$1,000,000 or more. “Contracting Officer” means Buyer. The contractor shall perform on site and with its own organization, work equivalent to at least 12% of the total amount of work to be performed under this contract.
- 52.236-2 **Differing Site Conditions (APR 1984)** - “Contracting Officer” means Buyer.
- 52.236-3 **Site Investigation and Conditions Affecting the Work (APR 1984).**
- 52.236-5 **Material and Workmanship (APR 1984)** - “Contracting Officer” means Buyer.
- 52.236-6 **Superintendence by the Contractor (APR 1984)** - “Contracting Officer” means Buyer.
- 52.236-7 **Permits and Responsibilities (NOV 1991).**
- 52.236-8 **Other Contracts (APR 1984)** - “Contracting Officer” means Buyer.
- 52.236-9 **Protection of Existing Vegetation, Structures, Equipment, Utilities and Improvements (APR 1984)** - “Contracting Officer” means Buyer.
- 52.236-10 **Operations and Storage Areas (APR 1984)** - “Contracting Officer” means Buyer.
- 52.236-11 **Use and Possession Prior to Completion (APR 1984)** - “Contracting Officer” means Buyer.
- 52.236-12 **Cleaning Up (APR 1984)** - “Contracting Officer” means Buyer.
- 52.236-13 **Accident Prevention (NOV 1991)** - “Contracting Officer” means Government and Buyer.
- 52.236-15 **Schedules for Construction Contracts (APR 1984)** - “Contracting Officer” means Buyer.
- 52.236-17 **Use and Possession Prior to Completion (APR 1984)** - “Contracting Officer” means Buyer.



Contracting Officer. "Government" means Buyer in Paragraphs (e)(1), (e)(2), and means Government and Buyer in the first sentence of Paragraph (l), and in sentence 2 of the legend. Replace the share percentage figures in Paragraphs (f) and (g) with those the parties agree to.

<b><u>DFARS I</u></b>	<b><u>TITLE</u></b>
252.203-7001	<b>Special Prohibition on Employment (APR 1993)</b> - If this PO exceeds \$25,000. "Contracting Officer" means Buyer.
252.204-7000	<b>Disclosure of Information (DEC 1991)</b> - In paragraph (b) "45 days" is changed to "60 days," and "Contracting Officer" means Buyer.
252.209-7000	<b>Acquisition from Subcontractors Subject to On-Site Inspection Under the Intermediate-Range Nuclear Forces (INF) Treaty (DEC 1991)</b> - If this PO exceeds \$25,000, except if for commercial or commercial-type products.
252.211-7011	<b>Audit of Contract Modifications - Commercial Items - (MAY 1991)</b> - If this PO exceeds \$500,000.
252.215-7000	<b>Pricing Adjustments (DEC 1991).</b>
252.215-7003	<b>Industrial Modernization Incentive Program (DEC 1991)</b> - If Seller is participating in a Government-approved IMIP business agreement.
252.219-7003	<b>Small Business and Small Disadvantaged Business. Subcontracting Plan (DoD Contracts) (MAY 1994)</b>



## ATTACHMENT 3 TO APPENDIX 1

### THE FOLLOWING CLAUSES ARE FOR GOVERNMENT CONSTRUCTION CONTRACTS NOT ISSUED UNDER F33657-97-L-2018 OR F33657-87-E-2183

The following Federal Acquisition Regulation (“FAR”) and DoD FAR Supplement (“DFARS”) clauses are incorporated herein by reference, subject to the modifications/applications indicated and the following definitions: “Contract” means this PO; “Contractor” means Seller; and “Subcontractor(s)” means Seller’s subcontractor(s). Except as may be otherwise specifically set forth herein; (A) the FAR clauses applicable to this PO are those set forth in the (i) FAR I listing for the portion, if any, of this PO, as is issued under a prime contract having an effective date before October 1, 1995; and, (ii) FAR II listing for the portion, if any, of this PO, as is issued under a prime contract (a) having an effective date on or after October 1, 1995, or (b) listed under the heading “Prime Contracts – FASA ADDED” at the end of this Clause 35; and, (B) the DFARS clauses applicable to this PO are those set forth in the (i) DFARS I listing for the portion, if any, of this PO, as is issued under a prime contract having an effective date before October 1, 1995; and (ii) DFARS II listing for the portion, if any, of this PO, as is issued under a prime contract (a) having an effective date on or after October 1, 1995, or (b) listed under the heading “Prime Contracts – FASA ADDED” at the end of this Clause 35. For the FAR II and DFARS II listings, except where a date is provided, the FAR and DFARS clauses are those in effect as of the date of this PO, or, if no such clause is in effect as of the date of this PO, then such clause as was most recently in effect.

The prime contracts listed under the heading “Prime Contracts - FASA ADDED” are dated prior to October 1, 1995, but, due to prime contractual modifications, have been changed to include certain FAR and DFARS clauses having an effectivity of October 1995 or later.

Buyer and Seller agree that they intend for the clauses thus incorporated to establish obligations on Seller as a subcontractor to Buyer, including without limitation those obligations on Seller which are necessary to permit Buyer to comply with its obligations to the U.S. Government under Buyer’s prime contract(s).

<u>FAR I</u>	<u>TITLE</u>
52.203-6 52.203-7	<b>Restrictions on Subcontractor Sales to the Government (JUL 1985). Anti-Kickback Procedures (JUL 1995)</b> - If this PO exceeds \$100,000. Delete paragraph (c)(1). In paragraph (c)(2), sentence two, insert “Buyer and to” after the sixth word “to.” In paragraph (c)(3), insert “Buyer and” after the sixth word “with.” Add the following to the end of paragraph (c)(4): “In addition to any other remedies which the Buyer has at law, in equity, or under this PO, Buyer shall have the right to withhold from Seller the amount, if any, that the Contracting Officer directs Buyer to withhold from Seller.”
52.203-11	<b>Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (APR 1991)</b> – If this PO exceeds \$100,000. The term “Contracting Officer” in the last line of paragraph 2 means Buyer.
52.203-12	<b>Limitation on Payments to Influence Certain Federal Transactions (JAN 1990)</b> - If this PO exceeds \$100,000. Change the beginning of



determinations will be subject to FAR part 31. "Government" means Government and Buyer.

52.215-38

**Preparation of Offers - Construction (JAN 1991).**

52.215-39

**Reversion or Adjustment of Plans for Postretirement Benefits Other Than Pensions (PRB) (FEB 1995)** - If this PO requires certified cost or pricing data or if any preaward or postaward cost determinations will be subject to FAR part 31.

52.215-40

**Notification of Ownership Changes (FEB 1995)** - If this PO meets the applicability requirements of FAR 15.804-8(g).

52.219-8

**Utilization of Small Business Concerns and Small Disadvantaged Business Concerns (FEB 1990)** - If this PO offers further subcontracting

- 52.222-20 **Walsh Healy Public Contracts Act (APR 1984)** - If this PO exceeds \$10,000.
- 52.222-21 **Prohibition of Segregated Facilities.**
- 52.222-23 **Notice of Requirement for Affirmative Action to Ensure Equal**



appears in Paragraph (b)(1)(ii), 3) in Paragraph (c)(1), 4) in Paragraph (f), and 5) in Paragraph (j) and subparagraph (j)(1), "Government" means Government or Buyer. The fourth sentence of paragraph (b) is changed to read: "Neither the Government nor the Buyer shall be liable..."

52.246-2

**Inspection of Supplies - Fixed-Price (JUL 1985)** - "Contracting Officer" means Buyer. "Government" means Buyer except that the first time it appears in the first sentence of Paragraph (b) and in the fourth sentence of Paragraph (b), and throughout paragraphs (c) and (d), it means Buyer and the Government (provided, however, that an inspection system accepted by the Government will be deemed acceptable to the Buyer), and the first time it appears in Paragraph (k), it means Government or Buyer. The provisions in the clause for access, rights to inspect, safety protection, and relief from liability apply equally to Buyer and the Government.

52.246-23

**Limitation of Liability (APR 1984)** - Not applicable to the extent this PO



- 252.223-7002 **Safety Precautions for Ammunition and Explosives (MAY 1994)** - If this PO involves ammunition or explosives.
- 252.223-7003 **Change in Place of Performance - Ammunition and Explosives (MAY 1991)** - (If this PO involves ammunition or explosives). "Contracting Officer" means Buyer.
- 252.223-7005 **Hazardous Waste Liability (OCT 1992)** - "Contracting Officer" means Buyer, "Government" means Government and Buyer.
- 252.223-7006 **Prohibition of Storage and Disposal of Toxic and Hazardous Materials (APR 1993) with its Alternate I (NOV 1995)** - If this PO requires, may require, or permits a subcontractor to treat or dispose of Non-DoD owned toxic or hazardous materials as defined in the clause. "Government" means Government and Buyer.
- 252.225-7001 **Buy American Act and Balance of Payments Program (JAN 1984).**
- 252.225-7002 **Qualifying Country Sources as Subcontractors (DEC 1991).**
- 252.225-7007 **Trade Agreements Act (JAN 1994).**
- 252.225-7008 **Supplies to be Accorded Duty-Free Entry (DEC 1991)** – If this PO is for supplies.
- 252.225-7009 **Duty-Free Entry - Qualifying Country End Products and Supplies (DEC 1991)** - If this PO is for supplies.
- 252.225-7010 **Duty-Free Entry - Additional Provisions (DEC 1991)** – If this PO is for supplies.
- 252.225-7012 **Preference for Certain Domestic Commodities (MAY 1994).**
- 252.225-7014 **Preference for Domestic Specialty Metals (DEC 1991), with Alternate I (DEC 1991).**
- 252.225-7015 **Preference for Domestic Hand or Measuring Tools (DEC 1991).**
- 252.225-7016 **Restriction on Acquisition of Anti-friction Bearings (APR 1993).**
- 252.225-7017 **Preference for United States and Canadian Valves and Machine Tools (APR 1995).**
- 252.225-7023 **Restriction on Acquisition of Carbonyl Iron Powders (APR 1992).**
- 252.225-7025 **Foreign Source Restrictions (APR 1993)** - If this PO is for any of this clause's restricted items.
- 252.225-7026 **Reporting of Contract Performance Outside the United States (APR 1993)** - If this PO is for over \$100,000, except a PO for commercial items (as defined in DFARS 211.7001), construction, natural gases, utilities, petroleum products and crudes, timber (logs), or subsistence.
- 252.225-7027 **Limitation on Sales Commissions and Fees (DEC 1991)** - Countries listed in the prime contract(s) are incorporated herein by reference.
- 252.225-7028 **Exclusionary Policies and Practices of Foreign Governments (DEC 1991).**
- 252.225-7030 **Restriction On Acquisition of Carbon, Alloy, and Armor Steel Plate (OCT 1992).**
- 252.227-7013 **Rights in Technical Data and Computer Software - (OCT 1988)** - Notwithstanding any clause or other provision of this PO to the contrary, "Contract No." means the prime contract(s) under which this PO is issued and to which this clause is applicable and "Contractor" means Buyer in the first two lines of the Limited Rights Legend.
- 252.227-7023 **Drawings and Other Data to Become Property of Government (MAY 1979)** - "Contractor" means Seller and "Government" means Government and Buyer. "Contracting Officer" means Buyer.
- 252.227-7030 **Technical Data - Withholding of Payment (OCT 1988)** - "Contracting Officer" and "Government" mean Buyer.

252.227-7032 **Rights in Technical Data and Computer Software (Foreign) (JUN 1975)** - If this PO is with a non-U.S., non-Canadian Seller.  
252.231-7000 **Supplemental Cost Principles (DEC 1991).**  
252.232-7006 **Reduction or Suspension of Contract Payments Upon Finding of Fraud (AUG 1992) -**

- 52.203-11 **Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions** - If this PO exceeds \$100,000. The term "Contracting Officer" in the last line of paragraph 2 means Buyer.
- 52.203-12 **Limitation on Payments to Influence Certain Federal Transactions** - If



- 52.203-6      **Restriction on Subcontractor Sales to the Government with its Alternate 1-** Applicable if this PO exceeds \$100,000 and is for commercial items.
- 52.204-2      **Security Requirements** - If access to classified material is required.
- 52.211-5      **New Material** - "Contracting Officer" and "Government" means Buyer in the last two sentences.
- 52.211-6      **Listing of Other than New Material Residual Inventory, and Former Government Surplus Property.**
- 52.211-7      **Other Than New Material, Residual Inventory, and Former Government Surplus Property** - "Contracting Officer" means Buyer.
- 52.211-10     **Commencement, Prosecution and Completion of Work.**
- 52.211-15     **Defense Priority and Allocation Requirements.**
- 52.215-38     **Preparation of Offers - Construction.**
- 52.215-42     **Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data - M2I4to21 Twn9sl9 Tw{16.973Trc93(x)4.1(ceed)-5.3(s \$ 8 )Tjc4**

- 52.223-7 **Notice of Radioactive Materials** - "Government" means Buyer or the Government. In paragraph (a), "Contracting Officer" means Buyer.
- 52.223-11 **Ozone Depleting Substances.**
- 52.225-10 **Duty-Free Entry** - Except where noted herein, "Contracting Officer" and "contract administration office" mean Buyer, and "foreign" means non-U.S. In Paragraph (b)(1), change "20 days" to "30 days", and "contract" means the prime contract(s). In Paragraph (b)(2), delete the fifth word "determines" and substitute the words "has been notified" in lieu thereof. In Paragraph (d), "Contracting Officer" means Contracting Officer, and "this contract" means the prime contract(s). In Paragraph (e), "this contract" means the prime contract(s), and "Contracting Officer" means Contracting Officer. In Paragraph (h), "contract administration office" means contract administration office, and "Contracting Officer" means Contracting Officer.
- 52.225-11 **Restrictions on Certain Foreign Purchases.**
- 52.228-3 **Worker's Compensation Insurance (Defense Base Act)** - If the Defense Base Act applies to this PO.
- 52.228-5 **Insurance - Work on a Government Installation** - If work is to be performed on a Government installation.
- 52.229-2 **North Carolina State and Local Sales Tax** (Applicable for Construction Performed in NC).
- 52.229-3 **Federal, State and Local Taxes**

- 52.236-10 **Operations and Storage Areas** - "Contracting Officer" means Buyer.
- 52.236-11 **Use and Possession Prior to Completion** - "Contracting Officer" means Buyer.
- 52.236-12 **Cleaning Up** - "Contracting Officer" means Buyer.
- 52.236-13 **Accident Prevention** - "Contracting Officer" means Government and Buyer.
- 52.236-15 **Schedules for Construction Contracts** - "Contracting Officer" means Buyer.
- 52.236-17 **Layout of Work** - "Contracting Officer" means Buyer.
- 52.236-21 **Specifications and Drawings for Construction** - "Contracting Officer" means Buyer except the first time it is used in paragraph (a) wherein it means Buyer and Government.
- 52.242-12 **Report of Shipment (REPSHIP)**. (If shipment of controlled or classified materials is involved in this PO).
- 52.243-1 **Changes - Fixed Price** - "Contracting Officer" and "Government" mean Buyer.
- 52.243-5 **Changes and Changed Conditions** - "Contracting Officer" means Buyer and "Contractor" means Seller. Delete paragraph (e).
- 52.244-6 **Subcontracts for Commercial Items and Commercial Components.**
- 52.245-2 **Government Property (Fixed-Price Contracts)** - "Government" means Buyer except 1) in the terms "Government-furnished property" and "Government property", 2) the second time it appears in Paragraph (b)(1)(ii), 3) in Paragraph (c)(1), 4) in Paragraph (f), and 5) in Paragraph (j) and subparagraph (j)(1), "Government" means Government or Buyer. The fourth sentence of paragraph (b) is changed to read: "Neither the Government nor the Buyer shall be liable..."
- 52.246-2 **Inspection of Supplies - Fixed-Price** - "Contracting Officer" means Buyer. "Government" means Buyer except that the first time it appears in the first sentence of Paragraph (b) and in the fourth sentence of Paragraph (b), throughout paragraphs (c) and (d), it means Buyer and the Government (provided, however, that an inspection system accepted by the Government will be deemed acceptable to the Buyer), and the first time it appears in Paragraph (k), it means Government or Buyer. The provisions in the clause for access, rights to inspect, safety protection, and relief from liability apply equally to Buyer and the Government.

## **DFARS II**

## **TITLE**

### **Part A**

**The clauses listed in this DFARS II, Part A, are not applicable to the**

- 252.225-7012 **Preference for Certain Domestic Commodities.**
- 252.225-7014 **Preference for Domestic Specialty Metals, with its Alternate I.**
- 252.225-7026 **Reporting of Contract Performance Outside the United States** - If this PO is for over \$100,000, except a PO for commercial items (as defined in FAR 2.101), construction, natural gases, utilities, petroleum products and crudes, timber (logs), or subsistence.
- 252.227-7013 **Rights in Technical Data and Computer Software** - Notwithstanding any clause or other provision of this PO to the contrary, "Contract No." means the prime contract(s) under which this PO is issued and to which this clause is applicable and "Contractor" means Buyer in the first two





**PRIME CONTRACTS - FASA ADDED**

F41689-94-G-0001	F41689-90-G-0701	F41689-91-C-0731
F08635-86-C-0249	F33657-88-C-2094	F33657-90-D-0048
F08635-96-D-0019	F33657-90-D-0031	F33657-91-C-0041
F33600-94-C-0060	F33600-93-C-0063	F33600-94-C-0068
F33600-95-C-0084	F33600-92-C-0110	F33600-95-C-0098
F33600-96-D-0036	F33600-96-C-0044	F33600-95-C-0234
F33600-96-C-0002	F33600-92-G-0004	F33657-93-G-3022
F33657-90-C-2233	F33657-93-C-2380	F33657-88-C-0037
F33657-84-C-0247	F33657-82-C-2034	F33657-82-C-2038
F33657-93-C-2374	F33657-89-C-0009	F33657-94-C-2259
F33657-95-C-2028	F33657-84-C-0192	F33657-90-C-2002
F33657-82-C-2120	F33657-95-C-2022	F33657-95-C-2005
F33657-95-C-2017	F33657-95-C-2016	N00019-95-C-0063
N00019-95-C-0080	N00019-95-C-0081	N68520-92-G-0003
N00019-85-C-0146	F42620-95-C-0100	F42620-92-C-0381
F42620-95-C-0222	F42620-95-C-0308	F42600-89-C-0832
F42620-91-C-0569	F42600-87-C-2567	F42620-91-C-0815
F42620-91-D-0378	F42600-91-G-7544	F42620-92-C-0065
F42620-92-C-0360	F42620-92-D-0158	F42620-93-D-0168
F42620-94-C-0028	F42620-94-D-0071	F42620-95-D-0176
F42620-95-D-0177	F42620-95-D-0178	F42620-96-C-0019
F42620-91-D-0035	F42620-91-D-0036	F42620-91-D-0037
F42620-91-D-0039	F42620-92-D-0056	F42620-95-D-0079
F42620-95-D-0080	F42620-95-D-0131	F42600-87-D-1616
F42600-89-D-0658	F42620-92-D-0316	F42620-94-C-0013
F42620-94-C-0072	F42620-95-C-0236	F42620-93-C-0066
F42600-90-C-0398	F42620-91-C-0732	F42620-92-C-0069
F42620-92-C-0093	F42620-94-C-0012	F42620-95-C-0110
F04606-87-D-0034	F04606-95-D-0065	F04606-87-G-0075
F04606-91-D-0486	F33657-86-C-0171	F04606-95-C-0339
F04606-88-G-0820	F41608-86-G-0657	F41608-92-G-0032
F33606-95-C-0339	F04606-96-D-0030	F33615-89-C-3600
F33615-88-C-3611	F33615-90-C-3000	F33615-95-D-3214
F33615-93-C-1204	F33615-94-C-1554	F33615-89-C-2916
F33615-92-C-3805	F33615-94-C-3210	F33615-94-C-3008
F33615-88-C-3402	F33615-87-C-3207	F33615-95-C-5021
F33615-92-C-5981	F33615-95-C-5538	

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**ATTACHMENT 4 TO APPENDIX 1**

**THE FOLLOWING ADDITIONAL CLAUSES ARE FOR CONSTRUCTION CONTRACTS  
NOT ISSUED PURSUANT TO A GOVERNMENT PRIME CONTRACT**

1. Seller shall comply with all applicable provisions of all Federal and State laws and regulations, including but not limited to, all applicable labor and employment laws. Seller agrees to indemnify Buyer against any loss, co