



6303 Ivy Lane • Suite 800 • Greenbelt, MD 20770 • Phone 301.837.5500

General Terms and Conditions for Commercial Items Under a U.S. Government Prime Contract

Section I – General Provisions

1) **ACCEPTANCE** – This order is not an acceptance of any offer to sell but is an offer to purchase. It may be accepted within five (5) days of the order's date only by Buyer receiving Seller's written acknowledgement or by commencement of performance by Seller. Acceptance is expressly limited to the terms and conditions of this offer. By acceptance in either manner described hereinabove, Seller expressly assents to the terms and conditions contained herein to the exclusion of all other terms and conditions, including any contained in any acknowledgement, acceptance, letter, quote, or other writing of Seller prior to, simultaneously with, or after acceptance.

Any proposal for additional or different terms or any attempt by Seller to vary, in any degree, any of terms in this offer in Seller's acceptance or acknowledgement shall not operate as a rejection of this offer, and this offer shall be deemed accepted by the Seller without said additional or different terms.

2) **ADDITIONAL OR DIFFERENT TERMS** –The terms contained in this order, with any attachments, will constitute the entire and only agreement of the parties and will supersede all prior discussions, representations, writings, oral agreements, and understandings or any language in the acknowledgement or acceptance of Seller to the contrary. Buyer objects to addition to, change, modification of, revision of, deletion, or waiver of any of the terms and conditions of this order. Irrespective of whether such different or additional terms and conditions materially alter this order, such different or additional terms and conditions will be invalid and rejected unless specifically agreed to in writing by Buyer.

3) **PACKAGING and DELIVERY** – Time is of the essence in this order, and substitutions outside of or overruns above normal accepted standards will not be accepted unless agreed upon by Buyer in writing. Goods shipped shall be at Seller's risk until no longer in possession of Seller and title has passed to Buyer. Unless otherwise specified in writing, place for delivery of goods is Buyer's business. Buyer may invoke and Seller shall pay a late delivery penalty if Seller is delinquent in meeting the delivery as agreed to on this Purchase Order. Seller shall be charged at the rate of one percent (1%) of the price of delayed item(s) per day, to a maximum of five percent (5%) of the total Purchase Order value. Any applicable Late Delivery Penalty will be deducted from future invoice payments.

4) **WARRANTY** – In addition to Seller's standard warranty, Seller warrants that all Work furnished pursuant to this Contract shall strictly conform to applicable specifications, drawings, samples, descriptions, and other requirements of this Contract and be free from defects in design, material, and workmanship. All warranties shall survive inspection, test and acceptance of, and payment for, the Work. All warranties shall run to Buyer and its successors, assigns, and customers. The warranty shall extend for a period of one (1) year after Buyer's final acceptance unless a different period is set forth elsewhere in this Contract. If any nonconformity of the Work appears within that time, Seller shall promptly repair, replace, or re-perform the Work at Buyer's option. Transportation of replacement Work, return of nonconforming Work, and repeat performance of Work shall be at Seller's expense. Work required to be corrected or replaced shall be subject to this provision and the Inspection and Acceptance provision of this Contract in the same manner and to the same extent as Work originally delivered under this Contract. If repair, replacement, or re-performance of Work is not timely, Buyer may elect to return the nonconforming Work or repair, replace Work, or procure the Work at Seller's expense.

5) **INSPECTION and TESTS** – All goods ordered hereunder will be subject to inspection and testing by Buyer at all reasonable times and places, including Seller's facilities. It is expressly agreed that inspections and/or payments prior to, at the time of, or after delivery will not constitute a final acceptance of the goods or services.

No such inspection shall relieve Seller of its obligations to furnish all Work in accordance with the requirements of this Contract. Buyer's final inspection and acceptance shall be at destination unless otherwise specified in this Contract.

Seller shall not tender rejected work without disclosing the corrective action taken.

6) **CONFIDENTIALITY** – All information, drawings, specifications or data furnished by Buyer to Seller shall be considered proprietary, and Seller shall keep confidential all such information, drawings, specifications, or data unless this requirement is waived expressly in writing by Buyer, and will return the same, including copies made by or for Seller, upon request. Seller shall not in any manner advertise or publish the fact that it has furnished or contracted to furnish to Buyer the goods or services herein mentioned without prior written consent of Buyer.

7) **CHANGES** - Buyer may, at any time, by written notice and without notice to sureties or assignees, make Changes within the general scope of this Contract in any one or more of the following: (i) drawings, designs, or specifications; (ii) method of shipping or packing; (iii) place of inspection, acceptance, or point of delivery; (iv) reasonable adjustments in quantities or delivery schedules or both; (v) amount of Buyer-furnished property; and, if this Contract includes services, (vi) description of services to be performed; (vii) quantity of services (i.e., hours to be worked); (viii) time of performance (e.g., hours of the day, days of the week); and (ix) place of performance. Seller shall comply immediately with such direction.

If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of this Contract, Buyer shall make an equitable adjustment in the Contract price or delivery schedule or both and modify the Contract accordingly. Changes to the delivery schedule will be subject to a price adjustment.

Any claim for an equitable adjustment by Seller must be submitted in writing to the Buyer Procurement Representative within thirty (30) days from the date of notice of the change unless the Parties agree in writing to a longer period.

Failure to agree to any adjustment shall be resolved in accordance with the *Disputes* clause of this Contract. However, nothing contained in this *Changes* clause shall excuse Seller from proceeding without delay in the performance of this Contract as changed.

8) **USE OF INFORMATION** – The Seller agrees that all information furnished or disclosed to Buyer by Seller in connection with this order is furnished or disclosed as part of the consideration of this order. Notwithstanding the foregoing, if Seller clearly identifies in writing information which Seller considers to be confidential or proprietary, Buyer will protect and not disclose such information except for information: (a) which is already known to Buyer through Buyer’s own development prior to Buyer’s first receipt of information relating to Seller’s development from Seller, (b) which is or generally becomes available to the public through no fault of Buyer, or (c) which is properly obtained from a third party who has the right to make such disclosure.

9) **CONTRACT DIRECTION** - Only the Buyer Procurement Representative has authority to amend this Contract. Such amendments must be submitted in writing.

Buyer engineering and technical personnel may render assistance or give technical advice or discuss or affect an exchange of information with Seller’s personnel concerning the Work hereunder. Such actions shall not be deemed to be a change under the **Changes** clause of this Contract and shall not be the basis for equitable adjustment.

Action or direction by any Buyer customer shall not be deemed to be a change under the **Changes** clause of this Contract and shall not be the basis for equitable adjustment.

Except as otherwise provided herein, all notices to be furnished by the Seller shall be sent to the Buyer Procurement Representative.

10) **EQUIPMENT, BUYER’S PROPERTY** – All equipment, tools, materials, vehicles, and/or other articles required for Seller’s performance of this order shall be furnished by Seller, maintained in good condition, and replaced when necessary at Seller’s expense. Title to and a right of immediate possession of any property of any nature whatsoever furnished or paid for by Buyer shall remain in Buyer’s possession.

11) **FURNISHED PROPERTY** – Buyer may provide to Seller property owned by either Buyer or its customer (Furnished Property). Furnished Property shall be used only for the performance of this Contract.

Buyer or its customer shall retain title to Furnished Property. Seller shall clearly mark (if not already marked) all Furnished Property to show ownership.

Except for reasonable wear and tear, Seller assumes all risk of loss, destruction, or damage of Furnished Property while in Seller’s possession, custody, or control. Upon request, Seller shall provide Buyer with adequate proof of insurance against such risk of loss. Seller shall promptly notify Buyer of any loss or damage. Without additional charge, Seller shall manage, maintain, and preserve Furnished Property in accordance with good commercial practice.

12) **FORCE MAJEURE** – In the event of fire, accidents, abnormal weather conditions, governmental acts, strikes or other labor disputes, Acts of God, war, riots, and other civil disturbances, or any other conditions beyond either party’s reasonable control which prevent manufacture, transportation, delivery, acceptance, or Buyer’s prompt utilization of the goods or services covered by this order, the affected party may, without any liability or penalty, delay delivery, manufacture, transportation, acceptance, or utilization by written notice effective when received by the other party until such event and the consequences of such event of force majeure have terminated. Said notice of an event of force majeure shall contain the reason for any delay which the notifying party considers to be an event of force majeure under the provisions of this paragraph. An event of force majeure shall not include events within the total or partial control of the party giving notice, including, but not limited to, poor business judgment or estimates, material or labor shortages, or unanticipated engineering or technical difficulties. To be excused from performance under this clause, the affected party shall submit, within ten (10) calendar days of the start of the qualifying event, a written notice stating a complete and detailed description of such event, the date of commencement, an estimate of the probable period of delay, and an explanation indicating how such event was beyond the party’s control.

13) **ASSIGNMENT** – This order may not be assigned by Seller, nor may Seller delegate the performance of any of its duties hereunder without Buyer’s prior written consent.

14) **COMMERCIAL COMPUTER SOFTWARE** – As used in this clause “restricted computer software means a computer program, computer database, or related documentation that has been developed at private expense and is a trade secret, is commercial or financial and confidential or privileged, or is published and copyrighted and so marked when delivered or otherwise furnished.

Notwithstanding any provisions to the contrary contained in an Seller’s standard commercial license or lease agreement, Seller agrees that the restricted computer software delivered under this Contract shall provide the following rights to Buyer and the U.S. Government.

The restricted computer software may be:

- a. Used or copied for use in or with the computer or computers for which it is acquired, including use at any government installation to which such computer or computers may be transferred;
- b. Used or copied for use in or with a backup computer if any computer for which it was acquired is inoperative;
- c. Reproduced for safekeeping (archives) or backup;
- d. Modified, adapted, or combined with other computer software, provided that the modified, combined or adapted portions of the derivative software incorporating any of the delivered, restricted computer software shall be subject to the same restrictions set forth in this Purchase Order of Contract;
- e. Disclosed to and reproduced for use by support service contractors or their subcontractors, subject to the same restrictions set forth in this Purchase Order or Contract; and
- f. Used, copied for use in, or transferred to a replacement computer.

Release from liability. The Seller agrees that the government or Buyer, and other persons to whom the government or Buyer may have released or disclosed commercial computer software delivered or otherwise furnished under this Contract, shall have no liability for any release or disclosure of such commercial computer software that are not marked to indicate that such software are licensed data subject to use, modification, reproduction, release, performance, display, or disclosure restrictions.

15) **DEFAULT**- If Seller's financial condition, based on reasonable and objective criteria, is found to be or becomes unsatisfactory to Buyer during the term of this contract, or if Seller fails to make reasonable progress in its performance of this contract, Buyer reserves the right, without incurring any liability to Seller, to cancel this order by written notice and terminate this contract and receive a refund of any deposits, down payments, or other advance payment (except for goods or services already delivered). Buyer also reserves the right similarly to terminate all other contracts covering purchases by Buyer of Seller's products or services whether or not Seller may otherwise be in default, and no rights shall accrue to Seller against Buyer on account of such termination. The foregoing rights of Buyer are in addition to, and not in lieu of, any rights Buyer may possess under provisions of the Uniform Commercial Code or other provisions of the law. If Seller fails to perform as specified in this order or breaches any of the terms hereof, Buyer reserves the right, without incurring any liability to Seller and, upon giving Seller written notice, to: (a) Cancel this order in whole or in part, and Seller shall be liable to Buyer for all damages, losses, and liability incurred by Buyer directly or indirectly resulting from Seller's breach, (b) obtain the goods or services ordered herein from another source, with any excess cost resulting therefore chargeable to Seller, or (c) setoff or reduce all claims for money due or to become due to Buyer from Seller to the extent Buyer is damaged by Seller's failure to perform. The remedies herein provided shall be cumulative and in addition to any other remedies provided at law or in equity. Buyer's failure to insist on performance of any of the terms and conditions herein or to exercise any right or privilege, or Buyer's waiver of any breach hereunder, shall not thereafter waive any other terms, conditions, or privileges, whether of the same or similar type.

16) **STOP WORK ORDER** – Seller shall stop Work for up to ninety (90) days in accordance with the terms of any written notice received from Buyer, or for such longer period of time as the Parties may agree, and shall take all reasonable steps to minimize the incurrence of costs allocable to the Work covered by this Contract during the period of Work stoppage.

Within such period, Buyer shall either terminate or continue the Work by written order to Seller. In the event of a continuation, an equitable adjustment, in accordance with the principles of the Changes clause, shall be made to price, delivery schedule, or other provision affected by the Work stoppage, if applicable, provided that the claim for equitable adjustment is made within thirty (30) days after such continuation.

17) **TERMINATION for CONVENIENCE** – Buyer may terminate performance of the work under this order, in whole or in part, by written notice to Seller. Upon receipt of such notice, Seller shall immediately discontinue all work and the placing of all orders for materials, facilities, and supplies pursuant to this order. Upon termination by Buyer under this paragraph for reasons other than force majeure (as set out in 9) or certain remedies of (as set out in 11), Buyer shall negotiate payment to Seller based on Seller's non-recoverable, reasonable, and actual documented costs and expenses; in no case, however, shall payments made under this paragraph exceed the aggregate price specified in this purchase order less payments otherwise made or to be made. Nothing contained in this paragraph shall be construed to limit or affect any remedies, which Buyer may have as provided in paragraphs 12 and 14.

In no event shall Buyer be liable for lost or anticipated profits, unabsorbed indirect costs or overhead, or any sum in excess of the total Contract price. Seller's termination claim shall be submitted within ninety (90) days from the effective date of the termination.

For other than specially performed Work, Buyer may terminate part or all of the Contract for its convenience by giving written notice to Seller, and Buyer's only obligation to Seller shall be payment of a mutually agreed-upon restocking or service charge. Seller shall continue all Work not terminated.

18) **COMMUNICATION with BUYER CUSTOMER** – Buyer shall be solely responsible for all liaison and coordination with the Buyer customer, including the U.S. Government, as it affects the applicable prime contract, this Contract, and any related contract.

Unless otherwise directed in writing by the authorized Buyer Procurement Representative, all documentation requiring submittal to, or action by, the government or the Contracting Officer shall be routed to, or through, the Buyer Procurement Representative, or as otherwise permitted by this Contract.

19) **COMPLIANCE WITH LAWS** – Seller agrees to comply fully with all applicable laws, ordinances, rules, regulations, and orders of all foreign nations (or governmental subdivision thereof) and all applicable domestic (United States of America) federal, state, and local laws, ordinances, rules, regulations, and orders pertaining to the production and sale of the goods or services ordered, and, upon request, Seller shall furnish Buyer with certificates of compliance. These laws shall include, without limitation, the following: The Fair Labor Standards Act of 1938, as amended; Federal and State OSHA requirements; the equal opportunity clause in §202 of Executive Order #11246 as amended; Veterans Employment and Readjustment Act of 1972 (amending the Vietnam Era Veterans Readjustment Assistance Act of 1972); the rules and regulations of the Office of Federal Contract Compliance; §503 of the Rehabilitation Act, Toxic Substances Control, and The Federal Hazardous Substances Act. With specific references to the Toxic Substances Control Act, Seller warrants that each chemical substance delivered under this order shall be on the list of chemical substances compiled and published by the Administrator of the Environmental Protection Agency pursuant to §8 of the Toxic Substances Act. If this order is placed, directly or indirectly, under a contract to which the United States or any state or other governmental authority is a party, then all terms and conditions required by law or regulation or contained in the government contract with respect to this order are incorporated herein by reference. Seller expressly agrees to indemnify and hold harmless Buyer, its successors, assigns, customers, and users of its products from any costs, losses, expenses, damages, claims, suits, fines, penalties, or any liability whatsoever, including attorney's fees, resulting from the failure of Seller to comply in the furnishing of goods or services under this order, with all applicable foreign or domestic federal, state, or local laws, ordinances, rules, regulations, or orders as set out hereinabove.

20) **APPLICABLE LAW** – This Contract shall be governed by the laws of the state of Maryland, excluding its choice of laws rules, except that any provision in this Contract is (i) incorporated in full text or by reference from the Federal Acquisition Regulation (FAR), (ii) incorporated in full text or by reference from any agency regulation that implements or supplements the FAR, or (iii) that is substantially based on any such agency regulation or FAR provision, shall be construed and interpreted according to the federal common law of government contracts as enunciated and applied by federal judicial bodies, Boards of Contracts Appeals, and quasi-judicial agencies of the federal Government.

21) **DISPUTES** – Any dispute, controversy, or claim arising out of or relating to this Contract or default, termination, or invalidity hereof, shall be settled by arbitration under the rules of the American Arbitration Association. The place of the arbitration shall be Washington, D.C. The language to be used in the arbitral proceedings shall be English. Judgment of the arbitrators shall be final and nonappealable and may be entered in any court having jurisdiction or application may be made to such court for a judicial acceptance of the award and an order of enforcement. Each Party shall bear its own expenses of the arbitration, but the fees and costs of the arbitrators shall be borne equally between the Parties participating in the arbitration.

Consistent with the expedited nature of arbitration, each Party will, upon the written request of the other Party, promptly provide the requesting party with copies of documents relevant to the issues raised by any claim or counterclaim. Any dispute regarding discovery or the relevance or scope thereof shall be determined by the arbitrators, whose determination shall be conclusive. All discovery shall be completed within thirty (30) days following the appointment of the arbitrators.

No action at law or in equity may commenced by Seller under or arising from this Contract unless it is brought within one year after the accrual of the cause of action upon which the claim is based, regardless of whether Seller knew or should have known of the accrual of any such cause of action.

Until final resolution of any dispute hereunder, Seller shall diligently proceed with the performance of this Contract as directed by the Buyer Procurement Representative.

22) **DEFINITIONS** – The following terms shall have the meanings set forth below:

“Contract” means the instrument of contracting (e.g., PO, Purchase Order, or other such designation), including all referenced documents, exhibits, and attachments. If these terms and conditions are incorporated into a master agreement that provides for releases (in the form of a Purchase Order or other such document), the term “Contract” shall also mean the release document for the Work to be performed.

“FAR” means the Federal Acquisition Regulation, issued as Chapter 1 of Title 48, Code of the Federal Regulations.

“Buyer” means ASRC Federal Holding Company.

“Buyer Procurement Representative” means the person authorized by BUYER’s cognizant procurement organization to administer this Contract.

“PO” or “Purchase Order” as used in any document constituting a part of this Contract shall mean this Contract.

“Seller” means the Party identified on the title page of the Contract, with whom Buyer is contracting.

“Work” means all required articles, materials, supplies, goods, and services constituting the subject matter of this Contract.

23) **EXPORT CONTROL** - Seller agrees to comply fully with all applicable U.S. export control laws and regulations as they may apply to any hardware, software, information, or direct product of such information furnished to Seller under this Contract. Seller agrees that it will not permit the re-export of any the above—including to foreign nationals employed by, associated with, or under contract to Seller or Seller’s lower-tier suppliers—without the authority of an Export License or applicable License Exception.

Seller agrees to notify Buyer if export control laws or regulations restrict any deliverable Work under this Contract.

Seller shall immediately notify the Buyer Procurement Representative if Seller is listed in any Denied Parties List or if Seller’s export privileges are otherwise denied, suspended, or revoked in whole or in part by any U.S. Government entity or agency. At Buyer’s request, Seller will provide Buyer with all data Buyer may need to apply for and obtain an Export License or applicable License Exception.

24) **GRATUITIES and KICKBACKS** – No gratuities (in the form of entertainment, gifts, or otherwise) or kickbacks shall be offered or given Seller to any employee of Buyer with a view toward securing favorable treatment as a supplier.

By accepting this Contract, Seller certifies and represents that it has not made or solicited and will not make or solicit kickbacks in violation of FAR 52.203-7 or the Anti-Kickback Act of 1986 (41USC 51-58), both of which are incorporated herein by this specific reference, except that paragraph (c) (1) of FAR 52.203-7 shall not apply.

25) **INDEMNIFICATION** – Except to the extent that any injury or damage is due solely and directly to Buyer’s negligence, Seller agrees to indemnify and hold harmless Buyer, its successors, assigns, customers, and users of its products against all suits at law or in equity and from all damages, claims, and demands arising out of death of or injury to any person or damage to any property alleged to have resulted from the goods or services hereby ordered, and, upon the tendering of any suit or claim to Seller, to defend the same at Seller’s expense as to all costs, losses, expenses, damages, claims, suits, or any liability whatsoever, including attorney’s fees. The foregoing indemnification shall apply whether the death, injury, or property damage is caused by the sole or concurrent negligence of Seller. To the extent that Seller’s agents, employees, or subcontractors enter upon the premises of Buyer, Seller shall take all necessary precautions to prevent injury or death to any persons or damage to property arising out of acts or omissions of such agents, employees, or subcontractor and, except to the extent that any such injury or damage is due solely and directly to Buyer’s negligence, shall indemnify, defend, and hold Buyer, its officers, employees, and agents, harmless from any and all costs, losses, expenses, damages, claims, suits, or any liability whatsoever, including attorney’s fees, arising out of any act or omission of Seller, its agents, employees, or subcontractors. Seller shall maintain and require its subcontractors to maintain: (a) Public liability and property damage insurance (including contractual liability), both general and vehicle, in amounts sufficient to cover obligations set forth above, and (b) worker’s compensation and employer’s liability insurance covering all employees engaged in the performance of this order. Seller shall furnish, upon Buyer’s request, certificates evidencing such insurance.

Unless otherwise specified in this Contract, commercial off-the-shelf software delivered hereunder shall be the most recent revision issued by Seller. If Seller issues a new version within 120 days after delivery to Buyer, Seller shall provide to Buyer, at no additional charge, a usable copy of the new version and an equivalent license.

26) **NEW MATERIALS** – The Work to be delivered hereunder shall consist of new materials, as defined in FAR 52.211-5 (not used, reconditioned, remanufactured, or of such age as to impair usefulness or safety).

Unless otherwise specified, all Work is to be packed in accordance with good commercial practice to prevent damage and deterioration during shipping, handling, and storage.

A complete packing list shall be enclosed with all shipments. Seller shall mark containers or packages with necessary lifting, loading, and shipping information, including the AFHC Purchase Order number, item number, dates of shipment, and the names and addresses of consignor and consignee. Bills of lading shall include this Purchase Order number.

27) **PATENT AND INTELLECTUAL PROPERTY RIGHT INDEMNIFICATION** – Seller shall indemnify and save harmless Buyer, its successors, assigns, customers or users of its products, or Buyer’s officers, employees, and agents, from and against all costs, losses, expenses, damages, claims, suits, or any liability whatsoever, including attorney’s fees, resulting from any claim that the manufacture, use, sale, or resale of any goods or services supplied under this order infringe any patent, copyright, trademark, or other intellectual property rights; and Seller, when notified, shall, at Buyer’s sole option, either defend any action or claim of such infringement at its own expense or reimburse Buyer’s expenses, attorney’s fees, and other costs defending such action or claim.

28) **PAYMENTS, TAXES and DUTIES** - Unless otherwise provided, terms of payment shall be net thirty (30) days from the latest of the following: (i) Buyer's receipt of the Seller's proper invoice, (ii) scheduled delivery date of the Work, or (iii) actual delivery of the Work. Buyer shall have a right of setoff against payments due or at issue under this Contract or any other Contract between the Parties.

Unless otherwise specified, prices include all applicable federal, state, and local taxes, as well as duties, tariffs, and similar fees imposed by any government, all of which shall be listed separately on the invoice. Prices shall not include any taxes, impositions, charges, or exactions for which Buyer has furnished a valid exemption certificate or other evidence of exemption.

29) **PRECEDENCE** – Any inconsistencies in this Contract shall be resolved in accordance with the following (in descending order of precedence): (1) face of the Purchase Order, release document, or schedule (which shall include continuation sheets), as applicable, including any special terms and conditions; (2) any master agreement, such as corporate, sector, or blanket agreements; (3) these General Provisions; and (4) Statement of Work.

30) **CAPTIONS** – The captions appearing at the beginning of each paragraph of these terms and conditions are for convenience only and are not to be construed as a substantive part of said terms and conditions.

31) **SEVERABILITY** – The terms and conditions of this order are severable, and if any terms and conditions or portions of any terms and conditions herein are stricken or declared illegal, invalid, or unenforceable for any reason whatsoever, the legality, validity, or enforceability of the remaining terms and conditions shall not be affected thereby.

Section II: FAR Flowdown Provisions

A. Incorporation of FAR and DFARS Clauses

The Federal Acquisition Regulation (FAR) clauses referenced below are incorporated herein by reference, with the same force and effect as if they were given in full text, and are applicable, including any notes following the clause citation, to this Contract. If the date or substance of any of the clauses listed below is different from the date or substance of the clause actually incorporated in the Prime Contract referenced by number herein, the date or substance of the clause incorporated by said Prime Contract shall apply instead.

B. Government Subcontract

This Contract is entered into by the Parties in support of a U.S. Government contract.

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

1. "Commercial Item" means a commercial item as defined in FAR 2.101.
2. "Contract" means this Contract.
3. "Contractor" means the Seller, as defined previously in the "Definitions" provision of this document, acting as the immediate (first-tier) subcontractor to Buyer.
4. "Prime Contract" means the Contract between Buyer and the U.S. Government or between Buyer and its higher-tier contractor who has a contract with the U.S. Government.
5. "Subcontract" means any Contract placed by the Contractor or lower-tier subcontractors under this Contract.

C. Notes

1. Substitute "Buyer" for "Government" or "United States" as applicable throughout this clause.
2. Substitute "Buyer Procurement Representative" for "Contracting Officer," "Administrative Contracting Officer," and "ACO" throughout this clause.
3. Insert "and Buyer" after "Government" or "Contracting Officer", as appropriate, throughout this clause.
4. Insert "or Buyer" after "Government" throughout this clause.
5. Communication and notification required under this clause from or to the Contractor and to or from the Contracting Officer shall be through Buyer.

D. Amendments Required by Prime Contract

Contractor agrees that, upon the request of Buyer, it will negotiate in good faith with Buyer relative to amendments to this Contract to incorporate additional provisions herein or to change provisions hereof as Buyer may reasonably deem necessary in order to comply with the provisions of the applicable prime contract or with the provisions of amendments to such prime contract. If any such amendment to this Contract causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the work under this Contract, an equitable adjustment shall be made pursuant to the "Changes" clause of this Contract.

E. FAR Flowdown Clauses

1. The following FAR clauses apply to this Contract:

<u>REFERENCE</u>	<u>TITLE</u>
(a) 52.215-20	Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data (October 1997) (See Note 2.)
(b) 52.215-21	Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data – Modifications (October 1997) (See Note 2.)
(c) 52.219-8	Utilization of Small Business Concerns (January 1999)
(d) 52.222-21	Prohibition of Segregated Facilities (February 1999)
(e) 52.222-26	Equal Opportunity (February 1999) (Only subparagraphs (b) (1)–(11) apply.)
(f) 52.225-13	Restrictions on Certain Foreign Purchases (July 2000) (See Note 5.)
(g) 52.244-6	Subcontracts for Commercial Items (May 2001)
(h) 52.247-63	Preference for U.S.-Flag Air Carriers (January 1997)

2. The following FAR clauses apply to this Contract if the value of this Contract equals or exceeds \$10,000:

(a) 52.222-35	Affirmative Action for Disabled Veterans and Vietnam Era Veterans (April 1998)
(b) 52.222-36	Affirmative Action for Workers with Disabilities (June 1998)

3. The following FAR clause applies to this Contract if the value of this Contract equals or exceeds \$500,000:

(a) 52.219-9	Small Business Subcontracting Plan (October 2000) (Applicable if the Contractor is not a small business; see Note 1 and Note 2, applicable to subparagraph (c) only; the Contractor's subcontracting plan is incorporated herein by reference.)
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4. The following clauses apply as indicated:

(a) 52.204-2	Security Requirements (August 1996) (Applicable if the Work involves access to classified information; delete paragraph (c) of the clause.)
(b) 52.223-7	Notice of Radioactive Materials (January 1997) (Applicable to Work containing covered radioactive material. Insert "30" in the blank; See Notes 1 and 2.)
(c) 52.223-11	Ozone-Depleting Substances (May 2001) (Applicable if Work was manufactured with or contains ozone-depleting substances.)

F. Certifications and Representations

1. The clauses listed below contain certifications and representations that are material representations of fact upon which Buyer will rely in making awards to Contractor. By submitting its written offer, providing oral offers or quotations at the request of Buyer, or accepting any Contract, Contractor certifies to the representations and certifications as set forth in each of the clauses listed below. These certifications shall apply whenever these terms and conditions are incorporated by reference in any Contract, agreement, other contractual document or any quotation, request for quotation (oral or written), request for proposal, or solicitation (oral or written) issued by Buyer. Contractor shall immediately notify Buyer of any change of status with regard to these certifications and representations.
2. The following clauses of the FAR are incorporated herein by reference with the same force and effect as if they were given in full text, and are applicable to any order, agreement, or subcontract. In each clause incorporated below, substitute "Buyer" for "Government" and "Contracting Agency" and "Buyer Procurement Representative" for "Contracting Officer" throughout.
 - (a) FAR 52.209-5, "Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters" (April 2001)
3. The following FAR clauses apply to this Contract if Work under the Contract will be performed in the United States or if Contractor is recruiting employees in the United States to work on the Contract.
 - (b) FAR 52.222-22, "Previous Contracts and Compliance Reports" (February 1999)
 - (c) FAR 52.222-25, "Affirmative Action Compliance" (April 1984)