

WEDC Terms & Conditions of Purchase

1. Acceptance of Purchase Order

Agreement by Seller to furnish the materials or services hereby ordered, or its commencement of such performance, or acceptance of any payment, shall constitute acceptance by Seller of this Purchase Order subject to these terms and conditions. In the event that this Purchase Order does not state price or delivery, Buyer will not be bound to any prices or delivery to which it has not specifically agreed in writing. Any terms or conditions proposed by Seller inconsistent with or in addition to the terms and conditions of purchase herein contained shall be void and of no effect unless specifically agreed to by Buyer in writing. Modifications hereof or additions hereto, to be effective, must be made in writing and be signed by Buyer's purchasing representative. These terms and conditions, together with any referenced exhibits, attachments or other documents, constitute the entire agreement between the parties with respect to the subject matter of this Purchase Order, and supersede any prior or contemporaneous written or oral agreements pertaining thereto.

2. Shipping Instructions

- (a) Seller shall be responsible for ensuring the proper packaging of materials hereunder. No charges will be allowed for packing, crating, freight, local cartage, and/or any other services unless so specified in this Purchase Order.
- (b) Seller shall at all times comply with Buyer's written shipping instructions. Unless otherwise directed, all items shipped on the same day from and to a single location must be consolidated on one bill of lading or airbill, as appropriate. Seller shall submit all required shipping papers to Buyer prior to final payment. For material purchased F.O.B. origin, the Seller shall not insure and not declare a value except when transportation rates are based on "released value," in which instance the Seller shall annotate on the bill of lading the lowest released value provided in applicable tariffs.
- (c) Purchase Order number(s) must appear on all correspondence, shipping labels, and shipping documents, including all packing sheets, bills of lading, airbills, and invoices.

3. Delivery; Notice of Delay

- (a) Time is of the essence and failure to deliver in accordance with the delivery schedule under this Purchase Order, if unexcused, shall be considered a material breach of this Purchase Order. No acts of Buyer, including without limitation modifications of this Purchase Order or acceptance of late deliveries, shall constitute waiver of this provision. Buyer also reserves the right to refuse or return at Seller's risk and expense shipments made in excess of Buyer's orders or in advance of required schedules, or to defer payment on advance deliveries until scheduled delivery dates.
- (b) Seller shall notify Buyer in writing immediately of any actual or potential delay to the performance of this Purchase Order. Such notice shall include a proposed revised schedule but such notice and proposal or Buyer's receipt or acceptance thereof shall not constitute a waiver to Buyer's rights and remedies hereunder.

4. Termination for Convenience

- (a) Buyer may, by notice in writing, terminate this Purchase Order or work under this Purchase Order for convenience and without cause, in whole or in part, at any time, and such termination shall not constitute default. In the event of partial termination, Seller is not excused from performance of the non-terminated balance of work under the Purchase Order.
- (b) In the event of termination for convenience by Buyer, Seller shall be reimbursed for actual, reasonable, substantiated and allowable costs, plus a reasonable profit for work performed to date of termination. Buyer may take immediate possession of all work so performed upon written notice of termination to Seller.
- (c) Seller's obligations, including but not limited to obligations under the warranty, proprietary rights, infringement, and indemnity against claims provisions of this Purchase Order, shall survive such termination.

5. Termination for Default

- (a) Buyer may, by notice in writing, terminate this Purchase Order in whole or in part at any time for breach of any one or more of its terms, for failure to make progress so as to endanger performance of this Purchase Order, or failure to provide adequate assurance of future performance. In the event of partial termination, Seller is not excused from performance of the non-terminated balance of work under the Purchase Order.
- (b) In the event of Seller's default hereunder, the Buyer may exercise any or all rights accruing to it, both at law, including without limitation, those set forth in Article 2 of the Uniform Commercial Code, or in equity.
- (c) Seller's obligations, including but not limited to obligations under the warranty, proprietary rights, infringement, and indemnity against claims provisions of this Purchase Order, shall survive such termination.

6. Force Majeure

Except for defaults of Seller's subcontractors at any tier, neither Buyer nor Seller shall be liable for any failure to perform due to any cause beyond their reasonable control and without their fault or negligence. Such causes include, but are not limited to, acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, terrorism, quarantine restrictions, strikes, freight embargoes, and unusually severe weather. In the event that performance of this Purchase Order is hindered, delayed or adversely affected by causes of the type described above ("Force Majeure"), then the party whose performance is so affected shall so notify the other party's authorized representative in writing and, at Buyer's option, this Purchase Order shall be completed with such adjustments as are reasonably required by the existence of Force Majeure or this Purchase Order may be terminated for convenience.

7. Disputes

- (a) Any controversy or claim that may arise out of or in connection with this Purchase Order that after good faith negotiations cannot be resolved to both Parties mutual satisfaction may be resolved by submitting the claim to a court of competent jurisdiction.
- (b) Pending resolution or settlement of any dispute arising under this Purchase Order, Seller will proceed diligently as directed by Buyer with the performance of this Purchase Order. Irrespective of the place of performance, this Purchase Order will be construed and interpreted according to the laws of the State from which the Purchase Order is issued, without resort to said State's Conflicts of Law Rules.

8. Remedies

Except as otherwise provided herein, the rights and remedies of both parties hereunder shall be in addition to their rights and remedies at law or in equity. Failure of either party to enforce any of its rights shall not constitute a waiver of such rights or of any other rights and shall not be construed as a waiver or relinquishment of any such provisions, rights or remedies; rather, the same shall remain in full force and effect.

9. Proprietary Rights

- (a) Unless otherwise expressly agreed in writing to the contrary, all specifications, information, data, drawings, software and other items supplied to Buyer by Seller shall be disclosed to Buyer on a non-proprietary basis and may be used and/or disclosed by Buyer without restriction, unless (i) otherwise required by the U.S. Government Regulations referred to below, or (ii) the Buyer has executed a separate agreement restricting the use and disclosure of such information, data, software and the like.
- (b) Unless otherwise expressly agreed in writing to the contrary and subject to Section 9 (d) below, all specifications, information, data, drawings, software and other items which are (i) supplied to Seller by Buyer or (ii) obtained or developed by Seller in the performance of this Purchase Order or paid for by Buyer shall be proprietary to Buyer, shall be used only for purposes of providing goods or services to Buyer pursuant to this Purchase Order, and shall not be disclosed to any third party without Buyer's express written consent. All such items supplied by Buyer or obtained by Seller in performance of this Purchase Order or paid for by Buyer shall be promptly provided to Buyer on request or upon completion of this Purchase Order.
- (c) Unless otherwise expressly agreed in writing to the contrary and subject to Section 9 (d) below, any invention or intellectual property first made or conceived by Seller in the performance of this Purchase Order or which is derived from or based on the use of information supplied by Buyer shall be considered to be the property of Buyer; and Seller shall execute such documents necessary to perfect Buyer's title thereto. Unless otherwise expressly agreed in writing to the contrary and subject to Section 9 (d) below, any work performed pursuant to this Purchase Order which includes any copyright interest shall be considered a "work made for hire".
- (d) Applicable Government Procurement Regulations incorporated into this Purchase Order shall, when applicable, take precedence over any conflicting provision of this Section 9 to the extent that such Regulations so require. The incorporation by reference of such U.S. Government Regulations dealing with subcontractors rights in Technical Data, subject inventions, copyrights, software and similar intellectual property are not intended to, and shall not, unless otherwise required by applicable law, obviate or modify any greater rights which Seller may have previously granted to Buyer pursuant to prior agreements between the parties.

10. Buyer's Property

- (a) All drawings, tools, jigs, dies, fixtures, materials, and other items supplied or paid for by Buyer shall be and remain the property of Buyer; and Buyer shall have the right to enter Seller's premises and remove any such property at any time without being liable for trespass or damages of any sort.
- (b) All such items shall be used only in the performance of work under this Purchase Order unless Buyer consents otherwise in writing.
- (c) Material made in accordance with Buyer's specifications and drawings shall not be furnished or quoted by Seller to any other person or concern without Buyer's prior written consent.
- (d) Seller shall have the obligation to maintain any and all property furnished by Buyer to Seller and shall be responsible for all loss or damage to said property except for normal wear and tear.

11. Release of Information

Seller shall not publish, distribute, or use any information developed under or about the existence of this Purchase Order, or use White Electronic Designs Corporation Company name (or the name of any division, affiliate or subsidiary thereof), logo, trademark, service mark, or trade dress for the purpose of advertising, making a news release, creating a business reference, creating a website content or for products or service endorsement without prior written approval of Buyer.

12. Order of Precedence

- (a) In the event of any inconsistency or conflict between or among the provisions of this Purchase Order, such inconsistency or conflict shall, subject to Section 9(d) above, be resolved by the following descending order of preference: 1. Order-specific provisions which are typed or handwritten on the Purchase Order as additions to the pre-printed terms; 2. Documents incorporated by reference on the face pages) of this Purchase Order, 3. These General Terms and Conditions of Purchase and Supplements thereto; 4. Statement of Work; and 5. Specifications attached hereto or incorporated by reference. Buyer's specifications shall prevail over those of the United States Government, and both of the foregoing shall prevail over specifications of Seller.
- (b) In the event of conflict between specifications, drawings, samples, designated type, part number, or catalog description, the specifications shall govern over drawings, drawings over samples, whether or not approved by Buyer, and samples over designated type, part number, or catalog description. In cases of ambiguity in the specifications, drawings, or other requirements of this Purchase Order, Seller must, before proceeding, consult Buyer, whose written interpretation shall be final.
- (c) Buyer's failure to inspect does not relieve Seller of any responsibility to perform according to the terms of the Purchase Order.

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13. Warranty

(a) Seller warrants the materials delivered pursuant to this Purchase Order shall be new, free from defects in workmanship, materials, and design and to be in accordance with all the requirements of this Purchase Order. Seller further warrants that the performance of work and services pursuant to the requirements of this Purchase Order shall conform to high professional standards. These warranties shall survive final acceptance and payment.

(b) This warranty entitlement shall inure to the benefit of both Buyer and Buyers customers. As used in this Purchase Order, Buyers customer(s) shall include its direct and indirect customers such as direct sale end-users, higher tier subcontractors, prime contractors and the ultimate user under relevant prime contract(s).

(c) Seller shall be liable for and save Buyer harmless from any loss, damage, or expense whatsoever that Buyer may suffer from breach of any of these warranties. Remedies shall be at Buyer's election, including repair, replacement or reimbursement of the purchase price of nonconforming materials and, in the case of services either correction of the defective services at no cost or reimbursement of the amounts paid for such services.

14. Inspection

(a) All material and workmanship shall be subject to inspection and test at all reasonable times and places by Buyer or Buyer's customer before, during and after performance and delivery. The Buyer may require Seller to repair, replace or reimburse the purchase price of rejected material or Buyer may accept any materials and upon discovery of nonconformance, may reject or keep and rework any such materials not so conforming. Cost of repair, rework, replacement, inspection, transportation, repackaging, and/or reinspection by Buyer shall be at Seller's expense.

(b) If inspection and test are made on the premises of Seller or Seller's lower tier subcontractors, Seller shall furnish without additional charge all reasonable facilities,

15. Changes

(a) Buyer shall have the right by written order to suspend work or to make changes from time to time in the services to be rendered or the materials to be furnished by Seller hereunder or the delivery date. If such suspension or changes cause an increase or decrease in the cost of performance of this Purchase Order or in the time required for its performance, an equitable adjustment shall be negotiated promptly and the Purchase Order shall be modified in writing accordingly. Any claim by Seller for adjustment under this Section 15 (a) must be asserted in writing within twenty (20) days from the date of receipt by Seller of notification of the change or suspension and shall be followed as soon as practicable with specification of the amount claimed and supporting cost figures. However, nothing herein shall excuse the Seller from proceeding with this Purchase Order as changed pending resolution of the claim.

(b) Information, advice, approvals or instructions given by Buyers technical personnel or other representatives shall be deemed expressions of personal opinion only and shall not affect Buyer's and Seller's rights and obligations hereunder unless set forth in a writing which is signed by Buyer's purchasing representative and which states it constitutes an amendment or change to this Purchase Order.

16. Infringement

Seller warrants that all work, materials, services, equipment, parts and other items provided by Seller pursuant to this Purchase Order, which are not of Buyers design, shall be free from claims of infringement (including misappropriation) of third party intellectual property rights and that any use or sale of such items by Buyer or any of Buyer's customers shall be free from any claims of infringement. Seller shall indemnify and save Buyer, and its customers harmless from any and all expenses, liability, and loss of any kind (including all costs and expenses including attorneys' fees) arising out of claims, suits, or actions alleging such infringement, which claims, suits, or actions Seller, hereby, agrees to defend, at Sellers expense, if requested to do so by Buyer. Seller may replace or modify infringing items with comparable goods acceptable to Buyer of substantially the same form, fit, and function so as to remove the source of infringement, and Sellers obligations under this Purchase Order including those contained in Section 13 and in this Section 16 shall apply to the replacement and modified items. If the use or sale of any of the above items is enjoined as a result of such claim, suit or action, Seller, at no expense to Buyer, shall obtain for Buyer and its customers the right to use and sell said item.

17. Taxes

Unless this Purchase Order specifies otherwise, the price of this Purchase Order includes, and Seller is liable for and shall pay, all taxes, impositions, charges and exactions imposed on or measured by this Purchase Order except for applicable sales and use taxes that are separately stated on Seller's 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. To the extent that Buyer is required to do so under applicable United States law or tax regulations, Buyer may deduct from any payments due to Seller pursuant to this Purchase Order such taxes as Buyer is required to withhold from such payments and pay such taxes to the relevant tax authorities; provided, however, that Buyer provides Seller with relevant tax receipts or other suitable documentation evidencing the payment of such taxes promptly after such taxes are paid.

18. Assignments

(a) Seller may not assign any rights or delegate any of its obligations due or to become due under this Purchase Order without the prior written consent of Buyer. Any purported assignment or delegation by Seller without such consent shall be void. Buyer may assign this Purchase Order to (i) any affiliated company, (ii) any successor in interest, or (iii) Buyers customer. Buyer shall have the right at any time to set off any amount owing from Seller to Buyer or Buyer's subsidiaries and/or affiliates against any amount due and owing to Seller or any of its subsidiaries and/or affiliates pursuant to this Purchase Order or any other contractual agreement between Buyer and Seller or their respective subsidiaries and/or affiliates.

(b) Seller shall promptly notify the Buyer in writing in advance of any organizational changes planned by Seller, including name or ownership changes, mergers or acquisitions.

19. Compliance with Law

(a) Seller warrants that the materials to be furnished and the services to be rendered under this Purchase Order shall be manufactured, sold, used and rendered in compliance with all relevant federal, state, local law, orders, rules, ordinances, and regulations and in compliance with applicable international prohibitions on child labor. Seller certifies that with respect to the production of the articles and/or the performance of the services covered by this Purchase Order, it has fully complied with Sections 6, 7, 12, and 15 of the Fair Labor Standards Act of 1938, as amended, and of regulations and orders of the United States Department of Labor under Section 14 thereof, if applicable.

(b) Seller warrants that all equipment and materials delivered under this Purchase Order are in conformance with the latest OSHA requirements.

(c) The Seller warrants that in the performance of this Purchase Order, it will comply with all applicable U. S. Department of Transportation regulations on hazardous materials and any other pertinent federal, state, or local statutes, laws, rules, or regulations; and Seller further agrees to save Buyer harmless from any loss, damage, fine, penalty, or expense whatsoever that Buyer may suffer as a result of Seller's failure to comply with this warranty. The foregoing is in addition to and not in mitigation of any other requirements of this Purchase Order.

(d) Seller warrants that it has complied with the Anti-Kickback Act of 1986 and has not offered or given and will not offer or give to any employee, agent, or representative of Buyer any gratuity or any kickback within the meaning of the Anti-Kickback Act of 1986. Any breach of this warranty shall be a material breach of each and every contract between Buyer and Seller.

(e) For orders placed in support of and charged to a U.S. Government Prime Contract or subcontract thereunder procuring an item meeting the Federal Acquisition Regulation (FAR) definition of a commercial item, the following clauses set forth in the FAR or the Defense Federal Acquisition Regulation Supplement (DFARS) in effect as of the date of said prime contract are incorporated herein by reference. In all clauses listed herein the terms "Government" and "Contractor" shall be revised to identify properly the contracting parties under this Purchase Order. The Seller shall include the terms of this Article, including this Section 19 (e) in all purchase orders or subcontracts awarded under this Purchase Order.

1. Utilization of Small Business Concerns	52.219-8
2. Equal Opportunity	52.222-26
3. Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans	52.222-35
4. Affirmative Action for Workers with Disabilities	52.222-36
5. Subcontracts for Commercial Items	52.244-6
6. Preference for Privately Owned U.S.-Flag Commercial Vessels	52.247-64
7. Preference for Domestic Specialty Metals -Alternate 1 (DoD) Contracts)	252.225-7014
8. Subcontracts for Commercial Items and Commercial Components (DoD Contracts)	252.244-7000
9. Transportation of Supplies by Sea (DoD Contracts)	252.247-7023
10. Notification of Transportation of Supplies by Sea (DoD Contracts)	252.247-7024

20. Responsibility and Insurance

Seller shall be responsible for the actions and failure to act of all parties retained by, through, or under Seller in connection with the performance of this Purchase Order. Seller shall also maintain and cause its subcontractors to maintain such General Liability, Property Damage, Employers Liability, and Workers' Compensation Insurance, Professional Errors and Omissions Insurance, and Motor Vehicle Liability (Personal Injury and Property Damage) Insurance as are specified in this Purchase Order or, if none are specified, such amount as will protect Seller (and its subcontractors) and Buyer from said risks and from any claims under any applicable Workers' Compensation, Occupational Disease, and Occupational Safety and Health statutes. Seller shall provide Buyer with certificates evidencing required insurance upon Buyer's request.

21. Indemnity against Claims

(a) Seller shall keep its work and all items supplied by it hereunder and Buyer premises free and clear of all liens and encumbrances, including mechanics liens, in any way arising from performance of this Purchase Order by Seller or by any of its vendors or subcontractors. Seller may be required by Buyer to provide a satisfactory release of liens as a condition of final payment.

(b) Seller shall, without limitation, indemnify and save Buyer and its customer(s) and their respective officers, directors, employees and agents harmless from and against (i) all claims (including claims under Workers' Compensation or Occupational Disease laws) and resulting costs, expenses and liability which arise from personal injury, death, or property loss or damage attributed to, or caused by, the goods, services or other items supplied by Seller pursuant to this Purchase Order except to the extent that such injury, death, loss or damage is caused solely and directly by the negligence of Buyer, and (ii) all claims (including resulting costs, expenses and liability) by the employees of Seller or any of its subcontractors.

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22. International Transactions

- (a) Payment will be in United States dollars unless otherwise agreed to by specific reference in the Purchase Order.
- (b) Seller agrees that the Buyer, its subsidiaries, affiliates or its designees may exclusively use the value of the Purchase Order to satisfy any international offset obligations with Sellers country, subject to the offset qualifying laws, rules and regulations of that country.

23. Export/Import Controls

- (a) If Seller is a U.S. company that engages in the business of either manufacturing or exporting defense articles or furnishing defense services, the Seller hereby certifies that it has registered with the U.S. Department of State Directorate of Defense Trade Controls and understands its obligations to comply with International Traffic in Arms Regulations ("ITAR") and the Export Administration Regulations ("EAR").
- (b) Seller shall control the disclosure of and access to technical data, information and other items received under this Purchase Order in accordance with U.S. export control laws and regulations, including but not limited to the ITAR. Seller agrees that no technical data, information or other items provided by the Buyer in connection with this Purchase Order shall be provided to any foreign persons or to a foreign entity, including without limitation, a foreign subsidiary of Seller, without the express written authorization of the Buyer and the Seller's obtaining of the appropriate export license, technical assistance agreement or other requisite documentation for ITAR-controlled technical data or items. Seller shall indemnify Buyer for all liabilities, penalties, losses, damages, costs or expenses that may be imposed on or incurred by Buyer in connection with any violations of such laws and regulations by Seller.
- (c) Seller shall immediately notify Buyer if it is or becomes listed on any Excluded or Denied Party List of an agency of the U.S. Government or its export privileges are denied, suspended or revoked.

24. Severability

If any provision of this Purchase Order or application thereof is found invalid, illegal or unenforceable by law, the remainder of this Purchase Order will remain valid, enforceable and in full force and effect, and the parties will negotiate in good faith to substitute a provision of like economic intent and effect.

25. Standards of Business, Code of Ethics and Conduct

By the acceptance of this Purchase Order, Seller represents that it has neither received or given any gifts or gratuities, nor participated in any other conduct in connection with this Purchase Order that violates the Standards of Business, Code of Ethics and Conduct of White Electronic Designs Corporation (available at www.wedc.com). If, at any time, Buyer determines that Seller is in violation of such Standards, Buyer may cancel this Purchase Order upon written notice to Seller and Buyer shall have no further obligation to Seller.

General Provisions - Government Contract Provisions from the Federal Acquisition Regulation (FAR)

1. When the materials or products furnished are for use in connection with a U.S. Government prime contract or subcontract, in addition to the General Provisions, the following provisions shall apply, as required by the terms of the prime contract or by operation of law or regulation. The effective version of each FAR provision shall be the same version as that which appears in Buyer's Prime Contract, or higher-tier subcontract under which this Order is a subcontract. In the event of a conflict between these FAR provisions and the General Provisions, the FAR provisions shall control.
2. The following clauses set forth in the FAR in effect as of the date of the prime contract are incorporated herein by reference. In all clauses listed herein, the terms "Government", "Contracting Officer" and "Contractor" shall be revised to suitably identify the contracting parties herein and effect the proper intent of the provision except where further clarified or modified below. "Subcontractor", however, shall mean "Seller's Subcontractor" under this Purchase Order.

A. APPLICABLE TO ALL ORDERS:

1. Security Requirements	52.204-2
2. Material Requirements	52.211-5
3. Defense Priority and Allocation Requirements	52.211-15
4. Utilization of Small Business Concerns	52.219-8
5. Notice to the Government of Labor Disputes	52.222-1
6. Hazardous Material Identification and Material Safety Data - "Government" means "Government and Buyer"	52.223-3
7. Notice of Radioactive Materials	52.223-7
8. Ozone-Depleting Substances	52.223-11
9. Privacy Act	52.224-2
10. Buy American Act- Supplies	52.225-1
11. Duty-Free Entry	52.225-8
12. Restrictions on Certain Foreign Purchases	52.225-13
13. Authorization and Consent-Alternate I	52.227-1
14. Refund of Royalties	52.227-9
15. Filing of Patent Applications-Classified Subject Matter	52.227-10
16. Patent Rights-Retention by the Contractor (Short Form)	52.227-11
17. Patent Rights-Retention by the Contractor (Long Form)	52.227-12
18. Rights in Data - General	52.227-14
19. Commercial Computer Software-Restricted Rights	52.227-19
20. Insurance-Work on a Government Installation	52.228-5
21. Industrial Resources Developed Under Defense Production Act Title III	52.234-1
22. Accident Prevention	52.236-13
23. Protection of Government Buildings, Equipment, and Vegetation	52.237-2
24. Competition in Subcontracting	52.244-5
25. Subcontracts for Commercial Items	52.244-6
26. Government Property (Fixed-Price Contracts) "Government" means "Government" and/or "Buyer". The fourth sentence of paragraph (h) is changed to read: "Neither the Government nor the Buyer shall be liable..."	52.245-2
27. Special Tooling - In paragraph (c) "Government" means "Government or Buyer"	52.245-17
28. Special Test Equipment - In paragraph (b)(4) "Government" means "Government or Buyer"	52.245-18
29. Government Property Furnished "As Is"	52.245-19
30. Inspection of Supplies- Fixed-Price	52.246-2
31. Responsibility for Supplies	52.246-16
32. Preference for U.S.-Flag Air Carriers	52.247-63
33. Preference for Privately Owned U.S.-Flag Commercial Vessels	52.247-64
34. Termination for Convenience of the Government (Fixed-Price) "Government" shall mean "Buyer." In paragraph (d) the term "45 days" is changed to "90 days." The term "one-year" in paragraph (e) is changed to "six months." The term "90 days" in paragraph (l) is changed to "forty-five days."	52.249-2

B. ORDERS OVER \$10,000 ALSO INCLUDE THE FOLLOWING:

1. Walsh-Healy Public Contracts Act	52.222-20
2. Prohibition of Segregated Facilities	52.222-21
3. Equal Opportunity	52.222-26(b)
4. Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans	52.222-35
5. Affirmative Action for Workers with Disabilities	52.222-36
6. Employment Reports on Disabled Veterans and Veterans of the Vietnam Era	52.222-37

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C. ORDERS OVER \$100,000 ALSO INCLUDE THE FOLLOWING:

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| 1. Restrictions on Subcontractor Sales to the Government | 52.203-6 |
| 2. Anti-Kickback Procedures (less paragraph (c)(1)) | 52.203-7 |
| 3. Limitation on Payments to Influence Certain Federal Transactions | 52.203-12 |
| 4. Audit and Records-Negotiation | 52.215-2 |
| 5. Integrity of Unit Prices (less paragraph b) | 52.215-14 |
| 6. Contract Work Hours and Safety Standards Act-Overtime Compensation | 52.222-4 |
| 7. Toxic Chemical Release Reporting (less paragraph (e)) | 52.223-14 |
| 8. Notice and Assistance Regarding Patent and Copyright Infringement | 52.227-2 |
| 9. Value Engineering | 52.248-1 |

D. ORDERS OVER \$500,000 AND/OR THE APPLICABLE COST OR PRICING DATA THRESHOLD:

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| 1. Pension Adjustments and Asset Reversions | 52.215-15 |
| 2. Reversion or Adjustment of Plans for Post-retirement Benefits (PRB) Other Than Pensions | 52.215-18 |
| 3. Notification of Ownership Changes | 52.215-19 |
| 4. Small Business Subcontracting Plan - (Note to Seller: This clause requires adoption of small business subcontracting plan and reporting) | 52.219-9 |

E. UNLESS OTHERWISE EXEMPT ALSO INCLUDE THE FOLLOWING:

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| 1. Price Reduction for Defective Cost or Pricing Data | 52.215-10 |
| 2. Price Reduction for Defective Cost or Pricing Data-Modifications | 52.215-11 |
| 3. Subcontractor Cost or Pricing Data | 52.215-12 |
| 4. Subcontractor Cost or Pricing Data-Modifications | 52.215-13 |
| 5. Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data | 52.215-20 |
| 6. Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data-Modification | 52.215-21 |

F. APPLICABLE TO COST REIMBURSEMENT, TIME & MATERIAL OR LABOR HOUR ORDERS:

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| 1. Facilities Capital Cost of Money | 52.215-16 |
| 2. Allowable Cost and Payment (cost reimbursement) - Seller agrees to execute Assignment documents in order to comply with subsection (h) | 52.216-7 |
| 3. Fixed Fee - applicable if this is a cost plus fixed fee order | 52.216-8 |
| 4. Incentive Fee - applicable if this is a cost plus incentive fee order | 52.216-10 |
| 5. Cost Contract- No Fee -applicable if this is a cost no fee order | 52.216-11 |
| 6. Cost Sharing Contract- No Fee - applicable if this is a cost sharing, no fee order | 52.216-12 |
| 7. Payment for Overtime Premiums - insert "0%" in paragraph (a) unless indicated otherwise on the face of this order | 52.222-2 |
| 8. Payments under Time-and-Materials and Labor-Hour Contracts, in which "schedule" means this order, "Voucher(s)" means invoice(s), "Government" means Buyer and "Contracting Office" means Buyer's Purchasing Representative | 52.232-7 |
| 9. Limitation of Cost (if fully funded) | 52.232-20 |
| 10. Limitation of Funds (if incrementally funded) | 52.232-22 |
| 11. Changes - Cost-Reimbursement- applicable if this is a cost-reimbursement order | 52.243-2 |
| 12. Changes - Time and Material or Labor-Hours - applicable if this is a time and material or labor hour order | 52.243-3 |
| 13. Subcontracts (paragraphs (h) and (i) only apply) | 52.244-2 |
| 14. Government Property (Cost-Reimbursement, Time and Material or Labor Hour Contracts) - "Government" means "Government and Buyer". The following is substituted for paragraph (g) in cost reimbursable orders only: "Seller shall return all Government-furnished property in as good condition as when received, except for reasonable wear and tear for use of the property in accordance with the provisions hereof." | 52.245-5 |
| 15. Inspection of Supplies (Cost-Reimbursement) - "Contracting Officer" means "Buyer's purchasing representative" and "Government" means "Buyer and Government (provided that an inspection system accepted by the Government will be deemed accepted by the Buyer), and where 'Government' first appears in paragraph (k) it shall mean 'Government or Buyer'. The provisions in this clause for access, right to inspect, safety protection, and relief from liability apply equally to Buyer and the Government | 52.246-3 |
| 16. Inspection of Services (Cost Reimbursement) - "Contracting Officer means "Buyers purchasing representative" and "Government" means "Buyer and Government" (provided that an inspection system accepted by the Government will be deemed accepted by the Buyer), and where "Government" first appears in paragraph (k) it shall mean "Government and Buyer". The provisions in this clause for access, right to inspect, safely protection, and relief from liability apply equally to Buyer and the Government | 52.246-5 |
| 17. Inspection of Time and Material and Labor Hour - "Contracting Officer" means "Buyer's purchasing representative" and "Government" means "Buyer and Government" (provided that an inspection system accepted by the Government will be deemed accepted by the Buyer), and where "Government" first appears in paragraph (k) it shall mean "Government and Buyer". The provisions in this clause for access, right to inspect, safely protection, and relief from liability apply equally to Buyer and the Government. | 52.246-6 |
| 18. Termination (Cost-Reimbursement) - "Government" means "Buyer" and "Contracting Office" means "Buyer's purchasing representative". In paragraph (d) change "15 days" and "45 days" to "30 days" and "90 days", respectively. In paragraph (e) change "1 year" to "six months". <i>Alternate IV</i> is applicable to time and material or labor hour orders only. | 52.249-6, Alt IV |
| 19. Excusable Delay | 52.249-14 |

3. CERTIFICATIONS

The Offeror, by signing its offer, hereby certifies compliance with the following clauses and is, *therefore*, eligible for award.

- | | |
|--|-----------|
| A. Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (over \$100,000) | 52.203-11 |
| B. Certification Regarding Debarment Suspension, Proposed Debarment and Other Responsibility Matters (over \$25,000) | 52.209-5 |
| C. Previous Contracts and Compliance Reports (over \$10,000) | 52.222-22 |
| D. Certification of Toxic Chemical Release Reporting (over \$100,000) | 52.223-13 |

4. ADDITIONAL CLAUSES:

A. COST ACCOUNTING STANDARDS (Applicable if noted in the Purchase Order)

- | | |
|---|----------|
| Cost Accounting Standards | 52.230-2 |
| Disclosure and Consistency of Cost Accounting Standards | 52.230-3 |
| Cost Accounting Standards - Educational Institution | 52.203-5 |
| Administration of Cost Accounting Standards | 52.230-6 |

Seller shall communicate and otherwise deal directly with the Contracting Officer to the extent practicable and permissible as to all matters relating to Cost Accounting Standards. Seller shall provide Buyer with copies of all communications between Seller and the Contracting Officer respecting Cost Accounting Standards, FAR 52.230-2 and Administration of Cost Accounting Standards, FAR 52.230-6, provided Seller shall not be required to disclose to Buyer such communications containing information which is legally privileged and confidential to the Seller. In addition to any other remedies provided by law or under this Purchase Order, Seller agrees to indemnify and hold Buyer harmless to the full extent of any loss damage, or expense if Buyer is subjected to any liability as the result of a failure of the Seller or its lower-tier subcontractors to comply with the requirements of FAR 52.230-2, 52.230-3, 52.230-5 or 52.230-6. Paragraph (b) is deleted in each of the foregoing clauses.

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B. TRUTH IN NEGOTIATIONS (Cost and Pricing Data)

Unless exempt, Seller shall submit a FAR Part 15 compliant cost proposal inclusive of appropriate updates throughout the negotiation process. At the conclusion of negotiations, and regardless of any prior certification, Seller must certify as to the accuracy, currency and completeness of its information in accordance with the FAR required Certificate of Current Cost or Pricing Data.

1. Indemnification

If any price (including profit or fee) negotiated in connection with the prime contract between the Government and the Buyer or any cost that is reimbursable under said contract is reduced because cost or pricing data furnished by the Seller in connection with any proposal submitted by the Buyer relating to said contract or in connection with this Purchase Order was not accurate, complete, or current, the Seller shall indemnify the Buyer in the amount of said reduction.

The phrase "cost or pricing data" as used herein shall be deemed to include any such data which related to a lower-tier prospective or actual subcontract, at any level, which was submitted by the Seller or which it procured by submission of, in connection with the aforesaid proposal or this Purchase Order in support of its cost estimate.

If any reduction in the contract price under this clause reduces the price of items for which payment was made prior to the date of the modification reflecting the price reduction, the Seller shall be liable and shall pay the Buyer at the time such overpayment is repaid:

- a. Simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to the Seller to the date the Buyer is repaid by the Seller at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C. 6621(a)(2); and
- b. For Department of Defense contracts only, a penalty equal to the amount of the overpayment, if the Seller knowingly submitted cost or pricing data which were incomplete, inaccurate, or non-current.

2: Cost or Pricing Data for Changes

Prior to the pricing of any change or other modification to this Purchase Order which involves increases and/or decreases in costs plus applicable profit expected to exceed the threshold for submission of cost or pricing data, subcontractors shall submit cost or pricing data and shall certify that the data, as defined in Federal Acquisition Regulation 15.406-2, submitted either actually or by specific identification in writing are accurate, complete, and current as of the date of completion of negotiations.

When required to obtain cost or pricing data from its subcontractors, pursuant to the provisions of this Purchase Order, Seller shall obtain such data.

5. DISPUTES-GOVERNMENT CONTRACTS

Any reference to the "Disputes clause" in any applicable FAR Clause contained herein shall mean this paragraph, Disputes - Government Contracts

- A. Any dispute arising under this Purchase Order relating to any decision of the Contracting Officer under the prime contract shall be resolved in accordance with Paragraph (ii) below. All other disputes will be resolved by the Section 6, Disputes in the General Terms and Conditions of Purchase.
- B. 1. Notwithstanding any other provisions in this Purchase Order, any decision of the Contracting Officer under the prime contract which binds Buyer shall bind both Buyer and Seller to the extent that it relates to this Purchase Order, provided that:
 - a. The Buyer notifies with reasonable promptness the Seller of such decision and
 - b. The Buyer, at its sole discretion, authorizes in writing the Seller to appeal in the name of the Buyer such decision at its own expense, or
 - c. If Buyer should appeal such decision, Buyer at its sole discretion offers to the Seller the opportunity at its own expense to join Buyer in such appeal.
2. Any decision upon such appeal, when final, shall be binding upon the Seller.
3. The Seller shall keep Buyer informed of any appeal it makes by providing copies of all pertinent documents to Buyer.
4. The Seller shall indemnify and save harmless from any and all liability of any kind incurred by or imputed to Buyer under Section 5, "Fraudulent Claims," of the Contract Disputes Act of 1978, as amended, if Seller is unable to support any part of its claim and it is determined that such inability is attributable to fraud or misrepresentation of fact on the part of Seller.
- C. Pending any prosecution, appeal, or final decision or settlement of any dispute arising under this Purchase Order, the Seller shall proceed diligently, as directed by Buyer, with the performance of this Purchase Order.
- D. Nothing in this clause nor any authorization or offer that may be made shall be deemed to constitute acceptance or acknowledgment by Buyer of the validity of Seller's claim or any part thereof, nor be deemed to limit or in any way restrict Buyer from taking any actions, including available remedies, it deems appropriate to protect its own interests.
- E. As used in this clause, the word "appeal" means an appeal taken under the Contract Disputes Act of 1978, as amended.

Government Contract Provisions from the Department of Defense FAR Supplement (DFARS)

When the materials or products furnished are for use in connection with a U. S. Government Department of Defense Prime Contract or subcontract, in addition to the General Provisions and the FAR provisions, the following provisions shall apply, as required by the terms of the prime contract or by operation of law or regulation. The effective version of each DFARS provision shall be the same version as that which appears in Buyer's Prime Contract, or higher-tier subcontract under which this Order is a subcontract. In the event of a conflict between these DFARS provisions and the General Provisions or the FAR provisions, the DFARS provisions shall control.

The following clauses set forth in the DFARS in effect as of the date of the prime contract are incorporated herein by reference. In all clauses listed herein, the terms "Government", "Contracting Officer" and "Contractor" shall be revised to suitably identify the contracting parties under this Purchase Order and effect the proper intent of the provision except where further clarified or modified below. "Subcontractor", however, shall mean "Seller's Subcontractor" under this Purchase Order. The Seller, by signing its *offer, hereby* certifies compliance with the following clauses and is, therefore, eligible for award.

Title of Clause	DFARS
1 Disclosure of Information	252.204-7000
2 Intent to Furnish Precious Metals as Government-Furnished Material	252.208-7000
3 Restrictions on Employment of Personnel	252.222-7000
4 Hazard Warning Labels	252.223-7001
5 Safety Precautions for Ammunition and Explosives	252.223-7002
6 Change in Place of Performance - Ammunition and Explosives	252.223-7003
7 Prohibition on Storage and Disposal of Toxic and Hazardous Materials	252.223-7006
8 Safeguarding Sensitive Conventional Arms, Ammunition and Explosives	252.223-7007
9 Buy American Act and Balance of Payments Program	252.225-7001
10 Qualifying Country Sources as Subcontractors	252.225-7002
11 Preference for Certain Domestic Commodities	252.225-7012
12 Duty-Free Entry	252.225-7013
13 Preference for Domestic Specialty Metals (Alt 1)	252.225-7014
14 Restriction on Acquisition of Hand or Measuring Tools	252.225-7015
15 Restriction on Acquisition of Ball and Roller Bearings	252.225-7016
16 Restriction on Acquisition of Foreign Anchor and Mooring Chain	252.225-7019
17 Restriction on Acquisition of Polyacrylonitrile (PAN) Carbon Fiber	252.225-7022
18 Restriction on the Acquisition of Forgings	252.225-7025
19 Restriction on Contingent Fees for Foreign Military Sales	252.225-7027
20 Exclusionary Policies and Practices of Foreign Governments	252.225-7028
21 Restriction on Acquisition of Carbon, Alloy, and Armor Steel Plate	252.225-7030
22 Secondary Arab Boycott of Israel	252.225-7031
23 Restriction on Acquisition of Air Circuit Breakers	252.225-7038
24 Rights in Technical Data- Noncommercial Items	252.227-7013
25 Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation	252.227-7014
26 Technical Data-Commercial Items	252.227-7015

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27	Rights in Bid or Proposal Information	252.227-7016
28	Identification and Assertion of Use, Release, or Disclosure Restrictions	252.227-7017
29	Validation of Asserted Restrictions - Computer Software	252.227-7019
30	Limitation on the Use or Disclosure of Government Furnished Information Marked with Restrictive Legends	252.227-7025
31	Deferred Delivery of Technical Data or Computer Software	252.227-7026
32	Deferred Ordering of Technical Data or Computer Software	252.227-7027
33	Technical Data or Computer Software Previously Delivered to the Government	252.227-7028
34	Technical Data- Withholding of Payment	252.227-7030
35	Patents-Subcontracts	252.227-7034
36	Declaration of Technical Data Conformity	252.227-7036
37	Validation of Restrictive Markings on Technical Data	252.227-7037
38	Patents-Reporting of Subject Inventions	252.227-7039
39	Ground and Flight Risk	252.228-7001
40	Aircraft Flight Risks	252.228-7002
41	Accident Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles	252.228-7005
42	Supplemental Cost Principles	252.231-7000
43	Earned Value Management System (applicable only when Buyer specifically states elsewhere in the Purchase Order)	252.234-7001
44	Frequency Authorization	252.235-7003
45	Telecommunications Security Equipment, Devices, Techniques, and Services	252.239-7016
46	Cost Schedule Status Report (applicable only when Buyer specifically states elsewhere in the Purchase Order)	252.242-7005
47	Subcontracts for Commercial Items and Commercial Components	252.244-7000
48	Warranty of Data	252.246-7001
49	Notification of Transportation of Supplies by Sea	252.247-7024
ORDERS OVER \$100,000 ALSO INCLUDE THE FOLLOWING:		
50	Prohibition on Persons Convicted of Fraud or Other Defense Contract Related Felonies	252.203-7001
51	Acquisitions from Subcontractors Subject to On-Site Inspection Under the Intermediate - Range Nuclear Forces (INF) Treaty	252.209-7000
52	Transportation of Supplies by Sea	252.247-7023
53	Notification of Anticipated Contract Terminations or Reductions	252.249-7002
ORDERS OVER \$ 500,000 ALSO INCLUDE THE FOLLOWING:		
54	Small, Small Disadvantaged, and Women-Owned Small Business Subcontracting Plan	252.219-7003
55	Reporting of Contract Performance Outside the United States (first tier subcontractors only)	252.225-7004
ORDERS OVER \$1,000,000 ALSO INCLUDE THE FOLLOWING:		
56	Acquisition Streamlining	252.211-7000
57	Waiver of United Kingdom Levies	252.225.7033