**NATIONAL STEEL AND SHIPBUILDING COMPANY**

SPECIAL TERMS AND CONDITIONS

**HPI PROGRAM**

**N00024-18-R-2210**

**PRIME CONTRACT CLAUSES – N00024-18-R-2210**

The following clauses are flowed down to ensure Buyer’s compliance with Buyer’s Prime Contract with the Government. The defined terms in the MILGEN terms (as listed on the face of Buyer’s purchase order issued to Seller) apply to this document. Some of the terms may not be consistently capitalized within this Contract. *While every effort was made to keep the capitalization consistent for the terms, the inconsistent capitalization should not affect the meaning intended for the terms.*

**Section A – Solicitation/Contract Form** –RFP.

**Section B – Supplies or Services and Prices –**There are no flow-downs.

**Section C – Description and Specifications**

ACCESS TO PROPRIETARY DATA OR COMPUTER SOFTWARE (NAVSEA) (JUN 1994) [Modified by Buyer]

1. Performance under this Contract may require that Seller have access to technical data, computer software, or other sensitive data of another party who asserts that such data or software is proprietary. If access to such data or software is required or to be provided, Seller shall enter into a written agreement with such party prior to gaining access to such data or software. The agreement shall address, at a minimum, (1) access to, and use of, the proprietary data or software exclusively for the purposes of performance of the Contract Work required by this Contract; and (2) safeguards to protect such data or software from unauthorized use or disclosure for so long as the data or software remains proprietary. In addition, the agreement shall not impose any limitation upon the Government or its employees with respect to such data or software. A copy of the executed agreement shall be provided to Buyer so that Buyer can provide a copy to the Government’s Contracting Officer as required under the terms of Buyer’s Prime Contract. The Government may unilaterally modify the Prime Contract to list those third parties with which Buyer and/or Seller will have agreement(s). Buyer will share with Seller the relevant information from the modification.
2. Seller agrees to: (1) indoctrinate its personnel who will have access to the data or software as to the restrictions under which access is granted; (2) not disclose the data or software to another party or other Seller personnel except as authorized by Buyer and the Government’s Contracting Officer; (3) not engage in any other action, venture, or employment wherein this information will be used, other than under this Contract, in any manner inconsistent with the spirit and intent of this requirement; (4) not disclose the data or software to any other party, including, but not limited to, a joint venture, affiliate, successor, or assign of Seller; and (5) reproduce the restrictive stamp, marking, or legend on each use of the data or software whether in whole or in part.
3. The restrictions on use and disclosure of the data and software described above also apply to such information received from Buyer or the Government through any means to which Seller has access in the performance of this Contract that contains proprietary or other restrictive markings.
4. Seller agrees that it will promptly notify Buyer of any attempt by Government or Buyer representatives or third parties not directly involved in the effort to be performed under this Contract to gain access to such proprietary information. Such notification shall include the name and organization of the Government or Buyer representatives or third parties seeking access to such information.
5. Seller shall include this requirement in subcontracts of any tier, which involve access to information covered by paragraph (a), substituting “subcontractor” for “Seller” where appropriate.
6. Compliance with this requirement is a material requirement of this Contract.

### ACCESS TO THE VESSEL(S) (AT) (NAVSEA) (SEP 2016) [Modified by Buyer]

### Officers, employees and associates of other prime contractors with the Government and their subcontractors, shall, as authorized by Buyer or the Government’s Representative, have, at all reasonable times, admission to the applicable plant, access to the Vessel(s) where and as required, and be permitted, within the Facility specified in the SOW or locations determined by the Government’s ACO and on the Vessel(s) required, to perform and fulfill their respective obligations to the Government. Buyer and Seller shall make reasonable arrangements with the Government or contractors of the Government, as shall have been identified and authorized by the Government’s Representative to be given admission to the applicable location and access to the Vessel(s) for office space, work areas, storage or shop areas, or other facilities and services necessary for the performance of the respective responsibilities involved, and reasonable to their performance.

**COMPUTER SOFTWARE AND/OR COMPUTER DATABASE(S) DELIVERED TO AND/OR RECEIVED FROM THE GOVERNMENT (NAVSEA) (APR 2004)** [*Modified by Buyer*]

(a) Seller agrees to test for viruses all computer software and/or computer databases, as defined in the clause entitled “RIGHTS IN NONCOMMERCIAL COMPUTER SOFTWARE AND NONCOMMERCIAL COMPUTER SOFTWARE DOCUMENTATION” (DFARS 252.227-7014), before delivery of that computer software or computer database in whatever media and on whatever system the software is delivered. Seller warrants that any such computer software and/or computer database will be free of viruses when delivered.

(b) Seller agrees to test any computer software and/or computer database(s) received from the Government for viruses prior to use under this Contract.

(c) Unless otherwise agreed in writing, any license agreement governing the use of any computer software to be delivered as a result of this Contract must be paid-up and perpetual, or so nearly perpetual as to allow the use of the computer software or computer data base with the equipment for which it is obtained, or any replacement equipment, for so long as such equipment is used. Otherwise, the computer software or computer database does not meet the minimum functional requirements of this Contract. In the event that there is any routine to disable the computer software or computer database after the software is developed for or delivered to the Government, that routine shall not disable the computer software or computer database until at least 25 calendar years after the delivery date of the affected computer software or computer database to the Government.

(d) No copy protection devices or systems shall be used in any computer software or computer database delivered under this Contract to restrict or limit the Government from making copies. This does not prohibit license agreements from specifying the maximum amount of copies that can be made.

(e) Delivery by Seller to Buyer who will ultimately deliver to the Government the technical data and other data is now frequently required in digital form rather than as hard copy. Such delivery may cause confusion between data rights and computer software rights. It is agreed that, to the extent that any such data is computer software by virtue of its delivery in digital data form, the Government only will be licensed to use that digital-form with exactly the same rights and limitations as if the data had been delivered as hard copy.

(f) Any limited rights legends or other allowed legends placed by Seller on technical data or other data delivered in digital form shall be digitally included on the same media as the digital-form data and must be associated with the corresponding digital-form technical data to which the legends apply to the extent possible. Such legends shall also be placed in human readable form on a visible surface of the media carrying the digital-form data as delivered, to the extent possible.

**SELLER SAFETY AND HEALTH REQUIREMENTS FOR ACCESS TO NAVSEA/PEO SITE (NAVSEA) (MAY 2012)** [*Modified by Buyer*]

1. Seller personnel shall comply with all badging and security procedures required to gain access to any NAVSEA/PEO site.
2. Seller is required to adhere to the requirements of 29 CFR 1910, 29 CFR 1926 and applicable state and local requirements while in NAVSEA/PEO government spaces.
3. Any of Seller’s personnel exhibiting unsafe behavior may be removed from the NAVSEA/PEO site. Such removal shall not relieve the Seller from meeting its obligations and shall not be an excusable delay as defined in FAR 52.249-14.

**DEPARTMENT OF LABOR SAFETY AND HEALTH STANDARDS FOR SHIPBUILDING (AT) (NAVSEA) (JAN 1990)** [*Modified by Buyer*] Attention of the Seller is directed to Public Law 91 596, approved December 29, 1970 (84 Stat. 1590, 29 USC 655) known as the “OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970” and to the “OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR SHIPYARD EMPLOYMENT” promulgated thereunder by the Secretary of Labor (29 CFR 1910 and 1915). These regulations apply to all shipbuilding and related work, as defined in the regulations. Nothing contained in this Contract shall be construed as relieving the Seller from any obligations which is may have for compliance with the aforesaid regulations.

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

Mercury or mercury containing compounds shall not be intentionally added or come in direct contact with the Contract Work furnished under this Contract.

**EXTENSION OF COMMERCIAL WARRANTY (NAVSEA) (NOV 1996)** [*Modified by Buyer*]

Seller shall extend to Buyer so that Buyer can extend to the Government the full coverage of any standard commercial warranty normally offered in a similar commercial sale, provided that such warranty is available at no additional cost. Seller shall provide a copy of the standard commercial warranty with the Contract Work. The standard commercial warranty period shall begin upon the final acceptance of the applicable Contract Work. Acceptance of the standard commercial warranty does not waive Buyer’s or the Government’s rights under the “Inspection” clause, nor does it limit Buyer’s or the Government’s rights with regard to other terms and conditions of the Contract. In the event of a conflict, the terms and conditions of the Contract shall take precedence over the standard commercial warranty.

**INFORMATION AND DATA FURNISHED BY THE GOVERNMENT (FIXED-PRICE) (NAVSEA) (SEP 2009)**[*Modified by Buyer*]

1. Specifications. Buyer will furnish the Buyer-generated purchase specifications applicable to the Contract Work; however, Seller is responsible for obtaining MILSPEC documents as described in paragraph (e) below.
2. Drawings and Data. Buyer will furnish drawings, design agent drawings, ship construction drawings, and/or other design or alteration data cited in the specification as mandatory for use or for performance.
3. Government Furnished Information (“GFI”). GFI is defined as that information essential for the installation, test, operation, and interface support of all Government Furnished Material enumerated on NAVSEA Form 4205/19. The Government shall furnish only the GFI identified on the NAVSEA Form 4340/2. The GFI furnished to Buyer, who in turn may furnish the GFI to Seller, need not be in any particular format. Further, the Government reserves the right to revise the listing of GFI on the NAVSEA Form 4340/2, as follows: (1) The Government Contracting Officer may at any time by written order: (i) delete, supersede, or revise, in whole or in part, data listed or specifically referenced in NAVSEA Form 4340/2; or (ii) add items of data or information to NAVSEA Form 4340/2; or (iii) establish or revise due dates for items of data or information in NAVSEA Form 4340/2. (2) If any action taken by the Government’s Contracting Officer pursuant to subparagraph (1) immediately above causes an increase or decrease in the costs of, or the time required for, performance of any part of the Contract Work under this Contract, Seller may be entitled to an equitable adjustment in the Contract Price and delivery schedule in accordance with the procedures provided for in the clause of this Contract entitled “CHANGES--FIXED-PRICE” (FAR 52.243-1).
4. Except for the Government information and data specified by paragraphs (a), (b), and (c) above, the Government will not be obligated to furnish Buyer or Seller with any specification, standard, drawing, technical documentation, or other publication, notwithstanding anything to the contrary in the specifications, the GFI listed on the NAVSEA Form 4340/2, the clause of this Contract entitled “GOVERNMENT PROPERTY” (FAR 52.245-1) or “GOVERNMENT PROPERTY INSTALLATION OPERATION SERVICES” (FAR 52.245-2), as applicable, or any other term or condition of this Contract.
5. Referenced Documentation. Buyer and the Government will not be obligated to furnish Government specifications and standards, including Navy standard and type drawings and other technical documentation, which are referenced directly or indirectly in the specifications. Such referenced documentation may be obtained as described below. (1) From the ASSIST database via the internet at [https://assist.dla.mil/;](https://assist.dla.mil/;%20) or (2) By submitting a request to the Department of Defense Single Stock Point (“DoDSSP”) Building 4, Section D, 700 Robbins Avenue, Philadelphia, Pennsylvania 19111‑5094, Telephone (215) 697-6396, Facsimile (215) 697-9398. However, commercial specifications and standards, which may be referenced in the specification or any sub-tier specification or standard, are not available from Government sources and should be obtained from the publishers.

**SPECIFICATIONS AND STANDARDS (NAVSEA) (AUG 1994)**

(a) Definitions. (i) A “**zero-tier reference**” is a specification, standard, or drawing that is cited in the Contract (including its attachments). (ii) A “**first-tier reference**” is either: (1) a specification, standard, or drawing cited in a zero-tier reference, or (2) a specification cited in a first-tier drawing.

(b) Requirements. All zero-tier and first-tier references, as defined above, are mandatory for use. All lower tier references shall be used for guidance only.

**UPDATING SPECIFICATIONS AND STANDARDS (NAVSEA) (AUG 1994)** [*Modified by Buyer*]

If, during the performance of this Contract, Seller believes that any Contract contains outdated or different versions of any specifications or standards, Seller may request that all of its contracts be updated to include the current version of the applicable specification or standard. Updating shall not affect the form, fit or function of any deliverable item or increase the cost/price of the item to the Government. Seller should submit update requests to Buyer for approval. Seller shall perform the Contract in accordance with the existing specifications and standards until notified of approval/disapproval by Buyer. Any approved alternate specifications or standards will be incorporated into the Contract.

**Section D - Packaging and Marking**

**IDENTIFICATION MARKING OF PARTS - (NAVSEA) (NOV 1996)**

Identification marking of individual parts within the systems, equipments, assemblies, subassemblies, components, groups, sets or kits, and of spare and repair parts shall be done in accordance with applicable specifications and drawings. To the extent identification marking of such parts is not specified in applicable specifications or drawings, such marking shall be accomplished in accordance with the following: (1) Parts shall be marked in accordance with generally accepted commercial practice. (2) In cases where parts are so small as not to permit identification marking as provided above, such parts shall be appropriately coded so as to permit ready identification.

**Section E - Inspection and Acceptance** [*Modified by Buyer*]

52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

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| 52.246-2 | INSPECTION OF SUPPLIES – FIXED PRICE (AUG1996) |
| 52.246-3 | INSPECTION OF SUPPLIES – COST-REIMBURSEMENT (MAY 2001) |
| 52.246-4 | INSPECTION OF SERVICES – FIXED PRICE (AUG 1996) |
| 52.246-5 | INSPECTION OF SERVICES – COST REIMBURSEMENT (APR 1984) |
| 52.246-16 | RESPONSIBILITY FOR SUPPLIES (APR 1984) |
| 52.246-11 | HIGHER-LEVEL CONTRACT QUALITY REQUIREMENT (DEC 2014) |

**HQ E-2-0007 WARRANTY PERIOD (FT) (NAVSEA) (JAN 1990) (MODIFIED) (MAR 2018)** *[Modified by Buyer]*

(a) As used in this contract, the term "defects" includes any and all defects, deficiencies, deteriorations, and failure in the vessel(s). There shall be a warranty period for each vessel beginning at the time of preliminary acceptance and ending twenty four (24) months after preliminary acceptance for HPIB 1 and eighteen (18) months after preliminary acceptance for HPIB 2 and HPIB 3, unless extended as provided in paragraph (b) below.

(b) The warranty period for each vessel shall be extended by the time during which such vessel is not available for unrestricted service by reason of any defects for which the Contracting Officer or Buyer shall determine the Seller to be responsible.

**52.246-2 INSPECTION OF SUPPLIES--FIXED PRICE (AUG 1996) – ALTERNATE I (JUL 1985)** [*Modified by Buyer*] The term “Vessel” as used in this requirement refers to each of the Vessels to be constructed and delivered under this Contract.

1. Definition. “Supplies,” as used in this clause, includes but is not limited to the Vessel(s), raw materials, components, intermediate assemblies, end products, and lots of Supplies.
2. Seller shall provide and maintain, prior to and at all times during manufacture, an inspection system acceptable to the Government covering Supplies under this Contract and shall tender to the Government for acceptance only Supplies that have been inspected in accordance with the inspection system and have been found by Seller to be in conformity with Contract requirements. As part of the system, Seller shall prepare records evidencing all inspections made under the system and the outcome. These records shall be kept complete and made available to the Government and Buyer during Contract performance and for as long afterwards as the Contract requires. The Government and Buyer may perform reviews and evaluations as reasonably necessary to ascertain compliance with this paragraph. These reviews and evaluations shall be conducted in a manner that will not unduly delay the Contract Work. The right of review, whether exercised or not, does not relieve Seller of the obligations under the Contract nor impose any liability on the Government or Buyer therefor.
3. The Government and Buyer have the right to inspect and test all Supplies called for by the Contract, to the extent practicable, at all places and times, including the period of manufacture, and in any event before final acceptance. The Government and Buyer shall perform inspections and tests in a manner that will not unduly delay the Contract Work. The Government and Buyer assume no contractual obligation to perform any inspection and test for the benefit of Seller unless specifically set forth elsewhere in this Contract.
4. If the Government or Buyer performs inspection or test on the premises of Seller or its subcontractors, Seller shall furnish, and shall require its subcontractors to furnish, without additional charge, all reasonable facilities and assistance for the safety and convenient performance of these duties. Except as otherwise provided in the Contract, the Government shall bear the expense of Government inspections or tests made at other than Seller’s or its subcontractors’ premises; provided, that in case of rejection, the Government shall not be liable for any reduction in the value of inspection or test samples.

(e)(1) When Supplies are not ready at the time specified by Seller for inspection or test, the Contracting Officer or Buyer may charge to Seller the additional cost of inspection or test. (2) The Contracting Officer or Buyer may also charge Seller for any additional cost of inspection or test when prior rejection makes re-inspection or retest necessary.

1. The Government or Buyer has the right, in accordance with this clause and other clauses of this Contract, including the clause entitled “DELIVERY OF COMPLETED VESSEL,” either to reject or to require correction of nonconforming Supplies. Supplies are nonconforming when they are defective in material workmanship or are otherwise not in conformity with contract requirements. The Government or Buyer may reject nonconforming Supplies with or without disposition instructions. Supplies rejected prior to preliminary acceptance as not conforming to this Contract, and any Seller responsible defects discovered during the warranty period, in accordance with the clause entitled “WARRANTY PERIOD,” shall, at the election of the Government or Buyer be replaced or corrected either by the Government, Buyer or by Seller. The Government or Buyer shall furnish advance notification of the time (i) when Seller inspection or tests will be performed and Government or Buyer will, whenever practicable, afford Seller an opportunity to examine the nonconforming Contract Work or defective Supplies before they are replaced or corrected. If the Government or Buyer elect to effect replacement or correction by the Government or Buyer, the Government or Buyer shall equitably reduce the target price or, if established, the total final price.
2. Seller shall remove Supplies rejected or required to be corrected by Seller. However, the Contracting Officer or Buyer may require or permit correction in place, promptly after notice. Seller shall not tender for acceptance corrected or rejected Supplies without disclosing the former rejection or requirement for correction, and, when required, shall disclose the corrective action taken. Subject to the provisions of paragraph (i) below, cost of removal, replacement, or correction shall be considered a cost incurred, or to be incurred, in the total final negotiated cost. However, replacements or corrections by Seller after the establishment of the total final price shall be at no increase in the total final price.
3. If Seller fails to promptly remove, replace, or correct rejected Supplies that are required to be removed or to be replaced or corrected, the Government or Buyer may either (1) by contract or otherwise, remove, replace, or correct the Supplies and equitably reduce the target price or, if established, the total final price or (2) may terminate the Contract for default. Unless Seller corrects or replaces the Supplies within the delivery schedule, the Contracting Officer or Buyer may require their delivery and equitably reduce any target price or, if it is established, the total final Contract Price. Failure to agree to a price reduction shall be a dispute.
4. The cost of any removal, replacement or correction for which Seller is responsible shall be borne by Seller in accordance with paragraphs (g) and (h) above, except that the liability of Seller for the correction of defects discovered during the warranty period (other than defects resulting from fraud or gross mistakes amounting to fraud). An increase in the Contract Price on account of any replacement or correction for which Seller is not responsible shall be determined pursuant to the clause of this Contract entitled “CHANGES.”

(j)(1) If this Contract provides for the performance of Government quality assurance at source, and if requested by the Government or Buyer, the Seller shall furnish advance notification of the time (i) when Seller inspection or tests will be performed in accordance the terms and conditions of the Contract; and (ii) when the Supplies will be ready for inspection. (2) The Government’s or Buyer’s request shall specify the period and method of the advance notification and the Government or Buyer representative to whom it shall be furnished.

1. The Government or Buyer shall accept or reject Supplies as provided in the Contract. The Government’s or Buyer’s failure to inspect and accept or reject the Supplies shall not relieve Seller from responsibility, nor impose liability on the Government or Buyer, for nonconforming Supplies.
2. Inspections and tests by the Government or Buyer do not relieve Seller of responsibility for defects or other failures to meet Contract requirements discovered before final acceptance. Final acceptance shall be conclusive, except for latent defects, fraud, gross mistakes amounting to fraud or as otherwise provided in the Contract.
3. If final acceptance is not conclusive for any of the reasons in paragraph (l) hereof, the Government or Buyer, in addition to any other rights and remedies provided by law, or under other provisions of this Contract, shall have the right to require Seller (1) at no increase in any target price or if it is established, the total final price of this Contract, to correct or replace the defective or nonconforming Supplies; provided, that the Contracting Officer or Buyer may require a reduction in any target price, or if it is established, the total final price Supplies at the original point of delivery or at Seller’s plant at the Contracting Officer’s or Buyer’s election, and in accordance with a reasonable delivery schedule as may be agreed upon between Seller and Buyer, if Seller fails to meet such delivery schedule, or (2) within a reasonable time after receipt by Seller of notice of defects or nonconformance, to repay such portion of the Contract as is equitable under the circumstances if the Contracting Officer or Buyer elects not to require correction or replacement. When Supplies are returned to Seller, Seller shall bear the transportation cost from the original point of delivery to Seller’s plant and return to the original point when that point is not Seller’s plant. If Seller fails to perform or act as required in (1) or (2) above and does not cure such failure within a period of 10 days (or such longer period as the Contracting Officer or Buyer may authorize in writing) after receipt of notice from the Contracting Officer or Buyer specifying such failure, the Government or Buyer shall have the right by contract or otherwise to replace or correct such Supplies and equitably reduce any target price or, if it is established, the total final price of this Contract.

**PRELIMINARY ACCEPTANCE (AT) (NAVSEA) (JAN 1983)**

Upon satisfactory completion of the applicable trial requirements, each Vessel shall be preliminarily accepted.

**Section F - Deliveries or Performance**

**CLAUSES INCORPORATED BY REFERENCE**

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| 52.242-15 | STOP-WORK ORDER (AUG 1989) (Applicable only if Stop Work order initiated by the Government) |
| 52.242-15 Alt I | STOP-WORK ORDER (AUG 1989) – Alternate I (APR 1984) (Applicable only if Stop Work order initiated by the Government) |
| 52.242-17 | GOVERNMENT DELAY OF WORK (APR 1984) |

**Section G - Contract Administration Data –** There are no flow-downs.

**Section H - Special Requirements**

**5252.246-9128 DELIVERY OF COMPLETED VESSEL (FT) (JAN 1983)**

The term “Vessel” as used in this requirement refers to each of the Vessels to be constructed and delivered under this Contract.

(a) The Vessel shall not be presented for acceptance trials (as used in this requirement acceptance trials means acceptance trials or combined acceptance trials) until it is determined by Buyer that Seller has satisfactorily carried out those parts of the builder’s trials for which Seller is responsible, including builder’s dock and sea trials, and that Seller has: (i) Corrected all Seller responsible deficiencies discovered before completion of all builder’s sea trials, unless otherwise agreed to in writing by the Buyer; and (ii) Corrected all Seller responsible deficiencies discovered after completion of the builder’s sea trials which are determined by the Buyer to be necessary to avoid an adverse effect on the operational capability of the Vessel.

(b) Buyer will be responsible for scheduling an interval of a minimum of forty-five (45) days between the satisfactory completion of acceptance trials and delivery of the Vessel. During this period, Seller shall satisfactorily correct all Seller responsible deficiencies, whether discovered before, during, or after completion of acceptance trials.

**5252.233-9103 DOCUMENTATION OF REQUESTS FOR EQUITABLE ADJUSTMENT (SEP 2016)** [*Modified by Buyer*]

1. For the purposes of this special requirement, the term “change” includes not only a change that is made pursuant to a written order designated as a “change order” but also (1) an engineering change proposed by the Government or by Buyer or Seller; and (2) any act or omission to act on the part of the Government in respect of which a request is made for equitable adjustment.
2. Whenever Seller requests or proposes an equitable adjustment of $100,000 or more per Vessel in respect to a change made pursuant to a written order designated as a “change order” or in respect to a proposed engineering change and whenever Seller requests an equitable adjustment in any amount in respect to any other act or omission to act on the part of the Government, the proposal supporting such request shall contain the following information for each individual item or element of the request: (1) A description (i) of the work required by the Contract before the change, which has been deleted by the change, and (ii) of the work deleted by the change which already has been completed. The description is to include a list of components, equipment, and other identifiable property involved. Also, the status of manufacture, procurement, or installation of such property is to be indicated. Separate description is to be furnished for design and production work. Items of raw material, purchased parts, components and other identifiable hardware, which are made excess by the change and which are not to be retained by Seller, are to be listed for later disposition; (2) Description of work necessary to undo work already completed which has been deleted by the change; (3) Description of work not required by the terms hereof before the change, which is substituted or added by the change. A list of components and equipment (not bulk materials or items) involved should be included. Separate descriptions are to be furnished for design work and production work; (4) Description of interference and inefficiencies in performing the change; (5) Description of each element of disruption and exactly how work has been, or will be disrupted: (i) The calendar period of time during which disruption occurred, or will occur; (ii) Area(s) aboard the Vessel where disruption occurred, or will occur; (iii) Trade(s) disrupted, with a breakdown of man-hours for each trade; (iv) Scheduling of trades before, during, and after period of disruption; (v) Description of measures taken to lessen the disruptive effect of the change; (6) Delay in delivery attributable solely to the change; (7) Other work attributable to the change; (8) Supplementing the foregoing, a narrative statement of the direct “causal” relationship between any alleged Government act or omission and the associated claimed consequences, cross referenced to the detailed information provided as required above; and (9) A statement setting forth a comparative enumeration of the amounts “budgeted” for the cost elements, including the material costs, labor hours and pertinent indirect costs, estimated by Seller in preparing its initial and ultimate proposal(s) for this Contract, and the amounts claimed to have been incurred and/or projected to be incurred corresponding to each such “budgeted cost” elements.
3. Each proposal in excess of $100,000 submitted in support of a claim for equitable adjustment under any requirement of this Contract shall, in addition to the information required by paragraph (b) hereof, contain such information as Buyer and the Contracting Officer may require with respect to each individual claim item.
4. It is recognized that individual claims for equitable adjustment may not include all of the factors listed in paragraph (b) above. Accordingly, Seller is required to set forth in its proposal information only with respect to those factors which are comprehended in the individual claim for equitable adjustment. In any event, the information furnished hereunder shall be in sufficient detail to permit Buyer and the Contracting Officer to cross-reference the claimed increased costs, or delay in delivery, or both, as appropriate, submitted pursuant to paragraph (c) of this requirement, with the information submitted pursuant to paragraph (b) hereof.

**5252.233-9107 EQUITABLE ADJUSTMENTS: WAIVER AND RELEASE OF CLAIMS (SEP 2016)** [*Modified by Buyer*]

(a) Whenever Seller, after receipt of a change made pursuant to the clause of this Contract entitled “CHANGES” or after affirmation of a constructive change under the “NOTIFICATION OF CHANGES” (FAR 52.243-7) requirement, submits any claim for equitable adjustment under the foregoing, such claim shall include all types of adjustments in the total amounts to which the foregoing entitle Seller, including but not limited to adjustments arising out of delays or disruptions or both caused by such change.

(b) Further, Seller agrees (except as the parties may otherwise agree) that, if required by Buyer and/or the Government’s Contracting Officer, Seller will execute a release, in form and substance satisfactory to Buyer and/or the Government’s Contracting Officer, as part of the supplemental agreement setting forth the aforesaid equitable adjustment, and that such release shall discharge Buyer and the Government, its officers, agents and employees, from any further claims including but not limited to further claims arising out of delays or disruptions or both, caused by the aforesaid change.

**5252.225-9100 FOREIGN SHIPYARD CONSTRUCTION PROHIBITION (AT) (JAN 1983)**

Neither the Vessel nor the hull, mid-body, or other major fixed structural component of the Vessel shall be constructed in a foreign shipyard.

### 5252.227-9113 GOVERNMENT-INDUSTRY DATA EXCHANGE PROGRAM (APR 2015) [Modified by Buyer]

(a) Seller shall participate in the appropriate interchange of the Government-Industry Data Exchange Program (“**GIDEP**”) in accordance with GIDEP PUBLICATION 1 dated April 2008. Data entered is retained by the program and provided to qualified participants. Compliance with this requirement shall not relieve Seller from complying with any other requirement of the Contract.

(b) ***Seller agrees to insert paragraph (a) of this requirement in any subcontract hereunder exceeding $500,000.00. When so inserted, the word “Seller” shall be changed to “Subcontractor”.***

(c) GIDEP materials, software and information are available without charge from: GIDEP, P.O. Box 8000, Corona, CA 92878-8000, Phone: (951) 898-3207, FAX: (951) 898-3250, Internet: <http://www.gidep.org>

**5252.227-9112 LOGISTICS SUPPORT REQUIREMENT (AT) (MAY 1998)** [*Modified by Buyer*]

(a) This requirement applies whenever the Contract specifications, by reference to a Military Specification or otherwise, specify repair parts or stock components (hereinafter called “**repair parts**”) for a ship component or item of equipment.

(b) With respect to ship components or equipments manufactured other than in the United States or Canada, Seller agrees that, in addition to any other data required by this Contract, it will furnish under this Contract sufficient data so that the repair parts can be reproduced in the United States or Canada unless the suppliers of the ship components or equipments shall have made arrangements satisfactory to Seller and approved by the Contracting Officer for the manufacturing of repair parts in the United States or Canada.  For the purpose of this requirement, “**sufficient data**” shall mean detail drawings and other technical information sufficiently extensive in detail to show design, construction, dimensions, and operation or function, manufacturing methods or processes, treatment or chemical composition of materials, plant layout and tooling.  All data shall be in the English language and according to the United States system of weights and measures, and drawings for components, assemblies, subassemblies and parts protected by U.S. patents shall contain a prominent notation to that effect fully identifying the patent or patents involved, and bearing the number of this Contract.

(c) In order to satisfy the requirements of paragraph (b), above, unless the supplier of the ship components or equipments shall have made arrangements, satisfactory to Buyer and Seller, and approved by the Contracting Officer, for the manufacture of such repair parts in the United States or Canada, Seller shall include in all subcontracts for the purchase of ship components or equipments from foreign sources a clause, acceptable to the Contracting Officer, granting to the United States Government for a period of seven (7) years, “Government Purpose Rights” (as defined in paragraph (a)(12) of the clause of this Contract entitled “RIGHTS IN TECHNICAL DATA--NONCOMMERCIAL ITEMS” (DFARS 252.227-7013) in all technical data necessary to manufacture spare and repair parts for such components or equipments.

**5252.243-9105 NOTIFICATION OF CHANGES (FT) - ALTERNATE I (JAN 1983)**

(a) Definitions. As used in this requirement, the term “Contracting Officer” does not include any representative of the Contracting Officer whether or not such representative is acting within the scope of his authority nor does it include any other individuals or activities that in any way communicate with Buyer or Seller. As used in this requirement, the term “conduct” includes both actions and failures to act, and includes the furnishing of, or the failure to furnish, any item under any provision of this Contract.

(b) Notice. The primary purpose of this requirement is to obtain prompt reporting of any conduct which the Seller considers would constitute or would require a change to this Contract. The parties acknowledge that proper administration of this Contract requires that potential changes be identified and resolved as they arise. Therefore, except for changes identified as such in writing and signed by the Contracting Officer or Buyer, Seller shall notify Buyer’s Procurement Representative of any conduct which Seller considers would constitute or would require a change to this Contract. Such notice shall be provided promptly, and in any event within thirty (30) calendar days from the date Seller identifies any such conduct. The Notice shall be written and shall state, on the basis of the most accurate information available to Seller: (i) the date, nature, and circumstances of the conduct regarded as a change; (ii) the name, function, and activity of the individuals directly involved in or knowledgeable about such conduct; (iii) the identification of any documents and the substance of any oral communication involved in such conduct; (iv) the particular elements of contract performance for which Seller might seek an equitable adjustment under this requirement, including: (1) what ship(s) have been or might be affected by the potential change; (2) to the extent practicable, labor or materials or both which have been or might be added, deleted, or wasted by the potential change; (3) to the extent practicable, Seller’s preliminary order of magnitude estimate of cost and schedule effect of the potential change; and (4) what and in what manner are the particular technical requirements or contract requirements regarded as changed.

(c) Continued Performance. Except as provided in paragraph (f) below, following submission of notice, Seller shall take no action to implement a potential change until advised by Buyer’s Procurement Representative in writing as provided in (d) below, unless the potential change was previously directed by the Contracting Officer to Buyer, in which case Seller shall conform therewith. Nothing in this paragraph (c) shall excuse Seller from proceeding with Contract Work other than implementation of the potential change or from proceeding in accordance with directions issued by the Contracting Officer to Buyer.

(d) Government Response. The Contracting Officer shall promptly, and in any event within twenty one (21) calendar days after receipt of Notice, respond thereto in writing to Buyer, who in turn, will respond promptly to Seller. In such response, the Contracting Officer shall either:

1. Confirm that the conduct of which Seller gave notice would constitute a change, and when necessary, direct the mode of further performance, or;
2. Countermand any conduct regarded by Seller as a change, or;
3. Deny that the conduct of which Seller gave notice would constitute a change and, when necessary, direct the mode of further performance, or;
4. In the event Seller’s notice information is inadequate to make a decision under (i), (ii) or (iii) above, advise Seller what additional information is required. Failure of the Government to respond within the time required above shall be deemed a countermand under (d)(ii).

(e) Equitable Adjustments. Equitable adjustments for changes confirmed or countermanded by the Contracting Officer shall be made in accordance with the clause of this contract entitled “CHANGES”, or any other requirement of this contract which provides for an equitable adjustment.

(f) Special Procedures. Paragraph (c) provides that Seller is to take no action to implement a potential change pending the Contracting Officer’s response to Seller’s notice of the potential change, except where specifically directed by the Contracting Officer to Buyer. In special situations, however, where

1. The circumstances do not allow sufficient time to notify the Contracting Officer of the facts prior to the need to proceed with the work, and;
2. The work must proceed to avoid hazards to personnel or property or to avoid additional cost to the Government, Seller may proceed with work in accordance with the potential change. In such special situations, Seller shall advise Buyer’s Procurement Representative so that he/she may also advise the Contracting Officer in writing within ten (10) days of the conduct giving rise to the potential change that Seller has proceeded and shall describe the nature of the special situation which required proceeding prior to notification. Within thirty (30) calendar days of the conduct giving rise to the potential change, Seller shall provide notice as required in (b) above. The Contracting Officer shall respond as set forth in (d) above to Buyer, who will pass through the notice to Seller. If the Contracting Officer determines that the conduct constitutes a change and countermands it, Seller shall be entitled to an equitable adjustment for performance in accordance with that change prior to the countermand including performance resulting from the countermand.
3. When Seller identifies any conduct which may result in delay to delivery of the ship(s), Seller shall promptly so inform Buyer’s Procurement Representative so that he/she may inform the Contracting Officer thereof prior to providing the notice required by paragraph (b) above.

**5252.243-9113 OTHER CHANGE PROPOSALS (FT) (ALTERNATE I) (JAN 1990)** [*Modified by Buyer*]

1. The Buyer’s Procurement Representative may propose engineering changes pursuant to other requirements of this Contract, and in addition to issuing changes pursuant to the clause of this Contract, and may propose other changes within the general scope of this Contract as set forth below. The changes may also arise if proposed by the Government.
2. Pending execution of a bilateral agreement or the direction of Buyer’s Procurement Representative pursuant to the “CHANGES” clause, Seller shall proceed diligently with performance without regard to the effect of any such proposed change.
3. In the event that a change proposed by Buyer’s Procurement Representative is not incorporated into the Contract, the work done by Seller in preparing the estimate in accordance with subparagraph (a) above shall be treated as if ordered by Buyer under the “CHANGES” clause. Seller shall be entitled to an equitable adjustment in the Contract cost and fee for the effort required under subparagraph (a), but Seller shall not be entitled to any adjustment in delivery date. Failure to agree to such equitable adjustment in the Contract cost and fee shall be a dispute within the meaning of the clause of this Contract entitled “DISPUTES” (FAR 52.233-1).

**Section I - Contract Clauses**

In interpreting the requirements of these clauses, “Contracting Officer” should be considered to be Buyer’s Procurement Representative and “Government” should be considered to be Buyer, unless the context indicates otherwise. Reasonable efforts have been used to convert the terminology used in the Government’s solicitation clauses to the terms used in NASSCO’s MILGEN terms; however, there may some instances where those conversions were not made for clauses were full text was not given. Accordingly, please apply the following term conversions. “Contractor” shall mean Seller. The terms “Government” or “Contracting Officer” do not change: (i) when a right, act authorization or obligation can be granted or performed only by the Government, (ii) when access to proprietary financial information or other proprietary data is required, (iii) when title to property or rights in technical data and/or computer software are to be transferred directly to Government, (iv) with regards to a disputes or changes clause, or (v) with regards to a clause permitting audit(s) of Seller. Some clauses are included in full text, and others of the FAR and DFARS are hereby incorporated into this Contract by reference as if given in full text, subject to the following definitions, and subject to the particular limitations and modifications indicated. The full text of FAR and DFARS clauses may be accessed electronically at the following internet websites:

<https://www.acquisition.gov/far/>

<http://FARSITE.HILL.AF.MIL/Vfdfar1.htm>

**CLAUSES INCORPORATED BY REFERENCE (FEB 1998) (FAR 52.252-2)**

This Contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(s):

<http://farsite.hill.af.mil/.>

**The following notes apply to the clauses incorporated by reference below.**

**Note 1 – Substitute “Buyer” for “the Government” or “the United States”.**

**Note 2 – Substitute “Buyer Procurement Representative” for “Contracting Officer”, “Administrative Contracting Officer”, and “ACO”.**

**Note 3 – Insert “and Buyer” after “Government”.**

**Note 4 – Insert “or Buyer”) after “Government.**

**Note 5 – Communication/notification required under this clause from/to the Seller and to/from the Contracting Officer shall be through Buyer.**

**Note 6 – Insert “and Buyer” after “Contracting Officer”.**

**Note 7 – Insert “or Buyer’s Procurement Representative” after “Contracting Officer”.**

**FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) CLAUSES**

**NUMBER TITLE NOTE DATE**

**52.202-1 DEFINITIONS** NOV 2013   
*No Note applies.*

**52.203-3 GRATUITIES** APR 1984   
*Note 3 applies in (c) and (d).*

**52.203-5 CONVENANT AGAINST CONTINGENT FEES** MAY 2014  
*Note 3 applies in (a).*

**52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT** SEPT 2006   
*Applies if the Contract value exceeds $150,000. No Note applies.*

**52.203-7 ANTI-KICKBACK PROCEDURES** MAY 2014  
*Clause applies if the Contract value exceeds $150,000 and Note 2 applies for (b)(4) when the Government exercises its rights and   
remedies against Buyer as a result of any kickback given by Seller.*

**52.203-8 CANCELLATION, RECISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER   
ACTIVITY** MAY 2014  
*Note 3 applies to (b) and (c).*

**52.203-10 PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY** MAY 2014   
*Note 2 applies for (b) and Note 1 applies for (c) when the Government exercises its rights and remedies against Buyer  
as a result of any illegal or improper activity done by Seller.*

**52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS** OCT 2010   
*Applies if the Contract value exceeds $150,000. Note 5 applies. Seller is to make disclosure to Buyer  
so that Buyer can fulfill the obligations under the Prime Contract.*

**52.203-13 CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT** OCT 2015   
*Applies if this Contract exceeds $5,500,000 and the period of performance is more than 120 days.*

*Disclosures made under this clause shall be made directly to the Government entities identified in the clause.   
Clause does not apply to small businesses.*

**52.203-17 CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM** APR 2014  
**EMPLOYEES OF WHISTLEBLOWER RIGHTS**   
*No Note applies*.

**52.204-2 SECURITY REQUIREMENTS** AUG 1996  
*Applies if the Contract Work requires access to classified information.*

**52.204-4 PRINTED OR COPIED DOUBLE-SIDED ON POST CONSUMER FIBER CONTENT PAPER** MAY 2011  
*Note 3 applies to (b).*

**52.204-9 PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL** JAN 2011  
*Applies where Seller will have physical access to a federally-controlled facility or access to a federal information system.   
Note 3 applies for (c). In (d) the reference to prime contractor shall mean Buyer. Seller is responsible for getting the   
information to Buyer so that Buyer can comply with the reporting requirements of (d).*

**52.204-10 REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACTOR AWARDS** OCT 2016  
*Applies if Seller meets the first tier subcontract thresholds specified in the clause. Seller is to send information to Buyer   
so that Buyer and fulfill its reporting obligations under this clause. No Note applies.*

**52.209-6 PROTECTING THE GOVERNMENT’S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS   
DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT** OCT 2015  
*Applies if this Contract exceeds $35,000 and is not a subcontract for commercially available off the shelf items.   
Seller is to provide notices to Buyer so that Buyer can fulfill its reporting obligations under this clause. Note 5 applies.*

**52.209-9 UPDATES OF PUBLICLY AVAILABLE INFORMATION REGARDING RESPONSIBILITY MATTERS** JUL 2013  
*No Note applies*.

**52.209-10 PROHIBITION OR CONTRACTING WITH INVERTED DOMESTIC CORPORATIONS** NOV 2015 *Note 3 applies*

**52.211-2 AVAILABILITY OF SPECIFICATIONS, STANDARDS, AND DATA ITEM DESCRIPTIONS LISTED IN THE** APR 2014

**STREAMLINING AND STANDARDIZATION INFORMATION SYSTEM (ASSIST)**

*No Note applies.*

**52.211-5 MATERIAL REQUIREMENTS** AUG 2000   
*Note 2 applies to (d) and (e).*

**52.211-15 DEFENSE PRIORITY AND ALLOCATION REQUIREMENTS** APR 2008  
*No Note applies.*

**52.215-2 AUDIT AND RECORDS—NEGOTIATION** OCT 2010  
*Applicable if: (1) Seller is required to furnish cost or pricing data, or (2) the Contract requires Seller to furnish cost,   
funding or performance reports, or (3) this is an incentive or re-determinable type contract.*

**52.215-11 PRICE REDUCTION FOR DEFECTIVE CERTIFIED COST OR PRICING DATA—MODIFICATIONS** AUG 2011  
*Applies if submission of certified cost or pricing data is required for modifications. Note 4 applies.   
Rights and obligations under this clause shall survive completion of the work and final payment under this Contract.*

**52.215-13 SUBCONTRACTOR CERTIFIED COST OR PRICING DATA—MODIFICATIONS** OCT 2010  
*Applies if this Contract exceeds $750,000 and is not otherwise exempt under FAR 15.403. No Note applies.*

**52.215-15 PENSION ADJUSTMENTS AND ASSET REVERSIONS** OCT 2010  
*Applies if this Contract meets the applicability requirements of FAR 15.408(g). Note 5 applies.*

**52.215-18 REVERSION OR ADJUSTMENT OF PLANS FOR POSTRETIREMENT BENEFITS (PRB)**  
**OTHER THAN PENSIONS** JUL 2005  
*Applies if this Contract meets the requirements of FAR 15.408(j). Note 5 applies.*

**52.215-20 REQUIREMENTS FOR CERTIFIED COST OR PRICING DATA OR INFORMATION OTHER THAN CERTIFIED COST OR PRICING DATA ALT IV**  OCT 2010  
*If it is determined by Government that adequate price competition does not exist, Seller may be required to provide certified current, complete and accurate cost and pricing data within 15 calendar days after Buyer’s request. In this event, a Certificate of Current Cost or Pricing Data will be required immediately after agreement on cost/price is reached.*

**52.215-21 REQUIREMENTS FOR CERTIFIED COST OR PRICING DATA AND OTHER THAN CERTIFIED COST OR   
PRICING DATA-MODIFICATIONS**  OCT 2010  
*Note 5 applies.*

**52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS** NOV 2016  
*The plan should be provided to Buyer*.

**52.219-9 Dev SMALL BUSINESS SUBCONTRACTING PLAN ALT II** JAN 2017  
*Applies if value of Contract equals or exceeds $650,000 except the clause does not apply if Seller is a small business concern.   
Seller is to provide its subcontracting plan to Buyer so that Buyer can incorporate it as part of Buyer’s own reporting obligations   
with respect to this clause. Note 5 applies.*

**52.219-28 POST-AWARD SMALL BUSINESS PROGRAM REREPRESENTATION** JUL 2013

**52.222-2 PAYMENT FOR OVERTIME PREMIUMS** JUL 1990

*Note 5 applies*.

**52.222-3 CONVICT LABOR** JUN 2003  
*No Note applies.*

**52.222-4 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT—OVERTIME COMPENSATION** MAY 2014  
*Applies if the Contract requires or involves employment of laborers or mechanics. Note 7 applies.*

**52.222-19 CHILD LABOR—COOPERATION WITH AUTHORITIES AND REMEDIES** OCT 2016

*Note 2 applies for (c) and Note 2 for (d) when the Government exercises its rights and remedies against Buyer for Seller’s violations.*

**52.222-20 CONTRACTS FOR MATERIALS, SUPPLIES, ARTICLES, AND EQUIPMENT EXCEEDING $15,000** MAY 2014  
*Applies when Contract exceeds or may exceed $15,000. No Note applies.*

**52.222-21 PROHIBITION OF SEGREGATED FACILITIES** APR 2015  
*No Note applies.*

**52.222-26 EQUAL OPPORTUNITY** SEP 2016  
*Applies to Contract with value of $10,000 or more. Note 7 applies to (c)(3) and (c)(5).*

**52.222-35 EQUAL OPPORTUNITY FOR VETERANS** OCT 2015  
*Applies to Contract with value of $100,000 or more*.

**52.222-36 EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES** JUL 2014  
*Applies if Contract value equals or exceeds $15,000. No Note applies.*

**52.222-37 EMPLOYMENT REPORTS ON VETERANS** FEB 2016  
*Applies if Contract value equals or exceeds $150,000.* *Seller is to provide its report to Buyer so that Buyer  
can incorporate it as part of Buyer’s own reporting obligations with respect to this clause. Note 5 applies.*

**52.222-40 NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT** DEC 2010  
*No Note applies*.

**52.222-50 COMBATING TRAFFICKING IN PERSONS** MAR 2015  
*Note 5 applies except in (e) where Note 4 applies.*

**52.222-54 EMPLOYMENT ELIGIBILITY VERIFICATION** OCT 2015  
*Applies if this Contract exceeds $3,500. No Note applies.*

**52.223-3 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA** JAN 1997

*Note 5 applies.*

**52.223-6 DRUG-FREE WORKPLACE** MAY 2001  
*Note 5 applies except Note 4 applies in (d).*

**52.223-11 OZONE-DEPLETING SUBSTANCES AND HIGH GLOBAL WARMING POTENTIAL HYDROFLUOROCARBONS** JUN 2016  
*Applies if the Contract Work was manufactured with or contains ozone-depleting substances. No Note applies.*

**52.223-12 MAINTENANCE, SERVICE, REPAIR OR DISPOLSAL OF REFRIGERATION EQUIPMENT AND AIR CONDITIONERS** JUN 2016  
*No Note applies.*

**52.223-18 ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING** AUG 2011  
*No Note applies.*

**52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES** JUN 2008  
*No Note applies.*

**52.227-1 AUTHORIZATION AND CONSENT** DEC 2007  
*No Note applies. Government and Contracting Officer remain unchanged.*

**52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT** DEC 2007  
*Applies if Contract value exceeds $150,000; Note 5 applies to (a) and (b).*

**52.227-10 FILING OF PATENT APPLICATIONS—CLASSIFIED SUBJECT MATTER** DEC 2007  
*Applies if the Contract Work or any patent application may cover classified subject matter. Note 5 applies to (a), (b) and (c).*

**52.230-2 COST ACCOUNTING STANDARDS** OCT 2015  
*Applies only when referenced in the Contract that full CAS coverage applies. No Note applies.*

**52.230-6 ADMINISTRATION OF COST ACCOUNTING STANDARDS** JUN 2010  
*Applies if FAR 52.230-2 or FAR 52.230-3 applies. No Note applies.*

**52.232-20 LIMITATION OF COST** APR 1984  
*No Note applies*.

**52.232-22 LIMITATION OF FUNDS** APR 1984  
*Note 2 applies to (c), (d), (e), (f)(2), (h) and (i). Note 1 applies to (k).*

**52.232-23 ASSIGNMENT OF CLAIMS** MAY 2014  
*Note 2 applies for (c).*

**52.232-39 Unenforceability of Unauthorized Obligations** JUN 2013  
*No Note applies*.

**52.232-40 Providing AcceleraTED PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS** DEC 2013  
*This clause applies equally to Buyer and Seller with respect to accelerated payments to Seller (if Seller is a small business)   
and its small business subcontractors.*

**52.233-3 PROTEST AFTER AWARD** AUG 1996  
*Note 2 applies except in (e) where Note 3 applies.*

**52.233-4 APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM** OCT 2004  
*No Note applies.*

**52.234-1 INDUSTRIAL RESOURCES DEVELOPED UNDER TITLE III DEFENSE PRODUCTION ACT** SEP 2016  
*Note 5 applies to (b)*.

**52.242-1 NOTICE OF INTENT TO DISALLOW COSTS** APR 1984  
*Note 5 applies to (a)(2).*

**52.242-3 PENALTIES FOR UNALLOWABLE COSTS** MAY 2014  
*No Note applies.*

**52.242-13 BANKRUPTCY** JUL 1995  
*Note 2 applies.*

**52.243-1 CHANGES—FIXED PRICE** AUG 1987  
*Note 2 applies.*

**52.243-1 ALT 1 CHANGES—FIXED PRICE (AUG 1987) ALT I**  APR 1984  
*Note 7 applies*.

**52.243-1 ALT II CHANGES – FIXED PRICE (AUG 1987) ALT II** APR 1984  
*Note 7 applies*.

**52.243-2 CHANGES – COST-REIMBURSEMENT** AUG 1987  
*Note 2 applies.*

**52.243-2 ALT I CHANGES- COST REIMBURSEMENT (AUG 1987) – ALT I** APR 1984  
*Note 7 applies*.

**52.243-2 ALT II CHANGES—COST REIMBURSEMENT (AUG 1987) ALT II** APR 1984  
*Note 7 applies*.

**52.243-6 CHANGE ORDER ACCOUNTING** APR 1984  
*No Note applies. The Contracting Officer remains unchanged and refers to the Government’s Contracting Officer*.

**52.244-2 SUBCONTRACTS** OCT 2010  
*Note 5 applies. Buyer acts as the intermediary for the Government*.

**52.244-5 COMPETITION IN SUBCONTRACTING** DEC 1996  
*No Note applies.*

**52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS** NOV 2017  
*Note 2 applies.*

**52.245-1 GOVERNMENT PROPERTY**  JAN 2017  
*Note 5 applies.*

**52.245-9 USE AND CHARGES** APR 2012  
*Note 5 applies*.

**52.247-63 PREFERENCE FOR U.S. FLAG AIR CARRIERS** JUN 2003  
*No Note applies.*

**52.247-64 PREFERENCE FOR PRIVATELY OWNED U.S. - FLAG COMMERCIAL VESSELS** FEB 2006  
*No Note applies.*

**52.247-68 REPORT OF SHIPMENT (REPSHIP)** FEB 2006  
*Note 5 applies.*

**52.248-1 VALUE ENGINEERING** OCT 2010  
*Applies if the Contract value exceeds $150,000; Note 5 applies.*

**52.249-2 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE)** APR 2012  
*Clause is applicable when Government terminates the Prime Contract.*

**52.249-6 TERMINATION (COST-REIMBURSEMENT)** MAY 2004  
*Clause is applicable when Government terminates the Prime Contract.*

**52.249-8 DEFAULT (FIXED-PRICE SUPPLY AND SERVICE)**  APR 1984  
*Clause is applicable when Government terminates the Prime Contract.*

**52.249-14 EXCUSABLE DELAYS** APR 1984  
*Note 2 applies to (b)(2) and Note 7 applies to (c).*

**52.251-1 GOVERNMENT SUPPLY SOURCES** APR 2012  
*No Note applies.*

**52.252-6 AUTHORIZED DEVIATIONS IN CLAUSES** APR 1984  
*No Note applies.*

**52.253-1 COMPUTER GENERATED FORMS** JAN 1991  
*No Note applies.*

**252.201-7000 CONTRACTING OFFICER’S REPRESENTATIVE** DEC 1991  
*No Note applies*.

**252.203-7000 REQUIREMENTS RELATING TO COMPENSATION OF FORMER DOD OFFICIALS** SEPT 2011  
*No Note applies*.

**252.203-7001 PROHIBITION ON PERSONS CONVICTED OF FRAUD OR OTHER DEFENSE** DEC 2008  
**CONTRACT-RELATED FELONIES**   
*Applies if this Contract exceeds $150,000. Note 5 applies*.

**252.203-7002 REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS** SEP 2013  
*No Note applies.*

**252.203-7003 AGENCY OFFICE OF THE INSPECTOR GENERAL** DEC 2012  
*No Note applies.*

**252.203-7004 DISPLAY OF HOTLINE POSTERS** OCT 2016  
*No Note applies*.

**252.203-7005 REPRESENTATION RELATING TO COMPENSATION OF FORMER DOD OFFICIALS** NOV 2011

*Note 5 applies.*

**252.204-7000 DISCLOSURE OF INFORMATION** OCT 2016  
*Note 5 applies.*

**252.204-7003 CONTROL OF GOVERNMENT PERSONNEL WORK PRODUCT** APR 1992  
*No Note applies.*

**252.204-7005 ORAL ATTESTATION OF SECURITY RESPONSIBILITIES** NOV 2001  
*No Note applies*.

**252.204-7008 COMPLIANCE WITH SAFEGUARDING COVERED DEFENSE INFORMATION CONTROLS** OCT 2016

**252.204-7012 SAFEGUARDING COVERED DEFENSE INFORMATION AND CYBER INCIDENT** OCT 2016  
*Note 7 applies*.

**252.205-7000 PROVISION OF INFORMATION TO COOPERATIVE AGREEMENT HOLDERS** DEC 1991  
*No Note applies*.

**252.209-7004 SUBCONTRACTING WITH FIRMS THAT ARE OWNED OR CONTROLLED BY THE   
GOVERNMENT OF A TERRORIST COUNTRY** OCT 2015  
*Note 5 applies for (b)*.

**252.211-7001 AVAILABILITY OF SPECIFICATIONS, STANDARDS, AND DATA ITEM DESCRIPTIONS**  MAY 2006

**NOT LISTED IN THE ACQUISITION STREAMLINING AND STANDARDIZATION INFORMATION**

**SYSTEM (ASSIST), AND PLANS, DRAWINGS, AND OTHER PERTINENT DOCUMENTS**

*No Note applies*.

**252.211-7003 ITEM UNIQUE IDENTIFICATION AND VALUATION** DEC 2013  
*No Note applies*.

**252.215-7000 PRICING ADJUSTMENTS** DEC 2012  
*No Note applies.*

**252.223-7004 DRUG FREE WORK FORCE** SEP 1988  
*No Note applies*.

**252.223-7008 PROHIBITION OF HEXAVALENT CHROMIUM** JUN 2013  
*Note 2 applies for (b.)*

**252.225-7002 QUALIFYING COUNTRY SOURCES AS SUBCONTRACTORS** DEC 2016  
*No Note applies.*

**252.225-7004 REPORT OF INTENDED PERFORMANCE OUTSIDE THE UNITED STATES AND** OCT 2015  
**CANADA--SUBMISSION AFTER AWARD***Note 5 applies*.

*Seller must also notify Buyer in its proposal whether it intends to perform outside of the US and Canada per 252.225-7003 (OCT 2015)*

**252.225-7007 PROHIBITION ON ACQUISITION OF US MUNITIONS LIST ITEMS FROM COMMUNIST CHINESE**

**MILITARY COMPANIES** SEP 2006

**252.225-7009 RESTRICTION ON ACQUISITION OF CERTAIN ARTICLES CONTAINING** OCT 2014  
**SPECIALTY METALS**  
*Applies if the Contract Work to be furnished contains specialty metals. Note 5 applies to (d)(i).*

**252.225-7012 PREFERENCE FOR CERTAIN DOMESTIC COMMODITIES** DEC 2016  
*No Note applies*.

**252.225-7013 DUTY-FREE ENTRY – BASIC (MAY 2016)** MAY 2016  
*Note 5 applies.*

**252.225-7016 RESTRICTION ON ACQUISITION OF BALL AND ROLLER BEARINGS** JUN 2011  
*No Note applies.*

**252.225-7019 RESTRICTION ON ACQUISITION OF ANCHOR AND MOORING CHAIN** DEC 2009  
*No Note applies*.

**252.225-7021 TRADE AGREEMENTS—BASIC** DEC 2016  
*No Note applies*.

**252.225-7025 RESTRICTION ON ACQUISITION OF FORGINGS** DEC 2009  
*Note 5 applies for (d).*

**252.225-7032 WAIVER OF UNITED KINGDOM LEVIES – EVALUATION OF OFFERS** APR 2003

*No Note applies***.**

**252.225-7036 BUY AMERICAN – FREE TRADE AGREEMENT- BALANCE OF PAYMENTS PROGRAM – BASIC** DEC 2016  
*No Note applies*.

**252.225-7038 RESTRICTION ON ACQUISITION OF AIR CIRCUIT BREAKERS** JUN 2005  
*No Note applies*.

**252.225-7048 EXPORT-CONTROLLED ITEMS** JUN 2013  
*No Note applies*.

**252.226-7001 UTILIZATION OF INDIAN ORGANIZATIONS AND INDIAN-OWNED** SEP 2004 **ECONOMIC ENTERPRISES, AND NATIVE HAWAIIAN SMALL BUSINESS CONCERNS**  
*Applies if this Contract exceeds $500,000. Note 5 applies.*

252.227-7015 TECHNICAL DATA—COMMERCIAL ITEMS FEB 2014  
No Note applies. The Government desires Government Purpose Rights (“GPR”) or better for Technical Data and   
Computer Software to be delivered under the Contract.

252.227-7015 ALT I TECHNICAL DATA COMMERCIAL ITEMS (FEB 2014) ALT I DEC 2011  
No Note applies. The Government desires Government Purpose Rights (“GPR”) or better for Technical Data and Computer   
Software to be delivered under the Contract.

252.227-7016 RIGHTS IN BID OR PROPOSAL INFORMATION JAN 2011  
No Note applies. The Government desires Government Purpose Rights (“GPR”) or better for Technical Data and   
Computer Software to be delivered under the Contract.

252.227-7017 IDENTIFICATION AND ASSERTION OF USE, RELEASE, OR DISCLOSURE RESTRICTIONS JAN 2011

Note 5 applies.

252.227-7019 VALIDATION OF ASSERTED RESTRICTIONS--COMPUTER SOFTWARE SEP 2016  
Note 4 and Note 7 apply. The Government desires Government Purpose Rights (“GPR”) or better for Technical Data   
and Computer Software to be delivered under the Contract.

252.227-7025 LIMITATIONS ON THE USE OR DISCLOSURE OF GOVERNMENT-FURNISHED INFORMATION MAY 2013  
MARKED WITH RESTRICTIVE LEGENDS  
No Note applies. The Government desires Government Purpose Rights (“GPR”) or better for Technical Data and   
Computer Software to be delivered under the Contract.

**252.227-7027 DEFERRED ORDERING OF TECHNICAL DATA OR COMPUTER SOFTWARE** APR 1988  
*No Note applies.*

252.227-7030 TECHNICAL DATA--WITHHOLDING OF PAYMENT MAR 2000  
Note 5 applies. The Government desires Government Purpose Rights (“GPR”) or better for Technical Data and   
Computer Software to be delivered under the Contract.

252.227-7037 VALIDATION OF RESTRICTIVE MARKINGS ON TECHNICAL DATA SEP 2016  
Note 5 applies. The Government desires Government Purpose Rights (“GPR”) or better for Technical Data and   
Computer Software to be delivered under the Contract.

252.227-7038 PATENT RIGHTS--OWNERSHIP BY THE CONTRACTOR (LARGE BUSINESS) JUN 2012

**252.232-7010 LEVIES ON CONTRACT PAYMENTS** DEC 2006  
*Note 2 applies*.

**252.234-7003 NOTICE OF COST AND SOFTWARE DATA REPORTING SYSTEM** NOV 2014

*No Note applies*.

**252.239-7001 INFORMATION ASSURANCE CONTRACTOR TRAINING AND CERTIFICATION** JAN 2008  
*Note 5 applies*.

**252.242-7004 MATERIAL MANAGEMENT AND ACCOUNTING SYSTEM** MAY 2011  
*No Note applies*.

**252.242-7005 CONTRACTOR BUSINESS SYSTEMS** FEB 2012  
*Note 5 applies*.

**252.242-7006 ACCOUNTING SYSTEM ADMINISTRATION** FEB 2012  
*Note 5 applies*.

**252.243-7001 PRICING OF CONTRACT MODIFICATIONS** DEC 1991  
*Note 5 applies*.

**252.243-7002 REQUESTS FOR EQUITABLE ADJUSTMENT** DEC 2012  
*Note 5 applies*.

**252.244-7000 SUBCONTRACTORS FOR COMMERCIAL ITEMS** JUN 2013  
*No Note applies*.

**252.245-7001 TAGGING, LABELING, AND MARKING OF GOVERNMENT-FURNISHED PROPERTY** APR 2012  
*No Note applies*.

**252.245-7002 REPORTING LOSS OF GOVERNMENT PROPERTY** DEC 2017  
*Note 5 applies*.

**252.245-7004 REPORTING, REUTILIZATION, AND DISPOSAL** DEC 2017  
*Note 5 applies*.

**252.246-7001 WARRANTY OF DATA** MAR 2014  
*Note 5 applies*.

**252.246-7001 ALT 1 WARRANTY OF DATA (MAR 2014) (ALT I)** MAR 2014  
*Note 5 applies*.

**252.246-7003 NOTIFICATION OF POTENTIAL SAFETY ISSUES** JUN 2013  
*Note 5 applies.*

**252.246-7007 CONTRACTOR COUNTERFEIT ELECTRONIC PART DETECTION AND AVOIDANCE SYSTEM** AUG 2016

**252.246-7008 SOURCES OF ELECTRONIC PARTS** DEC 2017

**252.247-7023 TRANSPORTATION OF SUPPLIES BY SEA** APR 2014  
*Note 5 applies.*

**252.247-7024 NOTIFICATION OF TRANSPORTATION OF SUPPLIES BY SEA** MAR 2000  
*Note 5 applies.*

**252.249-7002 NOTIFICATION OF ANTICIPATED CONTRACT TERMINATION OR REDUCTION** OCT 2015  
*Note 5 applies.*

**252.251-7000 ORDERING FROM GOVERNMENT SUPPLY SOURCES** AUG 2012   
*Note 5 applies.*

**CLAUSES INCORPORATED BY FULL TEXT**

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

Modify the clause as follows:

1. The word “Supplies” as used in this clause includes the term “Vessel(s)” and has the definition stated in the clause entitled “INSPECTION OF SUPPLIES--FIXED-PRICE.”
2. At the end of paragraph (b), add the following:

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

1. In the first sentence of paragraph (c), after the word “costs”, insert the phrase “or other damages.”
2. In the first sentence of paragraph (e), after the word “title”, insert the phrase “(insofar as not previously transferred).”

**52.223-15 ENERGY EFFICIENCY IN ENERGY-CONSUMING PRODUCTS (DEC 2007)**

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

Energy-efficient product—

(1) Means a product that--

(i) Meets Department of Energy and Environmental Protection Agency criteria for use of the Energy Star trademark label; or

(ii) Is in the upper 25 percent of efficiency for all similar products as designated by the Department of Energy's Federal Energy Management Program.

(2) The term ``product'' does not include any energy-consuming product or system designed or procured for combat or combat-related missions (42 U.S.C. 8259b).

(b) The Contractor shall ensure that energy-consuming products are energy efficient products (i.e., ENERGY STAR products or FEMP-designated products) at the time of contract award, for products that are--

(1) Delivered;

(2) Acquired by the Contractor for use in performing services at a Federally-controlled facility;

(3) Furnished by the Contractor for use by the Government; or

(4) Specified in the design of a building or work, or incorporated during its construction, renovation, or maintenance.

(c) The requirements of paragraph (b) apply to the Contractor (including any subcontractor) unless--

(1) The energy-consuming product is not listed in the ENERGY STAR Program or FEMP; or

(2) Otherwise approved in writing by the Contracting Officer.

(d) Information about these products is available for--

(1) ENERGY STAR at http://www.energystar.gov/products; and

(2) FEMP at <http://www1.eere.energy.gov/femp/procurement/eep_requirements.html>.

**252.219-7003 SMALL BUSINESS SUBCONTRACTING PLAN (DOD CONTRACTS)--BASIC (DEVIATION 2016-O0009) (AUG 2016)**

This clause supplements the Federal Acquisition Regulation 52.219-9, Small Business Subcontracting Plan, clause of this contract.

(a) *Definitions.* “Summary Subcontract Report (SSR) Coordinator,” as used in this clause, means the individual who is registered in the Electronic Subcontracting Reporting System (eSRS) at the Department of Defense (9700) and is responsible for acknowledging receipt or rejecting SSRs in eSRS for the Department of Defense.

(b) Subcontracts awarded to workshops approved by the Committee for Purchase from People Who are Blind or Severely Disabled (41 U.S.C. 8502-8504), may be counted toward the Contractor’s small business subcontracting goal.

(c) A mentor firm, under the Pilot Mentor-Protege Program established under section 831 of Public Law 101-510, as amended, may count toward its small disadvantaged business goal, subcontracts awarded to—

(1) Protege firms which are qualified organizations employing the severely disabled; and

(2) Former protege firms that meet the criteria in section 831(g)(4) of Public Law 101-510.

(d) The master plan is approved by the Contractor's cognizant contract administration activity.

(e) In those subcontracting plans which specifically identify small businesses, the Contractor shall notify the Administrative Contracting Officer of any substitutions of firms that are not small business firms, for the small business firms specifically identified in the subcontracting plan. Notifications shall be in writing and shall occur within a reasonable period of time after award of the subcontract. Contractor-specified formats shall be acceptable.

(f)(1) For DoD, the Contractor shall submit reports in eSRS as follows:

(i) The Individual Subcontract Report (ISR) shall be submitted to the contracting officer at the procuring contracting office, even when contract administration has been delegated to the Defense Contract Management Agency.

(ii) To submit the consolidated SSR for an individual subcontracting plan in eSRS, the contractor shall identify the Government agency in Block 7 (“Agency to which the report is being submitted”) by selecting “Department of Defense (DoD) (9700)” from the top of the second dropdown menu. The contractor shall not select anything lower.

(2) For DoD, the authority to acknowledge receipt or reject reports in eSRS is as follows:

(i) The authority to acknowledge receipt or reject the ISR resides with the contracting officer who receives it, as described in paragraph (f)(1)(i) of this clause.

(ii) The authority to acknowledge receipt or reject SSRs resides with the SSR Coordinator.

**252.227-7013 RIGHTS IN TECHNICAL DATA--NONCOMMERCIAL ITEMS (FEB 2014)**

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

(1) Computer data base means a collection of data recorded in a form capable of being processed by a computer. The term does not include computer software.

(2) Computer program means a set of instructions, rules, or routines recorded in a form that is capable of causing a computer to perform a specific operation or series of operations.

(3) Computer software means computer programs, source code, source code listings, object code listings, design details, algorithms, processes, flow charts, formulae and related material that would enable the software to be reproduced, recreated, or recompiled. Computer software does not include computer data bases or computer software documentation.

(4) Computer software documentation means owner's manuals, user's manuals, installation instructions, operating instructions, and other similar items, regardless of storage medium, that explain the capabilities of the computer software or provide instructions for using the software.

(5) Covered Government support contractor means a contractor (other than a litigation support contractor covered by 252.204-7014) under a contract, the primary purpose of which is to furnish independent and impartial advice or technical assistance directly to the Government in support of the Government's management and oversight of a program or effort (rather than to directly furnish an end item or service to accomplish a program or effort), provided that the contractor--

(i) Is not affiliated with the prime contractor or a first-tier subcontractor on the program or effort, or with any direct competitor of such prime contractor or any such first-tier subcontractor in furnishing end items or services of the type developed or produced on the program or effort; and

(ii) Receives access to technical data or computer software for performance of a Government contract that contains the clause at 252.227-7025, Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends.

(6) Detailed manufacturing or process data means technical data that describe the steps, sequences, and conditions of manufacturing, processing or assembly used by the manufacturer to produce an item or component or to perform a process.

(7) Developed means that an item, component, or process exists and is workable. Thus, the item or component must have been constructed or the process practiced. Workability is generally established when the item, component, or process has been analyzed or tested sufficiently to demonstrate to reasonable people skilled in the applicable art that there is a high probability that it will operate as intended. Whether, how much, and what type of analysis or testing is required to establish workability depends on the nature of the item, component, or process, and the state of the art. To be considered "developed," the item, component, or process need not be at the stage where it could be offered for sale or sold on the commercial market, nor must the item, component, or process be actually reduced to practice within the meaning of Title 35 of the United States Code.

(8) Developed exclusively at private expense means development was accomplished entirely with costs charged to indirect cost pools, costs not allocated to a government contract, or any combination thereof.

(i) Private expense determinations should be made at the lowest practicable level.

(ii) Under fixed-price contracts, when total costs are greater than the firm-fixed-price or ceiling price of the contract, the additional development costs necessary to complete development shall not be considered when determining whether development was at government, private, or mixed expense.

(9) Developed exclusively with government funds means development was not accomplished exclusively or partially at private expense.

(10) Developed with mixed funding means development was accomplished partially with costs charged to indirect cost pools and/or costs not allocated to a government contract, and partially with costs charged directly to a government contract.

(11) Form, fit, and function data means technical data that describes the required overall physical, functional, and performance characteristics (along with the qualification requirements, if applicable) of an item, component, or process to the extent necessary to permit identification of physically and functionally interchangeable items.

(12) Government purpose means any activity in which the United States Government is a party, including cooperative agreements with international or multi-national defense organizations, or sales or transfers by the United States Government to foreign governments or international organizations. Government purposes include competitive procurement, but do not include the rights to use, modify, reproduce, release, perform, display, or disclose technical data for commercial purposes or authorize others to do so.

(13) Government purpose rights means the rights to--

(i) Use, modify, reproduce, release, perform, display, or disclose technical data within the Government without restriction; and

(ii) Release or disclose technical data outside the Government and authorize persons to whom release or disclosure has been made to use, modify, reproduce, release, perform, display, or disclose that data for United States government purposes.

(14) Limited rights means the rights to use, modify, reproduce, release, perform, display, or disclose technical data, in whole or in part, within the Government. The Government may not, without the written permission of the party asserting limited rights, release or disclose the technical data outside the Government, use the technical data for manufacture, or authorize the technical data to be used by another party, except that the Government may reproduce, release, or disclose such data or authorize the use or reproduction of the data by persons outside the Government if--

(i) The reproduction, release, disclosure, or use is--

(A) Necessary for emergency repair and overhaul; or

(B) A release or disclosure to--

(1) A covered Government support contractor in performance of its covered Government support contract for use, modification, reproduction, performance, display, or release or disclosure to a person authorized to receive limited rights technical data; or

(2) A foreign government, of technical data other than detailed manufacturing or process data, when use of such databy the foreign government is in the interest of the Government and is required for evaluational or informational purposes;

(ii) The recipient of the technical data is subject to a prohibition on the further reproduction, release, disclosure, or use of the technical data; and

(iii) The contractor or subcontractor asserting the restriction is notified of such reproduction, release, disclosure, or use.

(15) Technical data means recorded information, regardless of the form or method of the recording, of a scientific or technical nature (including computer software documentation). The term does not include computer software or data incidental to contract administration, such as financial and/or management information.

(16) Unlimited rights means rights to use, modify, reproduce, perform, display, release, or disclose technical data in whole or in part, in any manner, and for any purpose whatsoever, and to have or authorize others to do so.

(b) Rights in technical data. The Contractor grants or shall obtain for the Government the following royalty free, world-wide, nonexclusive, irrevocable license rights in technical data other than computer software documentation (see the Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation clause of this contract for rights in computer software documentation):

(1) Unlimited rights.

The Government shall have unlimited rights in technical data that are--

(i) Data pertaining to an item, component, or process which has been or will be developed exclusively with Government funds;

(ii) Studies, analyses, test data, or similar data produced for this contract, when the study, analysis, test, or similar work was specified as an element of performance;

(iii) Created exclusively with Government funds in the performance of a contract that does not require the development, manufacture, construction, or production of items, components, or processes;

(iv) Form, fit, and function data;

(v) Necessary for installation, operation, maintenance, or training purposes (other than detailed manufacturing or process data);

(vi) Corrections or changes to technical data furnished to the Contractor by the Government;

(vii) Otherwise publicly available or have been released or disclosed by the Contractor or subcontractor without restrictions on further use, release or disclosure, other than a release or disclosure resulting from the sale, transfer, or other assignment of interest in the technical data to another party or the sale or transfer of some or all of a business entity or its assets to another party;

(viii) Data in which the Government has obtained unlimited rights under another Government contract or as a result of negotiations; or

(ix) Data furnished to the Government, under this or any other Government contract or subcontract thereunder, with--

(A) Government purpose license rights or limited rights and the restrictive condition(s) has/have expired; or

(B) Government purpose rights and the Contractor's exclusive right to use such data for commercial purposes has expired.

(2) Government purpose rights.

(i) The Government shall have government purpose rights for a five-year period, or such other period as may be negotiated, in technical data--

(A) That pertain to items, components, or processes developed with mixed funding except when the Government is entitled to unlimited rights in such data as provided in paragraphs as provided in paragraphs (b)(1)(ii) and (b)(1)(iv) through (b)(1)(ix) of this clause; or

(B) Created with mixed funding in the performance of a contract that does not require the development, manufacture, construction, or production of items, components, or processes.

(ii) The five-year period, or such other period as may have been negotiated, shall commence upon execution of the contract, subcontract, letter contract (or similar contractual instrument), contract modification, or option exercise that required development of the items, components, or processes or creation of the data described in paragraph (b)(2)(i)(B) of this clause. Upon expiration of the five-year or other negotiated period, the Government shall have unlimited rights in the technical data.

(iii) The Government shall not release or disclose technical data in which it has government purpose rights unless-

(A) Prior to release or disclosure, the intended recipient is subject to the non-disclosure agreement at 227.7103-7 of the Defense Federal Acquisition Regulation Supplement (DFARS); or

(B) The recipient is a Government contractor receiving access to the data for performance of a Government contract that contains the clause at DFARS 252.227-7025, Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends.

(iv) The Contractor has the exclusive right, including the right to license others, to use technical data in which the Government has obtained government purpose rights under this contract for any commercial purpose during the time period specified in the government purpose rights legend prescribed in paragraph (f)(2) of this clause.

(3) Limited rights.

(i) Except as provided in paragraphs (b)(1)(ii) and (b)(1)(iv) through (b)(1)(ix) of this clause, the Government shall have limited rights in technical data--

(A) Pertaining to items, components, or processes developed exclusively at private expense and marked with the limited rights legend prescribed in paragraph (f) of this clause; or

(B) Created exclusively at private expense in the performance of a contract that does not require the development, manufacture, construction, or production of items, components, or processes.

(ii) The Government shall require a recipient of limited rights data for emergency repair or overhaul to destroy the data and all copies in its possession promptly following completion of the emergency repair/overhaul and to notify the Contractor that the data have been destroyed.

(iii) The Contractor, its subcontractors, and suppliers are not required to provide the Government additional rights to use, modify, reproduce, release, perform, display, or disclose technical data furnished to the Government with limited rights. However, if the Government desires to obtain additional rights in technical data in which it has limited rights, the Contractor agrees to promptly enter into negotiations with the Contracting Officer to determine whether there are acceptable terms for transferring such rights. All technical data in which the Contractor has granted the Government additional rights shall be listed or described in a license agreement made part of the contract. The license shall enumerate the additional rights granted the Government in such data.

(iv) The Contractor acknowledges that--

(A) Limited rights data are authorized to be released or disclosed to covered Government support contractors;

(B) The Contractor will be notified of such release or disclosure;

(C) The Contractor (or the party asserting restrictions as identified in the limited rights legend) may require each such covered Government support contractor to enter into a non-disclosure agreement directly with the Contractor (or the party asserting restrictions) regarding the covered Government support contractor's use of such data, or alternatively, that the Contractor (or party asserting restrictions) may waive in writing the requirement for a non-disclosure agreement; and

(D) Any such non-disclosure agreement shall address the restrictions on the covered Government support contractor's use of the limited rights data as set forth in the clause at 252.227-7025, Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends. The non-disclosure agreement shall not include any additional terms and conditions unless mutually agreed to by the parties to the non-disclosure agreement.

(E) The Contractor shall provide a copy of any such non-disclosure agreement or waiver to the Contracting Officer, upon request.

(4) Specifically negotiated license rights.

The standard license rights granted to the Government under paragraphs (b)(1) through (b)(3) of this clause, including the period during which the Government shall have government purpose rights in technical data, may be modified by mutual agreement to provide such rights as the parties consider appropriate but shall not provide the Government lesser rights than are enumerated in paragraph (a)(14) of this clause. Any rights so negotiated shall be identified in a license agreement made part of this contract.

(5) Prior government rights.

Technical data that will be delivered, furnished, or otherwise provided to the Government under this contract, in which the Government has previously obtained rights shall be delivered, furnished, or provided with the pre-existing rights, unless--

(i) The parties have agreed otherwise; or

(ii) Any restrictions on the Government's rights to use, modify, reproduce, release, perform, display, or disclose the data have expired or no longer apply.

(6) Release from liability.

The Contractor agrees to release the Government from liability for any release or disclosure of technical data made in accordance with paragraph (a)(14) or (b)(2)(iii) of this clause, in accordance with the terms of a license negotiated under paragraph (b)(4) of this clause, or by others to whom the recipient has released or disclosed the data and to seek relief solely from the party who has improperly used, modified, reproduced, released, performed, displayed, or disclosed Contractor data marked with restrictive legends.

(c) Contractor rights in technical data. All rights not granted to the Government are retained by the Contractor.

(d) Third party copyrighted data. The Contractor shall not, without the written approval of the Contracting Officer, incorporate any copyrighted data in the technical data to be delivered under this contract unless the Contractor is the copyright owner or has obtained for the Government the license rights necessary to perfect a license or licenses in the deliverable data of the appropriate scope set forth in paragraph (b) of this clause, and has affixed a statement of the license or licenses obtained on behalf of the Government and other persons to the data transmittal document.

(e) Identification and delivery of data to be furnished with restrictions on use, release, or disclosure. (1) This paragraph does not apply to restrictions based solely on copyright.

(2) Except as provided in paragraph (e)(3) of this clause, technical data that the Contractor asserts should be furnished to the Government with restrictions on use, release, or disclosure are identified in an attachment to this contract (the Attachment). The Contractor shall not deliver any data with restrictive markings unless the data are listed on the Attachment.

(3) In addition to the assertions made in the Attachment, other assertions may be identified after award when based on new information or inadvertent omissions unless the inadvertent omissions would have materially affected the source selection decision. Such identification and assertion shall be submitted to the Contracting Officer as soon as practicable prior to the scheduled date for delivery of the data, in the following format, and signed by an official authorized to contractually obligate the Contractor: Identification and Assertion of Restrictions on the Government's Use, Release, or Disclosure of Technical Data.

The Contractor asserts for itself, or the persons identified below, that the Government's rights to use, release, or disclose the following technical data should be restricted--

Technical data Asserted Name of Person

to be Furnished Basis for Rights Asserting

With Restrictions \1/ Assertion \2/ Category \3/ Restrictions \4/

(LIST) (LIST) (LIST) (LIST)

\1/ If the assertion is applicable to items, components or processes developed at private expense, identify both the data and each such items, component, or process.

\2/ Generally, the development of an item, component, or process at private expense, either exclusively or partially, is the only basis for asserting restrictions on the Government's rights to use, release, or disclose technical data pertaining to such items, components, or processes. Indicate whether development was exclusively or partially at private expense. If development was not at private expense, enter the specific reason for asserting that the Government's rights should be restricted.

\3/ Enter asserted rights category (e.g., government purpose license rights from a prior contract, rights in SBIR data generated under another contract, limited or government purpose rights under this or a prior contract, or specifically negotiated licenses).

\4/ Corporation, individual, or other person, as appropriate.

Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Printed Name and Title \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(End of identification and assertion)

(4) When requested by the Contracting Officer, the Contractor shall provide sufficient information to enable the Contracting Officer to evaluate the Contractor's assertions. The Contracting Officer reserves the right to add the Contractor's assertions to the Attachment and validate any listed assertion, at a later date, in accordance with the procedures of the Validation of Restrictive Markings on Technical Data clause of this contract.

(f) Marking requirements. The Contractor, and its subcontractors or suppliers, may only assert restrictions on the Government's rights to use, modify, reproduce, release, perform, display, or disclose technical data to be delivered under this contract by marking the deliverable data subject to restriction. Except as provided in paragraph (f)(5) of this clause, only the following legends are authorized under this contract: the government purpose rights legend at paragraph (f)(2) of this clause; the limited rights legend at paragraph (f)(3) of this clause; or the special license rights legend at paragraph (f)(4) of this clause; and/or a notice of copyright as prescribed under 17 U.S.C. 401 or 402.

(1) General marking instructions. The Contractor, or its subcontractors or suppliers, shall conspicuously and legibly mark the appropriate legend on all technical data that qualify for such markings. The authorized legends shall be placed on the transmittal document or storage container and, for printed material, each page of the printed material containing technical data for which restrictions are asserted. When only portions of a page of printed material are subject to the asserted restrictions, such portions shall be identified by circling, underscoring, with a note, or other appropriate identifier. Technical data transmitted directly from one computer or computer terminal to another shall contain a notice of asserted restrictions. Reproductions of technical data or any portions thereof subject to asserted restrictions shall also reproduce the asserted restrictions.

(2) Government purpose rights markings. Data delivered or otherwise furnished to the Government purpose rights shall be marked as follows:

Government Purpose Rights

Contract No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Contractor Name \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Contractor Address \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Expiration Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The Government's rights to use, modify, reproduce, release, perform, display, or disclose these technical data are restricted by paragraph (b)(2) of the Rights in Technical Data--Noncommercial Items clause contained in the above identified contract. No restrictions apply after the expiration date shown above. Any reproduction of technical data or portions thereof marked with this legend must also reproduce the markings.

(End of legend)

(3) Limited rights markings. Data delivered or otherwise furnished to the Government with limited rights shall be marked with the following legend:

Limited Rights

Contract No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Contractor Name \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Contractor Address \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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The Government's rights to use, modify, reproduce, release, perform, display, or disclose these technical data are restricted by paragraph (b)(3) of the Rights in Technical Data--Noncommercial Items clause contained in the above identified contract. Any reproduction of technical data or portions thereof marked with this legend must also reproduce the markings. Any person, other than the Government, who has been provided access to such data must promptly notify the above named Contractor.

(End of legend)

(4) Special license rights markings. (i) Data in which the Government's rights stem from a specifically negotiated license shall be marked with the following legend:

Special License Rights

The Government's rights to use, modify, reproduce, release, perform, display, or disclose these data are restricted by Contract No. \_\_\_\_\_\_\_\_ (Insert contract number) \_\_\_\_\_\_\_\_, License No. \_\_\_\_\_\_\_\_ (Insert license identifier) \_\_\_\_\_\_\_\_. Any reproduction of technical data or portions thereof marked with this legend must also reproduce the markings.

(End of legend)

(ii) For purposes of this clause, special licenses do not include government purpose license rights acquired under a prior contract (see paragraph (b)(5) of this clause).

(5) Pre-existing data markings. If the terms of a prior contract or license permitted the Contractor to restrict the Government's rights to use, modify, reproduce, release, perform, display, or disclose technical data deliverable under this contract, and those restrictions are still applicable, the Contractor may mark such data with the appropriate restrictive legend for which the data qualified under the prior contract or license. The marking procedures in paragraph (f)(1) of this clause shall be followed.

(g) Contractor procedures and records. Throughout performance of this contract, the Contractor and its subcontractors or suppliersthat will deliver technical data with other than unlimited rights, shall--

(1) Have, maintain, and follow written procedures sufficient to assure that restrictive markings are used only when authorized by the terms of this clause; and

(2) Maintain records sufficient to justify the validity of any restrictive markings on technical data delivered under this contract.

(h) Removal of unjustified and nonconforming markings. (1) Unjustified technical data markings. The rights and obligations of the parties regarding the validation of restrictive markings on technical data furnished or to be furnished under this contract are contained in the Validation of Restrictive Markings on Technical Data clause of this contract. Notwithstanding any provision of this contract concerning inspection and acceptance, the Government may ignore or, at the Contractor's expense, correct or strike a marking if, in accordance with the procedures in the Validation of Restrictive Markings on Technical Data clause of this contract, a restrictive marking is determined to be unjustified.

(2) Nonconforming technical data markings. A nonconforming marking is a marking placed on technical data delivered or otherwise furnished to the Government under this contract that is not in the format authorized by this contract. Correction of nonconforming markings is not subject to the validation of Restrictive Markings on Technical Data clause of this contract. If the Contracting Officer notifies the Contractor of a nonconforming marking and the Contractor fails to remove or correct such marking within sixty (60) days, the Government may ignore or, at the Contractor's expense, remove or correct any nonconforming marking.

(i) Relation to patents. Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(j) Limitation on charges for rights in technical data. (1) The Contractor shall not charge to this contract any cost, including, but not limited to, license fees, royalties, or similar charges, for rights in technical data to be delivered under this contract when--

(i) The Government has acquired, by any means, the same or greater rights in the data; or

(ii) The data are available to the public without restrictions.

(2) The limitation in paragraph (j)(1) of this clause--

(i) Includes costs charged by a subcontractor or supplier, at any tier, or costs incurred by the Contractor to acquire rights in subcontractor or supplier technical data, if the subcontractor or supplier has been paid for such rights under any other Government contract or under a license conveying the rights to the Government; and

(ii) Does not include the reasonable costs of reproducing, handling, or mailing the documents or other media in which the technical data will be delivered.

(k) Applicability to subcontractors or suppliers. (1) The Contractor shall ensure that the rights afforded its subcontractors and suppliers under 10 U.S.C. 2320, 10 U.S.C. 2321, and the identification, assertion, and delivery processes of paragraph (e) of this clause are recognized and protected.

(2) Whenever any technical data for noncommercial items, or for commercial items developed in any part at Government expense, is to be obtained from a subcontractor or supplier for delivery to the Government under this contract, the Contractor shall use this same clause in the subcontract or other contractual instrument, including subcontracts or other contractual instruments for commercial items, and requireits subcontractors or suppliers to do so, without alteration, except to identify the parties. This clause will govern the technical data pertaining to noncommercial items or to any portion of a commercial item that was developed in any part at Government expense, and the clause at 252.227-7015 will govern the technical data pertaining to any portion of a commercial item that was developed exclusively at private expense. No other clause shall be used to enlarge or diminish the Government's, the Contractor's, or a higher-tier subcontractor's or supplier's rights in a subcontractor's or supplier's technical data.

(3) Technical data required to be delivered by a subcontractor or supplier shall normally be delivered to the next higher-tier contractor, subcontractor, or supplier. However, when there is a requirement in the prime contract for data which may be submitted with other than unlimited rights by a subcontractor or supplier, then said subcontractor or supplier may fulfill its requirement by submitting such data directly to the Government, rather than through a higher-tier contractor, subcontractor, or supplier.

(4) The Contractor and higher-tier subcontractors or suppliers shall not use their power to award contracts as economic leverage to obtain rights in technical data from their subcontractors or suppliers. (5) In no event shall the Contractor use its obligation to recognize and protect subcontractor or supplier rights in technical data as an excuse for failing to satisfy its contractual obligations to the Government.

**252.227-7014 RIGHTS IN NONCOMMERCIAL COMPUTER SOFTWARE AND NONCOMMERCIAL COMPUTER SOFTWARE DOCUMENTATION (FEB 2014)**

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

(1) Commercial computer software means software developed or regularly used for nongovernmental purposes which--

(i) Has been sold, leased, or licensed to the public;

(ii) Has been offered for sale, lease, or license to the public;

(iii) Has not been offered, sold, leased, or licensed to the public but will be available for commercial sale, lease, or license in time to satisfy the delivery requirements of this contract; or

(iv) Satisfies a criterion expressed in paragraph (a)(1) (i), (ii), or (iii) of this clause and would require only minor modification to meet the requirements of this contract.

(2) Computer database means a collection of recorded data in a form capable of being processed by a computer. The term does not include computer software.

(3) Computer program means a set of instructions, rules, or routines, recorded in a form that is capable of causing a computer to perform a specific operation or series of operations.

(4) Computer software means computer programs, source code, source code listings, object code listings, design details, algorithms, processes, flow charts, formulae, and related material that would enable the software to be reproduced, recreated, or recompiled. Computer software does not include computer databases or computer software documentation.

(5) Computer software documentation means owner's manuals, user's manuals, installation instructions, operating instructions, and other similar items, regardless of storage medium, that explain the capabilities of the computer software or provide instructions for using the software.

(6) Covered Government support contractor means a contractor (other than a litigation support contractor covered by 252.204-7014) under a contract, the primary purpose of which is to furnish independent and impartial advice or technical assistance directly to the Government in support of the Government's management and oversight of a program or effort (rather than to directly furnish an end item or service to accomplish a program or effort), provided that the contractor--

(i) Is not affiliated with the prime contractor or a first-tier subcontractor on the program or effort, or with any direct competitor of such prime contractor or any such first-tier subcontractor in furnishing end items or services of the type developed or produced on the program or effort; and

(ii) Receives access to technical data or computer software for performance of a Government contract that contains the clause at 252.227-7025, Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends.

(7) Developed means that--

(i) A computer program has been successfully operated in a computer and tested to the extent sufficient to demonstrate to reasonable persons skilled in the art that the program can reasonably be expected to perform its intended purpose;

(ii) Computer software, other than computer programs, has been tested or analyzed to the extent sufficient to demonstrate to reasonable persons skilled in the art that the software can reasonably be expected to perform its intended purpose; or

(iii) Computer software documentation required to be delivered under a contract has been written, in any medium, in sufficient detail to comply with requirements under that contract.

(8) Developed exclusively at private expense means development was accomplished entirely with costs charged to indirect cost pools, costs not allocated to a government contract, or any combination thereof.

(i) Private expense determinations should be made at the lowest practicable level.

(ii) Under fixed-price contracts, when total costs are greater than the firm-fixed-price or ceiling price of the contract, the additional development costs necessary to complete development shall not be considered when determining whether development was at government, private, or mixed expense.

(9) Developed exclusively with government funds means development was not accomplished exclusively or partially at private expense.

(10) Developed with mixed funding means development was accomplished partially with costs charged to indirect cost pools and/or costs not allocated to a government contract, and partially with costs charged directly to a government contract.

(11) Government purpose means any activity in which the United States Government is a party, including cooperative agreements with international or multi-national defense organizations or sales or transfers by the United States Government to foreign governments or international organizations. Government purposes include competitive procurement, but do not include the rights to use, modify, reproduce, release, perform, display, or disclose computer software or computer software documentation for commercial purposes or authorize others to do so.

(12) Government purpose rights means the rights to--

(i) Use, modify, reproduce, release, perform, display, or disclose computer software or computer software documentation within the Government without restriction; and

(ii) Release or disclose computer software or computer software documentation outside the Government and authorize persons to whom release or disclosure has been made to use, modify, reproduce, release, perform, display, or disclose the software or documentation for United States government purposes.

(13) Minor modification means a modification that does not significantly alter the nongovernmental function or purpose of the software or is of the type customarily provided in the commercial marketplace.

(14) Noncommercial computer software means software that does not qualify as commercial computer software under paragraph (a)(1) of this clause.

(15) “Restricted rights” apply only to noncommercial computer software and mean the Government's rights to--

(i) Use a computer program with one computer at one time. The program may not be accessed by more than one terminal or central processing unit or time shared unless otherwise permitted by this contract;

(ii) Transfer a computer program to another Government agency without the further permission of the Contractor if the transferor destroys all copies of the program and related computer software documentation in its possession and notifies the licensor of the transfer. Transferred programs remain subject to the provisions of this clause;

(iii) Make the minimum number of copies of the computer software required for safekeeping (archive), backup, or modification purposes;

(iv) Modify computer software provided that the Government may--

(A) Use the modified software only as provided in paragraphs (a)(15)(i) and (iii) of this clause; and

(B) Not release or disclose the modified software except as provided in paragraphs (a)(15)(ii), (v), (vi), and (vii) of this clause;

(v) Permit contractors or subcontractors performing service contracts (see 37.101 of the Federal Acquisition Regulation) in support of this or a related contract to use computer software to diagnose and correct deficiencies in a computer program, to modify computer software to enable a computer program to be combined with, adapted to, or merged with other computer programs or when necessary to respond to urgent tactical situations, provided that--

(A) The Government notifies the party which has granted restricted rights that a release or disclosure to particular contractors or subcontractors was made;

(B) Such contractors or subcontractors are subject to the use and non-disclosure agreement at 227.7103-7 of the Defense Federal Acquisition Regulation Supplement (DFARS) or are Government contractors receiving access to the software for performance of a Government contract that contains the clause at DFARS 252.227-7025, Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends;

(C) The Government shall not permit the recipient to decompile, disassemble, or reverse engineer the software, or use software decompiled, disassembled, or reverse engineered by the Government pursuant to paragraph (a)(15)(iv) of this clause, for any other purpose; and

(D) Such use is subject to the limitations in paragraphs (a)(15)(i) through (iii) of this clause;

(vi) Permit contractors or subcontractors performing emergency repairs or overhaul of items or components of items procured under this or a related contract to use the computer software when necessary to perform the repairs or overhaul, or to modify the computer software to reflect the repairs or overhaul made, provided that--

(A) The intended recipient is subject to the use and non-disclosure agreement at DFARS 227.7103-7 or is a Government contractor receiving access to the software for performance of a Government contract that

contains the clause at DFARS 252.227-7025, Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends;

(B) The Government shall not permit the recipient to decompile, disassemble, or reverse engineer the software, or use software decompiled, disassembled, or reverse engineered by the Government pursuant to paragraph (a)(15)(iv) of this clause, for any other purpose; and

(C) Such use is subject to the limitations in paragraphs (a)(15)(i) through (iii) of this clause; and

(vii) Permit covered Government support contractors in the performance of covered Government support contracts that contain the clause at 252.227-7025, Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends, to use, modify, reproduce, perform, display, or release or disclose the computer software to a person authorized to receive restricted rights computer software, provided that—

(A) The Government shall not permit the covered Government support contractor to decompile, disassemble, or reverse engineer the software, or use software decompiled, disassembled, or reverse engineered by the Government pursuant to paragraph (a)(15)(iv) of this clause, for any other purpose; and

(B) Such use is subject to the limitations in paragraphs (a)(15)(i) through (iv) of this clause.

(16) Unlimited rights means rights to use, modify, reproduce, release, perform, display, or disclose computer software or computer software documentation in whole or in part, in any manner and for any purpose whatsoever, and to have or authorize others to do so.

(b) Rights in computer software or computer software documentation. The Contractor grants or shall obtain for the Government the following royalty free, world-wide, nonexclusive, irrevocable license rights in noncommercial computer software or computer software documentation. All rights not granted to the Government are retained by the Contractor.

(1) Unlimited rights. The Government shall have unlimited rights in--

(i) Computer software developed exclusively with Government funds;

(ii) Computer software documentation required to be delivered under this contract;

(iii) Corrections or changes to computer software or computer software documentation furnished to the Contractor by the Government;

(iv) Computer software or computer software documentation that is otherwise publicly available or has been released or disclosed by the Contractor or subcontractor without restriction on further use, release or disclosure, other than a release or disclosure resulting from the sale, transfer, or other assignment of interest in the software to another party or the sale or transfer of some or all of a business entity or its assets to another party;

(v) Computer software or computer software documentation obtained with unlimited rights under another Government contract or as a result of negotiations; or

(vi) Computer software or computer software documentation furnished to the Government, under this or any other Government contract or subcontract thereunder with--

(A) Restricted rights in computer software, limited rights in technical data, or government purpose license rights and the restrictive conditions have expired; or

(B) Government purpose rights and the Contractor's exclusive right to use such software or documentation for commercial purposes has expired.

(2) Government purpose rights. (i) Except as provided in paragraph (b)(1) of this clause, the Government shall have government purpose rights in computer software development with mixed funding.

(ii) Government purpose rights shall remain in effect for a period of five years unless a different period has been negotiated. Upon expiration of the five-year or other negotiated period, the Government shall have unlimited rights in the computer software or computer software documentation. The government purpose rights period shall commence upon execution of the contract, subcontract, letter contract (or similar contractual instrument), contract modification, or option exercise that required development of the computer software.

(iii) The Government shall not release or disclose computer software in which it has government purpose rights to any other person unless--

(A) Prior to release or disclosure, the intended recipient is subject to the use and non-disclosure agreement at DFARS 227.7103-7; or

(B) The recipient is a Government contractor receiving access to the software or documentation for performance of a Government contract that contains the clause at DFARS 252.227-7025, Limitations on the Use or Disclosure of Government Furnished Information Marked with Restrictive Legends.

(3) Restricted rights. (i) The Government shall have restricted rights in noncommercial computer software required to be delivered or otherwise provided to the Government under this contract that were developed exclusively at private expense.

(ii) The Contractor, its subcontractors, or suppliers are not required to provide the Government additional rights in noncommercial computer software delivered or otherwise provided to the Government with restricted rights. However, if the Government desires to obtain additional rights in such software, the Contractor agrees to promptly enter into negotiations with the Contracting Officer to determine whether there are acceptable terms for transferring such rights. All noncommercial computer software in which the Contractor has granted the Government additional rights shall be listed or described in a license agreement made part of the contract (see paragraph (b)(4) of this clause). The license shall enumerate the additional rights granted the Government.

(iii) The Contractor acknowledges that--

(A) Restricted rights computer software is authorized to be released or disclosed to covered Government support contractors;

(B) The Contractor will be notified of such release or disclosure;

(C) The Contractor (or the party asserting restrictions, as identified in the restricted rights legend) may require each such covered Government support contractor to enter into a non-disclosure agreement directly with the Contractor (or the party asserting restrictions) regarding the covered Government support contractor's use of such software, or alternatively, that the Contractor (or party asserting restrictions) may waive in writing the requirement for a non-disclosure agreement; and

(D) Any such non-disclosure agreement shall address the restrictions on the covered Government support contractor's use of the restricted rights software as set forth in the clause at 252.227-7025, Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends. The non-disclosure

agreement shall not include any additional terms and conditions unless mutually agreed to by the parties to the non-disclosure agreement.

(4) Specifically negotiated license rights. (i) The standard license rights granted to the Government under paragraphs (b)(1) through (b)(3) of this clause, including the period during which the Government shall have government purpose rights in computer software, may be modified by mutual agreement to provide such rights as the parties consider appropriate but shall not provide the Government lesser rights in computer software than are enumerated in paragraph (a)(15) of this clause or lesser rights in computer software documentation than are enumerated in paragraph (a)(14) of the Rights in Technical Data--Noncommercial Items clause of this contract.

(ii) Any rights so negotiated shall be identified in a license agreement made part of this contract.

(5) Prior government rights. Computer software or computer software documentation that will be delivered, furnished, or otherwise provided to the Government under this contract, in which the Government has previously obtained rights shall be delivered, furnished, or provided with the pre-existing rights, unless--

(i) The parties have agreed otherwise; or

(ii) Any restrictions on the Government's rights to use, modify, reproduce, release, perform, display, or disclose the data have expired or no longer apply.

(6) Release from liability. The Contractor agrees to release the Government from liability for any release or disclosure of computer software made in accordance with paragraph (a)(15) or (b)(2)(iii) of this clause, in accordance with the terms of a license negotiated under paragraph (b)(4) of this clause, or by others to whom the recipient has released or disclosed the software, and to seek relief solely from the party who has improperly used, modified, reproduced, released, performed, displayed, or disclosed Contractor software marked with restrictive legends.

(c) Rights in derivative computer software or computer software documentation. The Government shall retain its rights in the unchanged portions of any computer software or computer software documentation delivered under this contract that the Contractor uses to prepare, or includes in, derivative computer software or computer software documentation.

(d) Third party copyrighted computer software or computer software documentation. The Contractor shall not, without the written approval of the Contracting Officer, incorporate any copyrighted computer software or computer software documentation in the software or documentation to be delivered under this contract unless the Contractor is the copyright owner or has obtained for the Government the license rights necessary to perfect a license or licenses in the deliverable software or documentation of the appropriate scope set forth in paragraph (b) of this clause, and prior to delivery of such--

(1) Computer software, has provided a statement of the license rights obtained in a form acceptable to the Contracting Officer; or

(2) Computer software documentation, has affixed to the transmittal document a statement of the license rights obtained.

(e) Identification and delivery of computer software and computer software documentation to be furnished with restrictions on use, release, or disclosure. (1) This paragraph does not apply to restrictions based solely on copyright.

(2) Except as provided in paragraph (e)(3) of this clause, computer software that the Contractor asserts should be furnished to the Government with restrictions on use, release, or disclosure is identified in an attachment to this contract (the Attachment). The Contractor shall not deliver any software with restrictive markings unless the software is listed on the Attachment.

(3) In addition to the assertions made in the Attachment, other assertions may be identified after award when based on new information or inadvertent omissions unless the inadvertent omissions would have materially affected the source selection decision. Such identification and assertion shall be submitted to the Contracting Officer as soon as practicable prior to the scheduled data for delivery of the software, in the following format, and signed by an official authorized to contractually obligate the Contractor: Identification and Assertion of Restrictions on the Government's Use, Release, or Disclosure of Computer Software.

The Contractor asserts for itself, or the persons identified below, that the Government's rights to use, release, or disclose the following computer software should be restricted:

Computer Software to be Fur- Basis for Asserted Rights Name of Person Asserting

nished With Restrictions \* Assertion \*\* Category \*\*\* Restrictions \*\*\*\*

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\* Generally, development at private expense, either exclusively or partially, is the only basis for asserting restrictions on the Government's rights to use, release, or disclose computer software.

\*\* Indicate whether development was exclusively or partially at private expense. If development was not a private expense, enter the specific reason for asserting that the Government's rights should be restricted.

\*\*\* Enter asserted rights category (e.g., restricted or government purpose rights in computer software, government purpose license rights a prior contract, rights in SBIR software generated under another contract, or specifically negotiated licenses).

\*\*\*\* Corporation, individual, or other person, as appropriate.

Date

Printed Name and Title

Signature

End of identification and assertion)

(4) When requested by the Contracting Officer, the Contractor shall provide sufficient information to enable the Contracting Officer to evaluate the Contractor's assertions. The Contracting Officer reserves the right to add the Contractor's assertions to the Attachment and validate any listed assertion, at a later date, in accordance with the procedures of the Validation of Asserted Restrictions--Computer Software clause of this contract.

(f) Marking requirements. The Contractor, and its subcontractors or suppliers, may only assert restrictions on the Government's rights to use, modify, reproduce, release, perform, display, or disclose computer software by marking the deliverable software or documentation subject to restriction. Except as provided in paragraph (f)(5) of this clause, only the following legends are authorized under this contract; the government purpose rights legend at paragraph (f)(2) of this clause; the restricted rights legend at paragraph (f)(3) of this clause; or the special license rights legend at paragraph (f)(4) of this clause; and/or a notice of copyright as prescribed under 17 U.S.C. 401 or 402.

(1) General marking instructions. The Contractor, or its subcontractors or suppliers, shall conspicuously and legibly mark the appropriate legend on all computer software that qualify for such markings. The authorized legends shall be placed on the transmitted document or software storage container and each page, or portions thereof, of printed material containing computer software for which restrictions are asserted. Computer software transmitted directly from one computer or computer terminal to another shall contain a notice of asserted restrictions. However, instructions that interfere with or delay the operation of computer software in order to display a restrictive rights legend or other license statement at any time prior to or during use of the computer software, or otherwise cause such interference or delay, shall not be inserted in software that will or might be used in combat or situations that simulate combat conditions, unless the Contracting Officer's written permission to deliver such software has been obtained prior to delivery. Reproductions of computer software or any portions thereof subject to asserted restrictions, shall also reproduce the asserted restrictions.

(2) Government purpose rights markings. Computer software delivered or otherwise furnished to the Government with government purpose rights shall be marked as follows:

GOVERNMENT PURPOSE RIGHTS

Contract No.

Contractor Name

Contractor Address

Expiration Date

The Government's rights to use, modify, reproduce, release, perform, display, or disclose this software are restricted by paragraph (b)(2) of the Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation clause contained in the above identified contract. No restrictions apply after the expiration date shown above. Any reproduction of the software or portions thereof marked with this legend must also reproduce the markings.

(End of legend)

(3) Restricted rights markings. Software delivered or otherwise furnished to the Government with restricted rights shall be marked with the following legend:

RESTRICTED RIGHTS

Contract No.

Contractor Name

Contractor Address

The Government's rights to use, modify, reproduce, release, perform, display, or disclose this software are restricted by paragraph (b)(3) of the Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation clause contained in the above identified contract. Any reproduction of computer software or portions thereof marked with this legend must also reproduce the markings. Any person, other than the Government, who has been provided access to such software must promptly notify the above named Contractor.

(End of legend)

(4) Special license rights markings. (i) Computer software or computer documentation in which the Government's rights stem from a specifically negotiated license shall be marked with the following legend:

SPECIAL LICENSE RIGHTS

The Government's rights to use, modify, reproduce, release, perform, display, or disclose this software are restricted by Contract No.       (Insert contract number)      , License No.      (Insert license identifier)       Any reproduction of computer software, computer software documentation, or portions thereof marked with this legend must also reproduce the markings.

(End of legend)

(ii) For purposes of this clause, special licenses do not include government purpose license rights acquired under a prior contract (see paragraph (b)(5) of this clause).

(5) Pre-existing markings. If the terms of a prior contract or license permitted the Contractor to restrict the Government's rights to use, modify, release, perform, display, or disclose computer software or computer software documentation and those restrictions are still applicable, the Contractor may mark such software or documentation with the appropriate restrictive legend for which the software qualified under the prior contract or license. The marking procedures in paragraph (f)(1) of this clause shall be followed.

(g) Contractor procedures and records. Throughout performance of this contract, the Contractor and its subcontractors or suppliers that will deliver computer software or computer software documentation with other than unlimited rights, shall--

(1) Have, maintain, and follow written procedures sufficient to assure that restrictive markings are used only when authorized by the terms of this clause; and

(2) Maintain records sufficient to justify the validity of any restrictive markings on computer software or computer software documentation delivered under this contract.

(h) Removal of unjustified and nonconforming markings. (1) Unjustified computer software or computer software documentation markings. The rights and obligations of the parties regarding the validation of restrictive markings on computer software or computer software documentation furnished or to be furnished under this contract are contained in the Validation of Asserted Restrictions--Computer Software and the Validation of Restrictive Markings on Technical Data clauses of this contract, respectively. Notwithstanding any provision of this contract concerning inspection and acceptance, the Government may ignore or, at the Contractor's expense, correct or strike a marking if, in accordance with the procedures of those clauses, a restrictive marking is determined to be unjustified.

(2) Nonconforming computer software or computer software documentation markings. A nonconforming marking is a marking placed on computer software or computer software documentation delivered or otherwise furnished to the Government under this contract that is not in the format authorized by this contract. Correction of nonconforming markings is not subject to the Validation of Asserted Restrictions--Computer Software or the Validation of Restrictive Markings on Technical Data clause of this contract. If the Contracting Officer notifies the Contractor of a nonconforming marking or markings and the Contractor fails to remove or correct such markings within sixty (60) days, the Government may ignore or, at the Contractor's expense, remove or correct any nonconforming markings.

(i) Relation to patents. Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(j) Limitation on charges for rights in computer software or computer software documentation. (1) The Contractor shall not charge to this contract any cost, including but not limited to license fees, royalties, or similar charges, for rights in computer software or computer software documentation to be delivered under this contract when--

(i) The Government has acquired, by any means, the same or greater rights in the software or documentation; or

(ii) The software or documentation are available to the public without restrictions.

(2) The limitation in paragraph (j)(1) of this clause--

(i) Includes costs charged by a subcontractor or supplier, at any tier, or costs incurred by the Contractor to acquire rights in subcontractor or supplier computer software or computer software documentation, if the subcontractor or supplier has been paid for such rights under any other Government contract or under a license conveying the rights to the Government; and

(ii) Does not include the reasonable costs of reproducing, handling, or mailing the documents or other media in which the software or documentation will be delivered.

(k) Applicability to subcontractors or suppliers. (1) Whenever any noncommercial computer software or computer software documentation is to be obtained from a subcontractor or supplier for delivery to the Government under this contract, the Contractor shall use this same clause in its subcontracts or other contractual instruments, and require its subcontractors or suppliers to do so, without alteration, except to identify the parties. No other clause shall be used to enlarge or diminish the Government's, the Contractor's, or a higher tier subcontractor's or supplier's rights in a subcontractor's or supplier's computer software or computer software documentation.

(2) The Contractor and higher tier subcontractors or suppliers shall not use their power to award contracts as economic leverage to obtain rights in computer software or computer software documentation from their subcontractors or suppliers.

(3) The Contractor shall ensure that subcontractor or supplier rights are recognized and protected in the identification, assertion, and delivery processes required by paragraph (e) of this clause.

(4) In no event shall the Contractor use its obligation to recognize and protect subcontractor or supplier rights in computer software or computer software documentation as an excuse for failing to satisfy its contractual obligation to the Government.

**252.227-7028 TECHNICAL DATA OR COMPUTER SOFTWARE PREVIOUSLY DELIVERED TO THE GOVERNMENT  
(JUN 1995)**

The Offeror shall attach to its offer an identification of all documents or other media incorporating technical data or computer software it intends to deliver under this contract with other than unlimited rights that are identical or substantially similar to documents or other media that the Offeror has produced for, delivered to, or is obligated to deliver to the Government under any contract or subcontract. The attachment shall identify--

(a) The contract number under which the data or software were produced;

(b) The contract number under which, and the name and address of the organization to whom, the data or software were most recently delivered or will be delivered; and

(c) Any limitations on the Government's rights to use or disclose the data or software, including, when applicable, identification of the earliest date the limitations expire.

**252.234-7002 EARNED VALUE MANAGEMENT SYSTEM (Deviation 2015-O0017) (SEPT 2015)**

***\*\*(Government to complete at contract award)***

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

Acceptable earned value management system means an earned value management system that generally complies with system criteria in paragraph (b) of this clause.

Earned value management system means an earned value management system that complies with the earned value management system guidelines in the ANSI/EIA-748.

Significant deficiency means a shortcoming in the system that materially affects the ability of officials of the Department of Defense to rely upon information produced by the system that is needed for management purposes.

(b) System criteria. In the performance of this contract, the Contractor shall use--

(1) An Earned Value Management System (EVMS) that complies with the EVMS guidelines in the American National Standards Institute/Electronic Industries Alliance Standard 748, Earned Value Management Systems (ANSI/EIA-748); and

(2) Management procedures that provide for generation of timely, reliable, and verifiable information for the Contract Performance Report (CPR) and the Integrated Master Schedule (IMS) required by the CPR and IMS data items of this contract.

(c) If this contract has a value of $100 million or more, the Contractor shall use an EVMS that has been determined to be acceptable by the Cognizant Federal Agency (CFA). If, at the time of award, the Contractor's EVMS has not been determined by the CFA to be in compliance with the EVMS guidelines as stated in paragraph (b)(1) of this clause, the Contractor shall apply its current system to the contract and shall take necessary actions to meet the milestones in the Contractor's EVMS plan.

(d) If this contract has a value of less than $100 million, the Government will not make a formal determination that the Contractor's EVMS complies with the EVMS guidelines in ANSI/EIA-748 with respect to the contract. The use of the Contractor's EVMS for this contract does not imply a Government determination of the Contractor's compliance with the EVMS guidelines in ANSI/EIA-748 for application to future contracts. The Government will allow the use of a Contractor's EVMS that has been formally reviewed and determined by the CFA to be in compliance with the EVMS guidelines in ANSI/EIA-748.

(e) The Contractor shall submit notification of any proposed substantive changes to the EVMS procedures and the impact of those changes to the CFA. If this contract has a value of $100 million or more, unless a waiver is granted by the CFA, any EVMS changes proposed by the Contractor require approval of the CFA prior to implementation. The CFA will advise the Contractor of the acceptability of such changes as soon as practicable (generally within 30 calendar days) after receipt of the Contractor's notice of proposed changes. If the CFA waives the advance approval requirements, the Contractor shall disclose EVMS changes to the CFA at least 14 calendar days prior to the effective date of implementation.

(f) The Government will schedule integrated baseline reviews as early as practicable, and the review process will be conducted not later than 180 calendar days after--

(1) Contract award;

(2) The exercise of significant contract options; and

(3) The incorporation of major modifications.

During such reviews, the Government and the Contractor will jointly assess the Contractor's baseline to be used for performance measurement to ensure complete coverage of the statement of work, logical scheduling of the work activities, adequate resourcing, and identification of inherent risks.

(g) The Contractor shall provide access to all pertinent records and data requested by the Contracting Officer or duly authorized representative as necessary to permit Government surveillance to ensure that the EVMS complies, and continues to comply, with the performance criteria referenced in paragraph (b) of this clause.

(h) When indicated by contract performance, the Contractor shall submit a request for approval to initiate an over-target baseline or over-target schedule to the Contracting Officer. The request shall include a top-level projection of cost and/or schedule growth, a determination of whether or not performance variances will be retained, and a schedule of implementation for the rebaselining. The Government will acknowledge receipt of the request in a timely manner (generally within 30 calendar days).

(i) Significant deficiencies.

(1) The Contracting Officer will provide an initial determination to the contractor, in writing, on any significant deficiencies. The initial determination will describe the deficiency in sufficient detail to allow the Contractor to understand the deficiency.

(2) The Contractor shall respond within 30 days to a written initial determination from the Contracting Officer that identifies significant deficiencies in the Contractor's EVMS. If the Contractor disagrees with the initial determination, the Contractor shall state, in writing, its rationale for disagreeing.

(3) The Contracting Officer will evaluate the Contractor's response and notify the Contractor, in writing, of the Contracting Officer's final determination concerning--

(i) Remaining significant deficiencies;

(ii) The adequacy of any proposed or completed corrective action;

(iii) System noncompliance, when the Contractor's existing EVMS fails to comply with the earned value management system guidelines in the ANSI/EIA-748; and

(iv) System disapproval, if initial EVMS validation is not successfully completed within the timeframe approved by the Contracting Officer, or if the Contracting Officer determines that the Contractor's earned value management system contains one or more significant deficiencies in high-risk guidelines in ANSI/EIA-748 standards (guidelines 1, 3, 6, 7, 8, 9, 10, 12, 16, 21, 23, 26, 27, 28, 30, or 32). When the Contracting Officer determines that the existing earned value management system contains one or more significant deficiencies in one or more of the remaining 16 guidelines in ANSI/EIA-748 standards, the contracting officer will use discretion to disapprove the system based on input received from functional specialists and the auditor.

(4) If the Contractor receives the Contracting Officer's final determination of significant deficiencies, the Contractor shall, within 45 days of receipt of the final determination, either correct the significant deficiencies or submit an acceptable corrective action plan showing milestones and actions to eliminate the significant deficiencies.

(j) Withholding payments. If the Contracting Officer makes a final determination to disapprove the Contractor's EVMS, and the contract includes the clause at 252.242-7005, Contractor Business Systems, the Contracting Officer will withhold payments in accordance with that clause.

(k) With the exception of paragraphs (i) and (j) of this clause, the Contractor shall require its subcontractors to comply with EVMS requirements as follows:

(1) For subcontracts valued at $100 million or more, the following subcontractors shall comply with the requirements of this clause:

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(2) For subcontracts valued at less than $100 million, the following subcontractors shall comply with the requirements of this clause, excluding the requirements of paragraph (c) of this clause:

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