**NATIONAL STEEL AND SHIPBUILDING COMPANY**

SPECIAL TERMS AND CONDITIONS

**T-AO(X) Studies**

**N00024-13-R-2203**

Rev 0 October 11, 2013

**PRIME CONTRACT CLAUSES – N00024-13-R-2203**

The following clauses are flowed down from Buyer to Seller pursuant to the requirements of Buyer’s prime Contract with the Government.

## DEFINITIONS

The following terms will have the meanings indicated in each of the following clauses as modified. Note that 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, whether the terms are capitalized or appears in lower case form.* The defined terms in the MILGEN terms apply to this document.

**Section A – Solicitation/Contract Form** – DO-A3 rating applies.

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

**Section C – Descriptions and Specifications**

**SCOPE OF WORK** – See the Specification.

C-1 ACCESS TO PROPRIETARY DATA OR COMPUTER SOFTWARE (NAVSEA) (JUN 1994) [Modified by NASSCO]

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 NASSCO so that NASSCO can provide a copy to the Government’s Contracting Officer as required under the terms of NASSCO’s prime Contract. The Government may unilaterally modify the Contract to list those third parties with which Seller has agreement(s).
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 NASSCO 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 NASSCO 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 NASSCO of any attempt by an individual, company, or NASSCO or Government representative 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 individual, company, or NASSCO or Government representative 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.

**C-2 CONTRACTOR SAFETY AND HEALTH REQUIREMENTS FOR ACCESS TO NAVSEA/PEO SITE**

**(NAVSEA) (MAY 2012)** [*Modified by NASSCO*]

(a) Seller must comply with all badging and security procedures required to gain access to any NAVSEA/PEO site. Contact NASSCO for specific requirements.

(b) Seller must adhere to the requirements of 29 CFR 1910, 29 CFR 1926 and applicable state and local requirements while in NAVSEA/PEO government spaces. In the event of any injury on site, Seller shall notify SEA 04RS, Safety Office, via the COR.

(c) NAVSEA/PEO site facilities are low to mid-rise buildings with elevators and a contractor operated restaurant facility in building 197. Utility areas, electrical/phone closets and the roof are generally secured areas with restricted access. NAVSEA/PEO HQ sites generally exhibit low hazards with no personal protection equipment (PPE) requirements. Hazards are those typically found in an office environment. Slips, trips and falls on wet/icy surfaces, pest control, and ergonomic concerns are the primary hazards. It is expected that employees of the Seller will have received training from the Seller on hazards associated with the areas in which they will be working and know what to do in order to protect themselves.

(d) If the Seller’s employees perform work within NAVSEA/PEO government spaces in excess of 1000 hours per calendar quarter during a calendar year shall, then the Seller shall submit the data elements on OSHA Form 300A, Summary of Work Related Injuries and Illnesses, for those employees to NASSCO so that NASSCO can fulfill its submission requirements to the Contracting Officer’s Representative by 15 January for the previous calendar year, even if no work related injuries or illnesses occurred.

(e) Any employee of the Seller exhibiting unsafe behavior may be removed from the NAVSEA/PEO site. Such removal shall not relieve the Seller from meeting its contractual obligations and shall not be considered an excusable delay as defined in FAR 52.249-14.

**C-3 INFORMATION ASSURANCE CONTRACTOR REQUIREMENTS** [*Modified by NASSCO*]

The Seller in the performance of the requirements herein is required to be a basic user of Department of Defense (DoD)/Department of the Navy (DoN) unclassified information systems. All employees of the Seller accessing DoD/DoN information systems shall be a United States (US) citizen, shall have a fully adjudicated DoN Washington Headquarters Services Central Adjudication Facility (CAF) background investigation (National Agency Check with Local Agency Check (NACLC) and credit check), and complete Defense Information Systems Agency’s (DISA’s) DoD Information Assurance (IA) Awareness Computer Based Training (CBT). After initial training and access to DoD/DoN information systems, annual refresher training using the DISA DoD IA Awareness CBT is required. The Seller shall provide to NASSCO so that NASSCO can fulfill its obligations to provide to the Government on request the records showing that employees accessing DoD/DoN information systems have the required background checks and have completed the IA training requirements.

**C-4 INFORMATION AND DATA FURNISHED BY THE GOVERNMENT ALTERNATIVE II (NAVSEA) (SEP 2009)****[***Modified by NASSCO***]**

1. Contract Specifications. NASSCO will furnish the Specifications applicable to the Contract Work.
2. Contract Drawings and Data. NASSCO will furnish Contract drawings, and other Government technical documentation cited in the Contract Specification as mandatory for use or for Contract performance.
3. Government Furnished Information (GFI). The Government shall furnish only the GFI identified on the NAVSEA Form 4340/2. The GFI furnished 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: (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).

**C-5 PUBLIC RELEASE****[***Modified by NASSCO***]**

Any information pertaining to this contract shall not be released for public dissemination except as provided by the Industrial Security Manual or unless it has been approved for public release through the appropriate U.S. Government authority. NASSCO will communicate with the Seller when approval has been received from the appropriate U.S. Government authority. Security classification Guides (OPNAVINST 5513 series) and unclassified limited documents (e.g., FOUO, Distribution Statement Controlled) are not authorized for public release, therefore, they cannot be posted on a publicly accessible webserver or transmitted over the internet unless appropriately encrypted

**C-6 UPDATING SPECIFICATIONS AND STANDARDS (NAVSEA) (AUG 1994) [***Modified by NASSCO***]**

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 NASSCO for approval. Seller shall perform the Contract in accordance with the existing Specifications and standards until notified of approval/disapproval by NASSCO. Any approved alternate Specifications or standards will be incorporated into the Contract.

**Section D - Packaging and Marking**

Data to be delivered by Integrated Digital Environment (IDE) or other electronic media shall be as specified in the Contract. All unclassified data to be shipped shall be prepared for shipment in accordance with best commercial practice. Classified reports, data, and documentation shall be prepared for shipment in accordance with the National Industrial Security Program Operating Manual (NISPOM), DOD 5220.22-M dated 28 February 2006.

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

52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

|  |  |  |
| --- | --- | --- |
| 52.246-2  | Inspection Of Supplies--Fixed Price  | AUG 1996  |
| 52.246-4  | Inspection Of Services--Fixed Price  | AUG 1996  |
| 52.246-16  | Responsibility For Supplies  | APR 1984  |

**Section F - Deliveries or Performance**

**CLAUSES INCORPORATED BY REFERENCE**

|  |  |  |
| --- | --- | --- |
| 52.242-15  | Stop-Work Order  | AUG 1989  |

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

**Section H - Special Contract Requirements**

**H-3 NAVSEA 5252.202-9101 ADDITIONAL DEFINITIONS (MAY 1993)**

As used throughout this Contract, the following terms shall have the meaning set forth below:

1. DEPARTMENT means the Department of the Navy.
2. REFERENCES TO THE FEDERAL ACQUISITION REGULATION (FAR): All references to the FAR in this Contract shall be deemed to also reference the appropriate sections of the Defense FAR Supplement (DFARS), unless clearly indicated otherwise.
3. REFERENCES TO ARMED SERVICES PROCUREMENT REGULATION OR DEFENSE ACQUISITION REGULATION. All references in this document to either the Armed Services Procurement Regulation (ASPR) or the Defense Acquisition Regulation (DAR) shall be deemed to be references to the appropriate sections of the FAR/DFARS.
4. NATIONAL STOCK NUMBERS. Whenever the term Federal Item Identification Number and its acronym FIIN or the term Federal Stock Number and its acronym FSN appear in the Contract, order or their cited specifications and standards, the terms and acronyms shall be interpreted as National Item Identification Number (NIIN) and National Stock Number (NSN) respectively which shall be defined as follows: (1) National Item Identification Number (NIIN). The number assigned to each approved Item Identification under the Federal Cataloging Program. It consists of nine numeric characters, the first two of which are the National Codification Bureau (NCB) Code. The remaining positions consist of a seven digit non-significant number. (2) National Stock Number (NSN). The National Stock Number (NSN) for an item of supply consists of the applicable four position Federal Supply Class (FSC) plus the applicable nine position NIIN assigned to the item of supply.

# **H-5 5252.243-9105 NOTIFICATION OF CHANGES (FT) – ALTERNATIVE I (JAN 1983)** [*Modified by NASSCO*]

1. Definitions. As used in this requirement, the term “Contracting Officer” does not include any representative of the Government’s Contracting Officer or NASSCO’s Procurement Representative 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 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 requirement of this Contract.
2. Notice. The primary purpose of this requirement is to obtain prompt reporting of any conduct which 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. NASSCO is under strict authorized work requirements in the prime Contract. Therefore, except for changes identified as such in writing and signed by the NASSCO, Seller not authorized to proceed without an approved change order from NASSCO’s Procurement Representative. Furthermore, Seller shall notify NASSCO’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 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 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.
3. 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 NASSCO in writing as provided in (d) below, unless the potential change was previously directed by NASSCO in writing, 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 NASSCO.
4. NASSCO Response. NASSCO shall promptly, and in any event within 21 calendar days after receipt of Seller’s notice, respond thereto in writing. In such response, NASSCO shall either: (i) Confirm that the conduct of which Seller gave notice would constitute a change, and when necessary, direct the mode of further performance, or; (ii) Countermand any conduct regarded by Seller as a change, or; (iii) Deny that the conduct of which Seller gave notice would constitute a change and, when necessary, direct the mode of further performance, or; (iv) 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 NASSCO’s Procurement Representative to respond within the time required above shall be deemed a countermand under (d)(ii).
5. Equitable Adjustments. Equitable adjustments for changes confirmed or countermanded by NASSCO 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.
6. Special Procedures. Paragraph (c) provides that Seller is to take no action to implement a potential change pending NASSCO’s Procurement Representative’s response to Seller’s notice of the potential change, except where specifically directed by NASSCO’s Procurement Representative. In special situations, however, where (1) The circumstances do not allow sufficient time to notify NASSCO’s Procurement Representative of the facts prior to the need to proceed with the Contract Work; and (2) The Contract Work must proceed to avoid hazards to personnel or property or to avoid additional cost to NASSCO or the Government, and then Seller may proceed with work in accordance with the potential change. In such special situations, Seller shall advise NASSCO’s Procurement Representative in writing within 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 30 calendar days of the conduct giving rise to the potential change, Seller shall provide notice as required in (b) above. NASSCO’s Procurement Representative shall respond as set forth in (d) above. If NASSCO’s Procurement Representative 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 the performance resulting from the countermand.
7. When Seller identifies any conduct which may result in delay to delivery of the ship(s), Seller shall promptly so inform NASSCO’s Procurement Representative thereof prior to providing the notice required by paragraph (b) above.
8. Despite good faith best efforts, occasions may arise in which Seller does not provide notice within the time periods specified in paragraphs (b) and (f) above. Accordingly, prior to the end of the first and third quarters of each calendar year through the period of performance of the Contract, beginning with the \_\_\_\_\_\_quarter of 201\_, Seller shall deliver to NASSCO an executed bilateral Contract modification, in the format set forth in Exhibit “A” to this requirement, covering the 6 month period of time ending with the second and fourth quarters, respectively, of the preceding year, with such specific exceptions, if any, as are identified by Seller. If the Seller cites specific exceptions to the release, the Seller shall concurrently provide NASSCO’s Procurement Representative with notice, containing the information set forth in paragraph (b) of this requirement, for each item excepted from the release. However, the release required by this requirement shall not make unallowable any costs which are otherwise allowable under any other requirement of this Contract. Within 60 days of receipt of the release, the NASSCO Procurement Representative shall sign and return a copy of the release to the Seller. If NASSCO’s Procurement Representative fails to execute and return the release within the required time, then the release shall be deemed to be void and of no effect for the period involved.
9. If the release in accordance with paragraph (h) above is not provided to NASSCO’s Procurement Representative by the Seller in the time required, NASSCO’s Procurement Representative may execute the release as set forth in Exhibit “A” and send it to the Seller. If the Seller fails to execute the release and return it to NASSCO’s Procurement Representative (with any specific exceptions) within 60 days of receipt thereof, the required release shall then be deemed effective as if signed by the Seller.

Exhibit “A” to the Requirement entitled “NOTIFICATION OF CHANGES”. This modification reflects the agreement of the parties to the mutual full and final releases for the consequences of that conduct (as conduct is defined in the requirement entitled “NOTIFICATION OF CHANGES”), described below, except the conduct identified in Attachment A hereto is excluded and not covered by the terms of this release.

1. Except for the conduct listed in Attachment A by either party, neither the Seller nor NASSCO shall be entitled to any equitable adjustment or to money damages and/or other relief for any conduct, as specified below.
2. In consideration of the foregoing the parties hereby agree to the following release:
3. NASSCO, for itself, its assigns, vendors, suppliers, and contractors, hereby remises, releases, and forever discharges the Seller, its officers, agents and employees from any and all entitlement of NASSCO to equitable adjustment of the Contract cost and fee and delivery schedule due to conduct under this Contract, which occurred on or before TBD.
4. The Seller, for itself, its successors, assigns, vendors, suppliers, and subcontractors, hereby remises, releases and forever discharges NASSCO, its officers, agents and employees from (i) any and all entitlement of the Seller to equitable adjustment of the Contract cost and fee and/or delivery schedule of this Contract or of any other NASSCO Contract (with this or any other contractor) or any Contract between the Seller and any third party by reason of any conduct which increases the Seller’s cost or time of performance of work under this Contract and meets the following conditions (1) known to the Seller, (2) occurred on or before TBD, and (3) the Seller failed to give notice prior to date of this release, and (ii) any and all liabilities to the Seller for money damages and/or other relief for the impact of any such conduct, upon this Contract or any other NASSCO Contract (with this or any other Seller) or any Contract between the Seller and any third party.

**Section I - Contract Clauses**

In interpreting the requirements of these clauses, “Contracting Officer” should be considered to be NASSCO’s Purchasing Representative and “Government” should be considered to be NASSCO, 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.

52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998) [Modified by NASSCO]

This Contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. The full text of a clause may be accessed electronically at this/these address(es):

FAR Clauses & Provisions: <http://farsite.hill.af.mil/vffara.htm> DFARS Clauses & Provisions: <http://farsite.hill.af.mil/vfdfara.htm> NMCARS Clauses & Provisions: <http://farsite.hill.af.mil/vfnapsa.htm>

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

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

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

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

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

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

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

**Note 7 – Insert “or NASSCO Procurement Representative” after “Contracting officer”.**

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

**NUMBER TITLE DATE & NOTE**

52.204-4 PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER MAY 2011

*Note 3 applies to paragraph (b).*

52.204-10 REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACTOR AWARDS AUG 2012

*Applies if Seller meets the first tier subcontract threshold of $25,000 by the end of the month following the month of award.*

*Note 5 applies. Seller is required to submit data to NASSCO when it is a first-tier subcontractor so that NASSCO can fulfill its reporting obligations.*

52.204-12 DATA UNIVERSAL NUMBERINS SYSTEM NUMBER MAINTENANCE DEC 2012

52.212-4 CONTRACT TERMS AND CONDITIONS – COMERCIAL ITEMS FEB 2012

*Note 5 applies.*

52.222-50 COMBATING TRAFFICKING IN PERSONS FEB 2009

*Note 5 applies except in (e) where Note 4 applies.*

52.233-4 APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM OCT 2004

252.204-7003 CONTROL OF GOVERNMENT PERSONNEL WORK PRODUCT APR 1992

252.204-7008 EXPORT-CONTROLLED ITEMS APR 2010

252.211-7008 USE OF GOVERNMENT-ASSIGNED SERIAL NUMBERS SEP 2010

252.223-7001 HAZARD WARNING LABELS DEC 1991

252.227-7016 RIGHTS IN BID OR PROPOSAL INFORMATION JAN 2011

**CLAUSES INCORPORATED BY FULL TEXT**

**52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS--COMMERCIAL ITEMS (JAN 2013) (*Modified by NASSCO*)**

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

52.222-50, Combating Trafficking in Persons (FEB 2009) (22 U.S.C. 7104(g)).

52.233-3, Protest After Award (AUG 1996) (31 U.S.C. 3553).

*Applicable when NASSCO receives a notice of protest*

52.233-4, Applicable Law for Breach of Contract Claim (OCT 2004) (Pub. L. 108-77, 108-78).

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

52.203-6, Restrictions on Subcontractor Sales to the Government (Sept 2006), with Alternate I (Oct 1995) (41 U.S.C. 253g and 10 U.S.C. 2402).

52.203-13, Contractor Code of Business Ethics and Conduct (Apr 2010) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)).

52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards (Aug 2012) (Pub. L. 109-282) (31 U.S.C. 6101 note).

52.209-6, Protecting the Government’s Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (Dec 2010) (31 U.S.C. 6101 note).

52.209-9, Updates of Publicly Available Information Regarding Responsibility Matters (Feb 2012) (41 U.S.C. Section 2313).

52.219-8, Utilization of Small Business Concerns (Jan 2011) (15 U.S.C. 637(d)(2) and (3)).

52.219-9, Small Business Subcontracting Plan (Jan 2011) (15 U.S.C. 637(d)(4)).

52.219-14, Limitations on Subcontracting (NOV 2011) (15 U.S.C. 637(a)(14)).

52.219-28, Post Award Small Business Program Representation (Apr 2012) (15 U.S.C. 632(a)(2)).

52.222-3, Convict Labor (June 2003) (E.O. 11755).

52.222-19, Child Labor—Cooperation with Authorities and Remedies (MAR 2012) (E.O. 3126).

52.222-21, Prohibition of Segregated Facilities (Feb 1999).

52.222-26, Equal Opportunity (Mar 2007) (E.O. 11246).

52.222-35, Equal Opportunity for Veterans (Sep 2010)(38 U.S.C. 4212).

52.222-36, Affirmative Action for Workers with Disabilities (Oct 2010) (29 U.S.C. 793).

52.222-37, Employment Reports on Veterans (Sep 2010) (38 U.S.C. 4212).

52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496).

52.223-18, Encouraging Contractor Policies to Ban Text Messaging While Driving (Aug 2011) (E.O. 13513).

52.225-1, Buy American Act—Supplies (Feb 2009) (41 U.S.C. 10a-10d).

52.225-5, Trade Agreements (NOV 2012) (19 U.S.C. 2501, et seq., 19 U.S.C. 3301 note).

52.225-13, Restrictions on Certain Foreign Purchases (June 2008) (E.O.s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx. 1241(b) and 10 U.S.C. 2631).

(c) Comptroller General Examination of Record. The Contractor shall comply with the provisions of this paragraph (c) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, Audit and Records--Negotiation.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(d) (1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c), and of clause 52.212-5, the Contractor is not required to flow down any FAR clause, other than those in this paragraph (d)(1)in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause—

(i) 52.203-13, Contractor Code of Business Ethics and Conduct (APR 2010) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note).

(ii) 52.219-8, Utilization of Small Business Concerns (DEC 2010) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds $650,000 ($1.5 million for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(iii) 52.222-17, Non-displacement of Qualified Workers (JAN 2013) (E.O. 13495). Flow down required in accordance with paragraph (l) of FAR clause 52.222-17.

(iv) 52.222-26, Equal Opportunity (MAR 2007) (E.O. 11246).

(v) 52.222-35, Equal Opportunity for Veterans (SEP 2010) (38 U.S.C. 4212).

(vi) 52.222-36, Affirmative Action for Workers with Disabilities (OCT 1998) (29 U.S.C. 793).

(vii) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496). Flow down required in accordance with paragraph (f) of FAR clause 52.222-40.

(viii) 52.222-41, Service Contract Act of 1965 (Nov 2007) (41 U.S.C. 351, et seq.).

(ix) 52.222-50, Combating Trafficking in Persons (FEB 2009) (22 U.S.C. 7104(g)).

Alternate I (AUG 2007) of 52.222-50 (22 U.S.C. 7104(g)).

(x) 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment--Requirements (Nov 2007) (41 U.S.C. 351, et seq.).

(xi) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services--Requirements (FEB 2009) (41 U.S.C. 351, et seq.).

(xii) 52.222-54, Employment Eligibility Verification (JUL 2012).

(xiii) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations. (MAR 2009) (Pub. L. 110-247). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.

(xiv) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (FEB 2006) (46 U.S.C. Appx 1241(b) and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.

(2) While not required, the Contractor may include in its subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

**52.225-25 Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran--Representation and Certifications. (DEC 2012)**

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

Person--(1) Means--(i) A natural person; (ii) A corporation, business association, partnership, society, trust, financial institution, insurer, underwriter, guarantor, and any other business organization, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise; and (iii) Any successor to any entity described in paragraph (1)(ii) of this definition; and (2) Does not include a government or governmental entity that is not operating as a business enterprise.

Sensitive technology--

(1) Means hardware, software, telecommunications equipment, or any other technology that is to be used specifically-- (i) To restrict the free flow of unbiased information in Iran; or (ii) To disrupt, monitor, or otherwise restrict speech of the people of Iran; and (2) Does not include information or informational materials the export of which the President does not have the authority to regulate or prohibit pursuant to section 203(b)(3) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)(3)).

 (b) The offeror shall email questions concerning sensitive technology to the Department of State at CISADA106@state.gov.

(c) Except as provided in paragraph (d) of this provision or if a waiver has been granted in accordance with 25.703- 4, by submission of its offer, the offeror— (1) Represents, to the best of its knowledge and belief, that the offeror does not export any sensitive technology to the government of Iran or any entities or individuals owned or controlled by, or acting on behalf or at the direction of, the government of Iran; (2) Certifies that the offeror, or any person owned or controlled by the offeror, does not engage in any activities for which sanctions may be imposed under section 5 of the Iran Sanctions Act. These sanctioned activities are in the areas of development of the petroleum resources of Iran, production of refined petroleum products in Iran, sale and provision of refined petroleum products to Iran, and contributing to Iran's ability to acquire or develop certain weapons or technologies; and (3) Certifies that the offeror, and any person owned or controlled by the offeror, does not knowingly engage in any transaction that exceeds $3,000 with Iran's Revolutionary Guard Corps or any of its officials, agents, or affiliates, the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (see OFAC's Specially Designated Nationals and Blocked Persons List at http://www.treasury.gov/ofac/downloads/t11sdn.pdf).

(d) Exception for trade agreements. The representation requirement of paragraph (c)(1) and the certification requirements of paragraphs (c)(2) and (c)(3) of this provision do not apply if—(1) This solicitation includes a trade agreements notice or certification (e.g., 52.225-4, 52.225-6, 52.225-12, 52.225- 24, or comparable agency provision); and (2) The offeror has certified that all the offered products to be supplied are designated country end products or designated country construction material.

52.243-7 NOTIFICATION OF CHANGES (APR 1984) [Modified by NASSCO]

1. Definitions.

 "Contracting Officer," as used in this clause, does not include any representative of the Contracting Officer. "Specifically authorized

 representative (SAR)," as used in this clause, means any person the Contracting Officer has so designated by written notice (a copy of

 which shall be provided to the Seller) which shall refer to this subparagraph and shall be issued to the designated representative before the

 SAR exercises such authority.

1. Notice. The primary purpose of this clause is to obtain prompt reporting of NASSCO or Government conduct that the Seller considers to constitute a change to this Contract. Except for changes identified as such in writing and signed by NASSCO’s Procurement Representative, the Seller shall notify NASSCO’s Procurement Representative in writing, within 5 calendar days from the date that the Seller identifies any NASSCO or Government conduct (including actions, inactions, and written or oral communications) that the Seller regards as a change to the Contract terms and conditions. On the basis of the most accurate information available to the Seller, the notice shall state--
	1. The date, nature, and circumstances of the conduct regarded as a change;
	2. The name, function, and activity of each NASSCO or Government individual and Seller official or employee involved in or knowledgeable about such conduct;
	3. The identification of any documents and the substance of any oral communication involved in such conduct;
	4. In the instance of alleged acceleration of scheduled performance or delivery, the basis upon which it arose;
	5. The particular elements of Contract performance for which the Seller may seek an equitable adjustment under this clause, including--
		1. What Contract line items have been or may be affected by the alleged change;
		2. What labor or materials or both have been or may be added, deleted, or wasted by the alleged change;
		3. To the extent practicable, what delay and disruption in the manner and sequence of performance and effect on continued performance have been or may be caused by the alleged change;
		4. What adjustments to Contract Price, delivery schedule, and other provisions affected by the alleged change are estimated; and
	6. The Seller's estimate of the time by which NASSCO must respond to the Seller's notice to minimize cost, delay or disruption of performance.
2. Continued performance. Following submission of the notice required by (b) above, the Seller shall diligently continue performance of this Contract to the maximum extent possible in accordance with its terms and conditions as construed by the Seller, unless the notice reports a direction of NASSCO’s Procurement Representative, in either of which events the Seller shall continue performance; provided, however, that if the Seller regards the direction or communication as a change as described in (b) above, notice shall be given in the manner provided. All directions, communications, interpretations, orders and similar actions of NASSCO’s Procurement Representative shall be reduced to writing and copies furnished to the Seller. NASSCO’s Procurement Representative shall countermand any action which exceeds the authority of the SAR.
3. NASSCO response. NASSCO’s Procurement Representative shall promptly, within 30 calendar days after receipt of notice, respond to the notice in writing. In responding, NASSCO’s Procurement Representative shall either--
	1. Confirm that the conduct of which the Seller gave notice constitutes a change and when necessary direct the mode of further performance;
	2. Countermand any communication regarded as a change;
	3. Deny that the conduct of which the Seller gave notice constitutes a change and when necessary direct the mode of further performance; or
	4. In the event the Seller's notice information is inadequate to make a decision under (1), (2), or (3) above, advise the Seller what additional information is required, and establish the date by which it should be furnished and the date thereafter by which NASSCO’s Procurement Representative will respond.
4. Equitable adjustments.
	1. If NASSCO’s Procurement Representative confirms that NASSCO or Government conduct effected a change as alleged by the Seller, and the conduct causes an increase or decrease in the Seller's cost of, or the time required for, performance of any part of the work under this Contract, whether changed or not changed by such conduct, an equitable adjustment shall be made--
		1. In the Contract Price or delivery schedule or both; and
		2. In such other provisions of the Contract as may be affected.
	2. The Contract shall be modified in writing accordingly. In the case of drawings, designs or specifications which are defective and for which NASSCO or the Government is responsible, the equitable adjustment shall include the cost and time extension for delay reasonably incurred by the Seller in attempting to comply with the defective drawings, designs or Specifications before the Seller identified, or reasonably should have identified, such defect. When the cost of property made obsolete or excess as a result of a change confirmed by NASSCO’s Procurement Representative under this clause is included in the equitable adjustment, NASSCO’s Procurement Representative shall have the right to prescribe the manner of disposition of the property. The equitable adjustment shall not include increased costs or time extensions for delay resulting from the Seller's failure to provide notice or to continue performance as provided, respectively, in (b) and (c) above.

Note: The phrases “Contract Price” and “cost” wherever they appear in the clause, may be appropriately modified to apply to cost-reimbursement or incentive contracts, or to combinations thereof.

**252.247-7023 TRANSPORTATION OF SUPPLIES BY SEA (MAY 2002) ALTERNATE III (MAY 2002)** [*Modified by NASSCO*]

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

(1) "Components" means articles, materials, and supplies incorporated directly into end products at any level of manufacture, fabrication, or assembly by the Seller.

(2) "Department of Defense" (DoD) means the Army, Navy, Air Force, Marine Corps, and defense agencies.

(3) "Foreign flag vessel" means any vessel that is not a U.S.-flag vessel.

(4) "Ocean transportation" means any transportation aboard a ship, vessel, boat, barge, or ferry through international waters.

(5) "Subcontractor " means a supplier, materialman, distributor, or vendor at any level below the prime contractor whose contractual obligation to perform results from, or is conditioned upon, award of the prime contract and who is performing any part of the work or other requirement of the prime contract.

(6) "Supplies" means all property, except land and interests in land, that is clearly identifiable for eventual use by or owned by the DoD at the time of transportation by sea.(i) An item is clearly identifiable for eventual use by the DoD if, for example, the Contract documentation contains a reference to a DoD Contract number or a military destination.(ii) "Supplies" includes (but is not limited to) public works; buildings and facilities; ships; floating equipment and vessels of every character, type, and description, with parts, subassemblies, accessories, and equipment; machine tools; material; equipment; stores of all kinds; end items; construction materials; and components of the foregoing.

(7) "U.S.-flag vessel" means a vessel of the United States or belonging to the United States, including any vessel registered or having national status under the laws of the United States.

(b) When transporting supplies by sea under this Contract the Seller shall use U.S.-flag vessels if--(i) This Contract is a construction Contract; or (ii) The supplies being transported are--(A) Noncommercial items; or (B) Commercial items that--(1) Reselling or distributing to the NASSCO for Government use without adding value (generally, value is not added to items that are Contracts for f.o.b. destination shipment); (2) Are shipped in direct support of U.S. military contingency operations, exercises, or forces deployed in humanitarian or peacekeeping operations; or (3) Are commissary or exchange cargoes transported outside of the Defense Transportation System in accordance with 10 U.S.C. 2643.

(c) The Seller may submit a request through NASSCO for the Contracting Officer to authorize shipment in foreign flag vessels, or designate available U.S.-flag vessels, if the Seller believes that -- (1) U.S.-flag vessels are not available for timely shipment; (2) The freight charges are inordinately excessive or unreasonable; or (3) Freight charges are higher than charges to private persons for transportation of like goods.

(d) The Seller must submit any request for use of other than U.S.-flag vessels in writing to NASSCO for Contracting Officer approval at least 45 days prior to the sailing date necessary to meet its delivery schedules. The Contracting Officer will process requests submitted after such date(s) as expeditiously as possible, but the Contracting Officer's failure to grant approvals to meet the shipper's sailing date will not of itself constitute a compensable delay under this or any other clause of this Contract. Requests shall contain at a minimum --(1) Type, weight, and cube of cargo; (2) Required shipping date; (3) Special handling and discharge requirements; (4) Loading and discharge points; (5) Name of shipper and consignee; (6) Prime Contract number; and (7) A documented description of efforts made to secure U.S.-flag vessels, including points of contact (with names and telephone numbers) with at least two U.S.-flag carriers contacted. Copies of telephone notes, telegraphic and facsimile message or letters will be sufficient for this purpose.

(e) The Seller shall, within 30 days after each shipment covered by this clause, provide the Contracting Officer and the Maritime Administration, Office of Cargo Preference, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590, one copy of the rated on board vessel operating carrier's ocean bill of lading, which shall contain the following information: (1) Prime Contract number; (2) Name of vessel; (3) Vessel flag of registry; (4) Date of loading; (5) Port of loading; (6) Port of final discharge; (7) Description of commodity; (8) Gross weight in pounds and cubic feet if available; (9) Total ocean freight in U.S. dollars; and (10) Name of the steamship company.

(f) The Seller shall insert the substance of this clause, including this paragraph (f), in subcontracts that are for a type of supplies described in paragraph (b)(2) of this clause.

***For time and material work under this Contract, the following clauses also apply***

FAR 52.232-7 PAYMENTS UNDER TIME-AND-MATERIALS AND LABOR-HOUR CONTRACTS FEB 2007

*Notes 1 and 2 apply. The third sentence of paragraph (a)(8) is deleted. In paragraph (f) "one year" is changed to "six months,"*

*and in paragraph (g)(2) "6 years" is changed to "five years." Paragraphs (c) and (i) are deleted.*

FAR 52.243-3 CHANGES - TIME-AND-MATERIALS OR LABOR-HOURS SEP 2000

*Notes 1 and 2 apply.*

FAR 52.246-6 INSPECTION TIME-AND-MATERIAL AND LABOR-HOUR MAY 2001

*In paragraphs (b),(c),(d), Note 3 applies; in paragraphs (e),(f),(g),(h), Note 1 applies.*