

**TERMS AND CONDITIONS FOR ORDERS ISSUED UNDER  
DEPARTMENT OF DEFENSE CONTRACTS****TABLE OF CONTENTS****A. General Provisions**

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**A. GENERAL PROVISIONS****A-1 Definitions**

The following definitions apply unless otherwise specifically stated:

- (1) "Buyer", "General Atomic Electronic Systems Inc.", or "GA-ESI" - the legal entity issuing the Order.
- (2) "Purchasing Representative" or "Procurement Representative" - Buyer's authorized representative.
- (3) "Seller" or "Contractor" or "Subcontractor" - the legal entity which contracts with the Buyer.
- (4) "Order" - the contractual instrument between Buyer and Seller, including these terms and conditions.
- (5) "Government" - the Government of the United States, acting in its contractual capacity.
- (6) "Prime Contract" - the Government contract under which the Order is issued.
- (7) "FAR" - the Federal Acquisition Regulation, issued as Title 48, Code of Federal Regulations Chapter 1.
- (8) "DFARS" - the Department of Defense Federal Acquisition Regulation Supplement, issued as Title 48 Code of Federal Regulations Chapter 2.
- (9) "Contracting Officer" - the Government official authorized to contractually commit the Government under the Prime Contract, or authorized representatives of that official acting within the scope of their authority.

## **A-2 Entirety of Agreement**

The Order constitutes the complete and exclusive agreement between the parties thereto and supersedes all previous negotiations, discussions, communications, representations, or agreements, whether written or oral, between the Buyer and the Seller related to the subject matter thereof. The Representations and Certifications (GA Form DF-60) completed by the Seller are hereby incorporated in their entirety by reference. No agreement or understanding varying or extending the terms or conditions of the Order will be binding unless executed in writing and signed by the Buyer's Purchasing Representative. Any one of the following methods will constitute acceptance of the Order by Seller: (1) acknowledgment in writing; (2) commencement of performance by the Seller; or (3) delivery in whole or part of the items or services called for thereunder. Seller's acceptance of the Order creates a binding contract between Buyer and Seller, which shall be governed by the provisions of the Order. No condition stated by the Seller in its acknowledgment of the Order shall be binding upon Buyer if in conflict with, inconsistent with, or in addition to the terms and conditions contained therein, unless expressly accepted in writing by the Purchasing Representative. The rights and obligations described therein shall survive completion of and final payment under the Order.

## **A-3 Independent Contractor**

Seller is, and shall be deemed to be, an independent contractor and not an agent or employee of Buyer either expressly or impliedly. Seller shall have complete control over the performance of, and the details for producing the goods or accomplishing the services provided under the Order. The Order shall not constitute, create, give effect to, or imply a joint venture, pooling arrangement, partnership, formal business organization or any type of permanent relationship of any kind beyond the specific purposes stated in the Order. Nothing in the Order shall grant to either the Buyer or Seller the right to make commitments of any kind for, or on behalf of the other.

## **A-4 Publicity**

Except as required by law, regulation or court order, no news release, public announcement, or advertising material concerned with the Order shall be issued or made by Seller without the prior written consent of Buyer, which consent shall not be unreasonably withheld.

## **A-5 Delivery**

- (1) TIME IS OF THE ESSENCE AND, EXCEPT AS OTHERWISE SPECIFIED, DELIVERY SHALL BE STRICTLY IN ACCORDANCE WITH THE DELIVERY SCHEDULE SET OUT OR REFERRED TO IN THE ORDER. If Seller's deliveries fail to meet said schedule and Buyer elects to call upon Seller for express shipments, Seller shall be charged the difference between the freight and express rates. Items shipped to Buyer in advance of schedule without written approval of Buyer may be returned to Seller at Seller's risk and expense.
- (2) Title to items covered by the Order shall pass from Seller to Buyer at the F.O.B. point specified therein. Passing of title upon such delivery shall not constitute acceptance of the items by Buyer.

## **A-6 Packing, Marking and Shipping**

Seller shall pack, mark, and ship all goods and supplies in accordance with the requirements of the Order and so as to be in compliance with all applicable transportation regulations and good commercial practice for protection against damage from weather and shipment, including any applicable Federal, state and local laws and regulations for the packaging, labeling, transportation and shipping of hazardous materials. Seller shall secure the most advantageous transportation services and rates consistent therewith. No separate or additional charge is payable by Buyer for containers, crating, boxing, handling, dunnage, drayage or storage unless specifically stated in the Order or otherwise agreed to by Buyer in writing. Seller shall mark each container with the number of the Order and shall enclose a packing slip with the Order number in an envelope attached to each container. Damage resulting from improper packing or shipping will be charged to Seller.

## **A-7 Order of Precedence**

In the event of any inconsistency or conflict between or among the provisions of the Order, such inconsistency or conflict shall be resolved by the following descending order of precedence:

- (1) typed provisions set forth in the Order;
- (2) these terms and conditions;
- (3) the statement of work;
- (4) the preprinted portion of the Order;

- (5) specifications attached thereto or incorporated by reference. Buyer's specifications shall prevail over those of the Government, and both of the foregoing shall prevail over specifications of Seller; and
- (6) other incorporated or referenced documents.

**A-8 Non-Waiver**

Failure of Buyer to enforce any of the provisions of the Order, or any rights in respect thereto, or failure of Buyer to exercise any election therein provided, shall in no way be considered to be a waiver of the right to thereafter enforce such provisions or rights or exercise any subsequent elections.

**A-9 Technical Direction and Contractor Responsibilities**

All communication between Seller and Buyer affecting the Statement of Work or description of supplies or services to be furnished shall be through the Buyer's Purchasing Representative.

- (1) Buyer's technical personnel may, from time to time, provide written or oral technical direction. "Technical Direction" is defined as a directive to the Seller within the requirements of the scope of work of the Order which approves approaches, solutions, designs, or refinements; fills in detail or otherwise completes the general description of work; shifts emphasis among work areas or tasks; or otherwise furnishes guidance to the Seller. Technical Direction and management surveillance shall not have the right and is not authorized to impose tasks and requirements upon the Seller, additional to or different from, the general tasks and requirements stated in the Order. Technical Direction shall not commit Buyer to any adjustment of the estimated cost or other Order provisions.
- (2) In the event that Technical Direction is interpreted by the Seller to fall within the clause entitled "Changes", the Seller shall not implement such direction, but shall notify Buyer's Purchasing Representative in writing of such interpretation within ten (10) working days after the Seller receives such direction. Such notice shall include: (1) the reason upon which the Seller bases its belief that the Technical Direction falls within the purview of the "Changes" clause; and (2) the Seller's best estimate of the cost and schedule impact that would result from

implementing the Technical Direction.

**A-10 Patent Infringement Indemnity**

- (1) Seller shall defend Buyer, Buyer's customers, affiliates and any subsequent owners, sellers, directors, officers, agents, employees, representatives, subcontractors, users or operators of the items delivered under the Order "the Indemnitees" against all claims, demands, actions or causes of action that are asserted against any Indemnitee by any person or entity and that arise out of, directly or indirectly relate to or are in any way incident to the services and or deliverables provided by Seller to Buyer thereunder, or which otherwise result in whole or in part from the act or omissions of Seller, together with all damages, liabilities, losses, costs or expenses (including attorney's fees) for all proceedings alleging infringement of any United States or foreign patent or copyright in the manufacture or sale of any item delivered under the Order whereby any Indemnitee suffers or incurs as a result thereof. Additionally, Seller shall hold said parties harmless from any resulting liabilities and losses; provided that Seller is reasonably notified in writing of such claims and proceedings, and further provided that said parties give Seller authority, information and assistance at Seller's expense for the defense of same. Seller's obligation shall not apply to items manufactured pursuant to designs developed and furnished by Buyer or to any alleged infringement arising from the use or sale of items delivered under the Order in combination with items not delivered by Seller.
- (2) When the Order is performed under the authorization and consent of the Government (see FAR 52.227-1 referenced at Section B-1), Seller's liability for infringement of such patents pursuant to such performance shall be limited to the extent of the obligation of Buyer to indemnify the Government.

**A-11 Buyer-Furnished Property**

Buyer shall retain title to all property furnished to and utilized by Seller in the performance of the Order, including, but not limited to, dies, molds, jigs, tools, and materials. Seller shall label, maintain, and dispose of Buyer's property, including scrap, according to Buyer's written

direction, and Seller shall be responsible for all loss or damage to Buyer's property in Seller's possession. If Seller does not receive timely written direction from Buyer's Purchasing Representative concerning the maintenance and disposal of Buyer's property, including scrap, then Buyer shall be liable to Seller for the reasonable expense of maintaining, storing, or disposing of such property. This clause does not govern Seller's handling, use, maintenance or disposal of Government-furnished property that may come into Seller's possession during Seller's performance of the Order; such handling, use, maintenance or disposal is governed by the Government property clause referenced in of the Order.

#### **A-12 Assignments and Subcontracts**

The Order is not assignable and shall not be assigned by Seller without the prior written consent of Buyer. Further, Seller agrees to obtain Buyer's approval before subcontracting the Order or any substantial portion thereof; provided, however, that this limitation shall not apply to the purchase of standard commercial supplies or material. In no event shall Seller furnish to any assignee any part of the Order that is marked "Top Secret," "Secret" or "Confidential."

#### **A-13 Indemnification for Defective Pricing, Noncompliance with Cost Accounting Standards, and Violation of the Anti-Kickback Statute and the Procurement Integrity Act**

Seller, its subcontractors, agents, and/or employees agree to indemnify and save harmless and defend Buyer from and against any and all fines, penalties, offsets, claims, demands, actions, debts, liabilities, judgments, costs and attorney's fees, costs and profit disallowed or reduced by Buyer's customer arising out of claims on account of, or in any manner predicated upon (1) submission by Seller, its subcontractors, agents, and/or employees of alleged or confirmed defective pricing data, or (2) cost submitted by Seller which are deemed unallowable costs, either by Buyer or applicable governmental agency, or (3) violation or noncompliance with any clause in FAR entitled "Cost Accounting Standards," or the rules or regulations pursuant thereto, or (4) violation of the Anti-Kickback Act of 1986 (41 U.S.C. Section 51-58) by Seller or any of its subcontractors, agents, and/or employees, or (5) violation of the Procurement Integrity Act (41 U.S.C. 423 Section 27), or (6) any other government or contractual requirement for cost or pricing data submitted by Seller, its subcontractors, agents, and/or employees to

Buyer or any other relevant party to the Order.

#### **A-14 Force Majeure**

Neither Buyer or Seller shall be liable for any failure or delay in performing its obligations under the Order, or for any loss or damage resulting therefrom, due to: (a) acts of God, war, riot, embargos, acts of civil or military authorities, fire, flood, epidemics, or unusually severe weather; or (b) similar causes beyond their control and which are not foreseeable.

#### **A-15 Set-Off**

Buyer shall be entitled at all times to set-off any amount owing at any time from Seller to Buyer, or any of its affiliated companies, against any amount payable at any time Buyer or any of its affiliated companies to Seller.

#### **A-16 Liability**

Seller is solely and exclusively liable to all parties for all costs incurred by Seller and its affiliates for all claims of damages against Seller and its affiliates arising out of or based on performance of the Order. Seller shall hold Buyer harmless against all liabilities or loss, demands, suits, damages and against all claims or actions, fines or judgments (including costs, attorney's and witnesses' fees and expenses incident thereto) based upon or arising out of damage, or injury (including death) to persons or property caused by or sustained in connection with the performance of this Order. Seller shall also assume full responsibility for payment of all federal, state and local taxes or contributions imposed or required with respect to the performance of this Order.

#### **A-17 Disputes/Arbitration**

In the event of any dispute, claim, question, or disagreement arising from or relating to the Order or breach thereof, Buyer and Seller shall use their best efforts to settle the dispute, claim, question, or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties. If they do not reach such solution within a period of sixty (60) calendar days, then, upon notice by either party to the other, all disputes, claims, questions, or differences shall be finally settled by arbitration administered by the American Arbitration Association in accordance with the provisions of its Commercial Arbitration Rules. The arbitrators shall award to the prevailing party, if any, as determined by the

arbitrators, all its costs and fees. Cost and fees means all reasonable pre-award expenses of the arbitration, including but not limited to the arbitrators' fees, administrative fees, travel expenses, out-of-pocket expenses such as copying, and telephone, court costs, witness fees, and attorneys' fees. Pending the outcome of the arbitration, the Seller shall proceed diligently with performance of the Order.

#### **A-18 Precautions, Indemnity, and Insurance**

Seller will defend at Seller's expense any suit or action, criminal or civil, arising out of Seller's performance.

Seller shall procure and carry:

- (1) automobile liability insurance protecting the Seller from automobile bodily injury and property damage liability with limits of at least \$1,000,000 per person for bodily injury and \$1,000,000 per occurrence \$1,000,000 per occurrence for property damage; and
- (2) a broad form general liability insurance policy which includes property damage, product and professional liability coverage with contractual liability endorsement with limits no lower than \$1,000,000. Such policy shall be on an Occurrence Form; and
- (3) such insurance of employees as may be required by any Workers' Compensation act or other law regulation or ordinance which may apply in the circumstances. At Buyer's request, Seller shall furnish certificates of such insurance to Buyer.

For (1) and (2) above, such policies shall name the Buyer as an additional insured.

If Seller's work under the Order involves operations by Seller on Buyer's premises, Seller agrees to take all proper precautions in its operations against the occurrence of injury to any person or damage to property, and to be responsible for and to hold Buyer harmless from all loss and any claim by reason of injury, including death, to any person or damage to property in connection with such work, and from all fines, penalties, or loss incurred by reason of failure to comply with this clause.

#### **A-19 Choice of Law**

The Order and any dispute arising thereunder shall be governed by the substantive and procedural laws of the State of California, except,

however, that California's choice of law provisions shall not apply.

#### **A-20 Communication with GA Customer**

Buyer shall be solely responsible for all liaison and coordination with the GA customer, including the Government, as it affects the applicable Prime Contract, the Order, and any related contract. Unless otherwise directed in writing by Buyer's Purchasing Representative, all documentation requiring submittal to, or action by, the Government or the Contracting Officer shall be routed to, or through, the Buyer's Purchasing Representative, or as otherwise permitted by the Order.

#### **A-21 Export Control**

Seller agrees to comply with all applicable U.S. export control laws and regulations, including, but not limited to, DFARS 252.204-7008 "Export Controlled Items," the requirements of the Arms Export Control Act (including the International Traffic in Arms Regulations (ITAR)) and the Export Administration Act (including the Export Administration Regulations), and will obtain any necessary export licenses or agreements. Without limiting the foregoing, Seller agrees that it will not transfer any export controlled item, data, or services received under the Order to any foreign person or to a foreign entity, including foreign persons employed by or associated with, or under contract to Seller or Seller's lower-tier suppliers, without the prior authority of an export license, agreement, or applicable exemption or exception.

Seller agrees to provide certification to Buyer that Seller's personnel meet the definition of a U.S. Person (as defined in ITAR – 22 CFR 120.15) if required by Buyer and as necessary to comply with this clause.

Seller agrees to notify Buyer if any deliverable (or component of any deliverable) under the Order is restricted by export control laws or regulations. Seller agrees to provide the export classification information for such deliverables or components of deliverables (e.g., the Export Control Classification Numbers or United States Munitions List category and subcategory), along with documentation or other information that supports or confirms this representation.

Seller shall immediately notify Buyer if Seller is, or becomes, listed in any Denied Parties List or if Seller's export privileges are otherwise denied, suspended or revoked in whole or in part by any U.S. Government entity or agency.

If Seller is engaged in the business of either exporting or manufacturing (whether exporting or not) defense articles or furnishing defense services, Seller hereby certifies that it is registered with the Directorate of Defense Trade Controls, as required by the ITAR, and it maintains an effective export/import compliance program in accordance with the ITAR.

Seller's products or services originate from a foreign location, those products may also be subject to the export control laws and regulations of the country in which the articles or services originate. Seller agrees to abide by all applicable export control laws and regulations of that originating country.

Where Seller is a signatory under a General Atomics export license or export agreement (e.g., Technical Assistance Agreement (TAA)), Seller shall provide prompt notification to Buyer in the event of changed circumstances including ineligibility, a violation or potential violation of the ITAR, or the initiation or existence of a U.S. Government investigation that could affect the Seller's performance under the Order. Should the

Seller shall indemnify Buyer for all losses, costs, claims, causes of action, damages, liabilities and expense, including attorneys' fees, all expense of litigation and/or settlement, and court costs, arising from any act or omission of Seller, its officers, employees, agents, suppliers, or subcontractors at any tier, in the performance of any of its obligations under this clause.

## B. FAR AND DFARS PROVISIONS

The following clauses in the FAR and the DFARS are each incorporated herein by this reference and made a part of the Order, with the same force and effect as if they were given in full text, and are applicable, including any notes following the clause citation, to the Order. To the extent that an earlier version of any clause is included in the Prime Contract or subcontract under which the Order is issued, the date of the clause as it appears in such Prime Contract or subcontract shall be controlling and said version shall be incorporated herein. In all FAR and DFARS clauses, the term "Contractor" or "prime contractor" shall mean "Seller", the term "Contract" or "Schedule" shall mean "Order", and the term "Government Contracting Officer", or equivalent phrases, shall mean "Buyer" as applicable; except that in those clauses relating to patent and data rights, the term "Government" or "Contracting Officer" shall retain its literal meaning and is not to be construed as "Buyer", except where otherwise indicated herein. It is intended that the clauses in FAR and DFARS as listed herein shall apply to Seller in such manner as is necessary to reflect the position of Seller as a subcontractor to Buyer, to ensure Seller's obligations to Buyer and to the Government, and to enable Buyer to meet its obligations under its Prime Contract or subcontract. Seller agrees to flow-down, as required, all applicable FAR and DFARS clauses to its lower-tier subcontractors. Any reference to a "Disputes" clause in a referenced FAR or DFARS clause shall mean clause A-15, "Disputes/Arbitration" of these terms and conditions.

### B-1 PROVISIONS APPLICABLE TO ALL NONCOMMERCIAL ORDERS

The following clauses of the FAR and DFARS are specifically incorporated herein by reference.

| <u>FAR REFERENCE</u> | <u>CLAUSE</u>   |
|----------------------|---|
| 52.203-3             | <b>GRATUITIES</b> –This clause applies if the Order exceeds the simplified acquisition threshold of \$150,000.  |
| 52.203-5             | <b>COVENANT AGAINST CONTINGENT FEES</b> – This clause applies if the Order exceeds the simplified acquisition threshold of \$150,000.   |
| 52.203-6             | <b>RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT</b> - This clause applies if the Order exceeds the simplified acquisition threshold of \$150,000.  |
| 52.203-7             | <b>ANTI-KICKBACK PROCEDURES</b> – This clause applies if the Order exceeds the simplified acquisition threshold amount of \$150,000, including paragraph (c)(5) except that paragraph (c)(1) is not included in the Order. Paragraph (c) (4) is revised by deleting "The Contracting Officer may" and inserting "To the extent the Contracting Officer has affected an offset at the prime contract level or has directed Buyer to withhold any sum from the Seller, Buyer may ..." |

- 52.203-8                   **CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY** – This clause applies if the Order exceeds the simplified acquisition threshold amount of \$150,000. Furthermore, this clause applies if the Seller, its employees, officers, directors or agents participated personally and substantially in any part of the preparation of a proposal for the Order. The Seller shall indemnify Buyer for any and all losses suffered by the Buyer due to violations of the Office of Federal Procurement Policy Act (41 U.S.C. 423) (the Act) by Seller or its subcontractors at any tier.
- 52.203-10                   **PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY** – This clause applies if the Order exceeds the simplified acquisition threshold amount of \$150,000. If the Government reduces Buyer’s price or fee for violations of the Office of Federal Procurement Policy Act (41 U.S.C. 423), as amended by section 4304 of the National Defense Authorization Act for Fiscal Year 1996 (the Act) by Seller or its subcontractors at any tier, Buyer may withhold sums owed to the Seller in the amount of the reduction.
- 52.203-12                   **LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS** – This clause applies if the Order is in excess of the simplified acquisition threshold of \$150,000.
- 52.203-13                   **CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT** – This clause applies if the Order is in excess of \$5,000,000.
- 52.203-14                   **DISPLAY OF HOTLINE POSTER** – This clause applies if the Order is in excess of \$5,000,000.
- 52.203-15                   **WHISTLEBLOWER PROTECTIONS UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009** – This clause applies if the Order is funded by the American Recovery and Reinvestment Act of 2009.
- 52.204-2                   **SECURITY REQUIREMENTS** – This clause (but excluding any reference to the “Changes” clause) applies if the Order involves access to classified information, including but not limited to “confidential,” “secret,” or “top secret” information. “Government” in paragraph (c) does not change to “Buyer.”
- Alternative I shall apply if the Seller is an educational institution.
- 52.204-11                   **AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 – REPORTING REQUIREMENTS** - This clause is applicable if the funding is provided by the American Recovery and Reinvestment Act of 2009. Except in paragraph (c), reports shall be provided to Buyer no later than the 5<sup>th</sup> day after the end of each calendar quarter. Reports shall be furnished to Buyer in accordance with paragraph (d)(10).
- 52.208-8                   **REQUIRED SOURCES FOR HELIUM AND HELIUM USAGE DATA** – This clause applies if the Order involves a major helium requirement.
- 52.209-6                   **PROTECTING THE GOVERNMENT’S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED OR PROPOSED FOR DEBARMENT** – This clause applies if the Order will exceed \$30,000.
- 52.211-5                   **MATERIAL REQUIREMENTS** – This clause applies if the Order includes supplies that are not commercial items.

- 52.211-15                    **DEFENSE PRIORITY AND ALLOCATION REQUIREMENTS** –This clause applies if the Order is a rated order certified for national defense use. The rating designation will appear on the face of the Order.
- 52.215-2                    **AUDIT AND RECORDS - NEGOTIATION** – This clause applies if the Order exceeds the simplified acquisition threshold of \$150,000 and is a cost-reimbursement, incentive, time and material, or labor hour order.
- Alternate I applies if the Order is funded under the American Recovery and Reinvestment Act of 2009.
- 52.215-10                   **PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA** – This clause applies when contracting by negotiation when it is contemplated that the Order is \$700,000 or more and cost or pricing data will be required. In paragraph (c)(1) the term “Contracting Officer” does not change. As required by applicable law or regulation, Seller shall provide cost or pricing data and execute a Certificate of Current Cost or Pricing Data in substantially the form prescribed in FAR 15.406-2. In addition to any remedies provided by law, if Buyer is subjected to any liability as a result of Seller’s failure to comply with this requirement, then Seller agrees to indemnify and hold Buyer harmless to the full extent of any loss, damage or expense (excluding Buyer’s overhead and profit) resulting from such failure.
- 52.215-11                   **PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA – MODIFICATIONS** – This clause applies when it is contemplated that cost or pricing data will be required for the pricing of contract modifications, and the clause, 52.215-10 is not applicable. This clause shall apply only for any modifications to the Order involving a pricing adjustment expected to exceed the threshold for submission of cost or pricing data in the amount of \$700,000. As required by applicable law or regulation, Seller shall provide cost or pricing data and execute a Certificate of Current Cost or Pricing Data in substantially the form prescribed in FAR 15.406-2. In addition to any remedies provided by law, if Buyer is subjected to any liability as a result of Seller’s failure to comply with this requirement, then Seller agrees to indemnify and hold Buyer harmless to the full extent of any loss, damage or expense (excluding Buyer’s overhead and profit) resulting from such failure.
- 52.215-12                   **SUBCONTRACTOR COST OR PRICING DATA** – This clause is applicable when clause 52.215-10 is applicable to the Order. In addition, Seller shall indemnify and hold Buyer harmless from and against any loss, cost or damage incurred by Buyer under Buyer’s contract with its customer as a result of Seller or Seller’s subcontractors providing defective cost or pricing data in connection with this provision.
- 52.215-13                   **SUBCONTRACTOR COST OR PRICING DATA – MODIFICATIONS** – This clause applies when it is contemplated that cost or pricing data will be required for the pricing of contract modifications, and clause 52.215-11 is included in the Order. This clause shall become operative only for a modification to the Order involving a pricing adjustment expected to exceed the threshold for submission of cost or pricing data in the amount of \$700,000. In addition, Seller shall indemnify and hold Buyer harmless from and against any loss, cost or damage incurred by Buyer under Buyer’s contract with its customers as a result of Seller or Seller’s subcontractors providing defective cost or pricing data in connection with this provision.
- 52.215-14                   **INTEGRITY OF UNIT PRICES** – This clause applies if the Order does not include the following: (1) acquisitions at or below the simplified acquisition threshold of \$150,000; (2) construction or architect engineer services under part 36; (3) utility services under part 41; (4) service contracts where

supplies are not required; (5) acquisitions of commercial items; and (6) contracts for petroleum products.

- 52.215-15      **PENSION ADJUSTMENTS AND ASSET REVERSIONS** – This clause applies if it is anticipated that certified cost or pricing data will be required, or for which any pre-award or post award cost determinations will be subject to FAR part 31 dealing with cost principles and procedures for contracts, subcontracts or modifications.
- 52.215-16      **FACILITIES CAPITAL COST OF MONEY** – This clause applies if it is anticipated that the Order is subject to cost principles for contracts with commercial organizations.
- 52.215-17      **WAIVER OF FACILITIES CAPITAL COST OF MONEY** – This clause applies if Seller does not propose facilities capital cost of money in its offer.
- 52.215-18      **REVERSION OR ADJUSTMENT OF PLANS FOR POSTRETIREMENT BENEFITS (PRB) OTHER THAN PENSIONS** – This clause applies if it is anticipated that cost or pricing data will be required or for any pre-award or post-award cost determination which will be subject to FAR part 31.
- 52.215-19      **NOTIFICATION OF OWNERSHIP CHANGES** – This clause applies if it is anticipated that cost or pricing data will be required, or for which any pre-award or post-award cost determination which will be subject to FAR subpart 31.2.
- 52.219-8      **UTILIZATION OF SMALL, SMALL DISADVANTAGED AND WOMEN OWNED SMALL BUSINESS CONCERNS** – This clause is applicable if the Order is expected to exceed the simplified acquisition threshold amount of \$150,000 unless a personal services contract is contemplated or the Order together with all of its subcontracts will be performed entirely outside of the U.S. and its outlying areas.
- 52.219-9      **SMALL BUSINESS SUBCONTRACTING PLAN** – This clause does not apply to small business concerns. It applies only if the Order exceeds \$650,000 and offers further subcontracting opportunities. Furthermore, this clause requires inclusion of the clause at 52.219-8 Utilization of Small Business Concerns, in sub-tier subcontracts.
- 52.219-16      **LIQUIDATED DAMAGES – SUBCONTRACTING PLAN** – This clause is applicable if the Order is to a large business and exceeds \$650,000 and offers further subcontracting opportunities.
- 52.222-1      **NOTICE TO GOVERNMENT OF LABOR DISPUTES**
- 52.222-3      **CONVICT LABOR**
- 52.222-4      **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT – OVERTIME COMPENSATION** - This clause is applicable if the Order is anticipated to exceed the simplified purchasing threshold of \$150,000 and may involve the employment of laborers or mechanics, except for additional exceptions identified at FAR 22.305.
- 52.222-19      **CHILD LABOR – COOPERATION WITH AUTHORITIES AND REMEDIES**
- 52.222-20      **WALSH-HEALY PUBLIC CONTRACTS ACT** – This clause applies if the Order is for the manufacture or furnishing of materials, supplies, articles or equipment in an amount that exceeds \$15,000 and is subject to the Walsh-Healey Public Contracts Act.

- 52.222-21                   **PROHIBITION OF SEGREGATED FACILITIES**
- 52.222-26                   **EQUAL OPPORTUNITY** - This clause is applicable if the Order is expected to exceed \$10,000.
- 52.222-35                   **EQUAL OPPORTUNITY FOR VETERANS** – This clause applies if the Order is expected to exceed the simplified acquisition threshold of \$150,000.
- 52.222-36                   **AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES** – This clause applies if the Order is expected to exceed \$15,000.
- 52.222-37                   **EMPLOYMENT REPORTS ON VETERANS** – This clause applies if the Order is expected to exceed the simplified acquisition threshold of \$150,000.
- 52.222-41                   **SERVICE CONTRACT ACT OF 1965, AS AMENDED** – This clause applies if the Order is subject to the Service Contract Act of 1965 and is over \$2,500.
- 52.222-50                   **COMBATING TRAFFICKING IN PERSONS**
- 52.222-54                   **EMPLOYMENT ELIGIBILITY VERIFICATION** – This clause applies if the Order exceeds the simplified acquisition threshold of \$150,000 unless the work is performed outside the U.S.
- 52.223-7                    **NOTICE OF RADIOACTIVE MATERIALS** – This clause applies if the Order involves supplies which are, or which contain: (a) radioactive material requiring specific licensing under regulations issued pursuant to the Atomic Energy Act of 1954; or (b) radioactive material not requiring specific licensing in which the specific activity is greater than 0.002 microcuries per gram or the activity per item equals or exceeds 0.01 microcuries.
- 52.223-14                   **TOXIC CHEMICAL RELEASE REPORTING** – This clause applies if the Order exceeds the simplified acquisition threshold of \$150,000.
- 52.225-1                    **BUY AMERICAN ACT – SUPPLIES** – This clause applies the Order if it is valued at \$3,000 to \$25,000. This clause applies to Orders in excess of \$25,000 and none of clauses prescribed in FAR 25.1101, paragraphs (b) and (c) apply (subject to specified exceptions listed in sub-paragraphs (i) through (iii)) apply.
- 52-225-3                    **BUY AMERICAN ACT – FREE TRADE AGREEMENT – ISRAELI TRADE ACT** – This clause applies to the Order if it is for supplies for use in the United States, and the value is \$25,000 or more, but is less than \$203,000 and the Order is not for information technology that is a commercial item.
- 52.225-5                    **TRADE AGREEMENTS** – This clause applies if the Order is valued at \$203,000 or more if the acquisition is covered by the WTO GPA and the Contracting Officer has determined that the restrictions of the Buy American Act are not applicable.
- 52.225-13                   **RESTRICTIONS ON CERTAIN FOREIGN PURCHASES**
- 52.227-1                    **AUTHORIZATION AND CONSENT** – This clause applies if the Order is for supplies or services except when both complete performance and delivery are outside the U.S., its possessions and Puerto Rico. Alternate I is applicable if the Order is for research and development (R&D).

- 52.227-2 **NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT**
- 52.227-10 **FILING OF PATENT APPLICATIONS – CLASSIFIED SUBJECT MATTER**- This clause applies if the Order covers classified subject matter or where the nature of the work or classified subject matter involved in the work reasonably might be expected to result in a patent application containing classified subject matter.
- 52.227-11 **PATENT RIGHTS - OWNERSHIP BY THE CONTRACTOR** - This clause applies if the Order is for experimental, developmental, or research work or construction that includes experimental, development or research work.
- 52.227-14 **RIGHTS IN DATA – GENERAL** – Including Alternates I, II, III, IV, and V if it is contemplated that data will be produced, furnished, or acquired under the Order.
- 52.230-2 **COST ACCOUNTING STANDARDS** – This clause except paragraph (b), applies to the Order if the value is in excess of \$650,000, and to all subcontracts of any tier, unless the Order is subject to modified coverage.
- 52.230-3 **DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES** – This clause applies if the Order is over \$650,000 but less than \$50 million and the Seller certified it is eligible for and elects to use modified CAS coverage (see 48 CFR 9903.201-2 (FAR Appendix)).
- 52.230-5 **COST ACCOUNTING STANDARDS -- EDUCATIONAL INSTITUTION**, Applicable to the Order if it is in excess of \$650,000 awarded to educational institutions, except for CAS-covered orders issued to FFRDCs operated by an educational institution unless the order is exempted (see 48 CFR 9903.201-1 (FAR Appendix)), the contract is to be performed by an FFRDC (see 48 CFR 9903.201-2(c)(5) (FAR Appendix)), or FAR 52.230-2 applies.
- 52.230-6 **ADMINISTRATION OF COST ACCOUNTING STANDARDS** – Applies if FAR 52.230-2, FAR 52.230-3 or FAR 52.230-5 applies.
- 52.242-15 **STOP WORK ORDER** – This clause applies if the Order is for supplies, services, or R&D. If this is a cost-reimbursement Order, Alternate I also applies.
- 52.244-2 **SUBCONTRACTS**
- 52.244-6 **SUBCONTRACTS FOR COMMERCIAL ITEMS**
- 52.245-1 **GOVERNMENT PROPERTY** – This clause is applicable if the Order is: (i) a cost reimbursable, time and material, or labor-hour type order; or (ii) fixed-price order when the Buyer or the Government will provide government property, and/or (iii) order or modifications awarded under FAR Part 12 (Commercial) procedures where Government property that exceeds the simplified acquisition threshold, as defined in FAR 2.101, is furnished or where the Seller is directed to acquire property for use under the Order that is titled in the Government.
- 52.247-63 **PREFERENCE FOR U.S. FLAG AIR CARRIERS** – This clause applies to the Order whenever it is possible that U.S. Government financed international air transportation of personnel (and their personal effects) or property will occur in the performance of the Order. This clause does not apply to the Order if it was awarded using simplified acquisition procedures or it is for commercial items.

52.247-64 **PREFERENCE FOR PRIVATELY OWNED U.S. FLAG COMMERCIAL VESSELS**

**THE FOLLOWING DEFENSE FEDERAL ACQUISITION REGULATION SUPPLEMENT (DFARS) CLAUSES ARE INCORPORATED HEREIN BY REFERENCE.**

252.203-7001 **PROHIBITION ON PERSONS CONVICTED OF FRAUD OR OTHER DEFENSE-CONTRACT RELATED FELONIES** – This clause applies to the Order if it exceeds the simplified acquisition threshold amount of \$150,000. “Government” is not changed in this clause.

252.203-7002 **REQUIREMENTS TO INFORM EMPLOYEE’S OF WHISTLEBLOWER RIGHTS**

252.203-7003 **AGENCY OFFICE OF THE INSPECTOR GENERAL**

252.204-7000 **DISCLOSURE OF INFORMATION** – This clause is applicable to the Order if the Seller will have access to or generate unclassified information that may be sensitive and inappropriate for release to the public. In paragraph (c) “Contracting Officer” means “Contracting Officer.”

252.204.7008 **EXPORT- CONTROLLED ITEMS**

252.211-7000 **ACQUISITION STREAMLINING** – This clause is applicable if the Order is for a systems acquisition program exceeding \$1,000,000.

252.211-7003 **ITEM IDENTIFICATION AND VALUATION** – This clause is applicable if subassemblies, components or parts embedded within deliverables are defined as requiring DOD unique item identification as specified in the Order.

252.211-7007 **REPORTING OF GOVERNMENT-FURNISHED EQUIPMENT IN THE DOD ITEM UNIQUE IDENTIFICATION (IUID) REGISTRY**

252.215-7002 **COST ESTIMATING SYSTEM REQUIREMENTS** – This clause applies if the Order is awarded on the basis of cost or pricing data.

252.219-7003 **SMALL, SMALL DISADVANTAGED AND WOMEN-OWNED SMALL BUSINESS SUBCONTRACTING PLAN (DOD CONTRACTS)** – This clause does not apply to small business concerns. It applies only if the Order exceeds \$650,000.

252.222-7006 **RESTRICTION ON USE OF MANDATORY ARBITRATION AGREEMENTS** – This clause applies if the Order is in excess of \$1 million utilizing funds appropriated or otherwise made available by the Fiscal Year 2010 Defense Appropriations Act (Pub. L.111-118) except for the acquisition of commercial items, including commercially available off-the-shelf items.

252.223-7006 **PROHIBITION ON STORAGE AND DISPOSAL OF TOXIC AND HAZARDOUS MATERIALS** – Applicable to the Order if it is performed, even partly, on a Department of Defense Installation. This clause is applicable if the Order requires, may require, or permits the treatment or disposal of non-DOD-owned toxic or hazardous materials.

252.225-7001 **BUY AMERICAN ACT AND BALANCE OF PAYMENTS PROGRAM** – “Government” is not changed in this clause.

252.225-7002 **QUALIFYING COUNTRY SOURCES AS SUBCONTRACTORS**

- 252.225-7006 **QUARTERLY REPORTING OF ACTUAL CONTRACT PERFORMANCE OUTSIDE THE UNITED STATES** – This clause applies if the Order exceeds \$550,000. Seller shall submit quarterly reports for second tier subcontracts as directed in paragraphs (b) through (e) of this clause.
- 252.225-7007 **PROHIBITION ON ACQUISITION OF UNITED STATES MUNITIONS LIST ITEMS FROM COMMUNIST CHINESE MILITARY COMPANIES** – Applies if the Order involves the delivery of items covered by the United States Munitions List.
- 252.225-7008 **RESTRICTION ON ACQUISITION OF SPECIALTY METALS** – This clause is applicable if the Order exceeds the simplified acquisition threshold of \$150,000.
- 252.225-7009 **RESTRICTION ON ACQUISITION OF CERTAIN ARTICLES CONTAINING SPECIALTY METALS** – This clause is applicable if the Order exceeds the simplified acquisition threshold of \$150,000.
- 252.225-7012 **PREFERENCE FOR CERTAIN DOMESTIC COMMODITIES** – This clause is applicable if the Order exceeds the simplified acquisition threshold amount of \$150,000.
- 252.225-7013 **DUTY-FREE ENTRY** – This clause applies in lieu of FAR 52.225-8 to the Order if it involves supplies that will enter the customs territory of the United States if such supplies will be accorded duty-free entry under the Prime Contract.
- 252.225-7015 **RESTRICTION ON ACQUISITION OF HAND OR MEASURING TOOLS** -- Applicable to the Order if it exceeds the simplified acquisition threshold of \$150,000 and requires delivery of hand or measuring tools.
- 252.225-7016 **RESTRICTION ON ACQUISITION OF BALL AND ROLLER BEARINGS** – This clause is applicable to the Order except for commercial items other than ball or roller bearings acquired as end items; or items that do not contain ball or roller bearings.
- 252.225-7021 **TRADE AGREEMENTS** – This clause applies to the Order in lieu of FAR 52-225-5 if the Trades Agreements Act applies.
- 252.225-7025 **RESTRICTION ON ACQUISITION OF FORGINGS** – This clause is applicable if the Order is for forging items or for other items that contain forging items.
- 252.225-7027 **RESTRICTION ON CONTINGENT FEES FOR FOREIGN MILITARY SALES**
- 252.225-7030 **RESTRICTION ON ACQUISITION OF CARBON, ALLOY, AND ARMOR STEEL PLATE** – Applicable to the Order if it (a) requires the delivery to the Government of carbon, alloy, or armor steel plate that will be used in a Government Owned or controlled facility.
- 252.225-7036 **BUY AMERICAN ACT – FREE TRADE AGREEMENTS – BALANCE OF PAYMENTS PROGRAM** – This clause applies if the Seller is supplying an item that is an end product under the Prime Contract, the Prime Contract contains the equivalent clause and the Order is for the items listed at DFARS 225.401-70, when the estimated value equals or exceeds \$25,000, but is less than \$203,000, and a Free Trade Agreement applies to the acquisition. Alternate I to the clause applies when the Order's estimated value equals or exceeds \$25,000 but is less than \$72,079. The basic clause applies when the estimated value equals or exceeds \$72,079.

- 252.225-7038            **RESTRICTION ON ACQUISITION OF AIR CIRCUIT BREAKERS** – Applicable to the Order if it requires delivery of air circuit breakers for naval vessels to the Government.
- 252.225-7040            **CONTRACTOR PERSONNEL AUTHORIZED TO ACCOMPANY U.S. ARMED FORCES DEPLOYED OUTSIDE THE UNITED STATES** – Applicable to the Order when performance of the Order requires that Seller’s personnel accompany U.S. Armed Forces deployed outside the United States in (1) Contingency operations (2) Humanitarian or peacekeeping operations (3) Other military operations; or (4) Military exercises designated by the combatant commander.
- 252.225-7043            **ANTITERRORISM / FORCE PROTECTION POLICY FOR DEFENSE CONTRACTORS OUTSIDE THE UNITED STATES** – Applicable to the Order if it requires performance or travel outside the United States.
- 252.226-7001            **UTILIZATION OF INDIAN ORGANIZATIONS, INDIAN-OWNED ECONOMIC ENTERPRISES AND NATIVE HAWAIIAN SMALL BUSINESS CONCERNS – DOD CONTRACTS** – This clause applies if the Order exceeds \$500,000 and further subcontracting opportunities may exist.
- 252.227-7013            **RIGHTS IN TECHNICAL DATA – NONCOMMERCIAL ITEMS** – This clause is applicable when technical data, but not software, will be delivered to the Government by the Buyer from the Seller. “[T]o the Contractor” has been deleted from (b)(1)(vi) and “contract or” and “thereunder” have been deleted from (b)(1)(ix). “Buyer or” is added before “Government” in (c) and (i). The second and third occurrences of “Contracting Officer” are changed to “Government” in (e)(4). “And the Government” is added after “parties” in (h)(1). In (h)(2) “sixty (60)” is changed to “fifty (50)” days. No substitutions for “Government” have been made.
- 252.227-7014            **RIGHTS IN NONCOMMERCIAL COMPUTER SOFTWARE AND NONCOMMERCIAL COMPUTER SOFTWARE DOCUMENTATION** –This clause is applicable when software and software documentation will be delivered to the Government by the Buyer from the Seller. “Buyer or” is added before “Government” in (b)(1)(i). “[T]o the Contractor” has been deleted from (b)(1)(iii) and “contract or” and “thereunder” is deleted from (b)(1)(vi). The second and third occurrences of “Contracting Officer” have been changed to “Government” in (e)(4). “And the Government” is added after “parties” in (h)(1). In (h)(2) “sixty (60)” is changed to “fifty (50)” days. No substitutions for “Government” have been made.
- 252.227-7016            **RIGHTS IN BID OR PROPOSAL INFORMATION**
- 252.227-7019            **VALIDATION OF ASSERTED RESTRICTIONS – COMPUTER SOFTWARE** – This clause is applicable if the Seller will be furnishing computer software to the Government in the performance of the Order.
- 252.227-7025            **LIMITATIONS ON THE USE OR DISCLOSURE OF GOVERNMENT-FURNISHED INFORMATION MARKED WITH RESTRICTIVE LEGENDS**
- 252.227-7026            **DEFERRED DELIVERY OF TECHNICAL DATA OR COMPUTER SOFTWARE** – This clause is applicable if the Order requires delivery of technical data or computer software, but does not contain a time for delivery. The obligation of Seller to deliver such technical data expires two years after the date the Buyer accepts the last item from the Seller for use in the performance of the contract. The Order will specify which technical data or computer software will be subject to deferred delivery.

- 252.227-7027 **DEFERRED ORDERING OF TECHNICAL DATA OR COMPUTER SOFTWARE** – This clause is applicable when a firm requirement for a particular data item(s) has not been established prior to Order award but there is a potential need for the data. The obligation of Seller to deliver such data expires three years after the date the Buyer accepts the last item under the Order.
- 252.227-7028 **TECHNICAL DATA OR COMPUTER SOFTWARE PREVIOUSLY DELIVERED TO THE GOVERNMENT** – In this clause, the terms “contract” and “subcontract” shall not change in meaning. This clause is applicable if the Order will require the Seller to deliver computer software or computer software documentation.
- 252.227-7030 **TECHNICAL DATA - WITHHOLDING OF PAYMENT**
- 252.227-7037 **VALIDATION OF RESTRICTIVE MARKINGS ON TECHNICAL DATA** – This clause is applicable if the Order requires the delivery of technical data, except contractual instruments for commercial items or commercial components.
- 252.227-7038 **PATENT RIGHTS – OWNERSHIP BY THE CONTRACTOR (LARGE BUSINESS)** – This clause is applicable if Seller is a large business and FAR 52.227-11 does not apply.
- 252.227-7039 **PATENTS – REPORTING OF SUBJECT INVENTIONS**
- 252.231-7000 **SUPPLEMENTAL COST PRINCIPLES**
- 252.235-7003 **FREQUENCY AUTHORIZATION** – This clause applies if the Order requires the development, production, construction, testing, or operation of a device for which a radio frequency authorization is required.
- 252.242-7004 **MATERIAL MANAGEMENT AND ACCOUNTING SYSTEM** – This clause applies to the Order if it exceeds the simplified acquisition threshold amount of \$150,000 and it is a cost reimbursement type or fixed price with progress payments.
- 252.244-7000 **SUBCONTRACTS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS (DOD CONTRACTS)**
- 252.246-7001 **WARRANTY OF DATA**
- 252.247-7023 **TRANSPORTATION OF SUPPLIES BY SEA** – This clause is applicable to the Order if it is in excess of the simplified acquisition threshold of \$150,000 except for direct purchase of ocean transportation services. “Contractor” in paragraphs (b)(c)(d) and (e) is changed to “Seller” and “Contracting Officer” is changed to Buyer”. Paragraph (c), is modified to read “The Seller and its subcontractors may request that the Buyer obtain Government authorization for shipment...” In paragraph (d) “45” is changed to “60” days and “30” to “25” in paragraph (e). In paragraph (e) substitute “Buyer” for “Contracting Officer and the reference to the Division of National Cargo, Office of Market Development, Maritime Administration, U.S. Department of Transportation, Washington, DC 20590,” is deleted. Paragraph (g) is deleted.
- 252.247-7024 **NOTIFICATION OF TRANSPORTATION OF SUPPLIES BY SEA** – This clause applies to the Order if the Seller’s original response to the solicitation stated that no transportation by sea was contemplated. Paragraph (a) second sentence is modified to read “If, after award of the Order, the Seller learns that supplies....”

252.249-7002                    **NOTIFICATION OF ANTICIPATED CONTRACT TERMINATION OR REDUCTION** – This clause is applicable to the Order if it is valued at \$650,000 or more and thereafter to lower tier orders of \$150,000 or more. “Buyer” is substituted for “Contracting Officer” throughout.

**B-2     PROVISIONS APPLICABLE TO NONCOMMERCIAL FIXED PRICE ORDERS**

In addition to the General Provisions of Section A and the FAR and DFARS provisions of Section B-1, the following clauses of the FAR and DFARS are applicable if the Order is fixed price.

- 52.227-9                    **REFUND OF ROYALTIES**
- 52.228-5                    **INSURANCE – WORK ON A GOVERNMENT INSTALLATION** – This clause is applicable if the Order is expected to exceed the simplified acquisition threshold amount of \$150,000 and work will be required on a Government installation.
- 52.229-3                    **FEDERAL, STATE, AND LOCAL TAXES** – This clause is applicable if the Order is to be performed wholly or partly in the U.S.; a fixed-price contract is contemplated; and the Order is expected to exceed the simplified acquisition threshold amount of \$150,000.
- 52.232-1                    **PAYMENTS** – This clause is applicable if the Order is a fixed-price supply contract, a fixed-price service contract, or a contract for nonregulated communication services.
- 52.232-2                    **PAYMENTS UNDER FIXED-PRICE RESEARCH AND DEVELOPMENT CONTRACTS** – Applicable if the Order is for research and development.
- 52.232-5                    **PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS** – Applicable if this Order is for construction.
- 52.232-11                    **EXTRAS** – This clause is applicable if the Order is a fixed-price supply, fixed-price service order or a transportation order.
- 52.232-16                    **PROGRESS PAYMENTS** – This clause is applicable if the Order provides for progress payments based on costs; the clause includes Alternate I if the Seller is a small business. Alternate II applies if the Order is not definitized.
- 52.232-17                    **INTEREST**
- 52.243-1                    **CHANGES — FIXED-PRICE** - Alternate I of this clause is applicable if the Order is a fixed-price contract for supplies. Alternate II is applicable if the requirement is for services (other than architect-engineer services, transportation, or research and development) and supplies are to be furnished.
- 52.246-2                    **INSPECTION OF SUPPLIES - FIXED PRICE** – This clause is applicable if the Order is for supplies or services that involve the furnishing of supplies, and the amount is expected to exceed the simplified acquisition threshold amount of \$150,000.
- 52.246-4                    **INSPECTION OF SERVICES – FIXED PRICE** – This clause is applicable if the Order is for services or supplies that involve the furnishing of services, and the amount is expected to exceed the simplified acquisition threshold amount of \$150,000.

- 52.246-16                   **RESPONSIBILITY FOR SUPPLIES** – This clause is applicable if the Order is for (a) supplies, (b) services involving the furnishing of supplies, or (c) research and development, when the amount is expected to exceed the simplified acquisition threshold amount of \$150,000.
- 52.246-17                   **WARRANTY OF SUPPLIES OF A NONCOMPLEX NATURE** – This clause is applicable if the Order is for noncomplex items. In paragraph (b) (1) and (c) (1) insert the words, “one year after acceptance.”
- 52.246-18                   **WARRANTY OF SUPPLIES OF A COMPLEX NATURE**, – Applicable to the Order if it is for deliverable complex items. In paragraph (b) (1) insert the words, “one year after acceptance”.
- 52.249-1                   **TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED PRICE) (SHORT FORM)** – This clause applies only if at the time of termination; the Order does not exceed \$150,000.
- 52.249-2                   **TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED PRICE)** – This clause applies only if at the time of termination, the Order exceeds \$150,000.
- 52.249-8                   **DEFAULT (FIXED-PRICE SUPPLY AND SERVICE)** – This clause is applicable if the Order exceeds the simplified acquisition threshold amount of \$150,000.
- 252.243-7001               **PRICING OF CONTRACT MODIFICATIONS**
- 252.246-7001               **WARRANTY OF DATA**, Alternate II
- 252.246-7001               **WARRANTY OF DATA**, Alternate I – Applicable to the Order if it is a fixed price incentive Order.

**B-3     PROVISIONS APPLICABLE TO NONCOMMERCIAL COST REIMBURSEMENT ORDERS**

In addition to the General Provisions of Section A and the FAR and DFARS provisions of Section B-1, the following clauses of the FAR and DFARS are applicable if this Order is cost reimbursable.

- 52.216-7                   **ALLOWABLE COST AND PAYMENT** – In paragraph (a)(1) delete “Government” and add “Buyer” in its place and delete “Contractor” and add “Seller” in its place. If the Seller is an educational institution, modify the clause by deleting from paragraph (a) the words “Subpart 31.2” and substituting them with “Subpart 31.3.” If the Order is with a State or local government, modify the clause by deleting from paragraph (a) the words “Subpart 31.2” and substituting for them “Subpart 31.6.” If the Order is with a nonprofit organization other than an educational institution, a State or local government, or a nonprofit organization exempted under OMB Circular No. A-122, modify the clause by deleting from paragraph (a) the words “subpart 31.2” and substituting for them “Subpart 31.7.”
- 52.216-8                   **FIXED FEE** – This clause is applicable if the Order is cost-plus-fixed-fee (other than a facilities or construction contract).
- 52.222-2                   **PAYMENT FOR OVERTIME PREMIUMS** - This clause applies if the Order exceeds \$150,000. The authorized overtime premium in paragraph (a) is \$0, unless otherwise specified on the face of the Order.

- 52.229-10                    **STATE OF NEW MEXICO GROSS RECEIPTS AND COMPENSATING TAX** – Applicable if the Order is for services to be performed in whole or in part within the State of New Mexico and if the Order directs or authorizes the Seller to acquire tangible personal property as a direct cost under the Order and title to such property passes directly to and vests in the United States upon delivery of the property.
- 52.232-20                    **LIMITATION OF COST**
- 52.232-22                    **LIMITATION OF FUNDS** – This clause applies only if the Order is incrementally funded.
- 52.242-3                     **PENALTIES FOR UNALLOWABLE COSTS** – This clause applies if the Order exceeds \$700,000, except fixed-price orders.
- 52.243-2                     **CHANGES - COST REIMBURSEMENT (ALTERNATE II)** – Alternate II is applicable if the requirement is for services and supplies are to be furnished.
- 52.246-3                     **INSPECTION OF SUPPLIES - COST REIMBURSEMENT**
- 52.246-5                     **INSPECTION OF SERVICES - COST REIMBURSEMENT**
- 52.249-6                     **TERMINATION (COST REIMBURSEMENT)** – This clause applies except if the Order is for R&D with an educational or nonprofit institution on a no-fee basis.
- 52.249-14                    **EXCUSABLE DELAYS**

**B-4    PROVISIONS APPLICABLE TO NONCOMMERCIAL TIME & MATERIAL OR LABOR HOUR ORDERS**

In addition to the General Provisions of Section A and the FAR and DFARS provisions of Section B-1, the following clauses of the FAR and DFARS are applicable if the Order is a time and material or labor-hour type.

- 52.232-7                     **PAYMENTS UNDER TIME-AND-MATERIALS AND LABOR HOUR CONTRACTS**
- 52.243-3                     **CHANGES – TIME AND MATERIALS OR LABOR-HOURS**
- 52.246-6                     **INSPECTION - TIME-AND-MATERIAL AND LABOR-HOUR**
- 52.249-6                     **TERMINATION (COST REIMBURSEMENT)** – This clause is applicable unless the Order is for R&D with an educational or nonprofit institution on a no-fee basis.
- 52.249-14                    **EXCUSABLE DELAYS**