

L-3 Communications Corporation

GENERAL TERMS AND CONDITIONS

For Supply & Services Subcontracts

This document, together with the attachments appended hereto constitutes the Terms and Conditions for the Subcontract between the parties, and acceptance is strictly limited to the terms and conditions contained herein. **Additional or differing terms, conditions or limitations of liability proposed by Seller, whether in a quote, acceptance or delivery document shall have no effect unless accepted in writing by Buyer. In particular, any limitation of liability or disclaimer of warranty is expressly rejected.** Agreement by Seller to furnish the goods or services to these terms and conditions, or Seller's commencement of such performance or acceptance of payment shall constitute acceptance by Seller of these Terms and Conditions.

1. Definitions: Words, as employed in this Agreement, shall have their normally accepted meanings. The following terms shall have the described meaning:

- (a) "Buyer" shall mean L-3 Communications Corporation in this Subcontract.
- (b) "Subcontract" shall mean the Purchase Order, Subcontract, or Contract these General Terms and Conditions, and any special conditions appended hereto or documents incorporated herein.
- (c) "Goods" shall mean those Goods identified in this Subcontract, which may be changed, from time to time by the mutual written agreement of the parties.
- (d) "Services" shall mean those Services identified in this Subcontract, which may be changed, from time to time by the mutual written agreement of the parties.
- (e) "Seller" shall mean the party identified as the Seller in this Subcontract.

2. Price: (a) The prices established by this Subcontract are firm fixed prices unless otherwise stated in the Subcontract. Seller warrants that any unit prices charged herein do not exceed the unit prices charged by Seller to other customers in substantially similar transactions.

(b) In the event Seller is liable to Buyer for any amounts, Buyer may, at its election, set-off against any amounts payable to Seller under this Subcontract.

3. Schedule and Delivery; Notice of Delay: Seller shall strictly adhere to all Subcontract schedules. Time is and shall remain of the essence in the performance of this Subcontract. Seller shall notify Buyer in writing immediately of any actual or potential delay to the performance of this Subcontract. Such notice shall include a revised schedule and shall not constitute a waiver to Buyer's rights and remedies hereunder.

4. New Materials; Packaging and Shipping: (a) All goods to be delivered hereunder shall consist of new materials

(b) Seller shall prepare and package the goods to prevent damage or deterioration and shall use best commercial practice for packing and packaging of items to be delivered under this Subcontract, unless otherwise specified in the Subcontract. (c) Unless otherwise stated in the Subcontract, F.O.B. point shall be Destination (Incoterms 2000 DDP).

5. Inspection and Acceptance: (a) Buyer's acceptance of Goods or Services is subject to Buyer's inspection within sixty (60) days after receipt at Buyer's facility or such other place as may be designated by Buyer, notwithstanding any payment or prior test or inspection.

(b) Seller and its suppliers shall establish and maintain a quality control and inspection program as specified in the Subcontract. Subject to applicable national security regulations, Buyer and Buyer's representatives shall have the right of access, on a non-interference basis, to any area of Seller's or Seller's supply chain sub-tier premises where any part of the work is being performed.

Seller shall flow this requirement down to its sub tier supply chain suppliers as a condition of this Subcontract. Seller shall, without additional costs to Buyer, provide all reasonable in-plant accommodations, facilities, and assistance for the safety and convenience of the Buyer and the Buyer's representatives in the performance of their duties.

(c) Seller shall keep and maintain inspection, test and related records, which shall be available to Buyer or Buyer's representative. Seller shall allow copies to be made and shall furnish all information required by the Buyer or Buyer's representative.

6. Rejection: Buyer at any time prior to acceptance of goods or services shall have the right to reject any goods or services not conforming to the Subcontract requirements.

7. Invoices: (a) Invoices may be mailed when goods are shipped, but the time for payment shall not commence until Buyer's actual or scheduled receipt, whichever is later, of items at their destination or upon satisfactory completion of services.

(b) Buyer shall promptly pay Seller the amount due within 45 days, except if identified elsewhere in the Subcontract, unless the invoiced amount is in dispute. Buyer may withhold payment for shortages and/or non-conforming Goods or Services. Buyer may entertain discounts on goods for expedited payments.

8. Changes: (a) By written order, Buyer may from time to time direct changes for: (i) technical requirements; (ii) shipment or packing methods; (iii) place of delivery, inspection or acceptance; (iv) reasonable adjustments in quantities, delivery schedules or both; (v) amount of Buyer-furnished property; (vi) time of performance; (vii) place of performance; and, (viii) terms and conditions of this contract required to meet Buyer's obligations under Government prime contract or subcontract.

(b) If any such change causes an increase or decrease in the price or in the time required for its performance, Seller shall promptly notify Buyer thereof and assert its claim for equitable adjustment within thirty (30) days after the change is ordered, and an equitable adjustment shall be made. However, nothing in this provision shall excuse Seller from proceeding immediately with the directed change(s). Changes shall not be binding upon Buyer except when specifically confirmed in a written Subcontract or Change Order.

9. Force Majeure: The following events, and only the following events, shall constitute force majeure under this Subcontract: (a) acts of God or of a public enemy; (b) acts of Government; (c) fires; (d) floods; (e) epidemics; (f) quarantine restrictions; (g) strikes; (h) freight embargoes; and, (i) unusually severe weather. In each case, the failure to perform must be entirely beyond the control and without the fault or negligence of the Seller. Each party shall give the other immediate notice of any event that such party claims is a *Force Majeure* Condition that would prevent the party from performing its obligations hereunder, and of the cessation of the condition. A party's notice under this Section shall include the party's good faith estimate of the likely duration of the *Force Majeure* Condition.

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10. Termination for Convenience: (a) Buyer may, by notice in writing, direct Seller to terminate work under this Subcontract in whole or in part, at any time, and such termination shall not constitute default. In such event, Buyer shall have all rights and obligations accruing to it either at law or in equity, including Buyer's rights to title and possession of the goods and materials paid for. Buyer may take immediate possession of all work so performed upon notice of termination. (b) Seller shall immediately stop work and limit costs incurred on the terminated work.

(c) If such termination is for the convenience of the Buyer, Buyer, after deducting any amount(s) previously paid, shall reimburse Seller for the actual, reasonable, substantiated and allowable costs with the total amount to be paid by the Buyer being determined by negotiation.

11. Termination for Default: (a) Buyer may, by written Notice of Default to Seller, terminate this Subcontract in whole or in part if the Seller fails to: (i) deliver the goods or to perform the services within the time specified in this Subcontract or any extension; (ii) make progress, so as to endanger performance of this Subcontract; or, (iii) perform any of the other provisions of this Subcontract.

(b) Buyer may require Seller to transfer title and deliver to Buyer, in the manner and to the extent directed by Buyer, any partially completed goods and raw material, parts, tools, dies, jigs, fixtures, plans, drawings, services, information and contract rights (Materials) as Seller has produced or acquired for the performance of this Subcontract, including the assignment to Buyer of Seller's subcontracts. Seller further agrees to protect and preserve property in the possession of Seller in which Buyer has an interest. Payment for completed goods delivered to and accepted by Buyer shall be at the Subcontract price. Payment for unfinished Goods or Services, which have been delivered to and accepted by Buyer and for the protection and preservation of property, shall be at a price determined in the same manner as provided in the Termination for Convenience provision hereof except that Seller shall not be entitled to profit. Buyer may withhold from Seller moneys otherwise due Seller for completed goods and/or Materials in such amounts as Buyer determines necessary to protect Buyer against loss due to outstanding liens or claims against said goods and Materials.

(c) Seller shall promptly notify Buyer if Seller is the subject of any petition in bankruptcy. In the event of Seller's bankruptcy, Buyer may require Seller to post such financial assurance, as Buyer, in its sole discretion, deems necessary. Failure to post such financial assurance upon ten (10) days written notice shall constitute a default under this Subcontract. The rights and remedies of Buyer in this clause are in addition to any other rights and remedies provided by law or under this Subcontract.

12. Compliance with Law: (a) Seller shall comply with all applicable provisions of Federal, state, and local laws; ordinances and all lawful orders; rules, regulations. FAA, DOT and other transportation regulations and Hazard Communication Standards promulgated pursuant to the Occupational Health and Safety Act.

(b) Seller shall control the dissemination of and access to technical data, information and other items received under this Subcontract in accordance with U.S. export control laws and regulations.

(c) Seller shall comply with the requirements of the Foreign Corrupt Practices Act, as amended, (FCPA) (15 U.S.C. §§78dd-1, *et. seq.*), regardless of whether Seller is within the jurisdiction of the United States; and (ii) neither directly nor indirectly, pay, offer, give, or promise to pay or give, any portion of monies or anything of value received from Buyer to a non-U.S. public official or any person in

violation of the FCPA and/or in violation of any applicable country laws relating to anti-corruption or anti-bribery.

13. Ethical Standards of Conduct: Seller shall neither receive nor give any gifts or gratuities in connection with this Subcontract. Seller's employees are required to conduct company business with integrity and maintain a high standard of conduct in all business-related activities. Seller shall not participate in any unethical conduct during performance of this Subcontract. Seller shall not engage in any personal, business, or investment activity that may be defined as a conflict of interest, whether real or perceived.

14. Intellectual Property: (a) Any information including but not limited to financial and technical information supplied by Buyer to Seller shall remain property of the Buyer and shall be used by Seller solely for the purposes of this Subcontract. Seller shall not furnish to Buyer any information which Seller considers to be proprietary or trade secret to Seller without specific permission and agreement in writing by Buyer. Absence such agreement, all Specifications, information, data, drawings, software and other items supplied to Buyer shall be disclosed to Buyer without any limited and/or restrictive rights on a non-proprietary basis.

(b) All Specifications, information, data, drawings, software and other items which are: (i) supplied to Seller by Buyer; or, (ii) paid for by Buyer during the performance of this Subcontract shall be treated as proprietary to Buyer and shall not be disclosed to any third party without Buyer's express written consent. Seller agrees not to use any such furnished information except to perform this Subcontract.

(c) Seller hereby grants to Buyer, and to Buyer's subcontractors and customers, in connection with the use, offer for sale, or sale of products provided to or work being performed for Buyer, an irrevocable, non-exclusive, paid-up worldwide license under any and all intellectual property (whether domestic or foreign), including patents, copyrights, industrial designs and/or mask works owned or controlled by Seller at any time or licensed to Seller, provided such a sublicense does not conflict with any provisions of the license to the Seller. but only to the extent that failure to provide such license would otherwise interfere with Buyer's or Buyer's subcontractors', suppliers', or customers' use or enjoyment of the goods, work or product provided by Seller under this subcontract.

(d) Seller hereby grants to Buyer, and to Buyer's subcontractors and customers, a perpetual, non-exclusive, paid-up worldwide license to reproduce, distribute copies of, perform publicly, display publicly, or make derivative works from any software included in or provided with Goods or Services under this Subcontract (Software Documentation) as reasonably required by Buyer in connection with Buyer's testing or use of the good but only to the extent that failure to provide such license would otherwise interfere with Buyer's or Buyer's subcontractors', suppliers', or customers' use or enjoyment of the goods, work or product provided by Seller under this subcontract.

[Alternate I - for International application]

Intellectual Property: (a) Background (Preexisting) Intellectual Property. Seller grants to Buyer, and to Buyer's subcontractors, suppliers, and customers in connection with goods or work being performed by Buyer, an irrevocable, nonexclusive, paid-up, worldwide license under any information, know-how, inventions, patents, industrial designs, and mask works (whether domestic or foreign) owned or controlled by Seller at any time before or during the term of this contract, but only to the extent that such would otherwise interfere with Buyer's or Buyer's subcontractors',

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suppliers', or customers; use or enjoyment of goods or the work product or foreground inventions belonging to Buyer under this contract. (b) Foreground Intellectual Property. All information, know-how, inventions, patents, industrial designs, and mask works (whether domestic or foreign) conceived, developed, or first reduced to practice by, for, or with Seller in the course of any work that is performed under this Subcontract and any patents resulting from such inventions (both domestic and foreign) shall be the property of Buyer. Seller will (i) promptly disclose all such inventions to Buyer in written detail and (ii) execute all papers, cooperate with Buyer, and perform all acts necessary and appropriate in connection with the filing, prosecution, maintenance, or assignment of related patents or patent applications on behalf of Buyer. (c) Preexisting Works of Authorship and Copyright. Unless superseded by an attached Seller Software License Agreement agreed to in writing by both Buyer and Seller, Seller grants to Buyer, and to Buyer's subcontractors, suppliers, and customers in connection with goods or work being performed by Buyer, a perpetual, irrevocable, nonexclusive, paid-up, worldwide license in Seller's copyrights to reproduce, distribute copies of, perform publicly, display publicly, and make derivative works from software included in or provided with or for goods (software) and related information and materials (software documentation) and that is owned or controlled by Seller at any time before or during the term of this Subcontract, but only to the extent that such copyrights would otherwise interfere with Buyer's or Buyer's subcontractors', suppliers', or customers' use or enjoyment of goods or the work products, inventions, or works of authorship belonging to Buyer and resulting from this Subcontract. (d) Foreground Works of Authorship and Copyrights. All works of authorship (including, but not limited to, documents, data, drawings, software, software documentation, photographs, video tapes, sound recordings, and images) created by, for, or with Seller in the course of any work performed under this Subcontract, together with all copyrights subsisting therein, shall be the sole proprietary property of Buyer. To the extent permitted under United States copyright law, all such works will be works made for hire, with the copyrights therein vesting in Buyer. The copyrights in all other such works, including all of the exclusive rights therein, will be promptly transferred and formally assigned free of any additional charges to Buyer. (e) Buyer Supplied Data. Any information supplied by the Buyer shall remain Buyer's property, shall not be photostatted or otherwise duplicated without Buyer's written consent and shall be returned to Buyer upon completion of order or upon demand.

15. Intellectual Property Warranty: Seller warrants that the sale, offering for sale, use, or incorporation into manufactured goods and Materials (including software) of all machines, parts, components, services, devices, material, and rights furnished or licensed hereunder which are not of Buyer's design, composition, or manufacture does not and will not infringe any valid patent, copyright, trade mark, or other proprietary or intellectual property rights.

16. Goods Warranty: Unless stated otherwise in the documents accompanying these terms and conditions, Seller shall warrant all goods against defects in design and performance for a period of one year following delivery. If this Subcontract is for delivery of goods, Seller shall observe, comply with and afford Buyer all applicable Uniform Commercial Code warranties contained in the New York Consolidated Laws, and Seller hereby acknowledges that Buyer does not waive or accept any disclaimer of any such warranties.

17. Services Warranty: Unless stated otherwise in the documents accompanying these terms and conditions, Seller shall warrant all services against defects in performance for a period of one year following delivery. If this subcontract includes the provision of Services, Seller warrants that it has and will maintain sufficient trained personnel to promptly and efficiently execute the Services contemplated under this Subcontract. Seller further warrants that the services shall be performed to at least the standard of performance reasonably expected of similar service providers in Buyer's geographic region.

18. Extension to Buyer's Customers: All warranties furnished pursuant to this Subcontract extend not only to Buyer but also to Buyer's customers.

19. Indemnification: (a) Seller shall indemnify Buyer against all liability that may result from any claim, action, or suit by any person, based on any alleged injury to or death of any person or damage to or loss of any property that may occur or that may be alleged to have been caused by the Seller in the course of performance of this Subcontract by the Seller. The Seller shall pay all charges of attorneys in connection therewith and, if any judgment shall be rendered against Buyer in any such action or actions, the Seller shall satisfy and discharge the same without cost or expense to Buyer. However, this indemnity shall not apply to claims, actions, or suits resulting from Buyer's negligence.

(b) Seller shall without limitation as to time, defend, indemnify and hold Buyer harmless from all liens which may be asserted against property covered hereunder, including without limitation mechanic's liens or claims arising under Worker's Compensation or Occupational Disease laws and from all claims for injury to persons or property arising out of or related to such property unless the same are caused solely and directly by Buyer's negligence.

20. Patent Indemnity: Seller shall indemnify Buyer, Buyer's customer and/or the Government and their respective officers, agents and employees against liability, including costs for infringement of any United States patent arising out of the manufacture or delivery of supplies under this purchase order or out of the use or disposal by, or for the account of, Buyer, Buyer's customer and/or the Government of such supplies. The foregoing indemnity shall not apply unless Seller shall have been informed as soon as practicable by Buyer. Buyer's customer and/or the Government of the suit or action alleging such infringement and shall have been given such opportunity as is afforded by applicable laws, rules or regulations to participate in the defense thereof. Such indemnity shall not apply if: (a) the infringement results from compliance with specific written instructions of Buyer directing a change in the supplies to be delivered or in the materials or equipment to be used, or directing a manner of performance of this purchase order not normally used by seller, or (b) the infringement results from an addition to, or change in, the supplies furnished made subsequent to delivery or performance by Seller, or (c) the claimed infringement is settled without the consent of Seller, unless required by decree of a court of competent jurisdiction.

21. Insurance. If this Subcontract is for the performance of services on Buyer's premises, or, Seller utilizes their own vehicles to deliver goods to Buyer's facility, Seller shall maintain the following insurance in at least the minimum amounts stated:

- (a) General Liability, Property Damage, Employer's Liability-\$1million
- (b) Workers Compensation Insurance – Statutory

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(c) Motor Vehicle Liability - \$1 million

Seller shall arrange a waiver of subrogation shall name Buyer as an additional insured under each of the above policies and shall provide to Buyer, within fifteen (15) days of Buyer issuance of this Contract, a Certificate of Insurance evidencing compliance with this section.

22. Release Of Information: Seller shall not publish any information developed under this Subcontract, nor disclose, confirm, or deny any details about the existence or subject matter of this Subcontract, or use Buyer's name in connection with Seller's sales promotion or publicity without prior written approval of the Buyer.

23. Disputes: The provisions of this Subcontract shall be interpreted in accordance with the laws of the State of [ref. State identified in Article XV of subcontract] without resort to said state's Conflict of Law rule, and in accordance with its fair meaning and not strictly against either party. Pending final resolution of a dispute hereunder, Seller shall proceed diligently with the performance of this Subcontract and in accordance with all the Terms and Conditions contained herein and with the Buyer's direction thereof. Buyer and Seller shall each bear its own costs of processing any dispute hereunder.

24. Assignments and Subcontracting: (a) Neither this Subcontract nor any interest herein nor claim hereunder may be transferred, novated, assigned or delegated by Seller; nor may all or substantially all of this Subcontract be further subcontracted by Seller without the prior written consent of Buyer. Lack of consent shall not be deemed as, or relieve Seller of, its obligations to comply fully with the requirements hereof.

(b) Notwithstanding the above, Seller may, without Buyer's consent, assign moneys due or to become due hereunder provided Buyer continues to have the right to exercise any and all of its rights hereunder, settle any and all claims arising out of, and enter into amendments to the Subcontract without notice to or consent of the assignee. Buyer shall be given prompt notice of any assignment. Amounts so assigned shall continue to be subject to any of Buyer's rights to set-off or recoupment under this Subcontract or at law.

(c) Buyer may assign this Subcontract to any successor in interest.

25. Government Contracts: For Subcontracts placed in support of and charged to a U.S. Government Contract: (i) the appendices to the Subcontract will include a list or lists of clauses set forth in the Federal Acquisition Regulation (FAR) or the Defense Federal Acquisition Regulation Supplement (DFARS) or any other Federally published Supplement; (ii) such appended FAR, DFARS, or other clauses are incorporated by reference as if set forth at length herein. The effective date of the aforementioned clauses in this Article 24 are in effect as of the date of the said contract.

26. Order of Precedence: In the event of a conflict between these Terms and Conditions and other portions of the Subcontract, the order of precedence shall be: (a) any typed provisions on the face of Buyer's Subcontract specifically modifying the terms of this Subcontract; (b) these Terms and Conditions; and, (c) any other provisions set forth in the Buyer's Subcontracts including any terms and conditions stated or referenced therein.

27. Independent Contractor Status: Seller is, and shall remain, an independent contractor during the performance of this Subcontract.

28. Communication with Buyer's Customer: Buyer shall be solely responsible for any and all communication with Buyer's customer regarding this or any related Subcontract.

29. Survival: All of the provisions of this Subcontract shall survive the termination (whether for convenience or default), suspension or completion of this Subcontract unless they are clearly intended to apply only during the term of this Subcontract.

30. Audit Rights: Buyer reserves the right to audit Seller's records to assure compliance with the terms of this Subcontract. Seller shall make available all data reasonably requested by Buyer.

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General Terms and Conditions for Supply and Services Subcontracts

Supplement 1 – U.S. Government Contract Provisions from the Federal Acquisition Regulation (FAR)

1. When the materials or products furnished are for use in connection with a U.S. Government contract or subcontract, in addition to the General Provisions, the following provisions shall apply, as required by the terms of the prime contract or by operation of law or regulation. In the event of a conflict between these FAR provisions and the General Provisions, the FAR provisions shall control.

2. The following clauses set forth in the FAR in effect as of the date of the prime contract are incorporated herein by reference. In all clauses listed herein, the terms "Government", "Contracting Officer" and "Contractor" shall be revised to suitably identify the contracting parties herein and affect the proper intent of the provision except where further clarified or modified below. "Subcontractor", however, shall mean "Seller's Subcontractor" under this purchase order.

A. APPLICABLE TO ALL ORDERS:

1. Security Requirements	52.204-2
2. Taxpayer identification (applicable to solicitations)	52.204-3
3. Data Universal Numbering System (DUNS) Number (applicable to solicitations)	52.204-6
4. Central Contractor Registration	52.204-7
5. Personal Identify Verification of Contractor Personnel	52.204-9
6. Material Requirements	52.211-5
7. Alternatives to Government – Unique Standards	52.211-7
8. Defense Priority and Allocation Requirements	52.211-15
9. Contract Terms and Conditions Required to Implement Statutes or Executive Orders – Commercial Items (APR 2009) (DEVIATION)	52.212-5
10. Terms and Conditions – simplified Acquisitions (other than Commercial items)	52.213-4
11. Small Business Program Representations	52.219-1
12. Notice of Total Small Business Set-Aside	52.219-6
13. Notice of partial Small Business Set-Aside	52.219-7
14. Post –Award Small Business Program Representation (over \$3000)	52.219-28
15. Notice to the Government of Labor Disputes	52.222-1
16. Convict Labor	52.222-3
17. Child Labor – Cooperation with Authorities and Remedies	52.222-19
18. Service Contract Act of 1965, as Amended	52.222-41
19. Combating Trafficking in Persons	52.222-50
20. Employment Eligibility Verification	52.222-54
21. Hazardous Material Identification and Material Safety Data – "Government" means Government and Buyer"	52.223-3
22. Notice of Radioactive Material	52.223-7
23. Ozone Depleting Substances	52.223-11
24. Energy Efficiency in Energy-Consuming Products	52.223-15
25. IEEE 1680 Standard for the Environmental Assessment of personal Computer Products	52.223-16
26. Privacy Act	52.224-2
27. Buy American Act – Balance of Payments Program – Supplies	52.225-1
28. Buy American Act Certificate	52.225-2
29. Trade Agreement	52.225-5
30. Trade Agreements – Certificate	52.225-6
31. Duty-Free Entry	52.225-8
30. Restrictions on Certain Foreign Purchases	52.225-13
31. Place of Manufacturer (applicable to solicitations)	52.225-18
32. Utilization of Indian Organizations and Indian-Owned Economic Enterprises	52.226-1
33. Historically Black College or University and Minority Institution Representation	52.226-2
34. Authorization and Consent – Alternate I	52.227-1
35. Royalty Information	52.227-6
36. Refund of Royalties	52.227-9
37. Filing of Patent Applications – Classified Subject Matter	52.227-10
38. Patent Rights – Retention by the Contractor (Short Form)	52.227-11
39. Rights in Data – General	52.227-14
40. Commercial Computer Software – Restricted Rights	52.227-19
41. Workers Compensation Insurance (Defense Base Act)	52.228-3
42. Workers Compensation and War-Hazard Insurance Overseas	52.228-4
43. Insurance – Work on a Government Installation	52.228-5
44. Progress Payments	52.232-16
45. Performance-based Payments	52.232-32

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46. Protest After Award	52.233-3
47. Applicable Law for Breach of Contract Claim	52.233-4
48. Industrial Resources Developed Under Defense Production Act Title III	52.234-1
49. Accident Prevention	52.236-13
50. Protection of Government Buildings, Equipment, and Vegetation	52.237-2
51. Privacy or Security Safeguards	52.239-1
52. Stop Work Order	52.242-15
53. Government Delay of Work	52.242-17
54. Changes – Fixed Price Contracts	52.243-1
55. Competition in Subcontracting	52.244-5
56. Subcontracts for Commercial Items and Commercial Components	52.244-6
57. Government Property	52.245-1
58. Government Property (Fixed-Price Contracts) - "Government means "Government" and/or "Buyer." The fourth sentence of paragraph (h) is changed to read: "Neither the Government nor the Buyer shall be liable..."	52.245-2
59. Preference for U.S. – Flag Air Carriers	52.247-63
60. Preference for Privately Owned U.S. – Flag Commercial Vessels	52.247-64
61. Termination for Convenience of the Government (Fixed-Price) (Short Form)	52.249-1
B. ORDERS OVER \$10,000 ALSO INCLUDE THE FOLLOWING:	
1. Walsh-Healy Public Contracts Act.	52.222-20
2. Prohibition of Segregated Facilities	52.222-21
3. Equal Opportunity	52.222-26(b)
4. Affirmative Action for Workers with Disabilities	52.222-36
5. Buy American Act – North American Free Trade Agreement – Israeli Trade Act (over \$25,000)	52.225-3
6. Buy American Act North American Free Trade Agreement – Israeli Trade Act Certificate (over \$25,000)	52.225-4
C. ORDERS OVER \$100,000 ALSO INCLUDE THE FOLLOWING:	
1. Certificate of Independent Price Determination	52.203-2
2. Restrictions on Subcontractor Sales to the Government	52.203-6
3. Anti-Kickback Procedures (less paragraph (c) (1))	52.203-7
4. Price or Fee Adjustment for Illegal or Improper Activities	52.203-10
5. Limitation on Payments to Influence Certain Federal Transactions	52.203-12
6. Women-Owned Business (Other than Small Business)	52.204-5
7. Audit and Records – Negotiation	52.215-2
8. Integrity of Units Prices	52.215-14
9. Utilization of Small Business Concerns	52.219-8
10. Contract Work Hours and Safety Standards Act – Overtime Compensation	52.222-4
11. Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era	52.222-35
12. Employment Reports on Disabled Veterans and Veterans of the Vietnam Era	52.222-37
13. Rights Concerning Payment of Union Dues or Fees	52.222-39
14. Drug-Free Workplace	52.223-6
15. Estimate of Percentage of Recovered Material Content for EPA-Designated Products	52.223-9
16. Toxic Chemical Release Reporting (Less paragraph (e))	52.223-14
17. Notice and Assistance Regarding Patent and Copyright Infringement	52.227-2
18. Federal, State, and Local Taxes	52.229-3
19. Bankruptcy	52.242-13
20. Change Order Accounting	52.243-6
21. Subcontracts (paragraphs (h) and (l) only apply)	52.244-2
22. Inspection of Supplies, Fixed Price Contracts	52.246-2
23. Inspection of Services, Fixed Price Contracts	52.246-4
24. Responsibility for Supplies	52.246-16
25. Value Engineering	52.248-1
26. Termination for Convenience of the Government (Fixed-Price) – "Government : shall mean "Buyer". In paragraph (c) the term "120 days" is changed to "60 days." The term "one year" in Paragraph (e) is changed to "six months." The term "90 days in paragraph (l) is changed to "forty-five days," per 49.502(e)	52.249-2
27. Default	52-249-8

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D. ORDERS OVER \$550,000 ALSO INCLUDE THE FOLLOWING:

1. Pension Adjustment and Asset Reversions	52.215-15
2. Reversion or Adjustment of Plans for Postretirement Benefits (PRB) other than Pensions	52.215-18
3. Notification of Ownership Changes	52.215-19
4. Small Business Subcontracting Plan	52.219-9
5. Liquidated Damages – Subcontracting Plan	52.219-16
6. Code of Business Ethics and Conduct (over \$5 million)	52.203-13
7. Display of Hotline Poster (over \$5 million)	52.203-14
8. Preaward On-Site Equal Opportunity Compliance Evaluation (over \$10 million)	52.222-24
9. Reporting Subcontract Awards (over \$500 million)	52.204-10

E. UNLESS OTHERWISE EXEMPT ALSO INCLUDE THE FOLLOWING:

1. Audit and Records – Sealed Bidding (exceeds \$650,000)	52.214-26
2. Subcontractor Cost or Pricing Data – Modifications – Sealed Bidding (exceeds \$650,000)	52.214-28
3. Price Reduction for Defective Cost or Pricing	52.215-10
4. Price Reduction for Defective Cost or Pricing Data – Modifications	52.215-11
5. Subcontractor Cost or Pricing Data	52.215-12
6. Subcontractor Cost of Pricing Data – Modifications	52.215-13
7. Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data	52.215-20
8. Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data – Modifications	52.215-21
9. Administration of Cost Accounting Standards	52.230-6
10. Cost Accounting Standards	52.230-2
11. Disclosure and Consistency of Cost Accounting Practices	52.230-3
12. Cost Accounting Standards – Educational Institution	52.230-5
13. Earned Value Management System	52.234-4

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

1. Facilities Capital Cost of Money	52.215-16
2. Waiver of Facilities – capital Cost of Money	52.215-17
3. Allowable Cost and Payment (cost reimbursement) – Seller agrees to execute assignment documents in order to meet subsection (h)	52.216-7
4. Fixed Fee – applicable if this is a cost plus fixed fee order	52.216-8
5. Incentive Fee – applicable if this is a cost plus incentive fee order	52.216-10
6. Cost Contract – No Fee – applicable if this is a cost no fee order	52.216-11
7. Cost Sharing Contract – No Fee – applicable if this is a cost sharing, no fee order	52.216-12
8. Payment for Overtime premiums – insert “0%” in paragraph (a) unless indicated otherwise on the face of this order	52.222-2
9. State of New Mexico Gross Receipts and Compensating Tax	52.229-10
10. Limitation of Cost (if fully funded)	52.232-20
11. Limitation of Funds (if incrementally funded)	52.232-22
12. Changes – Cost-Reimbursement – applicable if this is a cost-reimbursement order	52.243-2
13. Changes – Time and Material or Labor-Hours – applicable if this is a time and material or labor hour order	52.243-3
14. Government Property (Cost-Reimbursement, Time and Material or Labor Hour Contracts) – “Government” means “Government and Buyer.” The following is substituted for paragraph (g) in cost reimbursable orders only: “Seller shall return all Government-furnished property in as good condition as when received, except for reasonable wear and tear for use of the property in accordance with the provisions hereof”	52.245-5
15. Inspection of Supplies (Cost-Reimbursement) – “Contracting Officer” means “Buyer’s purchasing representative” and “Government” means “Buyer and Government” (provided that an inspection system accepted by the Government will be deemed accepted by the Buyer), and where “Government” first appears in paragraph (k) it shall mean “Government or Buyer.” The provisions in this clause for access, right to inspect, safety protection, and relief from liability apply equally to Buyer and the Government.	52.246-3
16. Inspection of Service (Cost –Reimbursement) – “Contracting Officer” means “Buyer’s purchasing representative” and “Government” means “Buyer and Government”	

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(provided that an inspection system accepted by the Government will be deemed accepted by the Buyer), and where "Government" first appears in paragraph (k) it shall mean "Government and Buyer." The provisions in this clause for access, right to inspect, safety protection, and relief from liability apply equally to Buyer and the Government.	52.246-5
17. Inspection – Time and Material and Labor Hour – "Contracting Officer" means "Buyer's purchasing representative" and "Government" means "Buyer and Government" (provided that an inspection system accepted by the Government will be deemed accepted by the Buyer), and where "Government" first appears in paragraph (k) it shall mean "Government and Buyer." The provisions in this clause for access, right to inspect, safety protection, and relief from liability apply equally to Buyer and the Government.	52.246-6
18. Submission of Transportation Documents for Audit	52.247-67
19. Termination (Cost-Reimbursement) – "Government" means "Buyer" and "Contracting Officer" means "Buyer's purchasing representative." In paragraph (d) change "15 days" and "45 days" to "30 days" and "90 days," respectively. In paragraph (e) change "1 year" to "six months." Alternate IV is applicable to time and material or labor-hour orders only.	52.249-6 Alt IV
20. Excusable Delay	52.249-14
G. APPLICABLE TO CONSTRUCTION ORDERS	
1. Subcontracts (labor Standards).	52.222-11
2. Affirmative Action Compliance Requirements for Construction (over \$10,000)	52.222-27
3. Affirmative Procurement of Biobased Products Under Service and Construction Contracts	52.223-2
4. Buy American Act – Construction Materials	52.225-9
5. Notice of Buy American Act / Balance of Payments Program Requirement – Construction Materials	52.225-10
6. North Carolina State and Local Sales and Use Tax	52.229-2
7. Prompt payment for construction contracts	52.232-27
8. Inspection of Construction	52.246-12
9. Value Engineering – Construction (over \$10,000)	52.248-3
3. Certifications	
The offeror, by signing its offer, hereby certifies compliance with the following clauses and is, therefore eligible for award.	
A. Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (over \$100,000)	52.203-11
B. Certification Regarding Debarment, Suspension, Proposed Debarment and Other Responsibility Matters (all)	52.209-5
C. Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (over \$25,000)	52.209-6
D. Certification Regarding Knowledge of Child Labor for Listed End Products	52.222-18
E. Previous Contracts and Compliance Reports (over \$10,000)	52.222-22
F. Affirmative Action Compliance – Statement of Affirmative Action	52.222-25
G. Biobased Product Certification	52.223-1
H. Recovered Material Certification	52.223-4
I. Certification of Toxic Chemical Release Reporting	52.223-13
J. Cost Accounting Standards Notices and Certifications	52.230-1
4. Applicable to all contracts that are funded in whole or in part by the American Recovery and Reinvestment Act of 2009:	
1. Whistleblower Protections	52.203-15
2. Reporting Requiring	52.204-11

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5. Additional Clauses

A. COST ACCOUNTING STANDARDS (Applicable unless otherwise exempt)

Seller shall communicate and otherwise deal directly with the Contracting Officer to the extent practicable and permissible as to all matters relating to Cost Accounting Standards. Seller shall provide Buyer with copies of all

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

B. TRUTH IN NEGOTIATIONS

Cost or Pricing Data (applicable only if certified cost or pricing data has been provided). The clause entitled "Subcontractor Cost or Pricing Data" is a part of this Order if the Seller was required to furnish cost and pricing data and a Certification of Current Cost or Pricing Data for this Order. If it was not required to furnish such data and Certificate, the clause entitled "Subcontractor Cost or Pricing Data-Modification" is a part of this Order. Seller shall update its proposal and re-certify its cost or pricing data whenever costs, factors, or prices change such that cost or pricing data previously furnished is no longer, accurate, current, or complete.

1. Indemnification

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

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

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

i. Simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to the Seller to the date the Buyer is repaid by the Seller at that applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C 6621(a)(2); and

ii. For Department of Defense contracts only, a penalty equal to the amount of the overpayment, if the Seller knowingly submitted cost or pricing data which were incomplete, inaccurate, or non-current.

2. Cost or Pricing Data for Changes

Prior to the pricing of any change or other modification to this Order which involves, increases and/or decreases in costs plus applicable profit in excess of the contractually required threshold (e.g. \$100,000, \$500,000, \$550,000 or \$650,000) and resulting from a change in the prime contract, subcontractors shall submit cost or pricing data and shall certify that the data, as defined in Federal Acquisition Regulation 15.406-2, submitted either actually or by specific identification in writing are accurate, complete, and current as of the date of completion of negotiations.

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

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6. DISPUTES – GOVERNMENT CONTRACTS

Any reference to the “Disputes clause” in any applicable FAR Clause under paragraph 2 above shall mean this paragraph 5, Disputes – Government Contracts

- i. Any dispute arising under this purchase order relating to any decision of the Contracting Officer under the prime contract shall be resolved in accordance with Paragraph (ii) below. All other disputes will be resolved by the Paragraph 21, Disputes in the Subcontract.
- ii. 1. Notwithstanding any other provisions in this purchase order, any decision of the Contracting Officer under the prime contract which binds Buyer shall bind both Buyer and Seller to the extent that it relates to this purchase order –provided that:
 - a. The Buyer notifies with reasonable promptness the Seller of such decision
 - b. The Buyer, at its sole discretion, authorizes in writing the Seller to appeal in the name of the Buyer such decision at its own expense, or
 - c. If Buyer should appeal such decision, Buyer at its sole discretion offers to the Seller the opportunity at its own expense to join Buyer in such appeal.
2. Any decision upon such appeal, when final, shall be binding upon the Seller.
3. The Seller shall keep Buyer informed of any appeal it makes by providing copies of all pertinent documents to Buyer.
4. The Seller shall indemnify and save harmless from any and all liability of any kind incurred by or imputed to Buyer under Section 5, “Fraudulent Claims,” of the Contract Disputes Act of 1978, as amended, if Seller is unable to support any part of its claim in it is determined that such inability is attributable to fraud or misinterpretation of fact on the part of Seller.
- iii. Pending any prosecution, appeal, or final decision or settlement of any dispute arising under this purchase order, the Seller shall proceed diligently, as directed by Buyer, with the performance of this purchase order.
- iv. Nothing in this clause nor any authorization or offer that may be made shall be deemed to constitute acceptance or acknowledgement by Buyer of the validity of Seller's claim or any part thereof, nor be deemed to limit or in any way restrict Buyer from taking any actions, included available remedies, it deems appropriate to protect its own interests.
- v. As used in this clause, the word “appeal” means an appeal taken under the contract Disputes Act of 1978, as amended.

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When the materials or products furnished are for use in connection with a U. S. Government Department of Defense contract or subcontract, in addition to the General Provisions and the FAR provisions, the following provisions shall apply, as required by the terms of the prime contractor by operation of law or regulation. In the event of a conflict between these DFARS provisions and the General Provisions or the FAR provisions, the DFARS provisions shall control.

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

Title of Clause	DFARS
1. Disclosure of Information	252.204-7000
2. Alternate A, Central Contractor Registration	252.204-7004
3. Intent to Furnish Precious Metals as Government-Furnished Material	252.208-7000
4. Disclosure of ownership of control by a foreign government	252.209-7002
5. Limitations on Contractors Acting as Lead System Integrators	252.209-7006
6. Prohibited Financial Interests for Lead System Integrators	252.209-7007
7. Item Identification and Valuation	252.211-7003
8. Radio Frequency Identification	252.211-7006
9. Item Unique Identification of Government Property	252.211-7007
10. Contract Terms and Conditions required to implement statutes or Executive Orders applicable to Defense acquisitions of commercial items (Class Deviation 2009-O0005 expires on April 30, 2014).	252.212-7001
11. Pricing Adjustments	252.215-7000
12. Cost Estimating System Requirements	252.215-7002
13. Excessive Pass-Through Charges – Identification of Subcontract Effort	252.215-7003
14. Excessive Pass-Through Charges	252.215-7004
15. Restrictions on Employment of Personnel	252.222-7000
16. Hazard Warning Labels (fill in State where this purchase order will be performed)	252.223-7001
17. Safety Precautions for Ammunition and Explosives	252.223-7002
18. Change in Place of Performance - Ammunition and Explosives	252.223-7003
19. Drug-Free Work Force	252.223-7004
20. Prohibition on Storage and Disposal of Toxic and Hazardous Materials	252.223-7006
21. Safeguarding Sensitive Conventional Arms, Ammunition and Explosives	252.223-7007
22. Buy American Act – Balance of Payments Program Certificate	252.225-7000
23. Buy American Act and Balance of Payments Program	252.225-7001
24. Qualifying Country Sources as Subcontractors	252.225-7002
25. Prohibition on Acquisition of United States Munitions List Items from Communist Chinese Military Companies	252.225-7007
26. Duty Free Entry (Jan 2004)	252.225-7013
27. Restriction on Acquisition of Ball and Roller Bearings	252.225-7016
28. Restriction on Acquisition of Foreign Anchor and Mooring Chain	252.225-7019
29. Trade Agreements – Certificate	252.225-7020
30. Trade Agreements	252.225-7021
31. Restriction on Acquisition of Polyacrylonitrile (PAN) Carbon Fiber	252.225-7022
32. Restriction on Acquisition of Night Vision Intensifier Tubes and Devices	252.225-7024
33. Restriction on the Acquisition of Forgings	252.225-7025
34. Restriction on Contingent Fees for Foreign Military Sales (blank is filled in "zero")	252.225-7027
35. Exclusionary Policies and Procedures of Foreign Governments	252.225-7028
36. Restriction on Acquisition of Carbon Alloy and Armor Steel Plate	252.225-7030
37. Secondary Arab Boycott of Israel	252.225-7031
38. Buy American Act – Free Trade Agreements – Balance of Payments Program Certificate	252.225-7035
39. Buy American Act – Free Trade Agreements – Balance of Payments Program	252.225-7036
40. Contractor personnel Authorized to Accompany U.S. Armed Forces Deployed Outside the United States	252.225-7040
41. Antiterrorism / force Protection Policy for Defense Contractors Outside the United States	252.225-7043

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42. Rights in Technical Data - Noncommercial Items	252.227-7013
43. Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation	252.227-7014
44. Technical Data - Commercial Items	252.227-7015
45. Rights in Bid or Proposal Information	252.227-7016
46. Identification and Assertion of Use, Release, or Disclosure Restrictions	252.227-7017
47. Rights in Noncommercial Technical Data and Computer Software – Small Business Innovation Research (SBIR) Program	252.227-7018
48. Validation of Asserted Restrictions - Computer Software	252.227-7019
49. Limitations on the Use or Disclosure of Government Furnished Information Marked with Restrictive Legends	252.227-7025
50. Delivery of Technical Data or Computer Software	252.227-7026
51. Deferred Ordering of Technical Data or Computer Software	252.227-7027
52. Technical Data or Computer Software Previously Delivered to the Government	252.227-7028
53. Technical Data--Withholding of Payment	252.227-7030
54. Rights in Shop Drawings	252.227-7033
55. Validation of Restrictive Markings on Technical Data	252.227-7037
56. Patents – Reporting of Subject Inventions	252.227-7039
57. Ground and Flight Risk	252.228-7001
58. Aircraft Flight Risks	252.228-7002
59. Accident Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles	252.228-7005
60. Reporting of Foreign Taxes – U.S. Assistance Programs	252.229-7011
61. Supplemental Cost Principles (first tier subcontractors only)	252.231-7000
62. Frequency Authorization	252.235-7003
63. Protection of Human Subjects	252.235-7004
64. Training for Contract personnel Interacting with Detainees	252.237-7019
65. Protection Against Compromising Emanations	252.239-7000
66. Information Assurance Contractor Training and Certification	252.239-7001
67. Telecommunications Security Equipment, Devices, Techniques, and Services	252.239-7016
68. Reserved	252.242-7001
69. Reserved	252.242-7002
70. Pricing of Contract Modifications	252.243-7001
71. Subcontracts for Commercial Items and Commercial Components (DoD contracts)	252.244-7000
72. Material Inspection and Receiving Report	252.246-7000
73. Notification of Potential Safety Issues	252.246-7003
74. Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer	252.247-7003
75. Notification of Transportation of Supplies by Sea	252.247-7024

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

76. Prohibition on persons convicted of Fraud or other Defense – Contract- related felonies	252.203-7001
77. Disclosure of ownership or control by the government of a Terrorist County	252.209-7001
78. Restriction on Acquisition of Specialty Metals	252.225-7008
79. Restriction on Acquisition of Certain Articles Containing Specialty Metals	252.225-7009
80. Commercial Derivative Military Article – Specialty Metals Compliance Certificate	252.225-7010
81. Preference for Certain Domestic Commodities	252.225-7012
82. Restriction on Acquisition of Hand or Measuring Tools	252.225-7015
83. Reporting of Commercially Available Off-the Shelf Items that Contain Specialty Metals and Are Incorporated into Noncommercial End Items. See Note (1) below.	252.225-7029
84. Requests for Equitable Adjustment	252.243-7002
85. Representation of Extent of Transportation by Sea	252.247-7022
86. Transportation of Supplies by Sea	252.247-7023
87. Notification of Anticipated Contract Termination or Reduction	252.249-7002

ORDERS OVER \$ 500,000 ALSO INCLUDE THE FOLLOWING:

88. Small Business Subcontracting Plan (DoD Contracts) – Over \$550K	252.219-7003
89. Reporting of Contract Performance Outside the United States	252.225-7004
90. Quarterly Reporting of Actual Contract Performance Outside the United States	252.225-7006
91. Utilization of Indian Organization and Indian Owned Economic Enterprises	252.226-7001

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ORDERS OVER \$1,000,000 ALSO INCLUDE THE FOLLOWING:

- | | |
|----------------------------------------------------------------------------------------------------------------------|--------------|
| 92. Acquisition Streamlining | 252.211-7000 |
| 93. Report of Intended Performance Outside the United States and Canada – Submission with Offer (over \$10 million) | 252.225-7003 |
| 94. Report of Intended Performance Outside the United States and Canada – Submission after Award (over \$10 million) | 252.225-7004 |
| 95. Waiver of United Kingdom Levies – Evaluation of Offers | 252.225-7032 |
| 96. Waiver of United Kingdom Levies | 252.225-7033 |

Notes:

(1) ***Specialty Metals Clause***

Seller, by acceptance of this Purchase Order, certifies that any goods ordered herein that are required to comply with the “specialty metals” requirements in 10 USC 2533b and DFARS 252.225-7009 are compliant, and that Seller shall maintain the required manufacturer’s certifications and shall make them available to Buyer upon request. Such certifications shall be retained at Seller’s facility per the record retention requirements of FAR Subpart 4.7.