



## **General Provisions for Purchase Orders for T&M Non-Commercial Goods and Services Under United States Government Prime Contracts**

The Contract is between Integration Innovation, Inc., hereinafter referred to as “Buyer,” and the Seller identified on the face of the Order, hereinafter referred to as “Seller.” Seller certifies upon executing this Order and any modification thereof (1) that no federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on its behalf in connection with the awarding of the Prime Contract or this Contract; and (2) that Seller or its principles is not debarred, suspended, or proposed for debarment by the United States (U.S.). Government. Further, Seller shall immediately notify Buyer in writing if Seller is suspended or debarred by the U.S. Government or if it is proposed for suspension or debarment by any agency of the U.S. Government.

This is a Time and Material Contract as described in Federal Acquisition Regulation (FAR) Subpart 16.6.

### Definitions:

- A. “Buyer” means Innovation Integration Inc., “i3,” the legal entity identified on the face of the Order
- B. “Buyer Furnished Property” may consist of Government-Furnished Property (GFP), Contractor-Acquired Property (CAP) and/or Buyer supplied property to be used in the completion this Contract
- C. “Buyer Procurement Representative” means the Buyer personnel with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings, and who are identified on the face of the Order
- D. “Contract” means this document and any referenced laws, regulations, and attachments
- E. “Contractor Acquired Property (CAP)” means property acquired, fabricated, or otherwise provided by the Seller for performing this Contract that is purchased using funds from this Contract
- F. “Funding Value” means the maximum amount the Seller is authorized to spend in performance on this Contract
- G. “Goods” means any tangible items procured, developed, manufactured, or delivered under this Contract, as well as any in progress
- H. “Government Furnished Property” means property directly in the possession or acquired by the Government and made available to the Seller either directly from the Buyer or the Government in performance of this Contract
- I. “Order” means the purchase order that is issued and signed by the Buyer and Seller prior to the commencement of any Work, as defined in this section
- J. “Party/Parties” means Buyer and Seller individually/collectively
- K. “Performance Work Statement (PWS)” means a statement of work that describes the performance objectives and standards that are expected during Contract execution
- L. “Period of Performance” means the time during which the Seller may incur new obligations to carry out the Work authorized by this Contract
- M. “Prime Contract” means the contract between Buyer and the U.S. Government or between Buyer and its higher-tier contractor who has a contract with the U.S. Government
- N. “Seller” means the Party with whom the Buyer is contracting under this Contract and identified on the face of the Order
- O. “Service(s)” means Seller’s time and effort, to include items, provided to Buyer which are incidental to the performance of the Work
- P. “Work” means all required labor, articles, materials, supplies, Goods and Services constituting the subject matter of this Contract



1. Acceptance of Terms

This Contract integrates, merges, and supersedes any prior offers, negotiations, and contracts concerning the subject matter hereof and constitutes the entire Contract between the Parties. Seller's signed acknowledgment, acceptance of payment, or commencement of performance shall constitute Seller's acceptance of this Contract and all terms and conditions contained herein. Unless expressly accepted in writing by Buyer, additional or differing terms or conditions proposed by Seller or included in Seller's acknowledgment are objected to unconditionally and have no effect on this Contract.

2. General Relationship

Nothing contained in this Contract shall be deemed or construed to create a partnership, joint venture, agency, or other relationship other than that of contractor and customer. Seller is not an employee of Buyer for any purpose whatsoever. Seller agrees that in all matters relating to this Contract it shall act as an independent contractor and shall assume and pay all liabilities and perform all obligations imposed with respect to Seller's employees. Seller shall have no right, power, or authority to create any obligation, expressed or implied, on behalf of Buyer and/or Buyer's customers and shall have no authority to represent Buyer as an agent.

3. Packing and Shipping

Goods purchased hereunder shall be suitably packed and prepared for shipment, comply with any specific transportation specifications of Buyer, and comply with carrier's regulations. All charges for packing, crates, and transportation are included in the price for the Goods and shall be paid by Seller. A packing list shall accompany each box or package shipment showing the order number, item number, quantity, and a description of the goods. If no such packing list accompanies a shipment, Buyer's count, weight or other measure shall be final and conclusive. Buyer shall not be obligated to accept any shipments in excess of the ordered quantity and any excess or advance shipments may be returned to Seller at Seller's expense.

4. Delivery, Inspection, and Acceptance

Time is of the essence in this Contract. The date specified for delivery or performance is the required delivery date at Buyer's facility or other specified location ("FOB Destination"), unless otherwise stated. In the event of any anticipated or actual delay, including but not limited to delays attributed to labor disputes, Seller shall: (i) promptly notify Buyer in writing of the reasons for the delay and the actions being taken to overcome or minimize the delay; (ii) provide Buyer with a written recovery schedule; and (iii) if requested by Buyer, ship via air or other expedited routing, at no additional cost to Buyer, to avoid or minimize delay to the maximum extent possible.

Buyer may refuse any Goods or Services and cancel all or any part hereof if Seller fails to deliver all or any part of any Goods or perform all or any part of any Services in accordance with the terms specified herein. If Seller's deliveries will not meet agreed schedules, Buyer may direct Seller to expedite such delivery at Seller's cost. Delivery shall not be deemed to be complete until goods have been received and accepted by Buyer, notwithstanding delivery to any carrier, or until services have been performed, received, and accepted.

All Goods supplied, and Services performed shall be subject to inspection and test by Buyer, its agents and its customers prior to acceptance. Buyer and its customer may inspect the Goods or Services at reasonable agreed upon times and places, when practicable during manufacture, and before shipment. In the event Goods or Services are not in accordance with this Contract or fail to meet any specific



inspection requirements of Buyer, Buyer may require prompt correction, modifications, repair, replacement, or re-performance thereof at Buyer's option and Seller's sole expense and risk, including all packaging and shipping charges. If Seller is unable to accomplish the foregoing remedies within the original agreed schedule, then Buyer may procure such Goods or Services from another source and Seller shall be liable for any excess costs. Buyer's approval of any Seller submittals shall not relieve Seller of its obligations hereunder.

Acceptance of any part of the Contract shall not bind Buyer to accept future shipments or performance of services nor deprive it of its right to cancel or return all or any part of the Goods because of failure to conform to the Contract or by reason of defects, whether latent or patent, or other breach of warranty, or to make any claim for damages. Seller shall bear the risk of loss of, or damage to, the supplies covered by this Contract, until accepted by Buyer.

5. Tools, Materials, and Information

Designs, sketches, drawings, blueprints, patterns, dies, molds, tools, gauges, equipment, or special appliances made or procured by Seller especially for producing the Goods or Services covered by this Contract, unless otherwise provided, immediately upon manufacture or procurement shall become the property of Buyer. Unless otherwise provided on the face of this Contract or by modification of this Contract, any such items or materials or engineering data or other technical proprietary information furnished by and paid for by Buyer shall become consignment at Seller's risk, shall be used exclusively in the production of Buyer's products required by this Contract, shall be subject to disposition by Buyer at all times, and, upon demand, shall be delivered to Buyer.

Any Government Furnished Property or Buyer Furnished Property provided under this Contract may be identified in the Performance Work Statement, which has been incorporated as an attachment to this Contract (if applicable). Buyer will furnish the item(s) of property as Government Furnished Property or Buyer Furnished Property to the Seller at the F.O.B. Destination for use in performance of this Contract. Seller shall comply with the requirements at FAR 52.245-1, 52.245-2, and 52.245-9, as applicable, in all circumstances where property is furnished to the Seller.

It is recognized and agreed that for efforts originating under this Prime Contract, the Parties may be required to and shall grant licenses or other rights to the Government to inventions, data, and information under such provisions that may be contained in the Prime Contract. Nothing herein is intended to, nor shall it limit or remove, any such Governmental rights.

6. Contract Value

Any work performed shall be subject to the Funding Value stated above, which is the maximum aggregate value that may be issued under this Contract.

This Contract is currently funded in the amount stated on the face of the Order ("Funding Value") as specifically detailed in the Funding Summary attachment. Buyer is not obligated to compensate Seller beyond the Funding Value. Seller's compensation shall be based on work performed in accordance with this Contract, and the Funding Value shall not be construed as Seller's minimum compensation. Seller shall notify the Buyer in writing when the compensation for any work performed is approaching seventy-five percent (75%) of the Funding Value. It is mutually agreed and understood that the seventy-five percent (75%) notification requirement applies to each increment of funds provided to Seller under this Contract.



7. Period of Performance

The Period of Performance for this Contract is stated on the face of the Order (“Period of Performance”), unless modified in writing by mutual Contract of the Parties. Buyer is not obligated to compensate Seller for work performed outside the Period of Performance.

Buyer may exercise the options outlined in the Seller’s proposal to extend the Period of Performance of this Contract by giving written notice to the Seller before the end of the then current Period of Performance. Buyer, at its sole discretion, may choose to not exercise an option irrespective of the exercise of any prime contract option.

8. Warranty

Seller warrants that all Goods supplied shall be new and Goods and Services furnished shall strictly conform to applicable specifications, drawings, samples, descriptions, and other requirements of this Contract and be free from defects in design, material, and workmanship. This warranty shall begin upon final acceptance and extend for a period of one (1) year. If any Goods or Services are identified as not meeting the requirements of this Contract within the warranty period, Seller, at Buyer’s sole discretion, shall promptly repair, replace, or re-perform the Goods or Services at Seller’s expense. If repair, or replacement, or re-performance is not done within a reasonable, agreed upon time, Buyer may elect to return, re-perform, repair, replace or re-procure the non-conforming Goods and Services at Seller’s expense. All warranties shall run to Buyer’s customers.

9. Invoices

Seller shall submit invoices, no more frequently than monthly to the Buyer in accordance with the following instructions:

- (i) Each invoice must be signed and approved by an authorized representative of the Seller **who shall certify** that the invoiced amounts are accurate and that the Seller has, in its possession, records for all direct and indirect costs expended to substantiate the invoices submitted to Buyer. It should further be certified that the individuals being invoiced meet the required labor category, education, and experience qualifications.
- (ii) Unless otherwise specified, prices include all applicable federal, state, and local taxes, duties, tariffs, and similar fees imposed by any government. All taxes, assessments, and similar charges levied with respect to or upon any such products or services provided by Seller under this Contract shall be the responsibility of Seller.

Specific invoicing instructions can be found on the face of the Order.

10. Allowable Costs

In accordance with FAR 52.216-7, Allowable Cost and Payment, Seller shall submit an adequate final annual indirect cost rate proposal to the cognizant Administrative Contracting Officer (ACO) or applicable Federal Agency within the six-month period following the expiration of each of its fiscal years. Upon Buyer’s request, Seller shall verify such a submission of a final indirect cost rate proposal and provide the status of rate negotiations. Submission by the Seller and subsequent approval of the ACO for any rate adjustment does not bind nor obligate the Buyer for payment of any rate adjustment.

Buyer shall only pay allowable costs under this agreement as determined by their Prime Contract and approved by their Customer.

- (a) *Labor rates.* Seller shall invoice at the labor rates for the applicable labor categories in accordance with Seller’s approved labor rates by the Buyer.



(b) *Overtime*. Unless specifically authorized in writing by Buyer, Seller is not authorized to perform and Buyer is not obligated to reimburse Seller for work performed on an overtime, extended work week, shift premium, or uncompensated time basis.

(c) *Materials and other direct costs (ODCs)*. Authorized material and other direct costs, such as travel, will be reimbursed on an actual cost basis in accordance with Generally Accepted Accounting Principles applied on a consistent basis.

In the event that Seller's final annual indirect cost rates, as determined by the U.S. Government in accordance with FAR 52.216-7(d)(2)(ii), vary from Seller's proposed rates and Buyer is entitled to a credit, Seller shall adjust and credit its allowable indirect costs within thirty (30) days of such determination. In the event Seller fails to timely make such adjustments, or to certify to Buyer that no adjustments are required to Seller's allowable indirect costs, Buyer shall be under no obligation to consider subsequent requests by Seller to increase its allowable indirect costs under this Contract and may offset the credit amount in accordance with this Contract.

*Travel Costs*: All travel incurred by Seller in the performance of this Contract shall not be reimbursed by Buyer unless such travel is expressly authorized in writing in advance by Buyer's Procurement Representative. When travel is authorized under this Contract, Seller shall be reimbursed for necessary, reasonable, and actual travel expenses for transportation, lodging, meals and incidental expenses only to the extent that they (1) do not exceed the maximum per diem rate in effect at the time of travel, as set forth in the United States Federal Travel Regulations for the area of travel authorized under this Contract and (2) are otherwise reimbursable pursuant to the Allowable Cost and Payment clause of this Contract. Air travel shall be reimbursed for coach class only. Lodging expenses are reimbursable only where incurred from establishments serving the general public. Seller shall provide a detailed summary of all such costs by category of expense with each invoice. Seller shall provide a legible receipt for each claimed individual expense exceeding seventy-five dollars (\$75.00).

#### 11. Minimum Labor Categories

This Contract includes minimum labor category qualification requirements, and Seller shall not invoice Buyer for any labor performed by an individual who does not fully satisfy the minimum labor category qualification requirements for the applicable labor category. If an individual does not clearly meet all the minimum labor category qualification requirements, but Seller believes the individual is qualified to perform the work, Seller shall request and receive Buyer's written agreement to waive some or all of the minimum labor category qualification requirements before permitting the individual to work. The following statement shall be included in all invoices that include costs or rates for labor categories that are subject to minimum labor category qualification requirements for Seller personnel:

*"Seller has reviewed the qualifications of the individuals whose labor costs are being invoiced hereunder and hereby certifies that all individuals meet the minimum labor category qualification requirements for the specific labor categories for which his or her work is being invoiced."*

Seller shall promptly notify Buyer if it discovers that a Seller employee does not meet the applicable minimum labor category qualification requirements. Seller shall refund to Buyer all costs invoiced and paid for labor associated with any unqualified individual.

#### 12. Closeout



Seller shall submit Buyer's close-out documentation within ninety (90) days after Seller's receipt of final indirect rates and the final invoice shall contain the statement "*This FINAL INVOICE was prepared using final audited rates as applicable to material, travel and/or other direct costs.*"

Seller's failure to submit close-out documentation by the applicable due date above may result in the Buyer's unilateral issuance of final payment to Seller or unilateral de-obligation of funds, which Seller agrees to accept as final and complete payment in full satisfaction of Buyer's obligations hereunder. Failure of Seller to invoice Buyer in a timely manner relieves Buyer of all financial obligations, liabilities and payments to Seller for any and all unbilled costs, profit and/or fees under the Contract.

Buyer may authorize the use of Quick Closeout procedures in accordance with FAR 42.708, if the conditions of FAR 42.708(a) are met under the Prime Contract. When authorized by Buyer, Seller shall submit a final completion invoice based upon its DCMA-authorized Quick Closeout Contract or provisional rates.

Buyer shall have the right to unilaterally reduce Seller's funding to the amount invoiced when government fiscal year appropriations expire ("Cancelling Funds") before the Seller is obligated to submit an adjusted invoice in accordance with this Contract.

#### 13. Payment and Record Retention

Invoices submitted that are approved, complete, and accurate shall be paid, unless otherwise provided, will be by the earliest of the following: (1) net sixty (60) days, or (2) when Buyer receives payment from the U. S. Government plus ten (10) days less any offset for any amount owed to Buyer. Payment shall be deemed to have been made on the date of mailing or electronic funds transfer. The price(s) set forth herein shall include all applicable Federal, State, and local taxes and duties. Payment shall not constitute final acceptance. Payment shall be subject to reduction to the extent the amounts are found by Buyer or Seller not to have been properly payable and shall be subject to reduction for overpayment. Seller shall promptly notify Buyer of any such overpayment and remit the overpayment except as otherwise directed by Buyer.

At any time before final payment under this Contract, Buyer may request, and Seller shall allow and support, an audit of the invoices and supporting documentation. Unless a longer period is specified in this Contract or by law or regulation, the Seller shall retain all records related to this Contract in accordance with FAR 4.705 and FAR 4.805. Records related to this Contract include, but are not limited to, financial, proposal, procurement, specifications, production, inspection, test, quality, shipping and export, and certification records. At no additional cost, the Seller shall timely provide access to such records to the U.S. Government upon request.

#### 14. Compliance with Law

Seller shall comply with all export and import laws, regulations, decrees, orders, and policies of the U.S. Government including, but not limited to, the Export Administration Regulations ("EAR") of the U.S. Department of Commerce and the International Traffic in Arms Regulations ("ITAR") of the U.S. Department of State (collectively, "Trade Control Laws").

Seller shall control the disclosure of, and access to, controlled items or technical data provided by the Buyer related to the performance of this Contract and/or task order(s) in compliance with all applicable Trade Control Laws. The Seller shall not transfer (to include transfer to foreign persons employed by Seller, associated with the Seller, under contract to Seller, Seller's supplier, or Seller's subsidiaries)



any export-controlled item, data or services without providing advance notice to the Buyer and obtaining the requisite export and/or import authority.

Subject to applicable Trade Control Laws, Seller shall provide the Buyer with the export control classification of any commodity or technology including software.

Seller represents that it maintains effective export/import control compliance program in accordance with all applicable Trade Control Laws. A copy of process control documents and other documents reasonably requested by the Buyer related to the Seller's compliance with applicable Trade Control Laws shall be made available to the Buyer upon request.

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

Seller shall promptly inform the Buyer of any actual or alleged violations of any applicable Trade Control Laws, including any suits, actions, proceedings, notices, citations, inquiries, or other communications from any government agency concerning any actual or alleged violations in the Seller's performance under this Contract and shall comply with all reasonable requests from the Buyer for information regarding such violations.

Seller and its suppliers shall comply with FAR 52.222-50, Combating Trafficking in Persons, which is incorporated by reference, and ensure it informs its employees and suppliers of their responsibility to report human trafficking violations at any tier of the supply chain using any appropriate disclosure channel, including but not limited to: Government's Global Human Trafficking Hotline (844) 888 FREE and its email address at [help@befree.org](mailto:help@befree.org). Buyer does not tolerate retaliation of any kind against individuals who, in good faith, raise questions or report concerns, and Seller shall notify its employees of their whistleblower rights under 10 U.S.C. 2409 and DFARS Section 203.9. Seller shall flow down this Article to all suppliers at any tier. Seller's failure to comply with this Article shall be deemed a material breach of the Order.

Where submission of cost or pricing data is required or requested at any time prior to or during performance of this Contract, if Seller or its lower-tier subcontractors: (i) submit and/or certify cost or pricing data that are defective; (ii) with notice of applicable cutoff dates and upon Buyer's request to provide cost or pricing data, submit cost or pricing data, whether certified or not certified at the time of submission, as a prospective contractor, and any such data are defective as of the applicable cutoff date on Buyer's Certificate of Current Cost or Pricing Data; (iii) claim an exception to a requirement to submit cost or pricing data and such exception is invalid; (iv) furnish data of any description that is inaccurate; or, if (v) the U.S. Government alleges any of the foregoing; and, as a result, (A) Buyer's Prime Contract price or fee is reduced; (B) Buyer's costs are determined to be unallowable; (C) any fines, penalties, withholdings, or interest are assessed on Buyer; or (D) Buyer incurs any other costs or damages; the Buyer may proceed as provided for in the paragraph immediately following.

Upon the occurrence of any of the circumstances, other than withholdings, identified in the paragraph immediately preceding, Buyer may make a reduction of corresponding amounts (in whole or in part) in the price of this Contract or any other Contract with Seller, and/or may demand payment (in whole or in part) of the corresponding amounts. Seller shall promptly pay amounts so demanded. In the case of withholding(s), Buyer may withhold the same amount from Seller under this Contract.



#### 15. Changes

Buyer may at any time, by written notice from their Buyer Procurement Representative, make changes within the general scope of this Contract in any one or more of the following: (i) drawings, designs, or specifications; (ii) method of shipping or packing; (iii) place of inspection, acceptance, or point of delivery; and (iv) delivery schedule.

Only the Buyer's Procurement Representative has authority on behalf of Buyer to make changes to this Contract. All amendments must be identified as such in writing and executed by the Parties. Specifically, changes which affect the price, schedule, statement of work, or the terms and conditions shall be made only with written authorization from Buyer's Procurement Representative. No changes to this Contract shall be binding upon Buyer unless incorporated in a written modification signed by Buyer's Procurement Representative.

Buyer engineering and technical personnel may from time to time render assistance or give technical advice or discuss or effect an exchange of information with Seller's personnel concerning the Work hereunder. No such action shall be deemed to be a change under the "Changes" clause of this Contract and shall not be the basis for equitable adjustment.

Seller must assert its right to an equitable adjustment under this clause within twenty (20) days from the date of receipt of the written change order from Buyer. This assertion must include the amount of the equitable adjustment and the basis for the equitable adjustment.

Equitable adjustment assertions based on changes to federal, state, or local laws, rules, and regulations will only be approved if Buyer's customer approves them. Failure by the Seller to assert claims related to this paragraph in a timely manner or denial by Buyer's customer to grant the equitable adjustment relieves Buyer of all liability for these assertions and any proposed equitable adjustment.

Failure to agree to any adjustment shall be resolved in accordance with the "Disputes" clause of this Contract. However, nothing contained in this "Changes" clause shall excuse Seller from proceeding without delay in the performance of this Contract as changed.

#### 16. Counterfeit Work/Goods

The requirements of FAR 52-246-26, relating to the Reporting of Nonconforming Items, are incorporated here by reference.

The following definitions apply to this clause:

1. "Counterfeit Work" means product or material that is or contains unlawful or unauthorized reproductions, substitutions, or alterations that have been knowingly mismarked, misidentified, or otherwise misrepresented to be an authentic, unmodified part from the original manufacturer, or a source with the express written authority of the original manufacturer or current design activity, including an authorized aftermarket manufacturer. Unlawful or unauthorized substitution includes used work represented as new, or the false identification of grade, serial number, lot number, date code, or performance characteristics.
2. "Suspect Counterfeit Work" means product or material for which credible evidence (including but not limited to, visual inspection or testing) provides reasonable doubt that the work part is authentic.

Seller shall not deliver Counterfeit Work or Suspect Counterfeit Work under this Contract.



Seller shall only purchase products to be delivered or incorporated as material to the Buyer directly from an Original Component Manufacturer (OCM), Original Equipment Manufacturer (OEM), or through an OCM/OEM authorized distribution chain. Products or materials shall not be acquired from an independent distributor or broker unless the Buyer has provided prior written approval.

The Seller shall promptly notify the Buyer with the pertinent facts if the Seller becomes aware or suspects that it has furnished Counterfeit Work or Suspected Counterfeit Work. When requested by the Buyer, the Seller shall provide OCM/OEM documentation that authenticates traceability of products or materials to the applicable OCM/OEM.

This clause applies in addition to any quality provision, specification, statement of work, or other provision provided in this Contract addressing authenticity of work. To the extent that such provisions conflict with this clause, this clause shall prevail.

If Counterfeit Work or Suspected Counterfeit Work is delivered under this Order, the Seller shall at its own expense, promptly replace such Counterfeit Work or Suspected Counterfeit Work with genuine work conforming to the requirements of this Contract. Notwithstanding any other provision in this Contract, the Seller shall be liable for all costs relating to the removal and replacement of Counterfeit Work or Suspected Counterfeit Works including without limitation the Buyer's costs of removing Counterfeit Work, of installing replacement products or materials, of any testing necessitated by the re-installation of products or materials after replacement, and any fines or penalties assessed to the Buyer as a result of the Counterfeit Work.

The Seller shall participate in monitoring the Government Industry Data Exchange Program (GIDEP) and shall act upon GIDEP reports which affect product or material delivered to the Buyer. When Suspect Counterfeit Work or Counterfeit Work associated with this Contract is discovered, the Seller shall submit a GIDEP Report and shall ensure Suspect Counterfeit Work or Counterfeit Work is not delivered to the Buyer.

The Seller shall include this clause in all lower-tier subcontracts for the delivery of items that will be included or furnished as product or material to the Buyer.

#### 17. Customer Communication

Seller shall not communicate with Buyer's customer or higher-tier customer in connection with this Contract, except as expressly permitted in writing by Buyer. This clause does not prohibit Seller from communicating with the U.S. Government with respect to (1) matters Seller is required by law or regulation to communicate to the U.S. Government, (2) fraud, waste, or abuse communicated to a designated investigative or law enforcement representative of a U.S. Government department or agency authorized to receive such information, (3) any matter for which this Contract, including a FAR or FAR Supplement clause included in this Contract, provides for direct communication by Seller to the U.S. Government, or (4) any material matter pertaining to payment or utilization.

#### 18. Non-Solicitation

Seller agrees that, during the term of this Contract and for a period of one (1) year thereafter, Seller will not directly solicit or recruit the employees of the Buyer that work on this Contract for the purpose of inducing them to join their employ. The foregoing prohibition shall not include general solicitations. General solicitation includes advertisements in the general media and, except to the extent that an



individual was specifically encouraged to respond to such advertisements, there shall be no restrictions on the hiring of individuals so responding.

19. Stop-Work Order

Buyer may, at any time, by written notice to Seller, require Seller to stop all or part of the work or delivery of supplies called for by this Contract for a period of up to ninety (90) days and for any additional agreed period (“Time Period”). Upon receiving such notice, Seller shall promptly comply with its terms and take all reasonable steps to avoid incurring any additional costs associated with the stopped work during the Time Period. Buyer will, prior to the end of the Time Period, either cancel the stop work order or terminate this Contract in whole or in part as permitted by this Contract. If a stop work order is issued, Buyer shall modify the delivery schedule and/or price in this Contract as Buyer deems equitable under the circumstances, provided Seller requests such change within fifteen (15) days of the end of the Time Period.

20. Termination for Convenience

Buyer shall have the right to terminate this Contract hereunder, in whole or in part, at any time, without cause, by providing written notice to Seller. If so terminated under this provision, Buyer shall not be liable for any products delivered or services initiated and/or performed after the effective date of termination. Seller shall have no claim against Buyer for services not performed, anticipatory profits lost, or indirect or consequential damages claimed to have been suffered by reason of such termination. Upon receiving notice of such termination, Seller shall:

- (i) Stop all work on the written effective date and to the extent specified;
- (ii) Place no further contracts, agreements, or orders hereunder except as may be necessary for completing such portions of the work as have not been terminated;
- (iii) Terminate all contracts, agreements, and orders to the extent that they may relate to portions of the work that have been terminated; and
- (iv) Protect all property in which Buyer has or may acquire an interest.

Buyer reserves the right to verify claims hereunder and Seller shall make available to Buyer, upon its reasonable request, all relevant books and records for inspection and audit. If Seller fails to afford Buyer its rights hereunder, Seller shall be deemed to have relinquished its claim. In no event shall Buyer be liable for lost or anticipated profits, or unabsorbed indirect costs or overhead, or for any sum in excess of the total Contract price. Seller’s termination claim shall be submitted within sixty (60) days from the effective date of the termination.

21. Termination for Default

By written notice of default to Seller, Buyer may terminate this Contract in whole or in part hereunder in any one of the following circumstances:

- (i) Seller fails to make delivery of the Goods or to perform the Services within the time specified herein or any extension thereof; or
- (ii) Seller fails to perform any of the other provisions of this Contract or so fails to make progress as to endanger performance of this Contract in accordance with its terms, and in either of the circumstances specified in this subpart (a)(ii) does not cure such failure within a period of ten (10) days (or such longer period as Buyer may authorize in writing) after receipt of notice from the Buyer specifying such failure;
- (iii) Seller becomes insolvent, unable to pay its bills when due, or becomes the subject of proceedings under any law relating to bankruptcy or the relief of debtors or admits in writing its inability to pay its debts as they become due; or



- (iv) Seller fails to provide Buyer, in writing, within the time specified by Buyer, adequate assurances of performance.

If the Contract is so terminated, Buyer may procure or otherwise obtain, upon such terms and in such manner as Buyer may deem appropriate, Goods or Services similar to those terminated. Seller, subject to the exceptions set forth below, shall be liable to Buyer for any excess costs of such similar Goods or Services.

Seller shall transfer title and deliver to Buyer, in the manner and to the extent requested in writing by Buyer at or after termination, such complete or partially completed Goods or Services as Seller has produced or acquired for the performance of the terminated part of the Contract and Buyer will only pay Seller the price of the Goods and Services accepted. Seller shall also deliver to Buyer any of Seller's intellectual property, including all technical data and commercial computer software, solely to the extent that is necessary for Buyer to perform the requirements of its prime or higher-tier contracts and/or complete its own and Seller's obligations in connection with this Contract.

Seller shall continue performance of the Contract to the extent not terminated. Buyer shall have no obligations to Seller with respect to the terminated part of the Contract except as herein provided. Buyer's rights as set forth herein shall be in addition to any other rights in case of Seller's default.

In no event shall Buyer be liable for lost or anticipated profits, or unabsorbed indirect costs or overhead, or for any sum in excess of the total Contract price. Seller's termination claim shall be submitted within sixty (60) days of the effective date of the termination.

## 22. Insurance

Without prejudice to Seller's liability to indemnify Buyer as stated in any Indemnification provision contained in this Contract, Seller shall procure at its expense and maintain for the duration of this Contract, and ensure that any of its vendors and/or subcontractors used in connection with this Contract procure and maintain, the insurance policies required below with financially responsible insurance companies, and with policy limits not less than those indicated below:

- (a) *Workers' Compensation*: Coverage for statutory obligations imposed by laws of any State in which the work is to be performed.
- (b) *Employer's Liability*: Coverage for injuries to employees not covered by workers' compensation with limits of at least \$1,000,000 each accident, \$1,000,000 each employee by disease, and \$1,000,000 policy limit by disease. In addition, the policy shall be endorsed to waive the insurer's rights of subrogation in favor of Buyer.
- (c) *Commercial General Liability*: Coverage for third party bodily injury and property damage, personal injury, products and completed operations, contractual liability, and independent contractors' liability with limits not less than \$500,000 per occurrence and \$1,000,000 in the aggregate. Buyer, its officers and employees, and Buyer's customer where required by Buyer's Contract with its customer, shall be named as additional insured and a waiver of subrogation shall be provided in favor of Buyer.
- (d) *Business Automobile Liability*: Coverage for use of all owned, non-owned, and hired vehicles with limits of not less than \$1,000,000 per occurrence combined single limit for bodily injury and property damage liability. Buyer, its officers and employees, and Buyer's customer where required by Prime Contract with its customer, shall be named as additional insured and a waiver of subrogation shall be provided in favor of Buyer.



(e) *Professional Liability*: If seller is performing any Services, coverage for damages (including financial loss) caused by any acts, errors and omissions arising out Seller's performance of Services with limits of not less than \$500,000 per claim and \$1,000,000 in the aggregate.

(f) *All-Risk Property Insurance*: Coverage to repair or replace property, including Goods covered by this Contract, of Buyer and/or Buyer's customer which may be in the possession or control of Seller. Buyer shall be named as a loss payee with respect to loss or damage to said property and/or supplies furnished by Buyer. Further, Seller assumes the risk of loss or destruction of or damage to any of its property and its employees' property, whether owned, hired, rented, borrowed, or otherwise. Seller waives and shall ensure that its employees waive all rights of recovery against Buyer and Buyer's customer and their respective employees for any loss, destruction of or damage to any such property.

The required insurance coverage above shall be primary and non-contributing with respect to any other insurance that may be maintained by Buyer and notwithstanding any provision contained herein, the Seller, and its employees, agents, representatives, consultants, subcontractors and suppliers, are not insured by Buyer, and are not covered under any policy of insurance that Buyer has obtained or has in place.

Any self-insured retentions, deductibles, and exclusions in coverage in the policies required under this Article shall be assumed by, for the account of, and at the sole risk of Seller or the subcontractor which provides the insurance and to the extent applicable shall be paid by Seller or such subcontractor. In no event shall the liability of Seller or any vendor and/or subcontractor be limited to the extent of any of insurance or the minimum limits required herein.

Prior to commencement of any work, and within fifteen (15) days of any policy renewal that occurs while any work is on-going under this Contract, Seller shall provide Buyer certificates of insurance evidencing the insurance policies above, including evidence of additional insured status and waivers of subrogation where required. Buyer reserves the right to refuse to accept policies from companies with an A.M. Best Rating of less than A-VII. Seller, or its insurers, shall provide thirty (30) days advance written notice to Buyer in the event of cancellation or material modification of any policy. Failure of Buyer to demand such certificates or to identify any deficiency in the insurance provided shall not be construed as or deemed to be a waiver of Seller's, or its subcontractors', obligations to maintain the above insurance coverage.

### 23. Indemnification

Seller shall defend, indemnify, and hold harmless Buyer, its officers, directors, employees, consultants, agents, affiliates, successors, permitted assigns and customers from and against all losses, costs, claims, causes of action, damages, liabilities, and expenses, including attorney's fees, all expenses 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 Contract.

### 24. Use of Name / Disclosure

Seller shall not, without first obtaining the written consent of Buyer, in any manner advertise, publish or disclose the fact that Seller has furnished or contracted to furnish Buyer with the Goods or Services hereunder, or disclose any information concerning the work performed, to any third party, except as may be required to perform this Contract. No news releases, public announcement, denial or



confirmation of any part of the subject matter of this Contract or any phase of any program hereunder shall be made without prior written consent of Buyer which shall not be unreasonably withheld.

The provisions set forth above are in addition to and do not alter, change, or supersede any obligation contained in a proprietary information agreement or non-disclosure agreement between the Parties.

Unclassified Controlled DoD Information shall be governed by DFARS 252.204-7012 if included in this Contract.

## 25. Property and Intellectual Property

Buyer Furnished Items. All items furnished by Buyer to Seller for the performance of the Contract remain the property of Buyer or Buyer's customer. Upon expiration of this Contract, Seller shall return the items in the same condition, less reasonable wear, or make such other disposition of the items as directed in writing by Buyer. Subject to any government property clause that governs liability incorporated herein, Seller shall replace, at its expense, all items not returned in accordance with this Article. Seller shall bear all risk of loss of such items. Seller shall comply with any restrictive legends placed on such items by Buyer or a third party. If Buyer furnishes any material for fabrication pursuant to this Contract, Seller agrees not to substitute any other material for such fabrication without Buyer's prior written consent.

- (i) Any Government Furnished Property or Buyer Furnished Property provided under this Contract may be identified in the Performance Work Statement, which has been incorporated as an attachment to this Contract (if applicable). Buyer will furnish the item(s) of property as Government Furnished Property or Buyer Furnished Property to the Seller, F.O.B. Destination, for use in performance of this Contract. Seller shall comply with the requirements at FAR 52.245-1, 52.245-2, and 52.245-9, as applicable, in all circumstances where property is furnished to the Seller. All Government Furnished Property and Buyer Furnished Property will only be used by the Seller to meet their obligations under this Contract. Upon Buyer request or Contract Termination, all Government Furnished Property or Buyer Furnished Property will be returned to the Buyer
- (ii) The Seller has a continuing obligation to report to Buyer, any Contractor Acquired Property (CAP) purchased, or Government Furnished Property (GFP) received by Seller or its lower tier subcontractors during the Period of Performance of this subcontract, and to comply with the requirements set forth in this Contract and pursuant to FAR 52.245-1, 52.245-2 and DFAR Part 245, as applicable. Seller shall make no charge for any storage, maintenance or retention of such items. Sixty (60) days prior to the end of the Period of Performance for this Contract, or upon termination of the Contract, the Seller shall furnish to the Buyer a complete inventory of all GFP/CAP in its possession that has not been tested to destruction, completely expended in performance, or incorporated and made a part of a deliverable end item. The Buyer will furnish disposition instructions on all listed property that was furnished or purchased under this Contract.
- (iii) In addition to the above requirements, the Seller is required to perform and complete an annual physical inventory, utilizing the Buyer's provided government property questionnaire or certification, which will be provided at the Buyer's request of the reporting. The report must be returned to the Buyer's Procurement Representative no later than October of each year of this subcontract.
- (iv) Seller certifies that it will not accept any GFP under this Contract unless it is issued directly by Buyer to Seller, or unless Seller receives prior written consent from the Buyer's



Procurement Representative to accept GFP directly from the Government. Such consent will be granted by Buyer via a modification listing the GFP to be issued to Seller. Any attempts by the U.S. Government to deliver GFP directly to the Seller, without prior authorization by Buyer, will be reported by the Seller's contractual point of contact to the Buyer's Procurement Representative.

Customer and Buyer Rights.

- (i) For each commercial and noncommercial item first conceived, discovered, made, produced, created, generated, or reduced to practice ("Developed") or delivered hereunder, Seller grants to Buyer's customer the intellectual property rights required by the Prime Contract, including all applicable FAR or other agency clauses (e.g., FAR 52.227-11, FAR 52.227-14, DFARS 252.227-7013, DFARS 252.227-7014, DFARS 252.227-7015, and DFARS 252.227-7038). Seller agrees that its delivered technical data and computer software will be free from markings that are not expressly permitted by the Prime Contract and authorizes Buyer to remove from deliverables any such impermissible markings.
- (ii) Seller additionally warrants that the Work performed or delivered under this Contract will not infringe or otherwise violate the intellectual property rights of any third party in the United States or any foreign country. Except to the extent that the U.S. Government assumes liability therefor, Seller shall defend, indemnify, and hold harmless Buyer, its officers, directors, employees, consultants, agents, affiliates, successors, permitted assigns and customers from and against all losses, costs, claims, causes of action, damages, liabilities, and expenses, including attorney's fees, all expenses of litigation and/or settlement, and court costs, arising out of any action by a third party that is based upon a claim that the Work performed or delivered under this Contract infringes or otherwise violates the intellectual property rights of any person or entity.
- (iii) In addition to the U.S. Government's rights in data and inventions, Seller agrees that Buyer, in the performance of its Prime Contract or higher tier contract obligations, shall have an unlimited, irrevocable, paid-up, royalty-free right to (1) make, have made, sell, offer for sale, use, execute, reproduce, display, perform, distribute (internally or externally) copies of, transfer computer software to the U.S. Government and the U.S. Government's end customer, and prepare derivative works, as well as any and all, inventions, discoveries, improvements, mask works, and patents as well as any and all data, copyrights, reports, and works of authorship, conceived, developed, generated or delivered in performance of this Contract, and (2) authorize others to do any, some or all of the foregoing. Items delivered under this Contract such as operation and maintenance manuals shall be delivered with the right to copy for internal use and/or copy and deliver with the right to use for Buyer's customers.
- (iv) The tangible medium storing copies of all reports, memoranda or other materials in written form including machine readable form, prepared by Seller and furnished to Buyer pursuant to this Contract shall become the sole property of Buyer. Nothing in this paragraph (iv) assigns ownership of Seller's intellectual property included on such medium to Buyer.
- (v) No other provision in this Contract, including but not limited to the Indemnity Article, shall be construed to limit the liabilities or remedies of the Parties under this clause.

Third Party Intellectual Property. Seller shall not, without Buyer's prior written consent, incorporate any intellectual property owned by a third party into any deliverable. Buyer shall not unreasonably withhold consent to incorporation if Seller demonstrates that it has licenses to such



intellectual property that enable it to comply with paragraphs (ii), (iii), and (iv) of Customer and Buyer Rights above.

Commercial Computer Software. To the extent that Seller provides any of its commercial computer software under this Contract, Seller's normal commercial license terms shall govern the end user's use of such commercial items, except to the extent that such normal commercial terms conflict or are inconsistent with applicable federal law or regulation. In the case of any conflict or inconsistency, the applicable federal law or regulation shall take precedence. Seller agrees that the applicability of its commercial terms is contingent upon Buyer's customer's acceptance of the commercial computer software and its accompanying commercial items terms or license. Unless the Performance Work Statement provides otherwise, only the Buyer's end-user customer is a party to the Seller's commercial terms or license. In no event will Buyer be liable for an end-user customer breach of Seller's commercial terms or license. The license to Buyer set forth in paragraph (iii) shall apply to commercial computer software, without additional cost and whether or not Buyer is a party to Seller's commercial terms, to the extent necessary to provide Buyer with rights necessary to perform the requirements of its prime or higher-tier contracts in connection with this Contract.

26. Assignment and Subcontracting

Seller shall not assign, novate or otherwise transfer by operation of law or otherwise this Contract without prior written consent from Buyer, which consent shall not be unreasonably withheld.

Except to the extent identified in Seller's proposal, Seller shall obtain Buyer's approval before subcontracting any portion of this Contract; provided, however, that this limitation shall not apply to the purchase of standard commercial supplies, raw materials, or approved subcontractors in the Seller's proposal. Seller shall notify the Buyer Procurement Representative in writing if the Seller changes the amount of a lower-tier subcontract effort after award such that it exceeds seventy percent (70%) of the total cost of work to be performed by Seller under the Contract. The notification shall identify the revised percentage of the lower-tier subcontractor's effort and shall include verification that the Seller will provide added value as related to the work to be performed by the lower-tier subcontractor(s).

27. Applicable Law

The validity, construction, and interpretation of this Contract, and the rights and duties of the Parties to this transaction, shall be governed by the laws of the State of Alabama. The courts located in the State of Alabama shall have exclusive jurisdiction of all matters arising under this Contract, and each Party hereby consents to the jurisdiction of such courts. The invalidity of one provision of this Contract shall not affect the validity of any other provision. To the extent that the laws, rules, and regulations for U.S. Government procurement apply, then the laws commonly referred to as U.S. Government contract law shall apply.

28. Disputes

Buyer and Seller agree to first enter into negotiations to resolve any dispute arising under or relating to this Contract. Any claim, or dispute between the Buyer and Seller concerning questions of law or fact arising out of this Contract, performance by either Party, or threatened or actual breach, which is not disposed of by mutual Contract within a period of thirty (30) days after one Party has provided written notice to the other Party, shall be subject to a senior-level review by the Buyer's and Seller's executive leadership.



Any unresolved dispute shall be submitted to binding arbitration administered and conducted by the American Arbitration Association. The claim, controversy or dispute shall be arbitrated before three arbitrators, one to be selected by each Party and the third to be selected by the other two selected arbitrators.

Any such arbitration shall be held in Madison County, Alabama. The Parties agree that any remedy or relief granted shall be limited and therefore under no circumstances may the arbitrators make any award that includes any amount representing loss of profits, loss of business or any other incidental, special, consequential, or punitive damages.

The decision of the arbitrators shall be final and conclusive upon the Parties. The arbitrators shall apply the substantive and procedural law of the State of Alabama, without regard to any “choice of law” principles that would have the effect of applying any law other than that of Alabama, except to the extent of the Articles and other provisions incorporated herein by reference that are included in this Contract by virtue of the requirements of the Federal Acquisition Regulations or other requirements applicable to U.S. Government procurement, which provisions shall be interpreted in accordance with the law governing Federal Government procurements . Judgment upon any award rendered by the arbitrators may be entered in any court of competent jurisdiction within the State of Alabama.

Except as otherwise specifically provided in this Article neither Party shall institute any action or proceeding against the other Party in any court of law or equity with respect to any dispute, which is the subject of a claim or proceeding pursuant to this Article. Each Party hereby irrevocably waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect to any litigation directly or indirectly arising out of under or in connection with this Contract.

Pending final disposition of any dispute under this Contract (including exhaustion of all appellate rights), Seller shall, at all times, proceed diligently, and in good faith, with the performance of this Contract.

29. Additional Terms (Flow Down Clauses)

Certain U.S. Government terms and conditions shall apply, as applicable by their terms, if a Government contract number is stated on the face of this Contract. Applicable Prime Contract flow down clauses will be incorporated as part of the Contract and shall be flowed down to any lower tier subcontractors as appropriate. In all such clauses, unless the context of the clause requires otherwise, the term “Contractor” shall mean Subcontractor, the term “Contract” shall mean this Contract, and the terms “Government,” “Contracting Officer” and equivalent phrases shall mean Buyer’s Procurement Representative, respectively. It is intended that the referenced clauses shall apply to Seller in such manner as is necessary to reflect the position of Seller as a subcontractor to Buyer, to insure Seller’s obligations to Buyer and to Buyer’s customer, and to enable Buyer to meet its obligations under its Prime Contract.

30. Gratuities and Kickbacks

Seller shall not offer or give a kickback or gratuity (in the form of entertainment, gifts, or otherwise) to any Buyer employee for any reason related to this Contract.

By accepting this Contract, Seller certifies and represents that it has not made or solicited and will not make or solicit kickbacks in violation of FAR 52.203-7 or the Anti-Kickback Act of 1986 (41 USC 51-



58), both of which are incorporated herein by this specific reference, except that paragraph (c)(1) of FAR 52.203-7 shall not apply.

31. Key Personnel / Seller Personnel

If Seller designates “Key Personnel” who are essential to the successful completion and execution of this Contract in the proposal this section shall apply. Key Personnel shall perform all work necessary for the timely and quality completion of the task to which they are assigned. Seller may not substitute or replace a Key Personnel without prior written approval from Buyer Procurement Representative.

Buyer may require the names of any or all personnel assigned to the contract at any time during performance. The following type of information may be requested and shall be provided to the Contractual Representative: position title, applicable Department of Labor category and code as provided in the Directory of Occupations, individual labor rates paid by the Seller, and resumes of any or all personnel providing proof that personnel qualifications are met.

Buyer reserves the right to direct the removal of any individual assigned to this Contract for any cause whatsoever.

All Seller personnel proposed and/or assigned to this Contract shall be U.S. Citizens. The Seller shall notify the Buyer Procurement Representative immediately in writing, of any proposed exceptions to this requirement.

32. Reporting Requirements

Upon Buyer’s request, Seller shall promptly provide such information as is required to enable Buyer to comply with applicable law and/or its Prime Contract or, if appropriate, Buyer’s higher-tier subcontract under a U.S. Government procurement or requests by Buyer’s auditors. As directed by Buyer, Seller shall provide such information directly to Buyer, Buyer’s auditors, or to the U.S. Government. By way of example and without limiting the generality of the foregoing, Buyer may direct, and Seller shall provide information to enable Buyer to comply with its manpower reporting obligations under 10 U.S.C. 2330a and Service Contract Reporting Requirements under FAR 52.204-14 and 52.204-15. Buyer shall maintain the confidentiality of any Seller information provided under this Article, subject to applicable law and the terms of the Prime Contract or this Contract.

33. Organizational Conflict of Interest

Seller represents and warrants that its performance of this Contract does not constitute and will not create an Organizational Conflict of Interest (OCI) as defined in FAR Part 9.5 or under any other applicable OCI clause or regulation. If during performance, Seller becomes aware of any actual or potential organizational conflict of interest caused by its performance of this Contract, Seller shall promptly notify Buyer in writing of the nature of such actual or potential Organizational Conflict of Interest. Should the Buyer or Buyer’s customer determine that there is an unmitigable OCI, the Buyer may terminate this Contract pursuant to the Termination of Convenience. This clause is in addition to any DFAR required flow-down or special Prime Contract requirement.

34. Priority Rating

If this Contract contains a DPAS rating, this Contract is a “rated order” certified for national defense, emergency preparedness, and energy program use, and Seller shall follow all the requirements of the Defense Priorities and Allocation System Regulation (15 C.F.R. Part 700).



35. Severability

Each clause, paragraph, and subparagraph of this Contract is severable, and if one or more of them are declared invalid, the remaining provisions of this Contract will remain in full force and effect.

36. Survival

Termination or expiration of this Contract for any reason shall not release Seller from the liabilities or obligations set forth in said Contract, which remain to be performed or by their nature would be intended to be applicable following any such termination or expiration, including without limitation provisions relating to payment, funding, warranty, indemnification, intellectual property, non-disclosure, compliance with law, and disputes.

37. Entire Contract

This Contract, including all documents incorporated herein by reference, constitutes the entire Contract and understanding between the Parties and shall supersede and replace all prior or contemporaneous representations, Contracts or understandings of any kind, whether written or oral, relating to the subject matter hereof.