



**ADDITIONAL PROVISIONS FOR ORDERS ISSUED PURSUANT TO THE LHA 6 POST DELIVERY SUPPORT
BASIC ORDERING AGREEMENT CONTRACT NO. N00024-13-G-2404**

INGALLS SHIPBUILDING DIVISION SUPPLEMENT

(This document is to be used in conjunction with Huntington Ingalls Incorporated form SBF P9328, GENERAL PROVISIONS FOR ORDERS UNDER U.S. GOVERNMENT CONTRACTS for Orders issued by the Ingalls Shipbuilding division.)

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1. REFUNDS (SPARES AND SUPPORT EQUIPMENT). [\(back to top\)](#)

- A. In the event that the price of a spare part or item of support equipment delivered under this contract significantly exceeds its intrinsic value, the SELLER agrees to refund the difference. Refunds will only be made for the difference between the intrinsic value of the item at the time an agreement on price was reached and the contract price. Refunds will not be made to recoup the amount of cost decreases that occur over time due to productivity gains (beyond economic purchase quantity considerations) or changes in market conditions.
- B. For purpose of this clause, the intrinsic value of an item is defined as follows:
 - i. If the item is one that is sold or is substantially similar or functionally equivalent to one that is sold in substantial quantities to the general public, intrinsic value is the established catalog or market price, plus the value of any unique requirements, including delivery terms, inspection, packaging, or labeling.
 - ii. If there is no comparable item sold in substantial quantities to the general public, intrinsic value is defined as the price an individual would expect to pay for the item based upon an economic purchase quantity as defined in FAR 52.207-4, plus the value of any unique requirements, including delivery terms, inspection, packaging or labeling.
- C. At any time up to two years after delivery of a spare part or item of support equipment, the BUYER may notify the SELLER that based on all information available at the time of the notice, the price of the part or item apparently exceeds its intrinsic value.
- D. If notified in accordance with subparagraph C above, the SELLER agrees to enter into good faith negotiations with the BUYER to determine if, and in what amount, the BUYER is entitled to a refund.

- E. If agreement pursuant to subparagraph D above cannot be reached, and the BUYER'S return of the new or unused item to the SELLER is practical, the BUYER, subject to the SELLER'S agreement, may elect to return the item to the SELLER. Upon return of the item to its original point of BUYER acceptance, the SELLER shall refund in full the price paid. If no agreement pursuant to subparagraph D above is reached, and return of the item by the BUYER is impractical, the BUYER may, issue a final decision on the matter, subject to the Disputes Clause.
- F. The SELLER will make refunds, as required under this clause, in accordance with instructions from the BUYER.
- G. The SELLER shall not be liable for a refund if the SELLER advised the BUYER in a timely manner that the price it would propose for a spare part or item of support equipment exceeded its intrinsic value, and with such advice, specified the estimated proposed price, the estimated intrinsic value and known alternative sources or items, if any, that can meet the requirements.
- H. This clause does not apply to any spare parts or items of support equipment whose price is determined through adequate price competition. This clause also does not apply to any spare part or item of support equipment with a unit price in excess of \$100,000; or in excess of \$25,000 if the SELLER submitted, and certified the currency, accuracy and completeness of, cost or pricing data applicable to the item.

2. ACCESS TO PROPRIETARY DATA OR COMPUTER SOFTWARE. [\(back to top\)](#)

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

3. ACCESS TO VESSELS BY NON-U.S. CITIZENS. [\(back to top\)](#)

- A. No person not known to be a U.S. Citizen shall be eligible for access to naval vessels, work sites and adjacent areas when said vessels are under construction, conversion, overhaul, or repair, except upon a finding by COMNAVSEA or his designated representative that such access should be permitted in the best interest of the United States. SELLER shall establish procedures to comply with this requirement and NAVSEAINST 5500.3 (series) in effect as of September 14, 2012.
- B. If SELLER desires to employ non-U.S. citizens in the performance of work under this Order that requires access as specified in subparagraph A of this requirement, approval of the Contracting Officer under the Prime Contract must be obtained prior to access. To request such approval for non-U.S. citizens of friendly countries, SELLER shall submit to BUYER, an Access Control Plan (ACP) that shall contain as a minimum, the following information:
 - i. Badge or Pass oriented identification, access, and movement control system for non-U.S. citizen employees with the badge or pass to be worn or displayed on outer garments at all times while on BUYER's facilities and when performing work aboard ship.
 - 1. Badges must be of such design and appearance that permits easy recognition to facilitate quick and positive identification.
 - 2. Access authorization and limitations for the bearer must be clearly established and in accordance with applicable security regulation and instructions.
 - 3. A control system, which provides rigid accountability procedures for handling lost, damaged, forgotten or no longer required badges, must be established.

4. A badge or pass check must be performed at all points of entry to the BUYER's facilities or by a site supervisor for work performed on vessels outside BUYER's plant.
 - ii. SELLER's plan for ascertaining citizenship and for screening employees for security risk.
 - iii. Data reflecting the number, nationality, and positions held by non-U.S. citizen employees, including procedures to update data as non-U.S. citizen employee data changes, and pass to cognizant CAO.
 - iv. SELLER's plan for ensuring subcontractor compliance with the provisions of the SELLER's ACP.
 - v. These conditions and controls are intended to serve as guidelines representing the minimum requirements of an acceptable ACP. They are not meant to restrict SELLER in any way from imposing additional controls necessary to tailor these requirements to a specific facility.
- C. To request approval for non-U.S. citizens of hostile and/or communist- controlled countries (Listed in Department of Defense Industrial Security Manual, COC 5220.22M or available from cognizant CAO), SELLER shall include in the ACP the following employee data: name, place of birth, citizenship (if different from place of birth), date of entry to U.S., extenuating circumstances (if any) concerning immigration to U.S., number of years employed by SELLER, position, and stated intent concerning U.S. citizenship. COMNAVSEA or his designated representative will make individual determinations for desirability of access for above group. Approval of ACP's for access of non-U.S. citizens of friendly countries will not be delayed for approval of non-U.S. citizens of hostile communist-controlled countries. Until approval is received, SELLER must deny access to vessels for employees who are non-U.S. citizens of hostile and/or communist-controlled countries.
- D. SELLER shall fully comply with approved ACPs. Noncompliance by SELLER or its subcontractors serves to cancel any authorization previously granted, in which case SELLER shall be precluded from the continued use of non-U.S. citizens on this Order until such time as the compliance with an approved ACP is demonstrated and upon a determination by the CAO that the Government's interests are protected. Further, the Government and BUYER reserve the right to cancel previously granted authority when such cancellation is determined to be in the Government's or BUYER's best interest. Use of non-U.S. citizens, without an approved ACP or when a previous authorization has been canceled, will be considered a violation of security regulations. Upon confirmation by the CAO of such violation, this Order may be terminated.
- E. SELLER shall have full responsibility for the proper administration of the approved ACP for all work performed under this Order, regardless of the location of the vessel, and must ensure compliance by all of its subcontractors, technical representatives and other persons granted access to U.S. Navy vessels, adjacent areas, and work sites.
- F. In the event SELLER does not intend to employ non-U.S. citizens in the performance of the work under this Order, but has non-U.S. citizen employees, such employees must be precluded from access to the vessel and its work site and those shops where work on the vessel's equipment is being performed. The ACP must spell out how non-U.S. citizens are excluded from access to contract work areas.
- G. The same restriction as in paragraph (f) above applies to other than non-U.S. citizens who have access to the BUYER's facilities (e.g., for accomplishing facility improvements, from foreign crewed vessels within its facility, etc.).
- H. An ACP that has been approved for specific Master Ship Repair Agreement (MSRA) or Agreement for Boat Repair (ABR) or Basic Ordering Agreement (BOA), is valid and applicable to all job orders awarded under that agreement.

4. ASSIGNMENT AND USE OF STOCK NUMBERS. [\(back to top\)](#)

To the extent that National Stock Numbers (NSNs) or preliminary NSNs are assigned by the Government or BUYER for the identification of parts, pieces, items, subassemblies or assemblies to be furnished under this order, SELLER shall use such NSNs or preliminary NSNs in the preparation of provisioning lists, package labels, packing lists, shipping containers and shipping documents as required by applicable specifications, standards or Data Item Descriptions (DIDs) of the contract or as required by orders for spare and repair parts. BUYER shall be responsible for conveying to SELLER such NSNs or preliminary NSNs that may be assigned and that are not already in the possession of SELLER.

5. DEPARTMENT OF LABOR OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR SHIP REPAIR. [\(back to top\)](#)

Attention of SELLER is directed to the Occupational Safety and Health Act of 1970 (29 USC 651-678), and to the Safety and Health Regulations for Ship Repairing (29 CFR 1915), promulgated under Public Law 85-742, amending Section 41 of the Longshoremen's and Harbor Workers' Compensation Act (33 USC 941), and adopted by the Department of Labor as occupational safety or health standards under Section 6(a) of the Occupational Safety and Health Act of 1970 (See 29 CFR 1910.13). These regulations apply to all ship repair and related work, as defined in the regulations performed under this contract on the navigable waters of the United States including any dry dock and marine railway. Nothing contained in this Order shall be construed as relieving SELLER from any obligations that it may have for compliance with the aforesaid regulations.

6. EXTENSION OF COMMERCIAL WARRANTY. [\(back to top\)](#)

SELLER shall extend to BUYER and the Government the full coverage of any standard commercial warranty normally offered in a similar commercial sale, provided that such warranty is available at no additional cost to BUYER and the Government. SELLER shall provide a copy of the standard commercial warranty with the item. The standard commercial warranty period shall begin upon the final acceptance of the applicable material or software. Acceptance of the standard commercial warranty does not waive the BUYER's or Government's rights under the "Inspection" clause, nor does it limit the Government's rights with regard

to other terms and conditions of this Order. In the event of a conflict, the terms and conditions of this Order shall take precedence over the standard commercial warranty.

7. COMPUTER SOFTWARE AND/OR COMPUTER DATABASES(S) DELIVERED TO AND/OR RECEIVED FROM THE GOVERNMENT. [\(back to top\)](#)

- A. SELLER agrees to test for viruses all computer software and/or computer databases, as defined in the clause entitled "RIGHTS IN NONCOMMERCIAL COMPUTER SOFTWARE AND NONCOMMERCIAL COMPUTER SOFTWARE DOCUMENTATION" (DFARS 252.227-7014), before delivery of that computer software or computer database in whatever media and on whatever system the software is delivered using the most current version of commercially available anti-virus software. SELLER warrants that any such computer software and/or computer database will be free of viruses when delivered to the extent such viruses could have been deleted with the most current version of commercially available anti-virus software at the time of delivery of the computer software or database.
- B. SELLER agrees to test any computer software and/or computer database(s) received from BUYER and/or the Government for viruses prior to use under this Order.
- C. Unless otherwise agreed in writing, any license agreement governing the use of any computer software to be delivered as a result of this Order must be paid-up and perpetual, or so nearly perpetual as to allow the use of the computer software or computer data base with the equipment for which it is obtained, or any replacement equipment, for so long as such equipment is used. Otherwise the computer software or computer database does not meet the minimum functional requirements of this Order. In the event that there is any routine to disable the computer software or computer database after the software is developed for or delivered to the BUYER and/or the Government, that routine shall not disable the computer software or computer database until at least twenty-five calendar years after the delivery date of the affected computer software or computer database to the Government.
- D. No copy protection devices or systems shall be used in any computer software or computer database delivered under this Order to restrict or limit BUYER and/or the Government from making copies. This does not prohibit license agreements from specifying the maximum amount of copies that can be made.
- E. Delivery by BUYER to the Government of certain technical data and other data is now frequently required in digital form rather than as hard copy. Such delivery may cause confusion between data rights and computer software rights. It is agreed that, to the extent that any such data is computer software by virtue of its delivery in digital form, BUYER and the Government will be licensed to use that digital-form with exactly the same rights and limitations as if the data had been delivered as hard copy.
- F. Any limited rights legends or other allowed legends placed by SELLER on technical data or other data delivered in digital form shall be digitally included on the same media as the digital-form data and must be associated with the corresponding digital-form technical data to which the legends apply to the extent possible. Such legends shall also be placed in human readable form on a visible surface of the media carrying the digital-form data as delivered, to the extent possible.

8. IDENTIFICATION MARKING OF PARTS. [\(back to top\)](#)

Identification marking of individual parts within the systems, equipments, assemblies, subassemblies, components, groups, sets or kits, and of spare and repair parts shall be done in accordance with applicable specifications and drawings. To the extent identification marking of such parts is not specified in applicable specifications or drawings, such marking shall be accomplished in accordance with the following:

- A. Parts shall be marked in accordance with generally accepted commercial practice.
- B. In cases where parts are so small as not to permit identification marking as provided above, such parts shall be appropriately coded so as to permit ready identification.

9. MARKING AND PACKING LIST(S). [\(back to top\)](#)

- A. Marking. Shipments, shipping containers and palletized unit loads shall be marked in accordance with best commercial practice.
- B. Packing List(s). A packing list (DD Form 250 Material Inspection and Receiving Report may be used) identifying the contents of each shipment, shipping container or palletized unit load shall be provided by SELLER with each shipment. When a contract line item identified under a single stock number includes an assortment of related items such as kit or set components, detached parts or accessories, installation hardware or material, the packing list(s) shall identify the assorted items. Where an assortment of related items is included in the shipping container, a packing list identifying the contents shall be furnished.
- C. Master Packing List. In addition to the requirements in subparagraph B above, a master packing list shall be prepared where more than one shipment, shipping container or palletized unit load comprise the contract line item being shipped. The master packing list shall be attached to the number one container and so identified.
- D. Part Identification. All items within the kit, set, installation hardware or material shall be suitably segregated and identified within the unit pack(s) or shipping container by part number and/or national stock number.

10. CALIBRATION SYSTEM REQUIREMENTS. [\(back to top\)](#)

The calibration of measuring and testing equipment shall, as a minimum, adhere to the requirements of ANSI/NCSL Z540-1.

11. INSPECTION AND TEST RECORDS. [\(back to top\)](#)

Inspection and test records shall, as a minimum, indicate the nature of the observations, number of observations made, and the number and type of deficiencies found. Data included in inspection and test records shall be complete and accurate, and shall be used for trend analysis and to assess corrective action and effectiveness.

12. QUALIFICATION OF SELLER NONDESTRUCTIVE TESTING (NDT) PERSONNEL [\(back to top\)](#)

Any NDT SELLER (as hereinafter defined) shall utilize for the performance of required Nondestructive Testing (NDT) (which includes radiography, magnetic particle, liquid penetrant, eddy current, ultrasonic inspections and visual inspections) shall utilize for the performance of required NDT, only Level I, II and III personnel currently certified in accordance with NAVSEA Technical Publication T9074-AS-GIB-010/271, ACN Notice 1 of 16 Feb 99. Documentation pertaining to the qualification and certification of NDT personnel shall be made available to the Contracting Officer for review upon request. The term "NDT SELLER" is defined to be a first tier subcontractor performing NDT in conjunction with the production of materials, components, or equipments for the vessel(s).

13. MANAGEMENT AND DISPOSAL OF HAZARDOUS WASTES [\(back to top\)](#)

- A. (1) SELLER shall comply with the Resource Conservation and Recovery Act (RCRA), the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 10 U.S.C. 7311 and all other applicable Federal, state and local laws, codes, ordinances and regulations for the management and disposal of hazardous waste.
- (2) Nothing contained in this provision shall relieve SELLER from complying with applicable Federal, state, and local laws, codes, ordinances, and regulations, including obtaining licenses and permits, giving notices and submitting reports, in connection with hazardous waste management and disposal in the performance of this Order. Nothing contained herein shall serve to alter either party's liability or responsibility under CERCLA.
- (3) Materials contained in ship systems are not waste until after removal from the system.
- B. Identification Of Hazardous Wastes. This Order will identify the types and amounts of hazardous wastes that are required to be removed by SELLER, or that are expected to be generated, during the performance of work under this Order.
- C. Generator Identification Numbers.
- (1) Documentation related to hazardous waste generated solely by the physical actions of ship's force or Navy employees on board the vessel shall only bear a generator identification number issued to the Navy pursuant to applicable law.
- (2) Documentation related to hazardous waste generated solely by the physical actions of SELLER personnel shall only bear a generator identification number issued to SELLER pursuant to applicable law. Regardless of the presence of other materials in or on shipboard systems or structures which may have qualified a waste stream as hazardous, where SELLER performs work on a system or structure using materials (whether or not the use of such materials was specified by the Navy) which by themselves would cause the waste from such work to be a hazardous waste, documentation related to such waste shall only bear a generator identification number issued to SELLER.
- (3) Documentation related to hazardous waste generated by the combined physical actions of Navy and SELLER personnel shall bear a generator identification number issued to SELLER pursuant to applicable law and shall also cite in the remarks block a generator identification number issued to the Navy pursuant to applicable law.
- (4) Notwithstanding subparagraphs (c)(1)-(c)(3) above, hazardous wastes are considered to be co-generated in cases where: (a) SELLER merely drains a system and such drainage creates hazardous waste or (b) SELLER performs work on a system or structure using materials which by themselves would not cause the waste from such work to be hazardous waste but such work nonetheless creates a hazardous waste. Documentation related to such co-generated waste shall bear a generator identification number in accordance with the provisions of paragraph (c)(3) above.
- (5) In the event of a failure by the parties to agree to the assignment of a generator identification number to any hazardous waste as set forth in paragraphs (c)(1) through (c)(4) above, the Contracting Officer may direct which party or parties shall provide generator identification numbers for the waste. Such number(s) shall be used on all required documentation. Any disagreement with this direction shall be a dispute within the meaning of the DISPUTES Clause of this Order. However, SELLER shall not stop any work but shall continue with performance of all work under a modification as specified in the DISPUTES Clause.
- (6) Hazardous Waste Manifests for wastes described in paragraphs (c)(2) through (c)(5) above, SELLER shall sign the generator certification on the Uniform Hazardous Waste Manifest whenever use of the Manifest is required for disposal. SELLER shall obtain concurrence with the categorization of wastes under paragraphs (c)(3) and (c)(4) above before completion of the manifest. Manifests prepared pursuant to paragraph (c)(1) above shall be presented to BUYER for completion after the hazardous waste has been identified.
- (7) For purposes of paragraphs (c)(2) and (c)(3) herein, if SELLER, while performing work at a Government facility, cannot obtain a separate generator identification number from the state in which the activity will be performed, SELLER shall notify BUYER within three business days of receipt of written notification by the state. After obtaining BUYER and Contracting Officer approval, SELLER shall use the Navy site generator identification number and insert in the remarks block the SELLER generator identification number issued for the site where its main facilities are located. For purposes of paragraph (c)(1) herein, if the work is being performed at a SELLER facility and the Government cannot obtain a separate generator identification number for the state, the Government will use the SELLER site generator

identification number and will cite in the remarks block a Navy generator identification number. In both instances described above, SELLER shall prepare the Uniform Hazardous Waste Manifest described in paragraph (c)(6) above and present it to BUYER for completion.

14. LOGISTIC SUPPORT REQUIREMENT. [\(back to top\)](#)

- A. This clause applies whenever the contract specifications, by reference to a Military Specification or otherwise, specify repair parts or stock components (hereinafter called "repair parts") for a ship component or item of equipment.
- B. With respect to ship components or equipments manufactured other than in the United States and Canada, the SELLER agrees that, in addition to any other data required by this contract, it will furnish under this contract sufficient data so that the repair parts can be reproduced in the United States or Canada unless the suppliers of the ship components or equipments shall have made arrangements satisfactory to the SELLER and approved by the BUYER and the BUYER's Contracting Officer for the manufacturing of repair parts in the United States or Canada. For the purpose of this clause, "sufficient data" shall mean detail drawings and other technical information sufficiently extensive in detail to show design, construction, dimensions, and operation or function, manufacturing methods or processes, treatment or chemical composition of materials, plant layout and tooling. All data shall be in the English language and according to the United States system of weights and measures, and drawings for components, assemblies, subassemblies and parts protected by U.S. patents shall contain a prominent notation to that effect fully identifying the patent or patents involved, and bearing the number of this contract.
- C. In order to satisfy the requirements of paragraph (b) above, SELLER shall and hereby does grant the United States Government for a period of seven (7) years "Government Purpose Rights" (as defined in paragraph (a)(12) of the clause entitled Rights in Technical Data - Non-commercial Items (DFARS 252.227-7013) in all technical data necessary to manufacture and repair parts for such components or equipment.

15. NOTIFICATION OF CHANGES. [\(back to top\)](#)

- A. *Definitions.* As used in this requirement, the term "conduct" includes both actions and failures to act, and includes the furnishing of, or the failure to furnish, any item under any provision of this Order.
- B. *Notice.* The primary purpose of this requirement is to obtain prompt reporting of any conduct which the Seller considers would constitute or would require a change to this Order. The parties acknowledge that proper administration of this Order requires that potential changes be identified and resolved as they arise. Therefore, except for changes identified as such in writing and signed by the Buyer, the Seller shall notify the Buyer in writing of any conduct which the Seller considers would constitute or would require a change to this Order. Such notice shall be provided within twenty (20) calendar days from the date the Seller identifies any such conduct. The Notice shall be written and shall state, on the basis of the most accurate information available to the Seller:
 - (1) The date, nature, and circumstances of the conduct regarded as a change;
 - (2) The name, function, and activity of the individuals directly involved in or knowledgeable about such conduct;
 - (3) The identification of any documents and the substance of any oral communication involved in such conduct;
 - (4) The particular elements of contract performance for which the Seller might seek an equitable adjustment under this requirement, including:
 - (i) What ship(s) have been or might be affected by the potential change;
 - (ii) To the extent practicable, labor or materials or both which have been or might be added, deleted, or wasted by the potential change;
 - (iii) To the extent practicable, the Seller's preliminary order of magnitude estimate of cost and schedule effect of the potential change; and
 - (iv) What and in what manner are the particular technical requirements or contract requirements regarded as changed.
- C. *Continued Performance.* Except as provided in paragraph (f) below, following submission of notice, the Seller shall take no action to implement a potential change until advised by the Buyer in writing as provided in (d) below, unless the potential change was previously directed by the Buyer, in which case the Seller shall conform therewith. Nothing in this paragraph shall excuse the Seller from proceeding with contract work other than implementation of the potential change or from proceeding in accordance with directions issued by the Buyer.
- D. *Buyer Response.* The Buyer will promptly and in any event within thirty-five (35) calendar days after receipt of Notice, respond thereto in writing. In such response, the Buyer will either:
 - (1) Confirm that the conduct of which the Seller gave notice would constitute a change, and when necessary, direct the mode of further performance, or;
 - (2) Countermand any conduct regarded by the Seller as a change, or;
 - (3) Deny that the conduct of which the Seller gave notice would constitute a change and, when necessary, direct the mode of further performance, or;
 - (4) In the event the Seller's notice information is inadequate to make a decision under (1), (2) or (3) above, advise the Seller what additional information is required.Failure of the Buyer to respond within the time required above shall be deemed a countermand under (d)(2).
- E. *Equitable Adjustments.* Equitable adjustments for changes confirmed or countermanded by the Buyer will be made in accordance with the clause of this Order entitled CHANGES Clause, or any other requirement of this Order which provides

for an equitable adjustment.

- F. *Special Procedures.* Paragraph (c) provides that the Seller is to take no action to implement a potential change pending the Buyer's response to the Seller's notice of the potential change, except where specifically directed by the Buyer. In special situations, however, where:
- (1) The circumstances do not allow sufficient time to notify the Buyer of the facts prior to the need to proceed with the work, and;
 - (2) The work must proceed to avoid hazards to personnel or property or to avoid additional cost to the Buyer; the Seller may proceed with work in accordance with the potential change. In such special situations, the Seller shall advise the Buyer in writing within seven (7) calendar days of the conduct giving rise to the potential change that the Seller has proceeded and shall describe the nature of the special situation which required proceeding prior to notification. Within twenty (20) calendar days of the conduct giving rise to the potential change, the Seller shall provide notice as required in (b) above. The Buyer will respond as set forth in (d) above. If the Buyer determines that the conduct constitutes a change and countermands it, the Seller shall be entitled to an equitable adjustment for performance in accordance with that change prior to the countermand including performance resulting from the countermand.
- G. When the Seller identifies any conduct which may result in delay to delivery of the ship(s), the Seller shall promptly so inform the Buyer thereof prior to providing the notice required by paragraph (b) above.
- H. Despite good faith best efforts, occasions may arise in which the Seller does not provide notice within the time periods specified in paragraphs (b) and (f) above. Accordingly, prior to the end of the first and third quarters of each calendar year through the period of performance of this Order, beginning with the second quarter after award, the Seller shall deliver to the Buyer an executed bilateral contract modification, in the format set forth in Exhibit "A" to this requirement, covering the six (6) month period of time ending with the second and fourth quarters, respectively, of the preceding year, with such specific exceptions, if any, as are identified by the Seller. If the Seller cites specific exceptions to the release, the Seller shall concurrently provide the Buyer with notice, containing the information set forth in paragraph (b) of this requirement, for each item excepted from the release. However, the release required by this requirement shall not make unallowable any costs which are otherwise allowable under any other requirement of this Order.
- Within seventy-five (75) calendar days of receipt of the release, the Buyer will sign and return a copy of the release to the SELER. If the Buyer fails to execute and return the release within the required time, then the release shall be deemed to be void and of no effect for the period involved.
- I. If the release in accordance with paragraph (h) above is not provided to the Buyer by the Seller in the time required, the Buyer may execute the release as set forth in Exhibit "A" and send it to the Seller. If the Seller fails to execute the release and return it to the Buyer (with any specific exceptions) within forty-five (45) days of receipt thereof, the required release shall then be deemed effective as if signed by the Seller.

Exhibit A to the Requirement entitled "NOTIFICATION OF CHANGES"

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

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

--End of Exhibit A--

16. FAR/DFARS - PROVISIONS INCORPORATED BY REFERENCE. [\(back to top\)](#)

- A. The below listed FAR and DFARS clauses are incorporated by reference and made part of this Order with the same force and effect as though set forth in full text, and supersede and replace all FAR and DFARS clauses incorporated by reference in the Section titled FAR/DFARS CLAUSES/PROVISIONS in BUYER's Form SBF P9328, General Provisions for Orders under U.S. Government Contracts.

- B. Unless the text in these clauses clearly reserves rights in the Government only or as otherwise noted, the terms “Contractor” means “SELLER,” “Contracting Officer” means “BUYER,” “Contract” means this Order and “Government” means “BUYER or the Government.” However, the words “Government” and “Contracting Officer” do not change when a right, act, authorization or obligation can be granted or performed only by the Government or the Prime Contract contracting officer or duly authorized representative.
- C. Applicable thresholds include Truth in Negotiation Act Threshold (TINA) at \$700,000; Simplified Acquisition Threshold (SAT) at \$150,000; and Micro-purchase Threshold at \$3,000.
- D. Whenever the FAR or DFARS clauses include a requirement for the resolution of disputes between the Parties in accordance with the “Disputes clause,” the dispute shall be disposed of in accordance with the provision entitled “Disputes” in this Order.
- E. The full text of a clause may be accessed electronically at <http://farsite.hill.af.mil>.

CLAUSE NUMBER	CLAUSE NAME	CLAUSE DATE
FAR	Federal Acquisition Regulation	
52.202-1	Definitions <i>(“solicitation” means the Buyer’s customer’s solicitation under which the Order is issued)</i>	(Jan 2012)
52.203-3	Gratuities <i>(“Government” means “Buyer” (except “Government” means “Buyer or Government” in the phrase “to any officer or employee of the Government”)).</i>	(Apr 1984)
52.203-6	Restrictions on Subcontractor Sales to the Government <i>(applies to Orders over Simplified Acquisition Threshold (SAT)) (Alt 1 applies to commercial items)</i>	(Sep 2006)
52.203-7	Anti-Kickback Procedures <i>(applies to Orders over SAT) (Alt 1 applies to commercial items)</i>	(Oct 2010)
52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity	(Jan 1997)
52.203-10	Price or Fee Adjustment for Illegal or Improper Activity	(Jan 1997)
52.203-12	Limitation on Payments to Influence Certain Federal Transactions <i>(applies to Orders over \$150,000)</i>	(Oct 2010)
52.203-13	Contractor Code of Business Ethics and Conduct <i>(applies to Orders over \$5,000,000 and has a performance period of more than 120 days. Notwithstanding any alterations to this clause to reflect the relationship between Buyer and Seller, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the Office of the Inspector General of the agency issuing the prime contract under which this subcontract is being issued, with a copy to the Contracting Officer of the prime contract.)</i>	(Apr 2010)
52.204-2	Security Requirements <i>(applies to Orders that involve access to classified information, delete para. (c))</i>	(Aug 1996)
52.204-10	Reporting Executive Compensation and First-tier Subcontract Awards <i>(unless already provided, Seller shall provide Buyer with the information contained in subparagraph (d)(2) and (d)(3) as applicable; no other terms of the clause apply)</i>	(Aug 2012)
52.209-6	Protecting the Government’s Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment <i>(applies to Orders that exceed \$30,000, except COTS items)</i>	(Dec 2010)
52.211-5	Material Requirements	(Aug 2000)
52.211-15	Defense Priority and Allocation Requirement	(Apr 2008)
52.215-2	Audit And Records -- Negotiation <i>(applies to Orders over the SAT threshold)</i>	(Oct 2010)

52.215-10	Price Reduction for Defective Cost or Pricing Data	(Aug 2011)
52.215-12	Subcontractor Cost or Pricing Data <i>(applies to Orders over the TINA threshold)</i>	(Oct 2010)
52.215-13	Subcontractor Cost or Pricing Data – Modifications <i>(applies to Orders over the TINA threshold)</i>	(Oct 2010)
52.215-14	Integrity of Unit Prices and Alt I (Oct 1997) <i>(applies to Orders over the SAT threshold, delete paragraph(b))</i>	(Oct 2010)
52.215-15	Pension Adjustments and Asset Reversions <i>(applies to Orders over the TINA threshold)</i>	(Oct 2010)
52.215-18	Reversion or Adjustment of Plans for Post Retirement Benefits (PRB) Other Than Pensions <i>(applies to Orders over the TINA threshold)</i>	(Jul 2005)
52.215-19	Notification of Ownership Changes	(Oct 1997)
52.215-21	Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data - Modifications <i>(including Alt II)</i>	(Oct 2010)
52.215-23	Limitation on Excessive Pass-Through Charges <i>(applies to Orders over the TINA threshold) (ALT I)</i>	(Oct 2009)
52.219-8	Utilization of Small Business Concerns <i>(applies to Orders over the SAT threshold except for personal services or performed entirely outside United States)</i>	(Jan 2011)
52.219-9	Small Business Subcontracting Plan with Alt II (Oct 2001) <i>(applies to Orders over \$650,000 except commercial items and small businesses)</i>	(Jan 2011)
52.222-1	Notice to the Government of Labor Disputes	(Feb 1997)
52.222-4	Contract Work Hours And Safety Standards Act - Overtime Compensation	(Jul 2005)
52.222-19	Child Labor - Cooperation with Authorities and Remedies <i>(except paragraph (a))</i>	(Mar 2012)
52.222-20	Walsh-Healey Public Contracts Act <i>(applies to Orders over \$15,000)</i>	(Oct 2010)
52.222-21	Prohibition on Segregated Facilities	(Feb 1999)
52.222-26	Equal Opportunity	(Mar 2007)
52.222-35	Equal Opportunity for Veterans <i>(applies to Orders of \$100,000 or more)</i>	(Sep 2010)
52.222-36	Affirmative Action for Workers with Disabilities <i>(applies to Orders over \$15,000)</i>	(Oct 2010)
52.222-37	Employment Reports on Veterans <i>(applies to Orders of \$100,000 or more).</i>	(Sep 2010)
52.222-50	Combating Trafficking in Persons	(Feb 2009)
52.222-54	Employment Eligibility Verification	(Jul 2012)
52.223-11	Ozone-Depleting Substances	(May 2001)
52.223-12	Refrigeration Equipment and Air Conditioners	(May 1995)
52.223-18	Encouraging Contractor Policies to Ban Text Messaging While Driving	(Aug 2011)
52.225-13	Restrictions on Certain Foreign Purchases	(Jun 2008)
52.227-1	Authorization and Consent <i>(applies to Orders over SAT; Alt I applies to Research and Development Orders; Alt II applies to communication services)</i>	(Dec 2007)
52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement <i>(applies to Orders over the SAT threshold)</i>	(Dec 2007)
52.227-10	Filing of Patent Applications - Classified Subject Matter	(Dec 2007)

	<i>(applies to Orders that cover classified subject matters)</i>	
52.227-14	Rights in Data – General	(Dec 2007)
52.230-2	Cost Accounting Standards (CAS) <i>(applies to negotiated Orders over \$700,000 with CAS covered Sellers, except paragraph “(b)”</i>)	(May 2012)
52.230-6	Administration of Cost Accounting Standards <i>(applies to Orders over \$650,000 with CAS covered sellers)</i>	(Jun 2010)
52.232-17	Interest	(Oct 2010)
52.234-1	Industrial Resources Developed Under Defense Production Act Title III	(Dec 1994)
52.242-3	Penalties for Unallowable Costs <i>(applies to cost-reimbursement Orders only)</i>	(May 2001)
52.242-13	Bankruptcy	(Jul 1995)
52.244-6	Subcontracts for Commercial Items	(Dec 2010)
52.245-1	Government Property & Alt I (Apr 2012) <i>(excluding any warranty of suitability/serviceability contained in para. (d)(2) and (d)(2)(iii))</i>	(Apr 2012)
52.247-63	Preference for U.S. Flag Air Carriers	(Jun 2003)
52.248-1	Value Engineering <i>(applies to Orders of \$150,000 or more except as specified in FAR 48.201(a)) (substitute “Buyer” for “Contracting Officer” and “Government” throughout, except where used in the term “Government costs” and in paragraph (m) where “Government” shall mean “Government and/or Buyer.”)</i>	(Oct 2010)

DFARS	Defense Federal Acquisition Regulation Supplement	
252.203-7001	Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies <i>(applies to Orders over the SAT threshold except commercial items)</i>	(Dec 2008)
252.204-7000	Disclosure of Information	(Dec 1991)
252.204-7003	Control of Government Personnel Work Product	(Apr 1992)
252.204-7008	Export-Controlled Items	(Apr 2010)
252.211-7000	Acquisition Streamlining <i>(applies to Orders over \$1,500,000)</i>	(Oct 2010)
252.215-7000	Pricing Adjustments <i>(applies when it is contemplated that Cost or Pricing Data will be required)</i>	(Dec 2012)
252.219-7003	Small Business Subcontracting Plan (DoD Contracts) <i>(supplements FAR 52.219-9 above)</i>	(Aug 2012)
252.222-7006	Restrictions on the Use of Mandatory Arbitration Agreements <i>(applies to Orders over \$1,000,000, except commercial items)</i>	(Dec 2010)
252.223-7002	Safety Precautions for Ammunition and Explosives	(May 1994)
252.223-7006	Prohibition on Storage and Disposal of Toxic and Hazardous Materials	(Apr 2012)
252.225-7001	Buy American Act And Balance of Payments Program	(Dec 2012)
252.225-7002	Qualifying Country Sources as Subcontractors	(Dec 2012)
252.225-7004	Report of Intended Contract Performance Outside the United States and Canada – Submission After Award <i>(applies to Orders over \$650,000 and could be perform in United States or Canada)</i>	(Oct 2010)
252.225-7007	Prohibition on Acquisition of United States Munitions List Items from Communist Chinese Military Companies	(Sep 2006)
252.225-7009	Restriction on Acquisition of Certain Articles Containing Specialty Metals	(Jun 2012)
252.225-7012	Preference for Certain Domestic Commodities <i>(applies to Orders over the SAT threshold)</i>	(Dec 2012)

252.225-7013	Duty-Free Entry	(Jun 2012)
252.225-7015	Restriction on Acquisition of Hand or Measuring Tools	(Jun 2005)
252.225-7016	Restriction on Acquisition of Ball And Roller Bearings (commercial items and items not containing ball or roller bearings are exempt)	(Jun 2011)
252.225-7019	Restriction on Acquisition of Anchor and Mooring Chain (applies to items containing welded shipboard anchor and mooring chain, four inches or less in diameter)	(Dec 2009)
252.225-7021	Trade Agreements	(Dec 2012)
252.225-7025	Restriction on Acquisition of Forgings (applies to forged items or items containing forged items)	(Dec 2009)
252.225-7038	Restriction on Acquisition of Air Circuit Breakers (applies to Orders over the SAT)	(Jun 2005)
252.226-7001	Utilization of Indian Organizations, Indian-Owned Economic Enterprises and Native Hawaiian Small Business Concerns (applies to Orders exceeding \$500,000)	(Sep 2004)
252.227-7013	Rights in Technical Data - Noncommercial Items	(Feb 2012)
252.227-7014	Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation	(Feb 2012)
252.227-7016	Rights in Bid or Proposal Information	(Jan 2011)
252.227-7019	Validation of Asserted Restrictions - Computer Software (applies to Orders that will be furnishing computer software during performance of Order)	(Sep 2011)
252.227-7025	Limitations on the Use or Disclosure of Government-Furnished Information marked with Restrictive Legends	(Mar 2011)
252.227-7027	Deferred Ordering of Technical Data or Computer Software	(Apr 1988)
252.227-7030	Technical Data – Withholding of Payment	(Mar 2000)
252.227-7037	Validation of Restrictive Markings on Technical Data (commercial items or components exempt)	(Jun 2012)
252.231-7000	Supplemental Cost Principles	(Dec 1991)
252.237-7023	Continuation of Essential Contractor Services (applies to Orders for essential contractor services)	(Oct 2010)
252.239-7000	Protection Against Compromising Emanations	(Jun 2004)
252.244-7000	Subcontracts for Commercial Items and Commercial Components (DoD Contracts)(supplements FAR 52.244-6)	(Jun 2012)
252.246-7001	Warranty Of Data	(Dec 1991)
252.246-7003	Notification of Potential Safety Issues (applies to Orders that Items are identified as: (i) critical safety items; (ii) systems and subsystems, assemblies, and subassemblies integral to a system; or (iii) repair, maintenance, logistics support, or overhaul services for systems and subsystems, assemblies, subassemblies, and parts integral to a system)	(Jan 2007)
252.247-7023	Transportation of Supplies By Sea (applies to Orders over the SAT; below the SAT only paragraphs (a) through (e), and (h), apply)	(May 2002)
252.249-7002	Notification of Anticipated Contract Termination or Reduction (applies to Orders at \$650,000 or more when Seller is first-tier subcontractor or \$150,000 or more for lower-tier subcontractor)	(Oct 2010)