

FIRSTMARK FAR/DFARS TERMS AND CONDITIONS

FEDERAL ACQUISITION REGULATIONS (FAR)

This Order is being placed to satisfy a U.S. Government Prime Contract (as indicated on Purchase Order), the following FAR clauses are incorporated by reference and made a part hereof. FAR regulations can be obtained from <http://acquisition.gov/far/index.html>. DFARS regulations can be obtained from <http://www.acq.osd.mil/dpap/dars/dfars/index.htm>. The dates of these clauses are the dates in effect in the US Government Prime Contract as of the date of this Order. Unless otherwise specified, the term "Contractor" shall mean "Seller", the term "Contract" shall mean "Order", and the term "subcontractor" shall mean Seller's subcontractors.

APPLICABLE FAR REQUIREMENTS

52.203-6 Restrictions on Subcontractor Sales to the Government

52.203-7 Anti-Kickback Procedures (Delete paragraph (c) (1)). In (c)(2), copy of such reports shall also be provided to Buyer. Buyer shall have the right to withhold from Seller, the amount, if any, that the Contracting Officer directs Buyer to withhold from Seller or any amounts the Government withholds from Buyer as a result of Seller's violation of this clause. In (c)(3), Seller shall cooperate with Buyer and any Federal agency investigating a possible violation described in paragraph b.

52.203-12 Limitation on Payments to Influence Certain Federal Transactions

52.211-5 Material Requirements (Contracting Officer" means Buyer's Authorized Procurement Representative).

52.211-15 Defense Priority and Allocation Requirements (Applicable only if so identified as a 'rated order').

52.215-12 Subcontractor Cost or Pricing Data

52.215-13 Subcontractor Cost or Pricing Data-Modifications

FAR 52.215-10, 52.215-11, 52.215-12 and 52.215-13 — (Contracting Officer" means Government Contracting Officer and Buyer; "Government" means Government and Buyer); If Buyer is subject to any liability or expense, including government withholding of payments, as the result of Seller or its lower-tier sub-contractors' submission and certification of alleged or actual defective cost or pricing data, which data was certified by Buyer to be accurate, complete and current as of the date of final price agreement given on Buyer's Certificate of Current Cost or Pricing Data to the U.S. Government or their furnishing of any data of any description that is allegedly or actually inaccurate as set forth in these clauses, then Seller agrees to indemnify and hold Buyer harmless to the full extent of any damage or expense resulting from such action. Seller shall provide Buyer with copies of all communications between Seller and the Contracting Officer respecting these clauses and FAR 52.230-6. The rights and obligations under these clauses survive Order completion and final payment under this Order.

52.219-8 Utilization of Small Business Concerns

52.219-9 Small Business Subcontracting Plan (Applicable if the Seller is not a small business and the value of this Contract equals or exceeds \$500,000. in subparagraph (c) only, substitute Buyer's Procurement Representative' for 'Contracting Officer', 'Administrative Contracting Officer', and 'ACO'. The Seller's subcontracting plan is incorporated herein by reference.)

52.222-4 Contract Work Hours and Safety Standards Act Overtime Compensation

Buyer may withhold or recover from Seller such sums as the Contracting Officer withholds or recovers from Buyer because of liabilities of Seller or its subcontractors under this FAR clause.

52.222-20 Walsh-Haley Public Contracts Act

52.222-21 Prohibition of Segregated Facilities

52.222-26 Equal Opportunity (only subparagraphs (b)(1) through (b)(11) apply)

52.222-35 Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era

52.222-36 Affirmative Action for Workers with Disabilities

APPLICABLE FAR REQUIREMENTS (cont'd)

52.222-37 Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era

52.222-41 Service Contract Act of 1965, as Amended (Applicable if this Contract is subject to the Service Contract Act. The clause does not apply if this Contract has been administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. 356, as interpreted in Subpart C of 29 CFR Part 4.)

52.223-3 Hazardous Material Identification and Material Safety Data (“Government” means Government and Buyer and “Contracting Officer” means Buyer’s Authorized Procurement Representative).

52.223-11 Ozone-Depleting Substances

52.223-14 Toxic Chemical Release Reporting (Delete paragraph e)(Contracting Officer” means Buyer’s Authorized Procurement Representative).

52.225-1 Buy American Act — Supplies (Applicable if the articles contain other than domestic components. In paragraph (c) substitute “Buyer’s Authorized Procurement Representative” for “Contracting Officer.”)

52.225-5 Trade Agreements (Applicable if the articles contain other than U.S. made, designated country, Caribbean or NAFTA country end products).

52.225-8 Duty Free Entry (Contracting Officer” means “Buyer’s Authorized Procurement Representative.” Change “20” days to “30” days in (c)(1).)

52.225-13 Restrictions on Certain Foreign Purchases

52.244-6 Subcontracts for Commercial Items

52.246-2 Inspection of Supplies - Fixed Price (Contracting Officer” means “Buyer’s Authorized Procurement Representative” and “Government” means “Government and Buyer” except in paragraphs (f), (i) and (l) where “Government” means “Buyer.”)

52.246-4 Inspection of Services — Fixed Price (Government” means “Buyer” except in (b), (c), and (d), “Government” means “Government and Buyer”.)

52.249-8 Default (Government” means Buyer and “Contracting Officer” means “Buyer’s Authorized Procurement Representative” except in paragraph (e) where they mean “Government and Contracting Officer” respectively.)

APPLICABLE DFARS REQUIREMENTS

252.203-7001 Prohibition on Persons Convicted of Fraud or Other Defense Contract Related

Felonies (The definition of “contract”, “contractor” and “subcontract” are not modified in paragraphs (a)-(d) of this clause. “Contracting Officer” means “Buyer’s Authorized Procurement Representative.” Delete paragraph (g)).

252.204-7000 Disclosure of Information (Contracting Officer” means “Buyer’s Authorized Procurement Representative”; Change “45 days” to “60 days”)

252.208-7000 Intent to Furnish Precious Metals as Government-Furnished Material

252.219-7003 Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (DOD Contracts) (This clause supplements FAR 52.219-9; delete paragraph (g)).

252.223-7001 Hazard Warning Labels

252.223-7006 Prohibition on Storage and Disposal of Toxic and Hazardous Materials (Government” means “Government and Buyer”).

252.225-7001 Buy American Act and Balance of Payments Program

252.225-7002 Qualifying Country Sources as Subcontractors

252.225-7012 Preference for Certain Domestic Commodities

252.225-7014 Preference for Domestic Specialty Metals

252.225-7016 Restriction on Acquisition of Ball and Roller Bearings

252.225-7021 Trade Agreements (Applicable if the articles contain other than domestic components. Applicable in lieu of EAR 52.225- 1 and EAR 52.225-5).

252.226-7001 Utilization of Indian Organizations and Indian-Owned Economic Enterprises (This clause applies when the Order is for other than commercial items and exceeds or is expected to exceed the

simplified acquisition threshold in EAR Part 2).

252.244-7000 Subcontracts for Commercial Items and Commercial Components (DOD Contracts).

APPLICABLE DFARS REQUIREMENTS (cont'd)

252.247-7023 Transportation of Supplies by Sea (In paragraph (g), delete reference to Prompt Payment clause. "Contracting Officer" means Buyer's Authorized Procurement Representative, except in paragraph (e) where it shall mean the Government Contracting Officer but a copy of the bill of lading shall be provided to the Buyer's Authorized Procurement Representative.)

252.247-7024 Notification of Transportation of Supplies by Sea

(Contracting Officer" means Buyer's Authorized Procurement Representative.)